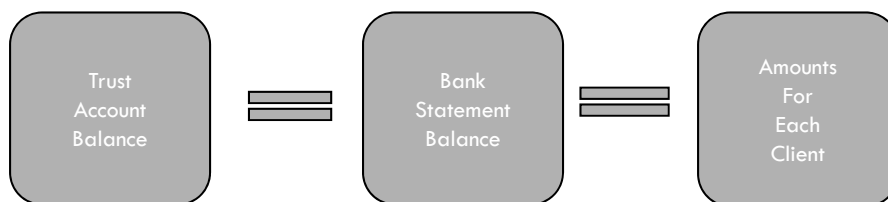


Trust Accounting- 3-way Reconciliation



- Proposed Opinion 2011 FEO 7: Law firm may use on-line banking but only if managing lawyers are regularly educated on security risks and actively maintain end-user security.
- Positive Pay
- Rynoh Live www.rynoh.com



Good Funds Settlement Act – GS 45A & RPC 191

Lawyer May Disburse on Provisional Credit

- Lawyer must reasonably believe that the underlying deposited instrument is virtually certain to be honored when presented for collection.
- If dishonored, Lawyer must:
 - immediately act to protect other clients' property
 - personally pay or secure payment from other sources for the amount of any failed deposit
- Lawyer's personal assets or credit must be sufficient to cover any provisionally credited item if dishonored.

What Do We Do About This?

Reconcile With Precision Choose Precision Reconciliation Services



Special Offers!

All new PRRS customers who sign up for our services will receive:

- Waived \$150 set-up fee; mention coupon code: PRRS

This service is performed by a dedicated Reconciliation Specialist on the PRRS team who will reconcile in your software using secure remote access. Our specialists reconcile, review and prepare monthly three-way reconciliation reports plus a monthly summary report of red flag items. Our specialists are also available to assist with researching and making corrections. We help you keep your escrow accounts clean, current and compliant.

Monthly rates start as low as \$65/month!

Benefits of Using PRRS:

- Saves you money! Our service is less expensive, with monthly rates as low as \$65/month.
- Saves you time! Our service reduces the time spent on non-revenue producing activity.
- Reduces the potential for fraud by providing a separation of duties and a third-party perspective and review.
- Complies with Underwriter Quality Assurance/Audit and State Insurance Audit requirements.
- Our flexible format and knowledgeable staff enable us to reconcile in your existing accounting software.
- Escrow Reconciliation Services are currently available nationwide.

To take advantage of this offer or for more information, contact
Kenny Collier at 804.503.2380 or kcollier@prrescrow.com.

Visit us online at: www.prrescrow.com

Do Not be an easy target!



Proposed 2011 FEO 7 - Using Online Banking to Manage a Trust Account (October 20, 2011)

- *Proposed opinion rules that a law firm may use online banking to manage its trust accounts provided the firm's managing lawyers are regularly educated on the security risks and actively maintain end-user security.*
- End user (in the law office) security
- Recordkeeping requirements
- remaining educated as to the dynamic risks involved in online banking and insuring that the law firm invests in proper protection and multiple layers of security to address those risks
- A lawyer who is managing a trust account has affirmative duties:
 - to regularly educate himself as to the security risks of online banking;
 - to actively maintain end-user security at the law firm through safety practices such as strong password policies and procedures, the use of encryption, and security software, and the hiring of an information technology consultant; and
 - to insure that all staff members who assist with the management of the trust account receive training on and abide by the security measures adopted by the firm.
- Understanding the contract with the depository bank and the use of the resources and expertise available from the bank are good first steps toward fulfilling the lawyer's fiduciary obligations.

Payoffs and Satisfactions of Prior Liens

- The lawyer's engagement letter, the lender's loan closing instructions, and the lawyer's representations to the clients establish the expectations of the clients.
- To avoid any misunderstanding, the lawyer must explain any limitations on her representation. Specifically, if she does not intend to obtain the cancellation of record of the paid deed of trust, she must so advise her clients.
- Explanation must sufficiently to allow the borrowers to make reasonably informed decisions about the representation

FRAUD #1: Unauthorized Wires

CASE #1 - Attorney made a chilling discovery. Someone hacked her computer, gained control of her passwords, and emptied \$35,000 out of her trust account. The Attorney has been working feverishly since the May 10 heist to mitigate the damage.

CASE #2 - Closing attorney receives a fax from their bank showing 4 wires, that were later deemed to be unauthorized, for a total of around \$376,000. Bank was able to pull back one of the wires for about \$50,000, but the other three made it through for a total of around \$326,000. Hacking occurred under the attorney's login name and passwords and not from the bank's end.

