Delaware Banker

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Avoiding the Pitfalls of Social Media

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Contents

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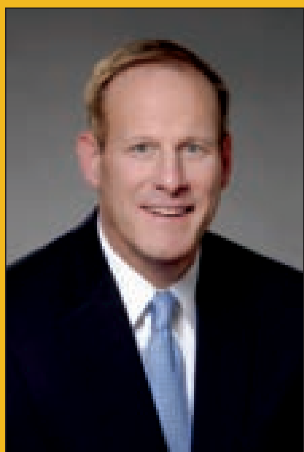

by
Rodger Levenson
Executive Vice President & CFO
WSFS Bank

Chairman
Delaware Bankers Association

"Please join me in congratulating David on his years of service and welcoming Sarah to the DBA!"

Welcome to the Spring edition of Delaware Banker Magazine. To say a lot has happened since our last issue would be an understatement!

For starters, the first week in March, we had the largest and most intriguing Washington Visit ever, as we landed in the Nation's Capitol in the middle of a major snowstorm and government shutdown. Though faced with cancelled buses and face to face meetings, we managed to have an enjoyable and productive three days. With the assistance of the American Bankers Association, we were able to conduct a multi-line conference call with Senior Directors of the OCC and separately an interesting and unique call with FDIC Chairman Marty Gruenberg and a third call with Senator Carper, who never fails to come through for us. All three calls provided important Q&A sessions that received top reviews from our participants.

Senators Carper, Coons and Congressman Carney all rearranged their schedules, so we could meet with them in person. Additionally, as the roads were cleared, we met with representatives of the CFPB and even made a trek to the Boardroom of the Federal Reserve for a meeting with Eric Belsky, Director of the Division of Consumer and Community Affairs.

Later in March, we hosted a Legislative Reception in Dover for our State Senators and Representatives. Governor Markell, Secretary of State Bullock, Commissioner Glen and 28 of our State legislators were in attendance. It was a great opportunity for one- on -one discussions regarding industry concerns and issues. Special thanks to the many financial institutions that co-sponsored this event.

In April, we once again hosted the Governor as he signed a proclamation announcing our Teach Your Children to Save Week program. Over 200 bankers taught a lesson on compound interest to approximately 7,000 third and fourth graders statewide. One of our more complicated projects ,that has consumed an amazing amount of time, involves the leadership of the Association . As you are probably aware, David Bakerian is retiring as the President and CEO of the DBA at the end of May 2015 after 30 years on the job. This major change has kept many of the Board members very busy since January of this year. We appointed a search committee and engaged Kaplan Partners, a search firm, with a special knowledge of association administration. I am happy to report that after a thorough search process, we have found David's successor.

Sarah A. Long of Wilmington , Delaware will become the 4th President to lead the Delaware Bankers Association as it celebrates its 120th Anniversary. Sarah emerged from a long list of qualified candidates and finalists as the unanimous choice of the search committee. She served as the Director of Retail Strategy & Customer Advocacy for PNC Bank for the past four years and was a Card Products Executive with PNC for 5 years prior. Sarah was also with MBNA/Bank of America in Marketing for 13 years. Sarah will be highlighted in the Summer Issue of our magazine. Special thanks to the Search Committee Chaired by Nick Marsini, Regional President, PNC Bank Delaware; Lynda Messick, former President & CEO Community Bank Delaware; Cindy Brown, President, Commonwealth Trust Company; Dave Gillan, Chairman of the Board and CEO, County Bank; and, myself.

Please join me in congratulating David on his years of service and welcoming Sarah to the DBA!!

Here's to a great year ahead!!
Rodger

Connolly Gallagher Employment Law Group: Timothy M. Holly, Matthew F. Boyer, and Mary I. Akhimien

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President's Report

by
David G. Bakerian
President, CEO & Treasurer
Delaware Bankers Association

"Keep doing the great things you do for the State of Delaware.... you are its #1 Corporate Citizen!"

As you wind your way through your career, you are generally caught up in the moment and managing in a crisis mode more often than you would like. The longer you work and the years go by, you occasionally get a glimpse of that light at the end of the tunnel. You dismiss it less and less as your tenure lengthens. Until you come to a day like today when you sit down to write your last column as the President of the Delaware Bankers Association. The tunnel is gone, the light is here!!!

Without getting too mushy, it has been an honor and a privilege to have been a part of the American Institute of Banking and the Delaware Bankers Association since 1985. The first eight years at AIB transitioned into another twenty two at DBA in what seems like the blink of an eye. I have worked with many great educators, bankers, Board Members, CEO's, Governors and State and Federal legislators over the years. I was spoiled in the early years as the banks were hiring at a dizzying pace and at AIB, we were literally training thousands and thousands of new hires annually. The Delaware Chapter of the American Institute of Banking was larger than a small college, and one of the largest chapters in the country. On the DBA side, I thought it was normal to always have the President Pro Tem of the State Senate as the Chairman of the Senate Banking Committee.

As the industry matured in the State, so did I. As the new hires slowed, I began to realize we couldn't rest on our laurels and needed to mine new ventures and look for value added in everything we did. On the education side we developed agreements with local colleges to accept AIB courses for college credit and thus put many of our bank employees on a degree track. We also developed a solid Financial Literacy Program with partners like the University of Delaware, the Philadelphia Federal Reserve, and Consumer Credit Counseling Services of Maryland and Delaware, financed with grants from our member banks. On the DBA side we expanded our membership to include trust companies and a wide assortment of Associate members including law and accounting firms. These new alliances helped us weather the deep recession years from 2008-2013 , which severely damaged many non-profits across the country. And I couldn't leave without a special word of thanks to our great staff and my family and friends for their support throughout my career. Best wishes to my successor Sarah Long, whom you will learn more about in the next issue of our magazine.

In closing, I would like to offer a few words of advice based on thirty years in the Association business. Believe me this is nothing really profound; those of you who know me know I'm never profound, however: Keep doing the great things you do for the State of Delaware....you are its #1 Corporate Citizen.....and you should make more noise about the gifts you give and the volunteerism you perform.

Protect your image....if you are criticized you need to respond, if something is repeated enough without being challenged it becomes a fact....don't let other factions define you.

Be proud of the job you do...putting people in houses, cars, colleges, driving the economy, and helping us all prepare for retirement....ah,did someone say retirement???? It's been a fun 30 years.... gotta go!!!!

Sincerely,

What's New at the DBA

New Associate Members

Atlantic Trust Company

Gabrielle Bailey, Director of Delaware Trust Service
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Wilmington, DE 19801-1186
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www.atlantictrust.com
Atlantic Trust, offers private wealth management, trust services and investment management.

Cooch & Taylor, P.A.

