CVs - to lie or not to lie

If you have ever thought about lying on your CV, think again. While Sir Alan Sugar’s Apprentice winner Lee McQueen may have got away with it, others haven’t. Here Antony Gibbons of NewLaw Solicitors LLP explains the law surrounding CV embellishment.

“The issue of making false claims on a CV has recently been brought to light with the revelation that the winner of BBC’s The Apprentice programme, Lee McQueen, was less than truthful on his CV.

“While Sir Alan was able to see past this, of course, without condoning it, there is a danger that other job applicants which, after all, Mr McQueen was, may now consider ‘if it is good enough for The Apprentice, it is good enough for me’.

“Many people believe that lying on a CV is a legitimate tactic for self-promotion but in the eyes of the law the situation can be far more serious. While, stretching the truth on a CV is not, in itself a criminal offence, obtaining a financial advantage through fraud is, and can lead to imprisonment.

“In addition to the criminal liability of fraud, the civil courts will view the inclusion of a false statement on a CV as a misrepresentation.

“We recently won a substantial case in the Mercantile Court on behalf of a major client who brought a case of fraudulent misrepresentation against a senior employee who lied on his CV and in interview.

“A key aspect of the law of misrepresentation is that the false statement must have induced the ‘innocent’ party to enter into the contract. To establish this, the misrepresentation must have been material and must have been relied upon.”
“In Lee McQueen’s case his admission that he was “papering over insecurities due to his lack of formal education” elicited sympathy and, ultimately, probably saved him from being fired. But he was lucky.

“It is important not to lose sight of the fact that a CV is an important document with a defined purpose. It will be read by potential employers to determine, in the first instance, the suitability for a candidate for a position or, at least, to whet the employer’s appetite prior to a formal interview.

“Given the importance of the document, therefore, it is of concern that, in the environment of a television show, misleading claims about academic qualifications have been viewed, almost, as ‘irrelevant’.

“This does not reflect the position adopted by the courts. There is a wealth of authorities for the proposition that, by ‘promoting’ academic qualifications, people can fall foul of the law and be caught out and sued for actionable misrepresentation.

“Our recent case resulted in an ex-employee being found to be a ‘fraudulent misrepresentor’ by the Judge. In the case it was found that misrepresentations on a CV and at interview were material in that, by the very nature of the matter, they were relied upon by the employer when considering entering into the contract of employment with the applicant. The test of materiality is, therefore, as important as the question of inducement.

“A misrepresentation is material if it induced a reasonable person to enter into the contract. For example, Lee McQueen may well argue that his academic record was not material to Sir Alan’s decision and, in this matter, he would be right.

“Some reporters have criticised Lee McQueen saying that, to the extent that he was prepared to lie, he should at least have done so lavishly. For example a claim to have a first class honours degree from Cambridge is more eye-catching than Mr McQueen’s actual claim, to have attended Thames University for a two-year catering course. However, this is very much the point.

“A first class honours degree from Cambridge falls, squarely, into the type of misrepresentation which a reasonable person would rely upon and be induced by. In other words, in this context, there is a line between a little white lie and a big black lie.

“In our recent case, the question of materiality was fought hard by the Defendant. It is a judgment call (thus a matter for the Judge) but NewLaw succeeded in arguing that the misrepresentations in the CV and made at interview were material. The effect of that finding was to determine that the contract was avoidable giving rise to rescission and damages. This meant the recovery of shares provided to the employee during his period of employment together with significant legal costs.
“Lying on CVs is an increasing problem for employers as the job market becomes more competitive. The message is clear. Don’t lie. Mistruths often are uncovered. At worst, these give rise to the type of action described above. At best, they cast a shadow over an applicant’s integrity.

“While the Lee McQueen matter may militate against it, this is, and remains, an important matter. Applicants should heed the warnings. Employers are advised not to take at face value the information on CVs and to verify matters independently wherever possible. When matters do go wrong employers should be aware of the remedies which they can, and will, obtain through legal action.”

NewLaw LLP is a new generation law firm, based in Cardiff, providing personal injury, commercial and conveyancing services. For more information visit www.newlaw.org.uk