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# Miami Realtor's condo blog landed him a job -- for 5 weeks

**Two-month-old post prompts $25 million defamation suit**

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Inman News

Miami Realtor Lucas Lechuga's popular blog on Miami's tumultuous condo market helped him land a position as an associate at one of south Florida's most prestigious real estate brokerages.

Five weeks later, Lechuga's new broker severed its ties with him, after he and the firm were hit with a $25 million defamation lawsuit by one of the city's most prominent developers over a blog post he wrote before landing his new job.

The story has captured the attention of real estate bloggers, agents and the brokers who employ them, as they continue to asses how to best make use of this relatively new medium for connecting with consumers.

Lechuga's Miami Condo Investments blog has an active following that includes condo buyers and sellers who are trying to get a handle on where the city's often speculative condo market might be headed next.

Many are looking for insight into how individual projects are faring, including details such as whether buyers are backing out of agreements to buy units over fears about falling prices.

Lechuga, a real estate agent for three years, blogs about Miami condo developments concentrated in Brickell corridor, the city's financial district, providing statistics like the closing rates of new developments, prices per square foot, and recent and pending sales.

The statistics are sometimes accompanied by photos and video of new developments Lechuga takes as he makes his rounds. Those images are especially popular with prospective buyers who haven't seen the buildings in person, Lechuga said.

"Buyers with contracts (to purchase a condo in a new development) love the fact that I can go into these buildings before they close, and take pictures of areas like the lobby and the pool deck," Lechuga said.

With a background in finance -- Lechuga was a trader at the Chicago Board of Options Exchange before getting into real estate -- the blogger also dispenses opinions and advice to readers.

Potential buyers follow closing rates closely, because they want to know whether units in a new development will be in demand or languish in Miami's highly speculative condo market.

"I'd never advise buyers to buy into a development with a 50 percent closing rate," Lechuga said. Even a 75 percent or 80 percent closing rate, he said, "is kind of risky. The best deals are when a development is 90 percent closed ... when people are still a little nervous."

### Granddaddy of Miami real estate

What got Lechuga into hot water with renowned Brickell developer Tibor Hollo wasn't his Jan. 10 prediction that Hollo's new 56-story, 635-unit Opera Tower condo project was "doomed" or that its default rate could exceed 50 percent.

According to Hollo, it was an earlier, Nov. 25 blog post about Opera Tower that raised his ire. Lechuga, who had heard that Hollo had gone through a rough spot years ago, wrote: "This developer went bankrupt in the 1980s and I think we'll see a repeat performance within the next 6 months."

Hollo, once described by a local business journal as "the undisputed granddaddy of Miami real estate development" -- does not deny that, like most developers, he's had his ups and downs.

He recently told the *Miami Herald* that he lost "tens of millions of dollars" when lenders foreclosed on several of his properties in the early 1990s. But it was all his own money, he told the *Herald*, and he never filed for bankruptcy protection from creditors in court.

"I never went bankrupt in my life, and this is something that is very easy to check," Hollo told *Inman News*. "You look at public records."

If Lechuga had said, "I think (he) went into bankruptcy, that would have been different," Hollo said. "But this was such an affirmative statement, my best friends started to believe it."

Lechuga said he never claimed Hollo filed for bankruptcy, and that the definition of the word "bankrupt" is open to interpretation.

"You can say that someone is emotionally bankrupt -- it's the same for financial," Lechuga said. The word bankrupt "could mean they were down in the gutter, that they lost a lot of money," without actually filing for bankruptcy protection in court.

Hollo, who was born in Hungary and reportedly survived Nazi concentration camps Auschwitz and Matthausen before coming to the U.S. in 1948, claims to have built the first high-rise building on Miami's Brickell Avenue more than five decades ago.

"I am in business 58 years," he said. "I have developed a very fine reputation personally and in business ... and when I see that somebody shoots off their mouth irresponsibly and my bankers call me, I feel that my reputation was damaged irreparably by such a thing."

Lechuga has since edited the post, removing the reference to the developer having been bankrupt. But he has not backed down from his prediction that the project faces an uncertain future.

"I think it is likely that we will see a majority of these condos owned by the bank that loaned money to the developer of Opera Tower by April 2008," the post now reads.

Lechuga said his predictions that buyers would back out of closings at Opera Tower were based on "a number of phone calls" he received from contract holders saying they had no intention of closing.

"It's not like I'm picking on Opera Tower. I want to provide consumers with all relevant information," Lechuga said. "That's why I'm a trusted source about the Miami condo market. I get calls from buyers all the time saying … we know this isn't a good time to be buying, but you aren't going to sugarcoat it, and put us into any old property because it's overpriced."

Hollo says closings at Opera Tower began only in January, and it remains to be seen what the final closing rate will be.

