

14 April 2004

Mr Colin Joseph
Freeman Kendall
43 Fetter Lane
London EC4A 1JU

Dear Mr Joseph

SHELL TRANSPORT & HAYLUYT MI6 SPY FIRM - ONE AND THE SAME?

Thank you for your email response of 7 April acknowledging receipt of my faxed letters dated 4 & 5 April 2004 relating to your client, the Royal Dutch Shell Group. I note the usual lawyer's formula of a blanket denial on all fronts combined with the avoidance of answering even the most straightforward questions. I also acknowledge receipt of the email I received yesterday from Shell director Mr Richard Wiseman in his capacity as UK General Counsel of Shell International Limited.

You have written off my account of the cloak and dagger events leading up to the last settlement as being a "parody of the truth" and characterised it generally as being "nonsensical" and based on "wider conspiracy theories".

The problem you have Mr Joseph is that you cannot change what you and Shell director Richard Wiseman have already admitted in writing about undercover activity by Shell agents involving fraud and deception. Your letters are now a matter of historical fact.

I will deal directly with your accusations by separating fact from theory. However we must obviously reconsider the relevant past sinister events in the light of the latest revelations. As I have indicated, I never imagined even in my "wider conspiracy theories" that a shadowy corporate intelligence organisation was at the time in question, led by Shell Transport directors and staffed by former MI6 Officers.

I refer of course to Hakluyt & Company Limited and The Hakluyt Foundation. Sir William Purves was simultaneously a director (and shareholder) of Shell Transport, and the Chairman and a major shareholder in Hakluyt & Company Limited. The late Group Chairman of the Royal Dutch Shell Group, Sir Peter Holmes, was until 2002 simultaneously a director (and shareholder) of Shell Transport and also President of the Hakluyt Foundation - a "Supervisory Board" overseeing spying operations. He took over the role from the late Brigadier Sir Fitzroy Maclean -the model for Ian Flemings "James Bond" character. I note Mr Joseph that you ignored my comments and questions about Hakluyt. I wonder why?

For your information I now have in my possession a Hakluyt & Company Ltd document co-signed by Sir William Purves and Mr Christopher James, a co-founder of Hakluyt. Mr James is a former senior British Secret Intelligence Service MI6 officer. So is his Hakluyt co-director, Mr Mike Reynolds. This applies to many of the staff at Hakluyt. Reynolds founded MI6's Counterterrorism Branch and was Head of Station in Berlin. Richard Dearlove, the head of MI6 (C) is reportedly "a close friend". Christopher James was in the SAS before he led a section of MI6 which liaised with British firms. Sir David Spedding, the head of MI6 in 1995 when Hakluyt was launched "wished him luck with the venture".

Shell/Hakluyt used freelance serving intelligence agents when deemed appropriate, as revealed in The Sunday Times article of 17 June 2001 entitled: *"MI6 'Firm' Spied on Green Groups"*. Hakluyt modus operandi is that when an assignment is received, it calls up to five associates to London (often from overseas) to be briefed and then "deploys" them. Each agent works independently. No doubt other spy firms work on a similar basis. Hakluyt is identified on a number of credible websites as being a front for the SIS; the commercial arm of MI6.

With the written permission of Jyoti Munsiff and Sir Mark Moody-Stuart, our dossier complaining about the "cloak and dagger" activity directed against us was sent to all Shell Transport directors, including Sir Peter Holmes and Sir William Purves. Of course we did not know that Sir Peter and Sir William were the Spymasters of Hakluyt which engaged in the type of sinister clandestine operations that we were drawing to their attention.

Evidence of corporate espionage on an epic scale on behalf of Shell is given in The Sunday Times article. Perhaps as a lawyer you would argue that such conduct is unseemly but not illegal? But what if the same conduct occurred in connection with a pending High Court trial - the SMART trial for example? Would not everyone involved, including relevant Shell directors, the spy firm, relevant agents and any lawyers knowingly involved, be part of a criminal conspiracy to pervert the course of justice? Of course it would make it harder to prove anything if the spies were called in from overseas.

As I have now set out some of the salient information which has recently emerged, I will, as promised, separate fact from theory.

