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MARKETING

Sales Promotion Specialists

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Mr Colin Joseph
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43 Fetter Lane
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25 May 1998
7 Pages By Fax Only To:
0171 556 4461

Dear Mr Joseph

RE: SHELL SMART CARD CONSORTIUM

You have asked me to substantiate the comment made in my letter to Marketing Week asserting that Shell UK and its lawyers have "bombarded my company and my family with threats over the years (verbally and in writing)." I have set out below a listing of the relevant threats, in date order.

I have supplied Marketing Week with copies of the recent correspondence, including your letter of 22 May. I have also supplied them with a copy of this letter. Consequently, they are in a position to make their own judgement on these matters.

THE THREATS

9pm FRIDAY 18 JUNE 1993

RECORDED TELEPHONE CONVERSATION (about the Nintendo promotion)

JOHN DONOVAN: "Its all a thoroughly unpleasant business isn't it really..."

ANDREW LAZENBY: "Its getting more and more unpleasant by the moment John as you waste my time. As I say I can't get access to anyone tomorrow because I've got a full day out. I would, if I were you, think long and hard because once I get my solicitor involved, she won't stop, right. Once I speak to her, she won't stop... I'm entirely bound by what she says but I'm warning you that as soon as I go to her she will drive the process, not me and you won't have anyway out".

1 JULY 1993

Letter to DM from Mr David Watson, Marketing Communications Manager, Shell UK Limited. Last paragraph.

"I know that in the past Shell has enjoyed a very good business relationship with your company and has worked very successfully with you in respect of some of their promotions. We may well do so again. However, I have to say that this will not be the case if you continue to pursue the line in your recent correspondence, calling into question Mr Lazenby's business integrity and Shell's good name".

In fact, the remarks in our letter of 24 June 1993 had been directed solely at Mr Lazenby. This is what I actually said about Shell.

"We have always found Shell to be highly ethical and scrupulously fair. It is these fundamental qualities which I will rely on with regard to receiving a just hearing on this matter".

9 May 1993

Letter to DM from Mr David Pirret, General Manager, Retail. Shell UK Limited. Last paragraph.

"In conclusion, might I suggest that before you take the opportunity of issuing press releases in relation to this dispute, that you look very carefully at the wording of these releases. The drafts that have been shown both to my Company and our solicitors are factually inaccurate in several respects, and we have already received our solicitors' advice as to likely proceedings, should they be circulated in this manner".

29 March 1994

Letter to Royds Treadwell from Mr Ian Brown, Senior Legal Advisor, Legal Department, Shell U.K. Limited. Extract from last paragraph.

"...please be advised that my Clients have no intention of launching a promotion which infringes any rights that your Clients may have. However, if you or your Clients should decide to circulate Shell dealers, **our Clients reserve their right to take whatever legal action they deem appropriate and to claim damages for any loss that may be occasioned in the event that you or your Clients make erroneous claims as to your Clients' rights with regard to any promotions that my Clients may introduce**".

(Shell subsequently launched a Make Money promotion and settled, in DM's favour, the High Court Action which DM brought against Shell)

26 April 1994

Letter to Royds Treadwell from Mrs Pamela Marsh, Legal Department, Shell U.K. Limited. Last paragraph.

"If the press release is issued in its present form, we shall not hesitate to seek our legal remedy forthwith".

27 April 1994

Mackrell Turner Garrett letter to Royds Treadwell. Last sentence of third paragraph.

"In fact, we are sure it will make the litigation now being dealt with in relation to the 'Nintendo' concept even more drawn out and difficult".

29 April 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extract from second paragraph.

"...we really do not want to go to the trouble of having to advise our clients on proceedings in relation to this".

30 June 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extract from third paragraph.

"...if either of us adopt a hardened stance, the only solution then available to your Client is for him to serve the Statement of Claim, for us to defend in the normal manner, and for a hearing to come on sometime late 1995".

31 August 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extracts from numbered paragraph's 6 and 7.

"Your Client will be on very dangerous ground in suggesting that there has been a breach of good faith. We will advise our Clients to take action if your Client breaches the undertaking. If your Client breaches the undertaking then he must be aware of the consequences that he will face".

29 September 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extract from paragraph (d).

The last 48 hours has allowed us time within which to collect the necessary evidence that we need to prove that our clients have acted in good faith throughout. If your client decides to breach these undertakings then we must make it perfectly clear that we are already instructed to take the necessary action both by way of injunctions, and the claim for damages against your client. Counsel is already lined up to appear on our client's behalf. We will have absolutely no hesitation in commencing those proceedings if your client breaches the undertaking."

