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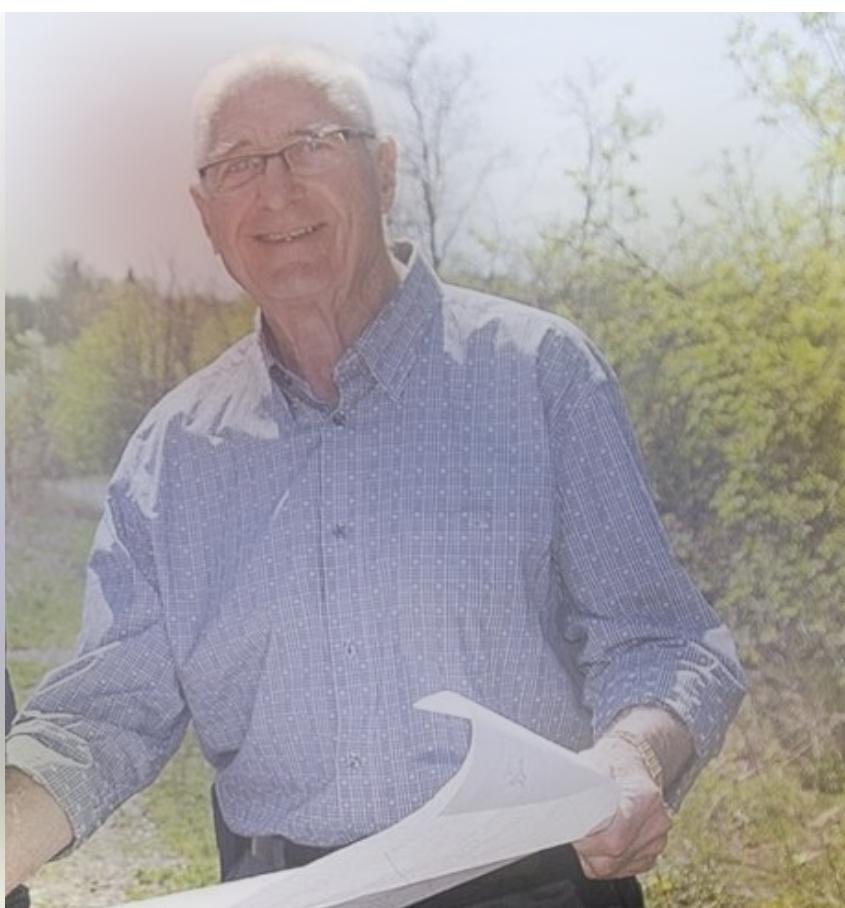
OPINION

He invested \$1.5 million in a trust account. The money's gone and two Hamilton lawyers are banned from practising law

Susan Clairmont investigates a trust account investment scheme involving Hamilton lawyers and missing millions

By Susan Clairmont Spectator Columnist

Jun 16, 2023





Arthur Ellis at the site of future development behind in St. Catharines on May 7, 2015. Ellis put \$1.5 million into Girolamo Falletta's trust fund and was promised it back in three weeks. Over a year later and he still hasn't seen any money.

Bob Tymczyszyn / Metroland file photo

It was a quick business lunch.

Not much small talk. To the point. Sealed with handshakes.

Exactly the way Arthur Ellis preferred to do multimillion-dollar deals for more than 60 years.

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The St. Catharines commercial development tycoon even picked up the cheque for his table of four that cool and sunny afternoon just over a year ago, June 14, 2022. The men — two business people and two lawyers — were at the Edgewater Manor, a Stoney Creek restaurant overlooking Lake Ontario. The grand building has intimate rooms, each with a name.

One is the Capone Room. Like the American gangster and racketeer.

Ellis had a bank draft with him for \$1.5 million.

By the end of the meeting, he handed it over to a Hamilton lawyer named Girolamo (Gerry) Falletta, who bragged of owning a Lamborghini and a Ferrari.

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The other businessman, a financier with large developments in the Middle East, thanked Ellis.

Ellis never saw him — or the money — again.

Follow the money and it leads to shady lawyers, secret deals, mishandled trust funds, a massive drug bust, numbered companies, a provincial government funding program, a firebombing and nearly \$4 million gone missing.

Ellis was supposed to make a lot of money fast. He put his \$1.5 million into Falletta's trust fund and was promised it back in 21 days, plus a "fee" of \$150,000 for making the investment.

Too good to be true?

It was.

The Law Society of Ontario, which governs lawyers and paralegals, agreed with a motion that there was an "investment scheme" in which Ellis's funds "appear to have been fraudulently diverted."

Funds intended to bankroll an expansion of a St. Catharines women's shelter.

