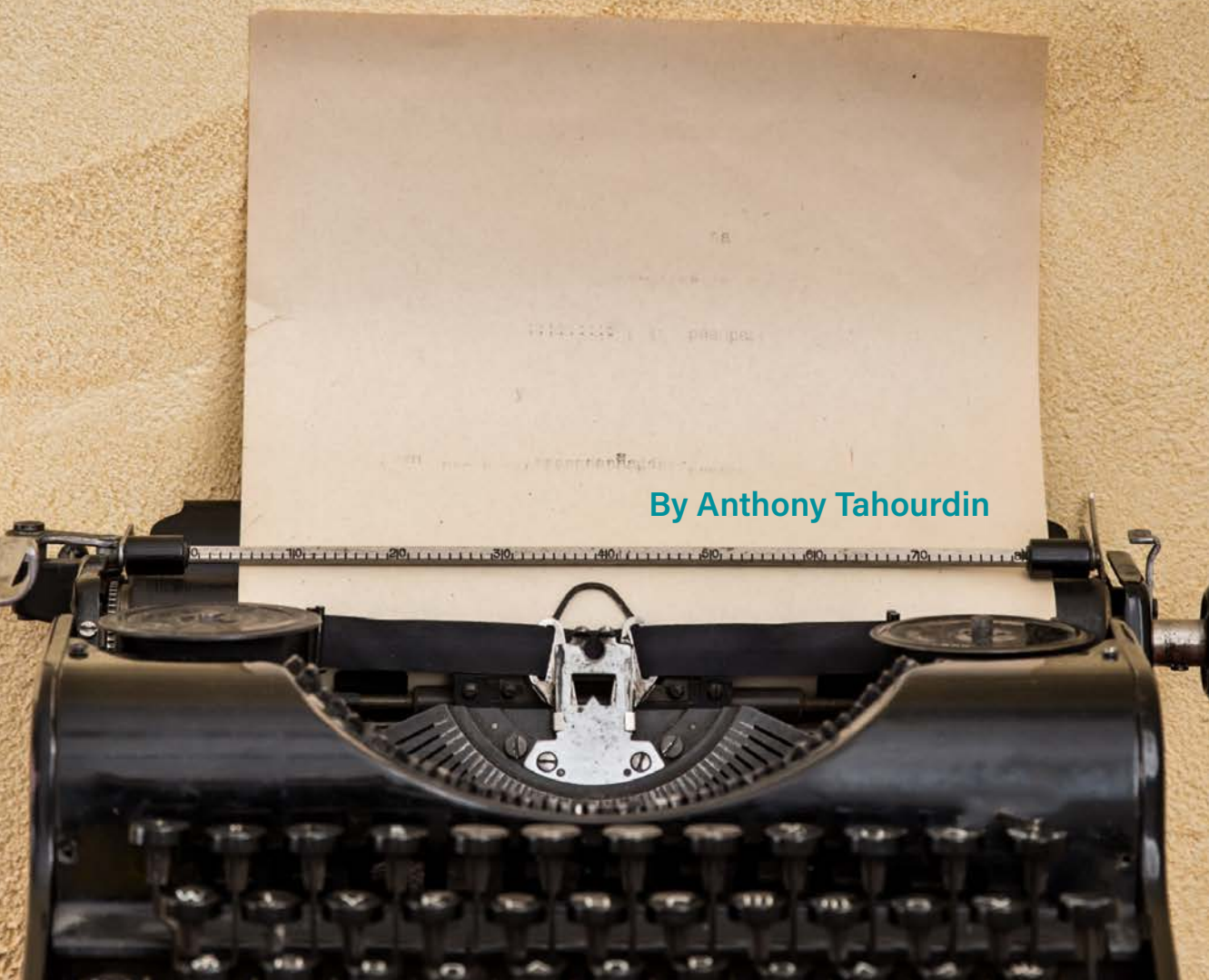


DIARY OF A PRIVATE CLIENT SOLICITOR

By Anthony Tahourdin

A vintage black typewriter is shown from a front-facing perspective, with a sheet of aged, cream-colored paper inserted into its carriage. The typewriter's keyboard, featuring dark keys with light-colored lettering, is visible at the bottom. The background is a textured, light-colored surface, possibly a wall or a backdrop, which adds to the vintage aesthetic of the scene.

