

10 JULY 98

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Dear Sirs

MR COLIN JOSEPH, SENIOR PARTNER,
DJ FREEMAN SOLICITORS, 43 FETTER LANE, LONDON EC4A 1JU

I am writing to make a complaint against Mr Colin Joseph of DJ Freeman. He represents Shell UK Limited in a High Court Action that I have brought against them. As will become evident, I consider that he has acted improperly in relation to the underhand activity of an uncover investigator, Mr Christopher Phillips, who was instructed by DJ Freeman – presumably by Mr Joseph.

It is only by explaining the background circumstances, and the chain of events, which may or may not be connected, that the seriousness of the matter will become clear. The events include a sinister anonymous telephone call in which a caller made various comments before threatening harm against my family and myself if I continue with the litigation. Implied threats were also made against witnesses. Although I treated the comments with appropriate scepticism given the nature of the call, subsequent events that have unfolded in rapid succession, suggest the caller must be an insider, who had detailed knowledge of Shell's future plans.

BACKGROUND INFORMATION

My company, Don Marketing UK Limited, has had a long association with Shell UK that commenced in 1981. We have been responsible for devising many of their most successful promotions. In more recent years, we have found it necessary to bring four High Court actions against them in regard to promotional proposals we disclosed to them on a confidential basis. Shell has already settled the first three claims in our favour. The most recent of these claims is in respect of the SMART loyalty scheme. I have also brought a claim against Shell UK for libel.

On 21st May, a gentleman called Mr Christopher Phillips visited our business centre offices. He was caught in the act of examining mailboxes containing private mail, stored on private property. He gave a false alibi for his conduct by posing as a consultant seeking office accommodation for a business friend. He left a "Cofton Consultants" business card that had his name on it, identifying him as a "Director". He asked so many questions about Don Marketing that he further aroused the suspicions of the receptionist. Mr Phillips left with materials she supplied to him in good faith, believing he was making a bona fide inquiry about office space. However, when she went home and thought about his visit, she wondered if it had a connection with the Shell litigation. She did not say anything to me at the time.

On 14th June, I received the anonymous call. It soon became apparent that the caller had an intimate knowledge of the litigation we had brought against Shell. It was during this conversation that serious threats were made against my family and myself. As already indicated, implied threats were also made against certain witnesses.

The caller mentioned that: -

1. DJ Freeman had instructed an investigative resource. (This turned out to be correct).
2. Two specialist agencies had advised Shell. (Both had visited our websites).
3. Shell was about to go on the offensive. (The following day, our solicitor advised me that Shell had made an application for an order in respect of the libel case, which included a submission that the case should be struck out).
4. Shell would be making a counter claim. (When their Defence was filed on 26th June, Shell included a Counterclaim for £100,000).
5. Dr Fay, (the Chairman and Chief Executive of Shell UK Limited) was furious at our antics at the May AGM of Shell Transport & Trading Co Plc - particularly by the leaflets that we had distributed. (The above Counterclaim is based partly on an alleged breach arising from the distribution of the leaflets at the AGM).
6. Shell objected most of all to the so-called "elaborate and colourful" websites - as described in a recent Daily Telegraph article. (Shell's Counterclaim is based partly on information published on the websites).
7. Our complaints about Shell to the Advertising Standards Authority had caused great concern. (Shell has based its Counterclaim partly on our letters to the ASA).

On 15 June, I brought the anonymous call and the activities of Mr Phillips to the attention of Dr Fay. I copied the letter to two other senior Shell Directors. I also faxed a copy to DJ Freeman. I provided information about the visit that Mr Phillips had made to our offices. I mentioned in the letter that I had arranged to give a Statement to the Police at Bury St Edmunds. I visited Bury St Edmunds Police Station that afternoon and had a long interview with a Police Officer.

As I was **unaware** at that time, that DJ Freeman had in fact instructed an investigative resource, exactly in line with what the caller had said, I agreed that for the time being the Police would just record the details on a computer file pending further developments.

