



By Lisa A. Tyler
National Escrow Administrator

If it sounds too good to be true, it probably is. We have published stories about romance scams and other ways fraudsters target people online. Recently, one of our offices identified another type of online scam, it is referred to as an inheritance scam. Read "LONG lost uncle jack" for the details of the scam.

All sorts of schemes and scams are back in action. Nationwide, our offices are being presented with fake checks. Do not become a victim. It is important to never let your guard down. Do not disburse against anything other than unconditionally collected funds.

This story demonstrates how patience pays off. Read "THEY'RE baaack" for all the details.

Electronic signatures have been used and relied upon for as many as 100 years. The first type of electronic signatures occurred using Morse code and the telegraph, which were both used to electronically accept terms of contracts. Now, virtually everyone eSigns daily. eSigning is even being utilized on legal documents. Read this month's **cyber buzz** article entitled "REMOTE online notarization (RON) versus electronic notarization" to learn how notaries can offer eSigning options to signers.

IN THIS ISSUE



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LONG lost uncle jack

A woman named “Chilly Pot” owned her home and over the years had built up substantial equity. She was in the process of tapping into that equity through a cash out loan. Her lender was a private party investor.

The loan was for \$100,000. The terms of the loan were less than appealing. The interest rate was 12% and there were so many up-front fees her net would be just \$75,000, but Chilly did not care.

As it turns out, Chilly was obtaining the loan in order to send \$25,000 to a diplomat in Spain who was in the process of overseeing the distributions of an inheritance for “Jack Pot,” a long-lost relative who had died in a car crash.

The diplomat promised Chilly \$25,000,000 if she would send him \$25,000 for legal fees associated with the distribution of the inheritance. Melisa McRoberts, Escrow Officer at Chicago Title, was handling the file.

Melisa did not feel comfortable closing this transaction. She consulted with her local management who referred her to the National Escrow Administration team by emailing settlement@fnf.com. Everyone agreed the Company did not want to proceed under the facts referenced above. Escrow administration advised Melisa to call the borrower to discuss the transaction.

Melisa called Chilly and conferenced in the lender. Chilly was urged to contact her local FBI field office. Melisa also told her the

Company was unwilling to close the loan. At the advisement of National Escrow Administration, she shared these two links:

<https://www.fbi.gov/news/stories/romance-scams>
<https://www.consumer.ftc.gov/articles/what-you-need-know-about-romance-scams>

In the end, neither Chicago Title nor the lender wanted to proceed.

Our Company does not want to assist — even unintentionally — a fraudster in bilking thousands of dollars from innocent victims. Sometimes we need to simply make the right decision and walk away from the order.

Thanks to Melisa for recognizing the odd details of the transaction and investigating further. Enjoy your \$1,500 reward, Melisa.

Article provided by contributing author:
Diana Hoffman, Corporate Escrow Administrator
Fidelity National Title Group



THEY’RE baaack

Ticor Title in Oregon opened a sale transaction. The sales price was \$379,900. The buyer was purchasing the property for cash, no financing. The purchase agreement required an earnest money deposit in the amount of \$5,000 but the buyer remitted a check for the full sales price. The check was a company check from The Raymond Corporation. The check was drawn off a national bank in the New York Federal Reserve.

Stephanie Sanchelli, Escrow Assistant at Ticor Title, deposited the check and sent out third-party deposit instructions to Paige Turner, the buyer’s real estate agent. She also notified the buyer’s and seller’s real estate agents that the funds remitted were from a third-party and could not be applied to the transaction until

the third-party deposit instructions were fully executed.

The buyer’s real estate agent confirmed with the buyer the transaction was opened at Ticor Title via the following email chain forwarded to Stephanie by the agent:

“Hi there!

I hope you’re doing well! I wanted to let you know title received your funds and they have been deposited into escrow! Yay!

Ticor Title should be in touch with you for directions to sign, whether you choose to do that electronically or in person.

Do you know when you’ll be in the States? Let me know, I look forward to handing you the keys!

