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Tangled web of deceit, debt and lawsuits

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An alleged fraud ring seems to have run a sophisticated scheme, writes Ben Butler.

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How the alleged scam works

- Business owner on the verge of bankruptcy hires John Voitin's firm, Voitin Lawyers
- Business owner enters into fake deal with Hong Kong-based company owned by Clare Sowersby (aka Clare Voitin)
- Hong Kong company brings fraudulent lawsuit in Victorian Supreme Court that is not contested by the business owner, creating a legally enforceable judgment debt
- To avoid bankruptcy, business owners proposes a personal insolvency agreement to his creditors
- Because the Hong Kong company is owed the most money, it dominates a meeting of creditors, making sure the agreement is approved
- Genuine creditors receive cents in the dollar and business owner retains control of the assets

GRAPHIC: JAMIE BROWN

Alleged fraud ring's sophisticated scheme.

They were the scammers so slick they ripped off a fraudster, if the allegations against them are correct. Stephen George Snowden is a convicted criminal who built part of his nursing home empire using \$7 million he admits taking from Westpac by exploiting a flaw in the bank's systems.

But he appears to have met his match when he ran up against an alleged fraud ring connected to Melbourne solicitor John Voitin.

It is alleged that a sham loan made in September last year by a company controlled by Clare Sowersby, Mr Voitin's wife, was part of a scheme to wrest control of six nursing homes from Mr Snowden.

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The charge is one of many levelled against the Voitin network. Courts have heard that in order to protect the assets of financially troubled rich clients from creditors, the ring engineered millions of dollars worth of fraudulent lawsuits as well as hiding assets on behalf of troubled companies.

Three sets of investigators are combing through years of files, attempting to unravel a tangled web that stretches from the Voitin family's suburban Melbourne home to tax havens in Hong Kong and Dubai.

Legal Services Commissioner Michael McGarvie, who regulates lawyers in Victoria, is believed to be investigating, although he would not confirm any probe; corporate regulator the Australian Securities and Investments Commission has paid to have Mr Voitin interrogated under oath; and the Australian Financial Security Authority, which regulates bankruptcies, has also mounted an inquiry.

From the outside, Mr Voitin and his wife look like any other well-to-do professional couple raising a family in one of Melbourne's quietest suburbs, Balwyn.

While the post-war brick veneer homes that once dominated are fast disappearing, replaced by neo-Georgian McMansions, the neat streets are still home to accountants, lawyers and others who value a quiet life close to good schools.

John Voitin commutes to his city law firm Voitin Lawyers from the family home on a leafy street, around the corner from a small shopping strip on Whitehorse Road.

From the family home, Clare Voitin has registered Gulliver Jam, an accessories business that sells scarves, handbags and jewellery.

But it is this same suburban address that links Clare Voitin with her alter ego, Clare Sowersby, and the world of fraud. It is the address Ms Sowersby gave to Hong Kong authorities when registering her ownership of Athena Commodities & Trading, a company allegedly used to bring fictitious lawsuits in the Victorian Supreme Court.

The Voitins have lived in the same Balwyn home since 2006, when they returned from Dubai, where John Voitin and Allan Walker ran law firm Voitin Walker Davis.

While Mr Voitin and Mr Walker are no longer partners, Mr Walker is still on the scene, acting as a high-interest money lender and allegedly referring business Mr Voitin's way.

Mr Walker and his wife, Joan, lent \$600,000 to builder Paulding Constructions before it collapsed owing more than \$6.4 million in late 2009.

"He [Mr Voitin] was an ex-partner of Allan Walker, with whom we'd been dealing," the owner and chief executive of Paulding Constructions, John Paulding, told the Supreme Court in August.

Mr Walker allegedly told Mr Paulding that Mr Voitin was someone who "does this stuff for companies which are in trouble". However, Mr Walker told BusinessDay he made the introduction solely on the basis that Mr Voitin was a specialist in insolvency law. Mr Voitin is alleged to have been instrumental in the so-called phoenixing of Paulding Constructions, by hiding assets from creditors.

"Basically, Mr Voitin said, 'Give me \$30,000 and I'll fix it,'" Paulding Constructions' accountant, Leo Griffith, told the Supreme Court.

Liquidators Andrew Yeo and Gess Rambaldi, of Pitcher Partners, spent more than three years tracking down Paulding Constructions' assets - a process that got off to a slow start because office computer hard drives had been wiped clean before the collapse. They found back-up tapes when, accompanied by police, they raided properties south-east of Melbourne



Solicitor John Voitin.

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in Seaford and Carrum Downs that also unearthed display home furniture, house plans and almost 50 archive boxes of company records. In court, Mr Voitin denied hiding assets.

The liquidators also pursued Mr Walker in the Federal Court over his purchase of a property in Cranbourne from one of Mr Paulding's companies at a knock-down price. That case was settled for \$150,000.

Mr Walker told BusinessDay he obtained a sworn valuation before the transaction. "It was a difference in valuation of about 15 per cent."