"I had made a verbal commitment that was under negotiations to go to a charity to start their building fund," Ellis says.





Girolamo (Gerry) Falletta was a Hamilton personal injury lawyer with Centennial Law Group who bragged of owning a Lamborghini and a Ferrari. He also operates Girolamo Falletta Professional Corporation.

[LinkedIn](#)

The law society has suspended Falletta. He is accused of misconduct, mishandling trust money, using it for a purpose unrelated to his legal services, failing to conduct himself with honour and integrity and failing to communicate with the society.

An investigation by the society is ongoing.

The scheme spotlights the misuse of lawyers' trust funds. The Spectator examined 199 decisions released last year by the law society in relation to disciplinary matters. Of those, nearly half — 89 — involved concerns with trust funds.

Ellis calls the scheme "theft." He reported it to Hamilton police and the RCMP, but no charges have been laid. While Hamilton police say they are not investigating, the RCMP won't "confirm or deny" their involvement.

Follow the money

The money trail begins with Ellis.

He is the sole owner and president of Artell Developments Ltd., the commercial development company he started 62 years ago. The company has repurposed a former paper mill and shopping malls in the Golden Horseshoe. He was once a principal investor

in Jumbo Video, when it was the largest Canadian owned and operated video franchisor. He also invested deeply in a lucrative gold and diamond exploration company and with West 49, a successful sportswear brand.

Ellis, 84, didn't set out to have a business career. As a youth, he was struck by wanderlust. He briefly worked on building the St. Lawrence Seaway, then toiled at the Vancouver docks. Once, after a night of drinking with sailors, he awoke on a steamer that had set sail. He spent the next two years cooking for the crew as they travelled the world.

Ellis is a shrewd business operator, a community supporter and a man who values the advice of those he trusts.

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Arthur Ellis was promised fast cash with a \$1.5 million investment to a Hamilton lawyer's trust fund. He never saw his money again.

ALLAN BENNER/Tribune Staff file

He is telling his story in the hope some kind of justice is still possible and to perhaps prevent others from being swindled. This trust fund ordeal has had a deep impact on him.

"I feel very sad about it all," he told The Spectator. "Disappointed, sad and helpless."

The scheme began with an email to Ellis on June 11, 2022, from his occasional lawyer, Robert Otto.

Otto, 76, was a Hamilton lawyer who practised family law for more than 40 years. He handled "two or three divorces" for Ellis, according to Ellis.

Otto's blemish-free career inexplicably soured five years ago.

In 2018, his licence was suspended by the Law Society Tribunal after he was found guilty of professional misconduct. Otto improperly withdrew thousands of client dollars from trust funds, spent money instead of depositing it and botched a case.

Otto repeatedly lied to a client, the court, and law society investigators, according to the tribunal's decision.

"The case is a reminder of the need not to lose sight of the importance of one's own integrity and ethics, even after practising law for many years," the tribunal said.

Otto admitted his misconduct and repaid his firm. At the time, the tribunal said "all are confident there is no risk he will commit misconduct again."

But a year later, he did.

This time it was in connection to a client settling her father's estate.

Otto dipped into the estate funds and loaned \$300,000 to a "third-party borrower without proper authorization from his client," according to the law society.

The law society has not publicly named the borrower, saying only he is "a former client" to Otto.

Otto, however, told The Spectator the borrower was Mohammed Ehteshamul "Amir" Huq of Mississauga, whom he represented

for a decade.

“He’s an entrepreneurial businessperson,” Otto says vaguely in an interview with The Spectator, citing lawyer-client privilege for being unable to divulge the work he did for Huq. He does say it wasn’t related to a divorce.

Ultimately, arranging a business deal for Huq sealed Otto’s fate.

“There had been a request by him if I had a client who could loan him, very briefly for a few days, \$300,000,” he told The Spectator. “I spoke to this particular client and was authorized to do that. So that was done.”

Otto phoned the client, who was the trustee of her father’s estate, “to obtain her approval to lend, on a short-term basis, estate funds to an unnamed third party.”

“He asked her if she wanted to do something nice for someone,” according to the law society.

The woman gave her verbal consent to loan the money for just one day to earn \$500 interest. The money was deposited into Otto’s trust account. The woman expected Otto to send documents or seek written authorization. That never happened.

Asked if brokering loans for a client is normal for a lawyer, Otto says: “I’m not sure if I brokered it, and I don’t know if it’s normal work or not. Good question. I don’t know how to answer that.”

Asked for details about the flow of money, Otto again invokes solicitor-client privilege and declines to answer.

He says he has “no idea” what Huq wanted the money for. “It wasn’t my business ... I didn’t need to be involved in his personal circumstances.”

