

THE CYBA NEWS

April-July 2019

The California Yacht Brokers Association Newsletter

2019 CYBA Legal Seminar

By Tony Faso

The 2019 CYBA Legal Seminar was yet another fantastic display of vast intellect and expertise married with an endless supply of valuable information. The gracious management and staff at the beautiful Southwestern Yacht Club helped make for the perfect setting.

After a delicious snack breakfast and morning beverages, the arriving attendees caught up with each other and discussed the latest industry news. Everyone eventually found their seats as we got started and the presenters did not disappoint.

Once again, Cris Wenthur and his team at Wenthur Law Group organized an amazing collection of top notch presenters to educate the attendees on a wide variety of relevant matters.

A packed lineup including some of the leading enforcement agencies, premier marine surveyors and mechanical experts spoke on the topics of all things engine related. The area of an engine and how it relates to the law can seem to be a bit of a reach, but after the in-depth explanation of how crucial this piece of machinery is to the purchase of a boat, the laws that affect its legality for use in the U.S. and the expense that can arise from a lack

(cont. on page 6)





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from the PRESIDENT

Mik Maguire, CPYB, Richard Boland Yachts

Heading into a beautiful summer...

2019... A year of change! That's the way I started last newsletter's column and every bit of it was true. We started the new CYBA (owned) West Coast MLS and have (to date) 40 members enjoying the benefits, soon to be joined by the Northwest Yacht Brokers group and British Columbia.

Our Apex lobbyists went to bat for us and had yacht brokers and salespeople excluded from the pending bill (AB 5, Gonzales) regarding employee status.

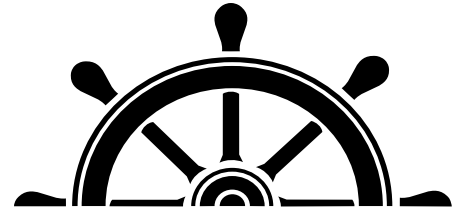
We heard of a Parks Department 'LEES' program and got this (partial) response from them: "Several of our programs have transitioned to our Law Enforcement and Emergency Services Division (LEES). DBW will maintain policy and program development. Processes are in place to ensure

that the Division of Boating and Waterways will maintain the boating experts and will still be contact for all boating related issues to the boating community." Look for more on this in detail in the future.

Please visit our new website www.cyba.info for a much easier look and feel and like us on our new FaceBook page (California Yacht Brokers Association). Also, thanks again to our editor Tony Faso (& Kelly), for continuing to put out one of the nicest association newsletters I have seen!

Watch for the announcement of next year's Carlsbad annual dinner!

From the galley, Mik



Privacy, Piracy And Profits – Boats Groups Manipulation Of The Yacht Brokerage Industry

By Jeff Merrill, CPYB

These are my personal opinions and are not intended to represent the position or stance of the CYBA (California Yacht Brokers Association) of which I am a past president and currently on the Board of Directors.

Privacy = the blatant data invasion into profile information of consumers and brokers

Piracy = the theft of broker created intellectual property

Profits = the reduction of broker revenue and profit due to Boats Group pricing policies

I sincerely believe that my opinions and thoughts can be factually backed up and this brief IS intended as a state of the industry WARNING. My statements are a consolidation of two recent presentations to yacht broker association gatherings where I addressed all members in attendance. In May, in San Diego at the CYBA Legal Seminar and later that month in Seattle, WA at the NYBA (Northwest Yacht Brokers Association) Annual Meeting. Both events were videotaped (no current

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plans to release).

The business entity that is causing this huge disruption is Boats Group (aka BG), owners of the largest and most popularly recognized MLS (multiple listing service), YachtWorld, as well as Boats.com, BoatTrader.com and YachtCloser. BG is a for-profit business, like all yacht brokerages, but they are not boaters and they do not seem to care about what is good for yacht brokers or boat buyers and sellers. They are only interested in increasing their bottom line to show revenue growth so they can spin off these companies to the highest bidder at some optimal time down the road. From all appearances from their actions, this is a technology company that owns a cash cow that they want to fatten up and milk for a quick turnaround to then cash out.

My Thoughts – This is from the heart and out of concern for our industry - it is time to stand up and speak out. This report includes facts that you should be aware of as a yacht broker and as a boat buying or selling consumer. I welcome any corrections, so please let me know if you can document anything that is inaccurate.

For CYBA newsletter inclusion, I have culled my writing to briefly outline my primary concerns. The full report (over 6,000 words) is available as a PDF. If you would like a copy please send me a direct email Jeff@JMYS.com, with "Privacy, Piracy and Profits" in the subject line.

Before you read on, as a broker please consider these questions:

1. What is my cost per lead, to continue using the products that Boats Group is selling me?
2. Are these leads converting to sales?
3. As technology shifts, what are more efficient and cost effective ways to market my listings?

Price increases – Three in the last two years. Senior management at BG has gone on record that the management investors who purchased these sites did so because they felt they were undervalued. They determined it was cheaper to sell a boat on YachtWorld than a couch on eBay. Prices will rise until they hit the equilibrium and get push back or people leave, or until they redefine our industry in the image they want to create - which will be in direct conflict with what yacht brokers want to see. This was the tipping point and the uproar has been heard loud and clear from coast to coast. So called "Level Up" program to disguise the price increase by offering value in extra services (that most of us would not have paid for).

Surcharges – No one likes being "nickel and dimed": Charging more to post a listing by price point, charging fees for including videos, paying for larger (enhanced) photos... these are annoying extras that add up. Are they worth it?

YachtWorld membership – As a licensed yacht broker and yacht brokerage business owner, I can tell you that the bare minimum YachtWorld account

Inside This Issue:

2019 CYBA Legal Seminar	1
From The President	2
Privacy, Piracy And Profits	2
Arbitration	4
San Diego Brokers/Sales Forum	10
CYBA Legislative Summer Update	10
Insurance & Yacht Sales	12
Ethically Speaking, Are You?	14
Refrigeration 101	17
San Diego International Boat Show	18
Tender Too Or Not Too? That Is The Question	20
8 Bells, Lowell North.....	21
CYBA Board Of Directors Meeting	22
Self Promotion.....	25
Pacific Sail & Power Boat Show	26
8 Bells, David Roscow.....	30
Seasoned Marien Insurance Agent Roy de Lis Joins Twin Rivers	31
Treasurer's Report.....	32
Calendar Of Events.....	32

is now over \$800 a month, easily \$10,000 a year. That is not something most brokerage salespeople know. I have personally gutted all of the extras from my account.

Intellectual property – The October 2018 agreement (did you read it before you signed it?) claims BG OWNS everything we, as brokers, pay them to post. Think about this: Brokers pay for photos, take time for write-ups, create videos. Then we pay BG to post them - and in the agreement, BG claimed ownership of our intellectual property. What does a professional photographer have to say about his or her photos being turned over without their consent? Copyright laws do not seem to apply to BG.

Who owns your website domain name? – If you had YachtWorld create your website for you back in the early days, you may not own your domain name. If you leave, they can keep your domain.

Branded Solutions (aka Target Competition ad blocking) – You can pay extra (another BG product) to have your listings pop up when a consumer is looking at your competitors' similar listings. And, you can pay to block your competitor from pop-ups on your listings. You and your competitor pay to block each other and guess who benefits? Hint, it is not the broker or the consumer. This "procedure" is known as both paid content preference and/or paid content blocking.

(cont. on page 4)

BY Dennis Moran, CYBA
Arbitration Administrator

"REPEAT AFTER ME... GET IT IN WRITING"

As a member of CYBA, you have access to perhaps the best group of listing and sales forms in the industry. To replicate these legal documents, you would need to spend a small fortune in legal fees. They were designed to clearly define the responsibilities of each party to the agreement in listing, selling or buying a boat. Where we see things go off the rails in sale transactions is when situations come up not covered by the written language in the forms.

