

23rd December, 1985.

Hi-Speed Freight Services Limited

-v-

John Charles Gaudion

Application by defendant to have injunctions raised.

DEPUTY BAILIFF: This summons arises from the issue of an Order of Justice signed by myself on the 20th November, restraining the defendant in this case at the instance of the plaintiff, Hi-Speed Freight Services Ltd. from doing a number of things, in particular, from doing or attempting to do any act or thing which causes or procures a breach or breaches by customers of the plaintiff in contracts made now or hereafter. That particular injunction is not sought to be removed and it will remain. However, Mr. Jeune, for the defendant has asked the Court to remove the other two injunctions which in brief, prevent him from soliciting or getting in touch with any of the customers of the plaintiff.

We think that the injunctions as drawn, whilst quite proper during the time when Mr. Gaudion was an employee of the plaintiff company are too wide now that he has left their employment. The law, it is apparent to us, does not prevent a former employee from soliciting his former employers customers. Of course, during the term of his employment, he has to serve his master faithfully and that position is accepted in Jersey as it is in England and so far as Jersey is concerned there is a case of Stallard -v- Hodson reported in 1969 Jersey Judgments at page 1175 and there is a passage at page 1178 which is relevant.

There the learned Court said: "The law, in our opinion, is clear and it is that a servant is under an obligation to serve his master faithfully, and, in the absence of an agreement to the contrary, it is a breach of the duty of good faith for a servant to canvass during employment his master's customers to induce them to become his customers after his employment with his master is terminated". That of course is the Wessex Dairy Case as well to which reference has been made during the course of the hearing, but it is not the law that an employee cannot use his - what I shall call his 'know-how' - and professional skill for his own benefit when he has left the employment of his former master. However, whilst he can canvass and can get in touch with the customers of his former employer he has a duty not to disclose confidential information and we think that that duty is implied in the passage I have read

in the Jersey case I have cited of Stallard -v- Hodson. That being so, we have asked ourselves how we can legitimately protect the interests of the plaintiff company, at the same time allowing the defendant pending the hearing, to start, if he wishes, his own freight business. We have come to the conclusion that we should strike out injunctions (a) and (b) and substitute a single injunction under a new paragraph (a) which will read: "From disclosing or making use of, to the detriment of the plaintiff, any confidential information acquired by him during his employment as Managing Director and Secretary of the Company".

We think that is a proper interpretation of the law and will give sufficient protection to the plaintiff company pending the hearing of the main issues, (c) of course, will remain as I have already said and the costs will be in the cause.