DIARY OF A PRIVATE CLIENT SOLICITOR

By Anthony Tahourdin,
Private Client Partner at
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PART 1 THE CHANGING LANDSCAPE

THE CHANGING LANDSCAPE

It is a little over 42 years since I qualified as a solicitor and it is not too long until I expect to hang up my grey suit and spend most of my time sailing. In the circumstances this seemed a good time to record some of my memories. Throughout my career I have specialised in Private client work. This involved dealing with Probate and Trusts, tax advice, Will drafting and working with the vulnerable and elderly although in recent times specialisation has meant that I have largely given up on parts of this.

The first thing is probably the technological and legal changes that have happened. When I qualified the height of technology in the office was an electric golf ball typewriter, I wonder how many people even know what that was? Any form (and there were and still are many) that had to be completed was either purchased in blank from specialist legal stationers, or in certain cases ordered free from a government agency, for example all tax forms were supplied free of charge by the Revenue. These forms were either completed by hand or filled in by a secretary who usually copied from a form completed by hand, generally only the posh firms got their forms typed!

More generally when I qualified the legal profession was dominated by Public School White Men, these days the split between the sexes is almost equal, there is a huge amount of ethnic diversity and while private education remains over represented, many of the profession were educated by the state. While not perfect, the profession is a much better representation of modern society than it used to be.

When I qualified Inheritance tax did not exist, instead we had Capital Transfer tax, this was a fairly new tax having replaced Estate Duty in 1975. Capital Transfer tax (CTT) was the invention of the Labour Chancellor Denis Healy who famously said that he wanted to make the pips squeak, by the pips he meant the rich or those perceived to be rich. Compared to its modern equivalent CTT did not seem desperately complicated and despite the very high rates which ranged from 10% to 75% caught only a very small proportion of the population. Administratively however it was a nightmare tax requiring records of all gifts going back more or less indefinitely and frequent tax returns. In 1986 CTT was updated and replaced by Inheritance tax which at the time seemed both generous and easy to understand, sadly the last 35 years has seen the complexity grow and grow and grow.

Amazingly in those days the Revenue kept paper records going back for decades. Estate duty papers were kept going back to the invention of the tax in 1894, it was possible to write to the Revenue and request a copy of an old Estate Duty return. Within a week a photocopy would come back with a scrappy piece of paper informing you that the photocopying cost was £2.45 or some similar sum and requesting a cheque to be sent.

The income tax part of the Revenue also kept records going back many years, the writer recalls an interesting case when he was dealing with the estate of a Smithfield meat porter. As the portering was a night job, this gentleman supplemented his earning by gardening, however he "forgot" to ever mention this to the Revenue and when he died, he owned three houses in Croydon which these days would have been worth somewhere in the region of £1.5m. This together with his

savings caught the eye of the Revenue who decided to investigate his tax affairs. To my horror the Revenue were able to provide details of his and his ex-wife's declared earnings going back some 25 years. These showed that their declared earnings were always below the national average and could not be squared with his assets or savings. This suggested an awful lot of forgetfulness and resulted in a large settlement of back tax.

