

## **WARNING: NEW TWISTS IN FRAUD – INTERCEPTION OF INCOMING WIRES**

By now, you are familiar with wire instruction scams which are sweeping across North Carolina and the country. Lawyers Mutual, the State Bar and numerous others have issued alerts detailing the scams and best practices to avoid falling victim.

Since our latest alert, we have received multiple reports of fraudulent wiring instructions being delivered to cash purchasers or buyers providing a significant down payments on real estate purchases. Like other versions of these scams, a hacker will gain access to the email account to a party in the transaction – potentially the client themselves, the closing attorney or most frequently, a realtor. The account is monitored, potentially for months, and near the closing date of a large transaction, fraudulent instructions are sent to the buyer attached to an email purporting to be from the closing attorney.

We know of over \$1 million in wires which were diverted from the trust accounts of North Carolina attorneys, and the frequency of this version of the scam appears to be increasing.

**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 PROPER SECURITY AND VERIFICATION PROCEDURES.**

### **Best Practices to prevent these claims.**

- 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. This notice should not be sent with the wiring instructions. Suggested language to include in your engagement letter:**

Pursuant to the N.C. Gen. Stat. §45, ALTA Best Practices, State Bar Rules and in order to protect your funds, all funds in excess of \$500 must be received by wire to XYZ Law Office. For this transaction, the only bank account we will be using is our IOLTA Trust Account, described and partially redacted below:

YYZ Law Office IOLTA Trust Account  
Bank of America  
123 Main Street  
Raleigh, NC 27603  
Partial ABA # \*\*\*\*\*72  
Partial Account # \*\*\*\*\*184

Before sending any wire, call our office at (919)555-5309 to verify the instructions. **We will not change wiring instructions.** If you receive wiring instructions for a different bank, branch location, account name or account number, they should be presumed fraudulent. Do not send any funds and contact our office immediately.

**FAILURE TO FOLLOW THIS PROCEDURE ENDANGERS YOUR FUNDS.**

2. Have the client sign and return the notice to your office. 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 an as secured manner as possible when the recipient is expecting their delivery. Ideally, the client would call your office for the wiring instructions, the client's identity would be verified and they would wait on the open line until the instructions are received via secured email or facsimile.
5. Wire receipts should be verified either through 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 with the State Bar.
6. Take every opportunity to educate the client on the need to confirm wiring instructions before initiating a wire.