Huq failed to pay the money back, says Otto. The woman has never been repaid, says the law society.

“He received repeated and numerous and extensive demands from me on behalf of my client, the lender, for the return of the funds,” says Otto.

Though Huq offered no explanation for the default, according to Otto, he continued to promise he would make good on the deal.

The woman who was bilked filed a complaint about Otto to the law society and in March 2020 another investigation was launched.

It didn't get very far.

Otto repeatedly failed to turn over “information and documents, including books and records,” according to the society, which again suspended his licence for professional misconduct because he failed to co-operate with investigators.

The suspension began June 30, 2020 and was to extend at least two months or until Otto turned his records over.

When he failed to comply, the tribunal revoked his licence permanently on Jan. 11, 2023.

His career came to a crashing end.

“I’m embarrassed. I’m humiliated. Upset,” Otto says to The Spec, declining to explain his actions.

The law society said Otto refused to divulge information related to the borrower — who Otto says is Huq. The borrower did not co-operate with the investigation.

The society says Otto’s paralegal — who is not named — falsified a document related to the estate client’s sale of a property, forging a court official’s signature. Otto said he had no idea that took place, even though he was responsible for overseeing the transaction.

Last month, the tribunal released its reasons for revoking Otto’s licence.

It is a scathing document.

The tribunal said Otto asked to be allowed to “surrender” his licence, which would let him quietly quit his practice and retire. But his misdeeds were so egregious, the tribunal refused and disbarred him instead.

“This is not a case of isolated wrongdoing,” the tribunal said, “but an example of repeated misconduct over years that progressive discipline has not deterred or corrected. The lawyer has shown that he is ungovernable.”

“We have no medical or other evidence before us that might explain the misconduct.”

Meanwhile, Otto didn’t report the missing money to police. He says he thought his client had already done so.

Breach of trust: players

ARTHUR ELLIS

An 84-year-old St. Catharines commercial development tycoon who has reshaped brownfields and invested in multimillion-dollar ventures for 62 years. He is the owner and president of Artell Developments Ltd.

He lost most of the \$1.5 million he invested in the scheme at the heart of this story.

ROBERT OTTO

A longtime family lawyer in Hamilton, Otto handled divorces for Ellis.

His career went off the rails five years ago when he was suspended by the Law Society of Ontario for misusing client money. He did it again a few years later, to the benefit of a client named Amir Huq, and was disbarred. He then helped set up the \$1.5-million scheme, also involving Huq.

The 76-year-old disgraced lawyer claims he was a victim.

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MOHAMMED EHTESHAMUL (AMIR) HUQ

A longtime client of Otto, he claims to be a financier with large developments in the Middle East.

Much of the missing money has been dispersed to Huq.

ANTONIO (TONY) DIPROSPERO

Virtually nothing is known about DiProspero except he once lived in a nice, middle-class home in Burlington and is a business associate of Huq's.

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GEORGE MORRIS CHESTER

TD TRANSPORT

A “trucking company” listing DiProspero as its president. Huq is

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Pleaded guilty to arson in connection to a fire that destroyed Centennial Law Group's Stoney Creek office.

DiProspero as its president. Huq is named as co-owner. The address for the company is a home in Burlington where DiProspero once lived. TD received some of the invested funds.

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LARARV INTERNATIONAL INC.

Another business owned by Huq. Lararv received some of the invested funds.

ZANE WATSON

A Hamilton bodybuilder and gym owner who was arrested and charged as part of a criminal organization in a police drug trafficking sweep called Project Gainsborough.

He was Falletta's client and a forensic audit by law society investigators noted suspicious financial activity between the men.

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 Interactive content by Flourish

A familiar scheme

So, back to Art Ellis and his \$1.5 million.

By the time Otto approached Ellis about making some quick money, Otto had been badly burned by Huq, was under

investigation and not allowed to practise law.

Yet ... the investment he offered Ellis involved none other than Amir Huq.

Otto says Huq contacted him “seeking people of some financial means who would be prepared to advance money.”

It was a familiar scheme.

Otto says he talked to several clients about it “as a personal favour and courtesy.” Ellis was interested.

Otto told him if he committed to the deal, his bank draft would be deposited into the trust account of a Hamilton lawyer.

“I have put millions of dollars into lawyers’ trust accounts, buying and selling real estate,” says Ellis. “To me, it was just as safe and sacred as going to a Canadian chartered bank.”

Ellis “checked out” the lawyer and saw he was “in good standing” with the law society.

The lawyer was Falletta, who was called to the bar in 2013.

Falletta was sole owner of Girolamo Falletta Professional Corporation (GFPC) and a partner with Centennial Law Group LLP (CLG) in Hamilton. He was primarily a personal injury lawyer.



