

The many faces of fraud

A special report on
identity & value frauds:
What they look like, how
they work and how lawyers
can protect themselves

Also:

The effects of
Beals v Saldanha

Pro bono legal services:
insurance coverage

Metadata:
The hidden dangers

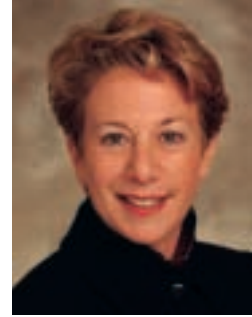
Fraud

a reality for all lawyers

In mid 2001, LAWPRO raised an issue that was causing some concern in the legal and financial communities.

*The issue was fraud. Our response was the **Special Report on Fraud**, a publication that provided insights into how fraudsters work, and was aimed at helping lawyers avoid becoming victims of fraudsters. It is still one of our most requested risk management tools.*

Three years later, fraud is more prevalent, more complex and often more sophisticated than first envisaged.



How prevalent is fraud?

Although no one has complete insight into the scope of the problem – or the size of the losses suffered by various parties involved in real estate – we know the problem is significant.

- First Canadian Title has gone on the record as saying that 28 per cent of all fraud claims it has received since it went into business in Canada in 1991 were reported in the month of January 2004, alone.
- The Canadian Institute of Mortgage Brokers and Lenders says that industry exposure to mortgage fraud has doubled or even tripled, to as high as \$300 million in 2001 from about \$73 million in 1999.
- PhoneBusters, the anti-fraud call centre operated by the RCMP and other Canadian law enforcement agencies, reports that in 2003, 13,400 Canadians reported being victims of identity theft, representing losses of more than \$21.5 million.
- At LAWPRO, we're seeing a significant increase in the number of reported claims with a fraud component in both our liability and TitlePLUS title insurance programs. Although it is too early to put a figure on the potential costs (investigation of these claims is ongoing), our losses may be significant.

Why is fraud on the increase?

The explanations are as complex as the subject itself. But some opportunities that fraudsters are exploiting are apparent.

First, technology has fundamentally changed how real estate deals are conducted.

Lawyers and lenders alike are increasingly using electronic processes to complete various aspects of the real estate transaction.

For example, titles can now be searched and registered online. Mortgages can be discharged and registered from our desktops. Although this ability to work online offers many advantages, it also comes at a cost: It is easier for a fraudster to act in the impersonal electronic environment than it was to commit the same fraud when real estate deals involved more person-to-person contact.

Second, lenders are looking for ways to streamline their costs: They are working through mortgage brokers, and outsourcing mortgage administration to third party suppliers who then electronically issue instructions to lawyers. Client meetings, personal contact, on-site appraisals are increasingly rare.

In other words, while technology makes lawyers' work easier, it has also reduced the personal contact at every step of the real estate transaction – and opened the door to abuse of the process.

As well, the basic nature of real estate transactions can make them more vulnerable to potential fraud. It is not unusual for real estate lawyers to deal with clients who are new and unknown to them; as well, real estate transactions are often "one-offs" in which the lawyer has neither a pre-existing nor ongoing relationship with the client.

Finally, and most importantly, the lawyer has a unique and essential tool that aids in the commission of a fraud: the trust account through which a fraudster's funds can be moved and disbursed legitimately.

In this update to our **Special Report on Fraud**, we explore the types of frauds being perpetrated, alert lawyers to some typical "red flags", and profile a lawyer whose life was changed forever by the fraudulent activities of a partner he trusted.

A blue ink handwritten signature, appearing to read 'Michelle L.M. Strom', written in a cursive style.

Michelle L.M. Strom
President and CEO

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LAWYERS' PROFESSIONAL INDEMNITY COMPANY (LAWPRO®)

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LAWPRO news is published by the Lawyers' Professional Indemnity Company (LAWPRO) to update practitioners about LAWPRO's activities and insurance programs, and to provide practical advice on ways lawyers can minimize their exposure to potential claims.

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