



# RIDING OUT THE STORM WITH RISK MANAGEMENT

Connor & Partners was established by Olivia and Peter Connor in 2003. They are a law firm that specialises purely in conveyancing matters. One day, Olivia visited the Inland Revenue Department ("IRD") to get a stamp for her client's documents, and whilst there she was informed by a staff of the IRD that the prior stamps her firm obtained on previous Sale and Purchase transactions were counterfeits and therefore rendering the contracts invalid and unenforceable.

Astonished by this revelation, Olivia sought clarification from the IRD officer, who notified Olivia that there have been many reports of ongoing stamp duty fraud in the past week. The officer educated Olivia on how to distinguish the differences between the authentic stamp by IRD and the fake stamp used by the scammers. Anxious that other conveyancing files her law firm were currently handling may have fallen into the scam, Olivia and Peter scrutinised every file to sift out the ones with the fake stamp duty.

To their dismay, a total of 70 files were affected by the fake stamp duty scam. Olivia and Peter were mindful that their clients' interests must be protected. In order to avoid the delay of transactions in the clients' files which would result in larger losses and possible legal suits against them for negligence, they forked out money from their personal accounts to re-stamp all the documents the following day.

In all, Olivia and Peter absorbed a total of RM120,000 for re-stamping the affected documents. Aside from that, they both made separate police reports and also notified the Insurers of the situation, fearing that

there may be files affected that were undetected and any potential claims arising from this fraud. "Fearing that there may be files affected that were undetected and any potential claims arising from this fraud, they both made separate police reports and also notified the Insurers of the situation as required under the COI".

When questioned by Insurers on how their law firm manages the process of stamp duty clearance, the Insurers discovered that Connor & Partners have a precise and detailed procedure. This extends to the preparation of a payment voucher for the issuance of a bank draft which requires both Olivia and Peter's approval beforehand. Once the bank draft is purchased and handed to the lawyer-in-charge, a receipt of acknowledgement is given. Furthermore, a large part of the law firm's internal policy helped rectify the problem and all documents were easily found when needed.

This enabled Olivia and Peter to track their actions, and easily identify the perpetrator of the stamp duty fraud whom turned out to be the law firm's despatch staff, Max. Peter explained that Max had failed to show up for work for 3 days a month prior, and thus was immediately assumed to have resigned. Upon investigation of the perpetrated fraud, it was learnt that Max had sold the law firm's bank draft to a syndicate which operates to steal money from stamp duty transactions between the IRD and law firms.

Due to Olivia and Peter's quick thinking and their ensuing "damage control" which managed the situation, no claims have been made against the law firm or to the partners to date.

## Word to the Wise

**1** First things first in a conveyancing file: Always conduct a land and bankruptcy search to review details of the property and parties involved. Ensure that any encumbrances on the land are immediately identified and conveyed to the client.

**2** All letters sent via post, email and hand must be photocopied and filed into the respective files. Create or make duplicates of each correspondences and documents as backup.

**3** Filing of documents must be done in a proper and timely manner. This is to ensure that any information related to the file is easily found when needed to rectify an issue at hand. Create a list of documents available for each file for easy reference.

**4** “Damage control” is all part of a well-rounded and efficient risk management procedure. When armed with information, lawyers are able to make better and swift decisions. It is evident from this case study that the efficient decision making was key in mitigating any possible severe consequences.

**5** Systematic internal procedures allows for proper disclosure and reporting within the law firm when a potential problem is identified. Aside from the usual prerequisite of adhering to policies and procedures, lawyers should initiate their own risk mitigation strategies that are relevant to their firm.

**6** Use a standard checklist for clients’ files to avoid missing deadlines or omissions. Our Risk Management website, [www.Praktis.com.my](http://www.Praktis.com.my) provides an extensive conveyancing checklists which could be used as a guide.