



By Lisa A. Tyler
National Escrow Administrator

Home buyers are still the main target in the diverted wire scam. Hackers are recruited from universities in Nigeria, Philippines, Romania and Russia. They are smart and have figured out that the most vulnerable target in a real estate transaction is a home buyer involved in the biggest financial transaction of their life who is at the height of their emotions. In the latest attempt to illegally divert a home buyer's down payment the fraudster offers a "DISCOUNT for early wire." Read the story for more details.

The Consumer Financial Protection Bureau (CFPB) combined the Truth in Lending Act (TILA) statutes with the requirements set forth in the Real Estate Settlement Procedures Act (RESPA) — this is where "TRID" comes from. Our newsletter is about improving our practice. It is important to emphasize acronyms are some of the worst ways we communicate. For instance, when I refer to a CD, you understand what I am referring to as a settlement agent. However, do our customers understand? Read "SPELL it out" to discover more reasons for using your words, instead of acronyms to communicate with one another, as well as your customers. It will make for a successful transaction.

There is a difference between traditional faxes and internet faxes (sometimes referred to as e-fax). A traditional fax is sent from a fax

machine directly to another fax machine using a phone line. An e-fax service sends the fax through an internet service and sends it as an email file attachment. It is typically compressed so it can be downloaded more quickly. The e-fax service makes it easy to send and receive faxes by email and online using a phone, tablet or computer. There is no separate fax machine or phone line needed. The problem is the e-fax, just like an unencrypted email, can be intercepted and altered. The industry has seen an influx in payoff statements received via e-fax where the payoff lender's bank wire information has been altered in an attempt to divert to the payoff funds to a fraudster's account. Read "E-FAX machine" to find out how one heroic accounting team member saved the Company from a potential \$326,939.58 payoff loss.

When a closing involves a member of the United States Military and their dependents stationed abroad, they may have their signatures notarized by certain commissioned officers pursuant to 10 U.S.C. 936 (Article 136 of the Uniform Code of Military Justice). A special form of acknowledgment should be attached to the document, read more in "SIGNING out of the country by a member of the military."

IN THIS ISSUE



Share Fraud Insights
 via email, mail or word of mouth.



volume 13 issue 7
 July 2018

Publisher
Fidelity National Financial

Editor
Lisa A. Tyler
National Escrow Administrator



DISCOUNT for early wire

Vivienne, a first time home buyer, was involved in the purchase of a \$1.8 million home. The transaction was getting ready to close. She received an email from what appeared to be her settlement agent's assistant, but in reality the message was generated from a fraudulent email account. The message read as follows:

Hi Vivienne,

Congratulations on your real estate purchase. This is just a friendly reminder that we are scheduled for closing Friday June 1st. I will be the escrow closer handling this transaction. Find attached Settlement Statement and our Wiring Instruction for outstanding balance of your down payment, amount due is \$753,252.73.

However, we will give you a 20% off Escrow fee (a total of \$500 off) if wire can be initiated earlier, due to our current workload as we pride our-self in client satisfaction and the ease at which we conduct our business, It is advisable that wire be initiated Earlier to the attached bank wiring Instructions as this will guarantee that funds are available for disbursement at your scheduled closing, if yes amount due will be \$752,752.73

Kindly confirm that you have received Wiring instruction attached and advise if wire can be initiated today you can reply to this email if you have any questions or call or text me on my direct line 615 392 5075 looking forward to a successful close.

Vivienne called the number and heard a voice recording saying the escrow officer's assistant's name, but the voice sounded foreign and robotic. Vivienne was suspicious the email was not truly originating from her escrow officer's assistant and that the voice phone number was not truly dialing Chicago Title Company.

Vivienne promptly forwarded the email to her real estate agent. The real estate agent called the escrow officer using a known, trusted number and confirmed the home buyer's suspicions, the email was fraudulent. Fortunately for all involved the homebuyer did not fall for the scam and the transaction was able to successfully close on time.

How It Works

A scammer typically gains access to a transactional participant's email account. With access to the real email account, the scammer can observe email exchanges and create fake emails that look authentic, including email signatures and company logos, of various transactional participants. Using these authentic looking email, the scammer is able to impersonate anyone involved in the transaction and send fraudulent wire instructions to the consumer, diverting their money to a fraudster's account.

5 Warning Signs To Watch For

1. Make a decision now!

Rushing someone to make a financial commitment may be more than an irresponsible business practice — it could be a sign of fraud. A wire transfer of funds should never occur until the consumer has time to verify the bank wire information with trusted resources.

2. Change in wire instructions

Consumers likely are the target of a real estate scam if the settlement agent or title company informs them previous wire transfer instructions were incorrect or changed, and they provide new instructions. Settlement agents and title companies rarely change their bank accounts.

3. Discounts for sending a wire transfer

The processing of a wire transfer costs the sender and recipient, fees and costs. Settlement agents do not offer discounts for consumers depositing their down payment and closing costs via wire transfer.

4. Does the message make sense?

Most fraudsters perpetrating the crime do not speak English as their first language. Their messages contain misuse of grammar, spelling and punctuation. Often times, the message does not make complete sense.

5. Account Name = Settlement Agent/Title Company

The account name on the wire instructions often contains the name of an unknown individual or company, and not the name of the settlement agent or title company. In some cases the account name has portions of the settlement agent name combined with an individual's name. If the account



TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or
949.622.4425

[DISCOUNT for early wire - continued]

name is not an exact match, the wire instructions are not accurate. That said, the account name in the wire instructions is not the only thing that should be relied upon.

