

**BETWEEN**

THE WHICH COMPANY PTY LTD (ACN 091 728 620)  
Trading as T3 Direct

Plaintiff

**AND**

JOSEPH JOHN MCNICOL

Defendant

---

**AFFIDAVIT OF JOSEPH JOHN MCNICOL  
IN SUPPORT OF DEFENDANT'S APPLICATION FOR SUMMARY  
JUDGMENT SWORN 4 JUNE 2002 WITH ANNEXURE "JJM1"**

---

Date of Document: 4 June 2002

Filed on behalf of: Defendant

Date of filing:

Prepared by:

Jeremy Malcolm, Barrister and Solicitor  
Suite 11, 116 Mounts Bay Road  
PERTH WA 6000  
Postal address PO Box 7586  
CLOISTERS SQUARE WA 6850

Telephone: (08) 9213 0800  
Fax: (08) 9213 0808  
Email: [jeremy@ilaw.com.au](mailto:jeremy@ilaw.com.au)  
Reference: JMM

---

INDEX

	Affidavit of Joseph John McNicol	1-6
JJM1	Contents of <a href="http://spews.org/html/S1488.html">http://spews.org/html/S1488.html</a> as at 3 June 2002	7-9
JJM2	Contents of <a href="http://www.vtgts.com/auspam.htm">http://www.vtgts.com/auspam.htm</a> as at 3 June 2002	10-13
JJM3	Draft defence	14
JJM4	Example spam message from plaintiff	15-19

I Joseph John McNicol, business proprietor of 17 Bolderwood Drive, South Lake in the State of Western Australia, having been duly sworn make oath and say as follows:

1. I am the defendant to these proceedings.

2. I swear this affidavit in support of the defendant's application for summary judgment, alternatively striking out, against the plaintiff.

### **Reference materials**

3. A true copy of the SPEWS record relating to the plaintiff referred to in paragraph 4 of the statement of claim, as accessed at 3 June 2002, is annexed and marked with the letters JJM1.
4. The content of annexure JJM1 has evidently changed since these proceedings were commenced, since some of the material now referenced on that page has come into being since the institution of these proceedings.
5. I have endeavoured to obtain a copy of an earlier version of the page shown in annexure JJM1 by using resources available on the Internet (specifically the Google search engine at <http://www.google.com> and the WayBack Machine at <http://www.archive.org>) which cache old versions of Web sites. However neither of these resources contains an older version of annexure JJM1.
6. On or about the same day that I received service of the writ of summons in these proceedings, I consulted the then current version of annexure JJM1. To the best of my recollection it did not differ in the reference that it made to my Web site <http://www.vtgs.com/auspam.htm>, and it did not contain any other references to myself than it contains now.
7. Annexed and marked JJM2 is a true copy of the contents of <http://www.vtgs.com/auspam.htm> which is a Web site maintained by me. The contents of that Web site have not changed in any significant respect since these proceedings were instituted.

### **Definitions**

8. When I refer to SPEWS in this affidavit, I refer to the Spam Prevention Early Warning System as referred to in paragraph 5 of the statement of claim, the Web page of which is located at <http://spews.org>.
9. When I refer to "spam" in this affidavit, I refer to unsolicited bulk email; that is, electronic mail sent to a significantly large number of recipients who have not requested to be contacted by the sender. I note that a definition to this effect is referenced on the SPEWS Web site by way of a link to the Spam FAQ (Frequently Asked Questions) Web site at <http://www.spamfaq.net>.

10. When I refer to IP addresses, I mean what the plaintiff refers to in its statement of claim as Internet Protocol numbers.

11. When I refer to the plaintiff's SPEWS listing, I refer to the listing of the plaintiff's IP addresses in a database maintained by SPEWS as evidenced by the record in annexure JJM1.

## **Defence**

12. Annexed and marked JJM3 is a copy of a draft defence to the proceedings that my solicitor has prepared and which I have instructed him to file in the event that this application for summary judgment is unsuccessful. I verify the truth of the contents of that draft defence.

13. My denial of paragraph 3 of the statement of claim is based on the following facts:

(a) I had no specific knowledge at any time of the IP addresses referred to by the plaintiff. Those IP addresses are not listed on my Web page at JJM2, and never have been listed there.

(b) In any case, I am informed by the Asia Pacific Network Information Centre (APNIC) from material at [http://www.apnic.net/info/faq/apnic\\_faq/obtaining.html](http://www.apnic.net/info/faq/apnic_faq/obtaining.html), and I verily believe it to be true, that it is impossible for a person to purchase IP addresses.

