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Issue 72 | November 2021

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A MESSAGE FROM LIANS' DIRECTOR OF INSURANCE, LAWRENCE RUBIN

With this, our last issue of LIANSwers for 2021, I would like to take a moment to acknowledge and thank you and everyone here at LIANS and the Society for your work and efforts this year. Though there were many positives this year, there were also times when 2021 seemed little different from 2020, a year that many will probably not remember with an abundance of fondness.

But there are always bright spots and we have to look to them. Births and birthdays. First days of school and graduations. And calls to the Bar. And finally this year we were able to get together with friends and family again. And travel a little. I have to think that we are on a better path this December than we were last December.

So, with that, I would like to wish each of you, your teams and all your families, immediate and extended, a healthy and happy new year and may 2022 be a year filled with happiness, good health and every success.

Kindest regards,
Lawrence Rubin



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AVOID THE DOWNFALL: FOLLOW UP ON UNDERTAKINGS

If you are acting for a purchaser and/or lender on a property purchase/finance transaction and you accept another lawyer's undertaking to complete a step after closing, follow up on that undertaking. You obviously need to accept appropriate undertakings from other lawyers as part of your property conveyancing practice. That isn't the problem. The problem is the lack of follow up after the transaction has closed. If another lawyer's undertaking to you goes unfulfilled, the risk is YOUR risk. If a claim arises because a mortgage for a prior owner hasn't been released and is causing a problem for your clients, it is a potential claim against YOU. It is your certificate of title to your client that is compromised.

When you accept an undertaking and close the transaction, don't put the file in the closed file box. Keep it open until you have received confirmation that the Release of Mortgage has been recorded, that the Judgment has been removed, that the CRA certificate of compliance has been issued, etc. Whatever the outstanding issue might be, make sure you are satisfied it has been appropriately addressed before you shelve your file.

For the lawyer giving the undertaking, you have assumed an ethical obligation under the [NSBS Code of Professional Conduct](#). Make every effort to fulfil your undertaking in a timely manner. A failure to do so could give rise to a Complaint to the Nova Scotia Barristers' Society.

Whether providing or accepting the undertaking - follow up, follow up, follow up!

Real Estate Professional [Standard 4.6: Undertakings](#)

Nova Scotia Barristers' Society, [Code of Professional Conduct](#) [rule 5.1-6: Undertakings; rule 7.2-11: Undertakings and Trust Conditions]

Additional articles on [Undertakings](#)

LIANS' section on [Undertakings](#)

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FRAUD ALERT: SCAM ATTEMPTS BEFORE THE HOLIDAYS, DURING THE PANDEMIC

We've issued dozens of fraud alerts during the pandemic, and continue to receive daily reports from lawyers around the province. You should always be vigilant to fraud, but particularly a) during the pandemic, when scammers target distracted staff and impermanent workplaces, hoping that these vulnerabilities will delay detection of scams; and b) around the holiday season, as scammers frequently target firms in hopes that the extra banking closure days will further delay detection of a scam. Here is a round-up of the most recent common scam attempts and red flags that we've been seeing:

[FRAUD ALERT: Large Construction Machine Purchase/Transaction Scam](#) (Oct 22nd, 2021)

[FRAUD ALERT: NS Lawyers' Website, Contact Information "Spoofed"](#) (Sep 27th, 2021)

[FRAUD ALERT: Cyber Scams Rampant](#) (Aug 23rd, 2021)

[FRAUD ALERT: Law Society of BC Issues Land Title Warning](#) (Jul 23rd, 2021)

[FRAUD ALERT: "Dog Bite" Cheque Scam Resurfaces](#) (May 25th, 2021)

[FRAUD ALERT: Law Society of BC Issues Shelf Company Inquiries Warning](#) (Apr 27th, 2021)



[FRAUD ALERT: Ransomware Attacks Hit Three U.S. Law Firms in 24 Hours](#) (Feb 23rd, 2021)

[FRAUD ALERT: BC Law Firm Attacked by Trojan Virus](#) (Jan 25th, 2021)

[FRAUD ALERT: Negligence Lawsuit Against Law Firms Highlights Liability Risks of Wire Scams](#) (Nov 24th, 2020)

[FRAUD ALERT: Fake Law Firm "Lawman & Associates"](#) (Oct 26th, 2020)

[FRAUD ALERT: Job Application Email Scams](#) (Sep 21st, 2020)