A wire transfer is an immediate form of payment. It is sometimes irreversible, even if fraud is involved. If a consumer falls prey to the diverted wire transfer scam, not only could they lose the money they transferred, but they would still need to provide the funds required to close on their property purchase.

Real estate professionals should communicate to consumers they need to call to verify the wire transfer with a known, trusted source at the settlement agent or title company who can identify the details of the specific transaction, as well as verify the bank wiring information.

Consumers should be warned not to send any money without talking to a live person with details only the settlement agent would know and a complete verification of the wire information.

In addition, consumers should never use the phone number provided in the email containing the instructions, they should use phone numbers they have called before or can otherwise verify. And, they should never send an email to verify, as the email address may be incorrect or the email may be intercepted by the fraudsters.

SPELL it out

Research has found most people who communicate in acronyms may confuse the people with whom they are communicating. It is confusing! While title professionals may fully understand the acronyms, their customers, people outside the industry, may not.

Take for instance the Closing Disclosure. The industry calls it a CD, but do you think for a minute the consumer knows what a CD might be? They likely think the person communicating with them wants to send them a compact music disc or a disc containing their closing documents.

The Fidelity Family of Companies encourages its associates not to utilize acronyms when communicating with customers; one example is TRID which stands for TILA-RESPA Integrated Disclosure Rule.

TRID is an acronym made up of an acronym one industry professional mentioned and it caught on. It truly makes no sense to use the acronym TRID in any context, but certainly not to describe the closing disclosure form or the disclosure of title premiums on the form.

Another acronym is CFPB. The Consumer Financial Protection Bureau (CFPB) is an agency of the United States government responsible for protecting the consumer with regard to their financial decisions.

However, CFPB is used throughout the real estate industry to call out mortgage disclosure forms and to refer to the consumer finance law. It is neither. The CFPB is not a form, it is not a rule. It is an agency comprised of living beings.

I once sat through an entire presentation with hundreds of other audience members where the panel of speakers used the acronym CID throughout the presentation. I had no idea what CID

meant and did not want to ask, in case everyone else in the room already knew what it meant. The presentation went on for an hour and I did not understand the heart of the message.

Afterward, I asked several other attendees what the acronym stood for...not one of them knew. I later researched the acronym and discovered it meant Civil Investigative Demand. The presentation would have been a lot more meaningful had I understood the title company owner who was speaking was talking about how the demand is served and its terms are met.

Being the best in the industry means we have to continue to treat our customers with the utmost respect and professionalism, one of the best ways to do that is to explain things to your customers using complete words and sentences when in the communication with them, both in writing and verbally.



E-FAX machine

The fax machine may seem archaic, but that machine plugged into the wall to access electricity and a phone line is more secure than an e-fax. A seller on a recent transaction received a payoff statement from his lender. The seller was represented by an attorney. He emailed the payoff statement to the attorney.

The attorney responded with instructions to fax the payoff instead. The law firm **did not** use an old fashioned fax machine connected to a telephone line, they used an internet fax or e-fax solution. The payoff statement was received via e-fax from the seller.

The law firm in turn provided the payoff statement to the settlement agent. The settlement agent placed the payoff statement in the file until it was ready to close. On the day before closing the settlement agent confirmed the contents of the letter with the payoff lender. The escrow officer did not confirm the wire instructions contained in the payoff statement, since the title company sends hundreds of payoff funds to the lender every business banking day.

The settlement agent proceeded to post the outgoing payoff wire in the amount of \$326,939.58 to the production system. The outgoing wire was transmitted to the accounting center for

processing. Jayne Welch, the accounting center representative, received the outgoing wire for processing. She had read the April 2018 edition of *Fraud Insights* and knew payoff funds were now the target of the diverted wire scam.

Jayne paid close attention to the bank wire information as she processed the outgoing wire. While processing she noticed the account number the funds were being sent was not the account she normally used when processing wires for this particular payoff lender.

Jayne stopped. She picked up the phone and called the bank the wire was being sent to. She wanted to verify the account truly belonged to the payoff lender. The bank confirmed her suspicions. The account did not belong to the payoff lender. Jayne rejected the wire and called the settlement agent to let them know the payoff funds would not be transmitted until the wire information was correct.

Jayne's close attention to detail did not go unnoticed. The Company is so proud of her integrity and unique ability to detect wrong doing, they have sent her a letter of recognition along with a check in the amount of \$1,500.

SIGNING out of the country by a member of the military

Settlement agents often close transactions involving principals who may be actively serving in the United States Military and stationed abroad. The principal's commanding officer can act as the notary. The form acknowledgment is not one created by the settlement agent, instead it is created and attached by the commanding officer.

Below is a sample acknowledgment used to acknowledge the signature of a member of military. Notice it does not have a notary seal. That is perfectly acceptable and it will not be rejected by the recorder's office for recordation. All recorder's offices have samples of acceptable acknowledgments, including the below sample military acknowledgment.

Sample form of Military Acknowledgment

Before me personally appeared _____, who, having produced a Uniformed Services Identification Card, is known to me to be the identical person who is described therein, and who signed and executed the foregoing instrument on this _____ day of _____, _____, as a true, free and voluntary act, for uses, purposes, and considerations therein set forth. And I do further certify that I am a Commissioned Officer of the Armed Forces of the United States serving in the rank indicated below, that by Federal law I am authorized to exercise the powers of a notary without the requirement of a seal, and that this document is executed by me in accordance with those powers and in that capacity.

SIGNATURE OF OFFICER

Authority: 10 U.S.C. 1044a
JAG Manual

Rank, Branch of Service

NC Gen Stat 47-2 to 47-2.1

Command

NO SEAL REQUIRED

