

Our Reference GDS/JPC/LAB52/1

Your Reference

Please ask for Gerald Shamash

Date 16 July 2021

Edwards Duthie Shamash

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Tony Greenstein

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Also by email to:

Letter Before Action – Not for Publication

Dear Mr Greenstein,

Re: Pre-action Protocol for Media and communications Claims

Our client: Mr Scott Horner

- 1 We act for the Labour Party, and in this particular case, for Mr Scott Horner, who is employed as the party's South East Regional Organiser. This is a letter before claim sent in accordance with the Civil Procedure Rules' Pre-action Protocol for Media and communications Claims. You are recommended to seek professional legal advice immediately.
- 2 We refer to the numerous defamatory and false statements you made against our client in your blog article dated 26 June 2021 (the "**Article**"), posted on azvsas.blogspot.com and reproduced at Appendix 1. The Article contains a number of false and defamatory statements regarding our client for which you are liable at law. **Your exposure could be considerable.**
- 3 In his claim, our client intends to complain about the following assertion of facts in the Article:
 - (i) That he is a racist;
 - (ii) That he exceptionalises Jews as especially vulnerable if Israeli war-crimes are debated;
 - (iii) That he is clearly and obviously anti-Semitic;
 - (iv) That he assumes all Jews think the same way when it comes to Israel;
 - (v) That he is also anti-Semitic for assuming Jews are uniquely incapable of rationally debating the Israel question;
 - (vi) That he follows a right-wing political ideology;
 - (vii) That he uses Jews as a moral alibi in the same way French colonialism used Jews as intermediaries and scapegoats;

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Contracted with the Legal Aid Agency

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- (viii) That he stated sanctions on Israel would make Jewish members feel unwelcome;
- (ix) That he would be dismissed from his employment if Labour were a democratic party;
- (x) That he suggested Jews were especially fragile as they would be upset by discussions on Israeli human rights abuses; and
- (xi) That he engages in racist activity.

Inaccuracies of the above assertions

- 4 Our client is plainly not a racist, nor has he ever been a racist.
- 5 Our client's role as an organiser is to empower local campaigning units through effective organisation and the delivery of campaigning techniques. He acts as a facilitator of their democratic expression, rather than using his position to express his own views.
- 6 Our client does not presume to know the thoughts of all Jews on the subject of Israel and is aware that there is a range of views on this subject within the Jewish community. Our client has never suggested, expressly or by implication, that sanctions against Israel would make Jewish members feel unwelcome. As you are no doubt aware, his true concern was that Jewish members should not be made to feel unwelcome by particular language used not in the written motion but liable to be uttered verbally during the discussion of the motion, and aggressive behaviour and body language liable to be used by members during that discussion. You are no doubt aware that there have been many reported instances of Jewish members feeling unwelcome as a result of such language and behaviour/body language in similar debates, regarding similarly anodyne written motions.
- 7 It is plainly incorrect that our client exceptionalises Jews as especially vulnerable and fragile on the subject of Israeli war crimes and human rights abuses.
- 8 It is also incorrect that our client is anti-Semitic and right-wing, as fundamental to our client's work is to promote the Labour Party's values of equality and diversity in order to facilitate effective local campaigns. Indeed, in his advice, our client actively seeks to prevent anti-Semitic behaviour by warning against likely hostilities if the motion were taken forward beyond branch level.
- 9 Our client has never used, and would never use, Jewish people as a moral alibi akin to intermediaries or scapegoats. In the context of the recent escalation in anti-Semitic hostility, our client exercised the necessary vigilance of that expected of a public serving party member and advised that pursuit of the motion on sanctions would only serve to pour fuel on the fire of current tensions.
- 10 In any event our client did not seek to prohibit the hearing of the motion altogether, but merely expressed safeguarding concerns at the general committee level.

Imputations conveyed by your statements

- 11 Your assertions against our client were clearly intended to lower his public standing and his reputation, given the very specific, calculated and numerous statements you make in relation to his views on Jewish people; risking leaving readers of the Article with the impression that our client is anti-Semitic and holds the other disreputable views you have falsely accused him of holding.

- 12 You further intended to bring the quality of our client's work and the carrying out of his duties into disrepute, suggesting his decisions are motivated by his allegedly anti-Semitic beliefs. In the Article, you draw fixed conclusions from a segment of our client's email which pays no attention to the measured use of language employed by our client when advising on the proposed motion. You will note he says: "risks opening a debate", "may lead to further anti-Semitic behaviour" and "at branch level it maybe a safe place". This more accurately portrays a sense of awareness and responsibility from our client when carrying out the duties of his role.
- 13 These are matters of fact rather than of opinion, so even if you honestly but mistakenly believed them to be true, that would not be a defence to a defamation claim. However, in any event, it is evident that the assertions of fact made by you against our client are rooted in malice, as a cynical attempt to inflict negative media attention on a junior staffer and cause him distress, such that he and colleagues carrying out similar roles for the Labour Party will be more reluctant in future to take the steps they consider necessary to promote the safeguarding of members, for fear or similar reprisal.

Defamation pursuant to the Defamation Act 2013

- 14 The above listed assertions made by you against our client in your Article clearly surmount the statutory threshold of causing 'serious harm' to his reputation within the meaning of Section 1(1) of the Defamation Act 2013.
- 15 Your allegations have also caused our client emotional distress due to their seriousness in nature and in a climate of increased anti-Semitic hostilities.
- 16 The allegations that you have made must be considered in the light of the extremely high profile of the recent scandal concerning Anti-Semitism in the Labour Party, and the wider backdrop of rising Anti-Semitic hatred across the UK. Readers of your blog will be aware of this background from media reporting including of the government's commitment to a new £65 million fund to combat Anti-Semitic security threats, and of the recent report into Anti-Semitism in the Labour Party membership by the Equalities and Human Rights Commission, the national equalities regulator. It is in this context, and with already numerous Labour party officials having been both suspended and expelled for anti-Semitism, that there is a very real danger that the allegations made by you against our client will have a high likelihood of painting him with the same brush, more readily causing damage to his reputation and career.
- 17 Moreover, our client's role as South East Regional Organiser involves maintaining confidence from the communities he works with when organising campaigns and events. The allegations levelled by you would seriously impede and indeed prevent him from carrying on his work, and if he felt he were unable to continue in his role, he would lose his livelihood, on which he relies. Given the public nature of your defamatory allegations, he may then experience significant difficulty in finding alternative employment in an equivalent role, as a result of your writings. The association of our client with such incidents of bigotry has the real danger of irreversibly eroding his credibility and continued career in the political arena.

Next Steps

- 18 The purpose of this letter is to provide you with an opportunity to ameliorate the serious harm to our client's reputation that is capable of being caused by your defamatory statements in the Article. Accordingly, our client requires from you the following:
 - i. Kindly acknowledge safe receipt of this letter immediately.

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- ii. Provide a substantive reply withdrawing the assertions listed from i-xi at the commencement of this letter.
- iii. Provide an undertaking not to publish any future statements, articles or social media posts relating to our client.
- iv. Post a clearly identifiable apology to our client on your blog.
- v. The reimbursement of our client for his reasonable legal costs, to be assessed on the standard basis if not agreed.

19 Our client requires that the above remedies are satisfied within 14 days from the receipt of this letter. However, in the event you should fail to take the required action within 14 days, our client will reserve the right to issue proceedings against you without further notice and will hold you liable for all costs occasioned in that action.

In the meantime, all of our client's rights are expressly reserved.

Yours faithfully,



Gerald Shamash
Edwards Duthie Shamash