

Email Fraud: How to Claim Money Back?

by
Mr. Dicky Cheung,
Barrister, Garden Chambers



Mr. Dicky Cheung read law at the University of Hong Kong and was called to the bar in 2017. He joined Garden Chambers in the following year.

His practice is focused on commercial, company and contractual litigation. He has represented listed companies, state-owned banks (overseas and PRC), and high net worth individuals in handling complex commercial, corporate and civil litigation with securities, trusts and probate at issues, involving overseas parties and complicated transactions.

Dicky also frequently represents professionals, including insurance agents, estate agents, optometrists etc., in disciplinary proceedings, and their appeal and judicial review proceedings.

Dicky is fluent in Putonghua and regularly handles PRC-related cases and parties.

Email fraud is commonplace in Hong Kong as an active international commercial city. For the unfortunate victim, it is a race with time to get the money back before it is further dissipated. The victim also faces extreme evidential difficulty in terms of tracing. What should the victim do in the civil court to obtain the justice he deserves and promptly?

The speaker has represented both victims and alleged fraudsters in email, telephone, and general fraud cases with amounts ranging from about HK\$100,000 to HK\$620,000,000. He will share his experience and practical tips in handling these cases, including drafting techniques.

The course answers this question with the following issues:

- What are the pre-action steps to obtain sufficient evidence?
- What does "freezing" of a bank account by police actually mean (the "no-consent" regime under the Organized and Serious Crimes Ordinance)? In comparison with Mareva injunction, how should a lawyer advise?
- What are the causes of action, including the theoretical foundation on unjust enrichment, money had and received, constructive trust etc.?
- What is tracing? Is there "backward tracing"?
- What are the reliefs, including a declaratory relief, and compound interest?
- What are the mechanisms for enforcement of a judgment, including a vesting order and Garnishee order?
- How does a lawyer deal with the bank and the police in all the above steps?
- On the flipside, what if a lawyer represents an alleged fraudster?
 1. Can a lawyer apply to the court by way of judicial review to "unfreeze" the money?
 2. Is there a privilege against self-incrimination in civil proceedings?
 3. What is the implied undertaking with regards to information in civil proceedings?
 4. How does a lawyer deal with the Department of Justice for immunity for his client?

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Code: **EVT000000307**

Level: **Intermediate**

Date: **3 July 2020 (Friday)**

Language: **English**

Time: **14:30 - 17:45**
(Reception starts at 14:00)

Accreditation(s): **LSHK 3.0 CPD Points**

Venue: **Kornerstone Institute**
15/F, Hip Shing Hong Centre
55 Des Voeux Road Central
Central, Hong Kong



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