Nowadays HMRC rely very heavily on a mixture of domestic tax law and cross border treaties to ensure that the affairs of the humble taxpayer are reported and followed up. Anyone who has received what is called a "nudge" letter over the last few years may wonder why the Revenue have written to them and it is probably triggered by one of these sources of intelligence. In my early days the Revenue relied heavily on having specialists who watched all sorts of different markets both nationally and internationally. It was for example well known that the Revenue had a number of highly specialised valuers who understood things like the antique markets. On one occasion I sold a unique medal, it had been awarded to Sir Francis Younghusband by the Dali Lama in Lhasa when Sir Francis visited (invaded?) that part of Tibet in 1903. After the sale the Revenue approached me to confirm that I had included the proceeds of sale in the estate to which the medal belonged. As it so happened I had made the appropriate declaration but was a little surprised at the extent of the Revenue's knowledge of the antiques market. It is perhaps worth mentioning that this medal which sold for £8500 in the early 1980s was a completely unassuming piece of brass found in a box of costume jewellery of little or no value.

Another interesting observation relating to the Revenue is that when I qualified there seem to have been Chinese walls between the different branches of the Revenue. Nowadays it is completely standard for the different branches to speak to each other. This was brought home to me in a case where my client was turned out to have been economical with the truth when it came to declaring ownership arrangements relating to some properties owned jointly by him and his mother. In the course of the Revenue investigation, it also turned out that while he claimed to have owned a house that was owned with his mother, he failed to declare the rental income on either his or his mother's tax returns.

On top of all of this there have been huge changes to the whole probate procedures over the years. The days of papers are almost numbered with more and more done online. As mentioned above there is a huge level of complexity and increasingly we are finding a need to have more and more specialist staff. As I approach retirement I and all our staff have narrowed the areas of work that we do to meet the need for specialisation. The days of the general practitioner solicitor are long dead.

Anyone who reads this article and my two follow up articles could be forgiven for wondering what legal work I have done during the last 42 years. The answer is a huge amount, but much of what I do is highly technical, while this interests me and is sometime of interest to other lawyers, for most clients it is boring. The other side of my work involves a large amount of hands-on human contact and much of what follows relates to that side of my work. For reasons relating to client confidentiality, I am (sadly) unable to disclose the names of clients and am precluded from telling many stories where it would either be necessary to disclose a client's name or to describe circumstances from which he or she could be identified.

PART 2

PERSONAL POSSESSIONS



PART 2

PERSONAL POSSESSIONS

Tax and Trust law is highly technical. For many like me these technicalities are fascinating. Most clients however find the technicalities tedious, all they are interested in is the outcome.

Of equal interest but for completely different reasons are the many objects that I have encountered over the years. Some but not all of these objects are (or were) very valuable and sometimes their history is fascinating.

The heros

Medals it seems are pieces of metal that need to be studied carefully, frequently they are very plain pieces of metal but may have great value either because of their rarity or because of whom the recipient was. I once had a valuer ring me up in panic, having completed a valuation for me, he did some further research and realised that a medal he had found was a Peninsular cross awarded by Lord Wellington to certain soldiers who had served in the Peninsular War (1807-14). The number of these medal still known to exist was very few and it appeared that it was rather valuable. The family decided not to sell it.

The artists

On a number of occasions, I have dealt with objects considered to be of national importance. With such items it is possible to obtain one of two different inheritance tax reliefs. The first of these reliefs is conditional exemption from inheritance tax, this means no tax is paid subject to compliance with certain conditions relating to preservation and public display. This exemption is often used to preserve family collections and I have obtained it twice for the contents of a private house which had to be open to the public periodically. The items varied hugely. I have also seen this exemption used to shelter a valuable violin from tax, over the years I have seen that violin borrowed and played by two violinists who are international stars. The other tax relief is where items of national importance are accepted by the Revenue in lieu of tax, I have done this on several occasions the most interesting being when the personal papers and collection of a well-known art historian were given to a national museum in lieu of tax.

Another interesting collection with which I dealt is now in the Pallant House museum in Chichester, my deceased client collected (mainly) post World War II impressionist art, the collection was stunning and displayed in his purpose-built house overlooking the Goodwood estate. When he died, I had to keep his death secret until we were able to clear the art from the house as it was feared that otherwise it might be stolen, the logistics and the temporary insurance arrangements cost me a lot of sleep.



