The Destructive Painters

The role of a barrister (or counsel) within our justice system is to paint pictures. He will paint pictures for a judge or for a jury. The emotions the picture generates in the judge or jury will influence the outcome of a case.

He will be provided with painting materials by his instructing solicitor and his client. Sometimes the materials are of the finest quality and are in abundance allowing our painter to paint a masterpiece that generates the right emotions and leads to the strived for outcome.

Occasionally there are cases when the materials are not really up to the job. This is when the painter really earns his money. The client knows what he wants and the painter must deliver. Our painter then becomes 'the destructive painter' because what he now has to do is to reach the strived for outcome with inferior materials.

How does our clever destructive painter achieve this? Well, for a start there are the facts that are not disclosed, then there are the distortions and the over-bearing emphasis on the issues that serve their objective, and then there are the diversions and distractions that lead the minds of the judge or jury away from places where the painter doesn't want their minds straying.

In the civil case brought against Buchanan and me in November 2000, the destructive painter had a number of advantages. They knew things that we didn't know. NCR and TJG were fully aware of the facts relating to the financial shambles in NCR Belgium that lay at the heart of the case, however they chose not to reveal this to the court. I did not become fully aware of this until Alun Long, NCR's financial controller, revealed the full truth in his statement to the criminal court in February 2004. 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?

There was also a huge diversion in the civil case that took all minds away from me and my situation completely. That came courtesy of Buchanan who had denied all of the claims made by NCR. Note that these were not 'charges' as this was not a criminal court. His denial of the obvious focussed all minds on discrediting his ludicrous version of events.

Further, our destructive painter used some clever brush strokes to paint out other important issues that may have painted a much broader landscape for the judge than the minimalist painting that was displayed. They painted out my obvious honesty by writing my voluntary statement; they painted out that I had been lied to and deceived by Buchanan into moving the funds in the first place; they painted out the business that I

had won for NCR from my hard work over a number of years as a consultant; they painted out my support for my customers when I invested my own funds and my own borrowings in order to protect my our customers.

In the first few minutes of the hearing, the painter told the judge that I had admitted my role in the crime. The destructive painter did not mention what that role was. It is true that I had admitted my role in the affair but I certainly did not admit that I had conspired with Buchanan, quite the opposite.

The rest of the three days of the hearing were taken up by the judge and the painter finding ways of discrediting Buchanan's rather wild claims of innocence. The court was not interested in trying to understand my role and how I had become inveigled into this nightmare.

NCR and TJG and their destructive painter put together a picture for the court that was designed to deceive the court into believing that Buchanan and I had conspired to steal funds from NCR. But then that does seem to be the way our justice system goes about its business.

There is little doubt that had the criminal hearing happened before the civil hearing (the normal process) then NCR and TJG would have been unable to get the same Joint and Several conclusion, as this judgement was only made by virtue of the presentation by the destructive painter of a conspiracy between myself and Buchanan. In the criminal case I was found not guilty of 'conspiracy to defraud'.

I have to say a few words about the role of the destructive painter in family law. If a divorce finds it's way into the courts there will be the need for advocates on both sides. Whether they are solicitors or barristers their role is still to paint pictures.

The court makes a big thing regarding the need to protect the children when a marriage fails, however, if a couple are reasonably friendly, or maybe just about communicating, the destructive painters will ensure that a huge unmoveable wedge will be drive between ex-husband and ex-wife, which is surely extremely detrimental to the children.