

FRAUD ALERT
by John Allen, CA

New Scam – This scam is really just an improvement on the old ones, but is a bit more convincing. Following are excerpts of actual emails between the fraudster and one of our members. Also attached, are 3 documents which form part of the scam.

Please note that at least two members have been approached and have corresponded via email with this person to the point where fraudulent cheques for deposit to trust were received (the member played along with the fraudster even though he was sure it was a scam and the cheque was never deposited). The next step would be for the fraudster to request that the member pay the funds out of trust before the cheque can be determined to be bogus.

> > Dear Counsel,

> > My name is Karen L. Clark. I am contacting your firm in regards to a divorce settlement with my ex husband (David Baker) who resides in your jurisdiction.

> > I am currently on a charitable assignment with my church in Asia. We had an out of court agreement for him to pay \$378,450.00 plus legal fees. He has only paid me \$44,000 ever since this agreement was reached. I am hereby seeking your firm to represent me in collecting the balance from him. He has agreed already to pay me the balance but it is my belief that a Law firm like yours is needed to help me collect payment from my ex-husband or litigate this matter if he fails to pay as promised.

> > Sincerely,

> > Karen L. Clark.

Subject: Re: Possible Representation.

> please send a copy of your agreement for our review

Lawyer X

Subject: RE: CPLA Attached. Send Retainer Agreement.
Date: Tue, 4 May 2010 04:16:17 -0400
From: Karen L. Clark <karen-clairk@hotmail.com>
Reply-To: <karen_clairk@hotmail.com>

Dear Mr. Lawyer X,

Good day to you and thanks for responding to my email. I am aware that retainer fee has to be paid, please send me your firm's retainer agreement so that I can review it, signed and send back to you. Upon receipt of the retainer agreement, I shall make immediate arrangement for the retainer fee to be paid.

Like I mentioned in my previous email, I am currently in Asia on a charitable work with my church in helping out earthquake victims. My full names are Karen L. Clark and my residential address is 944 N. Brainard Street, Naperville, IL 60563. I am a US citizen. What we had was an out of court agreement {CPLA} which was entered into in the state of Illinois. We both used to live together at Illinois before he relocated back to SK after our separation. He owns properties in Florida, New York, and Canada. I shall be returning back in couple of months but due to the urgency of this matter and the need of my settlement to be made to enable me start up a business, I want it to be resolve ASAP without possible litigation.

We agreed under this Collaborative Law Agreement for a onetime cash settlement of \$378,450.00. To his credit, he has paid me \$44,000 but still owing \$334,450.00. Ever since he made a partial payment he has refused to come up with the due balance given one excuses to the other and he have the money to pay but won't just want to pay. He is aware of my intention to seek legal actions. The lawyer that helped me with the matter earlier is retired now.

I will be pleased to provide further information on this matter including the CPLA which is attached. I expect this to be a non-litigation matter. I have already advised him I am planning on retaining a legal firm to litigate this issue if need be. Each time he noticed I am seeking a legal action, he always come up with the notion that he will pay but the moment I withdrew legal action, he will continue with same stories. He has the money but just wouldn't want to pay the balance. I need this money to be able to start up my own business. With your involvement in this matter, I think it will go faster in collecting this fund because I know he doesn't want to be litigated.

This time, I told him I will be contacting a law firm that will retrieve the money from him and that is why I would appreciate if your firm or referral can help in collecting this fund. I am also aware that a retainer fee has to be paid. That is not a problem. If you will prefer your fee to be paid on an hourly rate basis or, on a percentage rate based on what you will collect from him on behalf of me, that will be also fine with me.

Please send me your firm's agreement and also include your firm payment information just in case my ex husband want to make a full or partial payment he owes without further delays or possible litigation.

Sincerely,

Karen L. Clark.

