



# Bogus Firms and Financial Attacks

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The SRA's Risk Outlook report summarises the SRA's predictions for risks to firms based upon recent experience and should be checked by COLPs and COFAs in particular.

Although they hardly make for cheery New Year reading, two items from the November update are worthy of special attention: the increasing incidence of fraudsters impersonating law firms and the growing trend of attacks on client funds.

Bogus firms pose risks to individual firms and to the profession as a whole, and are therefore both direct and indirect by nature. The trend certainly causes concern, with the SRA reporting that whereas it received 548 reports of such incidents for the whole of 2013 it had already logged 454 reports for 2014 to the end of August. Often operating solely via the web, fraudsters will send out bulk communications under the guise of being a solicitor's firm to gain trust for advance payments for litigation or scam investments. When the fraud comes to light there is, of course, no redress since no SRA authorised practice has been involved.

Most such cases could be seen to be of indirect concern to the profession since they do not involve any actual firm. However, there is a real risk of reputational damage where the fraudsters have impersonated an actual firm so as to survive any rudimentary checks that the victims make to see if they are dealing with an actual firm. In such cases, the firm's identity will be replicated, but with the use of a false address and phone number, also a replica website, perhaps using the actual firm's name but a different suffix for the web address.

The use of bogus firms as part of mortgage fraud conspiracies is a more real and pressing concern for all firms involved in conveyancing work. Here the fraudsters clone an actual firm so as to divert the payment of completion or mortgage monies (often with the involvement of a dishonest estate agent who is privy to the details of the transaction) by way of "application hijack". We have previously covered in this column the alternative pattern of fraud whereby conspirators clone the identity of property owners as well as that of a law firm so as to sell or re-mortgage a property. Here firms acting in good faith for bona fide purchasers are at risk of being seen to be in breach of trust by having released funds innocently but without due authority to do so.



The risks of this form of fraud were seen in *Davisons v Nationwide Building Society* [2012] EWCA Civ 1626. In this case, involving a property in Sutton Coldfield, the bogus firm had managed to infiltrate the SRA/Law Society's directory of practices and at all material times were listed by the regulator as a valid firm. This led the Court of Appeal to rule that the firm had acted reasonably in the conduct of the transaction and was therefore entitled to relief from

breach of trust in relation to the transfer of the mortgage monies. This and other such cases stress the need for careful checking of reliable sources in relation to other firms encountered so as to be beyond blame if caught up as an innocent party dealing with skilful fraudsters. A low tech enquiry such as a telephone check with other reputable firms in the vicinity of the suspect firm can sometimes be more reliable than relying on the internet.

The other item to catch the eye in the Risk Outlook was the alarming disclosure that the SRA is dealing with some 140 cases of misuse of money or assets per month, quoting the sentencing of those who misused client money in *Wolstenholmes* as evidence of this trend. To the risk of internal irregularities should be added the increasing incidence of attacks on client funds from outside the practice. We have heard of fraudulent phone calls which claim to emanate from the firm's banks with news of attacks on the client account and "checking" access codes so as to be able to re-set them as well as the successful diversion of completion payments from the intended payee to other non-client accounts elsewhere. The SRA had even issued a news release regarding the "bank details scam" just as we went to press.

It may well be that the increased expectations on law firms to achieve higher levels of data controls than they have achieved to date could be one of the more persistent themes for 2015. The SRA will be looking to firms to protect themselves and their clients and will not accept a "laissez faire" attitude towards data protection. ■



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