11 October 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extracts from numbered paragraphs 3, 4, 5 and 6.

3. "...we already hold instructions, and have already discussed with Counsel the appropriate action that we will take... What becomes a matter for us is if (a) he breaches the undertakings (b) he publicises untruths. In those circumstances, he will face an action from our Clients... We also repeat that we will take action if your Client breaches this".
4. "He will face injunction proceedings if he does. There are allegations in that letter which will lead to such proceedings if the letters are sent".
5. He is making unsubstantiated allegations, and we have to say yet again that if he does we are instructed to commence an action... the circumstances surrounding it will therefore lead to your Client facing an action".
6. "...if he does issue small claims proceedings in relation to this then he must face the consequences".

20 October 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extracts from paragraph 5.

"...we have this afternoon delivered formal instructions to Counsel in relation to an injunction, and a claim for damages against your client... your Client must expect action to be taken by our Clients.

It is interesting to note, in view of the following letter, what Mackrell Turner Garrett said in the second paragraph of their letter.

"As we have said, and we repeat, your Client will receive no response direct from the recipients of these faxes... We are instructed on Shell's behalf, and Shell will not correspond directly with your Client".

21 October 1994

Letter to DM from Mr David Varney, Managing Director, Shell U.K. Limited. Second paragraph. (In reply to a DM faxed letter of the same date).

"We must warn you that any public statement made by you in breach of the sub judice rules or in breach of our confidentiality agreement will be met by the appropriate legal response."

4 November 1994

Letter to my father, Mr A E Donovan, from Mr Richard Wiseman, Company Secretary, Shell U.K. Limited. Extract from penultimate paragraph.

"However, if those leaflets contain material that is untrue or in breach of the rules of contempt of court, we will have to consider taking appropriate action against Don Marketing Limited or its officers".

11 November 1994

Mackrell Turner Garrett letter to Royds Treadwell. Extracts from penultimate paragraph.

"I know that you are aware that if there is anything in your Clients press release which breaches the terms of the secrecy/mediation agreement, then reluctantly my Clients have instructed me to take the necessary action".

5 January 1995

Letter to DM from Jyoti Munsiff, Company Secretary, Shell Transport and Trading Co Plc. Second paragraph.

"Furthermore, should you decide to issue a witness summons against Mr Jennings we will instruct our solicitors to apply to the court to have that summons set aside and apply for costs against you".

12 January 1995

Letter to DM from Mackrell Turner Garrett. Second item 4, on page 2.

"There is no doubt that you have broken the secrecy agreement. You must therefore face the consequences;"

30 January 1995

Letter from Mackrell Turner Garrett (Shell's solicitors) to my father, Mr A E Donovan (in his capacity as a founder of the Shell Corporate Conscience Pressure Group. Extracts from second and last paragraphs.

"Should the letters be sent out in the form that they have been drafted, a claim for damages will be commenced against Don Marketing U.K. Limited. You will appreciate that, as the information has already been passed to you, a breach of the agreement has already taken place and an injunction is an inappropriate remedy. A substantial claim for damages, and legal costs will however be mounted by our clients, Shell U.K. Limited.

11 April 1997

DJ Freeman letter to DM. Extracts from Page 5. "You should be in no doubt that if any letters are written or press releases issued which are in breach of these agreements, then our clients will not hesitate to take such action as they are advised is appropriate, without further notice to you.

We should also make it absolutely clear that if letters are written which attempt to interfere with our clients business or induce breaches of contract by those who have dealings with our clients then our clients will also not hesitate to take such action as they are advised without further notice to you. This will include seeking the recovery from you of any losses suffered by our clients as a result of such actions".

8 May 1997

DJ Freeman letter to Royds Treadwell. Last paragraph.

"We would be delighted if our concerns were to prove unjustified and if your client does indeed genuinely wish to have our clients' full account of the history of the matter. Should that be the case, our clients and ourselves remain perfectly happy to proceed down that course. If not, then your client has only himself to blame for the consequences that must ensue".

9 April 1998

Letter to DM from Mr Mark Moody-Stuart, Chairman, Shell Transport & Trading Co Plc. Extract from penultimate paragraph.

"How you conduct your campaign is naturally your prerogative, however I am sure you appreciate that Shell UK Ltd, like any other company, will be obliged to respond appropriately to your actions".

23 April 1998

DJ Freeman letter to DM. Extracts from last paragraph.

"You have indicated in specific terms your wish to abide by the... provisions. I should now be grateful to receive your specific assurance that you also intend to honour the terms of the other provisions... and in consequence that all offending material on the web site will be removed

immediately. I look forward to hearing from you to this effect and in the meantime all my client's rights in respect of this matter are reserved".

