



Purchase and Sale of Real Estate Property: Case Study



Investing potential proceeds of crime

Current to July 2021

The Facts



You were retained by a client for the purchase of a residential property. The client did not come into the office and communicated with you by telephone and email only. At the outset of the engagement, the client indicated that he wished to pay the total purchase price for deposit into your law firm's trust account before the final agreement was reached.

Your due diligence suggested that the sum provided was a large amount relative to the client's employment income. After the client's funds were deposited the client became slower to respond with instructions and seemed less interested in

the details of the transaction as it progressed. At one point, you told the client about an easement discovered on title that would allow his neighbour to drive through the back part of the property. The client did not seem concerned about this or ask many questions. The purchase of the property went ahead for a sum smaller than that deposited.

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 unusual request to deposit funds early in the transaction, especially before the purchase price had been finalized
-  Sum deposited appears large relative to the client's income
-  Client becomes evasive and less interested in the transaction despite depositing a large sum of money
-  Transaction results in surplus funds from the initial large deposit

What Should You Have Done?



You should have:

- **Advised the client on a more common or appropriate time to deposit funds (i.e., just prior to closing).** Lawyers should be wary of clients who are prepared to deposit large sums into a trust account at the very outset of an engagement (and certainly prior to the agreement being finalized).
- **Complied with the source of funds requirement.** Lawyers and paralegals are required to obtain from a client information about the source of funds being received, paid, or transferred in respect of a financial transaction that is not exempt from the client verification requirements set out in [By-Law 7.1](#).
- If the funds the client would like to deposit are large relative to their socio-economic profile, lawyers should conduct enhanced due diligence on the source of funds. In this case, you should have asked for additional information and/or documents demonstrating how the client acquired and maintained the funds (e.g., banking and investment records, receipts, contracts).
- **Identified other risks associated with the transaction.** You should have been wary of accepting client funds in excess of those required for the transaction and associated expenses (e.g., fees and disbursements).

Supports and Resources



- **Guidance Documents:** For more information, consider consulting the Law Society's Fraud webpage, Red Flags Quick Reference Guide, and Frequently Asked Questions: Source of Funds.
- **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](#).



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