

## Planning for the future now includes fate of digital assets

Kyle Knapp keeps a little chaching in his cyber wallets, specifically, minimum balances of the digital currency Bitcoin and Ethereum.

While many Butler area business people might not have jumped - or even dabbled - in cryptocurrency, Knapp said most are quietly building a digital portfolio chalk full of financial assets and personal treasures.

Owner of Viterium, a Saxonburg-based company that handles business IT management, like computer set up, repair and cyber security, Knapp is part of a growing wave pondering digital asset management and security.

Today, Knapp said, common online activities include banking and brokerage accounts, ownership of commercial domain names, websites, email accounts attached to bill payments, eBay, Amazon, PayPal, Etsy... the list is lengthy and growing daily.

"All of these silently add up over time," Knapp said. "These are significant assets that you will want your relatives to have when you pass on."

And then there's the personal side of your digital portfolio, including photos, videos and contact lists.

"The days of the written address book are gone," Knapp said. "Young people today don't even keep a contact list on their cell phones anymore. Almost everything is tied to social media accounts."

While people appreciate the importance of Internet security - the need to keep others out of their accounts on a daily basis - they often don't give thought to how to get people in when they die, Knapp said.

"According to most online terms of service, just because you have someone's login and password that does not give you the legal authority to access an account," Knapp said. "That could be considered hacking."

Charles Hadad, an attorney with The Lynch Law Group, said everyone should be planning their digital estate. But when it comes to court cases, the need for forethought is becoming most apparent with business owners.

Any business owner handling e-commerce or communicating online needs to know about this, and have it written into their limited power of attorney," Hadad said. "Intellectual property can be one of a company's most valuable assets. It's their goodwill. It's their brand. Their could be copyrights or trademarks in there."

Hadad said it's not uncommon for clients "to come in and ask, 'I handle most of my business online

and through email. What happens if I die?'" The answers, Hadad said, can be complicated and preparation is a business owner's best strategy.

"There is some uncharted territory," Hadad said. "It could throw a wrench into everything, and bring your business to a halt if you die or even just become incapacitated."

Laws regulating estates, and specifically power of attorney, are statutory.

In Pennsylvania, Hadad said the laws regarding power of attorney were updated in 2015, to mandate more specific

But Knapp noted that, "The Uniform Law Commission is pushing to get more consistency in the legality of how your heirs get access to your accounts. Forty states already have enacted the Revised Uniform Fiduciary Access to Digital Assets Act. And it was introduced in Pennsylvania this year."

The act, which spells out statutory regulation of digital assets in estates, is in the judiciary committee, according to the state House of Representatives website. Although it would make all participating states uniform, it would not mandate any business

But Knapp disagrees, saying, "Passwords change all the time, and there's no point. Secondly, you will risk if someone (you do not intend) finds the list. There's a balancing act between keeping your information protected from others getting access to your accounts now and making sure the people who would care for your estate can get access later."

Knapp suggests there is value in composing a list of the websites you keep or have kept accounts, accompanied by corresponding user names. Then, Knapp said, leave your heirs a password for the email account or accounts tied to the password reset function.

Hadad and Knapp, though, come to common ground in advising it is worth consulting an attorney and looking into cyber-secure password management tools.

"You also might want to invest in an online password management tool that keeps your accounts encrypted," Knapp said. "There are free and paid services out there depending on what features you want. But they all would allow you to access your passwords in one place."

Knapp said it's worth pre-planning even if you do not believe your digital portfolio has significant value.

"You might not realize how much is out there," Knapp said. "Look at Bitcoin, for example. If someone put even \$50 into Bitcoins on a whim 12 years ago, that potentially is worth \$5,000 now."

**D**ocument your digital footprint. It gives us a jump-start in getting into those accounts. Your heirs can hit the ground running in a court battle."

**Charles Hadad,**  
an attorney with The Lynch Law Group



delineation of powers. "But still, nine out of ten wills don't have digital assets noted in them," Hadad said.

Business owners should make sure control of digital assets is spelled out in their business plan, power of attorney and to their executor.

Still there's another potential hurdle: As Internet companies likely are not in the same state as the business, neither are the laws it must follow.

"If someone is trying to stand in someone else's shoes (on an Internet service), that provider could put up a stone wall and say, 'we don't honor that,'" said Hadad, who also sits on the Allegheny County Bar Association's Probate & Trusts Section, as well as the Pittsburgh Estate Planning Council.

Hadad cited this example from a local case that was not his client: "The estate wanted access into an (email) account because there was valuable information within the email relating to international dealings. The estate even got a court order for the access. But (the provider) wouldn't honor the court order."

Hadad predicted that as the digital estates age into use, the number of federal court battles relating to ownership will increase.

"These issues are going to come up more and more because of diverse jurisdiction," Hadad said.

from following the rules of a different state.

The two experts differ a little on what steps business owners should take immediately.

Hadad said always keep list of passwords. "Document your digital footprint. It gives us a jump-start in getting into those accounts," Hadad said. "Your heirs can hit the ground running in a court battle."