

The Newsletter from The Network of Independent Forensic Accountants

CYBER FRAUD

A real risk or an irrelevance



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If successful, the ruling is likely to pave the way for further claims.

CYBER FRAUD – A REAL RISK OR AN IRRELEVANCE

Ask yourself this: From which disaster would your firm find it harder to recover, the loss of an office from flood/fire or the loss of its data.

It is perhaps a sobering thought to ask oneself whether there is a greater risk of one's office being destroyed by fire or flood or one's data being seized or corrupted by criminals demanding a ransom fee to restore it. Similarly it is instructive to consider whether most professional firms would find it easier to recover from the loss of its physical premises than to recover from the loss of its computerised data.

to come from clients but which actually originate from hacked email accounts.

“amateurish missives... from African royalty”

Typically the hacked emails look very convincing and are far-removed from the amateurish missives in poor English that purport to come from African royalty. Falling victim to a scam may just be a matter of bad luck but there are certainly steps that can be put in place to minimise the risk. Not only is it important to take preventative measures but, equally, if a firm faces a claim from a client arising from cyber-fraud, it will be of critical importance in the defence of the claim to be able to demonstrate that the firm had taken all reasonable steps to minimise the risk. Merely putting a disclaimer on the bottom of an email may no longer suffice.

“forensic accountancy advice”

Comedian James Veitch recently published an amusing series of exchanges he had had with email scammers (see opposite) but for those who find themselves victims of what are often sophisticated frauds, it is no laughing matter. In some cases the measures of loss are relatively easy to ascertain but in others there can be significant consequential losses. If the victims have been foresighted enough to obtain cyber-crime insurance they may well be able to claim for compensation but are likely to need forensic accountancy advice in establishing the extent of the reasonable recoverable losses. Equally, insurers are likely to need accountancy advice in order to enable them properly to assess such claims.



“the tip of a very large ice-berg”

As professional firms start to ask themselves this question, it is perhaps no coincidence that professional indemnity underwriters are starting to enquire about the procedures their insured clients have in place to guard against cyber fraud. This increased scrutiny has to be seen in the context of an increasing number of cyber-related claims against professional firms. Despite record numbers of such claims, some predict that we are currently seeing only the tip of a very large ice-berg.

Several conveyancing firms have reportedly received fake emails that appear to come from their clients, often late on a Friday afternoon, providing bank account details into which they instruct that the proceeds from property sales are to be paid. Only after funds have been transferred has it become apparent that the clients' email accounts had been hacked and the email instructions had, in fact, not been sent by the clients themselves but by criminals masquerading as them.

It is not only lawyers and conveyancers that have been subject to this type of fraud. In these days of outsourcing, firms of accountants too can find themselves targeted as instructions to pay suppliers are sent to them that purport

(The scammer is posing as an old friend of Veitch's using a similar email address.)

From: Alexandra K
To: James Veitch
Subject: Hi

Alexandra K: Hi, sorry to bother you but I made a trip early this week to London, UK and had my bag stolen with my passport and credit cards in it. The embassy is letting me fly without my passport, I just have to pay for a ticket and settle hotel bills. I was thinking of asking you to lend me some funds. I need to be on the next available flight.

Alex

James Veitch: What??????

Alexandra K: Thanks for your response. I need \$2000 to pay hotel bills and cover my expenses, let me know what you can come up with. I made inquires and was told Western Union would be the best option.

James Veitch: Alex, but how on earth did this happen? I had no idea you were even in London. And two GRAND on hotel bills? How on earth did you manage that? You could have stayed at mine for free! I'm working on getting you the cash.

Alexandra K: Thanks a lot James I promise to pay you back as soon as I get back. Here are the details you will need in sending the funds via Western Union.

James Veitch: To be honest, I'm a bit annoyed you've spent the past week in the lap of luxury and haven't contacted me at all. I thought we were close; what happened? Also, what's your room like? I'll talk to the bank tomorrow.

Alexandra K: Don't be. Please you know my head was filled and I was a bit confused but now you promised to help, my mind is at rest. Won't you be able to get the funds by today please? I really need to get on the next available flight. Let me know.

James Veitch: I know how you feel. If I'm paying the bill though do you think you could at least steal me some towels?

Alexandra K: James, try and get back to me with an update. Let me know if you have sent the funds.

James Veitch: Alex, before I do this, and I want to, but before I do this, just tell me one thing: how was I, as a lover? I've been wanting to know this for ages but haven't ever had the courage to ask.