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[THEY'RE baaack — continued]

Please let me know if you have any questions, or if I can assist you in anything else! Looking forward to hearing from you :)

Paige Turner
Licensed Real Estate Broker
International Real Estate Company”

The buyer, Willie Makeet, responded:

“Thank you for the update. I plan to be in USA next month hopefully after the pandemic subsides. Thank you for your assistance so far, look forward to seeing you. Stay safe.”

Paige replied:

“Ok, sounds great!

Our close date is April 29, 2020, if you desire to sign in person then we will need to extend our close date. As we get closer to the 29th we will need to have a more solid date for your arrival so that we can request an extension. I'm sure the seller will be willing to cooperate given these uncertain times. On the plus side, this state seems to be doing better with regards to this pandemic, maybe restrictions will be loosened quicker than previously thought.

On the other hand, if you sign electronically we can close as scheduled and I'm more than happy to keep your key securely at my office or in a lock box at the home until your arrival.

I'm happy to assist in whichever way you choose :)

You stay safe as well!”

Makeet responded:

“Trust you had a good Easter celebration? For me, I have been in high spirits until today. As in accordance with guidelines for travelling within the country over here, we had to undergo a mandatory COVID-19 test, as a prerequisite for travel. Unfortunately I have tested positive and have to self-isolate. Though I am asymptomatic, I have to isolate and will not be able to travel for now. I will appreciate your support and guidance at this point in navigating our transaction. I will update and solicit your help in moving this forward.”

Paige replied:

“I very much enjoyed Easter this year, I missed our usual family get together traditions but we made the best of what we had! Thank you for asking!

Oh no I'm so sorry to hear this! I can't believe the moment in time we are living in, it is truly surreal!

Have you been told how long you need to self-isolate?

How we move forward from here is really up to you.

One option is we ask for a deferred agreement via the COVID-19 addendum form. With this agreement we would gain a bit more time than with a general sales agreement addendum. The COVID-19 form states circumstances are directly related to the pandemic. In it the deferred timeline is for a recommended 20 additional business days, but you can make this any amount of days you deem necessary. (I would imagine you would not want to ask for more than 30 business days, as the seller's would probably not agree).

Second option would be to submit a sales agreement addendum. With this addendum we could simply ask for an extension for our close date, however I don't recommend submitting this with an extension larger than two weeks.

Your third option is to close on time with an electronic signature on all closing documents via Ticor Title's instruction. I'm more than happy to securely keep all keys to the home until you arrive. If you are concerned, I can forward you a contact for a general watch keeper company that can look over the property in the event that you can't make it here as quickly as you'd like.

I'm so sorry you are going through this! What a terrible feeling it must be! Glad you have no symptoms though, if you need recommendations for some good tv shows I know a few 😊 Hang in there!

Please let me know if you have any questions, and yes please keep me updated so we can take the proper action.”

Makeet responded (to Paige and the Escrow Assistant):

“Thank you for your mail. Happy you had a good Easter. Before I got your mail, I already spoke with my investment managers, and they have advised that since the funds are interest accruing, it would be foolhardy to tie it down, and leave it idle for weeks. So I would take option 1 preferably. I have come to the conclusion that \$325,000 should be sent to the receivers account at the end of this message. There is an investment window for shipment of medical equipment which I would be investing in, with a return on investments in a couple of weeks when I will be cleared to travel. I will humbly still retain your services, and we conclude this purchase then. I once again appreciate your diligence and professional services provided me. Thank you and I await your urgent action on the subject.”

BANK OF FAR OVERSEAS
SWIFT CODE: ABCDEFGH
BENEFICIARY/ACCOUNT NAME: LEEHIGH TRADING COMPANY
ACC NO: 090909090909-12
BENEFICIARY ADDRESS: Highrise Tower, 6565 Main Street,
Far Overseas

Stephanie reviewed the file and reached out to her management and National Escrow Administration. She was unsure whether the check had cleared the bank. It was deposited on Thursday, April 9, 2020.

The buyer was asking for a refund of \$325,000 from his check on Monday, April 13, 2020. Stephanie knew that was too soon for the check to be unconditionally collected.

