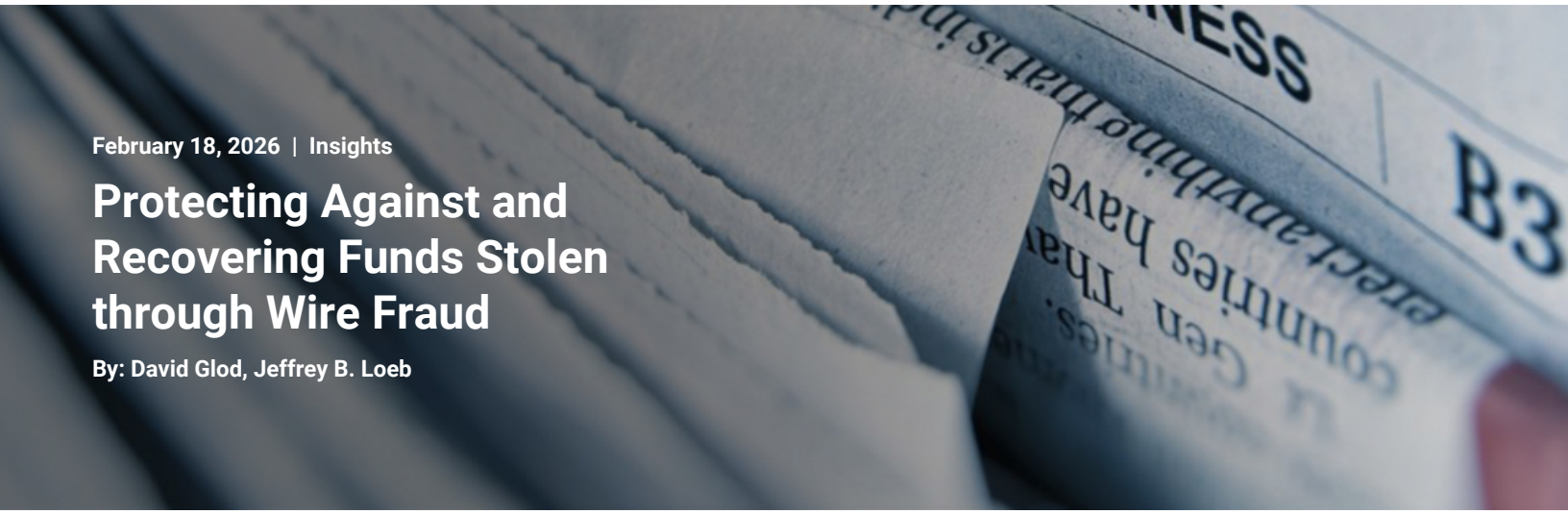

February 18, 2026 | Insights

Protecting Against and Recovering Funds Stolen through Wire Fraud

By: David Glod, Jeffrey B. Loeb

As the wire fraudsters get more sophisticated, those who wire funds must be more vigilant.

In the last 45 days, we have been retained to represent victims of wire fraud totaling over $10,000,000 in the aggregate. In each case, the party wiring the funds thought that the wire transfer instructions they were relying upon were legitimate, only to find out soon after the wire had been sent that they had been scammed.

In all three cases, the wire instructions were received by email, replacing previously circulated wire instructions. The changes, while sometimes subtle, were noticeable if anyone had taken the time to look. Banks were changed. A mailing address to forward a paper check was deleted. A single letter was added to the domain name in an email address so that return correspondence would go to the fraudster.

In all of our cases, it turned out that someone's email had been hacked. If you haven't updated and upgraded your IT security recently, you should. If you haven't had your IT provider audit your system for vulnerability, you should. If you haven't upgraded to two-factor authentication for logins to your system, you need to as this is now the norm.

The other commonality in our cases was that the wire instructions were not properly verified by the sending party. When you receive wire instructions, you must confirm that they are accurate before you wire the funds from your bank account. One of the most effective protections against wire fraud is that if you receive wire instructions for a payee by mail, fax or email, you must verify the accuracy of the instruction by **calling the payee** at a phone number **obtained independently from any phone number shown in the package**. That is, call the phone number listed on the receiving bank's website, not the one included with the wire instructions. If the receiving bank has been changed, then someone who can personally identify the recipient party needs to confirm that they intended this change—**by phone or in person**.

The American Land Title Association (ALTA) has prepared a checklist for securely processing outgoing wire transfers that we recommend that you use in your verification

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process. As an added check, we recommend having a second person in your office who is not involved in the transaction review the verification package before the wire is initiated.

The above link also includes resources on how to respond to a wire fraud or other cybersecurity incident. The most important thing to remember is that if you are in a situation where funds have been diverted, time is of the essence. Do not wait. Notify your client and the parties to the transaction. Notify both the sending and receiving banks. Notify the FBI and the local police. Notify your insurance company. In our cases, a significant portion of the funds have been recovered because parties acted timely.

If you have questions about how to protect against or respond to incidents of wire fraud, please contact Jeffrey B. Loeb or David Glod.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorneys, Jeffrey B. Loeb or David Glod.

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