

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

-v-

HO LING MO

WEIR J

[1] Ms Mo, you have been found guilty by a jury of eight counts of fraud by false representation contrary to Section 1 of the Fraud Act 2006 and of two counts of removing criminal property contrary to Section 327(1)(e) of the Proceeds of Crime Act 2002 and it is therefore now my responsibility to pass sentence upon you in respect of those matters.

[2] The nature of the fraud was common to each of those counts. You made claims to the Legal Services Commission ("LSC") supported by invoices from Zhang Interpreting Services ("ZIS") for interpreting services allegedly provided by that entity during the course of consultations with your clients who had the benefit of Legal Aid Certificates. In fact ZIS did not provide the interpreting services claimed for, either because on some occasions none was in fact required or on others because interpreters engaged and paid for by the Court Service were already in attendance and you obtained the court's permission to utilise their services while they were present at court so as to provide interpretation for your clients before or following the proceedings for which their attendance had been arranged.

[3] You knew very well that these claims were unlikely to be challenged as, unless put upon particular enquiry, LSC would in the ordinary way have no means of knowing or discovering that these services had not been provided. LSC relied, as you knew they would, upon claims made by you as a solicitor apparently supported by a genuine ZIS invoice.

[4] During your lengthy trial a good deal of time was occupied with evidence about ZIS. The Lu Ming Zhang whose name forms part of its title was, as you well knew, not an interpreter or a translator but a chef in a Chinese restaurant. You insisted however that ZIS was an independent organisation that you had been pressured into using by representatives of Triads and some "Loyalist" organisation. That claim was plainly fatuous and I am satisfied that ZIS was instead invented by you and that such work as it did was conducted by your friend, Carrie Zhang McCluskey, with the object of earning fees for translation work required for your clients in connection with their criminal, immigration and other affairs. I am further satisfied that you, together perhaps with others, controlled bank accounts of Mr Zhang including accounts *****509 and *****265 with Santander.

[5] Regrettably, in my view there was no reason why you should not have openly set up an interpreting and translating business transparently owned by you and perhaps Ms McCluskey. However you chose not to do so for whatever reason, possibly tax evasion, and instead created a labyrinth of deceit to conceal the connection between you and ZIS. I am satisfied that an appreciable amount of actual translation work was in fact carried out by Ms McCluskey which was invoiced in the name of ZIS to LSC and that that work was legitimate and properly paid for.

[6] However in relation to these eight fraud counts the jury was satisfied that the work was not carried out and was fraudulently claimed for. Why you succumbed to that temptation is a mystery to me because the amounts that could be claimed for interpreting as opposed to translation were modest and that is true of the claims in these eight counts. I can only conclude that you were driven by greed to add these relatively small amounts to the large sums that could legitimately be charged for translation work which by its nature is much more time-consuming and therefore expensive.

[7] In relation to the two counts of removing criminal property, these related to the removal of two sums drawn from two accounts in the name of Lu Ming Zhang the chef and accompanying your friend Ms McCluskey on two occasions to Dundalk where they were paid into an account in her maiden name - also Zhang - in an Irish bank. These two Lu Ming Zhang accounts had been contaminated by the criminal property obtained by you from the frauds earlier described and which had been traced into these two accounts in the name of Mr Zhang. Again, your explanation at your trial as to how those who had pressured you into using ZIS and paying them for their services then further pressured you into taking back these two sums from the Zhang accounts, one of £14,000 and one of £80,000, and transferring that money via Ireland to an account of your mother in China was utterly incapable of rational belief and, unsurprisingly, the jury must have rejected it.

[8] The sums of money shown to have been involved in these frauds were not large and it follows that the amounts removed from the Zhang accounts totalling £94,000 have not by any means all been shown to be the proceeds of the frauds but, as I have said, they came from accounts the contents of which had all become

criminal property by reason of their pollution by the proceeds of these frauds traced into them.

