

IN THE HUMAN RIGHTS REVIEW TRIBUNAL

HRRT No: 036/13

IN THE MATTER OF

a claim under the Privacy Act 1993

BETWEEN

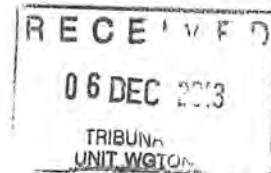
THE DIRECTOR OF HUMAN RIGHTS
PROCEEDINGS of Level 3, 21 Queen
Street, Auckland

Plaintiff

AND

CAMERON JOHN SLATER of
Auckland, blogger

Defendant



STATEMENT OF CLAIM

Dated: 3 December 2013

Director: Robert Kee
The Office of Human Rights Proceedings
Level 3, Zurich House
21 Queen Street
PO Box 6751
Wellesley Street
Auckland 1141
Telephone: 09 375 8623
Facsimile: 09 375 8641
Email: ohrp@ohrp.org.nz

Counsel instructed:
S R G Judd
PO Box 3320
Shortland Street
Auckland

Telephone: 09 379 2476
Facsimile: 09 368 1875
Email: simonjudd.com

The plaintiff says:

Parties and aggrieved individual

1. The plaintiff's statutory responsibilities include bringing proceedings under the Privacy Act 1993 (the Act).
2. The defendant operates the website "Whale Oil Beef Hooked", which has the domain name whaleoil.co.nz.
3. The Domain Name Commission record for whaleoil.co.nz lists the defendant as the Registrant Contact Name, Admin Contact Name and Technical Contact Name.
4. The defendant also has accounts with a number of websites which allow documents to be uploaded, including:
 - a. www.scribd.com
 - b. www.docshut.com
 - c. www.slashdocs.com
5. The defendant is an agency pursuant to s 2 of the Act.
6. The individual who is aggrieved by the actions of the defendant is Matthew Blomfield, a business consultant who lives in Auckland.

Relevant provisions of the Privacy Act 1993

7. The defendant has contravened the following provisions of the Act:
 - a. Information Privacy Principle 11.
 - b. Section 66.

The facts of the case

8. Mr Blomfield owns a Western Digital 2 terabyte external hard drive, which he previously used to back up information from his main computer (the Western Digital hard drive).
9. The Western Digital hard drive contained a large number of documents with personal information about Mr Blomfield.
10. On or before May 2012 and without Mr Blomfield's consent, the Western Digital hard drive came into the defendant's possession.

11. The Western Digital hard drive was returned to Mr Blomfield on or about January 2013.
12. Between approximately 1 May 2012 and 7 October 2012, the defendant disclosed at least 46 documents containing personal information about Mr Blomfield on the websites referred to in paragraphs 2 to 4 above. Annexed to this Statement of Claim is a table which provides details of those disclosures.
13. In summary, the disclosures were as follows:
 - a. On at least four occasions between 14 May 2012 and 25 May 2012, the defendant disclosed documents containing personal information about Mr Blomfield on the website docshut.com.
 - b. On at least 22 occasions between 6 May 2012 and 7 October 2012, the defendant disclosed documents containing personal information about Mr Blomfield on the website scribd.com.
 - c. On at least 11 occasions between 6 May 2012 and 10 July 2012, the defendant disclosed documents containing personal information about Mr Blomfield on the website slashdocs.com.
 - d. On at least 25 occasions between 1 May 2012 and 6 June 2012, the defendant disclosed documents containing personal information about Mr Blomfield on the website whaleoil.com.
14. The documents referred to in paragraphs 12 and 13 above included:
emails between Mr Blomfield and business associates;
correspondence between lawyers and Mr Blomfield; bank statements showing payments to Mr Blomfield; a police adult diversion scheme form for Mr Blomfield and photos of Mr Blomfield.

Complaint to the Privacy Commissioner

15. On or about 19 December 2012, Mr Blomfield complained to the Privacy Commissioner about the defendant's actions.
16. The Privacy Commissioner has carried out an investigation in relation to the matters covered by this claim. A copy of the Privacy Commissioner's Certificate of Investigation is attached to this statement of claim.
17. On or about 22 May 2013, Katrine Evans, Assistant Commissioner (Legal and Policy), wrote to the plaintiff advising that the Office of the

Privacy Commissioner had formed the final opinion that the defendant had interfered with Mr Blomfield's privacy and that the matter was being referred to the plaintiff to decide whether to institute proceedings against the defendant.

18. The plaintiff has given the defendant an opportunity to be heard.
19. The plaintiff has decided to bring these proceedings pursuant to s 82(2) of the Act.

