

THE RUBBER HOSE THREE

Houston is never a dull place for the criminal fraternity, whichever side of the divide they may sit. The one thing you can be sure of as a criminal attorney is that you will never be short of interesting business in Texas, and both Dan and Matt Hennessy found themselves with new international clients in early May.

The Department of Justice's antitrust division had long been investigating a major international cartel which they suspected of being involved in fixing the prices of marine hosing. The prosecutors were the same cast of characters that had indicted Ian Norris, and their hard-nosed tactics were beginning to bear substantial fruit overseas. This investigation was being conducted in conjunction with both the European authorities and the UK's Office of Fair Trading ('OFT'), and had originated with a Japanese company that had come forward to self-report, on promise of immunity from prosecution.

The UK authorities had yet to secure a domestic conviction since criminalizing cartel activity in the 2002 Enterprise Act, but the coat-tails of the cowboys in America would get them a free ride this time round.

The FBI got the Japanese moles to suggest a meeting of the cartel during a major international conference in Houston, and they then bugged and videotaped the meeting. That night, they arrested eight international businessmen as they slept in their beds. Three were British. Of these, one instructed Reid Figel's firm, and Reid contacted Dan to try to help the guy out of the Federal Detention Center, where he was locked up. Matt, meanwhile, was instructed by one of the Italian defendants.

Dan, being Dan, once again persuaded the judge to let the guy out so that he could come and stay at 'Casa Cogdell', which caused no small amusement amongst the local press. The following day, Dan asked me to come to his office, where I was introduced to a fairly diminutive and thoroughly scared man called Peter Whittle, who was still coming to terms with his change of circumstances, and his electronic monitor.

We went for lunch across the road, and over a sandwich and a beer, I gave it to him straight. There were eight defendants, from four different nations. Peter knew all of them to some degree, but could not confess to knowing much about the non-Brits.

"Don't fuck around", I told him. "There's simply no sense believing this is going to have a happy ending. The chances of all eight defendants, some of whom hardly know each other, deciding to fight this to trial are

approximately zero, which means that the first one in will get the best deal". Peter was a little bit older than me, married with children, and self-employed. There was nothing else for it.

He had a sister who lived in Georgia, and the court had granted him permission to be situated there, so he would be on his way shortly. His co-defendants, Bryan Allason and David Brammar, were staying in Houston.

We followed the progress of the 'rubber hose three', as we called the Brits, through Reid. I was walking in Memorial Park one day a few months later when a guy walked in front of me, holding out one of the electronic monitoring phones. "Snap", he said, in an English accent. "I know you".

It was Bryan Allason, and we talked for about five minutes before both realising that we were breaching the terms of our collective bonds by talking to other suspected felons, at which point he went his way and I went mine.

In December 2007 the three men managed to do a quite incredible deal which had little to do with the interests of justice, and everything to do with politics. They entered into a joint plea agreement which required that they plead guilty in a US court, and agree to a set sentence each. They would then be put on a plane back to the UK, and would waive their rights in double jeopardy and plead guilty to crimes under the UK's Enterprise Act, the first successful 'prosecution' under the Enterprise Act. The OFT were cock-a-hoop.

If their UK sentences were less than the agreed US term, then they would be required to go back to America at the end of their UK sentences and serve the remainder in a US Federal prison.

As fate would have it, the UK courts sentenced them to more than the US terms, and so they appealed their sentences, arguing that they should get the amounts as stipulated in the US plea agreement. The appeal court reluctantly agreed, but expressed their outrage at the blatant manipulation of the UK Justice system by the US authorities. It surprises me only that British judges are still surprised by this kind of thing. Our relationship with the US under Tony Blair had become, as George Galloway so rightly put it, akin to that of Monica Lewinsky, on her knees in front of Bill Clinton. In matters of criminal justice, we are definitely the fifty first state of America.

The 'NatWest Three' would meet up with the 'rubber hose three' a year or so later, in Ford open prison. Gary and I have stayed close friends with Peter Whittle. A nicer man you could not hope to meet. For an international criminal, that is. As part of his deal, having been identified as the orchestrator of the plot, Peter had to agree to return to the US to give

evidence for the prosecution against Matt Hennessy's client, the Italian, who was brave enough to go to trial. The man was acquitted, much to Peter's joy. But since Peter was a convicted felon, his time in the US around the trial was spent in prison, and strangely enough the authorities then 'forgot' about him, and it took many weeks to get back to Ford.