



Federal Court of Australia
District Registry: Queensland
Division: General

No: QUD116/2022

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Applicant

LAYAWAY DEPOT PTY LTD ACN 165 233 947
Respondent

ORDER

JUDGE: JUSTICE RANGIAH

DATE OF ORDER: 29 May 2023

WHERE MADE: Brisbane

PENAL NOTICE

TO: LAYAWAY DEPOT PTY LTD (ACN 165 233 947)

If you (being the person bound by this order):

(A) Refuse or neglect to do any act within the time specified in the Respondent's undertaking or paragraph 3 of this order for the doing of the act; or

(B) Disobey paragraph 3 of the order by doing an act which the order requires you not to do,

You will be liable to imprisonment, sequestration of property or other punishment.

Any other person who knows of this order and does anything which helps or permits you to breach the terms of this order may be similarly punished.

NOTING THAT:

- A. These declarations and orders adopt the following defined terms:
- a. ***Australian Credit Licence*** means a licence issued by the Australian Securities and Investments Commission to persons that engage in credit activities.
 - b. ***Credit Act*** means the *National Consumer Credit Protection Act 2009* (Cth);
 - c. ***Credit Code*** means the *National Credit Code* at schedule 1 to the Credit Act;
 - d. ***Federal Court Act*** means the *Federal Court of Australia Act 1976* (Cth);



- e. *Pleaded Contracts* means the contracts listed at Annexure 1; and
- f. *Relevant Period* means the period from 1 June 2020 to 11 August 2021.

AND UPON THE RESPONDENT'S UNDERTAKING TO THE COURT THAT:

- B. Within 14 days of the date of this order, the Respondent will send a communication by email in the form contained at **Annexure 2** to each of the customers who entered into the Pleased Contracts and paid any amount under the Pleased Contracts.

THE COURT DECLARES THAT:

1. The Respondent, by entering into the Pleased Contracts, engaged in credit activity without holding an Australian Credit Licence, in contravention of section 29 of the Credit Act.
2. By entering into the Pleased Contracts which were credit contracts with an annual cost rate that exceeded 48%, the Respondent contravened section 32A(1) of the Credit Code.

THE COURT ORDERS THAT:

3. The Respondent is permanently restrained, from the date of this order, whether by itself, its servants, agents or otherwise, from further contraventions of section 29 of the Credit Act and section 32A(1) of the Credit Code by:
 - (a) engaging in credit activity by entering into contracts on the terms of the Pleased Contracts, without holding an Australian Credit Licence;
 - (b) entering into credit contracts with an annual cost rate that exceeds 48%.
4. The Respondent pay to the Commonwealth a pecuniary penalty of \$375,000.00 in respect to the contraventions of section 29 of the Credit Act and section 32A(1) of the Credit Code, with that sum to be paid as follows:
 - (a) \$175,000.00 on or before 30 June 2023; and
 - (b) \$200,000.00 on or before 31 December 2023.
5. By consent, the Respondent pay the Applicant's costs of and incidental to this proceeding fixed in the amount of \$25,000.00, with that sum to be paid within 28 days of the date of this order.



Date that entry is stamped: 30 May 2023

Sia Lagos
Registrar



Annexure 1 - Table of the Pleaded Contracts with Customers

No.	A. LAD contract number & ASIC document ID	B. Date	C. Goods
1	9648 LYD.0010.0001.0889	1/06/20	Samsung Galaxy A10 Ministry Soundbar 10" Dual SIM 3G Tablet
2	9647 LYD.0010.0001.0867	1/06/20	Soniq 55 4K Ultra HD Google Chromecast TV Ministry 40W Soundbar
3	11017 LYD.0010.0001.0989	1/07/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
4	11021 LYD.0010.0001.1053	1/07/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
5	11018 LYD.0010.0001.1005	1/07/20	Soniq 55 4K Ultra HD Google Chromecast TV Ministry 40W Soundbar
6	11019 LYD.0010.0001.1021	1/07/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
7	11020 LYD.0010.0001.1037	1/07/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
8	12506 LYD.0010.0001.1100	1/08/20	Xbox One S 1TB LAD 32" HD Smart TV
9	12507 LYD.0010.0001.1113	1/08/20	Samsung Galaxy A10 10" Dual SIM 3G Tablet Ministry 006 BT Speaker
10	12504 LYD.0010.0001.1084	1/08/20	PS4 Console 500GB LAD 32" UHD Smart TV Ministry Soundbar Headphones
11	12508 LYD.0010.0001.1127	1/08/20	PS4 Console 500GB LAD 32" UHD Smart TV Ministry Soundbar Headphones
12	12503 LYD.0010.0001.1070	1/08/20	iPhone X Refurb Apple Watch S3 38mm New MI006(or Mi007) Speaker
13	14175 LYD.0010.0001.1173	1/09/20	PS4 Console 500GB LAD 32" UHD Smart TV Ministry Soundbar Headphones