Centennial Law Group made the news when, on Jan. 12, 2017 in the dead of night, its office was destroyed by a fire. At the time, it was located on King Street West in Stoney Creek. Later, George Morris Chester, 60, pleaded guilty to arson.

Metroland file photo

He too had his professional integrity called into question in the past.

After a physiotherapist took him and Centennial Law to small claims court for an unpaid invoice and won – with Falletta threatening criminal charges all the while – the judge called his conduct “terribly wrong and totally inappropriate for someone called to the bar.” On top of paying the outstanding invoice, Falletta was ordered to pay punitive damages of \$5,000 for his unacceptable conduct.

Falletta appealed in January 2019 and lost again. That judge called Falletta’s behaviour “egregious and highly improper.”

CLG made the news when, on Jan. 12, 2017, in the dead of night, its office was destroyed by a fire. At the time, it was located on King Street West in Stoney Creek.

Hours after the blaze, CLG’s other partner, real estate lawyer Philip Kuca, told The Spectator he didn’t believe the fire was suspicious.

“The nature of our business is far from confrontational,” he said.

Later, George Morris Chester, 60, pleaded guilty to arson. Hamilton police said a motive was never established.



Centennial Law Group's former Stoney Creek law office was demolished after it was destroyed by fire in 2017.

Metroland file photo

Though they practised different types of law and are a generation apart, Falletta described Otto as “a longtime colleague,” according

to law society documents. Yet it seems they didn't really know each other. Falletta told the society he didn't know Otto's licence was suspended. Otto admits he did no due diligence regarding Falletta's credentials.

In an email to Ellis, Otto described Falletta as "a partner in a well-established and respected Hamilton law firm who has had several recent transactions" similar to the investment being proposed.

Otto told Ellis if he invested \$1.5 million, he would be paid 10 per cent of the loaned funds — \$150,000 — within one day of the transfer with no tax obligations. His principal investment would be returned to him within 21 days.

Otto told Ellis the funds would sit in Falletta's trust account and "remain there undisturbed until the funds were returned," according to law society documents.

Falletta had trust and general accounts at two banks that were not shared with his partner, Kuca.

After Otto emailed the proposal to Ellis, they met in person. Otto told Ellis the \$1.5 million short-term loan should be by bank draft to Falletta, in trust, Ellis told the law society. Ellis would receive his \$150,000 fee once Falletta received the funds and the \$1.5 million would be released back to Ellis on July 5, 2022.

Here the story gets murky, marred by inconsistencies and financial complexities.

The loan, Otto explained, would be used to bolster an application for a line of credit to the province's Northern Ontario Heritage Fund Corp. (NOHFC) by TD Transport.

But the NOHFC told The Spectator it "does not have a record of ever receiving an application from or funding T.D. Transport."

A corporate search of TD Transport shows it was incorporated on Dec. 16, 2010 and its president is Antonio (Tony) DiProspero. Law society documents quoting Falletta's statement to LawPro, his insurance company, say that TD Transport was co-owned by Huq. The address listed as TD's headquarters is a house in a quiet Burlington neighbourhood. When The Spectator inquired at the door, the owner said he bought the house from "the bank" six years ago after DiProspero owned it.

Falletta told the law society he didn't do a corporate search or bankruptcy search of TD Transport and didn't know DiProspero

or Huq before being introduced by Otto in January or February 2022. (Otto vehemently denies introducing the men. He says Falletta already knew them by the time he became involved.)

Falletta said the only “due diligence” he did was to photocopy their identification. He was given no paperwork associated with the NOHFC, nor did he do any research into it.

“I did not open legal files at Centennial Group or GFPC relating to … any of these depositor transactions,” he stated to LawPRO. Falletta deposited the funds into a GFPC trust account.

Falletta told LawPRO he previously engaged in four similar transactions — two were each worth roughly \$1 million — and operated “on the verbal or face to face instructions of Tony and/or Amir with minimal email communication.”

Falletta claims that each time either DiProspero or the investor emailed instructions to disburse the funds.

He said he had not been paid his five per cent fees, nor had he issued invoices for them.

Just as Falletta attempted to minimize his role, Otto also says he had little to do with the \$1.5 million transaction.