Alexandra K: James, don't start. I'm in a mess right now and my head aches. Please just get me out of this mess and we will discuss this when I get home okay. Thanks and waiting to hear from you soon.

James Veitch: If that's the way you're going to behave then maybe you can just dig yourself out of this mess. Remember Tuscany? Those huge waves? All I want to know is whether you still love me. Tell me you still love me?

Alexandra K: Okay James, I still remember the old times we spent together and I wish we could do it once more, if we had the chance to. Okay I will never forget the good times we both spent together. Please just get me out of this mess.

James Veitch: But do you love me???

Alexandra K: Yes I do love you James and I will meet you at the airport once all this is clear okay, so just get to a WU and wire the funds so we can meet and spend time together alright. Keep me posted.

Love you

James Veitch: Hi Alex,

Sorry, I've been busy all day today. I did manage to call my bank to make sure I had enough money to cover the hotel bills. The guy I spoke to said that Western Union isn't safe. Don't you think it's better that we meet in person? On the way home I decided to ask you to write me a poem. Nothing large; just a simple one, just for me. Something about Tuscany. I remember writing you one all those many years ago and you never replied to me. It would mean a lot to me.

Alexandra K: Western Union is 100% safe okay or else you don't want to wire the funds to me because I made inquires and was told Western Union is the best way to receive funds. Fast and easier okay so if are still willing to help me out of this just let know.

James Veitch: And the poem?

Alexandra K: I will write you the poem that is no problem but I need to get things straight first okay? Wire the funds so I can get everything done and we can meet. Do you still need the info's or do you still have them?

James Veitch: I'm not doing anything until I get a poem!

Alexandra K: Fine I can see you are not helping matters, thanks for your time.

James Veitch: We'll always have Tuscany.



REFLECTING THE OWNERSHIP OF TRADING PREMISES IN BUSINESS VALUATIONS

Recent experience has highlighted significant differences in the approach taken by business valuation experts to the valuation of trading premises.

It is accepted business valuation theory that, even if a company is to be valued on the basis of its maintainable earnings, it is still necessary to have regard to its assets for the purposes of assessing whether any of them are "surplus". The value of the surplus assets is then added to the value of capitalised earnings to derive a value of the business as a whole.

“large cash deposits”

Surplus assets are often defined as those that are not required to generate the earnings of the business. The most common examples are large cash deposits over and above those required for working capital purposes but other examples might include such assets as investment

properties, yachts, planes or race horses assuming that none were connected with the underlying trade.

In this context, a company's trading premises clearly falls outside the definition insofar as the trading premises are necessary for the generation of the maintainable earnings. For that reason some business valuers make no adjustment to their assessment of capitalised earnings to reflect the ownership of such premises.

“fundamentally flawed”

In the writer's opinion, such an approach is fundamentally flawed as can be demonstrated if one considers two otherwise identical companies, one of which owns its own trading premises and the other of which rents them. In any real world transaction the company that owned its premises would sell for more than the company with

leased premises. Indeed it is frequently the case that businesses sell on terms whereby the purchaser acquires the trade and enters into a lease over the trading premises with the vendor/owner.

For that reason, the writer considers that the appropriate way in which to reflect the value of ownership by a company of its trading premises is to assume a notional sale and leaseback. This involves making a deduction of a notional rent in the calculation of maintainable earnings; capitalising them; and then adding to the result the market value of the premises, net of any mortgages secured thereon.

As a rule of thumb, it is always worth checking that, if a business has been valued and in circumstances in which it owns its own premises, an appropriate adjustment has been made adequately to reflect the additional value that this represents.

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JUDICIAL REVIEW OF COMPENSATION SCHEME FOR MIS-SOLD BANK INTEREST RATE HEDGING PRODUCTS BEGINS

A three day hearing was held at the start of the year to consider the judicial review brought by an Isle of Man property company in relation to compensation offered to it by Barclays as a result of the mis-selling of an interest rate hedging product.

Both Barclays and KPMG, which were appointed by the bank to act as independent reviewers, will be in the spotlight as the court considers allegations that the compensation scheme that was set up by the Financial Conduct Authority in 2013 was flawed.

If the claimant is successful, the ruling is likely to pave the way for a huge number of further claims by businesses caught up in the mis-selling scandal many of whom have been represented by NIFA members.

