

From: Jeffrey Epstein <jeevacation@gmail.com>
To: Steven Sinofsky <[REDACTED]>
Subject: Re: privileged
Date: Mon, 10 Jun 2013 16:53:53 +0000

relax , you are making yourself crazy. sign and go on

On Mon, Jun 10, 2013 at 6:44 PM, Steven Sinofsky <[REDACTED]> wrote:

And anything viewed as disparagement (legally, not in English) I could correct as per earlier in the agreement?

It will never be something I say directly but something misinterpreted. I mean if I was responsible for an anti-Microsoft product advertisement that disparaged I would have other problems anyway. This is really about some comment I make that gets carried in the press as much more negative than I said it (which is easy to do).

For example last week I said "We're all using HTC Android phones here today" in reference to the fact that the previous 3 speakers held up the same model phone. In some press it got carried as a broadly stated support for Android. The tech press does that. I just tweeted that it wasn't correct to say that and pointed people to the full video.

Sent from Windows Mail on Surface RT

<http://blog.learningbyshipping.com> [REDACTED]

From: Price, Scott D.
Sent: Monday, June 10, 2013 9:43 AM
To: Steven Sinofsky, Lefkowitz, Jay P.
Cc: Jeffrey Epstein

Steven,

I'm not positive what they are trying to achieve, but what this language prohibits you from doing is disparaging Windows and any other product put out while you were with MSFT, even if you're not using confidential information. I'm sure what they are thinking is that you are so associated with it, that they don't want you to disparage it ever because your view would carry more weight than others. Under this language, I do think you would have an argument that you could discuss in connection with your later employment future versions of Windows so long as you're not using confidential information, though that isn't perfectly clear.

Scott D. Price
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[REDACTED]

From: Steven Sinofsky [mailto:[REDACTED]]
Sent: Monday, June 10, 2013 12:16 PM
To: Lefkowitz, Jay P.
Cc: Jeffrey Epstein; Price, Scott D.
Subject: Re: privileged

I understand the practical nature of this. I am a bit concerned about my future employability in a competitive environment in this regard and the PR implications of people writing that I can't compete. A couple of questions--I'm not suggesting a change and any change suggestion will come through Jeffrey. I just want to understand things:

- What do you think they are trying to get done with this language? It feels like they want me to be non-competitive--that somehow I should not be able to "disparage" Microsoft in the future based on what is going on in the market. This is about me being a random critic of what the company is doing?
- What is not in the document, perhaps very intentionally for both parties, is a definition of disparagement? This is a PR challenge since most people assume the English language word. Would trying to define this be a problem now?
- Earlier in the agreement there is the notion that if I do disparage I just have to make an effort to correct it. This feels great--it is unilateral and easy. For example, I could edit a written record I produced, tweet something after a story or quote runs, etc. (a) Does that apply to this section and (b) do I understand that correctly?
- Your language is interesting but it feels redundant with the whole agreement--I could never do anything with confidential information.
- Ultimately, disparagement in a legal sense is a factually incorrect statement that they have to prove that -- so in a book or something that is written from a first person account, if I said "And from my perspective..." that pretty much makes it impossible to prove no matter what I said...is that correct? Is that the legal hurdle you're talking about?

Basically the only real worry I have is that if an Apple or Google see this, do they think I am handicapped in some way from being a "full" employee in a competitive market where "trash talk" is a tool some use (though I have never used, personally).

Sent from Windows Mail on Surface RT

<http://blog.learningbyshipping.com> | @stevosi [REDACTED]

From: Lefkowitz, Jay P.

Sent: Monday, June 10, 2013 9:03 AM

To: Steven Sinofsky ([REDACTED])

Cc: Jeffrey Epstein, Price, Scott D.

Steven,

We are down to the last issue:

Under both our draft and MSFT's, after January 1, 2016 you would remain precluded from sharing or releasing confidential information, and the additional aspects below remain subject to this limitation.

Under both drafts, after January 1, 2016 you would be permitted to make disparaging comments regarding Microsoft products, services, or business practices or decisions that are created, rendered or implemented after January 1, 2016.

Under MSFT's draft, after January 1, 2016 you would also be permitted to make disparaging comments regarding Microsoft products or services that are made after January 1, 2014 as long as these are made in connection with, related to or during the course of your employment, engagement or other relationship with another business organization. But under our draft, we tried to get much broader language. Specifically, that you would be permitted to make any type of disparaging comment as long as it *does not* rely on confidential information and as long as it is made in connection with, related to or during the course of your employment, engagement or other relationship with another business organization.

I do not believe they will compromise on this and I don't think in the real world it will make a difference.

Once they have paid you out, they will face a very uphill battle if they ever try to sue you.

EFTA00962145

Let me know. I would like to wrap things up today if possible.

Jay

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