Like most probate lawyers
I have encountered the
inevitable unlicensed
firearms...



The fakes

Fakes are also an area of interest and I have had two experiences of these. The first was when I dealt with the death of a society heiress. Included in her estate was a picture which I believe she had inherited from her father, and which was reputed to be by a well-known French artist of the late 19th Century. The picture was valued by a reputable firm of London auctioneers at about £200,000 in the early 1990s. After probate was granted, the picture was consigned for sale, it had to be sold to fund tax. Before sale the attribution of the picture had to be verified and it was sent to Paris to be viewed by a specialist committee who were the world authority on the painter in question. To our horror the French condemned the picture as a fake, their grounds for this appeared to have nothing to do with style, they felt that the picture was too big, they claimed that the painter had never produced anything as large as the picture in question. There seemed to be no way to challenge this verdict. From a tax perspective this suited our client, the picture was revalued at a couple of thousand pounds, the tax bill correspondingly reduced, and she kept the picture. Personally, I have always had my doubts about the French expert committee, and I wonder if these days a more scientific method of attribution would have produced the same result?

My second experience with fakes was a collection of Salvador Dali cartoons, nobody could be sure if these were or were not genuine. Apparently Dali was known as a prolific artist who did not keep records of all his work, but also as someone who had a bit of a reputation for accepting payment to sign all sorts of pieces of work, some of which were his, other which were copies or works by inferior artists in his style. These were believed to be cheap copies signed by Dali and therefore of limited value.

The painted lady

Probably the most valuable painting I have ever sold was in the flat of a delightful lady. She came from a Southern Irish Protestant family and seemed to have a thing about Catholics. It was something of an irony that I was Catholic and that she spent her final years in a care home run by Catholic nuns. However, there was a gentle charm about her attitude to Catholicism and none of us took what she said seriously. This lady had a huge portrait of herself, and her sister aged around 8 and painted by a well know society artist in about 1910. For Capital Gains tax reasons, we did not sell the picture while the she was alive. After her death Bonhams Auctioneers spent about 6 months taking it around Europe and America before selling at auction for nearly £200,000, bear in mind this was in the early 1980s and was a huge sum of money. Bonhams subsequently helped me to negotiate a settlement with the Revenue on the grounds that the value of the picture had been greatly enhanced by their salesmanship and did not represent its value at the date of death.

Weapons

Like most probate lawyers I have encountered the inevitable unlicensed firearms usually stored in some totally insecure wardrobe. I also on one occasion had a sword stick which was a rather frightening item. These items were all surrendered to the police at great speed. On the subject of weapons during my early years I worked for a while in South London, during this period a regular find in the handbag of a recently deceased and usually respected old lady would be a kitchen knife, normally about 8 inches long and crudely sheathed in cardboard. So far as I am aware none of these ladies ever used this offensive weapon and presumably, they were never subject to a police "stop and search"!

The family jewels

Jewellery is often a difficult and emotive area. Sadly, the family heirloom is rarely worth more than scrap value which generally equates to something like 25-30% of the retail value. The number of genuinely valuable pieces of jewellery that I have dealt with over the years can probably be numbered on one hand, the most interesting was a Faberge pendant on a gold chain, the pendant was made of a delicate jade. The other slightly frightening thing about jewellery is the ability of a good valuer or jeweller to spot the worthwhile items. I still remember sitting in Sotheby's as their jewellery expert went through a box of jewellery that I had thought was worthwhile. With little more than a second glance he simply sifted through removing half a dozen items which he said had precious or semi-precious stones and simply condemned the remainder at haste as valueless costume jewellery. The same valuer also spotted the Younghusband medal referred to in my first article and would not let me leave the room until his medal expert had looked at it.