SECRET AGENT No 1: Mr Charles Hoots

On Friday 15 May 1998 an American gentleman, Mr Charles Hoots, contacted my sons' solicitor, Mr Richard Woodman of Royds Treadwell. Mr Hoots subsequently travelled over from Paris to interview my son and other key witnesses. He gave what subsequently proved to be a cover story. You are already familiar with the details and they are recounted in my recent Affidavit. As you know The Guardian newspaper investigated in 1998 and

concluded that he was a "spook" working as a freelance spy under the cover of being a journalist. Frankly, my son and I both thought that any allegation of Mr Hoots being a CIA agent was far-fetched.

That was until Shell admitted to The Sunday Times Newspaper that it had hired an active member of the German Secret Service to infiltrate and inform on its perceived enemies - organisations campaigning against Shell including Greenpeace. It is documented fact that some secret agents freelance for commercial intelligence organisations such as Hakluyt.

My research earlier this year confirmed that the wife of Mr Hoots is Khadija al-Salami, the Press and Cultural Attaché and Director of the Yemeni Information Centre at the Yemeni Embassy in Paris. Mr Hoots speaks Arabic fluently. He specialised in International Studies at the American University in Washington DC where he and his wife first met. He has a wide-ranging expertise of Middle Eastern politics and military matters involving Kuwait, Iraq, Egypt, Iran, Libya, Lebanon, Syria, Jordan and Israel. Mr Hoots and his wife have contacts with close advisors to Arab leaders e.g. King Fahd of Saudi Arabia.

My latest research has revealed that he is an acknowledged expert on Nuclear WMD in Iran; author of a related article published by the Centre for Non-proliferation Studies; has written related articles for "Nucleonics Week" and is a co-author of a 1996 text book on the Geopolitics of Drugs.

The question we have to ask ourselves is why an American "spook" with these impressive highly specialised qualifications would become involved in UK litigation over a loyalty card promotional concept for Shell forecourts? Why on Earth would he invest time and money to travel over and stay in the UK on such a relatively piddling matter so far removed from his normal exotic professional interests?

It is a fact that Mr Hoots used false pretences to interview my son, his lawyer and his witnesses. He also gained access to privileged documents. As to his motive, commonsense suggests that he did not spend his own time and money on an overseas investigation on a speculative basis. I know he was not on our payroll. Who else but Shell had the motive, the admitted record for hiring spies AND the necessary deep pockets to hire someone of his obvious pedigree and calibre?

It is therefore difficult to avoid the conclusion that Mr Hoots was an undercover agent engaging in industrial espionage activities, including assembling intelligence information which was supplied to Shell. It is not proven, but it is a reasonable assumption based on the known facts.

SECRET AGENT No2: Mr Christopher Phillips.

In the following week of May 1998, a gentleman using the name Mr Christopher Phillips was caught by an independent witness illegally checking private mail at our then offices in Bury St Edmunds. In a letter dated 19 June 1998 you admitted the activities of "Mr Phillips" who according to the business card he had with him was a "director" of a firm called "Cofton Consultants". He gave a false alibi to the person who caught him and used false pretences to try to obtain information about our then company and about my son and me personally.

No such firm was registered at Companies House, thus he could not have been a "director" as was falsely stated on his fake business card. The address and telephone number also proved to be a front. The company name did not appear in any trade directory. His business card printer must have been Jim Rockford. Shell Legal Director Richard Wiseman stated in his letter to us dated 9 July 1998: *"The activities of Mr Philips have been admitted."* It does you and Mr Wiseman no credit that you both remained silent about the activities of "Mr Phillips" until cornered by the detective work of my son and his solicitors. It was only then when the flaws in the "Cofton Consultants" facade was exposed that you made your admissions. This is not conspiracy theory; it is fact.

You Mr Joseph also stated in writing that more than one agent was involved in making inquiries about us. This further admission, clearly designed to intimidate us, was put in writing on DJ Freeman letter heading with your signature. That again is indisputable fact. Despite written requests you would not disclose the true identity of the organisation/individuals involved in the espionage directed against us or the scope of their intelligence gathering activities. Neither would you supply a copy of the brief issued to the agents. We sought this information out of concern for our family and our witnesses. This is all documented fact, not conspiracy theory.

SECRET AGENT No.3 - "Daniel Wilson"

On Tuesday 9 June 1998 the London solicitor acting for my son, Mr Richard Woodman, was contacted and interviewed over the telephone by a "Daniel Wilson", purporting to be a reporter for The Daily Express. He said he had visited our website. His original interest had been in the "McLibel" case but he now wished to write a story on our case against Shell which would be published the next day. He repeatedly pressed Mr Woodman to answer questions until Mr Woodman became so suspicious that he took a telephone number from "Mr Daniels" so that his credentials could be checked before further information was revealed.

