



By Lisa A. Tyler
National Escrow Administrator

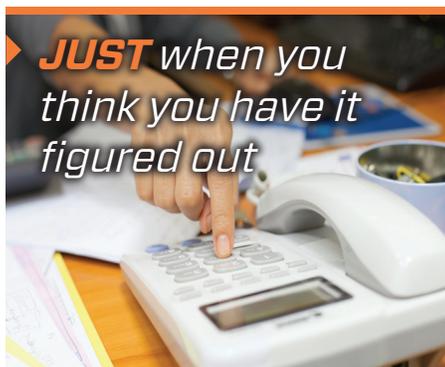
Remember last year, when the cyber-crime network attempted numerous times (as in hundreds) to divert proceeds by emailing wire transfer instructions for account holders who were not a principal to the real estate transaction? The industry shut them down by prohibiting assignment of seller proceeds to parties unrelated to the transaction. Well, the crime has morphed again. Read "JUST when you think you have it figured out" to discover the intricacies of the latest trends in cyber-crime involving wire transfers.

Stolen checks issued by title companies have been a problem for years. The occurrence seems to follow a cycle or a pattern where it grows, and then goes. The industry is in the midst of a growing cycle right now and it is easy to tell. Find out how by reading "DIRECT deposit."

Life in the real estate industry can be unpredictable, brutally competitive, and not for the faint of heart, especially when you are defending the Company against fraud, forgery and cyber-crimes. The National Escrow Administration has been defending the Company since 2005. In this edition we take a brief moment to provide insight into our team's backgrounds and personalities, so our readers will know us a little better. The article is a must-read entitled "GETTING to know your team of fraud fighters."

Did you know the trustees of a family trust cannot certify occupancy to waive 1099-S reporting on a real estate sale transaction? Did you know both a husband and a wife must each sign a certification? Discover more information by reading "CERTIFICATION for no information reporting."

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JUST when you think you have it figured out

Publisher
Fidelity National Financial

Editor
Lisa A. Tyler
National Escrow Administrator



The cyber-crime network really keeps the real estate and banking industry on its toes. Readers know the genius minds of the cyber-criminals have been targeting the real estate settlement industry since 2013 by hacking into emails in an attempt to divert proceeds. Below are intricacies of how the crime is perpetrated:

1. Criminals hack the emails going back and forth between the real estate agent, the settlement agent and the seller. They wait until the messages indicate a closing is imminent. They create an email account that looks like a real estate agent's account, an attorney's account or an account belonging to one of the sellers, then email wire instructions to escrow.
2. The emailed wire instructions list the real name of the seller in the transaction as the account holder with the crook's account number, as the crooks know many banks do not perform a name-to-account match on incoming wire transfers.
3. The REAL account holder is always an entity, not an individual. The criminals convince a U.S. Citizen to create the entity and obtain a taxpayer identification number. The criminals explain they are going to involve the U.S. Citizen in a legitimate business deal and split some of the profits. They claim they need help moving the money, ultimately making the U.S. Citizen the money mule.
4. The criminal sends fraudulent emails purporting to be from a party to the transaction (either from the compromised account, or a similar-looking email address) to the settlement agent demanding confirmation the wire was sent. Once confirmed, the criminal sends the account holder to the bank to withdraw all the cash and send the majority to Europe or Nigeria via money transfer.
5. When the seller comes looking for their proceeds, the settlement agent often confirms the wire by providing the federal reference number for the wire was already sent – wasting precious time that could be used to recover the stolen money.
6. TIME IS OF THE ESSENCE – when the wire diversion becomes known or even suspected, escrow needs to immediately escalate the matter so that prompt action can be taken – hours can matter.

Settlement agents should not wire funds based on an email message or a document containing wire transfer information that is transmitted via email. When wire transfer instructions are received, the settlement agent should pick up the phone and call the principal at a known, trusted number and verify the contents of the wire instructions. The settlement agent should document the file with the name of who they spoke to, the number called and the date the conversation took place.

DIRECT deposit

There has been an increase in stolen mail. We know, because our positive pay exception reports grow exponentially when fraudsters steal title company checks and then use them to make counterfeit checks for various amounts, usually to purchase items on the Internet.

Fraudsters will contact the seller of merchandise on an Internet website. They create a check that looks like a title company check for much more than the sale price of the merchandise. They send the check via overnight delivery to the seller, with instructions for them to deposit the check and send any overage to their shipper via money transfer.

The seller deposits the counterfeit check and sends the money transfer. The title company's bank rejects payment of the check, since it does not match the positive pay record. The seller is out the shipping fee and the bank charge for processing a counterfeit item.

The fraudsters usually enter into 20 or more deals at a time, creating a unique counterfeit check for each transaction. It becomes an annoyance for the title company to reject the positive pay exceptions daily and to field calls from the Internet sellers who inquire as to why the check came from the title agent in the first place.

All of this can be avoided by securing outgoing mail until it is delivered or picked up by the postal worker. Also, for post-closing refunds, where the recipient is not expecting a check and would not know to report it missing, the funds should not be sent via check where the check could be potentially stolen from the recipient's mailbox.

Instead the refund should be direct deposited in accordance with escrow technical memorandum #72-2007 entitled Post Closing Refunds to Principals.



TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or 949.622.4425

GETTING to know your team of fraud fighters



Diana Hoffman
Corporate Escrow Administrator



Karen Phelps
Project Manager



Lisa Tyler
National Escrow Administrator



Scott Cummins
Advisory Director



Sue Dahlstrom
Escrow Administrator

As an industry, we have spent the better part of the past 10 years reeling from record high foreclosures and short sales, two recessions, mandatory use of a 2010 HUD-1 settlement statement, enforcement of new RESPA Rules, the introduction of a new regulator called the Consumer Financial Protection Bureau (CFPB) and now the consumer finance law, Loan Estimate and Closing Disclosure.

We have experienced radical changes in how we conduct settlement services and have positively rebounded every time. Our team of fearless leaders put in place by the Company in 2005 have trained and supported you through all these changes, and now we share some personal insight by answering fun questions:

How long have you been with the Company?

Diana: 24 years

Karen: 10 years

Lisa: 26 years

Scott: 1 year

Sue: 20 years

What type of fraud attempts do you feel are the most preventable?

Diana: I believe most fraud attempts are preventable but it seems the fraudsters always strike when and where we are most vulnerable. That is why it is so important for settlement agents to share their stories and to take the time to read *Fraud Insights* each month.

Karen: Email fraud. There are typically many warning signs – never talking to the principals on the phone, discrepancies in the customer's emails, getting new disbursement instructions before close and a sense of urgency is created with the wire transfer.

Lisa: Disbursing against uncollected funds. Over the past year the industry has experienced a high volume of counterfeit checks deposited into escrow that were disbursed against before the bank could process the item and return it as fictitious. In all instances the settlement agent said they felt pressured by the principals to disburse quickly – no duh!

Scott: The second time a fraud scheme works. Fraudsters always seem to find vulnerabilities within any industry when dealing with money. Most of the time, a successful fraud is followed up by many, many more attempts of the same, especially since it worked once. This should be the most recognizable source of fraud since we have already seen the red flags before.

Sue: Paying attention to where funds are wired.

What is your favorite article in *Fraud Insights*?

Diana: All the articles where the fraudster was stopped before they succeeded in perpetrating their crime. I love happy endings.

Karen: "[MURDER mansion](#)"

Lisa: My favorite is from February 2008 where Anatoliy Pavlishin detected a fake identification presented at signing and the borrower bolted from the office. The story is entitled "[Who is that behind those Foster Grants?](#)"

Scott: The ones where we get to see mug shots.

Sue: Every article is awesome, but I really liked the series on FIRPTA withholding, helping to educate not just our employees but our customers as well.

What about yourself can you share with our readers?

Diana: In my spare time I serve as the Secretary of the Tucson Rodeo Committee, Inc. It is one of the top 25 rodeos in the U.S.

Karen: I am the youngest of eight children and have 18 nieces and nephews. Never a dull moment with my family.

Lisa: I have held seven positions with the Company in three different states.

Scott: I majored in engineering at college.

Sue: I love being a grammy to my grandson; no greater joy.

If you were stranded on a desert island and could only take three items what would you bring?

Diana: Anything which would put me in contact with someone who could come save me.

Karen: Husband and two kitties.

Lisa: Good book, some wine and a friend. Do not call me, I will call you!

Scott: Wife, music and something good to eat. Sounds like a vacation.

Sue: Husband, my e-reader with solar battery backup, flint to start a fire.

Favorite Ice Cream?

Diana: Mocha Almond Fudge

Karen: Mint Chocolate Chip

Lisa: A moment on the lips forever on the hips...I do not eat ice cream.

Scott: Pralines and Cream

Sue: Jamocha® Almond Fudge

[Continued on pg 4]

[GETTING to know your team of fraud fighters - continued]

What would you do if you won the lottery?

Diana: I sure hope I find out some day.

Karen: Donate at least 10% of my winnings and buy an ocean front home.

Lisa: Adios amigos. I sure will miss all of you!

Scott: Pay my student loans, maybe.

Sue: Pay off debts, buy new house, donate to church.

What was your first job?

Diana: Proofreader.

Karen: Worked at an ice cream and candy store.

Lisa: Prep cook.

Scott: Outside service at a golf course.

Sue: Worked in a bakery.

Who is your favorite athlete?

Diana: Billy Etbauer

Karen: Michael Phelps

Lisa: Troy Aikman

Scott: Rory McIlroy

Sue: Andre Ethier

CERTIFICATION for no information reporting



Individual sellers may indicate the sale of their principal residence is exempt from 1099-S reporting by completing a Certification for No Information Reporting. If the sellers can certify, under penalty of perjury, by affirming true to all six items (or N/A for item 6) on the Certification for No Information Reporting they are exempt.

This certification may only be offered to individuals. Since an entity cannot claim the property as its primary residence nor can an entity be married, the form may only be completed by sellers who hold title individually. If title is held by an entity or even a trust, they are not eligible to complete this form.

Each individual seller must complete their own certification; even if they are married. It is likely one seller may be able to sign the certification and the other is unable. For example, if sellers were recently married one seller may be able to claim they have lived in

the residence for two out of the five years and the other may have lived there for only six months. This is why each seller needs to complete their own form.

The Certification for No Information Reporting cannot be used in lieu of the Substitute 1099-S form. If the seller cannot complete this form or marks false for any of the questions, the settlement agent must ask them to complete the Substitute 1099-S. A settlement agent should never offer the seller tax advice. Sellers who have questions or are unsure about their ability to sign this certification should contact their accountant.