PART 3

THE GOOD, THE BAD AND THE UGLY



PART 3

THE GOOD, THE BAD AND THE UGLY

One of the things that has come through to me over the years is the fact that in general humanity is extremely good. The number of completely selfless acts of kindness and helpfulness that I have seen from friends and neighbours over the years does a huge amount to restore one's faith in humanity. Sadly, however where money is involved there will always be the other side of the story, fortunately the number of nasty people is relatively few, so much so that most of them are still remembered many years later.

Fueding siblings

Siblings it seems have an awful capacity to fall out in style. The first and still one of the most memorable occasions of this was the brother and sister who were fighting over mother's affairs before she died, a fight that they continued in disgraceful style after her death. On top of their mutual enmity, we discovered that they had a sister with Downs syndrome who had been institutionalised since childhood (sadly quite common in those days). Mum and Dad had always provided for her, but her existence had been kept secret from us and no provision was made for her in the Will. The siblings in a rare show of unity in effect denied the existence of their sister. We were the executors and were able to agree a settlement for the sister's benefit. In that case mother had been wise to appoint us as executors, in another case I dealt with mother had been less wise and had appointed her waring daughters as Executors. They were unable to agree the time of day, let alone how to deal with mother's estate and arguably justice was done when as a result they lost a huge amount on the sale of mother's house when property prices crashed in the early 1990s.

The effect of loneliness

One of the saddest things we ever have to deal with is the effect of loneliness. Old age can be a very lonely time and men in particular, even those who have never married or had a partner are bad at coping with it. In the early 1980s I dealt with the estates of a gay couple in the days when open homosexuality was still frowned upon. The first partner died from natural causes, two weeks later his partner committed suicide. Many old men struggle to cope and will often seek solace in the bottle. One of the saddest cases I ever encountered was of a gentleman who had become a recluse, his house was full of all sorts of rubbish, he appeared to have drunk himself to death and the house was insanitary. His body was found several weeks after he had died in solitude.



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Under lock and key

When I first qualified it was common for people to have tin boxes stored in their banks. The contents of the boxes varied hugely but we usually had to check the contents before applying for Probate in case it contained valuables. Frequently the key for the box could not be found so I would turn up to the bank with a valuer, plus a hammer and large screwdriver with which I would break open the box in the presence of the bank's securities clerk. Most commonly these boxes would contain a few items of jewellery, assorted papers and frequently in the days before shares and unit trusts were held online a huge wad of share certificates which would have to be listed. Occasionally amongst the share certificates we would find "Bearer Bonds". These were in some ways the bitcoin of the first half of the 20th Century. No register of ownership is maintained with a bearer bond, possession is ownership and attached to the bearer bonds were coupons that would be cut off and presented to a bank to receive dividend or interest payments on due dates. Almost without exception these bearer bonds were valueless, most of them had been issued by the Imperial Russian government, or a similarly deposed regimen in about 1910, and had been disowned by revolutionary government that had deposed them. These did however make excellent wall hangings.

Amongst the interesting items discovered in tin boxes was £500 in crisp £10 notes. The problem was I found these in about 1990, whereas the notes had been issued in about 1965 prior to decimalisation. At the time £500 was a very large sum of money but after the hyper inflation of the 1970s it was no longer a great sum. We were able to cash the notes (the Bank of England will convert out of date notes but only at face value). Why our client had this money stashed away was a mystery, we did discover a rumour that he had an "interesting" past, and one theory was that this was his escape fund.

Gruesome photographs

Another find was a set of gruesome photographs of the body of a society figure who had died in strange circumstances, it is widely thought he had been murdered. Our client was a retired pathologist and presumably had been involved in the investigation but why had he kept these awful photographs? Incidentally no one has ever been prosecuted.

Stashing cash

Still on the subject of cash we did once find the traditional money in the mattress. When our client died she had a long term carer/companion who did not trust banks and had kept all her pay and savings stuffed into the mattress in her room. It came to over £8000 back in the mid 1980s, my junior partner eventually persuaded the carer to invest this money properly.