In a perfect world, your boat sale goes like clockwork; the buyer performs his due diligence by contract deadlines, signs the final acceptance and funds the deal per the close date. In the real world, it's a rare deal that doesn't have several bumps in the road. Consider performance dates in a CYBA Purchase Agreement. You have a Duration of Offer deadline, Contingencies deadlines, Final Acceptance of Vessel deadline and Delivery of Vessel deadline. It is rare that a deal doesn't miss one or two deadlines due to scheduling issues. When this happens, the top priority is to obtain an extension in writing, signed by both buyer and seller.

When drafting an extension or any other amendment to the purchase agreement, always start out by including the basic information including the description of the purchase agreement (name of brokerage, date of agreement, buyer & seller names, vessel name). Always identify the amendment as an addendum to the agreement and number it (Addendum 1, etc.) A contract performance date extension is fairly straightforward; where we see most of the disputes arise involve after survey agreements to have certain things fixed.

On survey item repair agree-
(cont. on page 14)

Private Label Search – One reason that "for sale" signs and "watermarks" are prohibited from being included in the listing photos you provide, is so BG can resell promotion of your listing to other brokers through Private Label Search.

You can Opt-Out of PLS, I did. My complaint is that I had no idea about this and never opted-in! BG is using your listing and reselling the opportunity for another broker to promote your boat listing (and for that broker to possibly earn a share of the commission). It is your listing, you took the photos, did the write-up, loaded it into the system and are paying to advertise it. Do you want to get involved in a co-op with a broker who works for a company that pays extra money for PLS and "pretends" to be knowledgeable about your listing?

Sold Boats – Consider what verbiage and photos you transfer to Sold Boats before you send it over. Some brokers are putting up the bare minimum when they report the sale. Since I have had my listings plagiarized by inconsiderate brokers who have copied my work word for word, I am doing massive edits between Sale Pending and Sold Boats.

YachtWorld – The consumer side. Brokers have spent millions of dollars to build up the YachtWorld brand. Have you ever noticed that they do nothing to build up your business brand? They take credit for everything and even claim ownership of your intellectual property. As brokers, we live in the BoatWizard side of things. Do not forget to check out YachtWorld. This is what the consumers see – buyers and sellers – and you will be amazed at how your listing is lost amongst a forest of pop-up ads and your competitor blocking your listing. I strongly encourage you to check your listings and make sure they are accurate. Take a look at what the consumer is seeing and make any necessary adjustments.

Call Now button – How many people reading this know that BG has been recording telephone calls? This is on YachtWorld, and another "service". They refer to it as "Call Tracking". If you look at the top of your listing on YachtWorld you will find the Call Now button. If you are on a cell phone, you can click the button and it will dial the number directly. If you are on your computer or tablet it gives you the number to call to find out about the listing. Whose number is it? Well, of course since it is your listing you would expect it to be your phone number, right? Better take a look. If you haven't Opted Out (again!), then BG may have created their own phone number for consumers to ring instead of yours. Request your own number be used and ask to remove the recording function.

After you ask for this, be sure to follow up and check that they did it. I suggest you let your salespeople and office staff know about the recordings. One practical solution is to train your team to ask the consumer calling in for their phone number and then calling back from your number, so you can make sure it's not recorded on a BG line.

You can Opt-Out of recording and Opt-Out of Call Now. In our modern world, consumers have fought robo-calls and many have call-blocking. This area code switcheroo BG is using is called "Neighbor Spoofing".

Pop up ads – Have you noticed the all too prevalent pop up ads on YachtWorld? After someone searches for your listing and it is on their screen – they are distracted by other listings and non-boating related advertisements? Remember, we are the ones paying to promote our listings and the consumer doing the search (potential buyers) are being re-directed instead of being allowed to focus on their original intent to view our listing.

Privacy Policy – Every website
(cont. on page 8)

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Calendar

Legal Seminar... (cont. from page 1)

of thorough inspection and analysis, it quickly left no question that it is our job to make sure our clients are being wisely guided through this portion of the buying process.

The segment relating to insurance and hull surveys is always a lively one. With a dynamic panel and a topic that conjures up stories from nearly every one of us, the questions are typically plentiful, and the interest is always high. Insurance and surveys are one of the staples of any transaction and it seems as though we all have our own experience that can be viewed as "out of the norm". The panel was quick to point out however, that you cannot be too careful at this stage, and even though you are trying to make the deal come together, your client's best interests are primary.

After a short break, an enlightening session was enjoyed



on the details of Customs Duty and the pitfalls that accompany this endeavor of importing a boat to the U.S. A brilliant guide on navigating the impending tariffs added a valuable sense of relevancy to the topic.

The comradery continued over lunch and brokers quickly had their attention turned to the panel as they discussed the intricate details of how to turn your client's pleasure boat into

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The Marine Programs at the Orange Coast College School of Sailing and Seamanship is located at the Newport Beach Campus. OCC is one of the nation's largest nonprofit public boating education institutions with a fleet of power and sailboats comprised of donated vessels and those purchased from proceeds of other gifts.

If you, or a client, are interested in donating your boat, please contact Brad Avery the Director of Marine Programs. He can be reached at (949) 645-9412 or email him directly at bavery@occ.cccd.edu.

(photo: OCC's Training Vessel Nordic Star)



ORANGE COAST COLLEGE

a bona-fide business complete with the do's and don'ts of the charter business and how to accurately assemble and present the accounting for such an endeavor.

Being in California, and particularly in Southern California, the purchase and use of our client's vessels in the beautiful waters of neighboring Mexico is a common occurrence. The panel assembled for this topic was epic. Navigating this area can be intimidating and with the expertise held at the table, a ton of questions were quickly answered and a multitude of pertinent facts were brought to light that made many brokers take pause and become much more aware of how important this can be.

In one of the more detailed sessions, Bill Dysart and Cris Wenthur showcased their years of knowledge as they dived headfirst into the finer points of the contracts we all use and how to protect your client throughout the lengthy process of counteroffers, extensions and titling concerns (including tenders as well). Their extensive knowledge of foreign transactions was of particular interest to any of those who have tried to go this route alone. It is wise to seek counsel in this arena.

Taxes are always on our minds and they are certainly on the minds of our buyers and sellers. Dane Wenthur answered some of the questions that we all have faced of late and cleared up the ever-debated pro-rated property tax option as well.

Your CYBA Directors were front and center and joined with one of the leading Yacht Brokerage MLS owners, Steve Myers of YATCO to discuss the contentious topic of privacy and how some internet-based listing services do not have your best interests in mind. The issue of privacy is omni-present in the online world today and the yacht industry is no different. Many devious tactics are used by even the largest of companies, so to get some guidance and to be warned by these experts was of tremendous value to all.

The generosity of these panelists, the level of useful information presented and the importance of being highly informed, showed nearly no limits at this fantastic event. If you have not had the fortune of attending in the past, do yourself a favor and commit the time for this event next year. It is so much more than just a "seminar", it is a career building block that will separate you from your competition going forward.



Coming Soon

Mandatory Boater Safety Education

On January 1, 2018, California will begin implementing its multi-year phase-in of the new mandatory boater safety education law for boaters who operate a motorized vessel on California waterways. California State Parks Division of Boating and Waterways (DBW) will issue Boater Cards to those who show proof of passing an approved boater safety exam. The new law promotes boating safety education for California boat operators and once issued, the Card remains valid for a boater's lifetime.



should have a privacy policy. In the BG membership agreement we signed there is NO mention of telephone calls or recordings. When I challenged their legal team about this they hesitated and then confessed that the telephone, texting (yes, they can track texts too) and recording is not in the agreement we signed, it is in their "Privacy Policy".

Take a look at the Boats Group Privacy Policy if you want to get your blood boiling. And, coincidentally, after our confrontation, the BG Privacy Policy was just revised in May 2019 – wonder why?

Maybe lack of privacy is a more apt description. They cite their privacy policy as giving them carte blanche – again, it is all about Boats Group, not the yacht broker customers who built them up or the consumers whom they are fleecing data from to exploit.

