

Doctor Who?

Avoiding Fraudulent Opinion Experts

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Recently a naive Michigan attorney employed an expert witness to provide opinions and testimony to support a plaintiff's allegations of negligent security. This expert, who was not board certified as a Certified Protection Professional (CPP), nevertheless made a good appearance and boasted a Ph.D. He was a Doctor of Philosophy, Criminal Justice Management, *summa cum laude*.

Understandably, initially this attorney likely assumed the expert had obtained his Ph.D. from a well known and respected Pennsylvania university since the curriculum vitae neglected to reveal the university's location. However, the expert's educational qualifications were later clarified during his deposition when he admitted that this Ph.D. had not been obtained in Pennsylvania, but from an obscure entity located in Louisiana with a strikingly similar name.

Even though it appears obvious this Louisiana school had selected its name to capitalize on the reputation of its prestigious Pennsylvania namesake it was, after all, an accredited university, so why would this expert's credibility suffer?

Basic research revealed this Louisiana university was a mail order diploma mill, whose five member faculty held one bachelor's degree between them and the so-called accrediting body was also established by this pseudo university's management. Then, subsequent to the expert "earning" his Ph.D., the owner of the university was indicted on 18 counts of criminal activity including mail fraud, wire (telephone) fraud, and tax fraud. Following a plea bargain, he was sentenced to five years in federal prison.

During the criminal investigation of this bogus school's owner, federal authorities discovered bank deposits in excess of \$35 million. Shell companies, questionable religious and nonprofit structuring and money laundering activities were developed. Over a dozen bank accounts were located by the FBI--some of them offshore--and the accounts were used by the president of this spurious university to buy drugs, produce pornographic movies, and establish a quasi-militia organization with anti-government objectives. It was also interesting to note that once incarcerated, the creator of this scam went back into business, operating a new "university" long distance with the help of his spouse. The new campus was comprised exclusively of a private mail box.

I suspect that if this expert is utilized during trial, jurors who don't rate him as an out-and-out fraud will view him as lacking security expertise if he, himself, was gullible enough to invest substantial funds to obtain a worthless piece of paper.

Furthermore, by continuing to use this fraudulent credential after the true nature of the school was publicly exposed, a question would arise in regard to this expert's integrity and competence, regardless of any other credentials or experience.

Even so, if this trial were to take place in Oregon, the situation would be worse. In that state, continuing to claim an invalid degree such as this, after a warning, exposes the violator to penalties including prosecution for a Class B misdemeanor under ORS.348.992.

How to Avoid Inadvertently Hiring an Expert with a Fraudulent Degree

It is a wise policy for attorneys to initially clarify exactly which school the expert attended while earning his or her credentials. Most of the invalid diploma mills use names almost identical to those of reputable universities. It should also be determined whether the degree was obtained in a traditional classroom setting or through a distance learning program.

In cases where degrees were obtained by distance learning, attorneys should ensure that the program required the submission and evaluation of assignments and that testing occurred. Some unsophisticated would-be experts may truly believe it is possible for them to obtain a legitimate degree without attending classes or performing any study activity--simply by using credit from lifelong career experience. . . . It isn't!

Most computer users are familiar with the spam messages offering fake degrees. Typically for a fee, often as much as \$3,000, these spammers will provide a diploma or degree based on current knowledge and what they term "life experience." No books! No courses! No classes! No studying! Options often include: MA, MSc, MBA, PhD, PsyD, EdD, DdD, etc. In fact, for the right price anyone can "earn" a JD in this manner. Many of these offers end up with an enticement to the effect that, "Best of all, ANYONE can get a degree!" However, since law firms generally filter out spam, attorneys may not be aware of the proliferation of these offers.

Obviously, all foreign degrees should be viewed with skepticism until thoroughly investigated. The Web site of Britain's Ashwood University, for instance, is quite revealing and can be viewed at <http://www.ashwooduniversity.net>

One easy way for attorneys to guard against inadvertently contracting with an expert with a spurious degree is to visit the Web site of the Oregon Student Assistance, Office of Degree Authorization at <http://www.osac.state.or.us/oda/unaccredited.html> and checking the Illegal Degrees list.

Closer to home, another way to avoid this embarrassing situation is to check the following Web site: http://www.michigan.gov/documents/Non-accreditedSchools_78090_7.pdf.

While this site was not specifically developed with attorneys in mind, it contains a list of approximately 600 questionable colleges and universities. Degrees from the institutions listed will not be accepted by the Michigan Department of Civil Service as satisfying any educational requirements indicated on job specifications. It would seem prudent for attorneys to reject experts touting credentials that would not fulfill civil service requirements. Furthermore, this site lists 40 - 50 unapproved accreditation bodies noting that these are not approved by the U.S. Department of Education and therefore any so-called "accreditation" by these bodies is meaningless.

Additionally, it is always advisable for attorneys to authenticate the credentials of prospective experts directly with legitimate schools allegedly attended. Simply viewing a degree is not adequate verification, since fake credentials may be issued with an easily-removed sticker indicating the document is to be used exclusively for novelty purposes.

To make matters worse, still another variation of this scam exists. For a modest fee, businesses known as "lost diploma replacement services" will provide diplomas from just about any college or university to anyone signing a disclaimer stating they had earned the degree, but mislaid it.

The unwitting use of an expert witness whose credentials are fraudulent or deceptive is risky business, since a case could be reopened if this expert's lack of credibility is exposed at some time in the future.

Attorneys interested in more information on this subject can find a wealth of information available in books and articles by the man who is probably the most knowledgeable concerning this scam, John Bear, a former consultant to the Federal Bureau of Investigation's DipScam (diploma scam) Task Force.