

A Story of Betrayal Without a Happy Ending

Harold Murphy and Jim Morton had been the closest of friends for over 30 years. When Jim called Harold and told Harold that he, Jim, was in serious trouble, Harold immediately agreed to a meeting. Jim arrived in tears. He told Harold that he had embezzled over \$350,000 from the local law firm where Jim was employed as a paralegal and had just been caught. If he did not replace the stolen funds immediately, Jim was facing 15 years in prison.

Harold told Jim that as much as he wanted to help him, he did not have that kind of money. Jim went on to explain that he had a contract to sell some land. The contract was set to close and he would be able to pay the money back within a few weeks. Believing his trusted friend, Harold went to the bank the next day, borrowed \$350,000 on an existing line of credit and delivered the money to Jim. Two weeks later Jim asked for and was given an additional \$100,000 which Harold also borrowed on the same credit line. This loan was made on the strength of Jim's assurance that a second mortgage on his Wellington home had been approved that would enable Jim to repay the second loan, again within a few weeks.

Harold was now out almost half a million dollars in borrowed funds. As weeks passed with no repayment and with interest on the bank loan eating up Harold's savings, Harold began to question Jim about what was happening. Jim had many explanations about the delays and even gave Harold a copy of the written contract for the land sale. When Jim stopped answering Harold's phone calls, Harold knew it was time to seek the help of another friend, **Jack Scarola**.

Jack got in touch with Jim Morton and demanded that Morton appear in Jack's office the following day. At that meeting, Morton admitted what by then had become fairly obvious—except for the confession of his embezzlement, the rest of his statements to Harold had been lies, and even the amount of the embezzled funds was grossly understated. There never was a contract to sell the land, the document Jim gave Harold was a forgery, and he had no bank commitment for refinancing.

Though he has managed to find the money to pay multiple lawyers to defend him against both civil and criminal charges, Jim Morton did not repay a single penny back to Harold. Nevertheless, Harold has now fully repaid the bank by selling a motor home, two cars, and wiping out the savings that had been intended to help finance the college education of his grandchildren. At 71 years old, the comfortable retirement that Harold should have been able to enjoy has been dramatically altered.

Jack Scarola vigorously prosecuted fraud and civil theft claims against Jim Morton on Harold's behalf and after trial obtained a treble damage judgment of over \$1.6 million. Of course, the quest to avenge the betrayal that Harold suffered will not end until every available asset that Jim Morton has is seized to satisfy that judgment. ♦

\$80 million verdict over Big Tobacco - 4th SDSBS victory in smoking battle

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against Big Tobacco. At the time this case went to trial in November 2010, Big Tobacco had won eight straight *Engle* progeny cases.

The Horner verdict snapped plaintiffs' losing streak in a big way. The jury awarded Mrs. Webb \$8 million for the wrongful death of her father, and then imposed punitive damages in the amount of \$72 million against the tobacco company. They found Mr. Horner was ten percent responsible for his death, and that R. J. Reynolds was 90 percent responsible.

Reynolds' defense focused on Mr. Horner's "choices," including his "decision" to continue to smoke and his failure to stop smoking. This defense position was the same in previous suits brought against the several tobacco companies. In opening statements, Jim Gustafson told the jury, "We're going to prove that Jim Horner didn't smoke two packs of cigarettes per day for 60 years because he liked or enjoyed smoking, the way you and I like or enjoy eating a slice of pie or watching a football game. He smoked two packs a day because he was addicted. The novelty of sucking in smoke and blowing it out, sucking it in and blowing it out – that novelty wore off pretty quickly. He didn't smoke 40 cigarettes a day for 60 years because it was so much fun to do . . . he did it because he was addicted to the nicotine in cigarettes. He smoked to avoid withdrawal."

"The truth about this industry remains an eye-opening tale of arrogance and disdain for public health," said David Sales. "People need to be reminded, again and again, of the true costs – in precious human life – that R. J. Reynolds has imposed and continues to impose on our society." ♦