R v Hunte and Others (Southwark Crown Court)

Peter Doyle QC successfully represented the second defendant (described by the Crown as D1's "right hand man") in an alleged multi-million pound carbon credit and diamond fraud; leading Nicholas James instructed by Simon O'Meara (Blackfords LLP).

In addition to complex factual issues arising from the vast material two crucial aspects exposed the weakness of the Crown's case leading to its eventual failure;

(i) the inability of the City of London Police Economic Crime Directorate to provide material and a proper audit trail of seized documents to permit the Crown to comply with its disclosure obligations and
(ii) uniquely, for a carbon credit fraud that depended on expert evidence, exposing its expert witness as a charlatan and a quack who despite giving evidence in a host of similar trials (now vulnerable to appeals against conviction – the decision in this case having been forwarded to the NCA) had totally failed to comply with the duties and obligations imposed on expert witnesses, not least because he had no or little understanding of their nature and, in truth, was no expert in the proper sense of that description at all.

It is noteworthy that efforts to exclude the evidence of the "expert" (Mr Ager) at the outset of the trial on a s.74 PACE application had been rejected by the trial judge. In the course of a joint expert's telephone conference, Mr Ager had applied pressure on D1's expert not to give evidence. D1's expert had, unbeknown to Mr Ager, recorded the conversation.
There then had to follow weeks of evidence from the victims of the alleged frauds.

As the trial progressed Mr Ager's fatal role became clearer, going beyond his conduct during the conference call.

It was therefore necessary to expose Mr Ager before the judge on a voire dire. This exposed Mr Ager to a catalogue of failings, as well as dubious practices in the preparation of evidence relied on to support the fraud charges in the first place.

In the course of our cross-examination, Mr Ager's admitted failings included using the officer who was instructing him as a conduit with a senior officer to negotiate his fees; the cost of his so-called "expertise". This merely served to demonstrate the influence that Mr Ager felt he could exert on the case; it emerging that, in reality, given that it was his "expertise" that was being relied on, he was effectively driving the investigation.

The CPS were totally ignorant of this arrangement and in fact it was proven that there was hardly any contact between Mr Ager and the CPS throughout the pre-trial history of the case.

The prosecution was forced to accept at the conclusion of Mr Ager's evidence that they could no longer rely on him as an expert witness. The judge was not even called upon to rule.

The final nail in the Crown's coffin was driven home by exposing its inability to satisfy itself, let alone the defence, that it had complied with its disclosure obligations.

Given that the Crown alleged that the diamond fraud morphed out of the carbon credit fraud, these two allegations stood or fell together.

They collapsed with resonant thunder as the defence exposed failure after failure in a case that had allegedly been thoroughly investigated and in which clients had been left waiting for several years for their trial to commence.

The case is a modern tale of continuing failures in complex cases to meet statutory obligations, which fall to be exposed by resolute perseverance by those acting for the defence against a misplaced presumption that "all is well".