24 April 1998

DJ Freeman letter to DM. Extracts from the single paragraph of the letter.

"I await with interest your changes to the websites... My clients fully intend to take steps to enforce such xxxxxxx if breaches take place".

28 April 1998

DJ Freeman letter to Royds Treadwell. Last paragraph.

"In those circumstances, although we note your present intention, if there is any breach by your client of the provisions of the xxxxxx xxxxxx, our clients will take all necessary steps to enforce their rights, including..."

29 April 1998

DJ Freeman letter to Royds Treadwell. Item 3 of numbered paragraphs.

"While our client has not sought to take action to date they fully reserve all their rights to do so".

18 May 1998

DJ Freeman letter to Royds Treadwell. Second paragraph.

"We require no later than close of business today to receive a copy of a letter from you or your client to Tim Brinton Cars Limited retracting the "letter before action" sent to them, together with an undertaking from you on behalf of your client that no further action of whatsoever nature will be taken to induce breaches of any contract that may exist between Shell UK Limited and any third party. Failing hearing from you to this effect, we shall seek appropriate relief from the court against your client."

19 May 1998

DJ Freeman letter to Royds Treadwell. First sentence of last paragraph.

"It follows therefore that any attempt without good cause to induce our client's dealers to withdraw from the promotion or fail to honour their obligations to our client, will give rise to claims against your client."

Please note that despite all of the threats made by your client and its lawyers, they have never commenced any such legal proceedings against us. That speaks volumes about the merits of the various allegations that have been made against us over the years. In contrast, we have consistently implemented our plans to bring each of the High Court actions against your client, which they eventually settled in our favour.

The list of threats does not take into account the various meetings lasting several hours, that I had in May 1995 with Dr Chris Fay, the Chairman and Chief Executive of Shell UK Limited, nor the long press statement about myself and my father, issued by Shell in March 1995.

There is an enormous difference in moral terms between a small business taking action in support of bone fide claims and an oil company giant, supported by army of lawyers with unlimited resources, using oppressive tactics to try to defend the indefensible. The direct evidence and the similar fact evidence regarding the SMART claim is overwhelmingly in our favour. Indeed, the key Shell Manager involved in the SMART claim has, in effect, three previous convictions for indulging in the same unscrupulous activity.

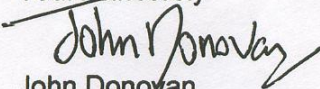
It is notable that your client has not honoured ANY agreement into which it has entered with us. It apparently thinks that binding terms apply only to David, not to an arrogant multinational Goliath. Over the years it has followed a policy of using bluff, threats, double-talk, evasion, and foot dragging, to try to frustrate legitimate claims, rather than dealing with them properly. The threat to which we have the strongest objection was the odious threat to make the litigation "drawn out and difficult" (with the obvious intention of exhausting the funds of a weaker opponent).

A classic illustration of the double-talk to which we refer arises from the current Marketing Week article headed: "Shell faces new threat to Smart card scheme". In the article, Shell UK is quoted as stating: "The proper forum for resolving these matters is in court and proceedings are moving forward to enable them to be resolved there". In reality, you are delaying progress by insisting on taking extra time to file a defence to each claim. This is despite the fact that you had over a year to assemble your defence to the SMART claim. We allowed the additional time purely because of the threat by your client to seek costs against us if we continued to refuse the request. The lesson is that while Shell spin-doctors say one thing, Shell lawyers do exactly the opposite.

I have been in business for over three decades. During this period I have dealt with thousands of companies from one-man operations, to the very largest, such as Shell. I have to conclude after my dealings with Shell UK management, that they are the most ruthless, unethical people I have ever had the misfortune to meet. In the matters that I have witnessed, Shell UK has not honoured the principles of honesty, integrity and openness enshrined in the Statement of General Business Principles published by Royal Dutch/Shell. If they had, none of these matters would have been the subject of litigation. But they seem to prefer deception, intimidation and cover-up.

That fact that your client has not acted to stop the publication of these matters on our website speaks for itself. They know that we have the evidence to support our comments. This letter is also published on our website. If Shell takes exception to any of the assertions made herein, then they are free to take whatever action they deem appropriate.

Yours sincerely



John Donovan
Managing Director

- cc. Mr Mark Moody-Stuart, Chairman, Shell Transport (Fax: 0171 934 7987)
- Dr Fay, Chairman and Chief Executive, Shell UK Ltd (Fax: 0171 257 3939)
- Mr Richard Wiseman, Legal Director, Shell UK Ltd (Fax: 0171 257 3303)
- Mr Richard Woodman, Royds Treadwell Solicitors (Fax: 0171 583 2034)
- The Editor, Marketing Week (0171 970 4298)