14. I deny paragraph 4 of the statement of claim on the ground that I have never been in communication with SPEWS. I do not even know how to contact SPEWS. No contact details are provided on the SPEWS Web site.

15. I am informed by SPEWS from their Web site at <http://www.spews.org/faq.html> as follows:

Unlike other block-lists, SPEWS does not take submissions or nominations. Entries in SPEWS are made by the people who run SPEWS for their own blocking and filtering needs. It is provided to the rest of the Internet as an educational tool, or an opinion to use if anyone wishes.

...

SPEWS does not receive email – it's just an automated system and website, ...

I verily believe these statements to be true.

16. For the reasons already given, I deny paragraph 6 of the statement of claim. I do not know how the plaintiff's SPEWS listing came about, but I know that it was not due to any communication by me.

17.I deny paragraph 7 of the statement of claim on the following grounds:

- (a) I had no knowledge of the plaintiff's SPEWS listing until I received the statement of claim in these proceedings.
- (b) I am informed by the plaintiff and verily believe that the emails it sends as referred to in paragraph 3 of the statement of claim "are sent from dial up accounts that are fully paid for". Of my own knowledge, the sending of email from such dial-up accounts would be unaffected by the plaintiff's SPEWS listing, because I am informed by SPEWS from its Web site at <http://spews.org/faq.html> and verily believe that the plaintiff's SPEWS listing does not include any IP addresses from dial-up accounts.
- (c) I have no knowledge of any trade or business engaged in by the plaintiff that would be affected by the plaintiff's SPEWS listing.
- (d) Even if I had caused the plaintiff's SPEWS listing, and even if that listing interfered with the plaintiff's trade or business, and even if I knew or should have known that it would cause such interference, I deny that the interference is in any way unlawful.

18.I deny paragraph 8 for the reasons given in respect of paragraph 7.

19.I deny paragraph 9, and address its sub-paragraphs respectively follows:

9.1.I verily believe that the plaintiff would only be prevented from sending email to its clients if the following two conditions were satisfied:

- (i) it attempted to send such email from an IP address contained in the plaintiff's SPEWS listing; and
- (ii) the clients in question, or their Internet providers, chose to use the SPEWS service to block spam.

Even in that case, the plaintiff could continue to correspond with its clients by email using one of the dial-up accounts referred to in paragraph 17(b) above.

9.2.The same comments apply in respect of email sent by the plaintiff to its clients' "subscriber list of email readers".

9.3.The same comments apply in respect of direct marketing information sent by the plaintiff to customers of its clients.

9.4.I have no knowledge of how much money the plaintiff earns per day from sending email marketing messages on behalf of its clients. I do note

that "email marketing messages on behalf of its clients" is a broader class of email correspondence than those classes referred to in paragraphs 9.1, 9.2 and 9.3 already referred to. In particular, I have received spam from the plaintiff on behalf of businesses of which I am not and have never been a customer, and to whose marketing lists I have never subscribed.

9.5.From my own knowledge, I know that the plaintiff's SPEWS listing would not have prevented it from using its IP addresses except for one purpose, namely sending email to customers who have, or whose Internet Service Providers have, elected to use the SPEWS service to block spam.

20.I deny paragraph 10. I make the following comments in respect of each of its sub-paragraphs:

10.1.I verily believe from annexure JJM1 that it is not any attribute of the plaintiff's IP addresses, but rather the behaviour of the plaintiff itself, that has resulted in the plaintiff's SPEWS listing. I verily believe that the plaintiff's acquisition of additional IP addresses will simply result in those IP addresses also being added to its SPEWS listing and therefore that the wasted cost of obtaining the use of such IP addresses would be a loss occasioned solely by the plaintiff.

10.2.As stated above, I verily believe that the plaintiff already had an alternative mail delivery system in place, namely the use of dial-up accounts to send email, which should have occasioned no additional cost to the plaintiff.

10.3.Of my own knowledge, the loss of the use of IP addresses does not require the purchase of a new server computer. IP addresses are not a permanent fixture of a server computer; they may be altered at will. I can conceive of no reason why a new server computer would be required even if everything else the plaintiff claims was correct.

10.4.As stated above, there is no reason why the plaintiff should have been impeded in its business for any time at all, still less 20 days, by the plaintiff's SPEWS listing.