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1000 West Street, 10th Floor
Wilmington, DE 19801
Telephone #: 302-984-3800, Fax #: 302-984-3939
mdemilio@coochtaylor.com
www.coochtaylor.com
Cooch & Taylor currently maintains a growing general practice with concentration in business and commercial bankruptcy, civil litigation, family law, real estate, construction law, labor and employment law and trusts, estates, and tax.

NCALL Loan Fund

Karen Kollias, Loan Fund Director
363 Saulsbury Road
Dover, DE 19904
Telephone #: 302-678-9400, Fax #: 302-678-9058
kkollias@ncall.org
www.ncall.org
The NCALL Loan Fund is a Community Development Financial Institution (CDFI) certified by the U.S. Department of Treasury. The Loan Fund provides financing for affordable housing development, community facility development, and community revitalization in its target market of the Delmarva Peninsula.

USDA/Rural Development Business & Cooperative Program

Letitia N. Nichols, Business and Cooperative Program Director
1221 College Park Drive, Suite 200
Dover, DE 19904
Telephone #: 302-857-3588, Fax #: 855-389-2243
Letitia.nichols@de.usda.gov
www.rurdev.usda.gov
USDA/Rural Development Business & Cooperative Program helps improve the economy and quality of life in rural America. They promote economic development by supporting loans to businesses through banks and community-managed lending pools. They offer technical assistance and information to help agricultural producers and cooperatives get started and improve the effectiveness of their operations.

DBA Washington Visit

More than 35 bankers braved an early March snowstorm to attend the **2015 Delaware Bankers Association Senior Executive Washington Visi**t, March 4th-6th. Attendees received updates from the **American Bankers Association** as well as from key regulators. The group also heard from **Senator Tom Carper**, **Senator Chris Coons**, and **Congressman John Carney**. The DBA thanks all of their generous sponsors including: Platinum Sponsor - **The Federal Home Loan Bank of Pittsburgh**; Reception Sponsors: **Brooks Courier Service, Inc.**, **FIS Enterprise Governance, Risk & Compliance (EGRC) Solutions**; **Parkowski, Guerke & Swayze, P.A.**; and, **Richards Layton and Finger**.

Legislative Reception

(l. to r.): Senator Bryan Townsend, Chairman Senate Banking and Business Committee; Rodger Levenson, DBA Chairman and Executive Vice President & CFO, WSFS Bank; and, Representative Bryon H. Short, Chairman House Economic Development/Banking/Insurance/Commerce Committee at the DBA Legislative Reception.

The **Delaware Bankers Association** hosted its fifth annual **Legislative Reception** for members of the Delaware General Assembly, March 26th, at Dover Downs. DBA Chairman, **Rodger Levenson**, Executive Vice President, **WSFS Bank**, joined other prominent bankers from across the State in welcoming the law makers. The reception was made possible by the generous sponsorship of the following members: **Applied Bank**, **Bank of America**, **Barclays**, **The Bryn Mawr Trust Company**, **Comenity Bank**, **Commonwealth**

Trust Company, **Community Bank Delaware**,**County Bank**, **Discover Bank**, **Fulton Bank**, **Glenmede**, **M&T Bank**, **U.S. Trust Company**, **Wells Fargo**, and **WSFS Bank**.

BSA/AML for Trust Companies

(l to r): Sharon A. Blanchette and Zoya Faynleyb of FIS EGRC conduct BSA/AML for Trust Companies.

The **Delaware Bankers Association** and **FIS Enterprise Governance, Risk & Compliance(EGRC) Solutions** presented **2015 Bank Secrecy Act/Anti-Money Laundering for Trust Companies** on March 25th at the University & Whist Club in Wilmington. The special half-day seminar addressed the specific needs of trust companies in fulfilling their Bank Secrecy Act/Anti-Money Laundering training requirements. Topics included: Bank Secrecy Act Overview; Money Laundering Methods; Detection and Reporting Techniques; Detecting Suspicious Activities; SAR Filing; Due Diligence "Best Practices;" and more. A one-hour nine-minute CD containing over 100 PowerPoint slides with syncronized audio of the presentation is available to fulfill your trust institutions' training requirements. Visit www.debankers.com forinformation on ordering.

Brooks Courier Supports Mary Campbell Center

Brooks Courier Service continued their program of providing free advertising on their vans for local community organizations. The latest recipients is **The Mary Campbell Center**, a home for young adults and adults with disabilities. The Center also provides respite care, day programs, and after-school and summer programs for children with disabilities and their families.

Cover Story

Social Media Compliance: Avoiding the Pitfalls

by: Sharon A. Blanchette, CPA, CIA, CRCM, CAMS, MBA
Director, Consumer Finance & Fair Banking
FIS Enterprise Governance, Risk, and Compliance (EGRC) Solutions

Interest in social media risk and compliance issues among bank compliance officers has increased due to the increasing inherent risk posed from using social media. Over the past year, social media risk has been in the news due to both safety and soundness issues and consumer compliance issues. From a safety and soundness perspective, the recent hijackings of Twitter accounts, combined with the interagency cyber security initiative, has increased regulatory scrutiny over social media security controls and the coverage of social media in Information Security risk assessments and audits. From a consumer compliance perspective, the March 11, 2015 publication of the Consumer Financial Protection Bureau's (CFPB's) "Supervisory Highlights" noted that loan officers in some institutions published mortgage advertisements that failed to include required disclosures.

Risk is also increasing due to the number of social media channels that banks are using, and because of the various purposes they're using for social media. In addition to using social media for "feel good" community involvement postings, banks are also using social media to advertise products and services, to open accounts, and to process transactions. While these services frequently enhance the customer experience, they pose additional risk to a bank. Managing these risks paves the way toward the increased use of social media to enhance customer experiences.

In response to this, the topic of social media risk and compliance – where the 2013 FFIEC guidance is discussed – has become a popular topic for webinars and articles. This article, however, takes a case study approach to illustrate the potential pitfalls with social media compliance, and discusses how to avoid those pitfalls. The case study is based on a compilation of multiple reviews of bank social media programs since 2012.

Case Study

"We Heart Social Media Bank" (WHSMB) is a community bank with approximately $1 billion in assets, with a subsidiary mortgage company called "We Heart Loans Even More" (WHLEM). In mid-2012, after a month of analysis about what other banks were doing, WHSMB launched a Facebook page, as well as Twitter and YouTube accounts in the same month. Their Marketing Manager is a very progressive individual and the bank was a relatively early adopter of social media. There was no separate Facebook page for the mortgage company, or so management thought. The bank's Marketing Manager contacted a friend at another bank and borrowed their Social Media Policy. The policy contained sections on content management and acceptable use of social media, but didn't address governance, risk, or compliance. In the interest of time, the Marketing Manager sent the Social Media policy to the Board for approval without input from the Compliance or Information Security departments.

