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Companies not a place to hide from the law

Business people should remember that individuals as well as companies can be convicted under the Fair Trading Act, the Commission's Director of Fair Trading Deborah Battell said today.

Ms Battell was commenting on the sentencing of John Fennell, who marketed the pest control product Pestrol as "natural" or "naturally based" when the product contained only a small proportion of natural ingredients.

Mr Fennell first sold the product through a company called Pure Water and Health NZ Limited, then through Watermark New Zealand Limited. When Watermark went into liquidation, Mr Fennell continued to sell the Pestrol product and make the same misleading representations through a third company called Pure Health New Zealand Limited.

He was sentenced to an \$8,000 fine for breaching the Fair Trading Act. The sentence could easily have been higher, the judge commented, but Mr Fennell's financial circumstances were taken into account.

Mr Fennell's conviction and sentence reminds all traders that they are individually liable under the Fair Trading Act, Ms Battell said.

"Folding a company and starting a new one will not protect individuals from prosecution."

Background

Pestrol is an insect control product contained in dispensers that emit puffs of the insect control substance every few minutes. It was sold only through mail order and was advertised on the company's website and on Newstalk ZB.

In advertising, Mr Fennell and the companies he was involved in claimed Pestrol was natural or naturally based. In fact a natural insecticide formed only 12.22% of the killing ingredients and only 2.04% of the total active ingredients, and these "natural" product claims were judged to be misleading by the court.

In an earlier case, the manufacturer of Pestrol, Environmental Air Care Limited, was fined \$17,500 for making similar misleading claims about the product, and ordered to publish corrective advertising in the New Zealand Herald, Dominion Post and Press newspapers.

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