

Applicants:                   Rodgers Reidy (QLD) Pty Limited  
                                  Rodgers Reidy (NSW) Pty Limited  
                                  Rodgers Reidy (VIC) Pty Limited  
                                  Rodgers Reidy (INTERNATIONAL) Pty Limited

First Respondent:         Google Australia Pty Ltd

Second Respondent:     Gordon Craven

## **DRAFT ORDERS**

**SET ASIDE** -               the orders of Justice Bromwich against the Second Respondent made on 1 and 2 February 2017.

### **CROSS-CLAIM -           DECLARATIONS AGAINST                                   RODGERS REIDY APPLICANTS**

- David James Hambleton is hereinafter referred to as “DJH”
- The Second Respondent is hereinafter referred to as “SR”
- SR’s wife Janet Craven is hereinafter referred to as “JC”
- SR’s youngest daughter Angela Louise Craven is hereinafter referred to as “ALC”
- SR’s eldest daughter Penelope Djordjevic (nee Craven) is hereinafter referred to as “PD”
- 63 Nandroya Road Cooroy Queensland is hereinafter referred to as “the Property”
- Penny’s Flowers Pty Ltd is hereinafter referred to as “the Company” owned by “JC”.

1. “DJH” wrongly induced, assisted, intimidated together with a ‘presumed’ undue influence of “PD” the registered owner of “the Property”, to make the following false statements regarding “*claims against*” and “*equitable interest*” in the “the Property” :

*“...I have already resolved any valid claims against the property. Mrs Janet Craven does not hold title, nor an equitable interest, in my property.”*

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Filed on behalf of :  
Prepared by :  
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2. “DJH” wrongly induced, assisted, intimidated together with a ‘presumed’ undue influence of “PD” the registered owner of “the Property”, to grant “DJH” a Power of Attorney to sell the Property and deal with its tenancies.
3. “DJH” wrongly induced, assisted, intimidated together with a ‘presumed’ undue influence of “PD” the registered owner of “the Property”, to enter a Deed of Settlement with “DJH” regarding “the Property” and which contained false allegations against “SR”. Those false allegations being :  
*“At the time of “PD” becoming the sole registered owner of the Property, the Bankrupt “SR” provided the deposit monies to purchase the Property from the sale proceeds of properties previously owned by him.”*  
*“The Bankrupt “SR” sought to vest his right, title and interest in the name of his daughter “PD” to defeat creditors.”*
4. The authority that “DJH” assumed he had from “PD”, by way of the Power of Attorney and Deed of Settlement, was invalid and void.
5. “DJH” wrongly contributed to causing “PD” to act in an unconscionable way and commit equitable fraud against her family members “JC” and “ALC” by denying their equitable interests.
6. “DJH” had a fiduciary duty and common law duty of care towards “PD”, “JC” and “ALC”.
7. “DJH” wrongly breached a fiduciary duty and common law duty owed to “PD”, “JC” and “ALC”.
8. At all times from the time of purchase of “the Property” until the time of it being sold, “JC” and “SR” had right of possession and tenancy of “the Property”.
9. “DJH” wrongly and without authority caused trespass on the “the Property”.
10. “DJH” wrongly and without authority caused continuing trespass on the “the Property”.

11. “DJH” wrongly caused the eviction of “JC” and “SR” from “the Property”, together with causing them to be wrongly locked out of “the Property” and their possessions.
12. “DJH” had no authority to evict and lock out “JC” and “SR” from the “the Property”.
13. “DJH” had no authority to seize and take control of “the Property” without a court order.
14. “JC” and “SR” did not abandon “the Property”.
15. “DJH” wrongly disparaged “JC” and “SR” and “the Company”, by publishing to third parties on Rodgers Reidy letterhead over an extended period of time, false statements that “JC” and “SR” and “the Company” had abandoned “the Property”.
16. “DJH” wrongly attempted to sell 2 shipping containers on “the Property” while knowing that they belonged to “JC”, and wrongly threatened “JC” and “SR” with a complaint to police when the container were removed and sold by “JC” and “SR”.
17. “DJH” did recognise the equitable interest of “JC” prior to selling “the Property”.
18. While knowing of the equitable interest that “JC” had in “the Property”, “DJH” wrongly failed to distribute sale proceeds according to that equitable interest.
19. “DJH” had no authority to sell “the Property” without a court order or consent from “JC”.
20. “DJH” without consent from “JC” or a court order, wrongly sold the equity that “JC” and “ALC” had in “the Property”.
21. The equitable interests of “JC” and “ALC” in “the Property” were non-divisible and not available to “DJH”.

