



EIGHT

TWO SCAMS THAT CAN BURN YOU



LEE PHILLIPS
SHARES THE
LEGAL TOOLS
OF WEALTH
WITH YOU

By Lee R. Phillips, JD

A lot of you are using images off the internet for your websites, blogs, FaceBook pages, and other cyberspace activities. You can go to a number of sites on the net and get a ton of images. You can find an image to fit anything you want.

Many sites are clearly labeled as “royalty free.” What a deal! The images are good. Why not use them? Don’t do it. IT’S A TRAP.

Anatomy of the Scam

There are three companies that have gone through the internet and filed copyright registrations on all the images they could find. They have copyrighted the entire catalog of images rather than each individual image. This gives them the right to come after anyone who uses an image. It doesn’t matter whether you are using the images for commercial or private use.

They then search the internet and find the images that are being used by unsuspecting people and companies. The images have word tags hidden “underneath” the image, so they can simply

search for the name of the image and find it wherever it is used.

Once they find an image being used, they send the user a bill for thousands of dollars along with a twenty page legal document explaining that the user owes them the money, because they have copyrighted the image.

There will be a wet spot under your chair when you get the notice. Thousands of people are now getting these letters. The form letters they are sending out only ask for payment in multiples of a thousand or ten thousand dollars. If you’ve got a good website using lots of images, if you’ve been blogging and spicing up your blogs with the images, if you’ve been posting images on your social sites, your bill can easily be ten or twenty thousand dollars.

What? I owe you money? It said royalty free when I downloaded the image. There wasn’t any copyright notice on the image. There wasn’t anything that said I would have to pay money or license the image. It doesn’t matter, you lose.

Continued on Page 2

GOT QUESTIONS?

What are your needs, concerns, or challenges?

Email Lee with questions you would like to see answered in this newsletter.

Email: info@legalees.com

REVIEW YOUR LEGAL HEALTH—IS IT TIME FOR A CHECK UP?

Kristy S Phillips, JD

Everyone knows they need to go for a physical check-up each year. They get their car serviced regularly, but many people overlook taking regular care of their financial and estate planning needs. Sure there are lots of excuses. Some folks think they are too busy making money to worry about keeping it. Others are certain that their broker and attorney take care of all their needs. Or the worst excuse of all, I didn’t know I was supposed to do that. So forget the excuses. If you want good estate planning and asset protection, you must take the time at least annually to look

over your affairs.

You may be thinking I went to see my attorney and I got an estate plan in place. I am covered. You probably got a will and maybe a trust. Do you also have a durable power of attorney and a living will? If not, you should be sure to get those documents in place too because if you become incapacitated or die, it will be difficult for your family to take care of you or your affairs. I have seen many sad situations when those documents are neglected.

This spring we took Mom and Dad on a cruise. It was a fun

relaxing time for us all. Dad has been slowing down and he seems to feel an urgency to get his affairs in order. Because of the relaxed nature of things, Dad and I had time to talk about his affairs. It was a good conversation and we came home and updated his trust. Not a lot has happened to Mom and him in the last few years, but enough has happened to make an update.

Many people are like Dad. They know they need to update, but they don’t get around to it. Once the documents are in place, they file them away for

Continued on Page 3



TWO SCAMS THAT CAN BURN YOU, CONT.

You're In Good Company

Several of the real estate gurus that have been active on the internet have been hit with tens of thousands of dollars in fees. Most have chatted with their lawyer and paid up.

Note on my websites, LegalEes.com, LLCWizard.com, PhillipsAssetProtection.com, PhillipsEstatePlanning.com, and all the others, we have taken all the images off the blogs and are working on the sites. A memo has gone out to all my folks telling them they are never to use another image off the internet. I am headed out to buy some disks with stock photos and images on them that actually can be used.

If you buy a disk of images, make sure you read the fine print and confirm that you can use the images without any fee – not just “royalty free.”

This Is Legal?

This is a real scam, but it's legal. When you get your image off the net it will say “royalty free.” This is how they explain it in their letter.

“Although we understand you may have believed the images were available for free use, all images represented by Getty Images require an appropriate license for their use. “Royalty-free” does not mean that the images are free; it is an industry phrase that refers to a licensing model where the user pays once and has the continuing right to use the image without additional royalty payments.”

When you got your image, it did say “royalty free” or there was no mention of a fee. They are charging you a one

time charge, not a royalty. It is perfectly legal for them to charge you for using a copyrighted image. The image does not have to carry any type of copyright notice, because the image is registered at the Library of Congress Copyright Office. When you view or copy the image, there is nothing that says you will be charged for it.

These people are dead serious. They are going to take you to the mat. The person sending you the demand is working on commission. To some degree, your fight will depend on how dedicated your guy is at doing his job. He is making a healthy commission, so it is worth his time to harass you big time.

They aren't going to back down on the price, even though they have basically pulled it out of the air. It doesn't matter if you remove the image. It doesn't matter who put the image on the site. “The liability for any infringement ultimately falls on the company (individual) displaying the imagery.”

There are a number of lawsuits against the three groups. (Getty is the biggest company doing this, and they are making tens of millions of dollars, if not hundreds of millions of dollars, a year off this scam.) Most of the lawsuits have gone in favor of the end user, but you can't spend \$100,000 to fight a \$10,000 bill, and they know that.

The suits don't argue the scam aspect of the case, they argue the legal procedure that the company has used to claim the copyrights. Getty has tried to copyright entire “catalogs” or websites of the images in a single filing at the Copyright Office. They

have actually had some support from the Copyright Office. But, the procedure they have used violates a number of the basic copyright laws.

