



ASK THE LEGAL EXPERTS

Spam emails and fraud - are you being had?

I receive my daily dose of spam emails from a strange variety of bodies offering me to enjoy fake designer watches at discount prices, small blue tablets to improve my love life, invitations to American casinos, and products to increase the size oftackle!

The spam goes the same direction as the other useless emails - and I don't part with my hard earned cash for products that never would materialise. I am however not universally popular in my approach to whoever sends such "tempting" offers. The amount of phishing today is vast, and nets its rewards across the globe. Organised crime has realised that the days of the sawn off are somewhat old hat, too risky, or the dislike of tights has proved too much. Welcome the Internet and at the press of a button millions of people are contacted through stolen/acquired databases. And as such on a daily basis I am also asked to verify my bank details to someone looking for a quick easy score.

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Similarly I am also regularly asked to reply to the fabled Spanish letter - a ruse originally thought from the 16th century, whereby for the down payment of a certain amount of money one can assist and be paid handsomely for their assistance in allowing a large monetary transaction to occur which has been snarled up due to bureaucracy or some other pretense. All these years later the con is still being used and the Met have no figures as to its success but believe that individual losses amount to thousands if not millions.

What is a certainty is that fraud is the new black for our criminals intent on a rich lifestyle of easy pickings. The simple answer as to why it works? Because there is always someone around to be had - and cast a wide enough net and someone will fall for it. Which brings me nicely onto the central theme of this article - are you being had?

Fraud is of such scary dizzy heights that its true magnitude is hard to imagine - it infects all aspects of life nowadays and you can be fairly sure that somewhere in your business its affecting you too, or will do somewhere down the line. The trouble with it is that the low life perpetrating it doesn't wear a stripey shirt and mask, carrying the old swag bag around - they are perfectly normal and seemingly endearing folk that bob about their work and get on nicely under the radar.

The successful fraudster undertakes his or her scam, in several ways from the very small scale, which in relative terms does not ever arouse suspicion and once satisfied that the system is vulnerable, the scam is committed over and over again, which is often unnoticeable for years if at all; through to the one-off big hit - planned for meticulously and researched carefully. The effects of fraud are staggering in terms of cash flow, profitability and can and often do render businesses critically incapable of salvaging themselves.

Instructed now so often as to be a main part of our work, we are normally called in to assess a situation that has been uncovered and then deal with the dismissal of that employee or director, and then make a recovery against the assets stolen through the courts normally commencing with a freezing order. That assumes a few things - that the money is traceable and that its in a jurisdiction, ideally the UK, that we can get to it. The British Virgin Islands is not one of those places that is accessible and if money has been rooted to a place of sanctuary for the thief then even if the police prosecute (which should be taken for read), the culprit may spend some time at Her Majesty's pleasure simply awaiting pay day later. A far-fetched idea? A bit too John Grisham? Its happening, and its happening now - believe me.

The single most distressing part of a fraud is the final realisation that all those days and nights you have been toiling away at your wit's end trying to build something have been in vain, as one of your trusted colleagues has been stealing from you, right under your very nose. I have seen partnerships literally divide themselves with one half in utter denial that poor Rose the trusted cashier has been helping herself to the cash box for the last 5 years or so to the tune of circa £ 40 K, or that Mike did actually furnish his house on the firm credit card - one table for work, one for Mike's house, etc etc etc and that is despite forensic evidence.

What can you do? A great deal actually, which starts with a good hard look at your internal and external systems. Where are the weak and vulnerable parts, who has access to what, and when and who can access the accounts through fair means or foul?

So when you log on - please don't reach for your wallet to verify your bank account details or indeed purchase some strange sounding tablet that will put the boing back in zebedee, they are easy to spot. Give a thought to protecting your firm - the consequences of not doing so are very sobering.