

Buckingham House

Buckingham Street

Aylesbury

Bucks

HP 20 2LA

Contractor Voice

Kingdom Business Centre

Brunel Road

Newton Abbot

Devon

TQ12 4PB

2nd November 2022

Dear Sirs,

CEASE AND DESIST LETTER BEFORE ACTION

WITHOUT PREJUDICE SAVE AS TO COSTS

RE: Website Article 31st October 2022 – ‘FCSA’s Orange Genie Proven to be Salary Skimming’

We write in relation to the above named article published on your website www.contractorvoice.org.

The article contains several defamatory statements which are causing significant damage to Orange Genie. Examples of which include;

- Your use of the statements “*salary skimming*” and “*unlawfully and systematically taking money from contractors*” are refuted, factually incorrect, misleading and are used to damage the reputation of Orange Genie.
- Your make further defamatory statements in relation to HMRC, which are again refuted and factually incorrect, namely:
 - “*let’s not overlook he consequences to HMRC? The skimmed mounts should likely have been subject to income tax and NIC’s, so the treasury has lost out.*”

Orange Genie

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Company Registration Number 05684653



- You also make statements designed to entice business away from Orange Genie, with the sole intention to cause financial damage, statements which are again misleading and factually incorrect, namely:
 - *“As for agencies, there is no commercial sense in continuing any relationship with Orange Genie, so terminate it without delay to limit the potential financial liabilities you have been incurring”*
- Finally, you also refer to Contractor Voice having *“audited payslips via SafeRec.co.uk dating back from 2017”*. It is our belief that this data was unlawfully disclosed, without contractual permission and is potentially in breach of the UK GDPR. We are currently receiving specific legal advice as to this potential data breach and the potential liabilities of both SafeRec.co.uk and yourself.

In order to protect our interests, we are currently considering issuing legal proceedings against you. These proceedings would seek remedies including, but not limited to, the following:

1. Damages;
2. Injunctive Relief, including an injunction to restrain you from continuing to publish defamatory material in the future; and
3. Costs;

In accordance with the pre-action protocols, we will desist from instructing Counsel to issue legal proceedings provided within two days of the date of this letter you agree to do the following:

1. Remove the article reference in this letter from your website.
2. Cease any posting or commenting on any social media platforms regarding Orange Genie and the contents of the above stated article.

If the above undertakings are not complied with by 5.00pm on the 4th November 2022, or you continue with the misleading and defamatory statements, we commence taking steps towards the swift issue of proceedings without further notice.

This letter has been written in conjunction with the pre-action protocols.

We await your response by return. In the meantime, we reserve our rights, in particular the right to produce this letter to the Court when it comes to consider costs under CPR 44.3.

Yours faithfully

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04.11.22

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Orange Genie Group
Buckingham House
Buckingham Street
Aylesbury
Bucks
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Response to 'Cease and Desist Letter Before Action'

RE: Website Article 31st October 2022 – 'FCSA's Orange Genie Proven to be Salary Skimming'

Dear sirs / madams,

We write in response to your letter dated 2nd November 2022.

We are not convinced that the points raised in response to the article in question are sufficient to warrant us removing it. Your letter outlines four key points for which we will aim to clarify our position in this response:

1. You state that our statements "*salary skimming*" and "*unlawfully and systematically taking money from contractors*" are factually incorrect and misleading. The evidence, which was provided to Contractor Voice by contractors, and subsequently audited by SafeRec.co.uk, proves otherwise.
2. You state that our statements in relation to HMRC, suggesting that "*the treasury lost out*", are "*factually incorrect*". In accordance with the above, we are certain that the evidence provided to Contractor Voice proves that monies unlawfully deducted from payslips has resulted in a calculable loss to HMRC.
3. You state that our sole intention, namely when suggesting that agencies should cease to work with you in order to "*limit [...] potential financial liabilities*", is to cause financial damage to Orange Genie. We take exception to and deny your assertion. Our intentions are sincere and intended to raise awareness of malpractice within our sector, protect contractors who seek our assistance, prevent further losses to contractors' incomes and encourage employment agencies and other key organisations within the supply chain to only use compliant payroll providers.
4. We take exception to and deny that the way in which we sourced our evidence ("*audited payslips*") constitutes a breach of UK GDPR. We wish to make clear that the payslips were sent directly from contractors to use in the knowledge that they were to be audited to establish if they had been paid correctly. No personal data of those contractors has been released.

