

We all agree that Kos, Jaynes, and Oehmke were the principals behind the fraud.

**Question before the court**

Whether a lawyer who followed instructions from his clients to wire transfer funds can be held liable for the junk faxes that were sent as a result of those transfers.

<b>Evidence</b>	<b>Legal significance</b>
400 pages of wire transfers! 5 or 10 might be excusable, but not 400.	Should have known
The wires were authorized not by the clients, but by an offshore person	Should have known.
The money got wired in from strange sounding names, all in foreign jurisdictions	Should have known.
Large \$ over short time period	Should have known.
Ross knew clients were in business of promoting penny stocks (from emails)	Should have known.
It was the perpetrators that terminated Ross, not Ross that resigned when he “found out”	Ratification through failure to repudiate.
The wire transfers themselves indicted they were for faxes. Since \$400K in faxes, how can those be legal faxes?	He knew.
Ross wrote the press release on Aug 11	Establishes an unambiguous point at which Ross knew what was going on.
The \$2M wire to Oehmke after Ross wrote the press release (and thus knew they were crooks) is an act that legally makes Ross a co-conspirator.	Makes Ross a conspirator since this was a criminal act that they did with full knowledge it would help the conspirators hide their funds from the authorities
Florida Bar rules require knowledge of what the wire was for	Should have known

**Law: conspiracy**

- Conspirator is someone who knows and takes action to further the conspiracy

- Co-conspirators are liable for all torts committed in furtherance of the objectives of the conspiracy
- Even lawyers be held to be a conspirator if you merely act in accordance with the conspiracy based on circumstantial evidence which is why lawyers should always scrutinize the motives of their clients.

***Law: direct liability***

- If you are an agent and you knew *or should have known* what you were doing, you are liable, e.g., a bank isn't but someone who knows purpose of a wire is.
- Lawyers are required to know the purpose of the wires from customer trust accounts (Florida Bar rule)