

Anatomy of a fraud alert:

How lawyers and LAWPRO avoided millions in potential losses

\$5.5 million in potential trust account shortfalls. Eighteen matters at an average cost of \$301,000 each.

That's the value of fraud avoided, thanks to quick action on the part of both LAWPRO (in warning lawyers about a potential fraud scam), and lawyers who used our warnings to ask their clients a few extra questions – only to have many of their “clients” disappear into the woodwork.

It all started with seemingly innocuous inquiries from a few lawyers who suspected they might be the targets of a bad cheque scam. As the May holiday weekend was a couple of weeks off (and we knew from past experience that fraudsters tend to get more active when banks are closed for several days) we sent out an e-mail in early May alerting lawyers to be vigilant about potential frauds in advance of long holiday weekends. That e-mail prompted calls from several more lawyers – leading us to conclude there could be a large scale and organized fraud scheme targeting Ontario lawyers. A second alert warning to lawyers about the potential frauds we were seeing went out by e-mail on May 11.

That generated even more inquiries, and for LAWPRO more information from lawyers on the elements of the potential fraud scam – many of them strikingly similar. As some were about to close their deals (and were ready to run potentially bad cheques through their trust accounts), we sent out a third e-mail on May 14 detailing the signposts of fraud that we were seeing, and providing tips on how to deal with the bank to avoid a shortfall in their trust accounts.

To date, we have identified 18 matters where we believe frauds that were part of this organized scam were avoided. Many lawyers told us they opted not to act on transactions that were very similar to the potential frauds we had described. No claims have yet been reported arising out of what appears to have been a very organized attempt to defraud Ontario lawyers.

Bad cheque scam details

The culprit was a classic bad cheque fraud scam. The target: sole practitioners and small firms in the weeks leading up to the May holiday weekend.

The apparent frauds worked as follows: Weeks earlier, a previously unknown client asked the targeted lawyers to act on an incorporation that looked innocuous; that was followed by a request to act on a business loan or equipment purchase matter. Loan proceeds (in the \$235,000 to \$365,000 range) were to go to a third-party corporation, often a numbered company (and not the client's new corporation). The certified cheque or bank draft from the “lender” looked normal – and in some cases would have been difficult to detect as forged and fraudulently issued.

But, as the lawyers involved reported, many of the telltale signs of fraud were there:

- the client paid cash for the incorporation;
- the client and corporate addresses were the same;
- a brand new corporation with no apparent purpose was to get a loan of several hundreds thousand dollars;
- the only security for the loan was a promissory note or General Security Agreement;
- the client had only a cell number or the home phone number given was not working, and the address on the driver's licence was not a real one;
- the client was pushing to have the loan completed as quickly as possible.

Avoiding this type of fraud

1. PROTECT YOURSELF WHEN DEALING WITH THE BANK

Bad cheque frauds – whether they involve debt collections or business loans – work only if you act immediately on your client's instructions to disburse funds. The fraudsters rely on the delay between when you deposit their (forged) certified cheque or bank draft and when the bank notices that that instrument is fraudulent to abscond with the proceeds.

How do you protect yourself?

- Don't rely on oral confirmation from your bank at time of deposit that the cheque is good. Don't disburse funds immediately – **EVEN IF YOUR CLIENT IS PUSHING!!!**
- Wait until the second bank-to-bank verification before issuing funds from your trust account. For branches in major centres this often will take one or two banking days, and for branches in more remote locales as much as 8-10 calendar days.
- See *Show Me the Money* article on funds transfers (Summer 2008 LAWPRO Magazine at www.practicepro.ca/magazinearchives).

2. BE PREPARED TO PROBE – AND LISTEN TO YOUR INSTINCTS

Many lawyers reported that they followed all requirements for verifying the client's identification – and that the ID clients provided looked authentic. But some lawyers suspected that something was amiss. Take some time to familiarize yourself with the telltale signs of fraud, and be prepared to apply the smell test to a matter that raises your suspicions.

A tip from one lawyer who quickly discovered the very real-looking driver's licence he was presented with was a fake: Check with the Ministry of Transportation's online system for validating

drivers' licences – a check that costs only \$2. You can access the online Driver Licence Check at www.dlcheck.rus.mto.gov.on.ca/Scripts/OrderForm.asp.

3. HELP US MINIMIZE FRAUD LOSSES IN THE INSURANCE PROGRAM: CALL US!

If you suspect you have completed or are acting on a matter that, based on this information, causes you concern, immediately call LawPRO at 1-800-410-1013 (416-598-5899). If the matter and/or client raises some questions in your mind, talk to us about those concerns. Both our claims and risk management staff are available to discuss these issues with you and possibly guide you in asking more questions or seeking additional information.

Even if you have stopped acting on a matter that you suspect involved fraud, let us know what you know (respecting relevant confidentiality obligations). You may think yours is an isolated

case, but as we saw with the recent attempted frauds, these schemes often target multiple lawyers. By alerting us to what is happening we can alert others – and together we can help avoid huge fraud losses in the insurance program.

Remember too that every LawPRO claim comes with a cost: Being vigilant about matters you do act on, and being proactive in reporting concerns and potential frauds to LawPRO, helps you and others avoid potentially huge losses in your trust account as well as deductible costs and the time and trouble of having to deal with a claim matter.

4. PRESERVE THE EVIDENCE

If you have or come into the possession of a fraudulent cheque or bank draft, carefully place it in an envelope so that an attempt to recover finger prints from it can be made.

Whitelist LAWPRO

in your Spam filter to ensure you don't miss important messages

Our recent e-mail fraud alerts apparently helped several lawyers avoid being victims of the commercial loan frauds.

However, two of the lawyers who called us didn't get our warning messages because their spam filter caught our e-blasts. One happened to call us for advice on how to handle a suspicious transaction. The other just happened to come across our e-blast when he checked his spam filter two days after we sent the second warning message.

The lesson is simple and clear: Spam filters aren't perfect. They sometimes catch legitimate messages – these are called *false positives*.

The solution is also simple: In your spam filter, please *whitelist* LawPRO, the Law Society and anyone else that you really need or want to get e-mail messages from. Once an e-mail address is "whitelisted" in your spam filter, it will never be stopped. The opposite to whitelisting is "blacklisting" which prompts your spam filter to always reject a message.

On a regular basis please check your spam filter for messages that it should not have caught. Doing this could help you avoid a number of things, including a malpractice claim, a Law Society complaint, or an unhappy client who didn't hear back from you because you didn't get a message they sent.

FRAUD
How to avoid becoming its next victim

Fraud is a real and growing problem for all law firms and their staff. Each year, fraudsters "trick" dozens of law clerks and lawyers, young and old, in practices large and small, into helping make fraud happen.

Fraudsters come in all shapes and sizes. They could be the promising new "clients" who just walked in off the street. Or a third party you never do get to meet. Or a member of an organized crime syndicate who is laundering money through your trust account. Or even a colleague whom you'd never suspect.

And it's not just real estate firms that are being targeted. Litigation firms, firms specializing in corporate commercial work, wills and estates lawyers and others also are frequent targets.

How can you protect yourself and the firm? Take some time to read this information on fraud. It explains the most common fraud scenarios and how to spot them.

LawPRO

Keep this checklist close by

To help lawyers stay alert to the warning signs of fraud, LawPRO has produced a handy reference guide: The four-page fact sheet describes how the typical fraud scams we have seen work and the red flags for which to be on the look out for. It also provides handy tips to help you avoid being victimized.

Download a copy at www.practicepro.ca/fraud or contact practicePRO for a print copy at 416-598-5863.