Gmail by Google

Patrick Cairns <patrickc@moneyweb.co.za>

Re: Media request

Patrick Cairns <patrickc@moneyweb.co.za> Wed, Feb 1, 2017 at 2:50 PM
Draft To: George Prior <george@priorconsultancy.co.uk>

On Tue, Jan 24, 2017 at 3:54 PM, George Prior <george@priorconsultancy.co.uk> wrote:

> Hi Patrick
>
> As I am sure you will appreciate, we cannot comment further pending the FSB decision. However, we can say that the FSB are fully aware of who our legal representatives are, that full disclosure is taking place pending the FSB decision, that we cannot release any copy documents without clients' consent, and any other issues surrounding past clients can also not be addressed until we have heard further from the FSB.
>
> It should also be noted that it would not be correct to say or indeed suggest that "We agree than that…" as you wrote in the second paragraph of your email.
>
> I would like to reiterate that should your article makes allegations that prove to be unfounded, it could have a serious negative effect on deVere's enviable reputation and we would be forced to consider our position in this regard.
>
> Regards
>
> George
>
> George Prior
> george@priorconsultancy.co.uk
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> UK: +44 207 1220 925
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> SPAIN: +34 636 978 880
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> @PriorConsults
>
> > On 23 Jan 2017, at 13:14, Patrick Cairns <patrickc@moneyweb.co.za> wrote:
> >
> > Hi George
> >
> > Thanks again for your response. Sorry for the delay in getting back to you, but I have been away from my desk.
> >
> > We agree then that there was at least a period of a number of years in which deVere in South Africa did not disclose all of the commissions it received. I would like to explore this further:
> >
> > 1. If deVere believes that this practice was based on sound legal advice, why did it stop it? Who were the attorneys that gave the advice in question?
> >
> > 2. When did deVere make this change and begin disclosing all the commissions it charges to clients?
> >
> > 3. Can you send me an example of a recent quote in which all commissions are disclosed? Obviously the identity of the investor needs to be protected, so I do not need to see any personal information - just the details of all the commissions disclosed.

4. Have all of deVere's clients who were and are paying commissions that were originally undisclosed been informed of this fact?

Thanks,
Patrick

On Tue, Jan 17, 2017 at 2:49 PM, George Prior <george@priorconsultancy.co.uk> wrote:

> Hi Patrick
>
> I can confirm that deVere discloses all of the commissions it charges, and has done for some time. We believe we are amongst those leading the industry in South Africa in this regard.
>
> As such, your question regarding disclosure refers solely to historical conduct. It is ultimately a legal question, and whether or not there was correct application of the disclosure rules is precisely what the FSB is currently reviewing. The disclosure practice during the relevant period was based on the legal advice of reputable, specialist attorneys at the time.
>
> Publishing this article before any FSB determination is given would only serve the private interest of the personal and potentially unlawful conduct of a discontented former employee whose contract we terminated, and with whom we are currently in litigation with in respect of that termination, and who now has a rival company and with whom further litigation may follow. It must be stressed that all of the complaints are from clients who were clients of the former deVere employee, during the period when he was their advisor in our company, before having his contract terminated by us.
>
> Under the circumstances set out above, and in my previous email to you, I would urge you to desist from publishing the article until the FSB has made some pronouncement or determination, in the circumstances. If your article makes allegations that prove to be unfounded, the damage to deVere's reputation would be irremediable and we would be forced to consider our position in this regard.
>
> Many thanks
> Regards
>
> George
>
> George Prior
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> SPAIN: +34 636 978 880
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> @PriorConsults
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> On 16 Jan 2017, at 14:52, Patrick Cairns <patrickc@moneyweb.co.za> wrote:

Hi George

Thanks for your response.

It is always Moneyweb's policy to provide a fair right of reply. That is why we sent the draft article to you before publishing.

We are fully aware of the labour dispute between deVere and the former employee you mention.

I can also inform you that I have confirmation that the FAIS ombud has received complaints against deVere from four former clients who received emails in which deVere admits to not disclosing all of the commissions it charges.

Does deVere deny that it sent the emails in question?

It is our belief that, regardless of how the legal position on this is resolved, if deVere does not disclose all of the commissions it charges, that is of public interest. Potential and current clients should know that this is the case.

Patrick

On Thu, Jan 12, 2017 at 6:45 PM, George Prior <george@priorconsultancy.co.uk> wrote:

Dear Patrick

Given the sensitivity of the matters raised in your draft article, deVere requests a reasonable opportunity to formulate a response to you.

deVere denies that it has been afforded a fair right of comment or reply simply because your unidentified sources have furnished you with emails that they allege were issued by de Vere.

I am informed that deVere is aware that a former employee, who was dismissed by deVere a couple of years ago, and who has since set up a competitive concern, is the common link among the seven former clients to whom your article refers, and I would obviously advise that the quality of the source(s) and information be tested very carefully for that reason.

The former employee in question launched an unfair dismissal case against deVere, which is not yet completed, and therefore deVere is loathe to be drawn into commentary on matters, which although not the subject matter of that case, could feature in the press at a time that the case is being adjudicated. The former employee should be equally cautious in such circumstances.

It is worth bearing in mind that none of the clients to whom you refer have made official complaints about non-disclosure to the FSB/Ombudsman nor have they gone to court. deVere has advised them of their right to do so. If their interest is to recoup what they perceive as losses, that would be an obvious route. Approaching the press suggests a different motivation, and in that context the background presence of a disgruntled former employee who is now a commercial competitor of deVere cannot be regarded lightly.

You are correct that de Vere has received queries from the Financial Services Board. It has co-operated fully with the FSB. deVere is obviously reluctant to comment on the content of those queries until the FSB has reverted to it with a view, which it hasn't, and deVere regards it as extremely disconcerting that an officer of the FSB is prepared to pronounce on an incomplete matter to the media. Mr Manasse Malimbe is not one of the inspectors involved, as is apparent from your draft article. It may be that he does not have authority to represent the FSB in this matter as the FSB is subject to strict confidentiality laws in regard to ongoing (and completed) matters.

For these reasons we cannot comment further at this time.

I would strongly suggest that you should hold off publishing private emails or stories based on these cases until the legal position is resolved.

Regards

George

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@PriorConsults

On 12 Jan 2017, at 11:31, Patrick Cairns <patrickc@moneyweb.co.za> wrote:

Hi George

We have been alerted to deVere's practice of deliberately not disclosing all of the commissions charged to its clients in South Africa.

The attached draft article does include deVere's explanation for this practice, and I believe accurately reflects both sides of the story.

Please let me know if there is anything else you believe we should consider.

Thanks,
Patrick

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Patrick Cairns
Journalist

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<Undisclosed commissions January 2017.doc>

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