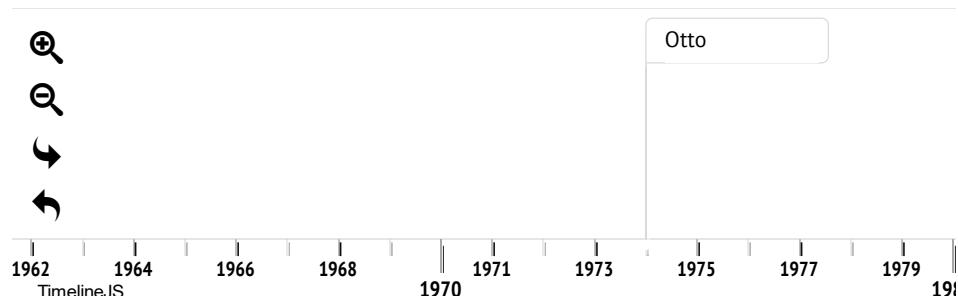
“I wasn’t in any way involved other than having made introductions,” he told The Spectator.

In fact, he provided an initial outline of the deal to Ellis, then emailed him an unsigned letter from Falletta on June 13, 2022 setting out the terms of the investment, which matched those already laid out.

BREACH OF TRUST



OTTO



The \$1.5 million bank draft

The critical meeting at Edgewater Manor was the following day.

Ellis, Otto, Huq and Falletta were present.

Ellis says Falletta gave him a signed letter setting out the terms of the investment. It differed, however, from the earlier version.

While the June 13th letter stated the funds would be held in trust and not transferred, the June 14th letter now included the words “unless otherwise directed by the depositor.”

And the new letter no longer stated the \$150,000 for Ellis was already held in trust.

Ellis assumed the letters were the same. He accepted the deal.

Yet another letter signed by Falletta didn't even mention the \$150,000 payment. Otto said that was to avoid income tax.

Did Otto tell Ellis that Huq bilked a previous client out of \$300,000?

"I don't recall whether I did or didn't," Otto told The Spectator. "That's a good question. I think it's a fair question. I don't have a recollection of that."

When pressed, Otto admitted he didn't warn Ellis.

"In hindsight, I should have perhaps been more tuned in to it," he says, adding he still held out hope Huq was going to make good on the missing \$300,000.

At Edgewater Manor, Ellis gave Falletta a \$1.5 million bank draft from Artell Developments Ltd. payable to GFPC in trust.

"I went along with it," says Ellis. "I thought, how can I get hurt here? It's a lawyer, it's his trust account."

In return, Falletta gave Ellis a cheque dated for that day for his \$150,000 "fee" drawn on the same trust account.

Bank records obtained by the law society show that on that day, the total balance in Falletta's trust fund was \$4.43.

The \$1.5 million was deposited the following day, June 15. By day's end, the entire amount was "disbursed" from the trust account, including the \$150,000 owed to Ellis.

Exactly who directed those disbursements remains a mystery.

Falletta told the law society there was a phone call from "someone purporting to be (Ellis). This person stated that he would provide instructions in an email to request that trust cheques be prepared and released to an individual they would send to Mr. Falletta's office."

Falletta said he received instructions from a Gmail address, supposedly belonging to Ellis, indicating all the money "should be disbursed to various individuals and businesses."

Falletta prepared cheques and "an individual" picked them up that day.

Ellis says he did not phone or email Falletta that day nor did he send anyone to pick up cheques.

They were "fraudulent instructions," according to the law society.

So where did the money go? The bulk of it — \$1.17 million — went to Compass Transport Inc. A provincial corporate search of the company shows it has one director: Mohammad E. Huq. The address associated with the business, incorporated in 2016, is listed as 2770 Windwood Dr., Unit 607, an apartment building in Mississauga. The building manager who has worked there for four years says the unit is vacant and she has never heard of Huq.



2770 Windwood Dr., an apartment building in Mississauga, is listed as the address associated with a business that has one director: Mohammad E. Huq.

John Rennison/The Hamilton Spectator

Another \$150,000 went to Lararv International Inc., also owned by Huq, according to the law society's forensic auditor.

In an affidavit, Falletta said he contacted Huq and DiProspero about the missing money and they promised to get it back.

Demands for repayment

On the evening of July 5, the end of the 21 days, Ellis emailed Falletta and requested his money back. He did not hear from Falletta.

The next day, Ellis called Falletta's office and was told he was unavailable.

On July 7, Ellis contacted Otto, who told him the financing deal would be completed the following week. "Which suggested to Mr. Ellis that the funds had not, in fact, remained in Falletta's trust account as had been agreed," according to a statement of

claim filed by Ellis against Falletta.

Otto told The Spec he can't remember if he still kept Ellis in the dark at this point about Huq and the missing \$300,000.

On July 14, Otto told Ellis he could go to Falletta's office to get his money.

"He told me the money was waiting there for me," says Ellis. But it wasn't, and "the secretary didn't have a clue."

The next day, Falletta and Otto met Ellis at his home in St. Catharines. There are different accounts of that meeting.

Ellis "was livid and was threatening to go to the law society and start a lawsuit against me," Falletta told the law society.