The "Look Before You Leap" Pitfalls

When the FFIEC social media guidance was released in December 2013, the bank's Compliance Officer attended the Federal Reserve Board's webinar regarding the guidance, but

no one from the Marketing or Information Security departments was able to attend. The Compliance Officer wasn't a user of social media, and wasn't sure how to respond to the new guidance. During the webinar she attended, she remembered the FRB examiner saying that none of the guidance on the regulations was new, but that social media was just a new venue. Therefore, she thought that no updates needed to be made to the old Social Media policy, and she didn't perform a social media risk assessment.

How to avoid these pitfalls:

1- The decision to launch social media sites should be based on more than a month of analyzing what other banks are doing. The decision should be based on a clear and purposeful strategy with defined metrics for success. The Social Media Strategy document should be presented to the Board of Directors before social media sites are launched.

2- Be sure to obtain Board approval for the Social Media policy before social media sites are launched, and be sure it addresses the governance, risk, and compliance issues set forth in the December 2013 FFIEC guidance. There should be a clear trail of policy input from the Compliance, Human Resources, Legal, Information Security, and Marketing departments.

3- Ensure that training on social media governance, risk, and compliance is presented to members of the Compliance, Marketing, Human Resources, Legal, and Information Security departments, as well as Loan Officers and other sales-oriented employees who could potentially create and post content on their own social media pages. Summary training should also be presented to the Board.

4- Be sure to perform a Social Media Risk Assessment to assess the risks facing the bank from its social media activities and the controls in place to mitigate those risks.

The "Family and Friends" Pitfalls

The Marketing Manager was charged with posting social media updates after the Compliance Officer reviewed them. The content was engaging and mostly educational about the bank's areas of expertise, including the mortgage subsidiary. Content focused on home ownership and home improvement helpful hints. The Marketing Manager was careful to show a diverse demographic in its postings and in the graphics that accompany the postings, however, 95% of all the postings discussed "your family." The bank frequently posted photos of its community events, and these photos include children. Additionally, the bank had special "spotlight" postings that focused attention on local businesses on the bank's Facebook page. All of the local businesses featured were real estate agencies, closing attorneys, and residential builders. Similarly, the Marketing Manager tended to re-tweet tweets from the real estate agents, closing attorneys, and builders with whom the bank did business. This activity brought a lot of attention to the real estate agents, closing attorneys, and builders.

How to avoid these pitfalls:

5- The bank's attempt to reach families might give single borrowers the impression that the bank doesn't want their business. Ensure that postings address the wide range of customers served by your bank to avoid a Fair Lending issue.

(continued on p. 12)

(continued from p. 11)

6- Be sure to obtain signed media release forms from parents/ guardians whenever posting photos of children on your social media pages.

7- The featuring of the real estate agents, closing attorneys, and residential builders (all involved in the mortgage settlement process) and the re-tweeting of their tweets could create a RESPA Section 8 issue, in that these businesses are receiving "something of value" from the social media coverage (assuming they also provide residential mortgage referrals to the bank.)

The "Seems Like Old Times" Pitfalls

As with many other banks, WHSMB and WHLEM had loan officers who were adept at promoting themselves and the bank. Some of these loan officers left for other opportunities. A number of loan officers had created social media pages and even YouTube videos relating to bank activities that were still active and searchable. The bank was not aware of these pages and videos, and had not approved them. The videos not only featured employees who were no longer with the bank or mortgage company, but featured products and services that the bank no longer offered.

How to avoid these pitfalls:

8- Having active pages and sites on social media that communicate products erroneously or that no longer exist can expose a bank to a UDAAP (Unfair, Deceptive, or Abusive Acts or Practices) issue. Be sure to perform your own monitoring by searching YouTube and other sites for your bank name. If you're using a service that detects your bank name used in yesterday's social media activity, the service might not find content that was posted 3 years ago.

9 - Even if you are using an automated social media monitoring service, be sure to conduct your own searches for unauthorized pages and content.

The "Over-Zealous Employee" Pitfalls

Loan Officers had their own social media pages, featuring the WHSMB and WHLEM names and logos, and describing residential lending products and services, but the loan officers didn't list their NMLS# or include "equal housing lender" on the pages. One creative loan officer created her own Facebook page for the mortgage company, including the WHLEM name and logo, including a list of residential mortgage products and services offered, company phone number, maps and directions to the mortgage company, but no "equal housing lender" disclosure. The bank was not aware of this Facebook page. Additionally, at least two bank employees who were also licensed to sell non-deposit investment products (NDIP) had very detailed LinkedIn profiles that described the investment products, mentioned the name of the bank and the investment company the bank partnered with for NDIP, but failed to include any of the NDIP disclosures. In early 2014, the bank ran a contest on Facebook because it saw other banks doing it. Because this bank had never run any type of contest, it wasn't familiar with the state law requirements for contests in their home state.

How to avoid these pitfalls:

10- This situation above involving loan officers describes the findings that the CFPB included in its March 11, 2015 "Supervisory Highlights". Employees occasionally post their own content on social media, but mention the bank's name, include the bank's logo, discuss the bank's products and services, and even advertise mortgage or deposit account terms, rates, and features. Certain advertisements require disclosures per Regulation Z, Regulation DD, and Non-Deposit Investment Products. A bank can either choose to prohibit employees from discussing bank products and services on their own social media pages, or the bank can implement a structured and controlled program that allows employees to do so. Both require employee acknowledgement of the bank's policy.

11- Contests are a risky endeavor and require a lot of legal, risk, and compliance effort in the planning stage. Banks that don't have these resources should avoid contests and include this prohibition in the Social Media policy.

The "A Complaint is a Complaint" Pitfalls

An interest calculation issue resulted in a handful of complaints being posted to the bank's Facebook page by impacted customers in early 2014. Although customers received replies from the Marketing Manager, their complaints were not handled like complaints received via other avenues. One customer posted: "I'm not going to bother with you anymore. You don't seem to want to put a branch in MY neighborhood." The monitoring company the bank used didn't specialize in bank social media, and was unfamiliar with CRA or fair lending regulations. The bank's Compliance Officer would have recognized the statement as a potential CRA issue, but wasn't comfortable with social media and had no role in monitoring customer postings. The Marketing Manager saw the posting, but hadn't been trained on which regulations could apply to social media. The comment – a potential CRA issue – didn't get addressed by anyone.

How to avoid these pitfalls:

12- Complaints received via social media should be handled in the same manner as any other complaint, and the bank's Customer Complaint Policy should be updated to include complaints and inquiries received via social media.

13- A complaint that appears to be about customer service may involve much more, and this is why those who review postings and responses on social media should be trained to know the difference between a customer service complaint and a possible CRA complaint.

14- Choose a monitoring vendor that specializes in banks. A monitoring company that isn't well-versed in consumer regulations in banking would not catch the fact that the complaint about the bank's choice of neighborhoods could be a CRA complaint.

