

Public DEFENDER 9000

John Rolfe

The number of people who have bought from Supplemax



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Please help!

I need some legal advice

Simon says thanks

Company answers our call for \$3495 refund

AFTER Simon Adams heard a radio ad for Supplemax, an erectile dysfunction medication supplier, he contacted the Sydney-based company.

Soon after Supplemax relieved him of \$3495.

You may recall January's Public Defender column (Sexual healing and a hard up feeling), in which I obtained a refund for another Supplemax customer and revealed NSW Fair Trading was investigating allegations of unfair trading practices.

Fair Trading has received more complaints about Supplemax so far in 2010 than it did for all last year, when complaint levels rose high enough to trigger the official inquiry.

Fair Trading yesterday said it had received 76 complaints this year, up from 67 in 2009, 44 in 2008 and 8 in 2007.

The investigation continues. Supplemax records phone conversations with prospective customers, then uses the audio as supposed evidence of consent.

Mr Adams was emailed a recording of a call between himself and a Supplemax representative. In the email, Supplemax Customer Care's Charles Nguyen said: "Please find the recording where you specifically agreed to this program and then had a doctor's consultation. You can't last very long in bed, why don't you just

try the initial medication and then we can discuss appropriate course of action."

Mr Adams wrote back saying there was no recording of him agreeing. Mr Nguyen replied: "Hey Simon, please listen to the attached recording. The recording clearly states payment is taken once suitable — you were deemed suitable by the doctor. Hence you are not entitled to a refund on these grounds."

When I listened to the recording I could not hear Mr Adams consenting. I asked Supplemax CEO Guy Hudson to listen to it.

"He doesn't appear to authorise payment," Mr Hudson admitted. So a refund of \$3495 is on its way to Mr Adams.

"[They] can't treat people like that," Mr Adams told me.

"I really appreciate your help. Thank you so much."

If you feel you've been treated unfairly by Supplemax, go to www.fairtrading.nsw.gov.au and lodge your complaint online or contact Fair Trading on 13 32 20.

Also ask Supplemax for audio of your supposed consent.

"A consumer would usually have a right to a recording of a phone call to which they were a party," said Mallesons Stephen Jaques consumer law expert Amanda Bodger.

If you don't think the recording contains proof of your consent, I will play it to Mr Hudson.



Unauthorised: Simon Adams, with his wife Leanne, who has now received a refund of \$3495

Overdue funds off the boil

KATHLEEN Thompson says five years ago the restaurant her husband worked for went into liquidation. He was owed about \$5500. The company that took over has not forwarded any funds, although he is a "priority creditor". Who is getting the interest?

She has tried to get action through the Financial Ombudsman and associated organisations but everyone told her it is "out of their jurisdiction". She has been advised that the only course of action is retaining the services of a solicitor.

Have your legal queries answered on our blog with Maurice Blackburn legal expert Rebecca Gilsenan at noon today



IN WINDING up a business there are other creditors who unfortunately rank ahead of employees. These include secured debtors and the liquidator's remuneration.

Although a liquidator has a duty to ensure the winding up is completed in a timely manner, sometimes there are valid reasons why it takes a long time.

You should raise concerns with the liquidator first, then lodge a complaint with ASIC.

Your husband could also contact GEERS, which is a government-funded basic payment scheme assisting employees who have lost entitlements because of employer insolvency.

Legal information is general in nature and not to be regarded as legal advice by Maurice Blackburn



New car: Fellows

Jolly good, Fellows gets justice from BMW

IAN Fellows has a new car. It's not from BMW. He also has \$5000. It is from BMW — but not head office.

Last month I wrote of Mr Fellows' Beamer, which was in North Shore BMW's care when it was incinerated earlier this year. Mr Fellows was three years into a five-year lease and didn't want another long-term lease.

After I highlighted his plight, BMW Australia offered to cover the on-road costs of a new BMW. Mr Fellows declined.

North Shore BMW offered him \$5000. Mr Fellow accepted and has since received the money.

"This whole debacle has dragged on for far too long," Mr Fellow told me.

In further good news his insurer Allianz

has paid his claim. That has allowed Mr Fellows to get behind the wheel of an Alfa Romeo Brera, which he loves.

But this may not be the end of the matter.

Allianz is pursuing a recovery action against North Shore BMW. That battle will turn on what caused the car fire.

If you saw the picture we ran with the original story, that will be a challenge.



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