



By Lisa A. Tyler
National Escrow Administrator

Happy Holidays to our reward recipients (the three wise ones) and our readers! This edition has it all – from cyber-crooks to elder abuse to an inept mobile notary. You are not going to want to skip a single article.

In the story entitled “CYBER-CROOKS” find out how an astute escrow officer saved a real estate agent from a crook attempting to siphon the agent’s commission by submitting falsified wire instructions.

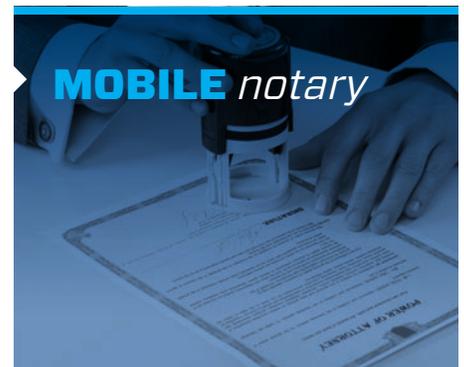
The story entitled “ASSISTED living facility” is a sad story of elder abuse by a caregiver. If it were not for this escrow officer, the caregiver would have stolen an elder patient’s money through the sale of her home – her only asset. Read all the clues that drove the escrow officer to be suspicious of the transaction and the steps she took to shut it down.

The story entitled “MOBILE notary” involves a mobile signing agent who failed to meet the most fundamental requirements for performing a notarial act: physical presence and proper identification. As a result, the closers refused

to proceed with the closing of a government-owned property.

With the three rewards given out in connection with this month’s edition we have rewarded \$99,000 to employees and agents who have detected and prevented fraud and forgery in their own transactions. Will you be the person to get us to \$100,000 in paid rewards?

IN THIS ISSUE



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CYBER-CROOKS

National news has recently reported that cyber-crooks have been hacking into investors' email accounts and submitting orders to financial advisors with instructions to wire transfer funds into the crook's bank account. The email addresses match the records the advisors have on file for their client, so some do not even question the email. This crime has now crept its way into our industry. Read on to find out more.

The transaction was the sale of a REO property. The property and selling agent were located in a different county than the escrow office. Everyone was working together to ensure the transaction could close on time.

As the closing date drew closer, escrow asked the selling agent to have her broker send over commission disbursement instructions. The agent resisted at first, since she was from a small community not accustomed to having to obtain this from the broker. Eventually, the instructions came over directing escrow to send a check for the total commission to the brokerage.

A couple of days later escrow received an email from the selling agent, Kathy Smith. The body of the email said:

I want the Commission for 1234 E. Adams to be wired to the Wire Instruction below.

WIRE INSTRUCTION

Bank Name:
MIDFIRST BANK
3140 S. Garnett Rd
Tulsa, Oklahoma 74145

Routing #: 303087995
Account #: 737301 5539

Beneficiary:
KATHY SARAH JONES
10123 E. 4TH PLACE
TULSA, OKLAHOMA 74128

When will the commission be wired?

A red flag immediately popped up since the account name did not match the real estate agent's name and the bank was not local. Patricia Nuttbrock, CEO and Branch Manager of Fidelity National Title, contacted the designated broker to find out if she authorized the commission to be paid to the agent directly. It is a good thing she did.

The selling broker did not know anything about the agent wanting her commission wired to her directly, nor had she authorized it. She contacted Kathy to find out what was going on. Kathy did not have any idea what her broker was

referring to. The agent called the escrow officer to inquire further about the email she received. The agent was shocked. The email address was correct, but Kathy never sent it. To make matters worse the wire instructions were not for her bank account. It appeared a cyber-crook had hacked into her email account.

Real estate commissions belong to the brokerage. Therefore, commission disbursement instructions must come from the designated broker of the brokerage firm. Fortunately Patricia knows this. Although there were other obvious red flags, she knew in order to pay the agent directly from her escrow she would need the written authorization from the designated broker.

It is because of her adherence to basic escrow procedures and the phone call to the broker the commission was not wired to a crook. For her efforts and alerting us to this latest scam, Patricia has earned a \$1,000 reward for stopping these cyber-crooks dead in their tracks. Great job, Patricia!



TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or 949.622.4425



ASSISTED living facility

Assisted living facilities are staffed by caregivers who manage personal care, medical care and financial affairs on behalf of individuals who can no longer manage on their own. It is thought to be a noble profession - one of caring, understanding and patience. In this story, however, find out how a caregiver used her position to attempt to bilk her patient out of the equity in her home.

A buyer and a real estate agent came to Chicago Title's La Quinta, Calif. office to open a For Sale by Owner with a rush closing in five days. Tamara Blackford, an escrow officer at the branch, sat down with them and explained they needed to seek the advice of an attorney with regard to the transaction. She then proceeded to write down the terms of the transaction, since they did not have a purchase contract.

When Tamara sat down to actually type the instructions quite a few red flags popped up. She noticed the following warning signs:

- » Property was free and clear
- » Seller was an elderly woman residing in an assisted living facility, with no family
- » The sale price was \$125,000 with owner carryback financing in the amount of \$45,000 due in three months
- » No earnest money deposit
- » There was a side agreement between the buyer and seller that would enable the seller to buy the property back for \$195,000 for up to one year. The parties intended to record a memorandum of option outside of escrow.

Tamara was suspicious so she checked the assessor's records for their valuation of the subject property. The assessor valued the property at \$200,000. During the initial meeting the buyer and real estate agent mentioned to Tamara she needed to rush the closing because the seller was in complete financial stress and needed at least \$87,000 ASAP. They also mentioned the seller's caregiver had power of attorney over her.