(please see attached letter from ex-husband and cheque)

Subject: Re: Urgent Attention.
Date: Thu, 13 May 2010 11:33:35 -0400
From: Karen L. Clark <karen-clairk@hotmail.com>
Reply-To: <karen_clairk@hotmail.com>

Dear Mr. Lawyer X,

Please could you kindly confirm if funds for the amount of \$89,847.00 that was made payable to your law firm in trust by my ex husband {DAVID BAKER} on my behalf has been received?.

Thanks as I look forward to your email.

Karen Clark.

RECEIVED

MAY 11 2010

May 6th, 2010

Dear _____

The purpose of this is to convey to you my sincere apologies for any inconvenience you might have experienced in respect to the remittance of the balance I owed my ex spouse. It was due to some financial difficulties I was experiencing.

I am in Canada due to my present job. I got home from work few days ago and found out that my Ex Spouse had sent me an email letting me know that you are going to be representing her. I never planned for this to happen. As soon as I reviewed the case agreement, it was clear that somehow her request for the balance funds to be remitted immediately had not been taken into first priority condition. the only possible explanation I can give is that, I have recently had a number of some key changes and financial negatives, which might have resulted in her monies not being remitted at time stated on the CPLA Agreement.

Consequently, I have directed my financial institution to draft a payment of a sufficient amount to you which is attached to this letter, and I plead that this case is handled strictly by a payment plan that we've agreed on. Because of this serious oversight, and as a testament to my appreciation for her as my ex wife, I am going to provide you with the utmost ability to have remainder of the funds owed, remitted ASAP.

Your Sincerely,

David Baker.



HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

CHASE 

11999409533 ⁷⁶⁻¹³
830

Date 05/06/2010

Remitter **DAVID BAKER**

Pay **EIGHTY-NINE THOUSAND EIGHT HUNDRED FORTY-SEVEN DOLLARS AND 00 CENTS**

\$ *****89,847.00 ***

Pay To The
Order Of

Drawer: **JPMORGAN CHASE BA, N.A.**

Michael Andrews

Senior Vice President
JPMorgan Chase Bank, N.A.



⑈ 1199940953⑈ ⑆083000137⑆ 758661375⑈

Collaboration Law
Participation Agreement
(If Children are included, Includes III)

DAVID M. BAKER

_____ and

KAREN L. CLARK

_____ "the Parties"

And their Lawyers:

JENNIFER HARPER

_____ and

ANDREW ROSENBERG

_____ "the Lawyers"

Have chosen to enter into this Agreement to use the principles of the Collaborative Law Process to settle the issues arising from the dissolution of their relationship.

I. Purpose

The primary goal of the collaborative Law Process is to settle the outstanding issues in non-adversarial manner. The Parties aims to minimize, if not eliminate, the negative economic, social and emotional consequences of protracted litigation to themselves and their family. The Parties have retained collaborative lawyers to assist them in reaching this goal.

II. Communication

The Parties intend to effectively communicate with each other to efficiently and economically settle the dissolution of their relationship. Written and verbal communications will be respectful, constructive and will not make accusations or claims not based in fact.

It is agreed that communication during settlement meetings will be focused on the economic and parenting issues in the dissolution and the constructive resolution of those issues.

The Parties are encouraged to discuss and explore the interest they have in achieving a mutually agreeable settlement, and each is encourage to speak freely and express his or her needs, desires, and options without criticism or judgement by the other. Although the parties should be informed by their lawyers about, and may discuss with Each other, the litigation alternatives and the outcomes they might attain, neither Party Nor their lawyers will use the threat to withdraw from the process or to go to court as a means of achieving a desired outcome or forcing a settlement.

III. Children's Issues

In resolving issues about sharing the enjoyment of and responsibility for any children, the parties agreed to make every effort to reach amicable solutions that promote the children's best interests.

The parties agreed to act quickly to mediate and resolve differences related to the children to promote a caring, loving and involved relationship between the children and both parents.

The parties acknowledge that inappropriate communications regarding their dissolution can be harmful to their children. They agreed that settlement issues will not be discussed in the presence of their children, or that communication with the children regarding these issues will occur if it is appropriate and done by mutual agreement, or with the advice of a child specialist.