Contractor Voice

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As a result of the issues exposed by Contractor Voice, we believe there are now financial liabilities that sit in your supply chain – liabilities which we consider must be made public so that effected parties can take action to protect their positions.

Considering that contractors are the intended victims of this malpractice, Contractor Voice has no intention of being silent on the matter. We believe that there is a benefit to all in the supply chain for this malpractice to be made public as there is clearly a public interest in it.

We will not be threatened into abandoning and withdrawing our allegations as doing so will be a failing in our primary objective to protect and represent contractors against malpractice.

As a result, Contractor Voice will not remove the article in question, nor will we cease to post or comment on social media platforms regarding Orange Genie and the contents of the article, nor any further accurate evidence that comes into our possession.

Yours Faithfully,
Contractor Voice

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Audit Result

Pre Calculations Checks

i	Assignment Rate The Assignment Rate (Umbrella Rate) on the Payslip	£12.50/hour £18.75/hour
✓	Gross Pay Gross Pay is accurately calculated	£649.05
✓	Earnings for NI Earnings for NI is accurately calculated	£649.05
✓	Earnings for tax Earnings for Tax is accurately calculated	£649.05

Overall Checks

✓	Total Company Receipt Total Company Receipt is accurately calculated	£740.63
✓	National Minimum Wage NMW Check Passed	

Company Deductions

i	Auto-Enrolment Employer Pension Contribution Insight No auto-enrolment pension contribution detected. The contractor/you may be in the first 3 months of employment, opted-out or under the earnings trigger of £10,000 / year.	
✗	Employment Costs, Including Employer's National Insurance Employer National Insurance Contribution we have calculated is £71.34 There is a £2.00 difference with what is shown on this payslip (£73.34) Please contact the company that processed this pay for further clarification as to what is included in this deduction.	£73.34
✓	Apprenticeship Levy Apprenticeship Levy is accurately calculated	£3.25
✓	Umbrella Margin	£15.00

Employee Payments

✓	Basic Pay Salary	£527.25
✓	Additional Payment Bonus Commission	£51.90
✓	Advanced Holiday Pay Holiday Pay has been advanced.	£69.90

Smart Insight:

The Umbrella Company paid the holiday pay for this period. This means the Umbrella Worker must be aware that there will be no retained holiday pay available when they take a holiday.

Employee Deductions

✔ **Income Tax** £129.60
Income Tax is accurately calculated

✔ **National Insurance Contribution** £53.93
National Insurance Contribution is accurately calculated

i **Auto-Enrolment Employee Pension Contribution**
Insight | No auto-enrolment pension contribution detected. The contractor/you may be in the first 3 months of employment, opted-out or under the earnings trigger of £10,000 / year.

i **Student Loan**
Insight | No student loan detected. Check with your employer if inaccurate.

Take Home Pay

✘ **Net Pay** £465.52
Net Pay on the Payslip is not accurate

Orange Genie

Outsourced Employment and Accountancy

Orange Genie Income Statement for [REDACTED]

Company Income received		Assignment Rate(s)				
		Units	Rate(£)	Total(£)	Agency/Description	Weekend Date
Company Income and Costs	£ 740.63					
Apprenticeship Levy	£ 3.25	48.00	12.50	600.00	[REDACTED]	[REDACTED]
Employment Costs, including Employer's National Insurance	£ 73.34	7.50	18.75	140.63	[REDACTED]	[REDACTED]
Company Margin	£ 15.00					

PAYSLIP

Employee Name	Employee Number	NI Number	Tax Code	Pay Date	Periods
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Payments				Deductions	
Description	Units	Rate(£)	Amount(£)	Description	Amount(£)
Basic Rate	55.50	9.50	527.25	PAYE(Income tax)	129.60
Holiday Pay	1.00	69.90	69.90	Employee's NIC	53.93
Additional Taxable Wage	1.00	51.90	51.90		
Total Payments			649.05	Total Deductions	183.53

Orange Genie	This Period		Year to Date		
PAYE Reference	[REDACTED]	Total Taxable Pay	[REDACTED]	Total Taxable Pay	[REDACTED]
Tax Period	[REDACTED]	Earnings for NICs	[REDACTED]	Total Niabie Pay	[REDACTED]
Period Ending	[REDACTED]	Expenses	0.00	PAYE Income Tax	348.40
Pay Frequency	Weekly	Net Payment	465.52	National Insurance	134.92
				Total Payment (£)	465.52