More recently we were clearing a modest bungalow and a neighbour told us that there was a rumour that the deceased kept large amounts of cash in the house. After extensive searches we found some £60,000, this then presented us with a few problems under the money laundering rules and the firm's Money Laundering Officer had to consider if any special action had to be taken.

Defrauding

On a number of occasions over the years we have had to report to the Police where we have found

evidence or suspected that a carer or relative appears to have been defrauding a client. Most commonly this has taken the form of using a Debit card to remove money from a bank account without authorisation, but it has also taken the form of stealing possessions. Sadly, obtaining proper proof in most of these cases is very difficult and few have resulted in prosecutions although in one case I did obtain restitution.

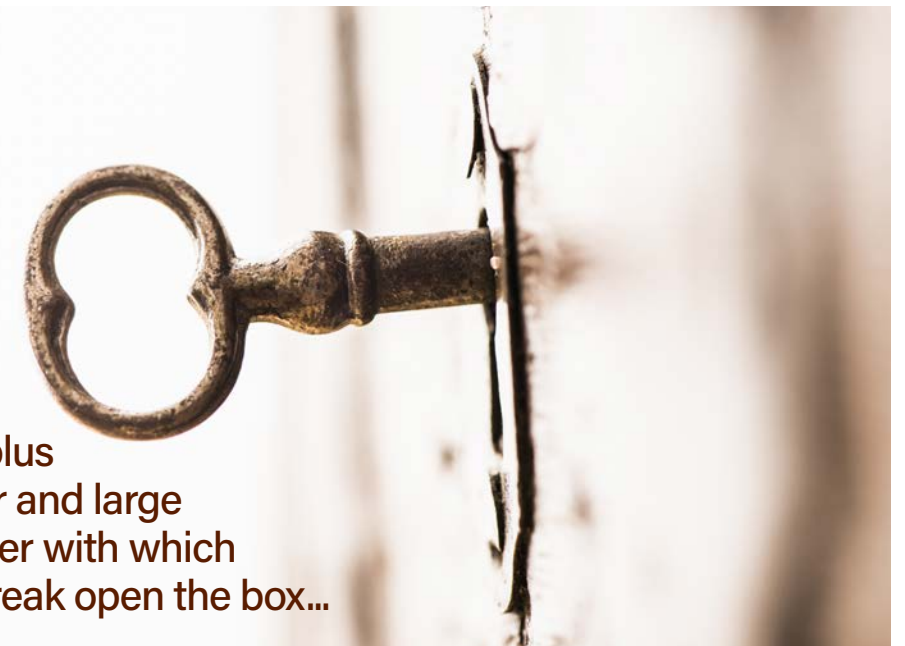
Money laundering

My last story is that of the estate of an accountant. We were asked to deal with the estate of a sole trader accountant. Rather unusually this man had a client account (this is an account which holds money belonging to clients, solicitors have these the whole time but it is unusual for accountants to do so) containing quite a large sum of money. The accountant's records were sketchy to say the least and the source and ownership of these funds was less than certain. Our enquiries seemed to suggest that the accountant might have been involved in some dubious transactions, possibly involving money laundering. This was in the mid 2000s not long after the advent of money laundering rules. Because of our suspicions we had to make a report to the National Crime Agency, the rules relating to such reporting mean that we cannot say anything to our clients but have to stop doing any work on the matter while the agency has a two-week period to decide if they wish to follow up. This procedure can be difficult to follow and there are serious criminal implications if anything is said to the client. After two weeks we heard from the National Crime Agency that we could continue with the estate and we believe that we found the owners of the client account funds, what we never discovered is if those owners were indeed criminals or merely innocent clients of our deceased client!

I could go on for pages and have undoubtedly forgotten a few juicy cases but hopefully this will show that the life of a boring Private client lawyer is not always as boring as you might expect.



I would turn up to the bank with a valuer, plus a hammer and large screwdriver with which I would break open the box...



End.

Thank you for reading.