

Creation and Management of Trusts and Companies: Case Study



Management of an existing trust that may contain criminal property

Current to July 2021

The Facts



A client went to your law firm to terminate a trust established by his deceased mother. The client was the sole beneficiary of the trust. When asked about the source of the funds in the trust, the client was ambiguous and appeared evasive.

When pressed, the client informed you that he believed his mother may have embezzled the funds over many years from her long-time employer. The client asked you for advice regarding the disposition of the assets in the trust and any legal obligations to the former employer.

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 is not well known to the lawyer



The funds in the trust may be from illegal activity

What Should You Do?



If you suspect assets may have been obtained through illegal activity, you have legal and professional obligations to make further inquiries. Facilitating the distribution of the trust assets to the client without making such inquiries and without being satisfied that the funds in the trust account were obtained legally would likely result in a breach of the applicable legal and professional obligations.

There are no legal or professional responsibility issues with preparing an opinion on the rights of the defrauded employer and the impact of those rights on the trust assets and client's entitlement to them.

Supports and Resources



- **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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