

CASE STUDY:

A Complex Case of Fraudulent Behavior

The problem.

Our client discovered that the defendant had been defrauding it for years by falsely reporting the weight of our client's scrap metal that the defendant sold in Canada. The defendant's fraud included fabricating fake documentation to support the defendant's claims about the weight of scrap sold. Our client only discovered this fraud when it terminated the relationship with the defendant for other reasons, and began selling its own scrap in Canada. While it was certain that the defendant had defrauded it to the tune of hundreds of thousands of dollars, our client had little direct proof of the fraud.

Our approach.

The client engaged Eric Poehlmann in Down Rachlin Martin's Litigation Group. Eric made the strategic decision to depose the defendant early in the discovery process in order to make the defendant commit to one version of events and one explanation for the discrepancy in the reported weight of scrap sold. Downs Rachlin then interviewed a number of the defendant's former truck drivers, others in the salvage business, and closely scrutinized the documents provided by the defendant. This thorough investigation showed that the defendant's explanations for the variance in the weights he reported having sold in Canada were false. Moreover, rigorous examination of the defendant's own weigh slips revealed that those slips were fabricated and were not produced by the mill which purchased our client's scrap metal from the defendant.

Using the evidence developed by Downs Rachlin, Eric sought and obtained an attachment of the defendant's property to secure any judgment. Eric then tried the case before a Judge, who rendered judgment in favor of Eric's client. The defendant appealed the judgment to Vermont's Supreme Court, which found that a prior Judge had made a mistaken ruling and therefore sent the case back to the Superior Court. Eric then tried the case a second time, this time in front of a jury, and obtained a verdict in favor of his client. The jury not only found that the defendant was liable to Eric's client for compensatory damages, but also awarded punitive damages against the defendant. The defendant again appealed the verdict to the Supreme Court, but this time the Supreme Court affirmed the judgment in favor of Eric's client.

The outcome.

Having obtained a sizeable six-figure judgment for Downs Rachlin Martin's client, the next step was to actually collect the judgment. The defendant refused to pay the judgment and Eric therefore took steps to enforce it. This included filing a foreclosure action against the defendant's business and arranging for the Sheriffs in two counties to simultaneously seize the defendant's heavy equipment and trucks. In the fact of this enforcement action, the defendant sought bankruptcy protection. At that point, Eric handed the case over to another Downs Rachlin Martin Litigator, Andre Bouffard, who specializes in bankruptcy work. Through negotiations with the defendant's bankruptcy counsel, Andre was ultimately able to obtain full satisfaction of the judgment owed to Downs Rachlin Martin's client.

