A seller lists his property for sale, enters into a contract and then tries to bully the escrow holder into closing before material facts about the over-encumbered property can be discovered. Read the story entitled “HAVE no fear, super rush is here!” to find out how Lynn Brown brought a transaction to a screeching halt after finding out about lienholders and equity owners.

One of the best ways to stay informed of industry changes is by reading this publication. In this edition we reveal how buyers of merchandise – not real estate related – are using information snagged from our trust checks to create counterfeit checks, which are then used to purchase items over the Internet. Read “ONLINE auction” to discover steps you need to take to protect the Company from loss.

Have you heard of the latest form of currency? Read the story entitled “BITCOINS – fact or fiction?” to find out how the world’s global economy is creating a new form of payment between buyers and sellers that has already been introduced to the real estate market.

“SAFETY CORNER” is a must-read as it provides one of the most effective ways to protect your identity.
“RUSH” is a word which often results in the opposite effect. It is a word which can make people stop dead in their tracks, especially since everything seems to be RUSH or URGENT these days. For settlement agents RUSH almost always raises a red flag. It causes you to ask: Why is this transaction a rush? Is it because someone is trying to hide something?

Settlement agents have excellent instincts. Lynn Brown, escrow specialist, is no different. She had a file where the seller was in a very big RUSH to close on the sale of his home. Turns out he had at least 95,000 reasons to close quickly.

Lawyers Title Company in Indiana opened a sale transaction. The sales price was $95,000 and the seller was in a very big hurry to close. The title report was ordered. Once it was received, Lynn began working on clearing title. The report revealed the property had only one mortgage recorded against it, but there was also a recorded promissory note in favor of an individual. Lynn contacted the seller for the information necessary to order a payoff demand and ask about the recorded promissory note.

The seller provided the loan number and contact information for the mortgage. When asked about the note, he told Lynn his friend would sign whatever was needed but would not be demanding any payment. Lynn went to work ordering the payoff and contacting the private party about releasing his lien. When she spoke to the private party she learned the seller had borrowed the money from him in order to purchase the property.

Shortly thereafter the private party learned his friend (the seller) also obtained a mortgage from his bank, but did not use the funds to repay him. That is when he recorded his note against the property. The seller did make some payments to the private party, but he was still owed $55,000 and was not willing to release his lien without payment.

The payoff demand came in from the lender which stated the unpaid principal balance was $92,314.61. Since the sales price was $95,000 Lynn decided to call the listing agent to discuss the transaction. She explained the seller would have to bring in a substantial amount to close since the beneficiary of the recorded note told her he was going to demand the balance due to him.

The real estate agent slipped and mentioned there was also an outstanding unrecorded contract for deed the seller entered into. When Lynn asked him what he was talking about, he tried to brush over his comment. She pushed further and discovered the seller entered into a contract for deed and already received $40,000 from the previous buyers, but he said the contract had expired. Lynn asked him to send her the contract.

The contract seemed a little odd because it was originally written in black ink, but then a change was crossed through and written in blue ink. At the direction of her title officer, Lynn told the seller and listing agent the buyers named on the contract would have to sign a quit claim deed to clear up any interest they might have in the property.

The buyers called Lynn to schedule an appointment to sign the deed. During the conversation, the buyers indicated the seller was pestering them to sign the quit claim deed and they felt he was taking advantage of them. They said they just wanted to sign off so he would stop bothering them.

Lynn was concerned any documents signed could be challenged, as she felt they would be signed under duress. She advised the buyers to consult an attorney to review the contract and prepare the quit claim deed for them, then to deliver it to her for recording.

In the meantime, the new buyers of the property ordered a survey for $1,590 and a termite report for $50. The original buyers on the contract for deed never called back to indicate they had spoken with an attorney. Ultimately, the seller could not convince his friend to release his $55,000 note without payment and there just was not enough money in the deal to make it work. The property was over-encumbered with liens and as a result this transaction never closed.

MORAL OF THE STORY

Not knowing the note holder had recorded his promissory note, the seller was clearly desperate to rush the sale to a successful closing before the outstanding note for $55,000 or the equitable interest of the contract buyer was discovered.

Lynn trusted her instincts and followed through with all possible clouds on title. Had she allowed the seller to rush her she could have missed details which could have resulted in claims by the new buyer against our Company. If this transaction had closed, the Company would have issued an ALTA Homeowner’s Policy insuring the new owner against off-record matters.

Had the contract buyers not relinquished their equitable interest by a valid quit claim deed and later sued to regain their equity or possession of the property, the Company would be in a position to defend the new buyer and their valid ownership. For her efforts, Lynn has been rewarded $1,000.
Online auction sites (such as eBay or Craigslist®) benefit consumers and merchandise re-sellers, by helping them find one another and creating a venue for an exchange of goods and services. The sites also create opportunity for fraud, since there is no face-to-face interaction between the buyer and seller.

The names of our various Companies have been used repeatedly by online auction buyers in an attempt to syphon funds from sellers. Currently the Companies under attack by online buyers are Alamo Title and Fidelity National Title. These online purchases are not real estate related. Here is how the deal goes down...

An online buyer is the successful bidder or purchaser of high ticket merchandise, typically sold at $1,000 or more. The buyer sends a check via overnight delivery to the seller of the merchandise.

The buyer uses someone else’s overnight delivery account to ship the payment – here they use an independent escrow company’s overnight carrier account number. The check exceeds the amount of the sale price.