As a yacht broker, you should be thinking about your privacy and protecting the privacy of your clients. It seems obvious to me, but we should all educate the consumers that their calls have been recorded and we did not know. Getting the word out will automatically create a backlash reaction.

Yacht Closer – Wow, this was the answer to simplify electronic paperwork for listings and contracts completing a brokerage transaction from a phone or laptop without having to use a printer. The cost for this convenience is that we have unwittingly provided

all of that sensitive data– the personal information of our clients (buyers and sellers), the boat details (HIN numbers, contract negotiation prices, etc.) and all of those sensitive documents and private information is now in the hands of a large corporation who has stated that they will do whatever they please with this information.

Most of us who are not on Yacht Closer, refuse to accept an offer from Yacht Closer asking the broker who uses it to instead convert to a PDF and email from their brokerage email address.

Future concerns. What about the future? Did you ever expect travel agents, record stores or video rental stores to go away? The internet has made disruption a buzz word. Consumers like to click and buy rather than to drive, find a place to park, wander through a large store and then wait in line.

What is to stop BG from following that obvious next step and take all of the buyers, sellers and boat information that we have paid to provide to them and then getting into the boat sales business?

Boats Group is not only affecting the yacht brokerage listing and sales business, they are also offering products to compete with other mainstream services. Check it out, you can use Boats Group for Financing and Insurance. What is to stop them from doing it all? It is not just yacht brokers who should be worried, it's every business who is involved in a boat transaction.

Is your yacht broker career about to be terminated? The business that we have enjoyed for years and decades could come to a screeching halt if we don't react and change how we do business. The yacht broker associations around the world are prepared to take back control of how our industry should grow. If we don't respond, our business will be recast into what BG thinks is best for them. Believe me, they have no long-term interest in seeing traditional yacht brokers survive.

In California, the DBW is now enforcing the PLS listings that BG has sold as a product. This is a revenue stream that will be diminishing and the brokers who do not play by the rules will be getting fined. One important move to stand up to BG.

Yacht Closer is experiencing rejection and becoming less and less valuable. Brokers don't need the convenience of paying extra money for electronic signatures (there are multiple free electronic signature services). Many brokers are concerned that their client's data is being used for profit. Do you want the liability of providing your buyers or sellers information to Boats Group through Yacht Closer? We do not know what they are doing with the data. What happens if there is a major hack or any of the BG outlets have a breach? My guess is that BG has figured out a way to avoid responsibility through their Privacy Policy...why are we taking such big chances?

What can you do? If you don't do anything, then

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don't complain if things don't get better.

YBAA (Yacht Brokers Association of America) and CYBA (California Yacht Brokers Association) have made the decision to work with YATCO to offer their members an association owned and managed MLS. The brokers in Australia and Europe are also coming on board.

Thank you for reading this

and I hope it gives you some reasons to consider what is best for you and your yacht brokerage business. Again, I write this as an individual who runs a small yacht brokerage. I love my career and I am a member of CYBA, NYBA, YBAA and IYBA. I think it is important to support the yacht brokerage associations where I do business and as a board member of the CYBA for the past five years,

I have seen a lot of change and realize the power of strength in numbers.

If you would like to discuss any of this in more detail please feel free to send me an email or give me a call. It is not too late... yet.

Jeff Merrill, CPYB

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San Diego Brokers/Sales Forum

By Peter Zalesk, CPYBi

Over 20 years ago a small group of San Diego Yacht Brokers starting getting together to discuss business over donuts at the Bali Hai Restaurant. This tradition has evolved into a monthly luncheon with as many as 100 guests.

The Staff at Fiddler's Green Restaurant on Shelter Island host the meeting on the last Thursday of the month. Occasionally the date is changed to accommodate local boat shows and once a year we have been meeting at Pier 32 Marina in National City. The other exception is between the Thanks-

giving and New Year's Holidays when Fiddler's hosts the annual Christmas party.

This is an event you do not want to miss!

In compensation for paying for everyone's lunch, the monthly sponsor is given plenty of time to speak to everyone and promote their business.

Terry Maxwell from NewCoast Financial sponsored the June forum and the guest speaker was Cris Wenthur of the Wenthur Law Group.

Cris always has a lot to share on the latest legal information

and typically draws the biggest audiences.

Each yacht broker is allowed to share information on one of their listings and many businesses will fill us in on their latest offerings.

Master of Ceremonies and past CYBA President, Jim Johnson does a fantastic job of giving everyone an opportunity to speak and still gets us out and back to work on time. We encourage everyone to join us at this unique industry event.

CYBA Legislative Summer Update

House of Origin Deadline, Filters Some Bad Bills

By Bret Gladfelty,

The Apex Group

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AB 5 (Gonzalez) Independent Contractor Status – Support

For those yacht brokers who are not aware of a Supreme Court case called the "Dynamex" decision in 2018, this case upends years of treating yacht brokers as independent contractors and essentially would turn all independent yacht brokers as employees subject to a host of labor laws. AB 5 would codify existing law, as established in the case of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*

(2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Dynamex created a 3-part test, commonly known as the "ABC" test, to establish that a worker is an independent contractor for those purposes, which would have made yacht brokers employees of their respective broker.

Current Status: AB 5 is going to be heard on July 10th and will likely pass out of the Senate Committee on Labor, Public Employment and Retirement. The Apex Group successfully incorporated yacht brokers as a "Direct Sellers" under section 50 of the Unemployment Code, which

now will exempt yacht brokers from the Dynamex decision, reverting back to the old Borello test prior to the Dynamex decision. For this reason, we have now moved into a position of support.

AB 705 (Stone) Mobilehome and Floating Home Parks: Change of Use – Oppose Unless Amended

This bill would require local government to first make a finding that the approval of the closure of the mobilehome or floating home park and its conversion into its intended new use will not result in, or materially contribute to, a shortage of housing opportunities and choices within the local jurisdiction for low and moderate income households.

Our Concern: This bill would

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put onerous responsibility on public harbors to build or place new floating homes in their area. If an agency limits or forbids liveaboard vessels, it should be that agency to be responsible for creating alternative housing, not the marina. Specifically, for the San Francisco Bay Conservation and Development Commission (BCDC) defines "floating homes" to include all vessels in which a person resides (e.g. Sailboats, Motorboats, Houseboats). Some agencies oppose floating homes and limit liveaboards, including State Lands Commission, BCDC, and some ports. Marinas and cities support floating homes as they provide affordable housing, but other previously mentioned agencies try to limit the expansion of these affordable opportunities.

Current Status: We have successfully lobbied this bill, such that the author has decided to hold it and is now dead for the year.

SB 393 (Stone) Vessels: Im-

pondment – Oppose Unless Amended

This bill would authorize a court to order the impoundment of a vessel, as defined, for a period of not less than one nor more than 30 days, if the registered owner is convicted of a specified crime involving the operation of a vessel while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug and the conduct resulted in the unlawful killing of a person. The bill would authorize a court to consider certain factors in the interest of justice when determining whether a vessel used in the commission of such a crime shall be impounded pursuant to those provisions.

Our concern: Our marina owners and public harbors are primarily concerned with the liability involved in holding impounded vessels for a duration and believe there should be funds given to either entity for

holding a vessel and that there is a release of liability for holding impounded vessels.

Current Status: We are continuing discussions with the author to limit liability to private and public marinas involved when there is a court ordered impoundment. Currently still opposed as written.

AB 1387 (Wood) 365 Day Fishing License – Support

Today, California has an antiquated and costly licensing system whereby annual fishing licenses expire on December 31 of every year, regardless of when it was purchased. This bill would authorize the California Department of Fish and Wildlife to create a new 365 day fishing license from the day of purchase.

Current Status: This bill passed unanimously from the Assembly and is now in the Senate for its first policy hearing, we believe this bill will make it to the Governor's desk for his signature.

