



REWARDS

paid to date = **\$179,500!**

By Lisa A. Tyler
National Escrow Administrator

The California Secretary of State allows someone other than the previous owners to file entity documents using a name of a corporate entity that has previously been cancelled or suspended. There is a process established on the Secretary of State website which accommodates this. Now it seems fraudsters are attempting to use the same process and acquire the name of a dissolved or suspended corporate entity, to act as the owner of real property to take the equity and title from the true owner. Read "CANCELLED or suspended entities" to discover how fraudsters steal the entity and then attempt to sell off its assets.

The fraudsters just will not let up. They are trying every angle possible to abscond with innocent people's money. They target the email accounts

of buyers, sellers, lenders, mortgage brokers, real estate agents and settlement agents so they can track the progress and strike right before closing. This was the case for one of Chicago Title's title issuing agents, Bishop Title, LLC, in Abbeville, South Carolina. Read "NO end in sight" for all the details.

A notary generally notarizes a document using one of two instruments; either a jurat or acknowledgment. Notaries should be clear on the difference between the two. An acknowledgment ensures the signature on the document can be trusted. It indicates the signer personally appeared before the notary, was identified by the notary and affirmed to the notary that the document was freely signed. Read more about these two types of instruments in "ACKNOWLEDGMENT vs. jurat."

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volume 12 issue 6
June 2017

Publisher
Fidelity National Financial

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A contract was deposited into escrow at Chicago Title Company in Glendale, California, on February 28, 2017, with a closing date three days later — barely giving Veronica Alexander, the escrow officer, much time to order the title report.

The property owner was a limited liability company (LLC), so in addition to the title report she also needed to collect the organizational documents to verify who had the authority to sign on behalf of the LLC. The title report came back with no liens on the property and the property taxes were paid current.

This was a seller carry-back transaction, so the organizational documents were all that was still needed in order to close. The organizational documents were not deposited by the seller within the three days, so the closing date was extended. Finally, on March 15, 2017, Veronica received everything she needed. The buyer and seller signed their closing documents and the buyer deposited their down payment.

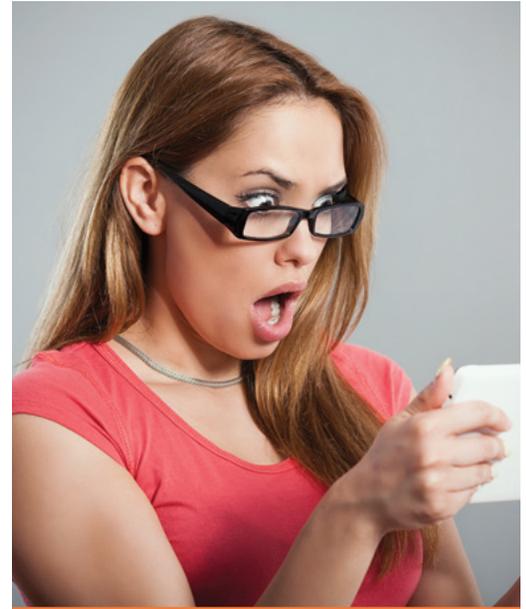
Veronica sent the documents to her title officer, Mary Distin, for recording. Mary reviewed the documents and sent an email message to Veronica, telling her the recording had been pulled and to contact her manager, Tony Taranto, for more detailed information, since she would be out of the office the following day.

The next day Veronica contacted Tony to find out why the recording was pulled. Tony explained that Mary had searched the Secretary of State's database to confirm the LLC that owned the property was still active, and during her search she discovered two filings.

The original filing reflected the LLC as cancelled back in 2014 with a managing member by the name of "Azali" and a new filing in 2017 reflecting the managing member as "Khalil." The name stood out to Mary, so she did some more digging.

Mary recalled pulling a recording on a transaction a few weeks prior, where the owner was a corporation that had been suspended by the Secretary of State. In a previous transaction the corporation was recently reinstated by "Khalil."

Mary and Tony had reached out to the former president and owner of the suspended corporation



to confirm he truly still owned the corporation and was selling the subject property. During the conversation the owner confirmed he was selling the property, but he had been recently contacted by "Khalil" who was attempting to extort money from the owner and president of the corporation in order to sell his company back to him!

Mary and Tony worked with their underwriting team to close and insure the transaction for the true president of the corporation and owner of the subject property who was being victimized by "Khalil." Mary knew she recognized the name!

Veronica escalated this latest transaction to her manager, Tony, who was able to contact the original managing member of the LLC, "Azali." He confirmed he was not in any way associated or familiar with "Khalil" nor was his property for sale!

