In October, 1997, following a successful coaching career with the Collingwood Football Club, Mr. Stan Magro was appointed assistant coach to the Fremantle Football Club, a company limited by guarantee. Preliminary negotiations were held between Mr. Magro and the Chief Executive Officer, the Football Manager and the Chairman of the Board of Management respectively of the Fremantle Football Club. Mr. Magro maintained that the following four conditions were amongst those agreed to: the initial appointment would be for three years; relocation expenses from Victoria were to be provided; employment would be found for his wife, Anna; and the opportunity to be considered, should a more senior coaching position become available, would be afforded him.

Less than a year later, on the 23rd September, 1998, Mr. Magro was dismissed with reimbursement of some relocation costs still outstanding. He argued minimal attempt had been made to find his wife employment. In addition, he complained he had not been granted an interview when the existing senior coaching position failed to be renewed in August, 1998. The defendant officials disputed Mr. Magro’s claims. They argued he was appointed on the basis of an oral contract which either party could terminate on reasonable notice to the other. This was later modified in a letter of appointment to state that Mr. Magro’s contract could be terminated by giving one month’s notice or the payment of one month’s salary in lieu.

Nevertheless, Mr. Magro pressed claims against the Football Club for damages for breach of contract and against the defendant officials for contraventions of sections 52 and 53B of the Trade Practices Act 1974 (Cth), the “TPA”. Section 52 forbids a corporation’s engaging in misleading or deceptive conduct or conduct likely to mislead or deceive in a trading or commercial situation. More specifically, section 53B states that, where employment is to be offered by a corporation or another person, the conduct displayed should not be liable to mislead or deceive the prospective employee as to the nature, the availability and the conditions of the employment.

Prior to trial, the Fremantle Football Club and Mr. Magro signed a Deed of Release, settling matters between them. The trial involving the club officials continued. Despite the signing of the Deed of Release, Justice Blaxell still found it necessary to determine that the Fremantle Football Club had contravened the relevant sections of the TPA through the representations made to Mr. Magro by the three defendants and their misleading conduct with regard to the terms and conditions of his contract. He maintained that, as the authorized representatives of the Fremantle Football Club, the defendants had blatantly misrepresented the terms of Mr. Magro’s appointment as assistant coach. Their inability to ensure the appointment proceeded as promised was compounded by their failure to apprise Mr. Magro of that fact. In paragraph 141 of his judgment, the judge commented, “They appointed Mr. Magro without saying more, thus misleading him into believing that his appointment was as previously.” On the basis of this reasoning, the defendants were found liable to Mr. Magro for the Fremantle Football Club’s contravention of sections 52 and 53B of the TPA.
According to section 82 of the TPA, Mr. Magro was entitled to recover damages from any person involved in the Fremantle Football Club’s contravention of the pertinent sections. Clearly, the three club officials qualified. The loss of Mr. Magro’s opportunity to further his coaching career needed to be quantified so that he could be placed in a similar position to that he would have been in if he had not transferred from the Collingwood Football Club. However, the damages of $511,729 awarded were subject to adjustment on the basis of Mr. Magro’s income during 1997-1998, the figures for which were not available. In addition, $10,000 in after-tax income was awarded for Mrs. Magro’s loss of income because of the club’s unsuccessful endeavours to find her employment. Finally, the judge decided that $4,647.50 in furniture storage costs as a result of the Magro’s move fell within the ambit of relocation expenses and awarded these as well.

Further submissions from counsel were called for to clarify Mr. Magro’s earnings during the time in question, to decide an appropriate interest component and to determine the extent to which the damages awarded against the club officials should be offset against the moneys received by Mr. Magro under the Deed of Release with the Fremantle Football Club.

This case may be viewed at: