

MALPRACTICE ALERT

INTERNET SCAMS



INTERCEPTION OF INCOMING WIRES

By now, you are familiar with wire instruction scams and other internet fraud schemes sweeping across the country. Minnesota Lawyers Mutual has issued several alerts detailing the scams and best practices to avoid falling victim. Since our latest alert, there have been multiple reports of fraudulent wiring instructions being delivered to cash purchasers or buyers providing a significant down payment on real estate purchases.

THE WAY IT WORKS

Like other versions of these scams, the hacker gains access to the email account to a party in the transaction - potentially the client themselves, the closing attorney or most frequently, a real estate agent; monitors the account, potentially for months; and near the closing date, sends fraudulent instructions to the buyer attached to an email purporting to be from the closing attorney.

If you are conducting transactions in which a buyer is providing funds for a purchase, you need to take action immediately to educate your clients about the proper security and verification procedures. While many of these scams appear outwardly questionable and, as a result, are usually ignored, there have been reported cases where lawyers have fallen prey to these scams. Lawyers should be aware that these scams are out there and to proceed with caution.

HOW TO AVOID

1. It is our strongest recommendation that all parties in the transaction be notified of proper wiring procedures as early in the closing process as possible, preferably in an engagement letter. Do not send the notice with the wiring instructions. The notice should state:
 - In order to protect your funds, all funds in excess of \$500 must be sent by wire to XXX law firm.
 - For this transaction, the only bank account that will be used is XXX law firm's IOLTA Trust Account, described as follows...
 - Before sending any wire, call our office at XXX-XXX-XXXX to verify the instructions.
 - We will not change the wiring instructions.
 - If you receive wiring instructions for a different bank, branch location, account name or account number, they should be presumed to be fraudulent and you should call our office immediately.
2. Have the client sign and return the notice to your office and if it is part of a larger engagement letter, this section should be initialed.
3. Wiring instructions should only be sent to the buyer/intended recipient. Allowing wiring instructions to be forwarded through a Realtor or other party allows an additional point of interception, adds to the delay of their receipt, and prevents other security measures.
4. The full wiring instructions should be sent in as secure a manner as possible when the recipient is expecting their delivery. Ideally, the client will call your office for the wiring instructions, the client's identity will be verified and they will wait on the open line until the instructions are received via secured email or facsimile.
5. Wire receipts should be verified either by calling the bank directly or securely logging into the banking portal. Do not rely upon an email or fax verification of receipt of the wire from your bank. We know of situations in which fraudsters sent 'confirmation of wire or advice of credit' notices with the intent of delaying discovery of the theft. Failing to properly verify receipt could result in a closing attorney disbursing non-existent funds from the trust account –increasing the attorneys' liability and creating ethical problems.
6. Take every opportunity to educate the client on the need to confirm wiring instructions before initiating a wire.

Adapted from *WARNING: New Twists in Fraud – Interception of Incoming Wires*, Lawyers Mutual Liability Insurance Company of North Carolina.

Failure to follow these procedures endangers your funds.