No.	A. LAD contract number & ASIC document ID	B. Date	C. Goods
14	14176 LYD.0010.0001.1189	1/09/20	Samsung A30 Samsung Galaxy Watch Ministry Speaker (MI006 or MI007)
15	14177 LYD.0010.0001.1203	1/09/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
16	14174 LYD.0010.0001.1157	1/09/20	LAD 65" UHD Smart TV Ministry Soundbar Ministry 006 Speaker
17	15723 LYD.0010.0001.1248	1/10/20	Ministry 003 Neighbour Hater Speaker
18	15724 LYD.0010.0001.1261	1/10/20	JBL Boombox Portable BT Speaker Tube Speaker
19	15721 LYD.0010.0001.1220	1/10/20	Xbox One S 1TB LAD 32" HD Smart TV Horizon 4 (new)
20	15722 LYD.0010.0001.1234	1/10/20	Samsung A30 Samsung Galaxy Watch Ministry Speaker (MI006 or MI007)
21	15725 LYD.0010.0001.1273 (This contract provided for purchase of two different products under two payment plans)	1/10/20	Redmi 9 Ministry 003 Neighbour Hater Speaker Ministry 003 Neighbour Hater Speaker
22	17295 LYD.0010.0001.1349	1/11/20	Lad 11.6" 2 in 1 Pro 10" Dual Sim Tablet (Pad10) HP Printer
23	17293 LYD.0010.0001.1315	1/11/20	Xbox One S 1TB LAD 32" HD Smart TV Horizon 4 (new)
24	17291 LYD.0010.0001.1290	1/11/20	Apple iPhone 11 64GB
25	17294 LYD.0010.0001.1335	1/11/20	PS4 Console 500GB LAD 32" UHD Smart TV Headphones
26	18667 LYD.0010.0001.1393	1/12/20	Ministry Boom Bluetooth Speaker
27	18665 LYD.0010.0001.1380	1/12/20	LAD PAD 10.1" Pro, 32GB TF Card & Protective Hardcase Bundle
28	18664 LYD.0010.0001.1364	1/12/20	LAD 55" UHD Smart TV



No.	A. LAD contract number & ASIC document ID	B. Date	C. Goods
29	18668 LYD.0010.0001.1406	1/12/20	Redmi 9 Ministry 003 Neighbour Hater Speaker
30	18669 LYD.0010.0001.1419	1/12/20	LAD 55" UHD Smart TV
31	19966 LYD.0010.0001.1436	1/01/21	Viano 49" Smart TV & Ministry Neighbour Hater Speaker
32	19967 LYD.0010.0001.1449	1/01/21	Viano 49" Smart TV & Ministry Neighbour Hater Speaker
33	19969 LYD.0010.0001.1476	1/01/21	Viano 49" Smart TV & Ministry Neighbour Hater Speaker
34	19968 LYD.0010.0001.1462	1/01/21	PS4 Console 500GB LAD 32" UHD Smart TV LitBest Gaming Headset
35	19970 LYD.0010.0001.1489	1/01/21	Lenovo 11.6 32" Smart Tv 10" Dual Sim Tablet (Pad10)
36	21279 LYD.0010.0002.0031	1/02/21	Xiaomi Redmi Note 9
37	21278 LYD.0010.0002.0018	1/02/21	Redmi 9 Ministry 003 Neighbour Hater Speaker
38	21280 LYD.0010.0002.0047	1/02/21	Lenovo 11.6 100E Gen2 LadPad 10.1 HP Printer
39	21277 LYD.0010.0002.0004	1/02/21	PS4 Console 500GB LAD 32" UHD Smart TV LitBest Gaming Headset
40	21281 LYD.0010.0002.0064	1/02/21	Samsung Galaxy A31 128GB, Galaxy Watch Active Ministry Speaker
41	22636 LYD.0010.0001.1519	1/03/21	Ministry 003 Neighbour Hater Speaker
42	22635 LYD.0010.0001.1505	1/03/21	PS4 Console 500GB LAD 32" UHD Smart TV LitBest Gaming Headset
43	22638 LYD.0010.0001.1545	1/03/21	LAD 32" Smart TV Ministry 007 Speaker 10" Dual SIM 3G Tablet
44	22639 LYD.0010.0001.1558	1/03/21	Nintendo Switch LAD 32" HD LED Smart TV
45	22637 LYD.0010.0001.1532	1/03/21	Viano 55" 4k UHD Smart Television LAD 32" Smart TV
46	24328 LYD.0010.0001.1626	1/04/21	Redmi 9 Ministry 007 BT Speaker



