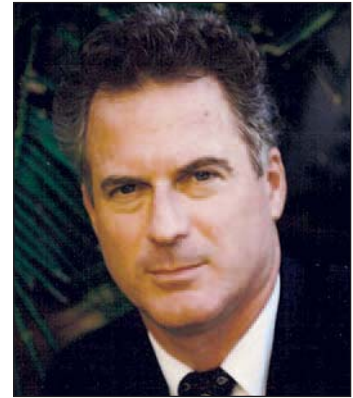


# What happens when introducers fail to vet prospective customers

If certain important steps are not carried out when a new client arrives on your doorstep the consequences can be devastating, as shown by what happened to a respectable and completely innocent major law firm, writes **Kenneth Rijock**, financial crime consultant for World-Check.



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**L**AWYERS SHOULD ENSURE their trusted agents and introducers (those who refer a prospective customer to them) ascertain the identity and intentions of these parties. This includes, but is not limited to, effective customer due diligence and source of funds verification, and adequate record keeping. Your law firm must have confidence in the prior inquiries of its introducers, lest subsequent events cause reputation damage upon the lawyers who have relied upon their source of business. In an age of sensational journalism, in which negative information about prominent subjects is often published without adequate verification, prudent lawyers audit their introducers' due-diligence programs to reduce the chance of being engaged by clients who represent an unacceptable level of potential risk.

Agents and introducers of referrals to law firms include the following:

- Lawyers and law firms, many of whom are located in separate countries to the clients;
- Real estate agents;
- Accountants and accounting firms;
- Bankers; and
- Sales representatives.

The introducers must carefully vet the prospective clients they send to a law firm – to do otherwise can be dangerous and constitutes negligence. A classic case is the recent Brazilian scandal involving local resellers of the products of Cisco Systems, a leading supplier of network equipment and network management. Here is what happened.

Brazilian authorities conducted several arrests, charging that the participants defrauded tax authorities out of an estimated \$US500 million in import duties by using a complex scheme that utilised offshore companies.

Negative press in Brazil blamed the lawyers involved in company formation for the accused defendants, though none were involved in anything more than simple company formation.

The fraudsters engaged the services of reputable, capable lawyers in Sao Paolo and Miami, who in turn retained the prominent first-tier Panama law firm Aleman, Cordero, Galindo and Lee (also known as Alcolgal) to form companies in tax haven jurisdictions. The firm relied on existing professional relationships with the referring lawyers, who were ultimately responsible for identifying and approving the clients, before sending the business to Alcolgal. Unfortunately, the introducers were negligent in discharging their responsibilities to Alcolgal regarding the approval of these clients.

Unknown to the referring lawyers, most likely due to inadequate due diligence, the clients covertly also engaged a Miami immigration lawyer with little international experience to form a domestic Florida corporation on their behalf, which would later be used in a complex tax evasion scheme.

Had Alcolgal known of the extent of the clients' operation, it would certainly have taken precautions to ensure the companies that were being formed would not be used for a criminal purpose, or it could have declined the representation altogether.

It is the responsibility of the agents and introducers referring business to law firms to perform adequate due diligence on all prospective clients prior to transmitting the business onward. The failure to discharge this responsibility can constitute professional negligence, or malpractice, in their respective professions.

Notwithstanding the negative press, no member or employee of Alcolgal was

ever subpoenaed, questioned, arrested, charged or convicted of any crime or violation in connection with the Cisco scandal. In fact, the firm voluntarily submitted to the Brazilian authorities a statement containing all the information it had in its files as soon as it discovered that the companies were being investigated by the authorities and resigned forthwith as registered agents for the companies. It did nothing wrong.

The law firm, which had no involvement in the scheme to avoid paying import duties to the Brazilian government, suffered bad publicity as the direct result of the arrests of clients. Alcolgal had absolutely no connection with the principals involved and were merely providers of corporate services – and were actually victims in this case due to the negative publicity.

It is therefore critical that agents and introducers sending lawyers business do the following:

- Create and operate a customer identification program, including enhanced due diligence when and as needed;
- Should there be financial aspects to the presentation that source of funds provenance be assured;
- Adequate records of these processes be created and maintained;
- An outside periodic audit of the programs be conducted to ensure they are being followed; and
- New business is declined before it is referred to your law firm should the customer identification program reveal the prospective client is unsatisfactory. □

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