Tamara said she would not accept the power of attorney to close given the circumstances of the transaction. The buyer and real estate agent agreed and left her office with the escrow instructions, deed and other closing documents to be executed by the seller.

The very next day the buyer returned with the signed escrow instructions, which had been acknowledged by the power of attorney – not



the seller. The buyer also produced the power of attorney which had been executed two weeks ago...purportedly by the seller. The notary's last name and the witness on the power of attorney were the same. The appointed attorney-in-fact was the caregiver at the assisted living facility.

The property owner did sign the deed herself with an approved notary, but the signature was much shakier than the signature on the power of attorney. They also produced a letter from a doctor stating the property owner was deaf, but did not have dementia.

When Tamara was given the letter, however, she requested an updated one, as the one they provided was addressed to "Stuart Title" and did not contain a phone number or license number for the physician. A sentence in the letter read, "She is very deaf but is not demented." It did not appear to be legitimate and Tamara was going to call the doctor to verify he issued the letter.

Tamara just did not feel comfortable with this transaction. She called the National Escrow Administration team who insisted the seller would have to speak to an attorney regarding this transaction. In addition, Chicago Title would require an approval letter from her attorney allowing the transaction to close. Tamara conveyed the requirements to the buyer and real estate agent.

The next day Tamara received a call from an attorney who indicated the seller, buyer, caregiver and real estate agent had just left his office and

there was no way he was going to approve this transaction as it qualified as elder abuse. The attorney told Tamara he questioned the doctor's letter and the caregiver blurted out, "That is not the right letter. I have it here." She produced another letter with phone numbers and a license number.

The attorney called the physician and was informed the seller had visited their office once and he documented that she DID have dementia. The attorney reported the transaction to the Adult Protective Services and requested they assign a guardianship over the seller. He was glad Tamara and Chicago Title Company required an attorney's approval letter. Tamara assured him the transaction would be cancelled that very day.

Tamara later found out from the real estate agent (who must have come to his senses) the assisted living facility where the property owner resides might shut down soon, as they were behind \$87,000 on mortgage payments. That was the same amount the seller needed ASAP!

Tamara also found out the caregiver was a signer on the seller's bank account and she was siphoning off \$1,500 in social security paid to the seller each month, and stealing the \$1,600 monthly rent she received from her leasing her property. Tamara was also informed the seller was told she would have nowhere else to go if the caregiver did not come up with the \$87,000.

The real estate agent informed Tamara the caregiver was still trying to find a title and escrow company to handle the deal and close within days of opening. The agent said the seller has no family, no money and the house was her only asset. When Tamara heard the additional information she reported the transaction to her title officer, so the property address could be posted to the plant records as a warning to other title companies not to close any sales involving these parties.

For Tamara's keen sense of wrong doing on the part of others and for protecting the elderly property owner, she has been rewarded \$1,000 and a letter of recognition on behalf of the Company. Her efforts saved the Company from a potential claim of \$125,000 or more.

Our title insurance policies insure the competency of the grantors conveying the property. Had Tamara performed a rush closing and ignored all the signs of elder abuse, the seller or her heirs could have later challenged the transfer of ownership and the Company might have had to pay the full policy limit.



MOBILE *notary*

Wayne and Mitzy Bolin, a husband and wife closing team for Fidelity National Title Agency's Springfield, Mo. office, were handling the sale of a property that had been foreclosed and was now being re-sold. The property was owned by the U.S. Department of Housing and Urban Development.

The real estate broker and purchase money lender showed up at their office for a 9 a.m. signing without the buyer. The closing documents had arrived from the law firm of Luna & Luna, LLP with the instructions that the lender or broker were to deliver an original power of attorney for the purchaser. The attorney-in-fact for the purchaser was the real estate broker.

Wayne asked for the original power of attorney for examination upon their arrival. They handed him a copy of the power of attorney. The real estate broker proceeded to say that he left the original in his office and would send it via overnight delivery directly to the law offices of Luna & Luna. Wayne informed him that until he had an original power of attorney in hand he could not close, per the instructions of Luna & Luna.

Then, on the copy of the power of attorney, Wayne noticed the notary had notarized the purchaser's signature that very morning, when supposedly the

purchaser was in Connecticut! When Wayne asked the real estate broker how that could happen, the broker responded the notary had notarized a faxed signature of the purchaser.

Wayne called Luna & Luna and informed them of their findings and their suspicions the transaction was fraudulent. The transaction was cancelled and Wayne sent the broker and lender away with a tongue lashing for attempting to pull a fraud over on him! The broker's and lender's response to Wayne's disgusted remarks were, "This is why we ask for mobile notaries, they do not catch this kind of stuff!"

The fact the broker and lender attempted to pull a fraud on a government-owned property is astounding! They could have both been debarred from handling the purchase and sale of government-owned properties for the rest of their lives. As for the Bolins', they received a \$1,000 reward as well as a letter of recognition from the Company for their detection of a bad notary acknowledgment and for not succumbing to the closing pressures of the real estate broker or lender.

MORAL OF THE STORY

What are the two fundamental rules for performing a notarial act? Physical presence and proper identification are the two most basic requirements. The notary in this transaction had neither. The notary acknowledged the purchaser's signature without their physical presence and without proper identification since the principal was not there to present an identification card. Had the transaction closed as the broker and lender intended, the Company could have been exposed to a potential claim by the buyer for forgery and the lender for forgery.