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27th September 2019

Our Ref: xxxxxxxx
Your Ref: Julie Meyer

Dear Mr McGrath

Your Client: Julie Meyer

As you are aware from our previous communications the FCA is currently conducting a criminal investigation into allegations that your client has misused client funds.

(1) Harassment allegations:

In your letter of 4th July 2019 and our subsequent email correspondence, you stated that your client had made a police complaint in June 2018 in respect of alleged coordinated harassment against her by some individuals (who were not named in your letter). You stated that your client wanted to draw this to our attention as she felt it would be useful, as part of our investigation, to consider her police statement in respect of these issues.

As I explained by email, it has not been easy to obtain the relevant information as your client did not supply an exact date or reference number on which she approached the police to help us/them to locate it. Nonetheless, despite it taking some time, we have now managed to do so.

In your letter you stated that Ms Meyer had made a police witness statement under the Criminal Procedure Rules in respect of the allegations. Having now been supplied with the police report from 10th August 2018, this does not seem to be correct. Ms Meyer did not make a formal witness statement to the police. The report we have been supplied with by the police states that Ms Meyer told them about alleged harassment from (again) unnamed individuals. The police report states that Ms Meyer did not present any evidence during her visit to the police station and that, as a result, the police asked her to collate all relevant information before it could be investigated further. As I

understand it, your client didn't do that and therefore the matter has not proceeded any further.

As you know, in any criminal investigation the investigators have the obligation to pursue all reasonable lines of enquiry. As your client has raised the issue of potential harassment in connection to our ongoing investigation about the misuse of client funds we would like to have the opportunity to explore this with her.

As a result we would like to invite your client to attend our offices for a voluntary interview at a mutually convenient time. As this is a criminal investigation, the interview would be recorded and conducted under caution, however the aim of the interview would be to explore your client's allegations of harassment and to provide her with an opportunity to discuss her work and companies and the reasons why complaints might have been made against her. Ms Meyer is welcome to bring a legal advisor to any interview.

As the interview would be voluntary I would be grateful if you would discuss this matter with your client and let me know whether this is something she would be prepared to do or not. If Ms Meyer is keen to accept this opportunity, then it would be helpful if you could suggest some convenient dates for her.

(2) Digital Material held by the liquidators of Ariadne Capital Limited:

As you are aware, Andrew Duncan of Leonard Curtis Business Rescue and Recovery is the liquidator for Ariadne Capital Limited ('ACL'). Part of the material that Mr Duncan has responsibility for in his role as liquidator is a tranche of ACL digital material held by Nasstar PLC. As part of our investigation, the FCA issued a compulsory notice under S173 of the Financial Service and Markets Act 2000 to Nasstar for that digital material. Once the material was obtained, the FCA placed the material into quarantine and it has not been reviewed by the case team up until now because (1) there was a possibility that within it there might be material subject to legal professional privilege; and (2) at the time the case team felt it was not the right point in the investigation to consider it.

The case team now feels that it is appropriate to begin the review of the Nasstar material. In respect of any legally privileged material that is owned by ACL (the privilege of which now belongs to Leonard Curtis) Mr Duncan has indicated that they are prepared to waive that privilege to the extent that FCA investigators have his permission to fully review the material. However, we are aware that within the Nasstar material there might be additional privileged material where the privilege does not solely belong to ACL, but which belongs either jointly with, or solely to, Ms Meyer in a personal capacity.

In order to exclude any privileged material belonging to Ms Meyer from any FCA review, I would therefore invite you to submit search terms that would allow us to digitally capture such material. It would be helpful for your client to inform us (for example) of the names of particular law firms and individual solicitors that have done legal work for

her so that they can be digitally searched for. It would also be helpful for her to identify, in broad terms and without revealing the nature of the work, why the privilege in this case is owned jointly or solely by her and not simply by ACL. For example, that this particular work was paid for by Ms Meyer privately and not by ACL or that the matter was a private one and not one related to the work of the company.

Once search terms are supplied they will be run over the quarantined Nasstar material by a member of our Cyber Forensic department who deals with potentially privileged material (and who is not a member of the case team). Any document hitting a search term would be identified and placed in a separate area of quarantine. This material, in the usual way, would then be reviewed by independent LPP counsel who would identify if the material actually is privileged (and not just a false positive) and if so, who the privilege of that document was owned by. If the privilege belongs to ACL, then following Mr Duncan's indication it could be reviewed by the case team. However if the privilege is determined by independent counsel to belong to Ms Meyer it would remain in quarantine and not released. Material that does not hit a search term at all, would simply be released to the case team for review.

Therefore I would request that you speak to your client and draw up a list of suggested search terms to locate any privileged material belonging to Ms Meyer. Can I stress that the search terms need to be specific (names of companies, individuals, project names etc) and not just generic words like 'privilege' and 'confidential' which return so many false positives as to be unworkable.

As part of our policy on dealing with potentially privileged material we have appointed an LPP Risk Manager to deal with this aspect of the investigation. The LPP Risk Manager remains separate from the case team and oversees the process of dealing with potential LPP. I would propose to forward any search terms you provide to the LPP Risk Manager who can then liaise directly with you if necessary and can also set out in more detail our LPP policy.

Should you have any questions about this please do not hesitate to contact me. If I am unavailable for any reason please contact XXXXX XXXXX, one of my colleagues in the Criminal Prosecutions Team, on 0207 XXX XXX, as she will also be able to assist you in respect of this matter.

Yours sincerely

XXXXX XXXXX
Criminal Prosecutions Team
Enforcement and Market Oversight