Scottish Company Directors at Risk following Landmark Court Ruling

Thursday 2 January, 2020

Edinburgh Sheriff Court has determined that it was lawful for a firm of Solicitors to act for two medical partners against the third in a takeover bid despite having been engaged by the medical firm as a whole.

The three General Practitioners of Davidsons Mains Medical Centre, Edinburgh hired Davidson Chalmers LLP, a law firm, to draw up a partnership agreement but the firm then took sides secretly to help two of the doctors take the medical business from the third without ever drawing up the agreement. In England, the ‘retainer’ system would have made it unlawful for the law firm to take sides in an 'iniquitous cause' but the Scottish Court has ruled that Davidson Chalmers’ secret actions against one of the partners in the take-over bid were lawful.

Until the Court action the legal firm had claimed that they represented the medical partnership which claimed business tax relief accordingly. When the third (expelled) partner sought details of the advice, the legal firm argued successfully in court that, despite written statements to the contrary, it had represented the two expelling partners as individuals and so need not disclose the advice it had given, even though the third partner was a member of the medical firm that then claimed tax relief for his expulsion. The first client (the partnership before the expulsion) was not informed that the legal firm had ceased to represent it and was now involved in a secret take-over.

Though it was lawful in Scotland for the legal firm to have kept their advice secret from the third doctor, the doctors now face a (UK) GMC investigation into evidence disclosed by the Solicitors to the Court during the hearing. The expelling doctors, if Medical Authorities find their actions to have been dishonest, now face being “struck off” the medical register.

The Judge noted that there was previously no Scottish case law relating to a legal firm choosing sides in the internal affairs of a commercial client. Speaking after the judgement Dr Andy Ashworth commented “Partners and Directors of businesses dealing with Scottish Solicitors in general and this firm in particular should urgently review the terms of their company's engagement with its solicitors to avoid being ambushed, as I was, by a firm who claimed in writing to have been working for the business when they were actually acting against me in a secret take over of the business. As a result of their actions I lost both my Medical Practice and my share of the lucrative Private Travel Clinic Business that appears to have paid the legal fees charged to my former partners. My former partners took advice before making negative statements to the GMC about me designed to undermine my position.”

Dr Ashworth admits that there has been some general benefit in the matter since the difficult personal experience has led him to develop a rapid, effective system for dealing with anxiety and psychological trauma in his patients. He has published the results and is developing a website www.gazetherapy.co.uk to make the treatment more widely available.

Media:

Related Sectors:

Business & Finance :: Health :: Medical & Pharmaceutical ::

Related Keywords:

Case Law :: Take-Over :: PTSD :: GMC Investigation :: Davidsons Mains Medical Centre :: Scots Law :: Partnership :: NHS Lothian ::

Scan Me:

Company Contact:

Bonhard Medical Ltd

E. andy@bonhardmedical.co.uk
W. https://www.gazetherapy.co.uk

Additional Contact(s):
07973 552 497

View Online

Additional Assets:
Determination of the Court

Newsroom: Visit our Newsroom for all the latest stories:
https://www.gazetherapy.pressat.co.uk