



# The toll fraud takes

## A victim's story

*The lawyer profiled in this article was the victim of fraud: His partner, a prominent member of the community, defrauded the law firm's clients of several million dollars, none of which has been recovered. Both the Lawyers' Fund for Client Compensation and LAWPRO were involved in helping settle claims that arose out of this fraud. Like all lawyers in partnership, Bill (a pseudonym used at his request) had \$250,000 Innocent Partner Coverage, much of which was ultimately consumed by legal costs.*

No one was more surprised than Bill when the bank refused to let him deposit a client cheque to his firm's trust account.

The same morning, firm employees had been notified of a few "irregularities" by the bank, but had been assured by the guilty partner that everything would be cleared up quickly.

The "irregularities" turned out to be a \$2.2 million kiting scheme that the firm's managing partner had been stickhandling for the better part of two or more years, prompted, suspects Bill, by investment ventures that went bad.

Seven years and many sleepless nights later, Bill is sanguine about the fraud that cost him \$100,000 or more of his own money, forced his wife to put off her retirement for a few years, put an end to family holidays, and deprived his two teenage children of their father's time and the financial security that comes with a successful law practice. "You have no choice but to get on with life, hard as it sometimes is."

But he's still shaken by the death of his other partner, John, at the age of 42 two months after the bad news broke. "He paid the hardest . . ."

His recollection of those first few days are as sharp as if the events had occurred yesterday. "At first, you're absolutely paralyzed – it is so unreal, unbelievable that this can happen without you knowing. But then your sense of obligation takes over, you want to get back on an even keel."

Initially, Bill believed that he and John could cope. "Our game plan was to collect receivables so we could generate cash flow, to open a new bank account and establish new lines of credit – but all that was impossible. We were frozen out of every single bank in town because almost every bank was involved."

Much of their time was spent assembling materials requested by the Law Society (the managing partner himself had called in the Law Society, which promptly locked him out of the law firm offices). The arrival of the police on the scene a few months later really complicated matters: "They want everything but never give you anything back – so that just added to the tons of paperwork we were dealing with."

## Bankruptcy at bay

"I'd spend eight to ten hours doing law, then another eight to ten hours cleaning up the bad accounts mess, discharging this, paying that bill, trying to keep the firm open and the staff employed."

He was dealing with about 30 major claimants, and another 60-70 minor claimants who stood to lose less than \$1,000 each. And he was dealing with the inevitable, adverse publicity that a major case like this generates, and the "irrelevant side issues that come with publicity.

"Some people couldn't look you in the face, or did not know what to talk about or how to approach you. Or you'd feel awkward walking into a crowd, or walking on the street because everyone recognizes you, and knows, and wonders . . ."

And he was trying to stave off personal bankruptcy, despite legal advice to the contrary. "The nature of the beast is to put up a good fight and I was determined to do what I thought was right."

The goodwill he enjoys as a long-time practitioner in the community stood Bill in good stead: The local bar rallied to support him, helping him clear up files, stepping into his shoes in awkward or difficult situations such as when he had to register a construction lien or discharge a mortgage, agreeing to continue to take his undertakings, or letting him use their trust account to close transactions in those early days when no bank would deal with him. When he realized he had to dissolve the practice after a few months, he quickly found employment with a local firm that bent over backwards to accommodate his truckload of files and the time it took to work his way through the fraud quagmire.

The fallout from this fraud reverberated in the local legal and financial community. Within weeks, lawyers and lenders were operating under a new set of directives: mortgage proceeds would have to go directly to mortgagee, not to the vendor lawyer trust account; there would be no more undertakings where private mortgages were involved.

"Everything about real estate practice was tightened up and it's stayed that way," says Bill.

His advice to others: "Really know your partner and make sure you really do share goals in common. Also, always get two signatures on every cheque that's drawn on a firm account. And make sure you buy up your Innocent Partner coverage – don't leave yourself vulnerable because that \$250,000 in coverage that LawPRO provides disappears quickly."

But it was the personal fallout that was the most telling and taxing. For the first four months, Bill took no salary or draws: Every penny in receivables went to settle with clients or accounts payable. He made it a personal commitment to make sure "no one was really hurt, that everyone recovered at a minimum their principal. No one was left hanging."

What was once a burgeoning general practice is now restricted to only real estate work: "I had to leave the fun stuff to focus on my battles; I couldn't afford the time it takes to do litigation." His higher end clients went elsewhere – "they don't like the stigma of being attached to this kind of situation." Some cases he just shied away from, simply because he himself was on the docket defending a specific claim. But worst of all is the disillusionment and despair: "I don't enjoy law practice as much, and I never will.

"Sometimes you come close to losing it – but then reality hits and you keep going. The first four years are the hardest because there are always surprises lurking in your files. But even after that, even after you've been able to finally put those mountains of boxes into storage and try to get on with life, you never sleep well.

"Because you're always going to worry that there is something lingering somewhere that comes back to bite you."