# Book Two - Introduction

There are times when friends ask me why I spend so much time on this book. The answer is very simple: I have always been a passionate man. I am passionate about honesty, I am passionate about truth and I am passionate about helping others. In Book One of *Inveigled* I demonstrated my passion for helping others, and more particularly, for helping the Posts of the developing world. It is my passion, or some would say, rather unkindly, obsession, that has led to my troubles.

I have lived a life based on the highest integrity and morals. I am proud of my honesty. I have always helped others whenever I could and have lived a life touched with the most extreme altruism. Then, due to the greed and self-interest of others, I have been tarred with the brush, 'fraudster'. I am determined 'no matter what' to clear my name. It is very important to me that my children know that I am an honest, trustworthy man. It is important that my customers, my estranged wife, my family, my friends and the rest of the world know the truth of what has happened to me. I am not ashamed of anything that I have done because it has always been in order to help others. Truth is everything.

I have been punished for helping people; I have been punished for trusting the untrustworthy; I have been punished for my honesty; I have been punished for believing in our rather suspect system of justice; and the punishment is never-ending.

One of the most important themes raised by this book is about 'right and wrong' and whether the law of the land is the ultimate measure of right and wrong despite its often immoral nature? If an action is within the law, does that always make it right? If an action is outside the law, does that always make it wrong?

Of course not. The written law is not and should not be seen as the highest definition of right and wrong, cast in concrete, at the expense of any moral judgement.

There are bad laws and there are misused laws that can be used (or abused) by devious legal professionals in situations where they were not designed to be used. A bad law or a misused law can provide a mechanism for terrible injustice.

Let's look more closely at one such 'bad' law. This law, as it is used in the English justice system, is acknowledged as a bad law by many other justice systems throughout the world. It is a law that is open to abuse. It is the law relating to a 'Joint and Several' liability for a crime. This judgement can be invoked when multiple defendants are found to have contributed to the losses of a claimant. The big questions in this type of situation are:

- Who is responsible for reparation?
- What if one defendant is unable to pay?
- What if one defendant is the mastermind of a crime and other defendants have minor roles?

Justice systems throughout the world differ in the ways that they address this situation.

I wrote at some length in Book One on this subject, but since publication of Book One, I have researched the subject further. First of all lets clarify what 'Joint and Several' liability means by looking at other similar types of judgements.

**Joint Liability** - Each party is liable up to the full amount of the complete obligation. If one defendant dies or is unable to pay, then the other(s) become responsible for the full reparation.

**Several Liability** - Otherwise known as proportionate liability where each party is liable for only their respective obligations towards the reparation.

**Joint and Several Liability –** Here a claimant may pursue an obligation against any one party as if they were 'jointly' liable. It then becomes the responsibility of the defendants to sort out their respective proportions of liability. This means that a claimant can pursue one defendant for all sums. That defendant must then pursue the other parties for a 'contribution' to their share of the liability. Therefore a claimant is legally entitled to recover all reparations from any of the parties irrespective of their individual role in the crime.

'Joint and Several' liability makes certain assumptions as follows:

- The victim is squeaky clean – a pure white victim that has been wronged,
- The multiple perpetrators have conspired together to commit the crime

In Book One, I drew a caricature of what is clearly an immoral use of a 'Joint and Several' judgement, where 'Man A' plans and masterminds a theft to steal $1,000,000. 'Man A' actually steals $999,999 and 'Man B' is persuaded to take $1. 'Man A' then proceeds to squander his $999,999. When the crime is discovered, a clever legal eagle supporting the victim manages to attain a 'Joint and Several' judgement against 'Man A' and 'Man B', which effectively means that 'Man B', who was persuaded to take $1, is now liable to pay back the full $1,000,000 whilst 'Man A' wanders off into the sunset to start a new life. Is that fair? Is that justice?

**Is The Victim Always Squeaky Clean?**

In the High Court in November 2000 a barrister presented a civil case prepared by NCR's US legal department and their London solicitors, Taylor, Joynson, Garrett (TJG) to The Honourable Mr. Justice Lightman. There were a huge number of affidavits, exhibits, statements and other documents submitted to the court. The objective of NCR and TJG was to gain a 'Joint and Several' judgement against Buchanan and me.

Amongst the multitude of submissions there were two affidavits and a number of exhibits from Alun Long, an internal auditor employed by NCR.

