Nigerian Adventure Excursion In Large-Scale Fraud

by Albert S. Frank, LL.B.

Mark Dobis was an impressive man – he moved ahead rapidly.

Dobis Gains Position of Trust

Dobis joined Electro Canada Limited as a payroll clerk at the age of 30 in 1993. In February of 1994 he temporarily filled the position of accounting manager, and within a month the company promoted him to that position on a permanent basis. As accounting manager he was responsible for preparing the payroll, accounts receivable and payable, and maintaining the company books.

Within 10 months after becoming accounting manager, Dobis began using his position of trust to steal from his employer. Before he was done he stole over $2 million, crippling the company and endangering its survival.

Nigerian Fraud

Between January 30, 1995 and December 24, 1997 Dobis stole about $286,636. He did this by writing company cheques payable to himself, his corporation, and his stock brokerage accounts. The company's owner, Craig Christie, had sole signing authority, so Dobis forged Christie's signature on each cheque.

These funds for Dobis' expenses and losses were minor, however, compared to what he was induced to steal by the Nigerian fraud.

The Nigerian fraud, which takes its name from the fact that it often – though not always – seems to originate from Nigeria, is a fraud that has enjoyed great success. The Court of Appeal for Ontario in the case involving Mark Dobis, ***R. v. Dobis***, comments that this type of fraud "was probably one of the largest frauds of the 1990s, with many victims in several countries."

The way it works is that you receive a letter in somewhat odd and flamboyant language, asking you to assist a person in extracting a massive sum of money from a foreign country, usually Nigeria. The letter typically states or implies that there is a crooked element to this, and that the government of Nigeria would not approve if it knew. Please send your banking information so that the massive sum can be moved through your account, and you will be handsomely compensated. In Dobis' case, he expected to get over U.S. $10 million.

The Nigerian fraudsters get their victims to send money to deal with the problems the fraudsters always claim have arisen. Dobis sent about $1.9 million, for such items as “chemical decoding of cash funds,” insurance bonds, and bail for a participant who had allegedly been detained in Germany.

The Court of Appeal had no sympathy for Dobis as a victim of the Nigerian fraud. As the Court pointed out, Dobis’ intention was to victimize his company as part of a scheme also to victimize “the Government and people of Nigeria. If the scheme had been a real one, U.S. $35 million would have been removed from Nigeria and its people…. in Dobis’ eyes the scheme coupled greed (his) and misery (Nigeria’s) on a massive scale…”

Punishment and General Deterrence

The Court of Appeal for Ontario made it plain in ***R. v. Dobis*** that in cases of large scale fraud committed by persons in positions of trust with devastating consequences for their victims, there will be a significant period of imprisonment. Typically there will be a penitentiary sentence, probably in the range of three to five years.

This is so even if it is a first offence and even if the criminal has sympathetic personal circumstances. In such cases the Court is not concerned with the individual offender and preventing re-offending – individual deterrence – so much as with imposing a sentence that would deter others from offending – general deterrence.

As pointed out by various Courts, large scale frauds are not crimes of impulse. They are normally committed by a person who is knowledgeable and should be aware of the consequences. That awareness comes from the sentences imposed on others.

The Court of Appeal in ***R. v. Dobis*** agreed with these views. Certainly Mr. Dobis fit the normal pattern, as "[there] was a good deal of planning, skill and deception required to execute such a massive theft and fraud over such a long period of time."

Who Defrauds?

What kind of person defrauds? Particularly when it comes to fraud by persons in a position of trust, fraudsters are hard to spot – if they were not trusted they would not have the opportunity to commit their crimes in the first place.

Accounting managers, CEOs, CFOs, bankers, and even some lawyers have committed such frauds. They do it because of greed and gambling, arrogance and alcoholism, drugs and dementia, and to some extent, apparently, for fun.

So after selecting a person who seems trustworthy, it is important not to be blindly trusting. Instead, rigorously apply the appropriate safeguards against fraud.

You never know when a trusted person might decide to go on a Nigerian adventure.

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The above article first appeared in the September, 2002 issue of ***The Bottom Line.***

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Research has NOT been done to see if this article is still good law. Also, this is general information that might not apply to your particular situation.

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