

Fraudsters: How to detect and deal with them?

Eitan Erez advises on how to detect fraudsters proactively and how to deal with them when they have been exposed



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In recent years there has been an increase in frauds around the world.

One need only mention the case of Bernard Madoff, who was sentenced to 150 years' imprisonment in the United States, and the "Carbon Scandal" in Europe (relating to CO₂ emission levels according to the Kyoto Protocol).

As insolvency practitioners, we have an interest in being able to detect fraudsters proactively and in dealing with them when they have been exposed.

In this context, it's good to be aware of several unique characteristics that are common to fraudsters, in order to identify them effectively and expeditiously.

In this article, I shall try to

share some of my experience regarding practical tools to deal with fraudsters.

The State of Israel is no exception to the "tsunami of fraud" (as my colleague David Ingram defined it in *Eurofenix* in 2013), and it has special characteristics that unfortunately can make it a fertile ground for acts of fraud.

The Madoff and carbon scandals have some connection to Israel. In the Madoff scandal, \$110 million found their way to Israel via a mysterious corporate entity and were distributed to some universities. In the carbon scandal, according to media reports, some of the suspects absconded to Israel and France has requested their extradition.

Cases of fraud are usually perpetrated in relatively rich countries where there are large movements of money, some of which is dirty money that people are trying to launder. Israel falls within this definition because of its great economic success in recent years, especially in the fields of hi-tech, smart industries and real estate.

Israel naturally acts as a country that absorbs Jews from all corners of the world as a result of the 'Law of Return,' which grants Israeli citizenship to all Jews who apply for it. In addition, the rapid growth in the population (currently 9,000,000 people, as compared with 600,000 in 1948), the enduring shortage of new apartments and a 'zero interest'

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environment create opportunities for acts of fraud.

When there is a large amount of money and no reason to invest it in banks and people are looking for high returns, a fertile breeding ground is created for all kinds of fraudsters.

In the last five years alone, dozens of fraud scandals have been revealed, some of which are described below.

What does the average fraudster look like and how can we identify him?

Naturally, a fraudster is always a sympathetic and friendly person. He will always greet you cheerfully, dress in impressive clothes, wear a luxury watch and drive around in a fancy new car. It also doesn't hurt to join a golf club.

Moreover, many fraudsters become in a very short timescale – of months, weeks or even days – over familiar and treat you like their best (or only) friend!

A 'good' fraudster is also careful to make charitable donations or at least to make sure people think he makes charitable donations. He likes to be seen at Gala openings of restaurants and clubs, and has a tendency to donate to soccer teams that he does not even support, or to buy a box at a soccer or basketball stadium, in order to appear successful.

The fraudster also likes to eat at expensive restaurants where people will see him and think that he is a successful businessman. By doing this, he creates for himself an image of success, so that naïve people think it is safe to leave their money with him.

Fraudsters are very fond of the use of off-shore companies and every 'respectable' fraudster must own a company in Panama, the British Virgin Islands or Anguilla.

When you examine a fraudster from close up and meet him face to face, there are a few more proven signs:

As long as the fraudster is interested in your money, he will

be very interested in you and pay attention to you.

Once he has your money, he will vanish into thin air and it is very hard to reach him.

Over the years, *from my experience*, I have recognised several additional signs that indicate dishonesty. For example, shifty eyes, head scratching and a weak or sticky handshake, or a partial handshake that does not reach the wrist. This may sound amusing, but believe me, it works!

The methods used by fraudsters are becoming more and more sophisticated all the time, and in recent years many frauds have been perpetrated via the Internet or by faking emails or Facebook pages.

The legal tools for dealing with fraudsters

- The insolvency practitioner (IP) should be innovative, always take the offensive and act quickly.
- A good IP needs a good private detective.
- In relevant cases, he also needs the help of the police or should file complaints with the police.
- Another important tool is the filing of motions to rescind transactions at an undervalue.
- In this regard we should distinguish between transfers that are void and transfers that are fraudulent.
- Most jurisdictions distinguish between two kinds of transfers made by a debtor: a void transfer and a fraudulent transfer.
- Such motions are an effective tool in the trustee's search for assets that can be used to pay creditors.

Additional tools

The filing of ex-parte motions:

Israeli courts have clearly recognised the right of a trustee in bankruptcy to file classified motions.

Seizing mail with court approval (only applies to physical mail, not email):

Under Israeli law, this is possible.



This is an *ex-parte* motion that is filed with the court. By virtue of this remedy, any item of mail that is addressed to a debtor against whom a receivership order has been made will be referred for a period of no more than three months to the trustee. This remedy makes it possible to discover, for example, bank accounts concealed by the debtor. In one case I received by mail gold medals that one bankrupt individual ordered by mail for himself...

Carrying out covert investigations

In order to locate the debtor's assets, covert investigations may be required. A motion regarding these should be filed as an *ex parte* motion for court approval to carry out the investigation, stating the cost and purpose of the investigation, and it will be kept in the court safe.

A monthly payment order

Under Israeli law, it is possible to apply to the court to order a bankrupt debtor to make regular payments to the trustee. This is a particularly effective method of dealing with evasive debtors. If the trustee conducts investigations and accumulates sufficient evidence that the debtor is enjoying a high standard of living, significant payments will be



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