[FRAUD ALERT: Fake Law Firm Websites Targeting Lawyers](#) (Jul 27th, 2020)

[FRAUD ALERT: Manitoba Firms Fall Victim to Ransomware Scams](#) (Jun 24th, 2020)

[FRAUD ALERT: B bogus cheque scam circulating](#) (Jun 12th, 2020)

[FRAUD ALERT: Scam attempts rampant](#) (May 26th, 2020)

[FRAUD ALERTS: "Request from Boss" Scams; Bogus Invoices; Phony "Canada Post" Deliveries](#) (Apr 28th, 2020)

[FRAUD ALERT: Phony invoice payment request](#) (Feb 24th, 2020)

With bad cheque schemes, a lawyer is retained by a bogus client and receives funds into his or her trust account by way of a cheque or bank draft that appears legitimate. A sense of urgency with the transaction is often implied by the client. As a result, within days of receiving the funds

and depositing them to the trust account, the lawyer pays out funds from the account before learning (sometimes many weeks later) that the funds were bogus, the cheque returned and his or her trust account debited.

Scammers frequently target firms just before a holiday weekend, as they know that this is a time when offices are often short staffed and transaction details might not be checked as closely as they might otherwise be. Also, the extra banking holiday will result in delays in the return of counterfeit cheque or bank draft to the firm. If you do decide to proceed with a transaction where the funds are received and are to be paid out within a short period, be sure to go to the bank website to verify branch transit number, address and phone number on the cheque. Wait until the bank confirms that the funds are legitimate and are safe to withdraw from the deposit. Where possible, use the [Bank of Canada's Lynx](#) system (formerly the Large Value Transfer System (LVTS)), an electronic funds transfer system that allows large payments to be exchanged securely and immediately.

Remember that you must always confirm a prospective client's identification in accordance with the [Client ID Regulations](#) of the Nova Scotia Barristers' Society.

Be vigilant with every request for services that you receive, not just those received via the Internet. Fraudulent requests for services can be made by mail and courier, as well as by individuals who arrive in person to retain you and to use your trust account to receive and disburse funds. Be cautious with all cheques received, especially if they exceed the agreed upon amount.

For tips to avoid being victimized, and to report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at cnield@lians.ca or 902 423 1300, x346

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IMPORTANT CHANGES TO THE STANDARD FORM AGREEMENT OF PURCHASE AND SALE

For many property practitioners, you may already be aware of the upcoming changes to the Standard Form Agreement of Purchase and Sale that will be coming into effect on January 3, 2022. For those who need more information, or wonder how it may affect your practice, please visit the Nova Scotia Real Estate Commission website <https://www.nsrec.ns.ca/news-practice-resources/commission-news/item/buyer-s-conditions-updates-effective-january-3rd-2022>.

To quote from the NSREC website, the prior “No News is Good News” is being replaced with a “No News Means You Lose” position, and the changes include additional responsibilities on Buyers to confirm satisfaction with stipulated conditions or risk having the transaction deemed terminated, which is significantly different from the prior presumption that if a term was not disputed or objected to, it was deemed accepted.

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NSLAP WELLNESS: MENTAL HEALTH CHECKUP - PREPARING FOR THE YEAR AHEAD



"A new year is nearly upon us. Traditionally, this is a time when many of us reflect on the previous year and make "resolutions," or plans for the coming year.

In addition to living through a pandemic for the past two years, and all the challenges that came with it, we've been inundated with negative news. Even though some of us may not be aware of it,

these events, digital burnout, struggles with work-life balance, as well as the pandemic itself, have impacted our mental health and may have caused us to abandon our healthy coping strategies.

With that in mind, and as we start to come out the other side of the pandemic, the new year is an excellent time to check-in and prioritize your mental health and make realistic goals for the coming year."

On behalf of your Nova Scotia Lawyers Assistance Program (NSLAP) provider, Homewood Health™ is pleased to provide the following newsletter "[Mental Health Checkup - Preparing for the Year Ahead](#)" (November 2021)

If you have wellness questions, or are looking for wellness information, visit the NSLAP website at www.nslap.ca. For more information and support, along with resources and counselling with mental health and preparing for the year ahead, register with Homewood Health™ <https://homeweb.ca/>. Please note that NSLAP is your "company" name when you register.

Call in confidence, 24 hours a day: 1 866 299 1299 (within Nova Scotia) | (See the website for details about [calling from outside Nova Scotia](#)) | 1 866 398 9505 (en français) | 1 888 384 1152 (TTY).

