

FRAUD

FACT SHEET

LAWPRO® ...making a difference for the legal profession

How you can Avoid becoming its next victim

Fraud continues to be a significant and costly problem for LAWPRO. Fraudsters are successfully duping lawyers and law clerks, and it's not just real estate lawyers who are being targeted. Litigation, business and family law lawyers are frequent targets of bad cheque scams involving debt collections, spousal support payments and business loans.

Don't be complacent and think you would never be fooled. These frauds are very sophisticated. The matters will look legitimate, the fraudsters will be very convincing and the client ID and other documents you get will look real. The fake cheques have fooled bank tellers and branch managers.



What to do if you have a suspicious file

Proceed with caution if you have even the slightest suspicion that the matter you are handling isn't legitimate.

- Look for the red flags of a fraud. See the lists on the following pages.
- Ask questions and dig deeper, especially if the facts don't add up or are inconsistent. See the next page for a list of things you can do.
- Visit the AvoidAClaim.com blog to see email messages and documents from the frauds LAWPRO is seeing. Click on the Confirmed Frauds button to see a full listing of names of confirmed fraudster clients.

If you still aren't sure the matter is legitimate, call LAWPRO. Our experience with multiple frauds can help determine if you are being duped. If the matter turns out to be a fraud and there is a potential claim, we will work with you to prevent the fraud, if possible, and to minimize potential claims costs.

Ultimately, if you aren't completely sure a matter is legitimate, terminate the retainer. Don't be sucked in by your emotions or a strong desire to help. Don't let the lure of a generous fee cause you to ignore your concerns as to the legitimacy of a matter. If it looks too easy or sounds too good to be true, it probably is.

Report obvious frauds to LAWPRO

Help us help other lawyers by sending obviously fraudulent messages or scans of identification and other documents provided to you to fraudinfo@lawpro.ca.

Bad cheque scams

Fraudsters retain the firm on a contrived legal matter so that they can run a counterfeit cheque or bank draft through the firm trust account and walk away with real money. These contrived matters

will look real. The fraudster will provide extensive and very real looking ID and documents. When the bad cheque or draft bounces, there will be a shortfall in the trust account.

Common types of bad cheque fraud:

Business loan/inventory purchase fraud

- Targets business lawyers.
- Fraudster will ask you to handle a loan.
- Loan proceeds are coming from fake lender.

Spousal support collection fraud

- Targets family lawyers.
- Fraudster will ask you help with collection from ex-spouse, often further to a “collaborative settlement agreement.”
- Ex-spouse will pay up with little or no pushing.

Debt collection fraud

- Targets litigators.
- Fraudster will ask for help with a debt collection.
- Debtor will pay up with little or no pushing.

Red flags

These are the common red flags that indicate that a matter is a fraud. Some of these may occur on legitimate matters, but if many appear on the same matter you should heed the warning signs.

- Initial contact email is generically addressed (e.g., “Dear attorney”) and BCC’d to many people.
- Sender email address is different from address mentioned in body of the email.
- Client uses one or more email addresses from a free email service (e.g., Gmail, MSN, Yahoo!), even when the matter is on behalf of a business entity.
- Client is new to your firm.
- Client is in a distant jurisdiction.
- Client shows up and wants the matter completed around banking holidays.
- Client prefers email communication due to time zone differences.
- Client provides only a cell number.
- Client is in a rush – and pressures you to “do the deal” quickly.
- Client and others involved don’t seem concerned if shortcuts are taken.
- Client is willing to pay higher-than-usual fees on a contingent basis from (bogus) funds you are to receive.
- Despite the client stating a lawyer is needed to help push for payment, the debtor pays without any hassle.
- Cheque or bank draft arrives at your office in plain envelope and/or without covering letter.
- Cheque is drawn from the account of an entity that appears to be unrelated (e.g., a spousal arrears payment from an insurance company or travel agency).
- Payment amounts are different than expected or change without explanation.
- Client instructs you to quickly wire the funds to an offshore bank account or third party that appears unrelated to the matters.

Digging deeper

Take these steps to cross-check and verify information provided to you by the client.

- Cross-check names, addresses, and phone numbers of the client and other people/entities involved in the matter on Google and other search engines. While the real names of people or businesses may be used, contact information on fake documents will put you in touch with people in cahoots with the fraudsters.
- Do reverse searches on phone numbers.
- Look up addresses using Street View in Google Maps.
- Ask your bank or the issuing bank to confirm the branch transit number and cheque are legitimate.
- Call the entity making the payment or loan and ask if they are aware of the transaction.
- Contact the company to confirm it is expecting debtor’s payment or business loan.
- Hold the funds until your bank confirms the funds are “good” by contacting the other bank, and have the bank confirm, in writing, that it is safe to withdraw from the deposit.



Get fraud updates from AvoidAClaim.com blog

For immediate updates on fraud and claims prevention, subscribe to the email or RSS updates from LAWPRO’s AvoidAClaim blog.

