

Emerging Leader Award established to recognize new and young lawyers

BY NICHOLAS P. SHAPIRO AND KENDRA L. BERARDI



On July 13, REBA's board of directors voted to establish a commendation for new members, the Emerging Leader Award.

The award will honor those new members of REBA, who have been members of the bar for 10 years or less and who have demonstrated a level of involvement, excellence, collegiality, ethics and integrity that exceeds expectations for practitioners at their experience level.

As the award's name suggests, honorees are young or new lawyers in the real estate bar who have exhibited promise as future leaders of the association.

REBA's adoption of the Emerging Leader Award comprises the latest step taken by the association toward greater new and young lawyer outreach. It also reflects the changing reality of the practice of law, during what was an incredibly difficult economic time for the profession in the last decade, the effects of which are still being felt by junior lawyers today.

With this award, REBA's leadership has acknowledged that the changing economic landscape has created new challenges for advancement.

The conventional career trajectory of joining a practice, apprenticing under a good mentor, focusing on being a good lawyer and paying your dues, is no longer sufficient for newer and younger peers.

That is not to say that good mentoring and a focus on good lawyering are unimportant – they remain

vital – but are not enough to allow young lawyers to thrive. Today, based on the explosion in size of annual law school classes in the mid-2000s and the significant employment contraction that recently besieged our industry, all of these courses of action remain necessary; however, more is now expected.

New and young lawyers are expected to do all of these things, but also to formulate business plans and marketing strategies earlier in their careers, as the legal market has continued to get more competitive, through the economic downturn and ascendancy of social media as a potent marketing tool for all small and large businesses.

And, while the particulars and formalities of these demands may change depending on the size of firm, we can attest as attorneys at big and small firms, a significant added focus towards client development and marketing, from the start, is something that distinguishes this moment in the practice of law.

Added to these pressures is the staggering student debt that many new and young lawyers experience as a result of hyperinflation in higher education costs. It is truly a tough time to be a new or young attorney. To its immense credit, REBA's leadership has recognized that, with these added demands, new and young members of Massachusetts' real estate bar, who, despite these additional pressures, contribute in a meaningful way to REBA's mission and focus, deserve additional recognition with the Emerging Leader Award.

This award is not the first step REBA has taken in heeding the needs of its newer and younger membership, and in responding to significant changes and trends in the legal marketplace.

In 2013, REBA created the New Lawyers Committee, now Section. Since that time, REBA New Lawyers Section has put on various substantive open meetings and programs, geared to the unique needs of new and

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With this award, REBA's leadership has acknowledged that the changing economic landscape has created new challenges for advancement.



CFPB's McClung to deliver keynote at annual meeting

Tricia McClung will deliver the luncheon keynote address at REBA's Annual Meeting and Conference on Nov. 7 at the Four Points by Sheraton in Norwood.

An expert on the Consumer Financial Protection Bureau's TRID (TILA-RESPA Integrated Disclosure) Rule, McClung is assistant director for mortgage markets at the bureau and a frequent speaker on residential mortgage regulatory matters.

McClung is responsible for articulating a fact-based, up-to-date perspective on current and future dynamics on the markets for origination and servicing of mortgages and home equity loans. Communicating with various mortgage industry participants, she is deeply involved in the bureau's rule-making process, particularly in the TRID rule, implemented last October. McClung will discuss pending revisions to the TRID rule on its one year anniversary.

Prior to joining the bureau, Tricia served at the Federal Housing Administration in various senior leadership positions responsible for FHA credit policy, technology, outreach and communications in the administration's single-family loan endorsement business.

The bulk of McClung's mortgage market career, more than 23 years, was spent at Freddie Mac, where she led numerous strategic efforts implementing policy, systems, product development, training, industry outreach, marketing and mission.

