A further wave of information has been published on the GP Noble affair, including details of criminal proceedings and a statutory report from the Pensions Regulator.

The GP Noble case is the most high-profile episode of fraud in the British pensions industry since Robert Maxwell, and we now have a substantially complete picture of what has unfolded over the last five years.

What was GP Noble?
GP Noble Trustees Limited (GPNT) was an independent professional trust company which acted as the trustee of a considerable number of occupational pension schemes. It has been in liquidation since 2009.

GPNT’s directors included two individuals called Graham Pitcher and Gary Cordell. Both of these men played major roles in the saga. Mr Pitcher is currently in prison.

GPNT was owned by a company called Mentor Pension Trustees Limited, which was dissolved in 2010. This entity was owned in turn by a company called The Money Portal Limited, which has been in receivership since June 2009. The Money Portal Limited was co-founded by Anthony Morris, another major player in this saga. Mr Morris was disqualified from acting as a company director in 2005.

A final, minor participant in the events at issue was a company called BDC Trustees Limited, which was owned by Mr Pitcher. This entity, like GPNT, served as a trustee of the schemes involved in the affair, but its role was minor and it will not be treated separately in what follows. It was dissolved in August 2010.

Which pension schemes were involved in the affair?
Nine defined benefit pension schemes, which together had around 2,180 members. They were under the control of GPNT.

How did the scandal begin?
By 2007, the schemes’ employers were insolvent, and the schemes were set to be rescued by one of the statutory occupational pensions lifeboats, the Pension Protection Fund (PPF) and the Financial Assistance Scheme (FAS). GPNT was appointed to the schemes to manage them while they were assessed for PPF/FAS entry.

On 14 August 2007, GPNT transferred £30 million in assets out of the schemes, followed by a further £22 million on 18-21 April 2008. This totalled £52 million out of total assets held by the schemes of £57.6 million. The disinvested assets had previously been held in very low risk investments (mainly gilts and cash).

What happened to the assets?
The first wave of funds was paid to Fareston Limited, a company which had been incorporated on 22 June 2007 in the British Virgin Islands. Another entity, Aspect Investment and Finance Ltd, was appointed as investment manager. This company was incorporated in St Kitts and Nevis.

Investment advice in connection with the transfer was provided by an individual named Quentin Russell. The advice was provided...
in the form of letters addressed to Graham Pitcher and typed on the notepaper of a non-existent company calling itself “Finance 2 Professionals Ltd”. Mr Russell made no comment on any decision by GPNT to make the proposed investment, or on the size or outcome of the investment. In his letters, he stated: “I have no formal contract with your company and have not been paid by your company for my opinion”. Nevertheless, Mr Russell was paid £2,000 for each letter. He is now in prison.

The £30 million ended up being channelled through a complex set of structures. The monies were not applied in any manner that was appropriate for a group of occupational pension schemes which were in assessment for the PPF/FAS. Schemes in such a position could be expected to invest their assets in the most conservative manner possible in order to avoid dissipating them before they were transferred to the PPF/FAS.

Some of the £30 million ended up with another BVI company called Multiple & Unilateral Financial Futures Limited. It was this company that ended up being the recipient of the second tranche of assets, totalling £22 million, in April 2008.

Mr Justice Peter Smith later found that these arrangements had been set up at the behest of Mr Morris. The judge also found that the arrangements had been dishonest and fraudulent in character. One of the final destinations of the money was Mr Morris’s ex-wife’s divorce settlement (£1,481,920.53, paid on 14 July 2008).

**What action did the Regulator take?**

By July 2008, the Regulator had become aware of what was going on, as had the PPF.

There followed a series of regulatory proceedings before the Determinations Panel, the quasi-judicial arm of the Regulator which controls the exercise of its most important statutory powers. By these proceedings, which were concluded in November 2008, the Regulator succeeded in removing GPNT and several connected parties (including Mr Pitcher and Mr Cordell) as trustees of 29 occupational pension schemes. A new independent trustee, Independent Trustee Services Limited (ITSL), was appointed in their place.