### **Whether listing by SPEWS is justified**

21.From my own knowledge, the plaintiff is a notorious sender of spam. I have received a great volume of spam from the plaintiff over a number of years. An



# JJM1

T3Group

```
|-----|
1, 202.154.73.131, t3direct.com.au
1, 202.154.79.66, mail.t3direct.com.au / mail.australianmarketingservices.com
1, 202.154.79.0/25, t3direct.com.au
1, 202.139.241.136, www.t3direct.com.au
1, 202.139.241.128/25, t3direct.com.au
1, 203.55.16.6, titan.t3direct.com.au
1, 203.55.16.0/24, t3direct.com.au
|-----|
```

Australian spamming operation.

See: <<http://groups.google.com/groups?q=%22t3direct.com.au%22&hl=en&lr=&scoring=d>>  
<<http://www.google.com/search?hl=en&q=t3direct+spam>>  
<<http://www.rts.com.au/spam/spammers.html>>  
<<http://www.rts.com.au/spam/t3direct/>>  
<<http://www.firstpr.com.au/temp-spam/>>  
<<http://www.vtgts.com/auspam.htm>>  
<<http://www.spamblocked.com/auspam.html>>  
<<http://www.isux.com/c-n-c/auspam.html>>  
<<http://oriez.org/spammerscum/auspam.html>>  
<<http://t3-v-mcnicol.ilaw.com.au/>>  
<<http://winchester.ii.net/spamsuit/>>  
<<http://www.spamblocked.com/waia-spam.html>>  
<<http://www.itee.uq.edu.au/~mesh/list/msg02826.html>>  
<<http://www.anu.edu.au/mail-archives/link/link0204/0242.html>>

Listed: <<http://spamhaus.org/SBL/sbl.lasso?query=SBX3088>>  
<<http://njabl.org/cgi-bin/lookup.cgi?query=202.154.79.66>>

=====

As stated in the SPEWS FAQ, SPEWS does not, has not and will not take nominations or accept requests to list. SPEWS lists based on available evidence that an area on the internet is spamming, supporting spam, or spammer friendly. An example of good available evidence would be when a company's website openly states or has stated that spamming and promoting spamming is their business model.

=====

[Archived verison of [www.t3direct.com.au/direct/webmanual.asp](http://www.t3direct.com.au/direct/webmanual.asp)]

<<http://web.archive.org/web/20011113203517/http://www.t3direct.com.au/direct/webmanual.asp>>

Order with 72 hours and the following bonuses are yours - FREE OF CHARGE

Bonus Offer 1 - Special Sealed Section  
A comprehensive guide to making e-mail marketing work in Australia including how to send email messages without upsetting your ISP. This information is normally valued at \$49.95 is  
Yours FREE

Bonus Offer 2 - Australian e-mail addresses  
50,000 freshly verified AUSTRALIAN business email addresses suitable for general email marketing valued at \$149  
Yours FREE

Bonus Offer 3 - Group Mail Email Software  
The world's most popular group e-mailing sending program  
- a fully working trial version  
Yours FREE

Bonus Offer 4- GEEWiz32 - Global Email  
Extractor Wizard  
Want your own constant supply of new email addresses targeted to your product or service? We included a working trial version of the best software available to get you started - GEEWiz32  
Yours FREE

How to order:

1. On the web  
Complete the form below & click 'submit'
2. By fax  
Print the form below, complete & send to (08) 9221 0933
3. By phone  
Call (08) 9221 0922

=====

domain: t3direct.com.au  
descr: T3 Direct Marketing  
descr: (ACN) None given  
descr: (Business Name) T3 Direct Marketing  
descr: (RBN) BN09299440 (WA)  
descr: P.O. Box 6102  
descr: East Perth  
descr: WA 6892  
admin-c: DA1025-AU  
tech-c: DA1025-AU  
zone-c: DA1025-AU  
remarks: Created 20010725  
changed: nobody@aunic.net 20010911  
source: AUNIC

person: Direct Admin  
address: 42 Wickham Street  
address: East Perth  
address: WA 6004

