



# Creation and Management of Trusts and Companies: Case Study



## Trust managed to facilitate a fraud

Current to July 2021

### The Facts



Your client previously retained a lawyer to set up a trust. After the trust was established and the retainer had ended, the client created a false genealogy for the trust claiming it was a long-standing trust associated with a European monarchy. He then solicited investments for phony loans. The client then hired you, a new lawyer, to manage the trust and publicized your credentials to legitimize the trust. The client provided you with false documentation about the trust.

The client then instructed you to provide guarantees on behalf of the trust, maintain an escrow account into which “investments” could be deposited, and distribute the deposited monies to the client and his third party associates when requested.

**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 retained different legal advisors for setting up the trust, and later managing it, to hide the origins of the trust
-  Payments to the trust appear to be advance fees in a potentially fraudulent scheme
-  Client relied on your reputation to bolster the trust
-  Client instructed you to give guarantees, receive advance fees, and distribute funds out of the trust to the client and third parties

## What Should You Do?



The legal and professional obligation on lawyers to not act for a client if there is reasonable likelihood it will aid or result in the commission of a crime is a very serious one. In this case, there are strong indications that the trust was being used fraudulently.

In these circumstances, you should:

- Conduct due diligence, including obtaining and carefully inspecting documents related to the creation and existence of the trust.
- Scrutinize the transactions that fund the trust by making inquiries, investigating facts, and ascertaining client objectives.
- Decline to proceed as instructed, unless your inquiries into red flags are resolved and assisting the client as instructed would not facilitate dishonesty, fraud, crime or other illegal conduct (rr. 3.2-7 and 3.7-7 of the [\*Rules of Professional Conduct\*](#)).

## 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.



PRACTICE  
MANAGEMENT  
Helpline

Ligne d'aide  
À LA GESTION  
DE LA PRATIQUE