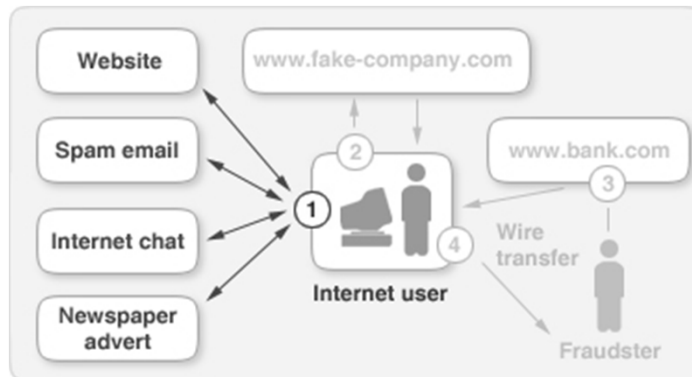
“What happened?” you ask...

FRAUD #1: Unauthorized Wires

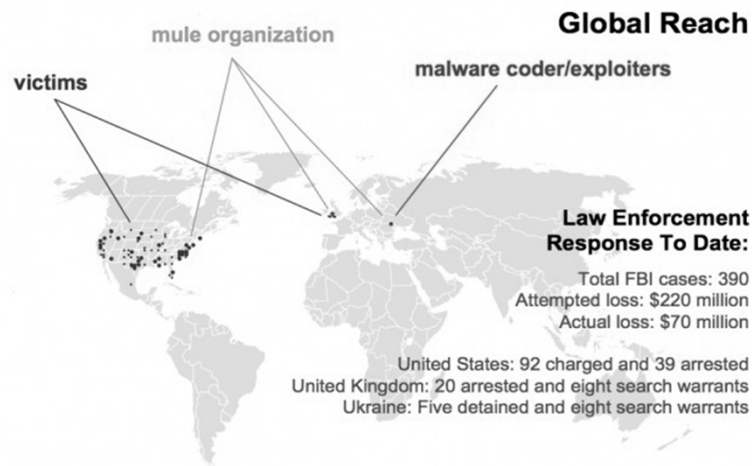
- Case law - if the bank has sufficient security measures in their systems and the wire transfer authorization comes from customer's computer, bank is not liable for the loss.
- How do you prove / disprove that???
- Relationship of attorney with Bank → pressure on Bank to take responsibility
- Regardless of the source of the loss, Bar rules are clear that attorneys must cover all stolen trust money. Trust no one; maintain a high degree of skepticism; and review your bank accounts daily.



“The Mule”



“The Mule” - continued



Your Fraud Vaccine



- ❑ At a minimum have a fax confirmation required for every wire that is reviewed immediately. NOTE: If you use the phone to make the wires, you should be safe.
- ❑ Contact the bank immediately if there is ANY discrepancy;
- ❑ Use “**Positive Pay**” (or Reverse Positive Pay) if at all possible, where you notify your bank what you have issued and they only honor those items;
- ❑ Use one designated computer for your online banking, and NEVER go to any other website on this computer;
- ❑ Some Bar Associations suggest not using online banking at all for fiduciary accounts;
- ❑ Always stay current on all banking security software downloads;
- ❑ Meet in person with the bank often to keep a close relationship;
- ❑ Of course, keep all banking log ins and passwords secret.

Fraud Preventives

- ❑ Use a service like Rynoh Live that does **daily** reconciliation and alerts of **any** wire activity.
- ❑ Research banks and move escrow accounts to the one with the highest security measures, for example:
 - ❑ separate log ins for wires
 - ❑ multiple security “tokens” or passwords
 - ❑ and a two-step process where one person initiates the wire but another person has to confirm it and release it.



What Can You Do?



- Recognize that the buck literally stops with you, so take control. When necessary, cut back quickly on personal and professional expenses. Have difficult conversations.
- Use positive pay and three-way reconciliation methods (Check out www.rynoh.com for escrow management software that bridges your accounting software and your bank site), have checks and balances in place, review your process frequently. Trust but verify.
- ***DO NOT treat reconciling your accounts as a clerical function***, DO understand the reconciling process yourself, do not rely on an internal staffer or an outside company to handle it all.
- If you do use an outside bookkeeping company as support, use one knowledgeable of escrow reconciliations, not necessarily a CPA.

What Can You Do?



- Partner closely with your underwriter staff, submit the required escrow reconciliations promptly, prepare diligently for audits, view the audit process as a way to improve your methods. We see problems that start as mere bank errors and spiral out of control.
- If you are having serious personal and business financial problems seek help from your business partners, church or synagogue, Bar Assistance group, mental health professional, family/friends, seek loans to reimburse your account while cleaning it up if it is out of balance.
- Ask your Chicago Title contact for copies of Fidelity's newsletter *Fraud Insights* reporting escrow fraud experiences.
- Do background checks on anyone who is handling escrow funds, wiring in and out, signatories, preparing checks.