



Disputes and Litigation: Case Study

Demand letter and settlement with little substantive legal work

Current to July 2021

The Facts



You were approached by a potential client seeking help regarding a dispute with the owner of ABC Ltd (“ABC”). The client said that the owner of ABC convinced her to invest in his company by regaling her with its impressive sales numbers and promising the imminent global launch of ABC’s product. The client bought shares in ABC for \$100,000 with the expectation that the shares would be worth at least \$600,000 within 12 months. The client now realizes that the owner of ABC duped her and that the shares she bought are worthless.

Although you were busy with several tight deadlines on other files, you agreed to prepare a demand letter on behalf of the client. You did not ask the client for any documents since you were only making a demand at this stage and you

believed the client had provided the information you needed to do so.

You sent the demand letter to a Hotmail email address that the client provided for the owner of ABC. The owner replied within days and agreed to buy-back the client’s shares for \$500,000. The client was delighted and asked for the payment to be made by ABC into your trust account, and then paid out equally to two separate numbered companies that she controlled.

A few days later, you received the settlement funds into your trust account by wire transfer from a country known for banking secrecy. The client thanked you by giving you a \$5,000 bonus on top of your legal fees.

NOTE: *While the legal services described in this case study are outside of the paralegal scope of practice, the red flags and best practice recommendations apply, with appropriate modifications, to the provision of legal services by paralegals.*

Red Flags



-  Client's loss relates to misleading and potentially fraudulent activity
-  Free online email (i.e., Hotmail) is used to communicate with corporate party
-  Settlement funds are paid very quickly and without explanation following the demand letter, particularly large sums. Settlement funds are received from an account located out of the country without explanation
-  Client requests, without explanation, that settlement funds on a personal debt be sent to two corporate accounts with no apparent connection to the dispute
-  Client pays a bonus in addition to legal fees.

What Should You Have Done?



You should have:

- **Requested and reviewed supporting documents.** When acting for clients on a claim or demand for recovery of a debt or actionable loss, you should request and review documents supporting the debt or loss.
- **Inquired about the nature of the debt or loss.** The fact that the client claimed to have lost the money in potentially fraudulent circumstances ought to have reinforced the need for investigation into the nature of the debt.
- **Considered risks of money laundering.** Some of the red flags identified above, including the quick payment of settlement funds following a simple demand letter and the payment coming from out of the country, suggest this situation is high-risk for money laundering.
- **Investigated facts and ascertained client objectives.** If a client makes specific unusual requests about how to transfer the funds (e.g., to unrelated corporate accounts) you should make inquiries as to the reason for these instructions.

Supports and Resources



- **Guidance Documents:** For more information, consider consulting the Law Society's [Red Flags Quick Reference Guide](#).
- **Practice Management Helpline:** Lawyers or paralegals who have questions about their professional obligations relating to client identification and verification, fraud, money laundering, terrorist financing, or other illegal activity may wish to contact the [Practice Management Helpline](#).

