

MPM Charitable Trust

Registered Charity No. 1079249

Introduction

1. This report is the statement of the results of an inquiry under section 8 of the Charities Act 1993.

2. MPM Charitable Trust ('the Charity') is based in Bristol and was registered as a charity on 3 February 2000 and is governed by a trust deed. The funds of the Charity are to be held and applied for such exclusively charitable objects and purposes in any part of the world as the trustees may in their discretion think fit. The trustees also have wide powers of investment under the trust deed.

3. The Charity's income is as a result of donations from a trustee's engineering business and for the financial year ending 5 April 2002 was £102,450. The Charity's expenditure was £3,360.

Issues

4. On independent professional advice given, the trustees reported to the Commission that the Charity had suffered a financial loss of £385,538. The loss was due to investment being made through an investment adviser in the USA which was fraudulent.

5. The purpose of the Inquiry was to examine:

- how the loss to the Charity arose in relation to investments made with [REDACTED] and explore how that loss might be recovered;
- the extent the trustees are liable to make good the loss to the Charity; and
- the management and administration of the Charity.

6. During the course of the Inquiry concerns were also expressed over the trustees' failure to submit annual Accounts and Returns to the Commission.

7. The Inquiry was opened on 2 March 2005.

Findings

8: The Charity is a grant making trust which has been totally funded by one of the trustees, [REDACTED]. A number of transactions had taken place in the Charity whereby investments had been made by [REDACTED] trustee in an [REDACTED] and subsequently in an [REDACTED]. At the same time, the trustee also made a significant personal investment in these companies. The investments, in fact, were related to an international fraud. The principal perpetrators have

been prosecuted in the USA and [REDACTED] The investments have proven to be worthless and the Charity has lost the funds invested.

9. The investments by the Charity were made by the trustee without formal consultation with [REDACTED] fellow trustees. The trust deed contained wide powers of investment criteria, but restricts any delegation of these powers to professional investment managers. The power of investment is further restricted by the need to apply commercial prudence criteria as provided under the Trustee Act 2000. In making the investments the Commission found that the trustee had acted without due regard to these restrictions.

10. The trustee involved had specialist knowledge of the [REDACTED] and visited [REDACTED] premises to meet its directors and had made substantive enquiries into the investment potential of the companies. [REDACTED] also discussed the investment with an independent financial adviser who gave verbal advice.

11. The trustees have sought legal advice on to the loss to the Charity and their potential liability. Further enquiries have also been made with the authorities in the USA who are aware of the Charity's loss.

12. There is no evidence to suggest that the actions taken were motivated by any desire to use the Charity's assets in order to provide the trustees with any element of personal benefit. Indeed, the trustee involved [REDACTED] have suffered significant personal financial loss through its separate involvement in these matters. A number of persons throughout the United Kingdom have also lost substantial funds to this elaborate scheme.

13. The Charity has failed to submit any Annual Accounts and Returns to the Commission since it was registered. This was largely due to circumstances outside the trustees' control.

14. The Commission found that the trustees of the Charity were [REDACTED]. This caused a lack of independence and potential conflict of interests within the Charity's decision making process.

15. The Commission found there had been a lack of formal, minuted meetings and there had been a failure of the trustee body as a whole to exercise proper control over the administration, management and investment policies of the Charity.

Outcome of the Inquiry

16. The funds invested were lost due to a fraud committed by [REDACTED] and others connected to [REDACTED] [REDACTED] were charged with offences concerning the fraud and have pleaded guilty [REDACTED]. Enquiries concerning [REDACTED] activities in the United Kingdom are being carried out by the police and are still ongoing.

17. The trustees are part of an action group set up by the victims of the fraud in the UK. The group has sought professional legal representation to monitor the legal process in the USA with a view to seeking restitution for the loss to the Charity.

18. There has been a loss to the Charity through the action and inaction of the trustee body, both singularly and collectively and there may well have been a breach of duty in relation to the need to ensure suitability and investment diversification on the Charity's portfolio.

However, it is clear that the exposure of the Charity's assets is exceeded substantially by the exposure of the trustees' own funds and the venture of the Charity was not in pursuit of any private benefit other than the satisfaction expected from the large investment returns. The Commission has formed the view that as the court has the power to grant relief to trustees in such circumstances it would not be proportionate to consider an action for breach of trust.

19. The trustees have now submitted all outstanding Accounts for the Charity.

20. The trustees are considering restructuring the trustee body to ensure that there is an element of independence and that reporting procedures are adopted.

21. The Inquiry was closed on 13 July 2005.

Wider Lessons

22. It is the fundamental duty of all charity trustees to protect the property of their charity and secure its application for the objects of the charity. If the trustees agree to make investments with charitable funds, this should only be done in light of written professional advice.

23. Charities with an income or expenditure exceeding £10,000 have a statutory obligation to submit Accounts to the Commission and complete an Annual Return form within ten months of the charity's financial year-end.