The parties agreed not to make any changes to the residence of the children without first obtaining the written agreement of the other party.

IV. Participation with Integrity

Each participant shall uphold a high standard of integrity, and shall not take advantage of inconsistencies or miscalculations of the other but shall disclose them and seek to have them corrected.

V. Negotiation in Good Faith

The parties and their lawyers agreed to deal with each other in good faith and to promptly provide all necessary and reasonable information requested. No formal discovery procedures will be used unless specifically agreed to in advance by the parties.

The parties acknowledge that by using informal discovery, they giving up certain rights, for the duration of The Collaborative Law Process, including the right to formal discovery, formal court hearings, restraining orders and other procedures provided by the adversarial legal system.

They give up these measures with the specific understanding that both Parties make full and fair disclosure of all assets, income, debts and other information. The Parties acknowledge that participation in the Collaborative Law Process, and the settlement reached, is based upon the assumption that both Parties have acted in good faith and have provided complete and accurate information to the best of their ability. The Parties agreed to provide sworn statements making full and fair disclosure of their income, assets, and debt if requested.

VI. Cautions and Limitations

In electing the Collaborative Law Process, the Parties understand that there is no guarantee that the process will be successful in resolving their case. They understand that the process cannot eliminate concerns about any disharmony, distrust or irreconcilable differences which have led to the current conflict. While intent on striving to reach a cooperative solution, success will

ultimately depend on our commitment to making the process work. The Parties understand that they are still expected to assert their respective needs and interests and their respective lawyers will help each of them do so.

The Parties further understand that while the Collaborative Lawyers share a commitment to the process described in this document, each of them has a professional duty to represent his or her.

VII. Experts and Consultants

When appropriate and needed, the Parties will use neutral experts. The Parties will agree in advance of retaining expert as to how the costs of the third party expert will be paid. Unless the parties agree otherwise, the expert report shall be covered by the confidentiality clauses.

VIII. Divorce Coaches, Child Specialist, and Financial Planners

When appropriate and as needed, the parties will use the services of one or more of the following professionals: Divorce Coaches, Child Specialist, Financial Planner (Collectively referred to as "the Collaborative Professional"). When a Collaborative Professional is engaged, the parties agree that the Collaborative Professional and the Lawyers may engage in whatever discussions necessary for solution of the case. In the event that the Collaborative Law Process comes to an end, the Confidentiality provisions as set out in paragraph XIV of this Agreement apply to the Collaborative Professionals.

IX. No Court Intervention

Unless otherwise agreed, prior to reaching final agreement on all issues, no writ or statement of claim will be filed or served, nor will any other motion or document be prepared or filed which would initiate court intervention.

X. Disqualification by Court Intervention

The Parties understand that their Collaborative Lawyers representation is limited to providing services within the Collaborative Law Process. Thus, while each lawyer is the advisor of his or her client and serves as the client's representative and negotiator, the Parties mutually acknowledge that both lawyers, and any one in each lawyer's office, will be disqualified from representing them in a contested court proceeding against the other spouse.

XI. Withdrawal of Party from Collaborative Law Process

If a Party decides to withdraw from the Collaborative Law Process, prompt written notice shall be given to the other party through his or her lawyer. Upon termination of the Collaborative Law Process by a party or a lawyer, there will be a thirty (30) days waiting period (unless there is an emergency) before any court hearing, to permit the parties to retain new lawyers and make an orderly transition. All temporary agreements will remain in full force and effect during this period. The intent of this provision is to avoid surprise and prejudice to the rights of the other party. It is therefore mutually agreed that either Party may bring this provision to the attention of the court to request a postponement of a hearing.

