

# 2015 LEGAL SEMINAR



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Legal Affairs*

# Cyber Fraud and the Real Estate Professional

Jessica Edgerton, NAR Associate Counsel

**GOV GODWIN EMEFELE <postmaster@cooky112.de>**

**URGENT NOTICE,**

Is my pleasure to inform you that your deliveryman has arrived with your cash trunk boxes value \$8.3 million dollars being your inheritance /compensation payment? Most importantly you are advised to send your full data to him, which include your Full Name, Current Residential Address, Direct Cell Number, and A copy of any identity card to verify that you are the right receiver to avoid mistakes and enable him deliver your cash consignment boxes to your house without any further delay.

**CONGRATULATIONS.**

MR.GODWIN EMEFELE,  
EXECUTIVE GOVERNOR,  
CENTRAL BANK OF NIGERIA

# Best Email Practices

- Avoid sending sensitive information via email.
- Use encrypted email.
- Don't open. Don't click. Don't reply.
- Clean out your email regularly.
- Use strong passwords.
- Change your password regularly.



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# Best Business Practices

- Communicate and educate. Get all parties to the deal up to speed on fraud prevention.
- Call the intended recipient of wired funds immediately prior to sending the funds.
- Use an independently verified phone number.
- Implement technology security.
- Be paranoid.



# Damage Control

- If money has been wired, call the banks immediately to stop funds.
- Contact all other parties to the transaction.
- Contact the police.
- Change all passwords.
- Report to FBI Internet Crime Complaint Center:  
<http://www.fbi.gov/scams-safety/e-scams>
- Report to REALTOR® Association(s).



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# Legal Exposure

- Negligence.
- Breach of fiduciary duty.
- Violations of state data security laws.
- Failure to maintain standards set forth in company security policy.
- FTC Action. (*FTC v. Wyndham Worldwide Corp.*, No. 14-3514 (3<sup>rd</sup> Cir. Aug. 24, 2015)).



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# Cyber Insurance?

- Cyber Insurance still in “wild west” territory.
- Don’t purchase without consulting specialist.
- Policies for small businesses are available.
- Policies may become outdated quickly in light of new threats so review often.
- As applicable, review coverage under NAR policy prior to purchase.



# What to Watch For

Email Phishing still popular, but numbers going down.

What's on the rise? Attacks via:

- Social media
- Mobile devices: Apps, SMS
- Compromised websites

...And what's next?

- Wearables
- Automobiles



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# Resources

- <http://www.realtor.org/videos/window-to-the-law-cyberscams-and-the-real-estate-professional>
- <http://www.realtor.org/articles/request-to-redirect-funds-should-trigger-caution>
- <http://www.realtor.org/topics/data-privacy-and-security>
- <http://www.realtor.org/topics/risk-management>
- <http://www.realtor.org/articles/internet-security-best-practice>
- <http://www.realtor.org/topics/realtor-safety/articles>



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# Crafting a Safety Alert

Jessica Edgerton, NAR Associate Counsel

# Legal Exposure

- Defamation.
- Interference with sale.
- Fair housing laws.

# General Guidance for AEs, Brokers, MLSs

- Create a policy, and apply it consistently.
- Contact the police, and consider issuing an alert only if the police open a file.
- All alerts should be reviewed by an attorney.
- Notify state or local REALTOR® Association of the alert.

# Crafting the Alert

- Neutral tone.
- Facts only.
- Reference reputable external sources, e.g., police report.
- Avoid including:
  - Suspect's name;
  - License plate, driver's license, or other PII;
  - Photographs of suspects or their vehicles.
- Keep physical descriptions general.