Interference with Privacy

20. The defendant disclosed personal information it held about Mr Blomfield to the world at large by uploading them on the websites listed in paragraphs 2 to 4 above.
21. The defendant did not have reasonable grounds to believe that:
 - a. The disclosure of Mr Blomfield's personal information was one of the purposes in connection with which the information was obtained, or was directly related to the purposes in connection with which the information was obtained; or
 - b. The source of Mr Blomfield's personal information was a publicly available publication; or
 - c. The disclosure was to Mr Blomfield; or
 - d. The disclosure was authorised by Mr Blomfield; or
 - e. Non-compliance was necessary to avoid prejudice to the maintenance of the law by a public sector agency; or for the enforcement of a law imposing a pecuniary penalty; or for the protection of the public revenue; or for the conduct of proceedings before any court or tribunal; or
 - f. The disclosure was necessary to prevent or lessen a serious and imminent threat to public health or public safety or to the life or health of Mr Blomfield or another individual; or
 - g. The disclosure of Mr Blomfield's personal information was necessary to facilitate the sale or other disposition of a business as a going concern; or
 - h. The information was to be used in a form in which Mr Blomfield could not be identified or was to be used for statistical or research

purposes and would not be published in a form that could be reasonably expected to identify Mr Blomfield; or

- i. The disclosure of the information was in accordance with an authority granted under s 54 of the Privacy Act.
22. The defendant has thereby breached Information Privacy Principle 11.
 23. The defendant's breach of Information Privacy Principle 11 has resulted in Mr Blomfield experiencing significant humiliation, significant loss of dignity and significant injury to his feelings, including:
 - a. Feeling as if he no longer has any privacy;
 - b. Having difficulty sleeping;
 - c. Feelings of paranoia;
 - d. Being anxious and worried at what further personal information might be disclosed about him by the defendant;
 - e. Being concerned about his family's personal safety and needing to increase home security measures;
 - f. Feeling that he has been unable to adequately protect his family;
 - g. Losing confidence in himself;
 - h. Negative effects on his business and personal relationships; and
 - i. Receiving unwelcome and offensive text messages from third persons.
 24. Accordingly, the defendant has interfered with the Mr Blomfield's privacy in contravention of the following provisions of the Act:
 - a. Information Privacy Principle 11.
 - b. Section 66(1).

Orders sought

At a date and time to be fixed by the Chairperson of the Human Rights Review Tribunal the plaintiff will ask the Tribunal to make the following orders:

1. A declaration that the defendant has interfered with the aggrieved person's privacy; s 85(1)(a).

2. An order restraining the defendant from further disclosing any personal information about the aggrieved person: s 85(1)(b).
3. Damages for humiliation, loss of dignity and injury to the feelings of the aggrieved person in such sum as the Tribunal considers appropriate: ss 85(1)(c) and 88(1)(c).
4. An order requiring the defendant to remove all personal information about the aggrieved person that he has disclosed online: s 85(1)(d).
5. An order requiring the defendant to attend an "Introduction to the Privacy Act" workshop run by the Office of the Privacy Commissioner, at the defendant's expense: s 85(1)(e).
6. The costs of these proceedings: s 85(2).

Dated: 3rd December 2013



Robert Kee
Director of Human Rights Proceedings

This statement of claim is filed by Robert William Kee, the Director of Human Rights Proceedings. The address for service of the plaintiff is the Office of Human Rights Proceedings, Level 3, Zurich House, 21 Queen Street, City, Auckland.

Documents for service may be left at that address for service or may be:

- (a) Posted to: The Office of Human Rights Proceedings, PO Box 6751, Wellesley Street, Auckland.
- (b) Transmitted by email to: ohrp@ohrp.org.nz

Annex to Statement of Claim: details of documents disclosed by Cameron Slater

Item No	Name	Description of document	Date of upload on Docshut.com	Date of upload on Scribd.com	Date of upload on Slashdocs.com	Date of upload on Whaleoil.com
1	Blomfield Files: Krukziener Bites	Emails with business associates	25/5/12	18/5/12	28/5/12	
2	Blomfield Files: Kandallah_Email	Emails with business associates and solicitor		18/5/12		
3	Blomfield Files: Blomfield Dewar Email 20 July 2004	Email with business associates, including attachment		7/10/12	10/07/12	
4	Matt Blomfield v Signature Homes	Emails with business associates		13/5/12	13/5/12	
5	Matt Blomfield: Operation Bumblebee Email	Emails with business associates		17/5/12		4/6/12
6	Blomfield Files: Ideas Pitch	Email to potential business partners		28/5/12		
7	Blomfield Files: The Compromise Intro	Email with business associates and lawyer		15/5/12		15/5/12
8	Blomfield Files: Storm Group Emails	Emails with business associates			15/5/12	16/5/12
9	Blomfield Files: Letter to Blomfield from Sharkey Robinsons Lawyer	Letter from Glenn Satherley (barrister) to Matthew Blomfield dated 5 June 2012		6/5/12		