To register for REBA's Annual Meeting and Conference, go to https://intus.reba.net/intus/event3/signup.asp?event_id=388



TRICIA MCCLUNG

Business email scams target real estate lawyers

BY MICHAEL P. KELLY

Editor's note: Michael Kelly will be a panelist hosting an hour-long breakout session, "Cyber Scams Targeting Real Estate Attorneys," at REBA's Annual Meeting and Conference on Nov. 7 at the Four Points by Sheraton in Norwood. To register for the program, go to www.reba.net.

The FBI Boston Division is warning of a dramatic rise in business e-mail compromise scams or "BECs," which target businesses of all sizes and types, and have resulted in massive financial losses in Boston and other cities. Globally, since October 2013, more than \$3.1 billion in actual and attempted losses have been reported.

The scammers go to great lengths to spoof a company e-mail or use social engineering to assume the identity of the CEO, a trusted vendor, or a person in a position of authority within a company.

Their research employees who manage money and use language specific to the company they are targeting, then they request a wire transfer to an account controlled by them. Common recipients of these e-mails are real estate



agents, title companies and attorneys in the midst of real estate transactions, bookkeepers, accountants, controllers and chief financial officers.

The perpetrators of this fraud, believed to be members of international organized crime groups, primarily target businesses that work with foreign suppliers or regularly perform wire transfers, and they use domestic bank accounts to funnel money off shore.

According to the Internet Crime Complaint Cen-

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Benefits and ethics of interacting on social media

BY KIMBERLY A. BIELAN



The use of social media is gaining traction in the legal profession, with attorneys frequently posting blogs, writing articles and sharing articles of interest.

As co-chair of REBA's Strategic Communications Committee, the evolving use of social media presents great opportunity to connect REBA members with access to blog posts, event updates, access to seminars and the chance to more actively participate in the association. Put simply, social media presents a mechanism by which you can not only market yourself to prospective clients, but also engage with your colleagues in the legal profession.

At the 2016 REBA Spring Conference, I had the opportunity to speak on a panel titled "Joining the Social Media Revolution ... One Step at a Time" with Julie Barry, co-chair of REBA's Strategic Communications Committee, and Justin Tucker, national marketing director for WFG National Title Insurance.

The panel was an opportunity to introduce REBA members to the variety of social media platforms, answer questions and discuss ethical issues that may arise when using social media. As part of the Strategic Communications Committee's effort to

If you would not undertake certain conduct in person, then do not undertake that conduct on social media.

encourage active social media engagement between REBA and its members, this article is the first in a series on the topic, which seeks to encourage you to dip your toe into the proverbial social media pool.

Part of attorneys' hesitancy to use social media is often a question of the ethics surrounding the new medium. To be sure, social media may present traps for the unwary, but all one needs keep in mind is that the applicability of the Massachusetts Rules of Professional Conduct (S.J.C. Rule 3:07) to online conduct is no differ-

ent than it would be to actions undertaken off-line.

Stated succinctly, if you would not undertake certain conduct in person, then do not undertake that conduct on social media. Keeping this simple statement in mind should guide your online interactions and (hopefully) take some of the intimidation out of engaging on a new form of medium.

Here is a list of other things to remember when interacting on social media:

1. Social media profiles and posts may constitute legal advertising
2. Avoid making false or misleading statements
3. Avoid making prohibited solicitations
4. Do not disclose privileged or confidential information
5. Do not assume you can "friend" judges (in fact, according to Massachusetts Committee on Judicial Ethics Opinion No. 2011-6, judges are prohibited from "friending" any attorney who may appear before them!)
6. Avoid communications with represented parties
7. Be cautious when communicating with unrepresented parties

8. Beware of inadvertently creating attorney-client relationships

9. Beware of potential unauthorized practice violations

10. Read cautiously with testimonials, endorsements and ratings

For more on each of these topics, including specific examples and recommendations on how to deal with each situation, please consult your 2016 REBA Spring Conference materials.

The Strategic Communications Committee looks forward to interacting with all of REBA's members and encourages all members to access its blog at rebama.blogspot.com, which is updated often with new content, to engage with REBA on Facebook, and to follow REBA on LinkedIn, where links to articles and events are frequently posted.