[9] However the matters of which you have been convicted are nonetheless extremely serious. The offences were calculated and took place on repeated occasions spanning more than a year. They involved a systematic fraud by a solicitor on the LSC which depends crucially upon the honesty of the solicitors who submit claims to it and upon whose word public monies are dispensed. The legal aid budget has for some years been under great pressure both economic and political and it is of the utmost importance that its scarce resources be properly deployed to the benefit of those who could not otherwise afford to obtain legal services, people very much like your own clients in the area of immigration.

[10] It is clear from the several references provided on your behalf by members of the legal profession and others of standing in the community that you had won golden opinions from all sorts of people, professional and lay, for your hard work and dedication to the interests of your clients. I treat you as a person of previously excellent character who has succeeded in professional life by dint of your own considerable efforts. The probation report makes clear, as anyway seems obvious, that there is no evidence that you pose a significant risk of serious harm. All these matters are very much in your favour.

[11] I regret that neither to the Probation Officer nor through your counsel Mr Stern QC have you acknowledged your guilt in these matters much less expressed any remorse or regret for your actions. Rather you still persist in what I must characterise as the preposterous tale that the jury rejected. In those circumstances I am less sanguine than the Probation Officer that your likelihood of further offending is low.

[12] What elevates the gravity of these crimes to a significantly higher level is that you committed them as a solicitor. Our courts have consistently regarded that as a seriously aggravating feature for reasons summarised by that most experienced criminal judge, Hart J, in R v Nurse [2010] NICC 3 at para [12]:

“As a solicitor the defendant was in a particular position of trust because he was permitted by law to handle clients’ money. Members of the public placed their affairs in his hands and he abused that trust to commit these offences. This abuse of trust is the most serious aspect of these offences, because, as Hodge J observed in R v Miles [2007] 2 Cr App R (S) 5 at page 23:

‘Here, we have a solicitor who was, as [are] all solicitors, permitted by legislation to handle clients money.

Solicitors are officers of the court. They owe a duty of utmost good faith to their clients and to the public at large. Any breach of that damages the victims, it damages their colleagues, it damages the profession at large and reduces public confidence in the profession.”

The fact that in those cases the dishonesty involved clients’ rather than public monies does not, in my judgment, make any difference to the principles involved – all three cases involved misusing the solicitor’s position to dishonestly obtain money for themselves to which they were not entitled.

[13] In relation to the two counts of money laundering the position of a solicitor involved in such matters is if anything more serious. The Court of Appeal in R v McCartan [2004] NICA 43 emphasised the importance of the legislation and of compliance with it by solicitors in the following terms found at para [12]:

“The Proceeds of Crime (Northern Ireland) Order 1996 and its successor, the Proceeds of Crime Act 2002, are critically important legislative weapons in the fight against the use by criminals of money generated by illegal activity. Parliament has concluded that, in order to promote that fight, agencies and individuals who become aware of the existence in the hands of individuals of substantial sums of money that are not readily accountable for, must report their knowledge of such money to the appropriate authorities. The success of these legislative provisions depends crucially on scrupulous compliance with that statutory duty. This is of particular importance in the case of solicitors who, under their professional regulations and by dint of their status as officers of the court, have a further duty to ensure that such information is disclosed.”

In your case the criminal monies were not coming from third parties but were the direct proceeds of your own dishonesty. You were not, as arguably was McCartan, naïve or a dupe, but the prime mover both in the dishonesty from which the criminal monies came and in the means of spiriting away through the Republic of Ireland.

[14] I have taken account of everything urged upon me on your behalf in the course of Mr Stern’s well-structured plea in mitigation. You have, as he said, lost your good name, your good character and the respect of the legal and your own community. Whether in future you will again be admitted to practice as a solicitor

will be for others to judge. These were mean offences that you had no need to commit for you had a thriving and lucrative practice. Greed has been your undoing. The need for a sharp deterrent sentence is inescapable.

[15] On each of the counts of fraud I sentence you to three years' imprisonment. On the two counts of removing criminal property I sentence you to three years and six months' imprisonment. All the sentences will be concurrent and therefore you will serve 21 months in prison followed on your release by a further 21 months on licence.