The "Don't Forget the IT Manager" Pitfalls

In mid-2014, a bank employee noticed some content on the bank's Facebook page that seemed inappropriate and reported it to the Compliance Officer. The Compliance Officer contacted the Information Security Manager and launched the incident response protocol. The incident investigation revealed that there was no requirement in the bank's policies for the Marketing Manager to change her password for the bank's Facebook page. Moreover, a review of the management-level Information Security Committee minutes revealed no mention of social media in any of the meetings over the prior two years. None of the Information Security risk assessment reports, audit reports, or vulnerability testing reports indicated that social media was included in the scope. Neither the Information Security Policy nor the Incident Response policy had been updated to address social media.

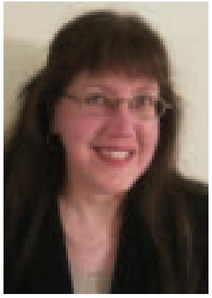
How to avoid these pitfalls:

15- Ensure that the Information Security managers are involved in the social media endeavor from the very beginning, so that they can update Information Security policies and include social media in the scope of Information Security risk assessments and audits. The Incident Response team should receive training on what types of incidents can involve social media, including the hijacking of Twitter accounts and other channels.

16- Be sure that Information Security policies require that any social media passwords be secure and changed frequently.

Conclusion:

The issues and helpful compliance tips presented in the case study above should be considered when you craft your social media program. Some of the items are addressed by robust policies and procedures -- many of which are probably already in place at your bank and simply require updating. The compliance tips will also help you to address the safety and soundness aspects of a bank's use of social media as well as the issues raised by the CFPB in the March 11, 2015 "Supervisory Highlights," and this should help pave the way toward increasing your use of social media and enhancing the customer experience with your bank.



Sharon A. Blanchette, CPA, CIA, CRCM, CAMS, MBA is a Director, Consumer Finance & Fair Banking for FIS Enterprise Governance, Risk, and Compliance (EGRC) Solutions. In this role she assesses regulatory compliance and AML risk, evaluates control systems, and leads review and look-back projects. She provides guidance to institutions as they remediate examination issues, and has assisted institutions as an outsourced compliance and BSA officer. Sharon has worked for community banks in positions of Director of Internal Audit, Chief Risk Officer, and Director of Regulatory Compliance. Sharon is a certified public accountant, certified internal auditor, a certified consumer regulatory compliance manager, and a certified anti-money laundering specialist. She received a B.A. in Economics from Mount Holyoke College and an MBA from Western New England College. She's active on social media and invites you to link with her on LinkedIn.

"You Can Never Do Anything Once!"

A Conversation with DBA President David Bakerian as He Prepares to Retire

Delaware Banker: You're not originally from Delaware.
David Bakerian: No, I'm originally from upstate New York… Troy, New York.

As a young boy in Troy, New York, when did you first realize: "I want to grow up and be the President of the DBA"?
(laughs) I don't think I ever had that epiphany. Circumstances and good fortune allow me to follow a career in education that led me through a few colleges and eventually to be the executive director of the American Institute of Banking here in Delaware.

What was your major in college?
I have a master's in English literature.

What's your favorite work of literature?
Probably Huckleberry Finn. I really put Mark Twain up on a pedestal.

What was your career path to the DBA?
I came to Delaware to be the Director of Continuing Education at Wesley College. I came from SUNY Albany, and Hudson Valley Community College.

What were your first impressions of Delaware?
I loved it. I came here in early April. Everything was starting to bloom and it reminded me of Saratoga, New York. The beautiful old homes in downtown Dover reminded me of a quaint village. It was wonderful.

I was with Wesley two years. Then I spent two more years with Wilmington College as their Vice President for Marketing. Part of my duties with that happened to coincide with the growth of the banking industry in Delaware. In 1981 they passed the Financial Center Development Act. In 1984 when I was with Wilmington College we were running some training programs and continuing education courses. I was approached by some bankers to consider a position that was going to open in the Delaware AIB. I became the first paid executive to run the statewide program. Before then it was three independent chapters, one each in the three counties, and it was run by volunteers. With the explosion in the banking arena in Delaware there was a need for someone to be paid to run the program, do some planning, and increase the participation in it.

How did that lead to becoming the president of the Delaware Bankers Association?

For the sake of convenience, I was housed in the same office in Dover as the Delaware Bankers Association's executive vice president, Frank Morris. I spent eight years sharing quarters with Frank and Shirley Glanden. When Frank decided to step down in 1993 I was asked to take on both organizations. So I maintained my position as executive director of AIB, but also became the executive vice president of the Delaware Bankers Association. AIB has gone through a series of transitions over the years and has become the Financial Education Alliance. It's a separate corporation but it's treated as a subsidiary of the Delaware Bankers Association.

fishing or farming or hunting there always seem to be some sort of financial aspect to it that we need to be aware of because the banking industry could be effected by an innocuous bill that might have been just dropped in and the impact was not immediately evident.

When did you start your lobbying duties in the legislature?

In 1993. I followed Frank Morris around and Joe Moran, who was the General Counsel for Wilmington Trust. I followed them around the legislature for about six months and then I was ceremoniously thrown into the tank.

What was the learning curve of that approach?

The learning curve was absolutely incredible. (Laughs) You got a guy who could barely balance his checkbook who was now responsible for being the legislative watchdog for the banking industry.

What was the Delaware banking industry like 30 years ago?

It was nothing like it is today. The industry specifically in Delaware has evolved over the years. In 1985 when I got involved with it if you didn't get to the bank by 4:00 on a Friday afternoon you could forget about having money for the weekend. There were no ATMs. There were no banks open on the weekend. It was kind of shocking for me coming down from New York to see this. Delaware banking has grown from there. The industry back then probably had three or four thousand employees in the traditional bank branch system. Today it has grown to over 30,000 employees. The State has become a leader in the credit card industry, a leader in the on-line banking industry, and instead of trying to get to the bank by 4:00 on Friday now you can bank from your computer, from your phone, 24/7. Whatever you need, the banking industry in Delaware has provided it.

What was the most surprising part of your job?

Coming into the banking world from education I was most surprised by the role that banking plays in our everyday lives. My experience after 22 odd years in the legislature was that I'd have to read every bill because in one way or another it had to do with the monetary system. Even if the bill was about

You must have met many interesting people over the years in Delaware, in Washington, and speakers at the annual dinner. Are there any that stick out in your mind as the most impressive?

On a national level, we are affiliated with the American Bankers Association and I was always impressed by Ed Yingling, who was the chief lobbyist for the ABA and then eventually became the president. Ed had a knack for planning legislative strategy out over a one or two year period. I learned a lot about being patient and how a piece of legislation may look like it's going to do the right thing but in many cases can become dysfunctional. Another person who I worked with and looked up to at ABA, she was the first woman chairman of the American Bankers Association was Betsy Duke. She not only became the first female head of ABA, but went on to become a Federal Reserve Board Governor. From Betsy I learned to look at banking issues from a community bankers perspective. I've tried to use that back here in Delaware by being inclusive with all of our banks no matter their size and no matter what county they're from.