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Insurance And Yacht Sales

By Scott Jarvie,
Oversea Yacht Insurance
Agency

Being totally cognizant of the targeted audience... Yacht Brokers, I believe we have some routine items that need embellishment and better understanding. This issue deals with number one below:

1) Operating non-owned watercraft;

Future issues:

2) The boatyard and their release/work order;

3) The employment of captain and/or crew and Jones Act and your responsibility;

4) When is it appropriate to place or bind coverage

Operating non owned or brokered boats as part of the sales process can be risky. First, know the yacht owner's policy most likely excludes you, the yacht

broker, from his hull and liability policy. The following was lifted from a common policy:

COVERED PERSON means you, a household family member, any captain or crew of your Yacht and employed by you, a guest, or any other person or legal entity using your Yacht with your prior permission. Covered person **DOES NOT INCLUDE A TRESPASSER OR ANY PERSON OR LEGAL ENTITY OPERATING OR EMPLOYED BY A MARINA, YACHT CLUB, SHIPYARD, SALES AGENCY OR ANY OTHER BUSINESS!**

So even if you have insurance, protect it! Don't ever, never, ever drive a boat as a broker! It can only lead to a gigantic powder keg when something goes wrong. Examples of wrong, engine overheat and seize, deckhand you brought gets injured, flooding occurs after you sea trialed and tied up at the

yard for early morning haul and survey, generator craps out! (and it always worked until you drove it)

As you can see from this short list of very minor items, you will alienate your client needlessly. Now, just image a significant loss with major boat damage and multiple injuries...and no insurance to cover you anywhere in sight!

The simple answer, don't drive. We're not trying to prove that you can "handle" this yacht, are we? Smarten up! Have the owner, his brother, son, mother, cousin or his hired captain drive the fine specimen. Get it?

Don't take a risk you don't have to. Never, ever, never! But if you must to "save the deal" be more than extremely careful. All your assets may be on the line!

When in doubt, consult your insurance professional, or feel free to call me!

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ments, things get more complicated. The CYBA forms suite includes a Repair Allowance Addendum. There are two ways to go on buyer's requests for survey repairs; the one I recommend is to negotiate an allowance dollar amount based on vendor estimates and credit that amount to the buyer a close which includes a disclaimer that the negotiated amount may

or may not equal the actual cost of repair. This gets the seller off the hook for any future issues involving the repair. The other option usually involves the seller deciding he, or his favorite mechanic, wants to fix the survey item instead of extending an allowance. This option can be very problematic. Is it possible the seller will cut corners in the repair to save a few bucks?

What happens if the seller repair fails a month after the sale closes? Who does the buyer go after; the seller or his repair person?

There is an "Other Terms" paragraph in the Repair Allowance Addendum for cases like seller repairs. This is where it gets complicated. The first rule of any contract or addendum to a con-

(cont. on page 31)

Ethically Speaking, Are You?

(This column is another in an occasional series discussing sections of the CYBA's Code of Ethics written by Ethics Committee Chair and CYBA Vice President, Dean West)

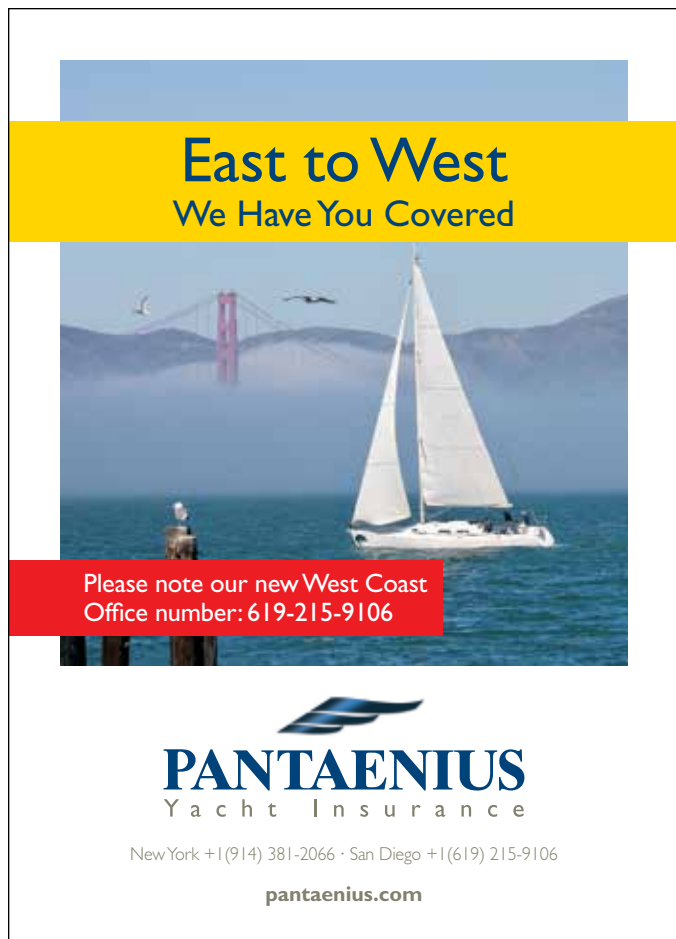
Summer is upon us... the sunny days and hot temperatures are here, and when you look out on the bays, lakes, and ocean there are watercraft of every conceivable shape and size, traversing the

glistening waters, providing their owners with fun, relaxation, and a release from shore-side pressures. It's a great season, here in California as it is everywhere in the US. Many of us brokers and salespeople get a chance to get away from the routine of yacht sales, and actually get an opportunity to enjoy our families, friends, and down-time, as we celebrate summer and take part in the great

ritual of the summer vacation.

I got away last month, and made my annual hajj back up to my lifelong summer home, on an island way Up North in the Great Lakes. For two blissful weeks, I don't think I flipped the TV on more than twice, and I only bought a newspaper once. It was peaceful and cathartic – not being reminded of the pain, con-

(cont. on next page)



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flict, hatred, and violence of real life – or at least what the media wants us to believe is “real life.” I savored not feeling besieged by 24 hour news cycles, wherein every depravity known to mankind spins the vacuous “news” organizations into hyperactive coverage and shrill “reporting,” and it actually let me start living as we used to, before we had news tickers in our hands during our every waking hour, and before media began their obsessive quest to turn a factual accounting of the day’s newsworthy events, into a ratings-driven, prurient, banal race to appeal to the lowest rung, least informed, and most easily titillated of the populace. My blood pressure lowered, my spirits were lifted... I had songbirds on my shoulders, and butterflies swirling about my head. Life was idyllic.

Then I returned to reality.

Old habits die hard. Though I didn’t want to, I turned the TV

on to the network news. I flipped through cable news and opinion shows. I got sucked in to giving at least a few moments of undeserved attention to the “hearings” in Washington DC. And just like that... Poof!... all the good I did myself on vacation seemed to have been undermined. But still tanned, and still plodding around in flip-flops, I was close enough to the groove of my recent summer respite to have the strength to pull back, and to start turning the tube back off. It felt good. I had seen enough of the dark side (in this case Washington DC and Congress) to realize I didn’t want more, and better yet, I now had a tie-in to this month’s Ethically Speaking. (You wondered when the hell I was going to get to the topic, didn’t you?)

Here we go:

Not to freak my readers out, but imagine if you will, for just a moment, that our industry,

particularly our brokerage community here in California, was as ethically-challenged, morally bankrupt, and as populated with self-serving liars, thieves, and con men & women as our nation’s capital is?

Think of conducting business in an environment where ethics meant nothing... where your word was valueless, where serving your client’s best interests was an afterthought, where every interaction with your associates and competitors was a quest to smear them, or defeat them, or to debase or ridicule them, and if the transaction didn’t come together, and neither the buyer nor seller were properly served and represented, so what? You’d still be paid, you’d still have your benefits, and your perks. And if you lied, or cheated, or purposely misled your clients, it wouldn’t matter. You’d have your job, or maybe

(cont. on page 16)



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a better one... and the benefits would roll in forever, regardless of which job(s) you flitted on to. An environment where accountability is as rare as the ability to levitate, or to shape-shift. That is the world that we have allowed to be created in the halls of our great nation's government.