address: AU  
phone: +61 8 9221 0922  
fax-no: +61 8 9221 0922  
e-mail: admin@t3direct.com.au  
nic-hdl: DA1025-AU  
remarks: (Organisation) T3 Direct  
remarks: Created 20010911  
changed: nobody@aunic.net 20010911  
source: AUNIC

```
=====
t3direct.com.au A      202.139.241.136
t3direct.com.au A      203.55.16.244
t3direct.com.au A      192.168.1.10
t3direct.com.au A      202.154.73.131
t3direct.com.au A      203.55.16.10
t3direct.com.au A      203.55.16.14
t3direct.com.au A      203.55.16.15
t3direct.com.au A      203.55.16.123
t3direct.com.au A      203.55.16.120
t3direct.com.au A      203.55.16.121
t3direct.com.au A      192.168.2.10
t3direct.com.au A      203.55.16.101
t3direct.com.au MX     50 titan.t3direct.com.au
t3direct.com.au MX     75 iapetus.t3direct.com.au
t3direct.com.au NS     titan.t3direct.com.au
t3direct.com.au NS     iapetus.t3direct.com.au
t3direct.com.au SOA
  origin = titan.t3direct.com.au
  mail addr = hostmaster@t3direct.com.au
  serial = 2002050101
  refresh = 10800 (3 hours)
  retry = 3600 (1 hour)
  expire = 604800 (7 days)
  minimum ttl = 86400 ( )
t3direct.com.au NS     titan.t3direct.com.au
t3direct.com.au NS     iapetus.t3direct.com.au
titan.t3direct.com.au A      203.55.16.6
iapetus.t3direct.com.au A      203.55.16.7
-----
```

```
t3direct.com.au SOA
  origin = titan.t3direct.com.au
  mail addr = hostmaster@t3direct.com.au
  serial = 2002050101
  refresh = 10800 (3 hours)
  retry = 3600 (1 hour)
  expire = 604800 (7 days)
  minimum ttl = 86400 ( )
t3direct.com.au NS     titan.t3direct.com.au
t3direct.com.au NS     iapetus.t3direct.com.au
t3direct.com.au A      202.139.241.136
t3direct.com.au A      203.55.16.244
t3direct.com.au A      192.168.1.10
t3direct.com.au A      202.154.73.131
t3direct.com.au A      203.55.16.10
t3direct.com.au A      203.55.16.14
t3direct.com.au A      203.55.16.15
t3direct.com.au A      203.55.16.123
t3direct.com.au A      203.55.16.120
t3direct.com.au A      203.55.16.121
t3direct.com.au A      192.168.2.10
t3direct.com.au A      203.55.16.101
t3direct.com.au MX     50 titan.t3direct.com.au
t3direct.com.au MX     75 iapetus.t3direct.com.au
bigrebel.t3direct.com.au A      203.55.16.246
aquamed.t3direct.com.au CNAME    hyperion.t3direct.com.au
schedule.t3direct.com.au CNAME    hyperion.t3direct.com.au
directserver.t3direct.com.au A      203.55.16.244
soccerftp.t3direct.com.au A      203.55.16.231
skydive.t3direct.com.au CNAME    hyperion.t3direct.com.au
_ldap._tcp.t3direct.com.au _ldap._tcp.t3direct.com.au_kerberos._t
cp.t3direct.com.au_gc._tcp.t3direct.com.au_kerberos._tcp.t3direct.com.au
tethys.t3direct.com.au CNAME
hyperion.t3direct.com.au A      203.55.16.10
mail.t3direct.com.au A      202.154.79.66
adsl.t3direct.com.au A      203.55.16.241
t3group.t3direct.com.au CNAME    hyperion.t3direct.com.au
titan.t3direct.com.au A      203.55.16.6
pan.t3direct.com.au A      203.55.16.12
corporate.t3direct.com.au A      203.55.16.243
shelton.t3direct.com.au CNAME    hyperion.t3direct.com.au
dinerite.t3direct.com.au CNAME    hyperion.t3direct.com.au
iapetus.t3direct.com.au A      203.55.16.7
t3test.t3direct.com.au CNAME    hyperion.t3direct.com.au
waynespc.t3direct.com.au A      203.55.16.247
9e76b431-def3-4261-b774-b45540f60707._msdcs.t3direct.com.au CNAME
directserver.t3direct.com.au
409c896c-9156-4b3a-87c1-56d32d99f8e0._msdcs.t3direct.com.au CNAME
hyperion.t3direct.com.au
_ldap._tcp.dc._msdcs.t3direct.com.au_ldap._tcp.dc._msdcs.t3direct.com.au_kerberos._tcp.dc._ms
dcs.t3direct.com.au_ldap._tcp.Default-First-Site-
Name._sites.dc._msdcs.t3direct.com.au_ldap._tcp.Default-First-Site-
