

## Fake lawsuits cited in 'scam' worth millions

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Two Melbourne lawyers have been accused of using a series of fictitious lawsuits and a network of tax haven companies to commit frauds worth tens of millions of dollars.

The lawyers, John Voitin and Simon Nixon, allegedly used lawsuits brought in the Victorian Supreme Court and offshore companies associated with Mr Voitin's wife, Clare Sowersby, to shield from creditors the assets of financially troubled rich Australians.

Complaints about the lawyers have been lodged with the Legal Services Commissioner, which is in charge of regulating lawyers, and bankruptcy regulator Insolvency and Trustee Service Australia (ITSA). The alleged scheme is also the subject of legal action in the Federal Court.

Mr Voitin and Mr Nixon did not return phone calls on Tuesday and Ms Sowersby declined to comment.

The complaint has yet to be tested by the Federal Court, and Fairfax Media does not suggest the allegations are true.

In the first step in the alleged scam, a company registered in Hong Kong, the Turks & Caicos Islands or mainland China would enter into a business deal with a client. The client would then fail to live up to their end of the bargain, rendering him or her liable to pay a large sum of money.

Five such claims, of up to \$35 million, have been enforced by obtaining judgments from the Victorian Supreme Court.

With their position secured by the court, the offshore companies were then able to use the debts to push aside genuine creditors during personal bankruptcy proceedings.

Legal Services Commissioner Michael McGarvie said: "I can confirm I'm familiar with the issues in the Federal Court case."

However, he declined to comment further.

Speaking generally, he said every lawyer had "a primary duty of candour - of frankness and truthfulness - to a court".

"It requires the lawyer not to mislead any court in the things they say to the court or present to the court."

ITSA acting general counsel Andrew Sellars said: "ITSA is aware of the matter and we note that, at this stage, it's in the nature of allegations in a statement of claim."

"There are criminal offences in the Bankruptcy Act and, on the face of it, it looks like there are criminal offences in other legislations as well ... If these allegations are found to be accurate ITSA would be working on it in a co-ordinated manner."

In one case, Turks & Caicos-registered Capital Securities Limited obtained a \$35 million judgment against property developer Stephen Donnelly and seized his \$5 million Toorak home.

Mr Donnelly did not defend the Supreme Court claim and last month handed his financial affairs over to a trustee under a section of the Bankruptcy Act under which he put a "personal insolvency agreement" proposal to his creditors to clear his debts by paying a total of \$40,000.

The proposal was defeated at a creditors meeting last Friday at which Capital Securities did not vote.

In the case before the Federal Court, farmer David Cross is suing to set aside a personal insolvency agreement entered into by contractor Giuseppe Rullo.

According to official Australian and Hong Kong documents, Mr Rullo's second-biggest debt is \$1.265 million owed to a company of which Ms Sowersby is the sole director, Hong Kong-registered Athena Commodities & Trading. The debt is the result of a Supreme Court lawsuit in which Athena sued Mr Rullo for failing to raise \$1.5 million in investment capital "to promote horticultural development in Victoria and New South Wales", for which Mr Rullo was to be paid a fee of \$250,000.



The alleged scheme is also the subject of legal action in the Federal Court. Photo: Greg McKenzie

When Mr Rullo failed to appear before the court on November 14 last year, Athena was awarded default judgment of \$1.25 million, plus interest and costs.

Mr Nixon, who acted for Athena, signed and filed with the court a statement certifying that each allegation of fact in the lawsuit "has a proper basis". Ms Sowersby also signed a similar statement.

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