The telephone number proved to be non-existent and a call to The Daily Express established that no one on the newspaper had ever heard of him. "Daniel Wilson" had obtained information under false pretences. This account is not conspiracy theory, but verifiable fact which can be confirmed by Mr Woodman, a highly reputable solicitor.

THREATS AND INTIMIDATION

In your letter to my son, John Donovan, dated 21 May 1998 you stated:-

"There is one point in your letter to Marketing Week that concerns me greatly. You refer to Shell UK and its lawyers having 'bombarded my company and my family with threats over the years (verbally and in writing)'. Not only am I unaware of such threats having been made but nor can I recall this allegation having been previously put to Shell or to ourselves. Please therefore let me have full details of the threats to which you refer".

In a response letter dated 25 May 1998 (attached as an appendage to this letter), my son listed, in date order, all of the threats. It was notable that you made no further comment on the subject. Those unseemly threats by a multinational giant against a small company and its directors are all a matter of documented fact, not theory.

On Sunday 14 June 1998, my son received an anonymous call during which threats were made. Following an investigation by the Police, a British Telecoms Investigations Unit, and a national newspaper the call was traced to a London payphone (0171 377 2150). Unfortunately the identity of the caller could not be determined from local CCTV tapes. Shell UK Legal Director Richard Wiseman, denied that anyone at Shell had any connection with the incident. However, it was evident from his subsequent actions that he had doubts about the veracity of his denial as he launched an internal investigation at Shell-Mex House. That internal investigation was later confirmed in your letter to me dated 26 October 1998 when you stated that it was undertaken *"in response to the understandable concerns expressed by Mr John Donovan."* Your letter is fact not theory.

The anonymous caller had inside knowledge of Shell's secret plans to go on the offensive against us. He gave up to date information about the litigation which my son knew to be correct. He also said that Shell was about to bring a Counterclaim and discussed the grounds on which it would be brought.

In this connection I have a report of an undercover/infiltration mission in which Hakluyt agents gathered intelligence to assist BP in formulating a Counterclaim strategy against Greenpeace. The information given to my son about Shell's future plans including details of its Counterclaim strategy subsequently proved to be 100% correct.

Beyond any doubt, the caller was someone intimately involved with Shell and its proactive plans for handling the SMART litigation. The accuracy of the information the caller disclosed was clearly designed to prove his credibility and the potency of the spine chilling threats which he then made. Again I will not go into great detail because I have done so previously.

Much of this information was conveyed in a letter faxed the following day to Dr Chris Fay, the then Chairman of Chief Executive Officer of Shell U.K. Limited. That letter contained the following passage referring to the caller: *"Basically, he claimed that Shell has a team of specialists who are providing input in regard to Shell's defence against the litigation and in regard to associated matters. According to him, they include an investigative resource..."*

Mr Wiseman was sufficiently concerned by the credibility of the person making the threats, that in addition to initiating an immediate internal investigation at Shell, he deemed it appropriate in his letter of 9 July 1998 to offer assurances for our safety and that of our witnesses.

THE POLICE INVESTIGATION

My son gave a Statement to the Police on 15 June 1998 concerning the anonymous call. The Police also carried out enquiries at Shell-Mex House in relation to the threats and the undercover activity. In this connection, I wonder whether you or Mr Wiseman disclosed during the Police investigation that two directors of Shell Transport were at that precise time Spymasters of a shadowy organisation engaged in exactly the same type of "cloak and dagger" operations for Shell, as was being investigated by the Police. My guess is that no one disclosed this important material information to the Police (my educated speculation). If so, that constituted an obstruction of an official Police investigation. Their investigation was a fact, not a theory.

I would remind you that despite the sinister nature of the series of events which all took place in the run up to the Trial, you Mr Joseph remained silent about your association with the undercover operations and only admitted the truth after action taken by my son and his solicitors forced you and Mr Wiseman to come clean in respect of Mr Phillips.

THE BURGLARIES

You are already aware of the series of burglaries which all occurred in a matter of weeks during October/November 1998. These took place at the residences of my son's solicitor (Richard Woodman) in South London (the first burglary); the Norfolk home of his key witness, Mr Sotherton (the second), and finally at my son's home in Suffolk.