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Item No	Name	Description of document	Date of upload on Docshut.com	Date of upload on Scribd.com	Date of upload on Slashdocs.com	Date of upload on Whaleoil.com
10	Blomfield Files: The Summary Storm	Email from a business associate to Matthew Blomfield and others attaching a working document.		16/5/12	16/5/12	17/5/12
11	Blomfield Files: Creditor Promise	Proposal for creditors of Matthew Blomfield		14/5/12		
12	The Blomfield Files – Vengeance Bank Statements	Bank statement for Vengeance Ltd with payments to Matthew Blomfield highlighted	21/5/13	22/5/12	21/5/12 28/6/12	
13	Blomfield Files: Storm Group Emails 2	Emails to Matthew Blomfield from business associates	15/5/12		15/5/12	
14	Blomfield Files: Garry Whimp Affidavit	Court document – affidavit of Garry Whimp (liquidator)		22/5/12	22/5/12	
15	Blomfield Files – Letter from Mark Robinson's Lawyer	Letter to Matthew Blomfield from Glenn Satherley, barrister, dated 13 July 2009		6/6/12		
16	Blomfield Files – Ideas – Cease and Desist	Emails between Matthew Blomfield and business associates			26/6/12	

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17	Blomfield Files – Joe Mansell Email 7 July 2008	Email from Doug Cowan (lawyer) to Matthew Blomfield		6/5/12		
18	Blomfield Files – Time Capital Email 2 17 Feb 2010	Emails between Matthew Blomfield and business associates		14/5/12	6/5/12	
19	Blomfield Files – Creditors Compromise Letter 2 March 2010	Template letter to creditors from Tom Wilson at Time Capital		15/5/12		
20	Blomfield Files – Creditors Compromise Email 4 March 2010	Emails between Matthew Blomfield and business associates	14/5/12		14/5/12	
21	KidsCan Hell Emails 2009-2011	Emails between Matthew Blomfield and business associates				3/5/12
22	7 Rame Road	Letter from Matthew Blomfield to Warren Powell (business associate)				3/5/12

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Item No	Name	Description of document	Date of upload on Docshut.com	Date of upload on Scribd.com	Date of upload on Slashdocs.com	Date of upload on Whaleoil.com
23	Knowing me knowing you	Commentary on Matthew Blomfield with extracts from various emails with business associates				3/5/12
24	Psychopath	Police adult diversion scheme form for Matthew Blomfield. Includes his address and phone number				3/5/12
25	He Loves Notoriety	Emails between Matthew Blomfield and a business associate				3/5/12
26	He is a Pathological Liar	Email from Matthew Blomfield to business associates				3/5/12
27	Operation Kite	Email from private investigator to Matthew Blomfield and others; emails between business associate and Matthew Blomfield				4/5/12
28	Ghostwriting for Repeaters 101	Email from Maria Slade at the Herald to Matthew Blomfield				8/5/12

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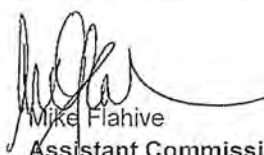
Item No	Name	Description of document	Date of upload on Docshut.com	Date of upload on Scribd.com	Date of upload on Slashdocs.com	Date of upload on Whaleoil.com
29	Blomfield Files Free to a Good Home	Picture of hard drive containing 'the Blomfield files'				14/5/12
30	The Blomfield Files: Time Capital 17 Feb 2010	Emails between Matthew Blomfield and business associates				15/5/12
31	Blomfield Files: Time Capital 18 Feb 2010	Emails between Matthew and business associates		14/5/12		15/5/12
32	Blomfield Files: Where is the Vengeance Money?	Emails between Matthew Blomfield and business associates				31/5/12
33	Blomfield Files: Where is the Vengeance Money?	Photo of Matthew Blomfield				31/5/12
34	It's a Kind of Matjik	Private video of Matthew Blomfield boxing with friends				6/6/12
35	Blomfield Files – Time Capital Emails 23 Feb 2010	Email about Matthew Blomfield's creditors		14/5/12		

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Item No	Name	Description of document	Date of upload on Docshut.com	Date of upload on Scribd.com	Date of upload on Slashdocs.com	Date of upload on Whaleoil.com
36	15% and Weed 30 Nov 2009	Emails between Matthew Blomfield and business associates		28/6/12		
37	Community Self Help Email Dec 2004	Emails between Matthew Blomfield and business associates		5/8/12		
38	Suckmy...Email_Tindall Dec 2004	Emails between Matthew Blomfield and business associates		5/8/12		
39	Expenditure Report Breakdown Email	Report to Tindall foundation (referring to work done by Matthew Blomfield) and associated email		5/8/12		
40	Faces of the day	Photo of Matthew Blomfield and Mike Alexander prior to a paintball game				On or about May 2012
41	Knowing me Knowing you	Photo of Matthew Blomfield in the Cinderella Office				On or about May 2012

Certificate of Investigation for Human Rights Review Tribunal

Complainant	Matthew Blomfield (Our Ref: C/25057)
Respondent	Cameron Slater (Whaleoil)
Matters investigated	Mr Blomfield complained that Mr Slater disclosed a large amount of personal information about him on the Whaleoil blog and on the website Scribd.com.
Principle(s) applied	Principle 11 of the Privacy Act
Commissioner's opinion: - application of principle(s) - adverse consequences - interference with privacy	Breach of principle 11 Complaint has substance. Settlement not entertained by the parties.


Mike Flahive
Assistant Commissioner (Investigations)

Date: 30/4/13.