

REBA Ethics Section Presents:

Tales from the En*CRYPT*Tion

The Cyber Zombies Want Your Money!

October 27, 2020

YOUR HOSTS FOR THIS PRESENTATION:

John L. Torvi

Vice President of Marketing & Sales
The Landy Insurance Agency, Inc.
100 River Ridge Drive, Suite 301
Norwood, MA 02062
Direct: 781-292-5417
johnt@landy.com | www.landy.com

Henry J. Dane, J.D., Ph.D.

Dane Brady & Haydon, LLP
P.O. Box 540
Concord, MA 01742
Phone: 978-369-8333
hdane@danelaw.com

Jennifer L. Markowski, Esq.

Freeman Mathis & Gary, LLP
60 State Street, Suite 600
Boston, MA 02109
D: 617.807.8962
C: 781.883.6273
JMarkowski@fmglaw.com | www.fmglaw.com

Kathleen M. O'Donnell, Esq.

P. O. Box 234
Milton, MA 02186
Phone: 617-794-2794
kmodonnellesq@gmail.com

First Tale – Among the Missing

- Attorney with busy conveyancing practice (but shorthanded) discovers months after a closing that the buyer failed to authorize his bank to send funds to cover the balance due, perhaps intentionally
- Shortfall on this transaction is not noticed because of float in IOLTA account so seller receives proceeds and mortgage payoff check clears. Attorney only discovers shortage when bank calls to tell him that there are insufficient funds to cover a check written in a later transaction
- Considerations & Discussion: Ethical? Practical? Legal? Insurance?

Second Tale – Lender’s attorneys beware!

- Fraudster sends an email to Buyer imitating closing attorney’s email format with similar but slightly altered return email and phone number and appearing to be signed by an employee of the attorney. The email instructs the Buyer to send the closing funds by wire to an account in a far away bank where the fraudster has opened an account.
- Payoff letter appearing to come from legitimate mortgage lender is sent by fax to closing attorney, but letter has been altered to provide false wire instructions for transmitting the payoff funds.
- Considerations & Discussion: Ethical? Practical? Legal? Insurance?

Third Tale – Switching Bait

- Fake wire instructions made to look like they came from office of seller's attorney sent to buyer's attorney
- Cyber thief opened bank account in name deceptively similar to that of seller's attorney's law firm but in another bank
- Buyer's attorney sends funds to fraudulent bank account
- Seller's attorney calls to find out why the funds haven't arrived
- Hold put on funds with bank but bank is not particularly responsive or helpful
- Considerations & Discussion: Ethical? Practical? Legal? Insurance?

Fourth Tale – Tricks not Treats

- Fraudster gets the account information for an attorney's IOLTA account and orders checks from a legitimate bank check printer.
- Hundreds of these checks in the amount of a few thousand dollars each are written payable to the victims and sent by Express Mail with a note asking them to text a cell number before depositing the money
- In response, the victim is told to deposit the check in their bank account, keep \$500 and send a money order for the balance by overnight carrier to a mail drop in another state
- Dozens of these checks show up for payment at the attorney's bank but, for various reasons, all are returned unpaid to the victims' banks.
- Considerations & Discussion: Ethical? Practical? Legal? Insurance?

Presenters Discussion & Summary

Questions?

Thank You!