I would now like to move forward over three years to February 2004 and the criminal trial of Buchanan. Alun Long also provided a number of witness statements to this court. Herewith an excerpt:

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**Excerpt from the witness statement of Alun Long**

The NCR Corporate Audit Department performed audits of NCR Belgium in 1996, 1997 and 1998. I was the Corporate Audit Manager for those audits. Corporate Audit reports were written dated May 1996, November 1997 and August 1998. I can produce copies of these reports as exhibit ARKL 95. These reports clearly commented on the very poor financial controls, which existed at NCR Belgium, particularly during 1996 and 1997.

Major problems were experienced in preparing Statutory Financial Accounts for the year ending 1995. The problems were so severe that the external auditors were not happy with the financial records prepared by NCR and "qualified" their independent audit report for 1995. I understand this was because of the poor accounting records at NCR Belgium.

Crucial issues raised in the May 1996 Corporate Audit report included a partial change in the computer accounting system. This change in computer system was, unfortunately, poorly planned, with inadequate staff training and poor technical systems support. This unfortunately led to confusion and uncertainty in the Finance and Administration Department.

The May 1996 Corporate report also detailed significant weaknesses and breakdowns in the financial and accounting controls. A prime weakness was the lack of reconciliation between the General Ledger and the supporting sub-ledgers.

Financial areas of specific concern in our 1996 report include problems in paying suppliers. Neither were there reconciliations between the outstanding Accounts Payable invoices (sub-ledger) and the General Ledger.

The Corporate Audit report of May 1996 also noted that "there were weaknesses in the performance of key reconciliations and a lack of formal procedures to ensure an adequate internal control environment."

I believe the general breakdown in accounting controls, as highlighted in the Corporate Audit report of May 1996, provided the atmosphere and opportunity for fraud to be committed. The poor internal accounting controls also meant that detection of fraud by NCR was unlikely.

This was the accounting and control environment Michael Buchanan found when he arrived at NCR Belgium. I believe this gave him the opportunity to exploit these weaknesses for his own benefit.

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Now we move back to the High Court in November 2000. Amongst Alun Long's submissions to the civil court there were documents about the NCR company, NCR accounts, copies of various NCR brochures, Buchanan's employment contract and many other communications between Buchanan and NCR, details of PSL and PCSL, details of some of Buchanan's dodgy dealings and many other documents of limited relevance to the case.

However, there was no mention of this financial shambles in NCR Belgium. Clearly, Alun Long knew of this shambles at that time and I'm sure would have informed NCR's US legal representatives and TJG, but they chose to hide this from the court.

If this statement regarding the parlous state of the financial controls in NCR Belgium was important enough to be submitted to the criminal court in 2004, why was it not submitted to the civil court in 2000?

The answer is painfully clear. Who was 'pulling the strings' at the two very different court hearings? In 2000, the civil action was directed by NCR's US legal department and TJG. In 2004, the criminal action was directed by the police and the Crown Prosecution Service. So, Alun Long, the human face of NCR, free of the shackles of NCR's US legal department and TJG, finally revealed the 'whole truth' that had been omitted in 2000.

So, was NCR so squeaky clean and pure white? Most certainly not.

**A Terrible Conspiracy?**

Yes, this was a terrible conspiracy. However, it was not a conspiracy between Buchanan and me. I was lied to, deceived and inveigled against my will into this nightmare. I trusted Buchanan as all of his management at NCR appeared to. I was the honest, hard-working business partner of NCR that had delivered many millions of dollars worth of business to them.

The terrible conspiracy is that between NCR and TJG, who presented carefully selected information to the High Court in order to achieve their distorted objective. They omitted critical information necessary for The Honourable Mr. Justice Lightman to make a reasonable judgement. They included certain facts, they excluded certain facts and they distorted certain facts in order to paint a picture of a conspiracy between Buchanan and me. They purposely mislead the Court.

In the criminal case in 2004, I was found <u>not guilty</u> of 'conspiracy to defraud'. In fact Judge King stated very clearly that the court accepted that I had been inveigled into this crime.

Had The Honourable Mr. Justice Lightman known in 2000, what Judge King knew in 2004, would he have approved a 'Joint and Several' judgement?

**A Court must be absolutely convinced that the 'victim is completely innocent before using the potentially destructive Joint and Several judgement.**

**Who Is The Victim?**

So the perceived victim (NCR) is maybe not quite so white as portrayed in the High Court and one of the perceived perpetrators (me) is maybe not so black. How does our justice system deal with this? Well they may have dealt with it somewhat differently had NCR revealed the full facts to the court.

