

HILL ADVISORY

NEWSLETTER

<p>Upcoming: <i>Harassment Investigation Level One & Two - Saskatoon</i> <i>Sept 27-Oct 2nd, 2010</i></p>	<p>Special Thanks To <i>The participants of our Level 1&2 class in Winnipeg this past May, great work everyone!</i></p>	<p>Upcoming: <i>Harassment Investigation Level One & Two - Calgary</i> <i>November 22 - 27th, 2010</i></p>	<p>Special Thanks To <i>Everyone who joined us this past April for another successful workshop in Halifax</i></p>
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‘FACEBOOK MESSAGE = FIRING’

How romantic interest, Facebook and recruitment collide.

Mr Jobs was discharged in September 2009 for engaging in instances of personal harassment, misrepresentation and intimations of unauthorized and improper interference with the Employer’s system with respect to a summer student of an affiliated Employer.

Mr Jobs was the Web Administrator for five years. His duties and responsibilities included designing, building, and maintaining the Employer’s Internet and Intranet sites. He also had some responsibilities in Corporate communications and Media relations.

Ms Lea was a 24 year old summer student working for an affiliated Company. She was in a Technical Program at a local College and hoped to graduate in a year and seek employment with the Employer. As part of her summer duties, Ms Lea was required to facilitate in the planning for the annual golf tournament and she sought Mr Jobs’ assistance in placing registration information on the Employer’s Intranet.

Mr Jobs agreed to help and they spoke on the phone. During this call, Mr Jobs mentioned his hometown and Ms Lea just happened to be from a town close by. They spent some time talking about the area and their plans for the upcoming long weekend. Later that night Ms Lea ‘friend requested’ Mr Jobs on Facebook and he accepted.

The two spoke by telephone a number of times over the next few weeks about the tournament. They also continued to discuss personal matters. During one of the calls, Mr Jobs asked for Ms Lea’s home phone number and she gave it to him. They talked occasionally over the phone at night and chatted on Facebook, but as friends and not in a romantic way.

Towards the end of August the two of them discussed meeting in person for the first time. They agreed to go hiking and out to dinner in celebration of Ms Lea’s birthday two weeks later. By that time Ms Lea had finished her summer job and returned to school, which involved moving. She gave Mr Jobs her new phone number.

Harassment Investigation



Workshop

next up!
Saskatoon

Register by June 30th
and save!

Contact Sheri at
sswain@hilladvisory.com for
complete details

Level One: Sept 27-29th

One & Two: Sept 27-Oct 2

Girlfriend Comment

A couple of days before their scheduled plans, they spoke on the phone to finalized them. Mr Jobs told Ms Lea that he did not want to introduce her to his friend Mr Ballmer because he always “hit on his girlfriends.”

Ms Lea found the comment disturbing and became concerned about Mr Jobs’ intentions in meeting her. She had not yet met him in person and he was now referring to her as his ‘girlfriend.’ She had never considered him to be more than a platonic friend and was not interested in any relationship beyond that.

Stood Up

Ms Lea said nothing of her concerns during the phone call but decided not to meet Mr Jobs as planned. She sent Mr Jobs a Facebook message advising him that he may have gotten the wrong impression and that she only meant for the two of them to be friends.

Mr Jobs did not check his Facebook account for a couple of days so did not receive Ms Lea’s message. Unaware that Ms Lea had concerns or that she had decided not to meet as planned, he phoned her on his way home from work. She did not answer his call so he left a message. He did not hear back so he proceeded to call a couple of more times over the next few hours. Finally, he decided that he had been ‘stood up’ so he stopped calling. He was angry and hurt.

Reaction

A few days after the planned meeting, he checked his Facebook page and discovered then the message Ms Lea had left for him days earlier. He replied: *“What do I care about someone like that? Obviously your MO is to lead on as many guys here as possible to try and*

secure yourself a job. Good luck with that...gee maybe you should have thought about how much power and influence I have over the HR dept and all of their computer systems before you treated me like shit and jeopardized all of your career aspirations. Try to figure THAT out yourself. You’ll have plenty of time to reflect on it when you’re working at Tim Horton’s for the rest of your life. TTYN [Talk To You Never]”

After sending the message he disconnected the Facebook connection so they could no longer exchange messages.

Fears

Mr Jobs did not have the ability to undermine or ruin Ms Lea’s job prospects but she certainly perceived the threat as real. She perceived Mr Jobs to be in a position of power as the Web Administrator. She realized that to apply for work with the Employer would require an on-line application and she feared that Mr Jobs could filter her application to ensure she did not get a job.

Ms Lea was frightened and concerned so brought the situation to the attention of the Employer.

Investigation

Mr Jobs was advised by a manager that because of his interactions with Ms Lea, he was to leave the premises and he did so. He was not told any details of the allegations. Uncertain about why he had been removed from work and realizing that he was in some trouble, Mr Jobs phoned Ms Lea that night, both to find out what was going on and to apologize if necessary. Ms Lea said that she should not be talking to him and hung up quickly.

Later that week Mr Jobs was called to a meeting with management. He asked if he would have an opportunity to apologize to Ms Lea. He was told to have no contact

with her and was given a letter terminating his employment.

Mr Jobs filed a grievance and an Arbitration ensued.

Arguments

The Employer argued that the termination was justified. They noted Mr Jobs had a position of importance and responsibility including duties involving meeting with members of the public and media. They argued Mr Jobs knew Ms Lea was a young student who was seeking a career with the Employer and she would have understood him to have a senior position of authority and responsibility. They argued that he sent her a message designed to threaten her over job prospects, intended to cause her pain and anguish and succeeded in doing so. The Employer submitted that Mr Jobs’ behaviour was disgraceful and reflected poorly on the organization.

The Union agreed the improper conduct was significant. However, they argued that there was no reason given as to why a lesser penalty was not given. They argued Mr Jobs did not have the intent or the ability to carry out his threat. They submitted that Mr Jobs was credible, candid, and remorseful, fully acknowledging his misconduct and taking full responsibility for it and his apology was sincere and complete when he was allowed to give it. He had no prior disciplinary record and the Union maintained that discharge was too severe a penalty and suspension ought to be substituted.

Decision

Should Mr Jobs be reinstated? What was the decision? The arbitrator overturned the termination but substituted a five month suspension.