Name._sites.dc._msdcs.t3direct.com.au_kerberos._tcp.Default-First-Site-
Name._sites.dc._msdcs.t3direct.com.au_ldap._tcp.22b9a4a3-d88b-4c14-96d8-
61a143640d22.domains._msdcs.t3direct.com.au_ldap._tcp.22b9a4a3-d88b-4c14-96d8-
61a143640d22.domains._msdcs.t3direct.com.au_ldap._tcp.pdc._msdcs.t3direct.com.au_gc._msdcs.t3d
irect.com.au A      202.154.73.131
gc._msdcs.t3direct.com.au A      203.55.16.10
gc._msdcs.t3direct.com.au A      203.55.16.14
gc._msdcs.t3direct.com.au A      203.55.16.15
```

```

gc._msdcs.t3direct.com.au      A      203.55.16.123
gc._msdcs.t3direct.com.au      A      203.55.16.120
gc._msdcs.t3direct.com.au      A      203.55.16.121
gc._msdcs.t3direct.com.au      A      192.168.2.10
gc._msdcs.t3direct.com.au      A      203.55.16.101
_ldap._tcp.gc._msdcs.t3direct.com.au_ldap._tcp.Default-First-Site-
Name._sites.gc._msdcs.t3direct.com.augroup.t3direct.com.au      CNAME
hyperion.t3direct.com.au
olympia.t3direct.com.au CNAME hyperion.t3direct.com.au
fusion.t3direct.com.au CNAME hyperion.t3direct.com.au
mimas.t3direct.com.au A 203.55.16.245
cart.t3direct.com.au CNAME hyperion.t3direct.com.au
wise.t3direct.com.au CNAME hyperion.t3direct.com.au
tonyhewitt.t3direct.com.au CNAME hyperion.t3direct.com.au
_kpasswd._udp.t3direct.com.au_kerberos._udp.t3direct.com.au_ldap._tcp.Default-First-Site-
Name._sites.t3direct.com.au_ldap._tcp.Default-First-Site-
Name._sites.t3direct.com.au_kerberos._tcp.Default-First-Site-
Name._sites.t3direct.com.au_gc._tcp.Default-First-Site-
Name._sites.t3direct.com.au.aunslftp.t3direct.com.au A 203.55.16.230
mikey.t3direct.com.au A 203.55.16.242
kangaroo.t3direct.com.au CNAME hyperion.t3direct.com.au
www.t3direct.com.au A 202.139.241.136
atlas.t3direct.com.au A 203.55.16.11
45ord.t3direct.com.au CNAME hyperion.t3direct.com.au
tethys.t3direct.com.au A 203.55.16.14
=====
Australian Marketing Services
PO Box 6102
East Perth, WA 6892
AU

Domain Name: AUSTRALIANMARKETINGSERVICES.COM

Administrative Contact:
Admin, System marketingservicesau@yahoo.com.au
PO Box 6102
East Perth, WA, 6892
AU
08 9463 7807

Registrar of Record: TUCOWS, INC.
Record last updated on 27-May-2002.
Record expires on 26-May-2003.
Record Created on 26-May-2002.

Domain servers in listed order:
NS1.AUSTRALIANMARKETINGSERVICES.COM 202.154.76.193
NS2.AUSTRALIANMARKETINGSERVICES.COM 202.154.76.194
=====
australianmarketingservices.com MX 50 ns1.australianmarketingservices.com
australianmarketingservices.com A 202.154.76.193
australianmarketingservices.com NS ns1.australianmarketingservices.com
australianmarketingservices.com NS ns2.australianmarketingservices.com
australianmarketingservices.com SOA
origin = ns1.australianmarketingservices.com
mail addr = hostmaster@australianmarketingservices.com
serial = 2002052900
australianmarketingservices.com NS ns1.australianmarketingservices.com
australianmarketingservices.com NS ns2.australianmarketingservices.com
ns1.australianmarketingservices.com A 202.154.76.193
ns2.australianmarketingservices.com A 202.154.76.194

australianmarketingservices.com SOA
origin = ns1.australianmarketingservices.com
mail addr = hostmaster@australianmarketingservices.com
serial = 2002052900
australianmarketingservices.com NS ns1.australianmarketingservices.com
australianmarketingservices.com NS ns2.australianmarketingservices.com
australianmarketingservices.com MX 50 ns1.australianmarketingservices.com
australianmarketingservices.com A 202.154.76.193
ns2.australianmarketingservices.com A 202.154.76.194
mail.australianmarketingservices.com CNAME ns1.australianmarketingservices.com
ns1.australianmarketingservices.com A 202.154.76.193

