

“Red Flags” of fraud (current to July 28, 2011)

We've all heard the one about the client who sends photocopies of their passport, driver's license, and a legitimate-looking cheque who makes off with thousands of dollars of trust account money. Most schemes share a basic process. The variations on client names, locations, and back stories are endless, and the supply of legitimate-looking documents continues to grow in sophistication. Opportunities for fraudsters only exist without fraud awareness and the use of common sense. This piece will offer fundamentals on what we can do to protect ourselves against fraudulent schemes.

Watch for any combination of the following "red flags":

- The client is overseas, unknown to the company and/or in a rush – then pressures that you "make the case" quickly
- Clients willing to pay hourly rates, flat fees or fees that are much higher than normal, and insist upon or are not worried about taking shortcuts to save time
- The client makes contact around bank holidays, especially when banks are closed and offices are understaffed
- If you are hired to recover money owed to your client, the "debtor" pays up without any hassle – unusual given the client's "dire" need to retain you in the first place.
- Initial contacts from the fraudster may not be via an impersonal and badly worded email. The first contact may also be by telephone or in person. Remember, fraudsters may present themselves in a sophisticated manner and style of dress to appear more legitimate – not all fraudsters appear as or act in a "shady" manner. If matters do not seem to add up and the information provided by the fraudster is incomplete or inconsistent, keep asking questions and dig deeper until you are satisfied that it is a legitimate transaction.
- Look carefully at the label and return address on the package or envelope in which your cheque is sent. Return addresses often appear to have no connection to parties involved in the case.
- Generically addressed emails (for example, "Dear Attorney" or "Attention Counsel" and use of the word "lawyer", "attorney" or "barrister" in the subject line or body of the message.
- The sender's email address and display name for this address are different.
- Your client uses a personal email account from a free email service instead of using the corporate email address of their company.
- The clients insist that email is the only way to communicate because of time zone differences
- Clients deny or delay a promised payment of a retainer, demanding that you take payment when the inevitably bad cheque arrives.
- There are one or more delays in the promised payment, to create a sense of urgency to disburse funds quickly when they finally arrive.
- The advance payment or loan is not in the form you expected or requested (i.e., it is not a wire transfer) and/or it is for an amount that is different than expected.

- There is a change in circumstances where the client suddenly wants to use the account funds on an emergency basis for reasons unrelated to the legal question (for example, to pay medical expenses or buy furniture)

If you are in doubt:

- Conduct a reverse lookup phone number of the company and use the Internet to check telephone numbers, addresses and email contacts.
- Contact the company they expect to confirm the payment of the debtor or business loan using verified contact info – not provided by your client.
- Go to the website of the bank to verify the transit number of the branch, address and telephone number on the cheque.
- Keep the funds until your bank confirms that the funds are "good" by contacting the other bank and it is safe to withdraw from the deposit.
- Do not rush to disburse funds from your trust account – especially if your client is really pushing to get money quickly.

Ideally, have large funds wired into your account using the Bank of Canada's [Large Value Transfer System](#) (LVTS). Never let a client directly deposit a cheque or bank draft to your account. Call the bank branch where the cheque originated (and not use the phone number or address on the cheque, as that will just put you in touch with the fraudster - get it from the bank or the website of the financial institution). Remember that you must always follow the [Client ID Regulations](#) required by the Nova Scotia Barristers' Society.

Overall, educate yourself and your staff on the common types of real estate and bad cheque frauds and their associated real red flags – consult the [Fraud Alerts](#) section at [lians.ca](#). The junior lawyers, support staff and accountants on your team can help you identify and prevent fraud by spotting the red flags that you cannot see.

Lastly, don't allow your good reputation to be used to your client's advantage and your detriment. If it sounds too good to be true, it probably is.

To report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at cnield@lians.ca or 902 423 1300, x346.