The burglaries were unusual in character as the perpetrators seemed more interested in the documents relating to our case against Shell than in valuables lying around. Again I will not go into great detail because I have already done so previously. Police reports were made, forensic tests carried out at each of the scenes of crime and statements taken. The Police used the same forensic investigator for the last two burglaries because of the likelihood that the cases were connected. That is all a matter of verifiable fact.

What was the motive of the cast of characters who approached us and our lawyers and witnesses? Who was paying them? Who stood to gain from the information they gathered under false pretences? At least one of the undercover operatives was a highly polished professional brought in from overseas. Of course you know more about all of this than me so I will leave it to you to come up with the most likely candidate.

It is of course conceivable that you were kept in the dark about expanded spying operations so that you could make denials for example about Mr Hoots. Deniability is one of the benefits to clients touted by Hakluyt.

The sinister events and the intrigue completely undermined everyone involved on our side. People were genuinely frightened. This was why Mr Wiseman sent his letter assuring us of the safety of ourselves and our witnesses. When the case was heard in Court Mr Sothertons memory dried up under cross-examination by Mr Geoffrey Hobbs QC, the leading Counsel acting for Shell. At one point Mr Sotherton blurted out about the burglary at his home involving Shell/Donovan documents - it was evident that the burglary was playing on his mind. Mr Hobbs instantly dropped the line of questioning he had been pursuing. It was not a subject he wished to explore.

One potential key witness, Mr Paul King, a former Shell manager of long standing who had made a derogatory remark about Shell on Shell letter heading before he left their employment, was literally too frightened to give evidence. The Police discussed setting up surveillance at Mr King's home in Colchester because they thought it might be the next target of any co-ordinated activity by Shell or its agents, but nothing ever came of the plan as far as I know. My son notified the then Chief Constable of Suffolk, Mr Coe, of his concerns that because of all the undercover activity, Mr King would decline to give evidence. This proved to be the case. Mr King was already of a nervous disposition and he had taken early retirement on that basis. He claimed that he had lost all memory of all of the relevant events.

The credibility of our trial documents was undermined because hostile parties had access to them. You may recall that when my son inspected Shell's mountain of discovery documents over several days at your offices he was never left alone - not for a single minute. This was because of concern that he might tamper with Shell's documents by altering, inserting or removing documents. Yet a number of individuals gained access to our documents at various locations by illegitimate means.

It was against this intimidating backdrop that the trial, the Judges comments and the settlement negotiations took place. With all due respect my "wider conspiracy theories" as you put it, no longer sound as outlandish as they may have done then to independent observers. I now know even more of the truth about what was going on and I can hardly believe it all myself.

I sold my house to pay legal fees; my son ended up having to sell his. This was all in the reasonable expectation of a fair trial. Due to the undercover activities, some of which has been admitted in writing by you and your client, that was not what we ended up with. It was more like going up against the Mafia. My son even faced outright deception during his cross examination by Geoffrey Hobbs QC.

The perceived reality at that time was of a highly reputable multinational - the public could be sure of Shell, its senior management **GUARANTEED** honesty, transparency and integrity in all of its dealings.

The actual reality was that Shell was secretly running sleazy covert operations against its perceived enemies including us (as has been admitted in writing). The operations were directed against people and organisations campaigning against Shell for one reason and another. We were in 1995 given a substantial consideration to close down one such organisation - The Shell Corporate Conscience Pressure Group (another fact).

Another indication of the way in which our hard hitting campaign impacted on the reputation and competence of Shell's most senior management was the eventual personal intervention of Lady Judy Moody Stuart. I have the correspondence to prove it. Time has shown that our criticisms were well-founded in terms of Shell's performance compared with its rivals and in regards to the deeply ingrained cover-up/subterfuge mentality which has led to the current difficulties which have made headlines around the world. (I refer of course to the accusations of fraud and deception made in US class action suits currently underway, plus the investigations by regulatory bodies including the US Securities & Exchange Commission, and the criminal investigation by the US Department of Justice.)