Kim Bielan co-chairs REBA's Strategic Communications Committee and is a leader in the association's strategic long-term planning, particularly with the New Lawyers Committee. She practices in the litigation department of Marcus, Errico, Emmer & Brooks, P.C. Kim can be contacted by email at kbielan@meeb.com.

Beyond Bitcoin: What blockchain means for real estate

BY AVI SPIELMAN AND STEVE WEIKAL



Digital currency has been in the news a lot lately, mostly for the wrong reasons. The \$72 million hack of the Bitfinex exchange in Hong Kong; a \$55 million hack of digital currency fund DAO; the \$5 million hack of the Bitstamp exchange in 2015; and the lingering bad taste from the Mt. Gox exchange collapse in 2014, which caused hundreds of millions in Bitcoin losses.

These breaches highlight the challenges of bringing disruptive new tech-

nologies into the mainstream. However, these failures have not deterred technologists – nor investors – from the exciting new opportunities made possible by the technology underlying digital currencies: blockchain.

What exactly is blockchain? The Wall Street Journal's CIO Journal describes blockchain as "a data structure that allows for a digital ledger of transactions that is shared among a distributed network of computers on a peer-to-peer basis." In other words, a copy, or partial copy, of a shared ledger is saved on every computer connected to a blockchain network.

This "distributed ledger" is maintained by "miners" who perform mathematical operations according to a predetermined consensus process used to verify new transactions that are added to a blockchain. The result is blockchain's true innovation – removing the need for a central authority.

How does this affect the real estate industry? Beyond the impact that digital currency will have on the finance industry, which directly affects the real estate industry, digital currency – such as Bitcoin – has been used in a number of real estate-related capacities. This includes buyers accepting Bitcoin as payment for property and real estate crowdfunding websites accepting digital currency for debt and equity investment.

Although these are interesting developments, the more intriguing possibilities lie in how blockchain can revolutionize the way public records, particularly real estate titles, are processed, maintained and verified in the United States.

Consider the following possibilities:

Property ownership. What if a property's entire ownership and transaction history was immutably recorded and read-

ily accessible by the general public on a distributed ledger? Blockchain enables such a system, where all data pertaining to a property or owner may be easily verified and accessed by the buyer, seller and trusted third parties. Furthermore, information asymmetry may be eliminated theoretically assuring provenance of title, transfer, deed and liens. Domestically, this may reduce human error or the need for redundant database systems. Internationally, it could stymie corruption and promote participation in formalized systems.

Contracts 2.0. Blockchain enables the use of "smart contracts" – computer protocols that can emulate contractual clauses in order to verify or enforce the performance of a contract. These "self-executing" agreements can automate certain processes of a real estate transaction (i.e. escrow services) while providing additional assurances to the participants (i.e. validate identity), in

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Embrace the Opportunity for Growth

October 3 marked the beginning of a transformed marketplace. Embrace the opportunity presented by the TILA-RESPA Integrated Disclosure (TRID) to move your business forward and prosper.

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Emerging Leader Award to recognize new, young lawyers

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young real estate practitioners in Massachusetts.

Through this fall, REBA New Lawyers plans to put on programs about collegiality and decorum, how to deal with difficult interpersonal situations in the practice of law and a networking event in Boston.

REBA has also constituted a Strategic Communications Committee designed to respond to the changing landscape of public relations and marketing, for the practice of law, caused by the emergence of social media and the platforms that they provide.

The Emerging Leader Award was the brainchild of REBA New Lawyers and Strategic Communications, which conducted a joint meeting in April 2016, to discuss outreach to law students and new and young lawyers.

REBA New Lawyers, in close con-

sultation with Strategic Communications made a proposal for what has become the Emerging Leader Award to the REBA Nominating Committee, which in turn approved the new award for consideration and eventual adoption by the association's board of directors in July.