(continued on p. 16)

One on One

(continued from p. 15)

What was the thing you liked most about being president of the DBA?
For a young man from Troy, New York coming to an entirely different state I really enjoyed the opportunity to meet some the local state and national stars. From people like Senator Richard Cordrey, the first pro-tem I worked with to Vice President Biden, with a ton of Senators and Congressmen in between.

Now for a few infrequently asked questions.... If you could invite three people, living or dead, to a dinner party who would they be?
Dave Barry, who was one of the most impressive guest speakers we've had over the years. Mark Twain who as I said has been very influential with his wit and straightforwardness. And the third, probably Woody Allen.

How did you earn your first dollar?
Shoveling snow in Troy. I lived in the city so I would go to the local merchants after a big storm and ask if I could shovel their sidewalk.

The bestselling biography of your life is published. What would be the title?
"You Can Never Do Anything Once." This is a philosophy that I've lived by. Rarely do you accomplish anything without issues or problems that you don't eventually have to go back and fix. Rarely do you get someone to service your car, or your home, or your computer that you don't have to go back and have it fixed for a second time. On my tombstone I want to put: "I will be back! Because you can never do anything once!"

That same book is made into a blockbuster film. Who plays the lead?
Hopefully an individual who can handle things in the worst of times with a touch of class.

You're locked over the a long weekend in well-furnished bank vault. You have one book, one CD, one DVD, and one thing to eat. What are they?

The book would be *The Autobiography of Mark Twain*. The music would be any one of Led Zeppelin's albums. It would either be *Midnight in Paris* by Woody Allen or *Time Bandits*. One thing to eat? A skewer of shish kabob.

Kellogg's launches a breakfast cereal honoring you. Is it sweet and sugary, or bland and high fiber?
Sweet and sugary!

What's the prize in the box?
It's funny that you mention that because I remember going berserk because I couldn't save up enough box tops to get one of those frogmen that you put baking soda in. But today, I'd put in a gift certificate for 25 golf lessons.

You can go anywhere for a week's vacation. Where do you go?
Provence.

And who do you take with you?
Do I look stupid? Don't answer that! My lovely bride, Pamela.

You're walking down the street in Wilmington and see an Elvis impersonator coming your way. Do you cross the street to avoid him, or engage him in song?
I'd walk right up to him and say: "You ain't nothing but a hound dog!"

You are allowed to select one super power. What is it?
(laughs) Invisibility! That will keep me out of trouble and let me have a great retirement!

Planning Opportunities When GRATs Fail

by Ann Bjerke
Senior Wealth Strategist
UBS Financial Services

A grantor retained annuity trust (GRAT) is a strategy used to transfer the appreciation in trust assets to the trust beneficiaries at little or no gift tax cost. A GRAT can be particularly attractive in a low interest rate environment because the assets inside the trust are likelier to appreciate in excess of the interest rate, also called the hurdle rate, set at the date of the funding of the trust, thereby creating a remainder interest to pass on to the trust beneficiaries. Sometimes the assets inside a GRAT do not appreciate as expected during the term of the trust, such that the GRAT may be poised to fail as an estate planning vehicle. Where this appears to be the case there are strategies you can consider to help you to reduce the possibility of an estate planning failure.

How a GRAT Works

The grantor creates a GRAT and funds it with assets that are expected to appreciate. The trustee of the GRAT will distribute an annuity (a fixed amount determined at the outset) to the grantor for a term of years. At the end of the term of the GRAT, any assets remaining in the trust will pass to the remainder beneficiaries (often the grantor's children). Typically, the GRAT is structured so that the present value of the annuity payments made to the grantor actuarially equals the fair market value of the property contributed to the GRAT—a so-called "zeroed-out" GRAT. As a result, the value of the remainder interest will be zero. If the assets in the GRAT appreciate at a rate that exceeds the hurdle rate (the Section 7520 rate which is the IRS's growth rate assumption), all appreciation in excess of this threshold passes to the beneficiary free from gift tax. [1]

Failing GRATs

If the assets inside the GRAT do not appreciate as expected, or at least at a rate greater than the applicable Section 7520 rate, the trust may "fail" as an estate planning vehicle. Consider the following example. A grantor set up a two-year GRAT on February 24, 2014 with $1 million worth of Halliburton Company stock (when the value was $56.40 per share). On February 24, 2015, the trustee of the GRAT was required to distribute an annuity payment to the grantor of $518,081. However, with the stock price around $42.88 per share at that time, the entire trust was worth only about $760,284, making it difficult for the assets remaining in the GRAT after the first annuity payment to appreciate enough to cover the second annuity payment of $518,081 due in 2016. Therefore, it is very possible that the remainder beneficiaries will receive nothing. In other words, the GRAT may fail.

Potential strategies

Once it becomes clear that the remainder beneficiaries are very unlikely to receive anything, what are the options? The grantor may not like the idea of the lost opportunity cost associated with the trust assets sitting in the trust until they are distributed back to the grantor in the form of an annuity payment. However, the trustee is not permitted to pay the annuity prior to the due date.
One option is for the grantor to exercise the power, if granted in the trust agreement, to swap assets of an equivalent value in exchange for the trust assets. In the example, the grantor would take back the Halliburton shares and substitute cash (or other assets) equal to the value of the shares on the date of the swap. If he believes that the shares will rebound, he can contribute the stock to a new GRAT (which, given the depressed value and historically low interest rates, could be an effective strategy).

(continued on p. 24)

1- However, if the grantor dies during the term of the GRAT, all of the assets of the GRAT are generally includible in the grantor's estate for estate tax purposes, thus negating any tax advantages the GRAT would otherwise provide.

(continued from p. 23)

If the grantor does not have cash to contribute to the GRAT, it may be possible to substitute a promissory note in return for the shares; in other words, the grantor would take back all of the shares inside the GRAT and contribute a promissory note, payable to the trustee, with a face amount equal to the value of the shares on the date of the swap. On the anniversary date of the GRAT, the trustee would then distribute the promissory note back to the grantor in satisfaction of the annuity requirement. The advantage of this technique is that the grantor does not need to come up with the cash to put inside the GRAT. You should discuss this strategy with legal counsel to determine whether this strategy is appropriate given your particular facts and circumstances..

Considerations for Successful GRATs

Conversely, for those fortunate clients who have established GRATs in which the assets have appreciated beyond the hurdle rate, they may wish to lock in the upside by substituting less volatile assets (i.e., cash or bonds). Keep in mind that with interest rates so low, this may be an opportune time to consider GRATs -- whether creating new GRATs funded from the annuity payments received from an older GRAT or creating an entirely new one with assets that are expected to appreciate.