The scale of the clandestine activity undertaken at the behest of Shell senior management at the time of our litigation against Shell was breathtaking. (1) According to the Mail on Sunday article on 4 April 2004, headlined: "*Shell Chief had a private army*", Sir Philip Watts helped to organise and pay for a 1400 strong private army of Police spies in Nigeria in conclusion with a murderous regime; (2) Shell Transport directors were the Spymasters of Hakluyt, whose secret agents targeted groups campaigning against Shell, including human rights and environmental groups e.g. Greenpeace, Friends of the Earth, The Campaign for Nuclear Disarmament, Body Shop etc. Indeed any group whose campaigning activities might impact on the reputation of Shell. The alleged activities of my son and I obviously fell within that definition, as alleged in the Counterclaim. (3) And I should not forget the admitted undercover activities involving Mr Phillips and other agents you refused to name. It is quite a collection of trickery and deception. And it involves so many titled people.

A roll-call of establishment grandees are directors and shareholders in Hakluyt & Company Limited: Sir Brian Cubbon GCB, former permanent Under-Secretary of State at the Home Office; Lord Inge GCB DL, former Chief of Defence Staff; Lord Trotman, former Chairman and Chief Executive of Ford and a director of the New York Stock Exchange; Colonel Sir Piers Bengough, KCVO, OBE; Sir William Purves CBE DSO GBM, formally a director of Shell Transport and Chairman of HSBC Bank; Lord Renwick, Chairman of Robert Fleming Merchant Bank; Sir John Weston KCMG; Sir Anthony Hammond, and Sir Ralph Robins BSC ENG FENG MIMC. These names are from the Annual Return filed at Companies House just a few months ago - 23 December 2003. A number of the above titled figures, including Sir William Purves, are also directors of The Hakluyt Foundation.

The following prominent people are also connected with Hakluyt: Former Foreign Secretary, Sir Malcolm Rifkind; Ian Lang, former Secretary of State at the Department of Trade and Industry; Earl Jellicoe, President of the SAS Association; Sir Peter Cazalet, former Deputy Chairman of BP; and Baroness Smith of Gilmorehill. Hakluyt also has a strategic agreement with Henry Kissinger, the legendary former US Secretary of State and guru of realpolitik. Mr Kissinger's company, Kissinger Associates, apparently facilitates top-level introductions for Hakluyt. It must be good to have friends in high places!

Commonsense suggests that Shell Transport management was more likely to use what was in effect an in-house resource rather than taking their dirty washing outside of the company. That ties in with what we were told at the time by the claimed "Shell insider" about an investigative resource.

Other directors of Shell Transport including Sir John Jennings, Sir Mark Moody-Stuart, and Sir Philip Watts, obviously knew of the involvement of Sir Peter Holmes and Sir William Purves in Hakluyt (all directorships had to be listed on Shell's own filings with Companies House). They self-evidently did not ask them to resign from Shell. Instead Shell became an important client, thus effectively endorsing their joint leadership of Hakluyt. That alone reveals something about the mentality of Shell Transport senior management. Although I cannot be certain that Hakluyt was involved in the covert operations against us (there are other similar spying outfits - Control Risks Group, Kroll Inc etc.) for the various reasons I have given, it does seem very likely. It is not however a known fact.

Members of Parliament have accused MI6 of using Hakluyt as a front to spy on activists. In the case of the Shell/Hakluyt agent featured in The Sunday Times story of 17 June 2001, it was reported that there seemed to be no boundaries between his activities working for state or business. It was also stated in the same revealing article: *"MPs believe the affair poses serious questions about the blurring of the divisions between the secret service, a private intelligence company and the interests of big companies. Hakluyt refutes claims by some in the intelligence community that it was started by MI6 officers to carry out "deniable" operations."*

In this connection, I have previously mentioned that Hakluyt is identified on a number of websites as being a front for MI6.

One example is from a website page headed: "UK INTELLIGENCE AND SECURITY REPORT AUGUST 2003." A section on the relevant page lists alleged front companies of MI6. The following is an extract: -

MI6 (SIS) 'front' companies have included

Hakluyt & Company/Hakluyt Foundation. Established 1995 by Sir Fitzroy Maclean to channel MI6 commercial intelligence to major companies and to receive information from corporate sources. Set up by Christopher James(ex SIS) and Mike Reynolds(ex SIS), directors included Sir Brian Cubbon(ex Home Office); Lord Laing(Conservative Party Treasurer); Earl Jellicoe; Sir Peter Cazalet(P & O and BP) and Sir Peter Holmes(Shell Oil)

(<http://www.informationclearinghouse.info/article4463.htm>)

The fact that Shell has been intimately involved with a firm set up solely for spying activities, with common directors/shareholders, and has admitted to using that investigative resource for undercover missions, speaks volumes about the lengths to which Shell management has been prepared to go. How could Shell directors pledge transparency, integrity or honesty in all its dealings on the one hand, and on the other, be part and parcel of an organisation whose stock in trade is deception and trickery?

