



# YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER  
MICHAEL HOFMANN-BODY

*My articles usually relate to the housing market and changes in law or policy. In this column I want to focus on the issues of frauds and scams.*

The week prior to writing this column I was approached by Natalie (not her real name). Natalie was a new client to the firm and I was the first lawyer she had ever engaged. Natalie was interested in purchasing a retail store selling food products. She told me it had always been her dream to run her own business. She was clearly excited and explained she had the support of her husband and children.

Natalie provided me with a copy of the Agreement for Sale and Purchase. The Agreement had been prepared by a legitimate business broker, and thankfully contained provisions that protected Natalie. Those provisions included a due diligence condition. Natalie wanted my advice as to whether or not she should sign the Agreement.

I reviewed the Agreement and observed that there were a few provisions which were redundant and the Agreement required some improvement, but that those issues should be easy to address. I then advised Natalie on the process required to satisfy

the due diligence condition contained in the Agreement. During that discussion, I asked Natalie how she was planning to fund the purchase of the business (in excess of \$50,000.00). She told me she had funding organised. Something about her answer made me uncomfortable, and I made further enquiries of Natalie. I asked where her funding was coming from, and what portion of it was from her own funds.

I anticipated the purchase price would be paid in cash or a mixture of cash and debt. Before any entity will lend funds to an individual they will want to see that the individual has some "skin in the game". That usually means a cash deposit and some form of security which will ensure the lender is paid in the event the loan is not repaid.

Natalie advised me she had obtained a grant for the full purchase price of the business. This is highly irregular; however, Natalie, who has no experience with buying or selling a business in the past, was not to know this. Natalie genuinely believed she had been preapproved for a government

grant to allow her to purchase this business.

Having never heard of such grants before, I asked Natalie to provide me with more details. She advised me she had contacted an organisation called the New Zealand Small Business Assistance Centre which she had found on the internet. I asked her if she would mind if I Googled the organisation to find out a little bit more about them. The first hit in Google was a paid advertisement for the site. I visited the site, which looked plausible. A video link on the site contained a very credible looking video from an Auckland based company purportedly endorsing the site. While the website looked legitimate, I could not imagine circumstances in which Natalie (who is presently unemployed) would be eligible for a government grant in excess of \$50,000.00 with no experience in running a retail business, or any capital of her own to put into the business.

It is my practice when I am suspicious of an entity or person to Google the entity or person. I usually search and add the word "scam" or "fraud" to the end of my search.



**HomeLegal**  
Taking care of the detail

## We make buying and selling a home easy

When buying or selling your home you need to know that the detail has been taken care of - efficiently and professionally.

HomeLegal is a team of specialist property lawyers. You can be assured HomeLegal will provide the highest quality advice and service backed by years of experience in property law.

We care about getting it right - first time!



For more information contact HomeLegal today on 0508 HOMELEGAL

*HomeLegal is a division of Gillespie Young Watson*

[www.homelegal.co.nz](http://www.homelegal.co.nz)

By searching in this way I immediately got a number of hits involving the fraudulent entity and “Fair Go.” I also discovered the “New Zealand” Business Funding Centre had sites of the same flavour in Canada, the USA, Australia and the UK. Searches on those entities using the word “scam” presented hits including warnings from regulatory authorities in those countries. The fraudulent entity’s modus operandi appears to be to request an up-front fee of between \$200.00 and \$500.00 to determine eligibility for government grants. The entity then advises the client they will likely be eligible for grants and further information will follow in due course. The entity is then impossible to get hold of, does not return calls, and the money is lost to the client.

In this case Natalie had paid \$330.00 to the fraudulent entity on her credit card. With Natalie’s permission, I immediately contacted her bank and asked them what the process was for charging back the payment and for protecting Natalie. I was concerned that once the fraudster had Natalie’s credit card details they would make further charges to the card, which may not be recovered. Natalie’s bank advised me if she promptly contacted them, the payments could be charged back from the fraudster. Natalie’s credit card would then

be cancelled and a new card issued.

Natalie was devastated to learn her dream of purchasing a business was in tatters. I expect it would have been very embarrassing for her to have to return home to her family to advise them she had been duped.

Fraudsters prey upon vulnerable people. They work on the premise that most people are naïve and will believe almost anything. It is incredibly important to carry out due diligence and to query everything about an organisation or person you are unfamiliar with. A simple Google search using the word “scam” or “fraud” will in many cases make

*“It is my practice when I am suspicious of an entity or person to Google the entity or person. I usually search and add the word “scam” or “fraud” to the end of my search.”*

it clear whether or not an organisation or person is really a fraudster.

As an aside, the following day I contacted the Chief Executive of the company giving the video endorsement on the site. The Auckland based company advised me the video they had made with the assistance of a government department was being fraudulently used by the site. They have made complaints to the NZ Commerce Commission which are presently being investigated.

Fraud has wide-ranging effects on the people victimised. There is a risk of loss of funds, identity fraud and other financial and time inconveniences. It is very important to be careful whenever you are providing personal information or making payments to an entity you have not had previous dealings with. Let’s be careful out there!

*“If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz.”*

**Michael Hofmann-Body is a principal of specialist residential property lawyers HomeLegal, Westfield Tower, Lower Hutt. For more information see [www.homelegal.co.nz](http://www.homelegal.co.nz)**

*HomeLegal is a division of Gillespie Young Watson.*