You're SOL (So Out of Luck)

So far the suits have been upheld for the end user, because of these flaws in the companies' copyright procedures. If the companies come into compliance and get their procedures for copyrighting correct, all hell will break loose.

They can do what ever they please. Every attorney in town will be lining up to take their cases, because the law says if there is a good copyright, the end user (you) pay all the attorney fees, expenses, and triple everything they are asking for.

Even now with a flawed copyright, they can go after you and get a percentage of the money you have made by using the image. They don't care whether the site is making money or not. They are relying on the statutory treble damages, attorney's fees, etc.

If they get a good copyright, they don't have to show any money was made off the use of the image. It's whatever they are asking for, and it's an open and shut case any idiot lawyer will be happy to collect fees with.

If you insist on using images off the internet, you can go in and remove the imbedded language “behind” the image. You will have to rename the image. Just use a number for your new name of the image. That will make it much harder for Getty to find the image. Right now they are only looking for the imbedded names and information.

“Royalty-free” does not mean that the images are free; it is an industry phrase that refers to a licensing model where the user pays once and has the continuing right to use the image without additional royalty payments.

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TWO SCAMS THAT CAN BURN YOU, CONT.

Technology is fast moving to the point where they will be able to identify the image without the imbedded words. The bottom line is, never use an image off the internet unless you know exactly where it comes from. Microsoft has a site and a disk with images you can use. These images are only for non-commercial use. They can nail you for any type of commercial use. Using images puts you at risk, even if you think they are free.

Heed the Warning

Images are a big deal. You can see that we don't have any in this newsletter to make our point. You have got to do it so you don't get hit. It's a legal scam, and hundreds of millions of dollars are going to be paid by unsuspecting companies and folks. Please heed my warning.

How to Get a Copyright

All of the things you put on the internet or in print should carry a copyright notice. It is easy to claim a copyright. Simply put the copyright notice prominently on the "work." You can see what it

is on any book. Use the word "copyright" or the circle C (©) and then the date and the name of the copyright "holder."

If you want a "registered" copyright, you will have to file with the Copyright Office and pay the fees.

Cell Phone Scam

There's another scam you need to be aware of. People will text you on your cell phone. The texts will appear to come from your service provider or another commercial source. The scams are taking a number of forms.

For some of them, if you click on a link in the text message, that will automatically authorize the scammer to make a monthly third party billing through your cell phone company. Sprint, Verizon, or whoever you have as a cell phone company, will say that they can't do anything, because the billing comes through a third party, and the charge is just linked to your cell phone bill. You have to contact the company directly to get the billing stopped. Of course, there is no way to ever contact the company.

Some of the scams will require you to respond to the email to opt out of the monthly billing. If you don't opt out within a certain time, then you are authorizing the monthly billings.

Other versions of the scams will require you to delete the text, or that is deemed to be an authorization of the monthly billing. Monthly billings are usually either \$9.99 or \$19.99 per month – that's every month.

Things to Do

* Watch your cell phone bills very carefully.

*If you get a text from someone you don't know or even from what looks to be your cell phone carrier, immediately go to the internet and search for any information you can find on that text being sent to cell phone users.

*Visit the company's website and read the fine print.

*Never give your cell phone number to an internet site you don't know and trust. Sometimes the mere act of giving the site your cell phone number is deemed to authorize the monthly billings.

This all sounds like a confusing mess, and it is. However, it is becoming an expensive confusing mess for many people.

I'm sorry to be the bearer of all these warnings, but being able to see the scam before you step into it, will save you a lot of grief. ■

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REVIEW YOUR LEGAL HEALTH, CONT.

safe keeping and forget about them.

It is probably time to review your life changes. Pull those documents out of the drawer and take stock of anything that needs to be changed.

Perhaps you have new children or there was a death in the family. Some couples have been lucky enough to adopt a child, while others have been divorced. Others

have bought or sold property and have not funded the trust with it. The sad thing is that these changes are never accounted for in the estate planning documents. Instead the documents just hang in the filing cabinet unchanged. Don't let this happen to you!

Whenever there is a major event in your family, or at least once a year, take a few minutes to review your estate planning documents. Review

your life and see if there are changes that you want to make. Amendments to a trust are simple to make and very inexpensive (with the right attorney, at least). The cost of wrong documents caused by changes in your circumstance, however, will be much more costly.

All too often an ex-spouse steps forward to claim the

Continued on Page 4

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U S I N G T H E L A W T O M A K E M O N E Y

REVIEW YOUR LEGAL HEALTH, CONT.

bulk of an estate, leaving the family who need and deserve those assets penniless. Don't let this happen to you!

Maybe the physical relationships in your family have not changed much, but existing relationships have soured. Perhaps you have children who have become involved in drugs. Leaving them assets will only help support a lifestyle choice that will kill them. You may wish to cut them out of your estate, or find another way to help them.

You may have reached your declining years and not all of your beneficiaries have time to help you. You may wish to further reward those who are sacrificing time to help you,

because you know they need the money.

Or you have moved from the family home to a retirement condo in another state, but you forgot to put the deed to your new residence in your trust. This will require an expensive out of state probate for your children to manage.

Not only do you need to review your estate planning documents, you should also review anything that records a beneficiary. This includes life insurance policies and retirement accounts. You hear all the time about an individual who has been divorced and remarried for many years. Unfortunately he did not change over the

beneficiary on his retirement account at the time of his divorce. When he died, his retirement account goes to his ex-wife but the estate tax bill must be paid by the penniless current wife!

Don't let such a travesty happen to you. Take the time to review your beneficiary lists and estate planning documents and keep them up to date. Whenever you have significant changes in your family, remember that your estate must be reviewed. Taking the time to do these things will mean your asset protection and estate plan will function as you intended.

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