```



visit us at <http://www.zapp.com.au> and <http://www.t3direct.com.au>  
Phone: (+61 8) 9221 0922 Fax: (+61 8) 9221 0933



This is a list of the many other companies that **WAYNE MANSFIELD** is involved in , Please note that some of the business names you see in his JUNK/SPAM you may receive are slight variations of the actual company names for example: "**THE MAVERICK PARTNERSHIP**" is not a registered business name or Company the actual name is "**MAVERICK PARTNERSHIP**" one of the many trading names of "**THE WHICH COMPANY PTY LTD**" all with the same director and contact details as **T3 DIRECT MARKETING**

### **T3 DIRECT MARKETING**

DOMAIN: <http://www.t3direct.com.au>

NAME / DIRECTOR: **MANSFIELD WAYNE ROBERT**

EMAIL: [wayne@t3direct.com.au](mailto:wayne@t3direct.com.au) or [admin@t3direct.com.au](mailto:admin@t3direct.com.au)

ADDRESS: 42 WICKHAM ST EAST PERTH WA 6004

PHONE: 08 9221 0922 ..... FAX: 08 9221 0933

HOME ADDRESS: 153 WELLINGTON ROAD DIANELLA WA 6059

HOST ISP : <http://www.swiftel.com.au>

Swiftel Communications Pty Ltd  
Level 18 , QV1  
250 St Georges Terrace  
Perth, Western Australia 6000

CONTACT: Chris Gale ..... PHONE: 08 9480 1222  
CEO

E-mail: [cgale@swiftel.com.au](mailto:cgale@swiftel.com.au)

### **T3 GROUP**

WA BN09369200

Extracted from ASIC's database at 01:23:24 on 19/04/2002

### **THE LIST GOES ON :**

Extracted from ASIC's database at 03:12:52 on 20/04/2002

Name: **TRINET DIGITAL LTD**

ACN 091 412 609

ABN 69 091 412 609

DIG Results for [t3direct.com.au](http://t3direct.com.au) @ [dna.melbourneit.com.au](http://dna.melbourneit.com.au)

; <<>> DiG 8.3 <<>> @[dna.melbourneit.com.au](http://dna.melbourneit.com.au) [t3direct.com.au](http://t3direct.com.au) any  
; (1 server found)

```
:: res options: init recurs defnam dnsrch
:: got answer:
:: ->>HEADER<<- opcode: QUERY, status: NOERROR, id: 6
:: flags: qr rd ra; QUERY: 1, ANSWER: 2, AUTHORITY: 2, ADDITIONAL: 2
:: QUERY SECTION:
:: t3direct.com.au, type = ANY, class = IN
:: ANSWER SECTION:
t3direct.com.au. 1D IN NS iapetus.trinetdigital.com.au.
t3direct.com.au. 1D IN NS titan.trinetdigital.com.au.
:: AUTHORITY SECTION:
t3direct.com.au. 1D IN NS iapetus.trinetdigital.com.au.
t3direct.com.au. 1D IN NS titan.trinetdigital.com.au.
:: ADDITIONAL SECTION:
iapetus.trinetdigital.com.au. 1D IN A 203.55.16.7
titan.trinetdigital.com.au. 1D IN A 203.55.16.6
:: Total query time: 182 msec
:: FROM: lancelet to SERVER: dna.melbourneit.com.au 203.31.198.210
:: WHEN: Sat Apr 20 23:09:20 2002
```

### **THE WHICH COMPANY PTY LTD**

Australian Company 091728620  
Number  
State of Incorporation Western Australia  
Registration Date 21/03/2000  
Organisation Number ACN (Australian Company Number)

Australian Business Number 90091728620

### **Name: MAVERICK PARTNERSHIP**

WA BN09296475

Extracted from ASIC's database at 23:18:02 on 17/04/2002

### **Name: BUSINESS SEMINARS AUSTRALIA**

WA BN09296463

Extracted from ASIC's database at 23:55:29 on 20/04/2002

NOTE: You will normally see this advertised as "**Business Seminars Australia – since 1987**"

ABN: 90 091 728 620 notice this is the ABN for "**THE WHICH COMPANY PTY LTD**" giving you the impression that it is much larger company

Something else you will see on their web page is this "**Copyright T3 Group Pty Ltd ©2001**", Also giving you the impression that "**T3 GROUP**" a PTY LTD Company and that they also have a copyright on their website " This is also not true!