On 16 June, I received a faxed response from DJ Freeman. They denied that they or their client had any knowledge of the anonymous caller. **But they remained strangely silent about Mr Phillips**. In view of their silence and as we had been unable to find any reference to "Cofton Consultants" at Companies House, or in any trade directory, our solicitors wrote to Mr Phillips at the London address on the Cofton Consultants business card. No reply was received.

On 18 June, I wrote to DJ Freeman specifically asking whether they or their clients had any knowledge of any investigations carried out in connection with the on-going litigation. Our solicitors, Royds Treadwell, also wrote to them asking about Cofton Consultants.

On 19 June, DJ Freeman admitted in a letter to me that they had instructed Mr Phillips. They said that he had been acting in the course of "routine credit enquiries".

On 24 June, Royds Treadwell received a response from DJ Freeman. They said that the investigation carried out by Mr Phillips was in regard to the financial status of companies with which I have been associated. They went on to say that such enquiries are perfectly legitimate, as long as they are conducted properly.

On 25 June, our solicitors wrote to DJ Freeman pointing out that Mr Phillips had engaged in an outright deception.

I have pointed out to DJ Freeman my belief that the withholding of information in their initial response letter in my view amounted to a deception. Furthermore, contrary to the pledge in their initial letter to "co-operate fully" in any Police investigation, it is also my personal belief that they withheld evidence that potentially may have related to a criminal offence – the anonymous threatening call. It appears that DJ Freeman decided to keep this information secret from me, despite the intimidatory nature of the anonymous call. DJ Freeman has denied that this is the case.

Because of the mystery over "Cofton Consultants", I instructed a firm of investigators to investigate them. They have also drawn a blank. They do not appear to be a member of any trade body, such as the Association of British Investigators and are therefore apparently unconstrained by any associated code of ethics. Perhaps this is an attraction to some of their clients.

If the reasoning behind these events was to damage our claim (**potentially for several million pounds in damages**), then that strategy appears to be meeting with some success. These developments have already placed me at a further disadvantage in prosecuting the litigation, as I feel morally obliged to inform witnesses of the threats that have been made. Our solicitor spoke to one witness two weeks ago and mentioned these events. The relevant individual subsequently informed me that he now has grave concerns about acting as a witness in our primary action against Shell. Other witnesses may share his concern.

Mr Joseph of DJ Freeman and Mr Wiseman of Shell, have both denied any involvement in any intimidation. I know Mr Wiseman well enough to accept his word and I can see no motive for Mr Joseph to be associated with such activity. I therefore also accept his denial. I would also make it plain that they have repeatedly stated their desire to co-operate directly with the Police in any investigation you may carry out into these matters. They have also given categorical assurances that the visit of Mr Phillips was unconnected with the anonymous call. Of course the fact is that in this matter, they cannot speak for anyone, other than themselves.

My complaint against Mr Joseph therefore boils down to my personal belief that in his letter of 16th June, he deliberately withheld information potentially material to a criminal offence – the anonymous call, and that his action amounted to deception by omission. It was only when cornered, that he admitted that DJ Freeman had instructed Mr Phillips. He subsequently had the opportunity to disassociate himself, his firm, and his client, from the sleazy activities of Mr Phillips. Instead, despite knowing about Mr Phillips misdeeds, he chose to defend him. The conduct of Mr Joseph is not what I would have expected from a partner in a prestigious firm of solicitors, particularly from the senior partner, who is presumably supposed to set an example.

I will supply copies of all relevant correspondence, plus information about associated events, if it is confirmed that you will be investigating my complaint against Mr Joseph (who I believe has been the solicitor representing Shell UK in the litigation during the relevant period).

Yours sincerely

John Donovan

cc. Mr Colin Joseph, Senior Partner, DJ Freeman Solicitors (Fax: 0171 556 4461)