While New Lawyers and Strategic Communications made the pitch, REBA's leadership should be lauded for having the vision to see the necessity of this type of commendation. As Benjamin O. Adeyinka of Strategic Communications said, in response to learning of the adoption of the Emerging Leader Award, "I applaud REBA's effort to bring this important initiative into fruition. Recognizing young and new leaders within REBA's membership helps encourage attorneys who practice real estate law, to present new ideas and concepts to help deal with the ever-changing real estate landscape."

The Emerging Leader Award fits into a greater context and ongoing dialogue through which REBA has sought to modernize and respond to the ever-changing conditions affecting the practice of real estate law in Massachusetts and its membership.

We ask that all of our fellow REBA members participate in the process of recognizing new and young lawyers who have contributed, beyond their short years, to our practice area, and nominate those young and new lawyers who exemplify why REBA adopted the Emerging Leader Award platform.

Applications for nominations for the award are available via email, admin@reba.net. Applications may be sent to Tom Bhisitkul, chair of the Nominating Committee, or our executive director, Peter Wittenborg. As with REBA's other awards, the decision of who will be given the Emerging Leader Award will be made by the

Nominating Committee.

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Kendra Berardi and Nick Shapiro co-chair REBA's new section. To join the new lawyers section, contact admin@reba.net.

An associate in the Boston office of Robinson & Cole LLP, Kendra is a member of the firm's real estate litigation and title insurance practice group, where she focuses her practice on real estate litigation, zoning appeals, representing title insurance underwriters and their insureds and condominiums. Prior to joining Robinson & Cole, she served a law clerk to the Hon. Karyn F. Scheier. Kendra's email address is kberardi@rc.com.

Nick joined the Boston firm of Phillips & Angley in 2011. His areas of practice are zoning, land use and real estate. Prior to joining the firm, he clerked for the Hon. Joseph A. Trainer, associate justice of the Massachusetts Appeals Court and the Hon. Harry M. Grossman, associate justice of the Land Court. Nick's email address is nshapiro@phillips-angley.com.

Business email scams target real estate lawyers

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ter (IC3), since the beginning of 2015, there has been a 270 percent increase in identified victims, who come from all 50 states and nearly 80 other countries. The majority of the fraudulent transfers are initially sent to banks in China and Hong Kong.

The scammers' methods have become increasingly more sophisticated. They'll spoof accounts with slight variations in domains (abc@lawfirm.com vs. abc@lawflnn.com); make them look similar to authentic accounts (john.kelly@abc.com vs. john.kelley@abc.com); mimic the real account using a spoofing tool that directs responses to a different e-mail account (the reply-to mail account can be seen in the extended header or by hovering a cursor over the shown e-mail address); and hack accounts.

Criminals also use malware to infiltrate company networks, gaining access to legitimate e-mail threads about billing and invoices. They then use that information to make sure the suspicions of an accountant or financial officer aren't raised when a fraudulent wire transfer is requested.

Some individuals have reported being

a victim of various cyber intrusions immediately preceding a BEC incident. These intrusions can be facilitated through a phishing scam in which a victim receives an e-mail from a seemingly legitimate source that contains a malicious link. The victim clicks on the link, and it downloads malware, allowing them unfettered access to the victim's data, including passwords or financial account information.

The BEC scam is linked to other forms of fraud, including but not limited to: romance, lottery, employment and rental scams. The victims of these scams are usually based in the United States and may be recruited, unknowingly, to transfer money illegally on behalf of others.

If your company has been victimized by a BEC scam, it's important to act quickly. Contact your financial institution immediately and request that they issue a "SWIFT recall." For domestic transfers, ask your financial institution to send a "hold harmless" letter to the beneficiary bank.

Experience has shown that after three days, funds have likely been transferred out of the beneficiary account. This is not always the case and the FBI may still be able to pursue a criminal prosecution. Next, file a complaint – regardless of

whether there is a dollar loss –with IC3 at www.ic3.gov.