### **THE ZAPP SHOW**

WA 0229449A

<http://www.zapp.com.au>

Extracted from ASIC's database at 04:24:07 on 19/05/2002

There are more than likely a lot more companies that I haven't found that WAYNE has his finger in , but with the above information you will at least be able to complain to him directly and also Swiftel communications that continue to host these sort of Spam outfits despite Swiftel's comprehensive Acceptable Use Policy which seems to be worthless in this case. <http://www.swiftel.com.au/Acceptable Use Policy.pdf>

---

I am not alone in this effort to see [WAYNE MANSFIELD](#) is stopped from Spamming , The Managing Director of [Reynolds Technology Pty Ltd](#) , [MARK REYNOLDS](#) has been actively working to shut down the SPAM Sending operations of Australia's Largest spammer and also offers a very professional example of how ISP's should be treating this sort of growing abuse

<http://www.rts.com.au/spam/swiftel/>

Mark also has some usefull links to tools to help us in the fight against SPAM

If I can help you in any way or would like to comment please feel free to contact me

[jomac@vtgts.com](mailto:jomac@vtgts.com)

Joe McNicol

( If anything on this page is thought or seen to be anything but publically available information or is deemed to be in any way defamatory please contact me and I will remove or amend as necessary)

**BETWEEN**

THE WHICH COMPANY PTY LTD (ACN 091 728 620)  
Trading as T3 Direct

Plaintiff

**AND**

JOSEPH JOHN MCNICOL

Defendant

---

**DEFENCE**

---

Date of Document: 4 June 2002

Filed on behalf of: Defendant

Date of filing:

Prepared by:

Jeremy Malcolm, Barrister and Solicitor  
Suite 11, 116 Mounts Bay Road  
PERTH WA 6000  
Postal address PO Box 7586  
CLOISTERS SQUARE WA 6850

Telephone: (08) 9213 0800  
Fax: (08) 9213 0808  
Email: [jeremy@ilaw.com.au](mailto:jeremy@ilaw.com.au)  
Reference: JMM

- 
1. The defendant does not admit paragraph 1 of the statement of claim.
  2. The defendant admits paragraph 2 of the statement of claim.
  3. The defendant denies each and every allegation of fact contained in paragraphs 3 and 4 of the statement of claim.
  4. The defendant admits paragraph 5 of the statement of claim.
  5. The defendant denies each and every allegation of fact contained in paragraphs 6, 7, 8, 9 and 10 of the statement of claim.

---

Solicitor for the defendant

JJM4

**Subject:** Places Still Available for January Seminar

**Date:** Thu, 3 Jan 2002 18:22:02 +0800

**From:** "PowerSelling" <[sembus02@yahoo.com.au](mailto:sembus02@yahoo.com.au)>

**Reply-To:** [aussiepower@china.com](mailto:aussiepower@china.com)

**To:** "PowerSelling Seminar January 02" <[sembus02@yahoo.com.au](mailto:sembus02@yahoo.com.au)>

### **PowerSelling**

#### **37 Ways to Win That Sale!**

**Australia Wide Tour –  
Previous Tours Sold Out!  
Come and See why PowerSelling is  
Australia's Most Popular Sales  
Seminar**

**At last.... a feature packed 3 hour  
seminar  
that lets you in on the Secrets of  
Winning the Sale.  
At a location near you...**

### **Back By Popular Demand**

**Read Error**

### **Power Up Your Sales Team with PowerSelling**

#### **The Truly Australian Way to Sell**

Professional selling is an art. And Australians are truly a different buying people to Americans or the English.

**PowerSelling** is about closing sales in Australia in 2002 and beyond. What separates the pros from all the rest is the ability to "**Close the Sale.**" Without this ability to get the customer to buy, many salespeople fail, businesses don't reach their true potential and countless dollars are lost.

**The PowerSelling Seminar**, presented by **Wayne Mansfield** – author of the best selling **Australian Sales Script Book**, shows you at **least 37 proven ways to close the sale**. Hard times have gone on too long... make a decision to attend this seminar and start on the road to sales success

**PowerSelling: 37 Secrets of Winning the Sale!**

---

### **If money was no object**

---

Research by Harvard University shows that most salespeople give up too soon in the sales process. Most purchases are made after the prospect has said no 5 times... most salespeople give up after just 2 nos! Learn closing techniques that put you in the top 20% of salespeople in Australia

---

### **The Price is Too High!**

---

Most salespeople are afraid of telling the prospect the price. Learn why the price is so important and how you can use it to get an immediate agreement to purchase from your prospect.

---

### **Help enough people get what they want..**

---

Realising that people actually want to be helped to buy your product will turbo charge your selling. Learn tactics that have the prospect telling you what they want then all you have to do is help them get it. Uncover the Secrets that Million Dollar producers in Insurance and Real Estate use to set sales records.