22. “DJH” wrongly failed to deliver to “JC”, any proceeds of the sale of “the Property” that were due to “JC”, and for distribution to “ALC”.
23. While knowing of the equitable interest of “JC”, “DJH” wrongly dishonoured and breached an agreement made during litigation with “JC”, by failing to pay all of the net proceeds of the sale of “the Property” into the District Court of Queensland at Maroochydore, in order for the court to decide how the proceeds should be distributed.
24. An effect of the breach, was that “DJH” sabotaged the District Court proceeding, causing it to be ended.
25. “DJH” practised an underhanded and unconscionable trick to prevent “JC” from lodging a caveat on “the Property”, when “DJH” knew that he intended to dishonour and repudiate the agreement to pay the net proceeds of the sale of “the Property” into the District Court, and failed to advise “JC” of his intention until after he had completed the sale “the Property”.
26. “DJH” has wrongly contributed to “PD” being estranged and alienated from “JC” and “SR”
27. “DJH” has wrongly caused enormous horror, hurt, sadness, mental distress and anguish to “JC” and taken away her financial future in her retirement years, and robbed “ALC” a single parent with 2 young children with learning disabilities of her share to proceeds from the family home to which she had contributed \$35,000 to the deposit.
28. After wrongly evicting “JC” and “SR” from “the Property”, “DJH” allowed the uninhabited “Property” to become :
  - (a) not maintained and to become dirty, untidy and overgrown with substantial weeds giving a dilapidated and unattractive appearance; and
  - (b) be vandalised; and
  - (c) be subject to various thefts; and
  - (d) consequently the Property became diminished in value.
29. By wrongly evicting “JC” and “SR” from the “the Property”, “DJH” wrongly denied “JC” her right to market and sell “the Property” on her own terms.

30. By wrongly evicting “JC” and “SR” from the “the Property”, “DJH” wrongly stopped the continuation of repairs and further improvements that “JC” and “SR” were making to “the Property”.
31. “DJH” wrongly undersold “the Property” by selling it with all existing improvements for \$348,000 which was \$2,000 less than the \$350,000 that was paid 9 years and 7 months earlier.
32. When the net proceeds from the sale of “the Property” were provided to “DJH”, he received the proceeds knowing that they were were acquired by the breach of trust and breach of fiduciary duty of “PD” to “JC”.
33. Pursuant to the 2 limbs Barnes & Eddy, “DJH” holds the net proceeds of sale pursuant to a Constructive Trust for “JC” on behalf of the Craven Family.
34. “DJH” wrongly and secretly seized and disabled internet domain names belonging to “the Company” that were used in the online florist business belonging to “the Company”, and which had been paid for by “the Company”.
35. “DJH” wrongly and secretly seized and disabled internet domain names belonging to “the Company” that were used in the online business belonging to “the Company” which contained common law trade mark words of “the Company”, and the words of a registered trade mark used by “the Company”.
36. “DJH” wrongly and secretly sold some of the domains to a competing florist.
37. “DJH” wrongly and secretly seized and sold the domain [www.gordoncraven.com](http://www.gordoncraven.com) belonging to “SR”, being the personal and private domain for “SR” and being the main domain used by “SR” for email correspondence with many persons.
38. “SR” was caused substantial inconvenience and loss of incoming emails over an extensive period by [www.gordoncraven.com](http://www.gordoncraven.com) being seized and sold by “DJH”.
39. The domain [www.gordoncraven.com](http://www.gordoncraven.com) was wrongly sold to a competing florist who was also in litigation with “SR”, allowing that opposing litigant and competitor to **access private and confidential emails sent to “SR”**.

40. “DJH” wrongly and secretly wrote to the company that hosted the internet domain names belonging to “the Company” for which “the Company” paid the monthly hosting fee, and caused the hosting company to close the hosting for “the Company” account without notice.
41. By “DJH” wrongly seizing “the Company” domains and wrongly causing the closure its hosting account, “the Company” business :
  - (a) was caused to be unable to continue its online florist trading; and
  - (b) suffered a substantial loss in value.
42. “DJH” has unreasonably caused the bankruptcy period of “SR” to be extended from 3 years to 8 years.
43. “DJH” has not acted as an honest person would in the circumstances.
44. In the circumstances, “DJH” has contravened the *Australian Financial Security Authority Inspector-General Practice Direction 14*, regarding performance duties of a bankruptcy trustee which is taken from *Schedule 4A of the Bankruptcy Regulations 1996*.
45. In the alternative to a Constructive Trust for the net proceeds of sale of “the Property” being declared, it be declared that “DJH” has been unjustly enriched by receiving the net proceeds and not distributing any to “JC” for distribution to “ALC”.
45. “DJH” has aggravated his conduct of wrongly receiving the the net proceeds of sale of “the Property”, by the personal wrongs of :
  - (a) trespass; and
  - (b) continued trespass; and
  - (c) eviction and the locking out of “JC” and “SR” from “the Property”; and
  - (d) disparagement of “JC” and “SR” and “the Company”.
46. “DJH” is liable in damages or aggravated damages for the personal wrongs he has caused to “JC” and “SR”.

47. "DJH" has consciously and contumeliously disregarded of the rights of "JC", "ALC" and "SR".
  48. In the circumstances, the conduct of "DJH" can be described as malicious.
  49. In the circumstances, "DJH" has acted in an unreasonably high handed, oppressive and unjust manner.
  50. "DJH" is liable in aggravated and/or exemplary damages for the conscious and contumelious disregard for the rights of "JC", "ALC" and "SR".
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The purpose of the website [www.pleading.com.au](http://www.pleading.com.au) is to demonstrate to "DJH" the errors of his ways. The above claims by "SR" can be resolved by :

- (a) "DJH" paying justifiable compensation to "JC" and "ALC"; and
- (b) "DJH" paying justifiable compensation to "SR" for the personal wrongs "SR" has laboured under.

"SR" does not object to mediation.

SIGNED : 

Gordon Craven - Second Respondent ("SR")

DATE : 27 April 2017