No.	A. LAD contract number & ASIC document ID	B. Date	C. Goods
47	24324 LYD.0010.0001.1573	1/04/21	Lenovo 11.6 100E Gen2 LadPad 10.1 HP Printer
48	24325 LYD.0010.0001.1587	1/04/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
49	24326 LYD.0010.0001.1600	1/04/21	iPhone 12 mini 64GB Ministry 005 Speaker
50	24327 LYD.0010.0001.1613	1/04/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
51	25145 LYD.0010.0001.1640	1/05/21	Elitelux 43inch Smart TV Ministry Neighbour Hater Speaker
52	25148 LYD.0010.0001.1686	1/05/21	JBL Boombox Portable BT Speaker Tube Speaker
53	25416 LYD.0010.0001.1653	1/05/21	Viano 55" 4k UHD Smart TV
54	25147 LYD.0010.0001.1673	1/05/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
55	25149 LYD.0010.0001.1698	1/05/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
56	25721 LYD.0010.0001.1738	1/06/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
57	25722 LYD.0010.0001.1751	1/06/21	Elitelux 43inch Smart TV Ministry Neighbour Hater Speaker
58	25719 LYD.0010.0001.1712	1/06/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
59	25720 LYD.0010.0001.1725	1/06/21	iPhone 12 mini 64GB Ministry 005 Speaker
60	25723 LYD.0010.0001.1764	1/06/21	iPhone 11 64GB Ministry 003 Neighbour Hater Speaker
61	26091 LYD.0010.0001.1778	2/07/21	Ministry 006 Speaker
62	26092 LYD.0010.0001.1791	3/07/21	Ministry 006 Speaker
63	26093 LYD.0010.0001.1804	3/07/21	Ministry 006 Speaker
64	26094 LYD.0010.0001.1817	3/07/21	Ministry 003 Neighbour Hater Speaker
65	26095 LYD.0010.0001.1830	4/07/21	Ministry 006 Speaker
66	26145 LYD.0010.0001.1844	1/08/21	Ministry 003 Neighbour Hater Speaker
67	26146 LYD.0010.0001.1857	4/08/21	Ministry 003 Neighbour Hater Speaker



No.	A. LAD contract number & ASIC document ID	B. Date	C. Goods
68	26147 LYD.0010.0001.1870	7/08/21	Ministry 003 Neighbour Hater Speaker
69	26148 LYD.0010.0001.1883	9/08/21	Ministry 003 Neighbour Hater Speaker
70	26150 LYD.0010.0001.1895	11/08/21	Ministry Boom Speaker (006+007)



Annexure 2 - Form of E-mail Correspondence to Customers

Dear Customer

Important - Orders made by the Federal Court of Australia

Our records indicate that we entered into a contract with you for the supply of a household good(s), such as a tablet, television, speaker, Xbox, headphones, Apple watch, printer, mobile telephone, headset or printer.

Our records also indicate that you paid at least one instalment amount to us for the good(s) via direct debit from your nominated bank account.

We are writing to inform you that, following legal proceedings brought by the Australian Securities and Investments Commission, on [insert date], the Federal Court of Australia made declarations that **we** contravened the law by entering into the contract with you and other consumers in circumstances where:

- (a) we did not have an Australian Credit Licence; and
- (b) the total amount of the instalments payable under the contract was more than is permitted to be charged by law.

We have been ordered to pay a penalty of \$375,000 to the Commonwealth for engaging in this conduct. We **enclose** a copy of the orders made by the Court.

If you are continuing to make payments to us under your contract, you may immediately cease making the payments and terminate the contract. Please respond to this email with your request that payments stop. If you make this request, payments will stop and we will not ask you to return the goods.

If you had already stopped making payments to us under your contract before you received this correspondence, your contract is already at an end. If you wish to contact us about that contract with any questions or complaint, please respond to this email or contact us by telephone on [insert].

Layaway Depot Pty Ltd