



By Lisa A. Tyler
National Escrow Administrator

Remember the article entitled “BOAT for sale” which appeared in the July 2014 issue? Apparently not everyone does because an office almost fell for the same scheme. The office opened the escrow, accepted in the deposit and was ready to disburse against uncollected funds when one phone call stopped the fraud from occurring. Read “EXCAVATOR for sale” for details on all the red flags.

Email compromise fraud schemes are schemes in which criminals compromise the email accounts of victims and send fraudulent wire

transfer instructions to financial institutions in order to misappropriate funds. Many of our offices have been the target of this crime. Investment Property Exchange Services, Inc. (IPX1031®) is no different. Read “EVERYONE is a target” to find out how Lou Ninios, Exchange Coordinator, saved IPX1031 from a big loss.

This month’s notary-know-how article is entitled “IDENTIFYING the signer,” it contains valuable information for commissioned notaries on types of acceptable identification that can be relied upon at the time of signing.

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A sales executive for an escrow company received a referral for escrow services from an attorney in her networking group. The attorney gave her a name and email address, and simply mentioned this person was looking for someone to provide him with escrow services.

The sales executive promptly reached out to the potential customer by sending him an email. The next day she received his reply. Here is his email:

"Thank you for your response to my request, I would have called to discuss further but my work here at the conskuction location will not allow me to make phone calls.

I will definitely be free to speak on Saturdays, Sundays and early on Monday morning, I will surly call you as soon as it is convenient for me, if this is okay with you let me know and I will scan and email the purchase documents to you for your review.

The location of the parties involve and all details of the purchase are outlined in the purchase documents, if this is okay with you acknowledge this massage and let me know to enable me forward the purchase documents to you for your review."

This email is filled with poor grammar, misspellings and was sent at 1:42 a.m. — which should all be cause for concern. The sales executive replied asking him to send her a copy of the purchase and sale agreement. He replied three business days later at 4:28 a.m.:

"As discussed do find attached the purchase agreement, the escrow instruction and the purchase invoice. The purchase price and all details of the purchase are outline in the attached contract documents,

Please review and get back to me and let me know if you can provide escrow for this purchase and if you can let me know what your charges are for providing this service. I also need you to provide information on how the escrow deposit and your fees is to be made out in certified check,

We intend to proceed with the purchase this week or early next week, please get back to me as soon as possible and do not forget to let us know what it will cost us or what are your charges for this service.

Thank you while I await your response, and I will provide further update on the transaction."

If this transaction is so urgent, why did he wait three days to send over a copy of the purchase agreement? The purchase agreement described the terms for the purchase of a used excavator in the amount of \$180,000 — not real property.

The sales executive forwarded the agreement to her favorite escrow officer who agreed to handle the escrow for \$820.50. Our Company does not handle escrow transactions for the transfer of heavy equipment.

The sales executive replied to the buyer letting him know the charge would be \$820.50, plus approximately \$200 in title transfer fees. She told him to check with the seller and let her know if this would be acceptable to them so they could proceed. Later that night he replied:

"Thank you for your previous massage, yow fee of \$820.50 is okay with me and it will be paid along with the initial deposit. We are ready to proceed with the purchase and what we need from you is to hold funds in escrow and disburse with instructions from me as stated in the purchase agreement.

The amount for the deposit of the excavator is 25% of the purchase price which is (\$45,000.00) this amount will be deposited in escrow prior to inspection of the excavator by me, the deposit of \$45,000.00 will be released to Seller by my instruction upon completion of a satisfactory inspection of the excavator by me, while 65% of the purchase price which is (\$117,000.00) will be paid to escrow by me upon shipment of the excavator, and balance of 10% of the purchase price (\$18,000.00) will be paid upon delivery of the excavator, which is the closing of the purchase.

The check for your fee of \$820.50 and the initial deposit of \$45,000.00 will be delivered to you by courier before I leave for my inspection of the excavator this week, with this development I will want you to confirm if the address below is okay and correct for the delivery of the check.

Please get back to me ASAP to confirm if the address above is correct for the delivery of the check."

Eighteen days later the office received a cashier's check from the buyer. The check was for **\$45,820.50.00**.

Although the check was not valid on its face, the office promptly deposited the check into the file and scanned it for deposit into its trust account. The escrow officer notified the buyer by email she was in receipt of his deposit and asked for the seller's contact information. This was on a Friday, the 11th of the month. The next day he sent her the following email:

"Thank you for your update with the deposit and do pardon me for getting official with you on Saturday.

The equipment has been inspected and the equipment is in good condition, I am very happy with the working condition of the equipment, I am willing to proceed with the complete purchase of

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the equipment, the equipment is ready for shipment to me and all that is holding back the commencement of the shipment is the deposit for the equipment which I expect you to release to the seller to enable us move ahead.

I did notify the seller with this development that the deposit has been sent to you and the deposit is already with you, she has assured me that she will commence the shipment the instant she gets the deposit from you, given the time we have all wasted with this purchase I have decided to close this purchase on Friday by releasing the complete installment payment to escrow on the 17th of this month which is Thursday next week.

With this development that the deposit is now with you, I pleaded with the seller to go ahead to commence the shipment of the equipment but the seller refused and assured me that the shipment procedure will only commence only when she gets the deposit, because she will use part of the deposit for the shipment of the equipment.

With this present position of things with the purchase and given my time frame to close this transaction, I will plead with you to act on Monday morning and ensure that the deposit is released to the seller. I will want to use this medium to plead seriously with you on behalf of myself and all involve in this transaction to do all you can to release the deposit to the seller on Monday.

I will make preparations to release the final payments to you as soon as we get confirmation from the seller that the deposit has been received, and as soon as I get confirmation from you that the deposit has been released to the seller.