If a party wishes to withdraw from the Collaborative Law Process with their current lawyer, but retain a new lawyer to continue with the Collaborative Law Process, the Party shall give prompt written notice to the other party through his or her lawyer, of their intention to withdraw and obtain a new lawyer. The new lawyer shall execute a new Collaborative Law Participation Agreement within thirty (30) days of the party giving notice. If a new agreement is not executed within thirty (30) days, then the other party shall be entitled to proceed as if the Collaborative Law Process were terminated as of the date written notice was given.

XII. Withdrawal of Lawyer from Collaborative Law Process

If either lawyer withdraws from this case for any reason excepts those set out in paragraph XIII herein, they agreed to do so promptly by a written notice to the other party through his or her lawyer. This may be done without terminating the status of the case as a Collaborative Law case.

The part whose lawyer has withdrawn may elect to continue in the Collaborative Law Process and shall give prompt written notice of this intention as well to the other party through his or her lawyer. The new lawyer shall execute a new Collaborative Law Participation Agreement within thirty (30) days of the lawyer first given notice. If a new agreement is not executed within thirty (30) days, then the other party shall be entitled to proceed as if the Collaborative Law Process were terminated as of the date the first written notice was given.

XIV. Confidentiality

All communication exchanged within the Collaborative Law Process will be confidential and without prejudice. If subsequent litigation occurs, the Parties mutually agree:

- A. That neither Party will introduce as evidence in Court information disclosed during the Collaborative Law Process for the purpose of reaching a settlement, except documents otherwise compellable by law including any sworn statements as to financial status made by the parties;
- B. that neither Party will introduce as evidence in Court information disclosed during the Collaborative Law Process with respect to either Parties' behaviour or legal position with respect to settlement;
- C. that neither Party will ask or subpoena either lawyer or any of the Collaborative Professionals to Court to testify in any court proceedings, nor bring on an application to discover either lawyer or any of the Collaborative Professionals, with regard to matters Disclosed during the Collaborative Law Process;
- D. that neither Party will require the production at any Court proceedings of any notes, records, or documents in the lawyer's possession or in the possession of one of the Collaborative Professionals; and the Parties agree that these Guidelines with respect to confidentiality Apply to any subsequent litigation, arbitration, or other process for dispute resolution.

The confidentiality clause does not apply in the event that a Party or Collaborative Professionals is obliged by law to report to the Superintendent of Family and Child Services information arising out of the collaborative process which gives the party or Collaborative Professionals reasonable grounds to believe that a child may be in need of protection.

XV. Rights and Obligations of Settlement

Although the pates have agreed to work outside

A. neither Party will dispose of any assets except by an agreement in writing. The court system, the parties agree that:

B. neither Party may harass the other Party; and

C. all available insurance coverage must be maintained and continued without change in coverage or beneficiary designation.

D. it is further agreed that David M. Baker is to pay Karen L. Clark the sum of \$378,450.00 USD (Three Hundred Seventy Eight Thousand Four Hundred Fifty Dollars Only), from the period dated December 16th, 2008 to June 16th, 2009.

XVI. Enforceability of Agreements

In the event that the parties require a temporary agreement during the Collaborative Law Process, the agreement will be put in writing and signed by the Parties and their lawyers. If either Party withdraws from the Collaborative Law Process, the written agreement is enforceable and may be presented to the court as a basis for an Order, which the Court may make retroactive to the date of the written agreement. Similarly, one of final agreement is signed, if a Party should refuse to honour it, the final agreement may be presented to the Court for any subsequent action.

XVII. Acknowledgment

Both Parties and their lawyers acknowledge that they have read this Agreement, understanding its terms and conditions and agreed to abide by them. The Parties have chosen the Collaborative Law Process to reduce emotional and financial cost. And to generate a final agreement that addresses their concerns. They agreed to work in good faith to achieve these goals.

Dated: 12/16/2008
DAVID M. BAKER
David M. Baker

Jennifer Harper
JENNIFER HARPER

Lawyer for David M. Baker

Dated: 12/16/2008
KAREN L. CLARK
Karen L. Clark

Andre Rosenberg
ANDRE ROSENBERG

Lawyer for Karen L. Clark