

Email scams continue to successfully target lawyers and banks by Jayne Tyrrell

In the last year, several lawyers in Massachusetts have fallen victim to tricky email scams. Losses have run from \$100 to \$375,000. Because the scams often run through the IOLTA accounts, the IOLTA Committee staff is contacted.

Often, a fraudulent foreign client contacts a law firm via email indicating they are involved with some legal issue with a domestic company. That company will either settle a claim within the next few days or the parties will go to court. The law firm is asked to act as a settlement agent, or possibly represent the foreign client going forward. Shortly afterwards, a counterfeit check comes to the law firm with the other party listed as remitter. The law firm takes their cut from the check and is to wire the rest. These checks may pass initial deposit fraud review.

In a letter to Massachusetts Lawyers Weekly, attorney Richard C. Follender reported that a group of clients sent him a check for \$380,400, payable to his office, with instructions to deposit it, take his fees and send the rest to the client. It was a very authentic looking check drawn on CitiBank for a company in Pennsylvania called Eagle Power and the check came from Canada. He called the company and spoke to the comptroller and learned he was one of over 20 attorneys to call. The bank explained to Follender that ultimately it will be the person who deposited the check who will have to pay it back.

There are ways to avoid becoming a victim. Know who you are doing business. If you deposit a large check have a clear idea where that money is coming from. Don't be too quick to take on a new client unknown to you. As hard as it may be in this economy, prudence and due diligence still pay high rewards. Ask questions. Be up front about needing confirmation that the contact is who and what they claim to be. Be wary of the need for great speed in processing the money.

If you suspect that an e-mail is a scam and have not yet established a client relationship with the sender, you can generally report the contact to the Internet Crime Complaint Center (www.ic3.gov). In and of itself this information is not confidential except in rare cases. It gets more complex if you have begun the relationship and then suspect that you are being scammed. If you think a client is scamming you, you would normally confront the client, evaluate the response and continue the relationship or withdraw from it. If you suffered losses from being scammed, after withdrawal you could pursue civil or criminal remedies, respecting the duty to preserve confidentiality as appropriate, or simply write the loss off.

One attorney received a scam e-mail sent directly to her by a man representing himself as the CEO of a foreign electronics company. The letter included the internet address of a real foreign company. The return e-mail address used the CEO's name at a g-mail address. The attorney began investigating.

He stopped the correspondence after he got a follow up e-mail asking where the retainer agreement was, but in the meantime, he hit the books and the Internet to try to sort out what to do when a lawyer gets what might be a scam e-mail. One idea was to flush out scammers by getting tax ID numbers and making representation contingent on their agreement that a separate, segregated attorney-client account be established for deposit of only their funds.

According to the cyber experts, Internet scams are not going to stop anytime soon, especially in a bad economy. Not only do the scammers need the money more, they know that their targets are more vulnerable to “earn money now” solicitations.

So what should lawyers do if they think they might be the target of a scam? Make a report immediately to the Internet Crime Complaint Center on the ic3.gov Web Site. If money has been lost, notify local police or the FBI, as well as the Internet Crime Complaint Center.

For more information, please contact Jayne Tyrrell at 617-723-9093.

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