After conducting about 40 closings in January, Hollo said he hopes to ramp up the pace to 50 closings this month and 60 by March. It's physically impossible to do more than two or three closings a day, he said, because of the need to walk each buyer through their unit and complete punch lists.

"I don't think we have more than 30 buyers that don't want to close, and they sometimes have good reasons," Hollo said. One widow, he said by example, is backing out after her husband died. Another buyer is relocating out of the state for a job. "Thank heavens we are going to be proving Mr. Lechuga wrong."

Hollo says it was Lechuga's claim that he went bankrupt that prompted him to sue, rather than worries that the Realtor's warnings would cause more buyers to back out.

"I couldn't have done anything about it, and I wouldn't have done anything about it," Hollo said of Lechuga's claims that buyers will back out en masse.

**Opera Tower lawsuits**

But Hollo himself was hit with more than a dozen lawsuits in the weeks after Lechuga blogged about his doubts about Opera Tower.

Federal court records show that since Dec. 21, 15 lawsuits have been filed against Opera Tower LLC, the limited liability company formed to build the development, by would-be buyers seeking refunds of their deposits.

A typical example is a Jan. 28 suit filed on behalf of Rama Investments LLC and Raul Gonzalez-Gil, seeking the return of an $81,983 deposit put down in November 2004 for a condo on the 16th floor.

Rama Investments' lawsuit claims neighboring high-rises obstruct views of Biscayne Bay, that the "oversized Olympic style swimming pool" is smaller than promised, and that ceramic tiles were installed rather than the promised "designer tile kitchens, foyers and bathrooms."

Hollo has been dismissive of the lawsuits in the local press, saying they were filed by "flippers" who were only looking to make a quick buck.

But soon after the first lawsuits against Opera Tower were filed, Hollo had attorneys draw up a $25 million defamation suit against Lechuga and his erstwhile employer, Esslinger-Wooten-Maxwell, a real estate broker with 750 agents at 12 offices in Miami-Dade and Broward counties.

EWM promptly severed its ties Lechuga, who had only been an EWM associate for about five weeks.

"The first I ever heard about it was the lawsuit," Lechuga said, still sounding amazed at the turn of events his life has taken.

**A chilling effect?**

The story caused a buzz in the growing ranks of real estate bloggers. Some may never have given much thought to the possibility that they could be sued or fired over something they said on their own, personal blog.

The perception that EWM was on the wrong side of a free speech issue was reinforced, perhaps, by comments the firm's president, Ron Shuffield, made in a story published in the *Herald* on Jan. 28, the day Lechuga was let go.

The story quoted Shuffield as saying EWM did not "condone making statements, especially negative statements, about anyone" and that the company encouraged "associates to be a positive source of information."

That may have left some real estate bloggers with the impression that EWM wouldn't allow its associates to engage in the kind of frank, tell-it-like-it-is style of blogging that helps them come across as knowledgeable, credible authorities on their markets.

"I wonder if this will put the scare on other Miami bloggers and in particular, other Esslinger-Wooten-Maxwell Realtors," wrote Dustin Luther, founder of the influential Seattle real estate blog RainCityGuide.com, on his 4realz.net blog.

But Shuffield and EWM Chief Operating Officer Beth Butler, who oversees the company's blogging efforts, say the company's associates aren't being asked to paint a rosy picture that's only one side of the story -- only to verify that what they say in their blogs is accurate.

"There's a lot of stuff we put out, that I personally put out, that's not happy news," Shuffield told *Inman News*. "There is lots of inventory down here; sales have been flat for a long time; and we're realistic with our sellers that this is not going to turn around next month."

While Shuffield sees EWM and its associates as information providers -- feeding clients data on comparable sales and neighborhood trends, for instance -- "I don't see us as a news source," he said. "Bloggers in our office are becoming the primary source of information for their neighborhoods and markets that they deal in, but I don't think any of our people think of themselves as investigative reporters."

Shuffield said that while he's comfortable with EWM associates offering their opinions, he'd rather see them talking about neighborhoods and properties than people.

"We are big believers in blogging, and that getting that information out can be very helpful to people," Shuffield said. "I get nervous when I start hearing statements about people, or (information about) people becoming more critical than buildings or neighborhoods."

For Shuffield, it's important that "what we're reporting is accurate, and based on first-hand information. The rumor on the street is how people's reputations get damaged. I say all the time when you join our company, our reputation becomes yours, and your reputation becomes mine."

That's a view shared by Jim Duncan, a second-generation Realtor based in Charlottesville, Va.

Writing on BloodhoundBlog, a collaborative blog written by and for real estate professionals, Duncan said, "I hear rumors all the time. But I rarely blog about them."

Duncan said he's been blogging about three years and isn't afraid of controversy. As the co-editor of the editorial page of the school paper at Virginia Military Institute, he said, "I wrote things counter to administration policy that I'd get called onto the carpet for -- literally. I'd get called into the commandant's office and have to salute and everything."

