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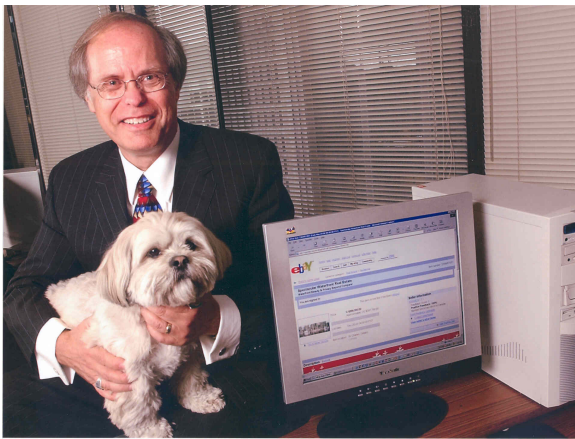
Columnist helps nab fraud suspect

\$380,000 cheque was fraudulent

Vacation property was listed on eBay

Columnist Bob Aaron helped the fraud squad nab a man involved in a bogus Internet real estate deal last month. With Aaron is his dog, Benjy, who joins him every day in his law office.

PHOTO: MICHAEL STUPARYK - TORONTO STAR



I have frequently written in this column about real estate fraud. But until a few weeks ago, I never thought I would be the intended victim of one.

It all started in January when a client listed his property for sale on the eBay Web site.

The property consists of about 1.5 hectares and two dwellings of 1,500 and 1,000 square feet on two adjacent parcels.

The photographs I've seen of the property, which are displayed on eBay (<http://www.ebay.com>, item number 2364451851), show 365 metres of shoreline with breathtaking water views.

Located in St. Charles, Ont., between Parry Sound and Sudbury, the property boasts excellent fishing, access to hundreds of kilometres of waterways, a sauna, Jacuzzi, boathouse, diving board and two garages.

Listing price was \$389,000.

The owner of this paradise is my long-time client Andrew Bartello.

For a fee of only \$165, Bartello placed the property on eBay, and had 8,000 visitors to his listing in just nine weeks.

One of the visitors phoned Bartello and identified himself as a resident of London, England. He agreed to buy the property, and was instructed to forward the purchase money to me for deposit into my trust account.

Within a few days, an uncertified cheque arrived in the mail in the amount of \$380,000 payable to me in trust. The cheque was written on a Royal Bank account of a large Mississauga food product company.

I called my client and told him I would deposit it into my trust account and wait for the cheque to clear.

At this point, there was no written agreement, the purchaser had no lawyer, and the transaction was, to say the least, unusual.

A few days later, I received a call from Bill Sykes of Royal Bank's corporate investigation. He told me the cheque was being returned as a fraudulent item.

It was a real cheque with legitimate signatures, originally payable to a trucking company in the amount of \$300, but had been altered and made payable to my trust account in the amount of \$380,000.

I was told that a cheque of this size would not necessarily raise alarm bells at the company on which it was drawn.

Fortunately very fortunately I had not written any cheques against the \$380,000 deposit, and so nobody lost any money. I called my client to report

the bad news that the funds were bogus, and he instructed me, at the suggestion of Sykes, to call the Toronto Police fraud squad.

I did not need any encouragement to bring in the police. I was shaken at how close I had come to being the victim of a \$380,000 scam.

After some intense consultations with the helpful staff at the fraud squad, it was agreed I would not advise the scam artists that the cheque had bounced. I would see if I could induce them to come to my office in person to face the music.

Exactly 10 days after the cheque was deposited into my trust account, I got a call from a person identifying himself as a doctor from Vancouver. He was calling on behalf of the London resident, the would-be purchaser of Bartello's property.

He told me the purchaser was having matrimonial trouble and his wife no longer wanted the Canadian property she had never seen. He requested that I return the funds and wire them to an account in New York.

I agreed, but vigorously insisted that I needed a signature in person on a mutual release, and that a signature witnessed or notarized outside of Ontario would not be good enough.

The self-styled purchaser called several times to express an urgent need for a refund of the money.

Matters stalled at this point, because neither the would-be purchaser nor his Vancouver associate wanted to take the risk of showing up in person to claim the proceeds. Their concern was justified.

Numerous phone calls and e-mails were exchanged over the next few weeks, and I stubbornly insisted on an in-person signature on a mutual release of the agreement (there never was a written contract).

The purchaser retained a Toronto lawyer to persuade me to change my mind, but I stuck to my original position.

Finally, after I threatened to send the unclaimed funds to the Public Trustee, the would-be purchaser appointed a representative from Calgary who would come to my office in Toronto to sign a release in person.

I exchanged phone calls and e-mails with the man, who gave me his real name, address and phone number in Calgary. We set an appointment for March 25 at 1 p.m. at my office.

Unknown to them, I made arrangements for two members of the Toronto fraud squad to be at my office at the same time.

The man from Calgary showed up and we sat down to sign mutual releases and a direction to wire the \$380,000 to the purchaser's account at Citibank in New York. With me was a young lawyer, Shawn Zuckerman, who was introduced as my assistant.

As we signed the documents, Detectives Dave Yarmoluk and Ian Nichols were waiting in the next office with the door closed. When the documents were signed, Zuckerman notified the detectives that we were finished.

Seconds later, they entered my office with their badges in hand and arrested the man from Calgary.

It was just like in the movies, except it was a real-life sting and I was in the middle of it. They never taught us how to do this in law school. My heart rate returned to normal several hours later.

Charged with fraud is a 47-year-old Calgary man who was known to police in Calgary and Toronto.

The whereabouts of his cohorts is unknown. I handed the fraudulent cheque and the envelope it came in over to the police.

Bartello's country paradise is still for sale (there have been several serious inquiries), my trust account is intact, and I am now trying to concentrate on getting back to my law practice.

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