Ann Bjerke works with ultra high net worth clients of UBS to help coordinate their investment, estate planning and philanthropic goals. Ann received a B.A. from University of Michigan and her J.D. from Vanderbilt University Law School, where she was a Managing Editor of the Vanderbilt Law Review. Prior to joining UBS, Ann practiced law with the law firms of Winston & Strawn LLP and Levin, Schreder & Carey, focusing on estate tax and income tax planning for ultra high net worth individuals, families and business owners. She also worked in the Office of Gift Planning at the University of Chicago.

This article provides general information on the topic discussed and is not a complete analysis of all issues and options available. As such it should not be used as a basis for decisions in specific situations. The views expressed herein are those of the author and may not necessarily reflect the views of UBS Financial Services Inc. UBS Financial Services Inc., its affiliates and its employees are not in the business of providing tax or legal advice. Please contact your tax and legal professional to dicuss your personal situation. As a firm providing wealth management services to clients, UBS offers both investment advisory and brokerage services. These services are separate and distinct, differ in material ways and are governed by different laws and separate contracts. For more information on the distinctions between our brokerage and investment advisory services, please visit our website at ubs.com/workingwithus.

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Why Compensation Matters

by Alan J. Kaplan
Founder & CEO
Kaplan Partners

In the midst of the Great Recession, a number of banking institutions found themselves the beneficiary of an unexpected inflow of talent. In particular, veteran bankers and commercial lenders who were stuck in dead or dying institutions jumped ship to a safe port during this major storm. Obviously this was highly beneficial to those institutions seeking new senior leaders or major producers, but in some cases it also created a false sense of "talent security" – the idea that a stream of good bankers would continually find their way to the bank.

While there are indeed some high performing community and regional banks that have become "destinations" for top talent, this remains the exception to the rule. Furthermore, given the demand for talented bankers and lenders in excess of the supply (in both rural and urban markets), compensation has returned as an important factor in bankers' consideration of where to deploy their talents.

This is not to say that an executive's primary motivation to pursue new opportunities is financial: all of the data affirms that this is not the case. We have observed, however, several evolving dynamics regarding executive compensation which have significantly impacted the market for senior banking talent over the past several years:

- Banks are increasingly locking in their high performers and senior leaders with tools such as equity grants which vest over time, phantom shares for privately held institutions, or via deferred compensation programs. And, despite an economy much improved from a few years ago, we are still in an uncertain economic climate in which few executive level candidates are willing to walk away from real dollars for the privilege of joining another institution. Candidates are usually reticent to leave money on the table, and thus these retention tools designed to "handcuff" executives are working as planned in many cases.

- Career moves that are financially lateral are becoming increasingly rare. As institutional and regulatory risks remain uncertain—often impacting an executive's willingness to consider a career move—the "change premium" needed to attract new senior talent has increased. In addition, the due diligence conducted by senior bankers on potential career destinations has never been more thorough. This often complicates negotiations, impacts offer terms, and in some cases even results in a banker's decision to pass on a superior opportunity due to a bank's regulatory status or cloudy future.

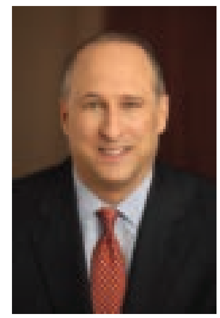
- Institutions that do not have the liquid currency of equity to work into the compensation mix—including privately held banks, mutuals, institutions whose equity plans have expired and those under some form of regulatory agreement—often face a greater challenge in structuring an appropriate compensation package when in heavy recruiting mode. Making up for lost equity, pending bonus payments, and deferred compensation may be especially challenging when the sole or primary compensation tool available is cash.

As evidence of this shift in executive recruiting economics, nearly every CEO search assignment we have been involved with over the past five years has also involved the bank's compensation consultant. We have partnered with our clients' compensation advisor—firms such as Pearl Meyer, Meridian and others—in order to ensure not only that the proper financial package can be designed, but that the structure of such packages is appropriate and defensible.

Talent has become so important that one of the prime reasons some banks end up selling to another institution is the lack of strong executive succession or the limited availability of talent. At the end of the day, talent drives the execution of strategy, and people are always the variable in a bank's ability to execute their plan. Thus, banks that want to survive and thrive must have the strongest possible executive and board leadership, as well as a cadre of good lenders and other business generators. Of course, "A" players always have the most options, while "B" players are more plentiful. However, it is always the "A" players who "move the needle", and they command market compensation. "B" players may be less expensive but rarely move the needle, and the savings in hiring a "B" player will never be enough to offset the superior performance of a star banker.

Compensation is always a sensitive issue in banking, particularly for publicly traded institutions and smaller community banks. And yes, it often feels that the competition is always driving up the cost of talent, impacting the bank's bottom line. In reality though, the two most vital ingredients for banks to succeed in this environment are capital and talent. In banking as in most businesses, you do get what you pay for most of the time. Banks that are willing to invest in competitive compensation packages will be better poised to attract the best talent, and win the never-ending battles in the marketplace.

Alan J. Kaplan is Founder & CEO of Kaplan Partners, a retained executive search and talent advisory firm based in Philadelphia. Kaplan Partners is the country's only retained executive search firm member of the DBA, ABA & ICBA. You can reach him at alan@KaplanPartners.com or 610-642-5644.



Teach Chidren to Save Day

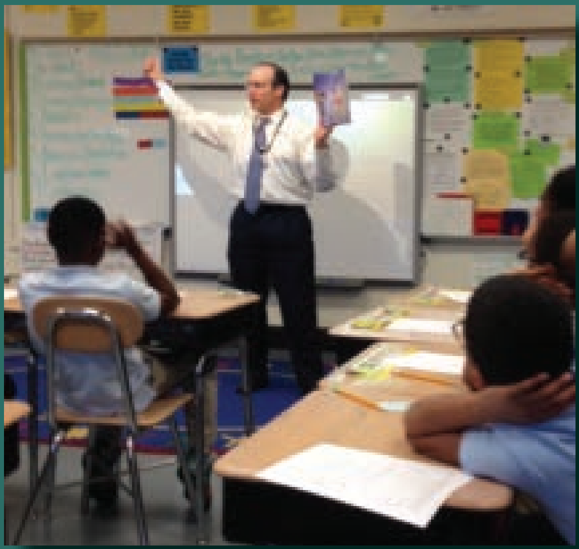
DBA President David Bakerian addresses the students at Highlands Elementary School.

Governor Jack Markell Proclaims "Teach Children to Save Week" at Highlands Elementary School.
(Photo courtesy of the University of Delaware/Evan Krape photographer.)

More than 200 Delaware bankers taught an estimated 7,000 3rd and 4th graders in over 60 public, private, and parochial schools statewide during the 17th annual Teach Children to Save Day the week of April 20th. The event is a cooperative effort of the Delaware Bankers Association and the Center for Economic Education and Entrepreneurship of the University of Delaware. Congratulations and thank you to all who participated! This year's lesson was based on ithe new book "The Great Investo and the Flourishing Flamingos." The book teaches the concept of compound interest and its importance in saving, and was made possible by a grant from Capital One.