But that is not our world. And it is not the world that 99.999% of us live and work in.

Our industry, particularly in California, is one that abides by rules, tenets, standards, and most importantly ethics. Many of us believe to our core that our reputation, our word, is our bond.

"I believe in the sacredness of a promise, that a man's word should be as good as his bond; that character – not wealth or power or position – is of supreme worth." – John D. Rockefeller

We brokers operate in an environment that has been created over generations - an environment

of honor, trust, professionalism, and ethics. It enables us to do our jobs, represent our clients, and funnel our earnings into savings, investments, wages, capital improvements, and operational/living costs... and not into litigation, self-promotion, or pompously pandering for the attention and support of people who recognize you for what you are, yet who give you the time of day only if it serves their interests.

We don't have to live in that world, thank God, though we do certainly feel the effects of it. In our world there is accountability. If you are an idiot, a liar, a con... there are consequences. You will be shunned... you'll be fired... you'll be fined or imprisoned... and the industry will heal itself. Your presence will create a scab, then a scar, and you'll be gone. But good men and women will continue, and prosper, and work willingly with each other. And

the clients will benefit. And the industry will benefit. And good hard-working, ethical people will benefit.

In this real world, there is a need for our Code of Ethics....for standards of decency and the acceptance of known best practices. Ours isn't a world of histrionics, lies, deceit, and lack of accountability, ours is a world of decency and compromise, of shared values, leading to the attainment of goals and the satisfaction of serving our clients, our firms, and our industry with competence and honor. It is how things "work". It is how our great country has "worked" and prospered for over two hundred years.

"Ethics is not a description of what people do; it's a prescription for what we all should do." - Michael Josephson

We are not Washington DC, hell we are not even Sacramento.

(cont. on next page)

SHIP HAPPENS! REAL LIFE STORIES FROM THE BOATYARD!

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Refrigeration 101

*By Kells Christian,
The Marine Surveyors*

We should take great pride in those facts. Most of the time we do things right, and for the right reasons. The CYBA Code of Ethics is with us to keep us moving in the right direction, and to remind us, when we get caught up in a deal, or in life, that there is a correct way of doing things. And to those who conduct their lives and their businesses and their endeavors, whatever they may be, in that ethical sphere, good things shall come, and the industry in which we toil will continue on and thrive.

Take 20 minutes this summer, and read over the Code of Ethics. Review the sections from time to time throughout the year. If for no reason other than to counteract all the slime that we are exposed to on a daily basis. There isn't that much aggregate slime, I would speculate that there is no more than there has ever been, but we've allowed the national media to permeate this country with a message that attempts to convince us otherwise.

But that doesn't make it so.

Take pride in the industry that you have helped create and sustain. We aren't Washington DC, we aren't the swamp, and we never will be. We are honest people working in a field that we love, and we try to get it right. There is always room for improvement, and look at yourself, you're reading an article on ethics!

Aren't you sumpin'!

I encourage your feedback, on this or any other Ethically Speaking columns. If you would like me to cover a particular Section, or situation, please email me at: ethics@cyba.info

About the author: Dean West is owner/broker for Dean A. West Marine Enterprises. He is chairman of the CYBA's Ethics Committee, current Board Vice President and past President, and the former Ethics Chair of the International Yacht Council.

I apologize to all my customers whom I have told that their refrigerators should not ice over. In a case of repeating mis-information, I was told that early in my career (1990s) and believed it until researching for this article, that modern boat refrigerators should not ice over in normal use.

In reality, the common boat DC refrigeration units do ice over in normal service.

I spoke with two San Diego refrigeration experts, Mr. Gary Flemming and Mr. Thomas Gillette. They educated me, finally, that the common AC / DC refrigeration units such as Norcold and Nova Kool will ice over in normal service. The interval between defrosting cycles is usually 1 – 2 months. They suggest defrosting when the ice reaches 1/4" thickness.

AC refrigeration units such as Sub Zero or U-line have self-defrosting features. The AC electrical supply supports the heating element required for defrosting.

The most common contributing cause to icing over of refrigeration units is bad gaskets or other sources of warm air such as drain holes in built in refrigeration units. If your refrigerator is icing over faster than your neighbors, perhaps it needs a new gasket.

The proper way to defrost a refrigerator is to open the door and let the heat melt the ice or quicken the process with a hair dryer. Catch the water in a container and/or use a towel. Use of a knife or an ice pick is risky as puncturing refrigeration components is costly or potentially fatal to the refrigeration unit. Dry everything before you put it back in the refrigerator, this will reduce the moisture inside the unit and extend the time period until the next de-icing.

AC / DC refrigeration units are equipped with a DC compressor, and an electrical converter which converts the AC source to DC for

the compressor. These units do not have AC and DC compressors. They will run on both power sources but will not self defrost.

Iced over refrigeration units lose their ability to cool and become warmer as the ice thickens. So check that unit, if it looks like one of these photos defrost it and make sure it is ready for the summer holidays.



San Diego International Boat Show

By Peter Zaleski, CPYB

The 2019 San Diego Summer Show was held June 6-9 at Spanish Landing off of Harbor Island. The show has been growing in size and is among the largest boat shows in California.

There were over 140 boats on display, about 80% of them were Powerboats with the remain-

ing 20% Sail. The growing trend of New Boats on display outnumbered the brokerage boats.

There is a large land display offering a wide array of products and services.

The in-the-water display consists of 212 floating docks brought in by 25 trucks to form an enormous rectangle. It takes over 30

days to set it up, hold the show and tear it down.

The show opened Thursday with cloudy weather that carried on through Friday. That appeared to hold down attendance. Saturday and Sunday were beautiful days and the docks were very busy.

Several dealers reported sales over the weekend.



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Tender Too Or Not Too? That Is The Question

By Kathi Ford, Reliable Documentation

Tenders or dinghies seem to be the most overlooked item when buying/selling a larger boat or yacht. If the tender is listed as part of the inventory (and your buyer isn't under the assumption he gets to keep it for his next boat), and meets the criteria below, getting the pink slip or title on that boat is crucial. Running a lien search should also be part of your checklist as well to make sure the person selling it has clear title. If the title is missing, proper paperwork must be completed to ensure that title can be transferred to the new buyer.

Most people are under the impression that tenders do not need to be registered if they are the tender to a larger boat and putting T/T on them will suffice. This unfortunately is not the case; the following vessels are required to be registered:

- All undocumented motor boats
- All undocumented sailboats with motors
- All undocumented sailboats over 8 feet in length
- Inflatable vessels with motors
- Personal watercraft (jet skis, water bikes)

Now that we are clear on tenders, if the title is lost or has never been registered, we can help you facilitate the proper paperwork to complete the transfer of ownership.

Are you sure the boat you are selling has a clear title

even when you are handed an original pink slip/title?

If it is state titled and you don't order a lien search on it and just hand your buyer the signed off title from the seller, you might be in for a big surprise. And not the kind of surprise you want... this surprise comes with penalty fees or even worse... a lawsuit. By ordering a lien search from Reliable Documentation, Inc., you can find out immediately if there are any recorded liens or encumbrances against the vessel. Liens placed by the County Tax Assessor or other agency for past due taxes, perhaps another lien holder (different than the one shown) on the title that was just handed to you (yes, this has happened because the owner applied for a duplicate title and secured two loans).

If the tender is large enough to qualify for USCG documentation, a hull search through the USCG is also highly recommended to verify whether it was previously documented and that if it was, there are no outstanding liens recorded. It has also come to our attention that certain county tax assessors can place a lien on USCG documented vessel with the DMV (using the Hull Identification Number) if the Certificate of Documentation has expired.

Prevent problems before they happen and don't risk losing the sale or set yourself up for a lawsuit because of failure to check title history.