Falletta said he told Ellis he was the victim of "a scam" and had lost Ellis's funds.

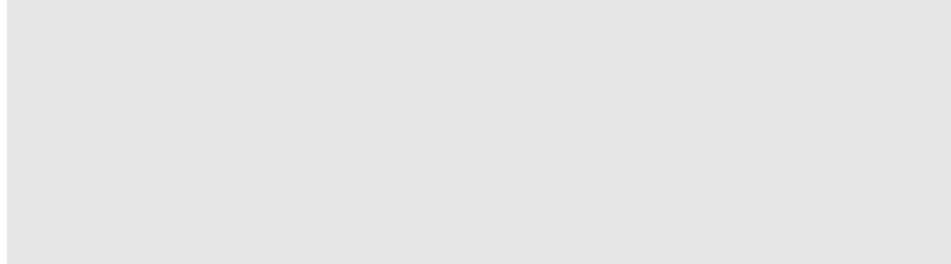
Otto remembers it differently. Falletta "presented very apologetically and straightforwardly," but "didn't identify any circumstance related to why the default occurred."

Ellis demanded repayment "in accordance with their agreement," according to the statement of claim he later filed. "Without explaining why the funds were not available in his trust account as had been agreed, Falletta agreed to put a second mortgage on his personal home to obtain the funds necessary to pay Mr. Ellis back."

On July 18 or 19, Falletta gave Ellis a copy of a mortgage agreement for \$1.5 million "to be registered on his home at 278 Valridge Dr. in Ancaster," according to the statement of claim.

"To avoid a law society investigation or a lawsuit I indicated I would arrange to get funds to repay (Ellis) from my own resources," Falletta told the society, "and I would then be repaid by Tony and Amir."





On July 18 or 19, Gerry Falletta gave Arthur Ellis a copy of a mortgage agreement for \$1.5 million "to be registered on his home at 278 Valridge Dr. in Ancaster," according to the statement of claim.

Barry Gray/The Hamilton Spectator

According to Falletta's affidavit, he later told Ellis he changed his mind.

"I decided not to go through with the mortgage as I had a gut instinct the clients were not going to pay back the money and I did not want to be on the hook for \$1.5 million."

Ellis never received funds from the second mortgage.

Falletta did not report the missing money to police. Nor did he report anything to police when similar transactions led to missing money belonging to three other clients prior to Ellis coming on the scene.

Meanwhile, there was unusual activity in Falletta's accounts.

Another deposit of nearly a half-million dollars was made from another investor. Most of it was disbursed on the day it was deposited, with the bulk of it going to Huq's Compass Transport.

None of the money was returned to this investor by the time Falletta's suspension hearing went before the tribunal in October 2022.

The law society points out Falletta referred to Ellis as the second person to provide funds to his clients. In fact, the society's investigation uncovered two more investors. Falletta disclosed them in a signed statement to LawPRO on Oct. 31, 2022 when he said he participated in a total of four depositor transactions.

None were repaid.

Otto says Huq told him of previous transactions with Falletta and said they were "successful." Otto says he personally never "invested" any money with Falletta.

Falletta told LawPRO that during his final meeting with Ellis he was asked "whether there were prior similar transactions and I

responded in the affirmative. (Ellis) did not ask as to the status of the prior transactions, and I did not provide any indication as to the status of the prior depositor transactions.”

Falletta told an entirely different story to the law society about the first two trust fund transactions.

He said “he has no recollection of these cheques” and blamed a “bank error” as the reason they were not recorded in the trust account statements he provided to the law society.

“In his testimony before us Mr. Falletta stated that he will now be following up with his bank to get to the bottom of this,” the law society said.

For days after his money disappeared, Ellis got nothing but “false promises” from Falletta.

“Everything he said was a lie,” says Ellis, who got his own team of lawyers involved. On July 27, 2022, they filed a complaint about Falletta and the missing \$1.5 million with the law society. An investigation began.

Falletta initially refused to provide the society with his trust fund records, saying they were unrelated to his law practice. By the time his suspension motion was heard in October 2022, he had promised to provide the records but had not done so.

The drug sweep

Reviewing Falletta’s trust accounts, the law society came across questionable transactions pertaining to another two clients.

B.F. (as one is identified by the law society) is someone to whom Falletta says he provided legal services years ago. Funds in trust for B.F., totalling nearly \$900,000, are from the sale of a property transferred directly into Falletta’s CLG trust account from another lawyer. There is no client file, no written communications with B.F. and no notes of their discussions. One-third of that account was disbursed to Larary International Inc. — owned by Huq.

A ledger belonging to someone identified as Z.W. is also questioned.

