Lawyers as targets of fraud: the common misconceptions

Almost every day LAWPRO receives calls and emails from lawyers who are acting on files that are possible or obvious frauds. The types of sham matters targeting lawyers range from collections and commercial loans to real estate and mortgage transactions.

Based on feedback, we believe that lawyers and law office staff are generally more aware of the red flags that warn of potential fraud. Lawyers are more often identifying and stopping frauds targeting them.

However, these calls also tell us that several recurring misconceptions are preventing some lawyers from recognizing potential frauds. To help you spot matters that may involve a fraud, keep these common misconceptions in mind:

Fraudsters are always "new" clients: Generally this is true, but there are degrees of "newness." We have seen frauds in which a new client will retain (and pay) a lawyer to do work on a smaller matter that otherwise appears legitimate (e.g., an incorporation), and then come back months later to engage the lawyer to work on the fraudulent matter.

Emails from fraudsters will be very obvious: Probably every lawyer in Ontario has received an email that is clearly an attempt at fraud. The clues can include one or more of the following: promises of large sums of money, a scenario that doesn't add up, bad grammar and loads of spelling mistakes. While the really bad emails are easy to spot, the really good ones are not. We have seen attempted and successful frauds initiated by emails that had little or nothing in them that would raise suspicions. In some frauds, we have seen emails that appear to come from another lawyer (or the staff person of a lawyer who has conveniently gone on vacation). The email will include links to a real law firm's website, where there will be information on the lawyer who allegedly sent the email. However, a careful inspection will show that the email address and phone number for the supposed sender will not be legitimate (i.e., consistent with the information on the website). They will put you in touch with the fraudster instead.

Fraudsters will only contact you by email or telephone: While the initial contact might be an email message or phone call, we have seen frauds in which the perpetrators visit a lawyer's office multiple times over weeks or even months. Fraudsters will provide valid-looking identification, including an Ontario driver's licence. Note: The driver's licence provided by fraudster clients is almost always fake. To confirm that a driver's licence is valid, use the Ministry of Transportation's online Driver Licence Check at www.dlcheck.rus.mto.gov.on.ca/Scripts/OrderForm.asp.

The fraudsters won't go as far as faking contact info on documents or a cheque: We have had a few calls from lawyers who didn't think that the fraudsters would go as far as faking contact information on a forged bank draft. Don't be fooled. This is a critical part of the ruse. See the next point.

The client, lender, seller and buyer can't really all be in cahoots – can they? Yes they can! Don't be fooled. Frauds are getting much more sophisticated, and there are usually multiple accomplices involved. All of the documents will look real and be drafted to make the transaction look legitimate. They will put you in touch with the co-conspirators. In one commercial loan fraud, the target lawyer spent many hours over several days going back and forth with a representative of the supposed lender negotiating terms of the loan and security documentation. On another fraudulent matter, loan instructions came from someone pretending to be a major bank employee.

The fraudsters were so smooth, I never suspected a thing: Several of the lawyers who called us said that in hindsight they were surprised at how friendly and talkative the fraudsters were. The fraudsters seemed to have all the right answers to any questions they were asked. The fraudsters even played on cultural connections where they existed.

Carefully review the above misconceptions so that you don't become a victim of fraud. Remain on high alert and don't let your guard down. Frauds are becoming ever more sophisticated, and the fraudsters appear to be going to ever greater lengths to try to trick lawyers into accepting bogus cheques or bank drafts and disbursing good funds from their trust accounts.

Thankfully, we have not seen another organized fraud similar to the one that occurred just prior to the Victoria Day weekend (but expect we will at some point). Use the fraud prevention resources mentioned in the sidebar below, and call us if you are acting on a matter that is a possible or obvious fraud. We want to help all Ontario lawyers avoid being the victims of fraud and prevent expensive fraud-related claims.

LAWPRO fraud prevention resources

These resources will help you avoid being duped. They are all available at www.practicepro.ca/fraud.

- **The LAWPRO fraud page:** Extensive information on fraud and fraud prevention;
- ***Fraud And How You Can Avoid Being Its Next Victim* webinar:** Listen to the MP3 (audio file) and follow along with the materials from this online presentation;
- **The LAWPRO Fraud Fact Sheet:** Download this handy checklist and keep it in your desk. It will help lawyers and law firm staff spot the red flags to look out for on a fraudulent matter.