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8 Bells

Lowell North, the founder of North Sails, has passed away. Nicknamed "The Pope" by his peers, Lowell began his sailmaking career at the age of 14 when his father purchased a Star with cotton sails. The father and son team came in last in every race, motivating the young Lowell to recut the mainsail.

The rest, as they say, is history.

As an aeronautic/aerospace engineer, Lowell knew he could build a better sail through rigorous testing and incremental improvement. His methodical and scientific approach to sailmaking changed the industry forever, and it also helped him win five Star

World Championship titles and a gold medal at the 1968 Olympics. The foundation laid by Lowell in 1957 has permanently shaped the North Sails culture.

"Lowell's philosophy when building North Sails was simple," explains North Technology Group CEO Tom Whidden. "Get the best people, who he called Tigers, and commit yourself to the science and technology of making the best product. He pioneered new ways to make and shape sails. His clear purpose, creativity, and competitive spirit continue to drive North Sails today – even as the company explores territories he never could have imagined."

Lowell sold North Sails in 1984 and retired from sailmaking. He continued to sail, racing his boat Sleeper for many years, as well as cruising the Pacific. He passed away in San Diego at the age of 89, with his wife Bea by his side. He will be greatly missed.



Dona Jenkins

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Active / Founding Member

CYBA Board Of Directors Meeting

CALL TO ORDER: May 8, 2019. 5:55 p.m.

DIRECTORS PRESENT: Don Abbott, Mik Maguire, Dean West, Jeff Merrill, Nick Friedman, Pete Zaleski, Dennis Moran, George Sikich, Mark Rentziperis

RECOGNIZE GUEST(S): Leilani Wales Cruising Yachts to head GEO (Growth Expansion Outreach) Leilani will coordinate our outreach to women & minorities to get involved with the CYBA

APPROVE MINUTES: March Minutes unanimously approved.

FINANCIAL REPORT:
P&L and Balance Sheet distributed to Board members. Motion approved to moved funds into an interest bearing account.

OFFICERS AND CHAIRS:
President: Mik Maguire
1st VP: Dean West
2nd VP: George Sikich
Treasurer: Peter Zaleski
Secretary: George Sikich
Immediate Past President: Jeff Merrill
Director: Nick Friedman

Director: Dennis Moran
Director: Dean West
Director: Tony Faso
Director: Mark Rentziperis
Executive Director: Don Abbott

COMMITTEES:
Executive Director: Cris Wenthur
News Letter: Tony Faso
Ethics: Dean West
Arbitration: Dennis Moran
Legislative: Dean West, Tony Faso, Mik Maguire
Growth, Expansion, Outreach: Leilani Reyes

CORRESPONDENCE: Apex our lobbying group has been pushing for a Boating and Fishing week. We are in full support. CYBA is in support of a full impact study of the significance of recreational boating in California. Dean West provided an impact study conducted in Michigan which provided. We encourage members to reach out to legislators.

MEMBERSHIP: Mark Rentziperis
6 New master members
6 New sales associates members
1 Associate broker

(cont. on next page)



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SPONSORSHIP: Jeff Merrill

No new news

We had a record year for sponsors, and expect to do even better next year.

FORMS: Nick Friedman

Citrex and the consultants are working out the final integration between the electronic signatures and the forms.

LEGISLATION: Dean West, Tony Faso, Mik Maguire
The upcoming ABC (American Boating Council) in Washington DC will be attended by Dean West. Coordination between CYBA and YBBA MLS will be discussed. We are considering implementing a plagiarism clause in the MLS.

BOAT SHOWS/EVENTS:

San Diego Boat Show June 6-9

Yatco will announce the BOSS system and yachtsforsalewest.com will go live.

We are considering looking into moving the San Diego show to September.

The point was raised about a CYBA sponsored boat

(cont. on page 24)

Traditional Boat Sales is Dead?

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~ STUDY SESSION AND TESTING ~

**Contact Lon Bubeck or Nick Friedman
for next
study session & exam.**

The CYBA is conducting a study session, immediately followed by the examination, for all those interested in becoming Certified Professional Yacht Brokers. This will be our first available session in response to the great interest in this worthy program.

If you have a desire to take your business and personal accomplishment up to the next level, you owe it to yourself and your clients to earn the CPYB designation. Join a growing number of the best and brightest brokers nationwide in increasing your knowledge, professionalism, and ethical standards as they relate to your chosen profession.

For complete information, including study materials, applications, and required qualifications, please visit the National Yacht Broker Certification website at www.cpyb.net. There you will find all the forms you need in a downloadable format.

If you have any questions, please contact one of the CYBA's Members on the Certification Advisory Council:

Lon Bubeck, CPYB
Flying Cloud Yachts, Long Beach
562-594-9716
lonbubeck@verizon.net

Nick Friedman, CPYB
The Shoreline Yacht Group
310-748-5409
yachtbroker@pacbell.net

You may also respond to cpyb@cyba.info or contact any CYBA Board Member. The National Yacht Broker Certification office needs time to process your application and to perform your background check.

Brokers wishing to attend the study session, but who are not testing, are welcome. However you must reserve a space! Seating is limited!

NOTE: This session is for CYBA Members only. If you are not yet a Member, and would like to join, contact the CYBA office immediately @ 800-875-2922.

show in the future.

NEWSLETTER: Tony Faso.
The errors made in the newsletter were corrected in the on-line version.

LEGAL/ARBITRATION: Dennis Moran
No current disputes

OLD BUSINESS:

NEW BUSINESS:
Nothing

ADJUSTMENTS:
The CYBA Facebook page is completely accessible to all the CYBA members to post on

ANNUAL DINNER:

Projected to be Jan 18th in Carlsbad (alternate locations are being considered)

NEXT MEETING:
July 10th 9:00 AM online

ADJOURNED: 9:03 p.m.

CYBA Board Of Directors Meeting

CALL TO ORDER: July 10, 2019.
9:00 a.m.

DIRECTORS PRESENT: Mik Maguire, Peter Zaleski, Jeff Merrill, Nick Friedman, Dennis Moran, Tony Faso, Mark Rentziperis, George Sikich

(this was an online meeting)

RECOGNIZE GUEST(S): Mark White, Denison Yachts Director of West Coast Marketing

Bret Gladfelty Apex Lobbying Group

APPROVE MINUTES:

FINANCIAL REPORT: The P&L and Balance Sheet were distributed to the board.

Discussion was made about putting a portion of the funds in an interest bearing account such as a savings account.

OFFICERS AND CHAIRS

President: Mik Maguire

1st VP: Dean West

2nd VP: George Sikich

Treasurer: Peter Zaleski

Secretary: George Sikich

Immediate Past President: Jeff Merrill

Director: Nick Friedman

Director: Dennis Moran

Director: Dean West

Director: Tony Faso

Director: Mark Rentziperis

Executive Director: Don Abbott

COMMITTEES

Executive Director: Chris Wenthur

News Letter: Tony Faso
Ethics: Dean West
Arbitration: Dennis Moran
Legislative: Dean West, Tony Faso, Mik Maguire
Growth, Expansion, Outreach: Leilani Reyes

MEMBERSHIP:

Mark Rentziperis reported 2 new members were added. We are considering allowing Affiliate members employees to join the CYBA at the salesman amount of \$36.00.

The Board made a motion to allow a CYBA Master or a CYBA Associate apply with out 2 references, the CYBA Sponsor/Broker/Master member is sufficient. The motion was made by Mark Rentziperis second by Peter Zaleski, it was approved unanimously.

SPONSORSHIP:

Jeff Merrill reported sponsorship revenue is up considerably. Jeff has indicated that sponsorship is producing more revenue than dues. Jeff announced that he will not run for Re:Election when the term expires. Jeff has been an invaluable Board member. He will always be available to the CYBA.

FORMS:

Nick Friedman stated the Forms are in full Beta, Nick has confirmed that several transmissions were successfully conducted.

