

Wire Fraud Continues

Fraudsters continue to target attorneys. Remember: do not send a wire fund transfer without calling to verify the instructions. What follows, as a reminder, are tips to help your firm avoid becoming the next victim.

Common Fact Pattern

Wire transfer fraudsters typically target the disbursing party in a real estate transaction. The scheme will commence via an email to the party holding the funds. The email is from a fraudster but it may come directly from the requester's email account, and therefore the victim will not be able to tell it is part of a fraudulent scheme.

How is the Fraud Caught?

The seller of real estate will call the originator of the wire to complain that they did not receive the money. If the recipient bank is notified of the fraud immediately, the bank may be able to freeze the funds.

Coverage/ Consequences

Please read your lawyers professional liability policy form. Wire fraud is commonly excluded from coverage. Further, even if wire fraud is not expressly excluded, many courts have found that the act of transferring funds is not a legal service and is therefore not covered under a professional liability policy.

An Ounce of Prevention

Verification of the authenticity of any wire request is imperative! Some suggested tips are:

- 1) Direct all staff to follow strict protocols for all wire transfers - view requests with suspicion.
- 2) Wire transfer authority should be limited to only those employees with proper training.



- 3) Before EACH AND EVERY wire transfer, telephone the originator of the wire request to re/verify instructions; use a phone number already on file or independently verified.
- 4) Request stationery with letterhead, sent by facsimile, to authorize the wire instructions.
- 5) Demand that all instructions be conveyed no later than 24 hours before the transaction.
- 6) Compare the signature on the wire instruction authorization with the signature on any closing or other documents. A slick fraudster, however, may anticipate this precaution and attempt to match the signature as closely as possible; an obvious mismatch should raise further red flags, however.
- 7) Compare the account beneficiary listed in the wire instruction authorization with the recipient bank. The name or location of the bank or account beneficiary in and of itself may prove to be a red flag.

- 8) Never wire funds if the bank account owner is a different name than the party reflected in the closing documents! A discrepancy in the bank account owner versus the party entitled to receive the real estate closing funds is a constant theme in these scenarios.
- 9) If the wire request is a deviation from an already agreed-upon plan or process, a potential fraudulent scheme should be ruled out BY A PHONE CALL before any funds are transferred.
- 10) Unusual grammatical errors in the email could indicate that the email is not being generated domestically, but could be originating overseas.



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