---

### **The Ben Franklin Close**

---

Many people continue to look for a new answer to help in "Closing the Sale" when the old tried and true methods work the best.

---

**How much is all this? Just \$3 a Secret – All 37 for just \$111!**  
**Group Rates available for 5 or more: 5 – 9 \$99; 10– 19: \$88; 20+ \$77**

---

**Guaranteed to work –  
money back if you don't close a sale in the next 7 days using one of these  
secrets**

**Hurry – Australia wide tour this November.  
Book your place now as these seminars will Fill Fast**

The Ben Franklin Close, first documented 100 years ago still works in the 00's. The only problem is that salespeople don't use it enough.

---

### **The Power of Handshakes**

---

Wouldn't life be easy if you knew right at the start that someone was going to buy. PowerSelling shows you the secret of getting a yes in the first 60 seconds.

---

### **Do you have it in green?**

---

Would you buy a green one? Did you know that most prospects don't purchase the goods or service that they originally set out to buy **PowerSelling** will explain the secrets behind turning a logical looker into an emotional buyer. And the prospect will love you for it!

---

### **Closing Tactics That Work!**

---

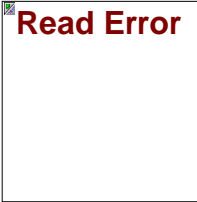
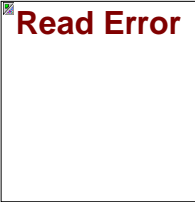
We guarantee to share with you at least **37 Secrets of Winning the Sale** that you can put into practice just minutes after leaving the **PowerSelling Seminar**.

How confident are we? If you don't close a sale in the next 7 days using one of your new found skills– we will refund your money!

**Can't do better than that can we!**

**How to book:**

1. **By eMail**  
Complete the form below & click 'submit'
2. **By fax**  
Print the form below, complete & send to the fax booking line in your city
3. **By phone**  
Call the Booking Hotline in your city

		<b>Phone</b>		<b>Fax</b>	
	<b>Brisbane</b>	<b>(07) 3319 8925</b>		<b>(07) 3319 8926</b>	
	<b>Sydney</b>	<b>(02) 8080 8146</b>		<b>(02) 8080 8147</b>	
	<b>Adelaide</b>	<b>(08) 8423 0221</b>		<b>(08) 8423 0222</b>	
	<b>Melbourne</b>	<b>(03) 8080 1661</b>		<b>(03) 8080 1662</b>	
	<b>Perth</b>	<b>(08) 9463 7807</b>		<b>(08) 9463 7808</b>	

**Seminar Location and Booking Details**

**PowerSelling – 37 Secrets of Winning the Sale!**

- Monday, January 14th, 2002**      **Brisbane**      **The Brisbane Novotel**  
**Wednesday, January 16th, 2002**      **Sydney**      **The Sydney Millenium Hotel**  
**Monday, January 21st, 2002**      **Adelaide**      **The Radisson Playford Hotel**  
**Wednesday, January 23rd, 2002**      **Melbourne**      **Le Meridien**  
**Wednesday, January 30th, 2002**      **Perth**      **The Perth Ambassador Hotel**  
**9 am to 12 noon Workbook & Morning Tea provided**

**Yes!  We will be attending PowerSelling – 37 Secrets of Winning The Sale Seminar.**

**Please book:**

**Number of Ticket/s**  **@ \$111**

**Location**

**First Name**

**Last Name**

**Company**

**Position**

**Address**

**Address Cont.**

**Post Code**

**Phone**

**Fax**

**e-Mail**

**Web Site**

**Payment Details:**

**Credit Card**

**Cardholder Name**

**Card Number**

**Expiry Date**

**Don't Delay – Places are limited and we always sell out!! Don't Miss Out!**

Your booking form is sent by eMail – just check your 'Sent Items' to confirm that it has been submitted successfully. If you haven't received confirmation of your booking within 1 working day – we haven't received your booking! Please 'Submit' again.

You are important to us. If you are having problems booking, please let us know by [eMail](#) or by phone

Any questions?? Feel free to contact us and we'll explain the unique advantages of this particular seminar but remember places are limited!

**Business Seminars Australia – since 1987**

**ABN:** 90 091 728 620

**Postal:** P.O. Box 159, Northbridge W.A. 6865

**Phone:** (08) 9463 7807 **Fax:** (08) 9463 7808

We collect eMail contact addresses from various publicly available sources and other marketing promotions. We understand you may wish NOT to receive information from us by eMail. To be removed from this and other offers, simply reply to this email with "REMOVE" in the subject line