In this instance the item purchased online was a 1913 brass cash register which sold for $1,000. The check arrived at the seller’s residence in the amount of $2,550 purportedly from Alamo Title. The check looked legitimate, but why did it exceed the sale price for the merchandise? The seller received the following (rambling) message from the buyer:

Good Evening,

How are you doing today and hope you are having a wonderful week? I’m sorry for the delay of payment once again. I sent the payment to you through overnight courier service. Here is the overnight courier’s tracking 534941315010211 thanks for the prompt response and honesty towards this transaction so far.

The movers fee has been added to the payment sent to you as I told you initially that the movers fee will be included in the payment, the overpayment is meant to cover the cost of shipment for the item alongside my other properties including tax and insurance.

Please upon the cash of the check, deduct the money for the item purchased from you and make the rest fund available to the movers that will come and pick the item up at your place via money transfer at any of their office near you or grocery store and get back to me with the money transfer details gotten after sending the funds (as it appears on the receipt) so I can forward it to my movers as confirmation of payment and they can schedule for the pick-up at your location ....

To send money via money transfer attracts little charges so you are to deduct the money transfer charges from the the money you are sending to my movers and also deduct $30 for yourself (meant for any hassle or run around during the process of getting the check deposit and money transfer).

Once you receive the check from the post i want you to go and deposit the check into your bank account and take out the movers fund and send it to them as soon as possible here is the movers information Below.................

Receiver’s Name:
Ricardo Wall
4240 Grand Avenue,
Stanley, WI 54768

Kindly get back to me with the Money Transfer details.

► Sender’s name and address (as it appears on the Money Transfer receipt)
► Money transfer reference number (8 digit numbers)
► Actual amount sent after deducting the $30 and transfer charges.

What’s your schedule regarding the pickup of the item as i have some other properties to be moved alongside. Hope i can trust you with the overpayment? Your Honesty and transparency will be appreciated.

Best Regards. Smiths (sic)

Out of curiosity, the seller decided to contact Alamo Title to see if the check was good before he deposited it at the bank. After checking their escrow production system, the staff at Alamo confirmed the check was counterfeit. The seller cancelled the online transaction and re-listed the item for sale.

MORAL OF THE STORY

Many times the online merchandise sellers deposit the check, cross their fingers and hope the check clears the bank. These checks are counterfeit and have been stopped 100% of the time by the positive pay protection we pay for on all Company escrow trust accounts.

In all cases thus far, the sellers have not paid the shipping bill or released the merchandise prior to discovering the check is counterfeit and they have the option to list the merchandise and sell it again.

Because our accounts have positive pay features, our offices are not harmed in this type of fraud, other than the annoying number of phone calls and emails received by the sellers attempting to discover whether or not the payment is legitimate.

The buyers intercept the Company’s banking account information from wire transfer instructions and from checks sent out in connection with the settlement of real estate transactions. Therefore counterfeit checks do contain the Company’s actual bank account number.

Each item deposited is processed and rejected by our accounting staff. This emphasizes the necessity of making sure we are looking at our positive pay exceptions every morning. If we were to miss one, the consequence would be that it would get paid. In some cases, the counterfeit checks have been so voluminous (more than 100 counterfeit checks), we have had to close the trust account and open a new account.

If you are contacted by an online seller to verify the issuance of a check they have received ask them to scan and email the check so you can easily identify if it is (or is not) validly issued. Be sure to let them know if it is or not. Then scan a copy of the check to us at settlement@fnf.com, so that we can warn the trust bank of the activity and track the volume.

The company whose overnight delivery account number is used without their permission is the one unwitting party to the fraudulent transaction monetarily harmed – that is, if they don’t recognize and dispute the charges with their carrier. If they do recognize and dispute them, their carrier will require, at a minimum, the account be closed and a replacement account opened.
A home in Canada is currently listed for sale at $405,000. The listing has a unique solicitation in it. The seller will accept offers to purchase for cash, new financing or by trading in bitcoins.

When asked about the bitcoins the seller stated, “I really wanted to get my hands on some bitcoins and they happen to be quite hard to get if you want to get a large number of them.” This made us wonder. What on earth is a bitcoin and how does it work? So we went to work researching bitcoins and here is what we discovered.

Bitcoins are virtual currency. They are not exchanged through a bank or any government agency. They are exchanged online. They are protected by cryptography which is the science of writing in secret code necessary when communicating over any untrusted medium, which includes just about any network, particularly the Internet.

Cryptography is an indispensable tool for protecting information in computer systems. Since the transfer of bitcoins is done between the payer and payee, the payment is irreversible. There is no middle man such as a bank or agency which oversees the transfer. The only way to recover the transfer is if the recipient refunds the bitcoins.

Bitcoins are still considered an experimental new currency. It does become less experimental as usage grows, but keep in mind bitcoins are a new invention exploring ideas never before attempted – which mean its future cannot be predicted and the price can be volatile.

The price of a bitcoin can unpredictably increase or decrease over a short period of time due to its young economy, novel nature and sometimes illiquid markets. At the time of this article one bitcoin is equal to $114.50 U.S. Dollars.

It will be interesting to see if the seller of the Canada home succeeds in being the first to sell for bitcoins. Who knows, maybe it is a sign of things to come.

The Fair Credit Reporting Act requires each of the nationwide consumer reporting companies (Equifax®, Experian® and TransUnion®) to provide you with a free copy of your credit report once every 12 months. Under the Act you must request your credit report and provide your name, address, Social Security Number and date of birth to the Credit Agency.

Keep in mind, each company is required to provide one free report every 12 months. You can order all three once a year, or stagger the requests throughout the year so you can obtain a report more often than just once a year.

Only one website is authorized to fill orders for the free annual credit report you are entitled to under law. It is www.annualcreditreport.com.