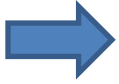




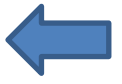
DEPARTMENT OF PARKS AND RECREATION

Division of Boating and Waterways

Yacht and Ship Unit



THE REGULATORS



INFORMATION NEWSLETTER

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Wire Fraud Transfers

In the United States ~ mail and wire fraud is any fraudulent scheme to intentionally deprive another of property or honest services via mail or wire communication. It has been a federal crime in the United States since 1872.

Recently, Yacht and Ship Enforcement received a consumer complaint involving Wire Fraud. Hackers are infiltrating business systems and the damage is becoming more severe. The hacker breaches the emails of a business or consumer, which also includes real estate agents, lenders, yacht brokerages or title agents, looking for information directing a buyer to wire their down payments to a bank. The information is then, intercepted and the fraud damage begins. It is the back and forth communication between the parties that is being targeted.

The individual in the complaint with our office, was given the correct wire transfer instructions from the brokerage via a Word attachment through email. A hacker intercepted the email, altered the Word document to reflect a different bank and account number, while keeping the brokerage letterhead intact and sent another email. The email stated that the

brokerage account was under an audit, and to send money to a different account, which was in another state and to a person unknown to the individual and the brokerage.

Once at the bank, the buyer presented two emails sent to him and instructed the bank to wire the funds to the wrong account.

Brokers in the State of California are required to have a non-interest bearing trust account associated with their licensed brokerage. The information listed on the trust account, must include the brokerage name and address. All monies associated with the sale of a vessel must be placed into the brokerage trust account.

Pursuant to Harbors and Navigation Code, Title 14, 7604. Trust Accounts.

(b) Every broker required to maintain such trust fund account shall keep records of all funds deposited therein, which records shall clearly indicate the date and from who he received the money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction.

(c) Failure to maintain a trust fund account when required, and to deposit trust funds received promptly

in said account, may be construed to be commingling, in violation of section 732, subsection (e) of the Harbors and Navigation Code.

As a licensed yacht broker in the State of California, brokers need to ensure the clients they are representing in the sale or purchase of a vessel are protected at all times. This would include your brokerage wire transfers moving forward.

It is recommended that all wire instructions, including account information, be verified by telephone using the known telephone number of all parties prior to any wire transfers being made.

Furthermore, if you are using a word document, we would recommend you stop and start using PDF format for wire transfers or other documents containing personal information. Hackers will have a harder time altering correspondence if done in PDF format, as specialized software is required. However, it is not recommended to send wiring instructions that contain account numbers over email. If you decide to do so, then basic security measures should be taken (PDF attachments, encryption, etc.) Another suggestion would be, to provide the wire instructions in writing to your client(s), but advise the client to call your brokerage prior to doing a wire transfer once at the bank.

Be aware and suspicious of all email wire transfer information, trust none until it is verified by telephone via known numbers of all parties involved in the transaction.

Protect your clients, protect your brokerage!

Fictitious Business Name (FBN) Facts

A fictitious business name is a business name that is different from your personal name, the names of your partners, or the corporation name. An FBN (assumed name, trade name, or DBA name) must be registered with the Clerk of the county in which the principal place of business is located. In order to register an FBN, an

FBN statement must be filed with the Clerk of the county.

Recently, it was determined some brokerages were operating under FBN's that had been expired for many years.

DBW **requires** a valid filed FBN statement for each different fictitious business name listed on a yacht and ship broker's license.

Below are some facts to remember regarding the FBN statement:

- A fictitious business name statement expires five (5) years from the date on which it was filed in the office of the County Clerk.
- To renew the FBN, a new FBN statement must be filed **before** the expiration date.

DBW must have current information on file at all times pursuant to Section 735 of the Harbors and Navigation Code, including registered fictitious business names.

Have a question or concern? Please feel free to contact us!

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