

MATA

Mediation and Training Alternatives

MISPLACED PASSION General Information

Background

Just over a year ago Loui Black and Alex White formed a company, called The Passion Place, which specialised in the import and retail of exotic fruit generally and passion fruit in particular. Prior to forming the company they had both worked for The General Fruit Trading Company (Geftra for short), Loui as Senior Trader and Alex as a Market Research Executive.

Immediately after Loui and Alex had left, Geftra experienced an unexpected drop in business, several long-term suppliers and customers ceasing to trade with them. Geftra investigated and found that a new company in the business had acquired contracts with the lost Geftra contacts. That company, Passion Place, was owned and run by ex-employees of Geftra. Geftra issued a Notice Before Action applying for an injunction to stop Passion Place trading on the basis that they had made presentations to Geftra suppliers and customers, whilst still employed by Geftra, to solicit business on behalf of Passion Place (and therefore to the detriment of Geftra). The matter went to court and the injunction was refused following Loui's and Alex's sworn statements that no soliciting was done whilst they were working for Geftra. The court awarded £10,000 costs to Passion Place, which Geftra have subsequently paid.

Geftra have investigated further and have now instructed their solicitors to take action against Passion Place because they have proof that Loui did solicit business on behalf of Passion Place whilst employed by Geftra. In particular, they have sworn statements from three overseas suppliers that Loui made presentations to them whilst on Geftra business overseas. In one instance this was an unsuccessful debt recovery trip to South America which Geftra now allege was a cover for soliciting business and used by Loui not only to get business at Geftra's expense but to their disadvantage because the debt, some \$56,000, was not properly pursued or paid.

The Claim

Geftra threaten court action against Passion Place, and Loui and Alex as individuals, for loss of profits and overheads, return of salary payments, payment of the lost debt and legal fees, calculated as follows:

Loss of profits and overhead reclaim	
15% of reduced trade over six months (£850,000)	127,500
Return of six month's salary and pension	62,500
Payment of lost debt \$56,000, say	28,000
Repayment of costs awarded by the court (due to misrepresentation by L Black)	10,000
Legal costs to date	<u>63,800</u>
Total claim	<u>£ 291,800</u>

Passion Place instructed solicitors who urged both parties to take the dispute to mediation.

It is estimated that, even though they have completed witness statements, Geftra will spend at least another £50,000 in legal costs to go through trial and that The Passion Place may well spend the same amount even though they are employing a local firm because they have done little work so far.

Attending the mediation

Loui White

Alex Black (although may not attend due to illness)

Their solicitor

General Green, owner and Chair of Geftra

Chris Gold, Marketing Manager of Geftra

City Law Firm Partner

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