

LAWPRO E-Bulletin: Be alert for fraudulent matters as we approach a banking holiday

LAWPRO continues to receive calls and e-mails from lawyers in all areas of practice who appear to be the targets of fraud. The fraudsters are retaining lawyers to act on contrived matters involving collections, small business loans and real estate or mortgage transactions. Indeed, your initial contact may be from someone purporting to be a loan officer from a bank.

As we approach the Canada Day holiday, we encourage all lawyers to monitor their trust accounts extra closely, and to make sure client intake and identification processes are on high alert. Fraudsters tend to be more active when banks are closed and law firms are often short-staffed or law firm staff are preoccupied. In the past two years, more than three dozen attempted frauds were reported to LAWPRO during the various holiday/long weekend times. In more than a dozen of these fraud attempts lawyers were successfully duped into disbursing funds from their trust accounts. Some of these successful frauds resulted in very costly claims to the insurance program.

The frauds being attempted are increasingly sophisticated. The lawyers who have contacted us say these clients are often very persuasive. There will be multiple phone and e-mail contacts and even personal visits to the lawyer's office. The ID, letters, certified cheques, money orders, bank drafts and other documents provided by the client or other parties to the matter will look legitimate - but will likely turn out to be fake or counterfeit.

The driver's licence provided by the fraudster client is almost always fake. You can use 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

Where one of the parties appears to be an established entity (e.g. a bank branch or operating business), searches on the names, phone numbers, addresses and other information in the documentation indicate the information provided may be false. People in cahoots with the fraudster client will pretend to be the other parties to the transaction (e.g. a bank or other lender employee, a person selling equipment, a debtor). In one case a lawyer went back and forth over several days negotiating and redrafting terms of the loan with the alleged lender.

Use a telephone book, the Internet, the title search and other sources to cross-check client, lender/bank and other parties' names, addresses, phone numbers and other information in the documentation provided to you.

Watch for the common red flags on these types of frauds:

- Client will be new to your firm
- Source of referral is unknown or not recognized
- Client will provide only a cell number
- Client is in a rush to complete the deal

- You will be instructed to disburse the funds to a third party

Please read LAWPRO's new Fraud Fact Sheet at www.practicepro.ca/practice/pdf/FraudInfoSheet.pdf for a more complete listing of the specific red flags to look out for on the various types of fraudulent matters.

Protect yourself when dealing with the bank. Don't rely on oral confirmation from your bank at time of deposit that the bank draft is good. Carefully examine all cheques and bank drafts for authenticity, and never let your client directly deposit cheques or bank drafts into your trust account. 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 long as 8-10 calendar days. See the Show Me the Money article for more information on funds transfers (Summer 2008 LAWPRO Magazine at www.practicepro.ca/LAWPROMag/LawproMagArchive.asp)

Please call LAWPRO at 1-800-410-1013 (416-598-5899) if you suspect you have completed or are acting on a matter that, based on this information, causes you concern. If you have or come into the possession of a fraudulent cheque or bank draft, consider calling the police and carefully place it in an envelope so that an attempt to recover fingerprints from it can be made.

See the practicePRO Fraud page at www.practicepro.ca/fraud for information on fraud and how to avoid it.

LAWPRO E-Bulletins and LAWPRO E-News are distributed to an extensive list of lawyers and other contacts as part of our program of keeping the profession up to date with news from Lawyers' Professional Indemnity Company (LAWPRO), TitlePLUS and practicePRO.

If you do not wish to receive this electronic newsletter, please reply to this email message or send an e-mail message to service@lawpro.ca and provide the relevant information including the name, title, firm name and e-mail address of the individual.