The law society describes Z.W. as a bodybuilder and gym owner in Hamilton who, on Nov. 3, 2021, was arrested in a police drug trafficking sweep called Project Gainsborough.

The 16-month investigation culminated with 200 officers executing raids across southern Ontario and seizing \$32 million of illegal cannabis products.

An OPP news release said Zane Watson, of Hamilton, was one of those arrested in Project Gainsborough. The bodybuilder was 33 at the time.

Watson is charged with committing an offence for a criminal organization, possession and distribution of cannabis and unauthorized possession of a weapon. His case is headed to trial in London's Ontario Court of Justice.

Falletta told the law society he did legal work for Watson years earlier, including when police seized money from him.

Falletta said Watson's money in the trust account was for investments.

In February 2020, money was deposited into trust for Watson then disbursed to a numbered company of which Watson is the director, and to another company which appears to be a gym, according to the law society. More funds were received in May 2020. Falletta's books indicate TD Bank and "settlement funds" as the source of the money, which was distributed to three individuals and a Hamilton private school.

In November 2021, \$20,000 was deposited into the trust fund and credited to Watson. The funds were paid out directly to Falletta: \$15,000 into his personal account and \$5,000 to his GFPC bank account.

There are no client files to accompany the transactions.

Falletta told the law society "he obtained a verbal assurance from (Watson) that proceeds of crime would not be deposited into his trust account."

The law society also learned Falletta's CLG trust account was used to pay Falletta \$120,829.50 directly and his associate lawyer, Julian Thomas, \$197,538.99 directly. Those transactions bypassed the law group's general account, in violation of the law society's bylaws. Falletta claimed it was a mistake.

Was a crime committed?

On July 29, 2022, Ellis reported Falletta and the missing \$1.5 million to the Hamilton police as a theft. The police response was "a big disappointment."

Ellis says a detective told him it was “not a police matter. It’s a civil matter. And they closed the case.”

Hamilton police confirmed to The Spectator Ellis “was advised to pursue civil action and direct a complaint with the law society.”

Ellis has done both. In December his civil case against Falletta for breach of contract was settled — by consent. The court ordered Falletta to pay Ellis his missing \$1.5 million plus \$10,000 in costs.

To Ellis, the fact the case was settled on consent indicates Falletta admits to the facts Ellis set out. Including that Falletta stole his money.

The Superior Court of Justice gave Falletta until Dec. 16, 2022 to pay Ellis. Falletta still hasn’t paid.

Ellis agrees with the Law Society Tribunal’s conclusion that his money appears to have fallen prey to “criminal activity.”

“Absolutely. I’m missing a million and a half dollars … I’ll probably never see that money again.”

Hamilton police spokesperson Jackie Penman says Falletta was “reported to us and we reviewed the matter. We are not investigating at this time.”

She said Hamilton police are also not investigating Kuca, Otto, Huq or DiProspero.

“If the law society believes that the matter should be investigated by police, they will reach out to the respective law enforcement agency,” says Penman. “Hamilton police have not been contacted by the law society or the complainant since the initial report in July 2022.”

Ellis says when Hamilton police refused to investigate, he took his complaint to the RCMP’s Stoney Creek detachment.

“The RCMP generally does not confirm or deny if an investigation is underway unless criminal charges are laid,” says media officer Cpl. Christy Veenstra.

Otto says he continues to have “minimal” contact with Huq, although he doesn’t know where he is. Otto says Huq is “still trying to make arrangements for the \$300,000.”

Meanwhile, Otto’s reputation in Hamilton’s legal community is in tatters.

“People who have known me, one would hope, would know I

wouldn't have been a designer of these things," he told The Spectator.

Ellis says he has "suspicions" about the role his longtime lawyer Otto played in the scheme. He wonders if Otto got himself into a bind because of personal financial issues.

"He lives pretty high," Ellis says.

Ellis's trust of Otto waned considerably when the lawyer was caught lying in relation to this story.

Otto told The Spectator he honoured its request to reach out to Ellis and ask if he would do an interview. Otto said Ellis declined.

In fact, Otto never asked Ellis.

Otto maintains he is an innocent bystander to all that has gone wrong.

"It's humiliating, and it's been really, really upsetting and difficult," he says.

He says he got mixed up with the wrong people who took advantage of him.

"I'm a victim."

'Lawyers are not bankers'

Both lawyers from the Edgewater Manor meeting are now unable to practise law.

On Nov. 23, 2022, the law society's hearing division held a tribunal to consider a motion to order an "interlocutors suspension" of Falletta's licence.

After hearing evidence, examining the findings of a forensic accountant and an investigator, the tribunal ordered the suspension, saying Falletta's business practices caused "significant risk of harm to the public."