Real estate scams

Identity theft fraud

- Client uses fake ID to assume identity of existing property owner (or director/officer of corporate owner).
- Client sells or mortgages the property, or discharges mortgage from title, then gets new (often high-ratio) mortgage from another lender.
- Paperwork looks in order; no encumbrances on title, but one or more recently discharged mortgages.
- Client in a hurry and accommodating: May discourage house inspection or appraisal.
- Transaction closes, you pay proceeds to client who makes a few mortgage payments, then disappears with funds.
- Lender sues you for value of mortgage.

Red flags: The client

- Does not care about property, price, mortgage interest rate, legal and/or brokerage fees.
- Only uses a cellphone number for contact.
- Cannot produce title documents, survey, reporting letter, tax or utility bills.
- Does not appear familiar with property.
- Won't permit contact with prior lawyer.
- Client is "out of sync" with property – e.g., don't appear educated/affluent enough.
- Funds directed to third party with no apparent connection to transaction.
- Stranger who appears to control client attends to sign documents.

TIP: BE ALERT

- Avoid having documents executed outside your office.
- Consider reviewing or discussing transaction with another lawyer.
- Consider market trends in the transaction area.

Flip (value) fraud

- Client says she or he is a real estate agent or in business of buying and selling.
- Client promises high fees, lots of business for quick turnaround on deals. (Short turnaround means proper searches aren't conducted.)
- Once transaction closes, client flips property to accomplice (e.g., appraiser and/or mortgage broker) for much higher value.
- Lender issues mortgage on inflated property value.
- Client uses mortgage proceeds to pay initial purchase price, splits excess funds with accomplices.
- Client makes a few payments, and then disappears with funds.
- Lender sues you for excess/inflated value of mortgage.

Red flags: The transaction

- Repeat activity on single property or for single client.
- Rental and vacant properties especially vulnerable.
- Client buys and sells often, prefers to deal in cash.
- Property listing expired without sale (i.e., sale may be unregistered).
- Frequent and quick mortgage discharges on property.
- New referral source sending lots of business.
- "Rush" deals, often with promise of more.
- Client produces small deposit relative to price.
- No amendments to Agreement of Purchase and Sale.
- Sale is presented as a "private agreement" – no agent involved, or named agent has no knowledge of transaction.
- Municipality or utility companies have no knowledge of client's ownership.
- Client paying little or nothing from own funds.
- Unusual adjustments in favour of vendor, or large vendor-take-back mortgage.
- Use of counter cheques.
- Use of Power of Attorney.

More information on protecting clients against real estate fraud

TitlePLUS® title insurance provides coverage for your clients when they buy a home. Through the OwnerEXPRESS® program, TitlePLUS insurance also provides fraud protection for clients who may have purchased a property earlier but did not also secure title insurance protection on that purchase.

TitlePLUS insurance provides fraud coverage as follows:

- for frauds that may have occurred prior to purchase (e.g., it turns out that the vendor does not really have the right to sell the property);
- if the property becomes a target of fraud at a later date. This is part of the post-Policy Date protection in the TitlePLUS policy.

There is also a “duty to defend” in the policy, which means that it is our problem,

not yours, if someone must contact the government to request that title be restored to your name in the official records. (Please refer to the policy for full details, including actual terms and conditions.)

For more information visit www.titleplus.ca under our "Products and Services," and "Publications" tabs.

The TitlePLUS policy is underwritten by Lawyers' Professional Indemnity Company (LAWPRO).



Is the fraudster in your office?

Not all fraudsters are strangers. Even partners, associates, law clerks or other employees may turn to fraud because of financial pressures

from a divorce, failed business venture, or other personal crisis.

Red flags

- Someone never takes vacation or sick leave, works overly long hours, or refuses to delegate work.
- A firm member undergoes a sudden change in lifestyle or change in temperament.
- The firm receives mail for a corporation for which no client file is opened or billed, or minute books are kept in the lawyer's office instead of with the corporate law clerk.
- Unusual patterns such as a sudden increase in payments to a person or credit card company or government, or complaints about slow payment from suppliers or clients, or an increase in written-off work in progress (WIP).

For more information see “Fraud on the Inside: What to do when partners, associates or staff commit fraud” at www.lawpro.ca/magazine.

More information on fraud

LAWPRO has assembled a variety of articles, resources and tips on fraud and how to avoid being its next victim. To learn more about what fraud looks like and how to prevent it from happening to you and your firm, go to: www.practicepro.ca/fraud.



LAWPRO's enhanced coverage for counterfeit certified cheques, bank drafts

As of January 1, 2010, the LAWPRO policy provides some overdraft protection to lawyers in relation to their trust accounts where liability for the overdraft results from the handling of a counterfeit certified cheque or counterfeit bank draft in the capacity of a practising lawyer. This enhanced protection is subject to several conditions and limitations. Review the FAQs (www.lawpro.ca/FAQs) on the LAWPRO website to make sure you understand this coverage and the extra steps you must take to qualify for it.

MASTHEAD

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This information bulletin is published by LAWPRO to provide lawyers and law firm employees with an overview of some common types of fraud, and to provide practical advice on ways to minimize their exposure to fraud-related claims.

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