Duncan doesn't want to get sued, but more importantly, he said, it takes a long time to build a reputation, and a reputation is something worth protecting.

"I trade on my credibility -- with my clients and potential clients, my fellow Realtors, builders, developers, the public and the media," Duncan wrote on BloodhoundBlog. "Damaging that credibility -- even by an infinitesimal amount -- is not an option."

As the son of two Realtors who did deals on a handshake, "I take tremendous pride and satisfaction that my word is my bond," he said.

Duncan says he frequently expresses opinions in his writing, and that while his blog is primarily a local real estate blog, he covers "politics and all sorts of stuff."

By expressing his opinions in a "cogent way that's based on fact," he's used his blog to build a reputation as an authority.

"I just got a call from a local news station 20 minutes ago," Duncan said. "They do look at me as a source who provides unfiltered and unbiased information."

Ironically, Lechuga said he was recruited by EWM because of his blog, and that a dispute over content on his Miami Condo Investments blog ended his relationship with a previous brokerage.

"They wanted me to edit comments" from readers who suggested it was a bad time to buy into the Miami condo market, Lechuga said. "I said, 'Their opinion matters just as much as mine. I'm not going to delete their comments just to make the Miami condo market look better.' "

EWM, Lechuga said, "is actually a very pro-blogging company. I went to them hoping they would accept the whole blogging platform, and be more open to honesty."

But Lechuga said others in the business warned him that EWM was owned by a large company -- Berkshire Hathaway affiliate HomeServices of America Inc. -- and would dissociate themselves from him if there was ever a controversy over his blog.

Butler does not dispute that EWM recruited Lechuga because of his blog.

"I came across a post he wrote, with market stats for the Brickell area, that I thought was very well done," EWM's chief operating officer said. "He did a great job of putting information out. Did I read every post? No. Had I read this post? No."

Butler oversees a company blog for EWM's 750 associates, which she said about 350 agents tried out when it was launched in August. Since then, she said, the number of contributors posting at least once a week has dwindled to about a dozen.

"We understand agents want to have their own branding," she said, so agents are able to use an RSS feed to send their posts to both the company blog and their own personal blogs, which can be accessed by a tab on an individual agent's Web site.

At the moment, there's no official policy in place about maintaining individual blogs outside of company channels, but that could change, Butler said.

"It's probably good for every company to have a policy on individual agent's blogs," she said. Without one, "You get to be a certain size, and you're reading blogs all day" for problematic content.

Butler, who maintains her own outside blog on ActiveRain and has created a group on the site for EWM associates, sees blogging as in its infancy.

"Lucas (Lechuga), like every real estate blogger out there, is trying to figure out what this means," Butler said. "Do I want readers? Do I want business? They are all trying to define their online reputation. As he grows and matures, and as we grow and mature, we'll see whether we see eye to eye or not."

Lechuga, for his part, says he holds no grudge against EWM, and says he'd like to be associated with the firm again.

"I understand fully their position," Lechuga said. "EWM is a fantastic office to work for, and I wish this whole thing would just blow over and I could go back to work for them. I'm not bitter -- I want to move on."

**Protect yourself**

Defamation and libel suits are a constant threat to newspapers, publishers and bloggers. The law offers many defenses against libel suits, and large awards, especially to public figures, are uncommon. Many states limit damage awards unless alleged victims seek a retraction or correction and are refused.

But the cost of defending against such lawsuits can have a chilling effect on free speech.

"I'm very confident I'll prevail, but the legal costs, that's a worry," Lechuga said. Some attorneys he's talked to warned he could be facing a two- to three-year court battle, with legal fees of $200,000 to $300,000, he said.

There are some simple steps any blogger can take to lower the risk of a defamation or libel suit, and to limit their liability if they do end up in court.

The Media Bloggers Association -- founded by a blogger who, ironically, was threatened with legal action by the *New York Times* over a satirical post about the newspaper's correction policy -- recommends posting a clearly stated correction policy, and correcting mistakes promptly using strikethroughs or editor's notes.

The MBA publishes a list of principles for bloggers, many of which are employed by professional journalists, which includes:

- Stating what you know and how you know it, using links to supporting documents where possible and crediting sources. Don't plagiarize or pass off others' work as your own.
- Distinguish fact from rumor and speculation. Be intellectually honest when expressing opinion. Use your own name and provide a way for readers to communicate with you.
- Disclose conflicts of interest including personal relationships, financial considerations or other factors that might influence or appear to influence your independence and integrity. If you accept payments from advertisers or sponsors, clearly demarcate paid content.
- Respect the privacy of private citizens, who may not want photographs, videos or information about them made public. Use special sensitivity when dealing with children and inexperienced sources or subjects.

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