



Purchase and Sale of Real Estate Property: Case Study



Criminal uses elderly parents to launder proceeds of crime

Current to July 2021

The Facts



An elderly couple and their adult son met with you about the purchase of a home. The son explained he was there to support his parents. The parents acknowledged this and presented valid identification. The son did most of the talking for his parents during the meeting.





The parents' income consisted of a modest pension. They lived in a trailer home, which they planned to keep for their son's use. About half of the purchase price for the new home came from a bank account in the parents' name, which the son helped to set up. The balance was financed through a private mortgage in the parents' names.

You assisted the couple in purchasing the property speaking mainly with the son and, as instructed, registered title in the parents' names. The mortgage, which was over \$300,000, was paid off immediately. The son returned to your office soon after and inquired about new wills for his parents. The son turned out to be a career criminal using his parents to launder proceeds of crime from drug trafficking, fraud, and auto theft.

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



-  Third party, rather than the clients, appear to be directing decision making
-  Disproportionate amount of private funding or availability of cash, which is inconsistent with the known legitimate income of the clients
-  There is uncertainty about who the real beneficiary or owner is
-  Mortgage repaid significantly prior to the maturity date with no logical explanation

What Should You Have Done?



Although it is not uncommon for family members to assist in legal matters, you should have

- Determined who your clients were; that is, for whom you were really acting for and to whom you were providing legal services.
- Ascertained whether your clients were subject to undue influence or duress.
- Confirmed who your clients wished to provide instructions on their behalf and ensured that those instructions reflected their wishes.
- Assessed whether your clients had capacity issues that might have impacted their ability to make decisions about their legal affairs or provide you with instructions.
- Ascertained who the true beneficiaries of the transaction were by making inquiries, reviewing documents, or investigating facts.
- Obtained from the client information about the source of the funds being received, paid, or transferred. Enhanced verification of the source of funds is warranted when a client's income is modest, they have no other apparent source of wealth (such as selling property), and they are financing only a portion of the purchase price.

Supports and Resources



- **Guidance Documents:** For more information, consider consulting the Law Society's Fraud webpage 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](#).