ITSL established that the majority of the assets of the nine schemes that we are concerned with here had been invested through the BVI entities on unusual terms. They quickly brought legal proceedings in the civil courts to recover the misappropriated funds.

GPNT and several connected parties, including Mr Pitcher and Mr Cordell, were banned from acting as trustees by the Determinations Panel in February 2010. The Panel found that they had made “improper” investments which had been unsupported by appropriate investment advice and concealed from the PPF and FAS. GPNT was struck off the Regulator’s register of independent trustees. The Panel was particularly critical of Messrs Pitcher and Cordell, stating that they had “committed serious and persistent breaches of trust law and pensions legislation”.

**What happened in the civil court proceedings?**

There have been a number of civil cases arising out of the affair, the most important of which was a 2010 trial in the High Court (Independent Trustee Services Ltd v GP Noble Trustees Ltd [2010] EWHC 1653 (Ch)). This involved ITSL and 27 defendants, including GPNT, Mr Morris, Mr Pitcher and Mr Cordell. Unusually, 26 of the defendants declined to take part in the trial.

The judge, Mr Justice Peter Smith, found in favour of ITSL and was strongly critical of Mr Morris. He stated: “It is difficult to conclude otherwise than that the investments so-called were entirely bogus investments designed simply to enable Mr Morris to obtain control of £52,000,000 and then direct its utilisation or dissipation either in payments for his own benefit or investment in schemes where he took benefits but not the risk. I cannot see a more abject failure of the trustees.”

**How much of the assets have been recouped?**

Around £36 million to date. Further recovery action is ongoing.

**How did the police get involved?**

The Pensions Regulator went to the Serious Fraud Office (SFO) in August 2008. The SFO and ITSL, with the assistance of the Regulator, obtained several freezing orders which prevented the disposal of several million pounds of the misappropriated assets.

Three sets of criminal prosecutions have been brought, with varying results. Mr Pitcher was sentenced to 8 years imprisonment in 2011, while Mr Russell was sentenced to 15 months imprisonment earlier this year. Mr Cordell has been acquitted of all charges against him. Mr Morris was likewise acquitted of all charges by a jury on 12 July 2012, after an 11 week trial in London.

**How did it all happen?**

The key to the affair seems to have been conflicts of interest.

As the High Court judgment revealed, Mr Morris had a foot on both sides of the fence. GPNT was entrusted with investing the scheme’s assets. Mr Morris had co-founded, and his family continued to have a financial interest in, GPNT’s controlling entity, The Money Portal Limited. He had also been a business associate of Mr Pitcher and Mr Cordell, who were serving as directors of GPNT. Yet Mr Morris had separate and substantial financial interests in the network of entities in which the assets were invested.
The problems started when Mr Pitcher and Mr Cordell decided to transfer the schemes’ assets into the network of entities linked with Mr Morris. GPNT owed strict fiduciary and statutory duties to the pension schemes and their beneficiaries, and neither the Regulator nor the High Court were persuaded that the transfer was consistent with those duties.

The duties of any pension scheme trustee, adviser or employer ought not to be compromised by any other financial or personal interests or duties in such a way that their actions are tainted by the conflict. Where there is a risk of such a conflict, proper steps must be taken to manage it. In some cases, it will be appropriate for an individual or entity affected by such a conflict to step down.

What are the lessons from the affair?

Suspicious movements are seen in some pension funds’ investments. The persons in charge of the money are compromised by conflicts of interest. Assets are being invested in non-transparent offshore companies with suspicious connections… One might be describing the state of the Mirror Group’s pension funds in 1991.

The whole GP Noble debacle is a reminder that dishonesty, and conflicts of interest more generally, are ever-present threats in the pensions world. Neither employers nor trustees can afford not to be vigilant when choosing professional advisers and making investments. Moreover, it is imperative to take specialist legal advice in cases where decisions are at risk of being seen as tainted by a conflict of interest.

Fortunately, the scheme members themselves will not be out of pocket – not least thanks to the PPF, a body which did not exist in 1991.

Further information

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