

# RAVENSCROFT & SCHMIERER

Solicitors Notary Rechtsanwälte

## Email Fraud and how to get back your money

The email, that blessing and curse of modern life, has given rise in recent years to multiple criminal activity. An example of this is when an unscrupulous individual hack into a person's or company's email account and intercepts correspondence in which directions are given for the transfer of money, for example for payment of goods.

IT IS A COMMON PROBLEM, BUT  
THERE IS A WAY HOW TO GET THE  
MONEY BACK

### 1. The Legal Remedy to Identity Theft

The hacker masquerades as the intended recipient of the money and emails the payee that for some spurious reason payment should now be made to a different account. This is an account, usually in the name of a company and as often as not located in Hong Kong, that the hacker controls. The unsuspecting payer, unaware that his correspondence has been hacked and believing that the email has come from the intended recipient of the money, then proceeds to make the payment to the new account provided. He then discovers that the rightful recipient and intended beneficiary knows nothing of this bank account and hasn't received payment.

### 2. The Legal Remedy To Identity Theft

In such circumstances, the first thing to do is to freeze the account into which the monies have been deposited. This can be done by application to court, with which we can assist you, or through the police. However, the bank where the account is located will not release the money from the account without a court order.

### 3. Obtaining the Court Order

The innocent party should then commence proceedings against the holder of the Hong Kong account for the return of the money. The proceedings can be served on the company at its registered address. Sometimes, if the case is not defended it is possible to obtain a default judgement after the period allowed for the Defendant to enter an appearance has expired. However, increasingly the recipient will put forward a defence that he is the innocent recipient of the money and has disposed of it so cannot make good the payer's loss. This is known as 'change of position'. In such cases it is necessary to continue with the litigation. Usually at the discovery stage, when parties have to produce all the documents they rely on, it is possible to judge whether this defence has merit and whether it is worthwhile proceeding to trial.

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## **Ravenscroft & Schmierer**

Unit 1802, 18/F, Ka Wah Bank Centre

232 Des Voeux Road Central

Hong Kong

Tel: +852 2388 3899

Fax: +852 2385 2696

Email: [teams@rs-lawyers.com.hk](mailto:teams@rs-lawyers.com.hk)