There were other red flags. Neither she, nor the escrow officer, had direct contact with the buyer who was asking the refund be paid to an unknown party. Plus, Stephanie reads *Fraud Insights*. She knew this scenario did not sound right. She emailed a copy of the check to the National Escrow Administration team and asked when it would be available to disburse.

Upon receipt, the escrow administrator knew the check did not look right. She instructed Stephanie to reply to the buyer letting him know it would take at least 10 business banking days for the check to clear. In the meantime, her escrow administration reached out to The Raymond Corporation to verify the check was validly issued.

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[THEY'RE baaack — continued]

By the next morning, escrow administration spoke to the manager of accounts payable at the Raymond Corporation, who confirmed the check was not valid. The escrow administrator instructed Stephanie to resign from the transaction immediately so the seller could put the property back on the market and sell to a legitimate buyer.

Stephanie did just that. After receipt of her resignation, both the listing agent and selling agent looked closer at the details of the transaction and the check remitted by the buyer. They, too, decided to cancel the agreement.

We close transactions even during uncertain times but it does not mean we throw years of risk mitigation processes out the window.

REMOTE *online notarization (RON) versus electronic notarization*

In 2000, the Electronic Signatures in Global and National Commerce Act (referred to as the E-SIGN Act) was passed, which gave electronic signatures the same legal weight as handwritten ones.

An electronic signature **by definition** is an, "...electronic sound, symbol or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record." This means an electronic signature does not have to look like your actual signature.

All that is required is for the electronic mark to be:

- 1) Made by the person
- 2) With the intent to sign the record

It is not much different from a handwritten signature. Essentially, it is not the actual mark but the meaning behind the mark that is important.

Many states have statutes allowing for electronic notarization. It is not widely used, because in all instances the electronic notarization requires the physical presence of the signer. If the signer's physical presence is required, then there is no real benefit to signing documents electronically.

Remote Online Notarization (RON), however, is gaining traction because the signer does not have to physically appear in the presence of the notary.

Many people confuse eNotarization with Remote Online Notarization, believing they are the same. They are not. RON makes use of video and audio technology on the internet to allow signers to personally appear before, and communicate with, the notary from anywhere in the world. The physical presence of the signer is not required. Simply put, the signer can connect with a notary anywhere, anytime, without physically needing to meet them.

How does RON work?

There are several software providers who offer their product or platform. In general, RON works like this:

Access: The signer receives a secure email invitation containing a link to the e-signature login page.

Stephanie recognized all the signs and proceeded with caution. She saved the Company a potential loss of \$325,000. Had she complied with the buyer's request those funds would never have been recoverable. Great job Stephanie. You are being rewarded \$1,500 for your efforts.

Article provided by contributing author:

Diana Hoffman, Corporate Escrow Administrator
Fidelity National Title Group
National Escrow Administration

Authenticate: The signer has to answer dynamic knowledge-based questions to verify their identity in order to gain access to the virtual signing room. The questions are compiled from public and private data, such as marketing data, credit reports or transaction history.

Present identification: The notary will use an online tool to verify the authenticity of the identification presented by the signer.

Verbal Confirmation: The signer must verbally confirm their date of birth, mailing address and internet protocol (IP) address.

Sign: The signer selects "sign here" and "initial here" to attach their digital signature to the document. The notary selects "notarize here" to affix their signature, commission number and expiration to the document. The document contains a tamper evident seal. If it were ever opened and altered — the seal would provide evidence of the alteration.

Document Delivery: Once all documents have been signed, electronic copies are provided to the signer.

RON presents businesses, including title companies, with the opportunity to transform their consumer experience, leading to greater efficiencies, consumer convenience and ultimately greater consumer satisfaction.

But, before our industry embraces this technology, we must proactively work to mitigate the risks associated with accepting notarizations conducted where the notary and the signer are in separate locations.

It is an exciting time in our industry. RON is a constant moving target driven by our customer demand and underwriting's careful consideration of the potential risks. If you are asked to accept documents eSigned and eNotarized utilizing RON, be sure to **check with your underwriter to confirm that RON is an available option in your state.** If so, Underwriting will review the transaction and determine whether the Company would be willing to insure.

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