

Condo Deposit Fraud results in Criminal Conviction for Developer's Lawyer

A Toronto lawyer, Meerai Cho, was recently convicted of criminal breach of trust and had her licence to practice law revoked for her part in facilitating the theft of \$13,000,000 by her client, a condominium developer. We [previously blogged](#) about this in May 2015.

The stolen money was comprised of deposits paid by over 140 purchasers of units in a mixed-use commercial/residential condominium to be built in North York, Ontario. As reported by the Law Society of Upper Canada (the "**Law Society**"), most purchasers lost between \$50,000 and \$100,000.

As set out in Section 81 of the Condominium Act, 1998 deposit moneys paid to a condominium developer are to be held in trust either by the developer's lawyer or by an escrow agent who has entered into a deposit trust agreement. As the deposits do not belong to the developer, they cannot be used to fund the construction of the condominium development unless the developer has obtained deposit insurance that will protect the purchasers' deposits and the developer strictly complies with the terms of the insurance policy. This legislation was enacted specifically to protect purchasers.

Over the course of several years at the request of her client, Ms. Cho took deposit moneys from her trust account over 90 times and sent it to her client, knowing that there was no deposit insurance in place and that doing so was a contravention of the Condominium Act. (Ms. Cho naively relied on her client's promise to repay the money.) This also constituted a breach of the Law Society's Rules of Professional Conduct, which prohibits a lawyer from knowingly assisting in dishonesty, fraud, crime or illegal conduct of another person.

Construction of the condominium never started and the developer fled the country with the money. Ms. Cho, herself, did not personally benefit from the theft.

Ms. Cho pleaded guilty to the criminal offence of breach of trust and was sentenced to three and an half years in jail, and a few weeks after her criminal conviction, her licence to practice law was revoked. As set out in the [Law Society's decision](#): *"Her plea to this offence means that she has admitted that she had intent: in other words, that she either knew, was reckless or was willfully blind to the fact that she was participating in a fraud."*

Fortunately for the purchasers who were the victims of this theft, they can make a claim for compensation from the Law Society Compensation Fund. This fund, which is funded entirely by licensed lawyers and paralegals, compensates those who have suffered financial losses due to the dishonesty of licensed lawyers or paralegals. However, there is a maximum on the amount of the compensation grant that can be paid to a claimant. For losses resulting from monies given to a lawyer between April 24, 2008 and September 21, 2016, the maximum compensation grant is \$150,000. Monies paid earlier are subject to the maximum in place at the time of payment. Hopefully most of the victims will be compensated for their financial loss, but nothing can compensate them for the emotional trauma they experienced.

Ms. Cho was also ordered to repay the Law Society up to \$9.7 million dollars for any compensation paid by the Law Society. As she has been sent to prison and has lost her licence to practice law, her ability to earn a livelihood has been curtailed, and it is not likely that she will be able to repay the Compensation Fund in full.

As the provisions of [section 81 of the Condominium Act](#) and the Law Society Rules of Professional Conduct are both aimed at protection of the public, it appears that both may not go far enough to protect purchasers who may be left high and dry.