As for Mr Paulding, he was made bankrupt in 2010 owing \$3 million, including \$350,000 to Mr Walker.

Separate to the Paulding case, Mr Voitin is alleged to have been involved in half a dozen fraudulent lawsuits brought by companies registered offshore.

A court has heard that the purpose of the lawsuits was to generate big debts against clients of the fraud ring. The debts would then be used to dominate meetings of creditors and usher through personal insolvency agreements that kept clients in control of their assets.

Athena Commodities & Trading, a Hong Kong company controlled by Clare Sowersby, was the vehicle in Supreme Court lawsuits brought against orchard contractor Giuseppe Rullo and airconditioning businessman Anthony Aloe. The circumstances of the two cases are startlingly similar.

Before Athena came on the scene, both Mr Rullo and Mr Aloe had been hit by big legal judgments. Mr Rullo owed farmer David Cross \$460,000 over the failure of a fruit crop, while Mr Aloe's former employer hit him for \$1.5 million for his use of company client lists to set up a new business. In each case Athena claimed large sums yet its solicitor, Simon Nixon, filed slim statements of claim.

In court papers filed in October 2012, Athena claimed Mr Rullo promised to raise \$1.5 million "to promote horticultural development in Victoria and New South Wales".

Four months later, when it filed the Aloe case, Athena said it was a provider of "machinery and office software", worth \$5.345 million.

Mr Rullo and Mr Aloe did not defend the lawsuits. Both then asked their creditors to agree to personal insolvency agreements. In Mr Rullo's case, Athena then used the judgment debt to dominate a meeting of creditors, resulting in his genuine creditors, including Mr Cross, receiving just 3¢ in every dollar.

V-Flow, the air conditioning company Mr Aloe set up after leaving his former employer, collapsed in February this year. At a meeting of the company's creditors on February 27, Athena, represented by Mr Nixon, claimed to be owed almost \$5.4 million. Liquidator Leonard Milner said he would reject Athena's claim and his lawyers have demanded Athena return \$150,000 to a company in the V-Flow group.

"The reality is I had no knowledge that Voitin had been doing what he had apparently been doing, I had no knowledge of the company Athena," Mr Milner told BusinessDay. Mr Aloe couldn't be reached.

Mr Nixon also filed two Supreme Court cases on behalf of another Hong Kong company controlled by Ms Sowersby, Mandamus Commodities. In one, Mandamus sued technology entrepreneur Keith Ondarchie and former Elders group general manager Tony Dage, who it said had agreed to raise \$5.2 million of investment capital.

In its 2011 statement of claim, Mandamus alleged the pair failed to raise the cash and therefore owed the company the money. The pair then cited the debt when they entered personal insolvency agreements that wiped the slate clean.

Elders chief executive Malcolm Jackman said Mr Dage's previously undisclosed exit from his \$1.2 million a year job in early August was part of a long-planned restructure of the business and nothing to do with the Mandamus proceedings or Mr Dage's personal insolvency. Mr Dage didn't return BusinessDay's call.

In the largest allegedly fraudulent case seen by BusinessDay, Mr Nixon acted on behalf of Turks and Caicos-registered Capital Securities in a \$35million claim against Melbourne property developer Stephen Donnelly, filed in October 2011.

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Capital Securities, which is not associated with the Voitins, claimed Mr Donnelly owed the money in yet another alleged failed finance deal, this time a promise to raise up to \$500 million from Hong Kong investors. Because Mr Donnelly didn't file a defence to the claim, the Supreme Court awarded Capital Securities \$35 million and possession of his mansion in Toorak. The property was sold for \$5.6million last year but BusinessDay has been unable to determine what happened to the proceeds.

Mr Donnelly proposed a deal under which his creditors would have been paid \$40,000, but it failed at a meeting of creditors on August 2. Capital Securities would have been able to dominate the meeting, but did not vote. BusinessDay was unable to locate Mr Donnelly.

Last month the Federal Court heard that the alleged frauds struck at the integrity of the personal insolvency system. Mr Cross' counsel, Mark Lapirow, asked the court to set aside Mr Rullo's personal insolvency agreement and instead make him bankrupt. "These matters are of serious concern," Mr Lapirow told the court. "The court should also be aware that, if it was set aside on these grounds, serious criminal conduct would be suggested on the part of Mr Voitin, Ms Sowersby, Mr Nixon and Mr Rullo."

Mr Rullo's counsel said his client did not admit to any wrongdoing. Mr Voitin, Ms Sowersby and Mr Nixon did not attend court and did not respond to BusinessDay's questions. As for Mr Snowden, in April he won a Supreme Court case against his former business partners, Ken Yen Cheng and Yiu Cheung Lui.

Mr Snowden alleged a \$420,000 loan from Black Oak Capital, a company controlled by Ms Sowersby, was a sham. While not going that far, Justice Ross Robson found there was evidence to "strongly suggest" the document had been created in September and then back-dated.

Justice Robson found Cheng and Lui had misappropriated his half of the nursing home group.

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