Filing a complaint with IC3:

- IP address and e-mail address of fraudulent e-mail
- Summary of the incident (including date/time)
- Victim's name
- Victim's location (city, state)
- Victim's bank name
- Victim's account number
- Beneficiary's name
- Beneficiary's account number
- Beneficiary's bank location
- Beneficiary's bank name
- SWIFT/IBAN number
- Date of transaction
- Amount of transaction

Detailed descriptions of BEC incidents should also include the date and time of incidents; copies of the incorrectly formatted invoices; full e-mail headers; requests for secrecy or immediate action; phone numbers of the fraudulent phone calls, and reports of any previous e-mail phishing activity.

Suggestions for Protection:

- Create intrusion detection system rules that flag company e-mail. For exam-

ple, legitimate e-mail of abc_company would flag fraudulent e-mail of abc-company.com.

- Verify changes in vendor payment location by adding additional two-factor authentication such as having secondary sign-off by company personnel.
- Create an e-mail rule to flag e-mail communications where the reply to e-mail is different from the "from" e-mail address shown.
- Confirm requests for transfers of funds, adding new vendors and changing vendor payment information by using phone verification as part of the two-factor authentication, use previously known numbers, not the numbers provided in the e-mail request.
- Color code e-mails so e-mails from employee/internal accounts are one color and e-mails from non-employee/external accounts are another.
- Carefully scrutinize all e-mail requests for transfer of funds to determine if the requests are out of the ordinary.

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Michael Kelly is the supervisory special agent of the economic crimes squad for the FBI's Boston Field Office. Michael can be contacted by email at Michael.Kelly@ic.fbi.gov or by phone, 617-223-6419.

Beyond Bitcoin: What blockchain means for real estate

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turn shortening the life-cycle of a deal and reducing associated risks and costs.

The Future is Here

According to Coindesk, a world leader in news and information on digital currencies, venture capital investments in bitcoin and blockchain-related start-ups has surpassed \$1.1 billion dollars (\$380 million of which was raised in 2016 alone), making it clear that the private sector believes in bitcoin and blockchain.

In fact, the list of growing blockchain-based companies includes real estate title recording start-ups, such as Ubitquity (U.S.), ChromaWay (Sweden), Bitland

(Ghana) and Bitfury (Republic of Georgia). Most recently, on July 18, Xinyuan Real Estate Co., a major Chinese real estate developer and property manager listed on the NYSE, announced that it has launched the first blockchain-powered real estate finance technology platform in partnership with IBM.

While Blockchain technology offers these and other exciting prospects for the future, introducing and integrating such a disruptive framework in an entrenched, administration-based industry such as real estate will require tireless commitment from forward-thinking, influential leaders.

Legal reforms need to be introduced to address blockchain innovations, such as legally recognizing the authenticity of digital

proofs of ownership. While it may be too early to predict when and how blockchain will change the real estate industry, the possibilities are too exciting to ignore and steps can be taken now to prepare for the inevitable transition to blockchain-based systems.

Learn more about blockchain for real estate at MIT Real Disruption: Real Estate Blockchain on Oct. 6, at 7:30 a.m. in the Fort Point Room at Atlantic Wharf, Boston. MIT Real Disruption is an ongoing series of conferences, hosted by the MIT Center for Real Estate, that highlight the intersection of disruptive technology and commercial real estate. For more information, visit www.RealDisruption.com.

Avi Spielman is an associate editor of the Har-

vard Real Estate Review, author of "Blockchain: Digitally Rebuilding the Real Estate Industry" and founder of Nashville-based real estate development company Joon Properties. He holds a B.A. in Philosophy from Vanderbilt University and a master of science in Real Estate Development from MIT.

Steve Weikal is the head of industry relations for the MIT Center for Real Estate (MIT/CRE), director of the MIT/CRE Real Estate Tech HUB and founder of the MIT Real Disruption conferences. He has master's degrees in Real Estate Development (MSRED) and City Planning (MCP) from MIT, and a law degree from Suffolk University Law School.

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