



Expat Counsel

By James Finch and Nilobon Tangprasit

CRIMINAL LAW IN THAILAND

Part LV: Beware of scams II — a suitcase full of money

Last week, we discussed scams in Thailand by foreigners targeting other foreigners and Thais. In the example we gave, someone who presents himself as a representative of a fabulously rich person in another country places a large order of what you are selling — in the example, it was condominiums — on the wealthy individual's behalf.

In such an instance, this person is not a representative at all — he's your handler.

After you pay an originating fee of some kind, he will make an appointment to deliver the money to you. This will be the sum required to pay for the condo units discussed, all in cash. You will go to a hotel room and somebody will deliver this, all in a suitcase in hard currency such as US dollars. The money may be dyed black and you will be asked to wash the dye off.

You might ask what's wrong with this. Can't a buyer pay in cash?

The illegality has to do with the source of the cash.

The money will either be counterfeit or the proceeds of a criminal activity. The most difficult thing about selling drugs or blood diamonds isn't finding buyers, it's finding somewhere to put the cash after the sale has been made.

Think about it. If a criminal is getting a suitcase full of \$100 bills on a daily basis, he can buy the walled estate, the bling, the S-class, the suits, everything for a week's

take. Then what does he do with the incoming cash? He can't just open a bank account and deposit it. That would cause too much suspicion. The money has to be laundered someplace far away.

And that's where you come in. If you deposit it in your company's account without any problems, the money has been laundered. Somebody will emerge to take title, in your case to the condos. The money will have been successfully parked in a safe asset without any record. The condos may eventually be sold, but whoever is selling them will be able to point to the legitimate purchase of the condos from your company as the source of the funds.

Thailand has strict rules against money laundering, set forth in the Money Laundering Control Act BE 2542 (1999).

The act provides that anyone who transfers or accepts a transfer of property (including money, even counterfeit money) connected with certain underlying crimes for the purpose of concealing the origin of the property or the underlying crime is guilty of money laundering. This would include property gained from crimes committed outside of Thailand. The penalties for this offence are stiff.

What are the underlying crimes? Probably what you'd expect: drugs and human trafficking, prostitution, frauds against the

public, banking and securities violations, official corruption, extortion and customs violations. Remember, these could have been committed outside of Thailand and the money just brought into the Kingdom in a suitcase.

The act provides that anyone aiding and abetting the money laundering is also guilty of the above crimes. Anyone providing a place to hide the funds would also be guilty.

Let's say your company's bank won't accept the deposit because it's counterfeit or they suspect the source is illegal. Your handler, once he confirms you're not scamming him, will disappear. You will be the one who is arrested and has to explain to the police why you were trying to deposit a suitcase full of money into your company's bank account.

Would your actions constitute aiding and abetting and/or provide a place to hide ill-gotten funds, which would then make you guilty of money laundering?

If you were an entirely unsuspecting dupe, no. However, it is important to remember that this might be hard to prove. A prosecutor might successfully argue that you really knew you were laundering funds, though nobody said anything about this, because of the situation. Who would conceivably believe that such a huge sum of

money delivered in a suitcase had come from legitimate means?

The loss of the cash in the suitcase would be insignificant to your handler. Thousands of suitcases like it are circulating around the world every day. Many are lost by their owners and the occasional success is worth the risk.

So, if a sale looks too good to be true, or involves an origination fee, don't do it. If a buyer wants to pay a big amount in cash, try to insist on a bank transfer and get references you can check. If this fails and you still want to go through with the transaction, have witnesses who can attest to the fact that the money was delivered by a third person.

You can try telling your handler the money must be delivered directly to a bank officer at the bank by the third party while you and your lawyer are present. If you do this, no one will ever show up, but you'll be protected.

And you'll have blocked the scam. ■

James Finch of Chavalit Finch and Partners (finch@chavalitfinchlaw.com) and Nilobon Tangprasit of Siam City Law Offices Ltd (nilobon@siamcitylaw.com).

Researchers: Sutatip Raktiprakorn and Sitra Horsinchai.

For more information visit www.chavalitfinchlaw.com.

Questions? Contact us at the email addresses above.