Tony informed the escrow officer and she resigned as escrow holder returning all funds on deposit to their original remitter. Veronica told Tony this was one of three sales the same seller and buyers representing different entities opened with her on three different properties.

On the first one, the title report called for an Uninsured Deed Affidavit, so the transaction was quickly cancelled by the seller. On the second, Veronica had just resigned as escrow holder upon learning "Khalil" was not the true owner of the LLC

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STOPPED
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[CANCELLED or suspended entities - continued]

or the property. Now, she was preparing to resign as escrow holder on the third transaction.

In the meantime, Mary and Tony quickly figured out these fraudsters must have a way of searching for suspended corporations or cancelled LLCs. They re-file under the same entity name and attempt to sell the property and run away with the proceeds from the sale. As a result of Mary's detection of the crime and prevention of a possible claim, she has been rewarded \$1,500 and has received a letter of recognition from the Company.

MORAL OF THE STORY

Whenever the property owner is an entity, the organizational documents should be obtained as early in the transaction as possible to give the title officer ample time to investigate the ownership and uncover any fraudulent activity. If there is any recent change in the filings that adds or deletes parties with authority, the title officer must independently verify the current parties which appear to have authority.



Note: The Company has paid out \$179,500 in rewards to employees who have discovered and prevented fraud and forgery in their own transactions. You could be next! Be sure to share your heroic stories with us by submitting the complete details to: settlement@fnf.com.

NO end in sight

Pam Turner, a paralegal at Bishop Title, LLC, was working hard to accommodate the sellers for a transaction in her office. The sellers had a lot going on. They were in the process of selling their home and buying a new one. They worked closely with their real estate agent and settlement agents in an effort to coordinate the two closings.

The sellers were unsure whether or not they would attend the closing. They also wondered what would be the best way to receive their proceeds. They were nervous their bank would put a hold on the funds, which they needed available for the purchase of their new home.

Pam discovered they banked at the same bank where Bishop Title's trust account was located. She confirmed they would not place a hold on their proceeds; even if they deposited a check from Bishop Title's trust account. They decided a check would be fine.

A day later they called Pam and asked her to wire their proceeds. They changed their mind a third time at closing, stating they wanted a check in order to avoid having to pay a wire fee.

The listing agent was unable to attend the closing as she was on vacation, so the sellers came alone and left with their proceeds check in the amount of \$279,115.31. At 8:51 a.m. the next morning the seller's real estate agent emailed Pam explaining the seller had torn up their proceeds check and wanted their proceeds wired instead.

Pam picked up the phone to call the real estate agent. The agent answered the phone but was still on vacation and had no idea what Pam was talking about. The real estate agent did not send her an email at all. The fraudster had sent the email from an address that



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was very similar to the real estate agent's actual email. The suffix of her real email account is .net. The email Pam received that morning came from an address ending with gmx.com.

Thank goodness Pam was paying attention even though the seller's request would not have surprised her at all. They had already changed their mind three different times. This story reminds us all how important it is to pick up the phone and verbally verify any changes to the disbursement instructions received by email. Great job Pam!

ALERT: The fraudsters are trying to steal innocent home buyers' down payment funds too. While wire instructions are sent via email the email is intercepted, modified and sent to the buyer from a spoofed email account that looks like it is from the real estate agent, attorney, loan officer or escrow officer's email — just like the one Pam received. Be sure to notify buyers of this risk and urge them to call and verify the wire instructions before they send in their down payment.

ACKNOWLEDGMENT vs. *jurat*

In most states, documents requiring **acknowledgments** do not have to be signed in the notary's presence but the signer must personally appear in front of the notary when it is acknowledged. Clearly there are risks associated with this, thus the preference is for the signer to sign the documents in front of the notary. Many important documents, such as recordable documents, loan agreements and powers of attorney require acknowledgments.

In contrast, a jurat certifies the person who signed the document did so personally, and physically, in front of the notary on the date indicated and in the county indicated. In addition, the notary must

also administer an oath or affirmation by the signer to confirm the statements and content in the document are correct.

Jurats are often attached to affidavits and depositions. Documents requiring a jurat must be signed in the notary's presence, as dictated by the typical jurat wording, "Subscribed (signed) and sworn to before me..."

While it is important for a notary to understand the difference between an acknowledgment and a jurat, notaries do not determine which type of certificate is used. To do so would be considered practicing law without a license. A notary can only ask which form is preferred or required if one is not provided.