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READING BETWEEN THE LINES: PITFALLS OF TEXTING WITH CLIENTS

Beware the pitfalls of using texting as a means of communication with clients. A series of texts can be easily lost forever, through switching either your network provider (e.g. Bell to Rogers) or type of phone (e.g. iPhone to Samsung), through accidental manual deletion, by having your phone hacked, or losing your phone altogether. Also, if you become at all distracted during the quick convenience of sending and receiving important texts, you could be glossing over crucial details and instructions between you and your client. Texting, by its very nature, may lack the specificity needed for certain instructions, matters and advice. More so if acronyms are used.

Protect yourself. Keep a trackable record of all exchanges using screenshots and saving/printing all text exchanges with clients. Be sure to regularly back up all of your data to the cloud.

Or reduce this risk altogether, and avoid using texts to communicate with clients and use email, in-person and/or telephone conversations, and letters.

Law Office Management Professional Standard [#2: Client Service](#)

LIANS offers the following sample forms on our site (all can be highlighted, copied, pasted and edited). There is no one way to document your file, so feel free to use one of these forms or modify to create your own:

[File Notes - version one](#)

[File Notes - version two](#)

[Meeting Notes](#)

[Telephone/Personal Exchange](#)

[Stamp templates to document your file](#)

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REQUEST FOR INPUT ON NEW 'WILLS, POWERS OF ATTORNEY AND PERSONAL DIRECTIVES' PROFESSIONAL STANDARDS

The Wills, Powers of Attorney and Personal Directives Professional Standards Committee is seeking input from the membership on three newly proposed Standards:

Standard #3 - [Planning for Assets in Multiple Jurisdictions](#)

Standard #4 - [Beneficiary Designations](#)

Standard #5 - [Capacity](#)

Please submit comments and suggestions pertaining to these new Standards to info@lians.ca by **January 14, 2022**.

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RESOURCES AND SURVEY FROM THE 2021 LIANS/NSBS VIRTUAL CONFERENCE

Our 13th annual Solo and Small Firm Conference was held via Zoom on November 24th, with a bonus wellness session “Unlock and Create Space for Joy” held on December 7th. This was our second all-virtual event and overall, from your comments, quite successful. Assuming in-person events are permitted next year, we will look to potentially hosting it both live and virtually.

We have uploaded all resources and PowerPoint presentations from the November 24th sessions to the LIANS website under ‘Presentations’:

<http://www.lians.ca/resources/presentations>.

Video recordings of the November 24th sessions continue to be posted to the news section of the Society's website under ‘Webinar’: <https://nsbs.org/news-categories/society-news/webinar/>

You may access the recorded version of the December 7th wellness session until January 6th, 2022 using this link: “[Unlock and Create Space for Joy" video](#)”

And between December 1 and February 28, 2022, register for complimentary access to 2 key LexisNexis tools, sponsored by the Society's library: <https://nsbs.org/legal-profession/your-practice/practice-support-resources/#lexis-nexis>

For those who attended this year, thank you for your participation. If you have not completed the survey, please do so here:

Survey for November 24th sessions: <https://www.surveymonkey.com/r/BPSJJMQ>

Survey for December 7th session: <https://www.surveymonkey.com/r/NTSBPWH>

Again, thank you for taking part and we look forward to your attendance at our 2022 Solo and Small Firm Conference!

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SEEKING MENTORS

Do you have a minimum of nine years of experience and are interested in volunteering your time to provide support and guidance to another member? LIANS is currently seeking mentors of all backgrounds for its Mentorship Program, specifically in the areas of Family law, Corporate/Commercial, Wills and Estates, and Criminal law.

Advantages of being a mentor:

- renew and revitalize your own practice and strategies;
- stay current with issues and developments in the next generation of professionals;
- expand your own personal network.

The Mentorship Program offers the following advantages and opportunities:

- a semi-annual event (if permitted) where you can meet possible matches and learn more about the program
- matching based on the areas of interest and criteria identified by both mentor and mentee
- a mentorship plan created by you and your match, to identify your areas of focus and goals for the upcoming year

If you are interested in participating in the Mentorship Program, please visit: http://www.lians.ca/rpm/mentorship_program/.

In order to participate, fill out the [Mentorship Program Application Form](#) online, or download the fillable [PDF form](#) and save to your desktop then forward to [Cynthia Nield](#), LIANS' Database and Information Officer.

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