"The manner of Mr. Falletta's use of his trust account has exposed the depositors in the four 'depositor transactions' to significant risk," the tribunal concluded. "These individuals advanced a total of \$3,926,930.30 to Mr. Falletta's trust account. None of these funds have so far been returned to Mr. Falletta's trust account."

"The evidence indicates that Mr. Falletta may have been using his trust account for purposes unrelated to his legal practice," the

tribunal said. “Such use of lawyers’ trust accounts contravenes the law society bylaws. Furthermore, funds in lawyers’ trust accounts are shielded from scrutiny by other parties, including government tax authorities.”

Falletta’s handling of trust funds “brings into question his integrity and trustworthiness,” the tribunal said.

Frank Alfano, a Toronto paralegal representing Falletta, told The Spectator all the allegations made by the law society against his client are unproven and “we look forward to the conclusion of the investigation and we hope it happens in a timely fashion.”

The law society takes mishandling trust funds extremely seriously.

“Trust funds are one of the most highly regulated things that the law society deals with every year,” says Trevor Farrow, professor and associate dean at Osgoode Hall Law School.

Lawyers’ trust accounts are highly scrutinized not just by Canadian authorities, but by international regulators as well, such as the International Bar Association, “in a world where money laundering … and the instantaneous free flow of capital is happening at lightning speed,” Farrow says. “Clients and organizations are getting really sophisticated at trying to move money, hide money and launder money. Lawyers’ trust accounts have always been a potential target and for that reason a significant area of interest for regulators.”

General trust funds can be used to hold a lawyer’s retainer to pay for expenses related to the case. Or client-specific trust accounts can be set up. It is more work, but the interest accrued stays with the client. In a general account, the interest goes to legal aid, says Farrow.

Personal injury lawyers, such as Falletta, often work on a contingency basis. Meaning, according to Farrow, the lawyer will fund the legal matter and then “if the client wins in the agreement, the lawyer will get paid a certain percentage of that.”

The money will often come into a trust account and then be parcelled out from there.

Farrow also says it is not clear to him why a lawyer would accept money from a client and place it in a trust account unless the lawyer was providing a legal service to that client.

“The entire point of having a trust account is to receive client

money, in order to pay for some kind of legal service provided by a licensee in Ontario,” he says. It is not to serve as a means of brokering an investment.

“Lawyers are not bankers.”

“I cannot think of a reason why a lawyer would use a client’s trust money for any purpose other than on behalf of the client to the benefit of the client and with the prior agreement of the client,” Farrow says.

Falletta pleaded with the tribunal to allow him to continue practising law while having his law partner, Kuca, and colleague Thomas, supervise his CLG trust account.

That submission was rejected. The tribunal noted Kuca and Thomas worked with Falletta while money went missing.

“They have both allowed Mr. Falletta to deal with his trust accounts in the manner described ... Mr. Thomas also accepted \$197,538.99 in remuneration payment made to him directly from Mr. Falletta’s trust accounts.”

Thomas told The Spectator he is self-employed, files his own taxes and works “in association” with CLG.

“Regarding the payments, when I settle a file I receive a percentage of the settlement. This is how I am paid,” says Thomas. “It may be that I should have been paid from the CLG general account and not the CLG trust account ... If I am correct, this is an unfortunate bookkeeping error that should be corrected, moving forward.”

Kuca declined The Spectator’s requests for an interview.

“I have no comment regarding Mr. Falletta’s suspension,” he said in an email. “I do however reserve my right to claim for any slander in your reference to my name in the article.”

The tribunal also referred to Falletta’s ongoing failure to provide documents to investigators, including details of a trust account to which nearly \$2 million was deposited.

On Dec. 5, 2022, the Law Society Tribunal temporarily suspended Falletta’s licence to practise law.

Usually when the tribunal orders an interlocutory suspension, it is for a set period of time — typically a month or two. However, Falletta has been suspended indefinitely.

“He may have knowingly assisted in, encouraged, or otherwise

failed to prevent dishonesty, fraud, crime or illegal conduct,” said the tribunal.

A date for Falletta’s disciplinary hearing has not yet been set.

****Editor’s note: This story was corrected to state that it was the physiotherapist who took Falletta to small claims court and won.****

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Susan Clairmont

Susan Clairmont is a columnist with The Hamilton Spectator. She joined the newsroom in 1997 and specializes in crime, court and social justice. She reported from Ground Zero on 9/11, Haiti after the earthquake and has covered Hamilton's highest profile murder cases, including the Tim Bosma trial. Susan was named Canada's top columnist by the National Newspaper Awards and has been columnist of the year 5 times at the Ontario Newspaper Awards.

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