NCR's barrister painted a picture of a conspiracy between Buchanan and me. There was no mention of the financial shambles at NCR Belgium; there was no mention of the deceit, manipulation and inveiglement by Buchanan, drawing me unwillingly into this nightmare; there was no mention of my personal financial support for my customers in the developing world and there was no mention of my immense hard work for many years that won millions of dollars worth of business for NCR.

What happened to me was all about NCR's incompetence and Buchanan's greed and manipulation. I was 'Man B', in the wrong place at the wrong time. I was the victim.

Alun Long also revealed 'off record' to Mark Durbin, that NCR would never have missed the money had Mark not discovered documents on my computer and gone to the police. So NCR really had 'lost' this bank account before it was stolen. I've often asked TJG where the money in this account came from but I have never had an acceptable answer. It's still a mystery to me precisely what went on in NCR Brussels in the mid 1990's even though these events have destroyed my life and so much more.

I had worked tirelessly since 1995 for NCR, for the UPU and for our postal customers, delivering huge benefits to all involved, and, after five years of immense hard work, in 2000, I was sitting in court as 'Man B', a frightened pawn, watching these heavyweight, skilled legal deceivers paint pictures; pictures of a whiter that white NCR and a blacker than black 'Man B'; pictures based on their terrible distortions.

**The Order of Things**

The normal course of events sees a criminal trial deciding the guilt of a defendant. Once guilt has been established a victim or claimant can make a case through the civil court for reparation for the losses suffered due to the crime. However, my honest voluntary statement enabled NCR (with some devious fancy footwork and some distorted image

painting) to turn the injustice system on its head. NCR and TJG selectively used my statement in order to mount a civil action against Buchanan and me long before any criminal action came to court.

This raises many questions about the processes of our justice system, some of which I raised in Book One. In the rather bizarre civil case in 2000, The Honourable Mr. Justice Lightman pronounced that Buchanan and I were guilty of something. There was no name to the charge that we were found guilty of, as there were no charges brought as this was not a criminal court. Whatever it was that he found us guilty of it was sufficient for him to approve the 'Joint and Several' judgement pursued by NCR and TJG.

When the criminal case came around in 2004, Buchanan pleaded not guilty to all charges. What would have been the ramifications for the civil case, almost four years earlier, if Buchanan had actually been found not guilty in his criminal trial-by-jury?

**What If?…**

….I had not written my voluntary statement; what if …. NCR had told the <u>full</u> truth to the court. Most importantly, I would still have a family. Probably, PSL would still be alive supporting many of the world's Posts. Certainly, the Posts in the developing world would not have lost tens of millions of dollars. Maybe, PSL would still be delivering business to NCR. The 'what if' list is endless. However, someone in NCR's US legal department wanted to take the destructive approach and decided that NCR would not tell the full truth to the court so we are where we are.

**Honesty Kills**

My passion for honesty has been my downfall. During Book One I gave myself two bullets in my foot for writing my honest voluntary statement, which I gave to NCR and the police. This honest act is by far the greatest mistake of my life. NCR selectively used my voluntary statement in order to mount the civil action, which led to the 'Joint and Several' judgement, which led to a life of persecution at the hands of the 'less than white' NCR.

**Joint And Several Reform**

The law relating to 'Joint and Several' liability is designed to protect the perceived victim, assuming the victim to be perfectly 'white'. But what about protecting the 'Man Bs' of this

world, the innocent, honest man who just happened to be in the wrong place at the wrong time.

Many justice systems throughout the world are addressing this issue. There are simply too many 'Man Bs' to ignore. What is referred to, as 'Modified Joint and Several' liability is a simple concept where a perceived perpetrator of a crime has their liability capped in proportion to their level of involvement in the crime.

Interestingly, in NCR's home state of Georgia, the courts follow a pure several liability approach in entering judgment against multiple defendants.

**The Never-Ending Punishment of 'Man B'**

Book One of *Inveigled* had the alternative title, '*You Should See The State Of My Feet'*, referring to the number of times that I 'shot myself in the foot' because of my honesty, my misplaced trust in others or my simple naivety. The alternative title for Book Two is '*The Never-Ending Punishment of 'Man B''* for obvious reasons.

My life was once meaningful, helping others where I could. NCR changed all that. After their incompetence and destruction they left me with a meaningless existence consisting of a multitude of battles for survival against some of the nastiest of 'enemies'.

Honesty and truth must win through in the end or what is left for us when lies and deceit (such as that demonstrated by NCR et al) dominate our lives.