I have instructed the seller to furnish you with her bank account information to enable you release the deposit, the seller has assured me that she will furnish you with her bank account information, please let me know when you have received the bank account from the seller."

He sounds desperate, correct? That is because the clock is ticking. He probably had eight to 10 days before the bank notified the escrow officer the check was fraudulent. He needed to convince her to send the wire right away so he could succeed in his scheme.

On Monday, our Operation Accounting Center (OAC) notified the office the bank would not accept the check using the scanning machine and it had to be brought into the bank in person. The check was delivered to the bank for deposit on the 14th day of the month.

At 5:42 a.m. that same day, the seller emailed her wiring instructions to the escrow officer. The account name was a business — not the seller. The seller signed and dated the instructions. Although the seller had a U.S. address, the date was written with the day/month/year rather than the month/day/year. The escrow officer replied to the seller stating she needed to call her to verbally verify the wire instructions and asked the seller to provide her phone number.

Someone other than the seller replied to the escrow officer with a phone number. When the escrow officer called the number it was a recording in another language. It was not a good number. On the 21st day of the month, the bank notified the OAC the check was fraudulent. Thank goodness the wire was never sent.

Following are the numerous red flags that popped up in this transaction:

1. The transaction was an escrow only for the transfer of heavy equipment. Our Company is in the business of consummating real estate transactions; not excavators.
2. Principals did not communicate by phone. The sales executive and the escrow officer asked the buyer for his phone number several times, and he always had an excuse as to why he could not talk by phone.
3. The check being deposited into escrow had one glaring mistake on it — too many decimals — **\$45,820.50.00**. Escrow was even given a second chance when the bank rejected the electronic deposit. Checks should be reviewed carefully prior to depositing.
4. The check was not even on deposit at the bank when the buyer gave authorization to wire the funds to the seller. Do not disburse against uncollected funds.
5. Although the escrow officer attempted to verbally verify the wire instructions with the seller, she never addressed the fact the funds could not be sent to anyone other than the seller. Do not accept an assignment of proceeds.

In addition, asking the person who sent the wire instructions by email for their phone number in an email is not a safe way to verify the instructions. The verification needs to be done using a trusted phone number (see item #2 above).

EVERYONE is a target

A tax deferred exchange offers taxpayers one of the last great opportunities to build wealth and save taxes. An exchanger can sell their investment property and acquire a replacement property, and defer the tax that would ordinarily be due upon the sale.

An exchange is rarely a swap of properties between two parties. Most exchanges involve multiple parties. To create the exchange of assets while realizing the benefits of the tax code, taxpayers often

use a professional qualified intermediary such as IPX1031®, which prevents actual or constructive receipt of exchange funds. Without a qualified intermediary, the exchange could be considered invalid.

At the end of the year many of our customers are scrambling to find ways to save on their taxes. Investors are rushing to sell or buy new investments. There are very specific time frames which must be met to take advantage of a 1031 exchange. In some instances, the exchangers are unable to meet the deadline and their exchange is terminated. This is when fraudsters try to strike.

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[EVERYONE is a target - continued]

Lou Ninios, an IPX1031 employee in the Texas region, worked on a file where the exchange was being terminated. Lou emailed disbursement on termination instructions to the exchangers to complete and sign with their wiring instructions to return the terminated exchange funds.

The form was completed and promptly emailed back to Lou. Upon receipt, Lou reviewed the instructions and found it odd the exchangers' bank account was in Warsaw, Poland. He picked up the phone and called the exchangers at a trusted phone number to verify the wire instructions; which is standard operating procedure for IPX1031.

The exchangers were very confused. They never received an email from Lou and the wire instructions were neither for their bank nor their account. It was clear the instructions were intercepted by a hacker. The exchangers were able to determine their email account had been hacked so they promptly closed their email account. The hacker had been watching their email traffic waiting to strike.

The exchangers had almost \$750,000 on deposit with IPX1031. One phone call from Lou saved those funds from being wired to an account outside of the U.S. The hackers were good too. They lifted the exchangers' signatures from another document and pasted them on an IPX1031 form. The additional instructions on the form even authorized Lou to deduct the international wire fees from their funds.

Lou recognized it was odd for his Texas clients to direct their funds to a bank in Warsaw. He followed Company policy by calling to verify the wiring instructions. The customers confirmed the disbursement authorization was fraudulent.

The highest volume of email compromise scheme attempts come on Fridays, at the end of the month, quarter and year. This typically buys the hackers extra time to succeed at their scheme. Fortunately Lou was not fooled and has received a \$1,500 reward from the Company for his crime stopping skills. Congratulations Lou!



IDENTIFYING *the signer*

A notary public is charged with identifying the signer whose signature they will notarize at the time of signing; unless the signer is personally known to the notary. The signer must present identification which meets the state statutes in which the signing occurs. If the state regulations do not list or name the specific types of identification which are acceptable forms to rely on, a good general rule of thumb is to require identification which:

1. Is government issued
2. Contains a photograph of the signer
3. Contains a physical description of the signer
4. Is current
5. Has a signature for comparison purposes

Not all types of valid, government issued identification contain all five of the items listed above. For example, a Military I.D. often does not contain a physical description or signature, yet if the state describes this as an acceptable form of I.D., the notary can rely on it.

The notary must be sure to review the identification in its entirety, comparing it to the person in front of him/her. Be sure to turn it over to make sure there is nothing suspicious on the back such as, "This is a novelty item."

The notary must enter into his/her journal how he/she identified the signer. Be careful! Only enter the information allowed by the state. For example, in the State of Texas a notary may not enter the driver's license number into their journal since it is considered non-public personal information but the journal is considered public record.