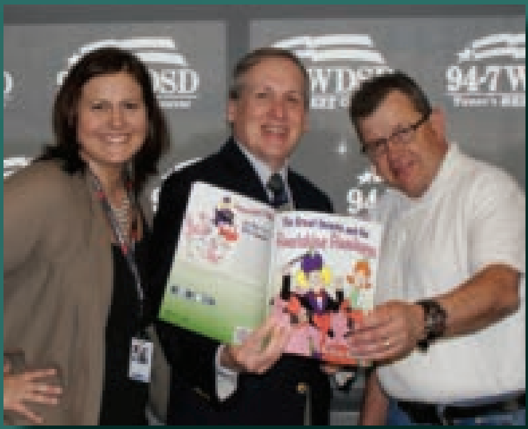
Leslie Kosek, Sr. Manager, Community Affairs, Capital One, is recognized by the DBA's Greg Koseluk for Capital One's support of "The Great Investo" series of savings books.

Delaware State Bank Commissioner Robert A. Glen shares the lesson on compound interest at Gallaher Elementary School in Newark.
(Photo courtesy of the University of Delaware/Evan Krape photographer.)



Chip Rossi, Delaware Market President, Bank of America, teaches at Warner Elementary School in Wilmington.

Vernita Dorsey, VP, Director of Community Strategy, WSFS Bank visits Sunnyside Elementary School in Smyrna.



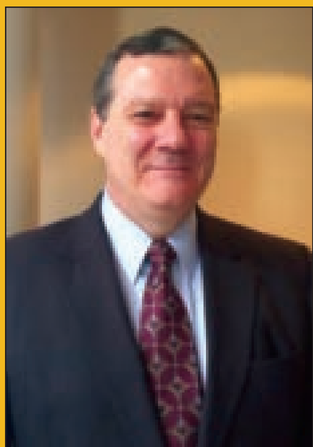
Greg Koseluk visits with Sky and Christa at WDSD-FM to Discuss the Importance of Saving

Bank of America's Richard McBride reads to one of the four classes he taught. Richard taught over 100 students singlehandly! Richard, you've earned that rocking chair!

Margaret Cregan, DBA Director of Membership, teaches at Holy Cross Elementary School in Dover.

Asset/Liability Management

Gain More Flexibility with Public Unit Deposits



by
John Foff
Relationship Manager
FHLBank Pittsburgh

Accepting state and municipal deposits can be an affordable way for financial institutions to increase liquidity and restore capital investment. These public unit deposits* are also routinely reinvested back into communities through business and construction loans, mortgages and other local lending.

Relying solely on securities to collateralize these types of deposits, however, can limit an institution's options when it comes to asset/liability management. Delaware banks that want more flexibility in the collateral types used to secure public unit deposits have another option: FHLBank Pittsburgh letters of credit (LCs). FHLBank members can pledge existing high-quality collateral in exchange for an LC that secures public funds. This approach allows institutions to broaden the types of collateral used for public funds (e.g., mortgage loans) and can free up securities to be used for other business purposes, such as generating income.

FHLBank members also get the following benefits from LCs:

- **Flexible term** – Maturities up to one year
- **FHLBank rating** – AA+/Aaa-rated collateral
- **Efficient pricing** – Annual fee of 0.12 percent of the total amount secured (multiplied by number of days in term divided by 365 or 360, as applicable)
- **Stock investment** – Investment in FHLBank's capital stock with the potential to earn a dividend on your shares
- **Wide acceptance** – Can be used to secure deposits in at least 43 states, including Delaware

Helping You Manage Your Assets

Applying for an FHLBank Pittsburgh LC is easy. Once established, LCs can also be conveniently accessed through FHLBank's online banking site, Bank4Banks.com. To apply, FHLBank members can call their Relationship Manager or FHLBank's Product Delivery Service Center at 800-288-3400, option 2. We look forward to talking with you about how you can use LCs to increase your asset/liability management options.

**Note: The FDIC regulations regarding deposit insurance defines "public unit deposits" as accounts of a state, county, municipality or political subdivision; the regulations provide that "the term 'political subdivision' includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by state statute or compacts between the states. It also includes any subdivision of a public unit or any principal department of such public unit:*

(1) The creation of which subdivision or department has been expressly authorized by the laws of such public unit;

(2) To which some functions of government have been delegated by such law; and,

(3) Which is empowered to exercise control over funds for its exclusive use."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October 2015

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Don't miss the tenth annual edition of this premiere trust event that will highlight the advantages of the Delaware Trust product. This year's theme is: Vintage Wealth Planning, Aged to Perfection! Indeed, like a fine wine, the Delaware Trust product has been carefully nurtured and meticulously crafted to become the premiere of the industry. Join dozens of expert panelists from the trust, legal, and accounting fields to learn the latest Delaware Exclusive information. Sponsorships and exhibition spaces are available.

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For more information, or to register, please visit the Web Seminar link at www.debankers.com. The DBA has introduced an improved web seminar catalog featuring an easy to view, searchable listing. There is no log-in required to view the catalog. The checkout function has also been improved and includes itemized receipts.

May - July 2015

May 11 - Commercial Real Estate Cash Flow: Part 1

May 12 - Robbery Training for All Staff

May 13 - The ABCs of ACH, Part 1

May 14 - Basics of Global Cash Flow Analysis: Part 2

May 18 - Troubled Debt Restructuring

May 19 - Best Practices for Today's Branch Manager

May 20 - ACH Operations: Part 2

May 21 - Does BYOD Drive You to BYOB?

May 26 - Decoding Financial Statements & Tax Returns for Different Business Entities

May 27 - Reporting Your Credit Data, METRO2, E-OSCAR & New Tougher FCRA/CFPB Compliance