Irrespective of the identity of the spy firm(s) there is overwhelming evidence that such activity was directed against us by Shell and that it undermined justice. We were already faced with a considerably less than level playing field, yet this apparently was not enough of an advantage for the almighty multinational Goliath, Shell. I appreciate that it must pain you every time I mention it, but you and Shell have admitted in writing that undercover agents WERE used against us. That is a documented fact.

A TITLED MAFIA

In any event, it does seem fundamentally wrong that the intelligence apparatus of the UK, paid for by the entire population, has apparently been hijacked and is being used by an elite minority for its own purposes. These individuals seem to be bent on sticking together to protect power, status, privilege, and wealth; a titled mafia.

You have raised the subject of the comments made by the trial Judge, Mr Justice Laddie (The Hon. Sir Hugh Laddie QC). His comments are posted unedited on my websites (with my full response). As you are well aware the Judge retreated from his initial comments in the face of the strong reaction from barrister Geoffrey Cox who is now a Head of Chambers and a leading QC in his field of law. As you well know his comments which were self-evidently not even-handed were made after a settlement was negotiated at a time when Mr Andrew Lazenby was still in the throes of being cross-examined.

The prospect of the interesting line of questioning continuing further seemed to have concentrated minds at Shell. The subject of Mr Lazenby's off shore bank account had not yet been explored.

You introduced the threat of contempt proceedings in an earlier exchange with me and are perhaps mischievously attempting to provoke me in to making ill-considered observations, so I will not add anything further in relation to the Judges comments.

The only other point to stress is that neither the Judge nor anyone on our side of the case knew of Shell's widespread intimate involvement in sordid "cloak and dagger" activity against other parties then in dispute with Shell management.

As I pointed out previously, I must at times have sounded like a crank because much of what I said would have seemed highly improbable to independent observers. But set against what is known now, it is entirely consistent with the conduct subsequently admitted by Shell after relevant facts were exposed by The Sunday Times. If we had known then what we know now, I suspect the SMART case would never have got to court.

If a judicial decision had been given by Mr Justice Laddie in favour of Shell I have no doubt grounds would now exist for a reversal of that decision and to call for a Police investigation that Shell perverted the course of justice. It would be based on the fact that we now have evidence that Shell was engaged in similar undercover tactics against other parties - tactics which in our case destroyed the whole concept of a fair trial.

I appreciate that Shell paid all of the SMART litigation legal fees. I also know that my son received a substantial payment as part of the settlement. I consider that it was a token payment - a small portion of what he should have received if the preparation and prosecution of his case in Court had not been undermined by illegal activity, including intimidation of witnesses. I suffered physically, mentally, and financially, because of what occurred.

With regards to the SMART settlement agreement, is it not time you gave up the pretence of claiming that it is still in force? Shell repudiated the agreement by its own duplicitous actions and was notified of this at its highest levels of management - Mr Wiseman, Mr Malcolm Brinded and Sir Philip Watts. Consequently I will proceed with my own plans as previously notified.

While I deplore anti-globalisation anarchists using violence to further their aims, I believe that the fact that some multinationals are more powerful than many individual Countries should be a matter of huge concern. The sinister excesses of one multinational goliath - your client, the Royal Dutch Shell Group, have provided a frightening example of the dangers we all face.

If anything I have said or published is untrue then the libel courts are, as always, available to you and your client. We now also know why Shell did not take that route previously. It was frightened about what might come out in open court. It had a great deal of secrets to hide on many fronts and no doubt that still applies.

I have sent copies of this email to Mr Brinded and Mr Wiseman for their information and file.

Yours sincerely
Alfred Donovan

14 April 2004

Cc
Mr Richard Wiseman, UK General Counsel, Shell International Limited
Mr Malcolm Brinded, Group Managing Director, Royal Dutch Shell Group
Mr Jeroen van der Veer, Group Chairman, Royal Dutch Shell Group

JAD/A150

Mr Colin Joseph
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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 judgment 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 xxxxxx 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 Funding Deed, 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)**