LEGISLATION: Dean West, Tony Faso, Mik Maguire
Mik indicated that the Apex

Group (Our Lobbyist Bret Gladfelty) has been successful in getting the Independent Contractor/ Employer exempt from the Borello Test which determines what an Independent Contractor or an Employee is. The legislation would exclude Yacht Brokers and several other identities from the Employee mandate. The Bill is in committee and is expected to pass in January. Bret is trying to put together a list of Legislators that would be willing to work with us termed "Legislative Champions" we invite any members to let us know of any legislators they may know.

WEBSITE: Mik Maguire

The CYBA website has been greatly improved. It is much more intuitive and user friendly. The new site is up and active. Member input is greatly encouraged.

CYBA MLS:

We currently have 51 members and 6 prospects. We need everyone to promote our MLS and develop more members. We have reached to the NorthWest Yacht Brokers Association as well as The British Columbia Yacht Brokers Association.

BOAT SHOWS/EVENTS: San Pedro Boat Show September 19th

NEWSLETTER:

Tony Faso reports that articles are needed to be submitted in a timely fashion.

(cont. on next page)

LEGAL/ARBITRATION:
Dennis Moran reports that there is one case pending Arbitration.

OLD BUSINESS: None

NEW BUSINESS: None

ANNUAL DINNER:
Projected to be Jan 18th in Carlsbad, California

NEXT MEETING: September 11th in Northern California, we are scheduled to have a Q & A with

the Division of Boating and Waterways.

ADJOURNED: Tony Faso made a Motion to adjourn at 10:24 p.m.

Self Promotion

By Lou Mencuccini, South Mountain Yachts, CPYB
As professional Yacht Brokers we are top promoters. We promote a lifestyle that 95% of the population would like, but less than 2% can achieve. We promote sunshine, surf, blue water, playing dolphins & whales, exotic places, family fun, "getting away from it all" while appealing to everyone's sense of adventure. No one needs a boat but those of us who market, promote and sell and them, do it very well. Do you know what we fail to promote? We fail to

promote ourselves, our services, the value added we deliver most importantly our professional organization.

If we are to survive as a profession, there are steps we need to be taking. First of all, as we promote our listings, we need to promote our organization, the CYBA. In all of South Mountain Yachts ads on all of the MLS boat sites, my last 2 photos are of my CPYB logo, labeled "Professional Representation" and the next one is of the CYBA logo labeled "Member of Professional Associa-

tion". We all should be adding the CYBA logo on all of our listings to familiarize the public with who we are and what we do. The more the CYBA is seen the more it becomes associated at a professional level and the "recognized brand". Think of it, when you go to an attorney, the first item on the wall is "Member of American Bar Association": when you go to a doctor you see their diploma and "Member of American Medical Association". As a professional organization we need to show like

(cont. on page 32)

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Pacific Sail & Power Boat Show

By Mik Maguire

I started to write about the Pacific Sail & Powerboat Show (used to be Strictly Sail Pacific) and found myself struggling to find the words I needed. Someone suggested looking at reviews posted by attendees. After all, isn't that who it's designed for?

The following is from Gordon B... and seemed the most focused: (edited for space)

This boat show seems to be going downhill. There are fewer vendors, and fewer boats, than in prior years. There used to be tent with vendors out by the boats, but that has gone and there were quite a few empty slips at one end of the area where boats were on display.

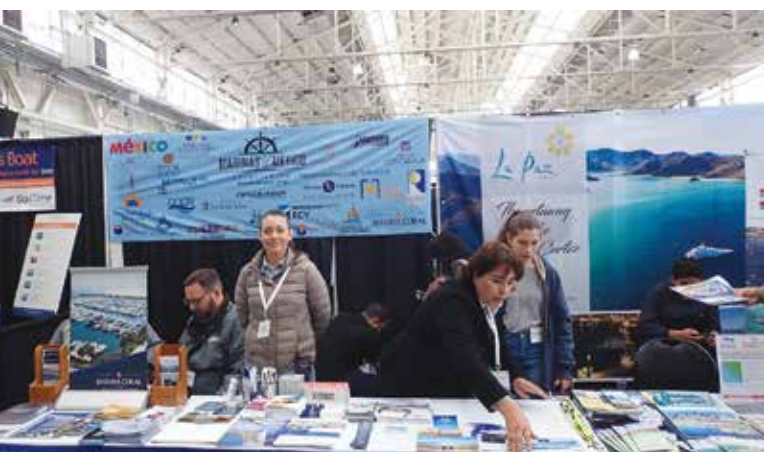
I'm not sure who the intended audience is for this boat show. There were a number of "higher end" power and sail boats, and some Boston Whalers, but not much in the middle. There were no American Tugs, Ranger Tugs, or Nordic Tugs on display. Those boats are made in the Pacific Northwest and would be ideal for use in San Francisco Bay. (I think Gordon is a "tug" fan)

The food offerings for lunch are pretty slim, with a hot dog stand (no hamburgers), and a Asian/Indian mix food truck. (I have found bringing your own can guarantee a good lunch)

It is a bit of a hike from the main venue to the marina where the boats are. There is a shuttle but not well marked.

The boat-related vendors inside the main venue are very good. (I have found that most attend this show for the "aftermarket" products & services... and the seminars)

If you want to get a "boat fix" and to spend some time around boats and boat-stuff, or if you have specific questions for the vendors who will be there, then it is not a bad way to spend a day (as long as you are OK with the \$10 for parking and \$18 for the ticket). If you are seriously looking at boats and want to compare a variety of them in one place, then I would suggest going to the Seattle Boat Show instead. (Ouch Gordon! Well, we all miss the NCMA produced events in Spring & Fall. Maybe the YachtFest at Marina Village Yacht Harbor in October will work out better for Gordon?)



(cont. on page 28)

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WLG Question and Answer Page

(Brokers can submit questions of interest to the marine community to info@wenthurlawgroup.com and selected questions will be addressed in the next issue)

My client is buying a vessel outside the United States.

What additional concerns should my client have other than those involved in a normal US Transaction?

- **Issue 1** is to make sure you can even legally import the Vessel into the United States, assuming US Flag is the flag of choice. Make this a condition to buyer's duty of performance. Have the listing broker or seller take a picture of every engine placard on the engines and then provide the same to WLG for analysis and confirmation from the EPA that the engines are US compliant. EPA Form 3520-21 is now required for all vessel imports, including vessels being shipped to the US, so without verification the Vessel engines are exempt or compliant, the Vessel will not be allowed "entry" into the United States.
- **Issue 2** is to ascertain the VAT paid status of the Vessel. VAT in the EU can range between 20-22% so this is a mistake you will not want to make. In addition, watch out for local sales/use taxes, especially in Spain.
- **Issue 3** is funds control. WLG recommends you as the Selling Broker NEVER give up control of the Deposit to a foreign seller or listing broker unless you have a very long and positive relationship with that broker. If there is a dispute it is very difficult to get the deposit back and foreign litigation costs will eat your client alive. WLG has developed a 3-party stakeholder structure that foreign and US brokers praise since it protects all parties involved in the transaction and makes foreign closings seamless.
- **Issue 4** is obtaining the Certificate of Deletion. Make sure you have agreed upon methodology for obtaining the Certificate of Deletion for any foreign registered vessel since without it your buyer is dead in the water and will not be able to register their vessel.

Issue 5 – US Customs Duty and Tariffs. Make sure your buyer understands that vessels built outside of the United States (other than certain MFN countries, e.g., Australia) that will be flagged in the US, or US state registered, will require a "consumption entry and the payment of 1.5% US Customs Duty. With bond fees advise them to budget for approximately 2% of FMV. Also, Vessels built in China will have an extra 10% tariff currently so your client may want to consider foreign entity ownership structure and foreign flag, but this has complex US tax issues that need to be taken into consideration.

Issue 6 – EU Recreational Craft Directive. Many buyers think that seeing this mark  on the Vessel or its engines means the Vessel is US EPA compliant, but that is incorrect.