June 1 - Basics of Banking, Part 2

June 3 - Bank Accounting Essentials

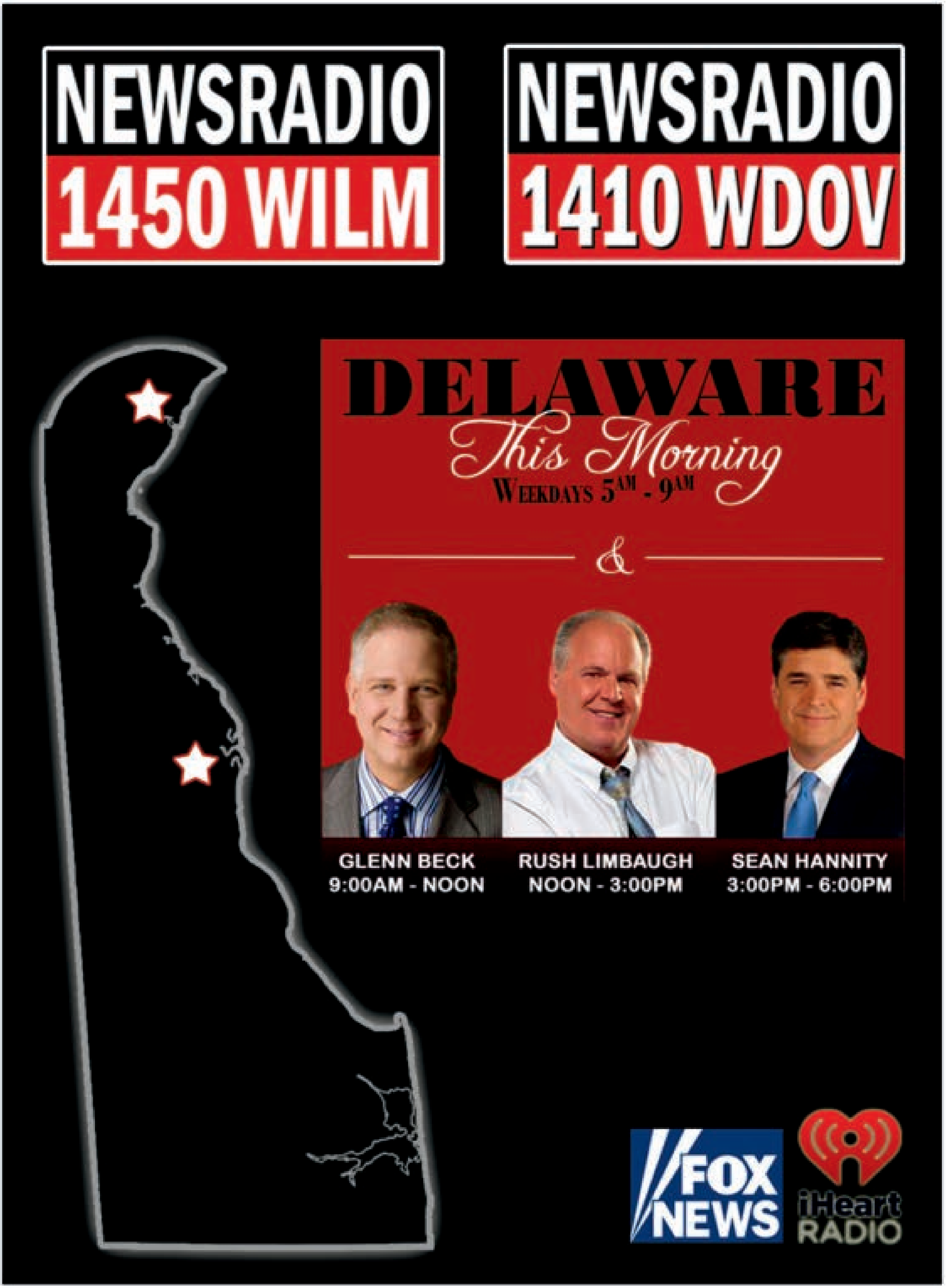
June 4 - Safe Deposit Policies & Procedures, Part 1

June 8 - Opening Deposit Accounts for Nonresident Aliens

June 9 - Escrow Rules Review & Update

June 11 - Safe Deposit Legal Documents & Issues, Part 2

June 19 - Safe Deposit Disaster Recovery, Part 3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9:00AM - NOON
RUSH LIMBAUGH
NOON - 3:00PM
SEAN HANNITY
3:00PM - 6:00PM
FOX NEWS
iHeart RADIO

Lending Law Update

by
Cheryl A. Santaniello, Esq.
Young Conaway Stargatt & Taylor, LLP

"Mistakenly terminating the wrong UCC financing statement can have the unintended consequence of rendering a secured lender unsecured."

Error in UCC Termination Statement Results in Loss of Perfection

Mistakenly terminating the wrong UCC financing statement can have the unintended consequence of rendering a secured lender unsecured. In Official Comm. of Unsecured Creditors of Motors Liquidation Co. v. JP Morgan Chase Bank, N.A. (In re Motors Liquidation Co.), 777 F.3d 100 (2d Cir. 2015), an error in the preparation of a UCC-3 termination statement resulted in the conversion of a portion of JP Morgan's $1.5 billion secured claim into a general unsecured claim in the General Motors chapter 11 bankruptcy cases.

In 2006 General Motors entered into an approximately $1.5 billion term loan facility ("Term Loan") with a syndicate of lenders led by JP Morgan as administrative agent. JP Morgan caused to be filed a UCC-1 financing statement with the Delaware Secretary of State ("Delaware SOS") covering, among other things, all of the equipment and fixtures at 42 General Motors' facilities (the "Term Loan UCC-1"). Five years earlier, General Motors had entered into an approximately $300 million synthetic lease financing transaction ("Synthetic Lease") with a syndicate of lenders also led by JP Morgan as administrative agent. As administrative agent for the Synthetic Lease, JP Morgan caused to be filed a UCC-1 financing state with the Delaware SOS, securing, among other things, liens on real estate (the "Synthetic Lease UCC-1").

When the Synthetic Lease matured, General Motors' counsel prepared, and JP Morgan and its counsel reviewed, approved and authorized, documentation unwinding the Synthetic Lease, which documentation included UCC-3 termination statements which erroneously contained language terminating the Term Loan UCC-1. This mistake was subsequently discovered in 2009 when General Motors filed bankruptcy, and upon learning of the mistake, the Committee of Unsecured Creditors (the "Committee") commenced an action in the bankruptcy proceeding seeking a determination that, despite the mistake, the erroneous UCC-3 termination statement was effective to terminate the perfection evidenced by the Term Loan UCC-1 and thereby possibly render JP Morgan and the syndicate of Term Loan lenders unsecured creditors. The United States Bankruptcy Court for the Southern District of New York agreed with JP Morgan and concluded that the UCC-3 filing was unauthorized and not effective to terminate the Term Loan UCC-1.

On appeal, the Second Circuit, relying upon a ruling from the Delaware Supreme Court in response to its certified question,[1] concluded that under Delaware law, if the secured party of record authorizes the filing of a UCC-3 termination statement, then that filing will not be ineffective simply because the secured party did not subjectively intend or understand the effect of that filing. Motors Liquidation Co., 777 F.3d at 104. In other words, mistakes really do matter, so when authorizing the filing of a UCC-3 termination statement, make sure you check, and then re-check, the identification of the financing statement to be terminated, particularly when dealing with a debtor with multiple credit facilities.

[1] The appellant was represented in the Delaware proceeding by Young Conaway Stargatt & Taylor, LLP and Dickstein Shapiro LLP. This article was prepared solely by Young Conaway Stargatt & Taylor, LLP and is intended to provide a summary of the Court's holding. The views expressed are not necessarily those of either firm or its clients

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