Closing. These are just a few major issues but there are many more. For any foreign transaction it is highly recommended that you utilize the WLG Custom Vessel Purchase Agreement which has been time tested in over 15 countries. WLG highly recommends a US Buyer never use the EU MYBA contract without modification since it is filled with "gotcha clauses" that can force your client into buying a boat they do not want.

The WLG Maritime Team

WLG has a full staff ready to serve your maritime and tax needs in an efficient and timely manner.

Cris John Wenthur, LL.M. (Attorney with Masters degree in Taxation)

(619) 398-9050 Ext. 201 / cris@wenthurlawgroup.com

Dane C. Wenthur, Attorney

(619) 398-9050 Ext. 202 / dane@wenthurlawgroup.com

Hailey Siden, Office Manager (Vessel, Aircraft, Property Taxes)

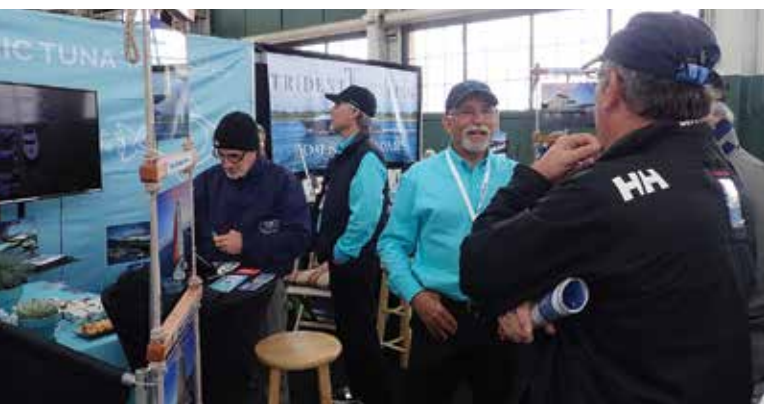
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(cont. on next page)



(cont. on page 30)



8 Bells

It is with deep regret we announce the unexpected passing of our friend, David Roscow, at his home in Red Bud, Illinois.

David, born February 7, 1950, served his country during the Vietnam conflict achieving the rank of First Lieutenant. Returning to the States, he completed his education and began his career as a well-respected yacht broker.

Prior to joining Northrop and Johnson, David worked for Merrill - Stevens Yachts and Fraser Yachts, both in San Diego. David was loved, respected, and admired during his standout career. He was a familiar site on the docks in Fort Lauderdale and San Diego. He was instrumental in the formation and management of the acclaimed San Diego YachtFest luxury yacht show.

David's greatest joy was his son, Holden. Once Holden entered his life, David's focus shifted to the daily pleasure of raising his son. David quickly shifted from discussing the values of a yacht, to the importance of instilling values in his son.

David was well known for his communication skills... He never had a short conversation or quick explanation! He always had a ready laugh and smile.

David will be missed in the yachting community. Our deepest sympathies go out to Holden, and David's Family.

At the family's request, contributions may be made to Cub Scouts Pack #342, in Red Bud Illinois, for more information please go to: www.leesman-funeralhome.com

A memorial service was held in San Diego, where his ashes were scattered, per his request, into the deep blue sea offshore, where he spent much of his time. A celebration of life was held at Fiddler's Green, attended by out-of-state family and local friends and brokers.



Seasoned Marine Insurance Agent Roy de Lis Joins Twin Rivers Marine Insurance Agency

Roy de Lis, of Huntington Beach, California, joins Twin Rivers Marine Insurance Agency. Roy's family history around the boating community extends from sea to sea. His grandfather was affectionately known as the "Captain" by his immediate family. Roy's grandfather was a tugboat captain in NY harbor prior to and during WWII. Roy's father & uncles worked in the merchant marines prior to WWII.

As a young boy, Roy's attraction to on the water activities just came naturally. Roy began sailing at the age of 10 and completed the Annapolis sailing school program when he was 14. He began his career in the marine industry at the Jensen Marine plant building CAL sailboats, through a regional occupational program in High School. Before entering college, he worked for a few local boat builders too.

While in college he stayed connected in the industry working with a local marine surveyor & yacht sales broker in Newport Beach. Roy began his career in the Marine Insurance industry as an agent about 18 years ago.

As a "Marine Insurance Specialist", Roy has written and maintained policies for all kinds of vessels, from Classic yachts to Mega Yachts worldwide. Roy truly enjoys all of his past clients he has helped over the years. He looks forward to his new voyage working with the friendly staff at Twin Rivers. Give him a call to discuss your client's marine insurance needs, you'll be glad you did.



Arbitration... (cont. from page 14)

tract is to capture the intent of the parties.

The take-away from all this: Immediately convert any verbal agreements between the parties to writing and have buyer and seller sign the addendum. If there is going to be any misunderstanding, it will come up when you ask for signatures and you will be able to resolve the issue early on vs. getting a phone call from the buyer two weeks after close demanding something be fixed per a phone conversation you had.



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one. Show our logos and advertise the CYBA Association!

Our next effort is to create a presence at the boat shows. The CYBA should have a booth at each and every boat show to promote

the organization and its professionalism. Each of us should accept responsibility for manning it. Unfortunately, we have been dictated to by outside organizations and are in danger of losing our

industry. We must get behind our CYBA Organization, show professionalism, unity and support our position in the industry otherwise we risk losing it.

Treasurer's Report

By Peter Zaleski, CPYB

I'm happy to report that the financial position of our association remains strong. As many of you know this is a non-profit organization, the board of directors are all volunteers working hard for the betterment of the yacht brokerage community in California. All of our funding comes from membership dues and sponsorship. Please encourage any non-member brokers or vendors to join us.

Our income helps to support the events that we put on including the Legal Seminar and Annual Dinner. It also supports our ac-

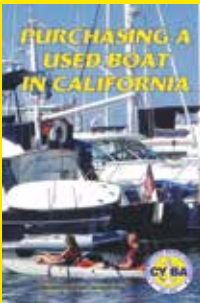
tivities in Sacramento through our Lobbying Group and participation in the California Boating Congress to further our business interests.

Please do not hesitate to let

me know if you have any questions about the California Yacht Brokers Association.

Peter Zaleski, CPYB
Treasurer

Your CYBA Board of Directors believe this is an excellent resource for used boat buyers. You can download the booklet in PDF format from the CYBA.info website or order the hard copies from Don Abbott.



INDEX OF ADVERTISERS	
Advertisers.....	Page
California Boater Card.....	7
Dana Point Shipyard.....	25
Dona Jenkins Maritime Documentation Service, Inc.....	21
Global Marine Insurance Agency.....	22
Hayden Insurance.....	18
KKMI.....	16
Law Office Of Jody T. McCormack.....	20
Marine Diesel Services, Inc.....	22
Mary Conlin Company, Inc.....	15
Newcoast Financial Services.....	8
Novamar Yacht Insurance.....	18
Orange Coast College.....	6
Oversea Yacht Insurance.....	12
Pantaenius Yacht Insurance.....	14
Reliable Documentation, Inc.....	13
Sea Magazine.....	31
Seacoast Marine Finance.....	14
Sterling Acceptance Corporation.....	25
Trident Funding Corporation.....	12
Twin Rivers Marine Insurance Agency, Inc.....	11
Wenthur Law Group.....	9, 27
Yacht Sales Academy.....	23
Yachts For Sale Magazine.....	20
Yatco.....	5

2019-2020 Calendar

9/11	BoD Meeting, Q&A with DBW Staff
9/19-22	4th Annual L.A. Harbor Boat Show San Pedro, CA
10/4-7	Marina Village Yacht Harbor Yacht Fest Marina Village Yacht Harbor Alameda, CA
11/13	BoD Meeting, Newport Beach
1/9-12	64th Annual Los Angeles Boat Show Pomona, CA
1/18	45th Annual CYBA Reception, Meeting & Dinner Bahia Corinthian Yacht Club
1/23-26	San Diego Sunroad Marina Boat Show Sunroad Resort Marina San Diego, CA

