

By Lisa A. Tyler  
*National Escrow Administrator*

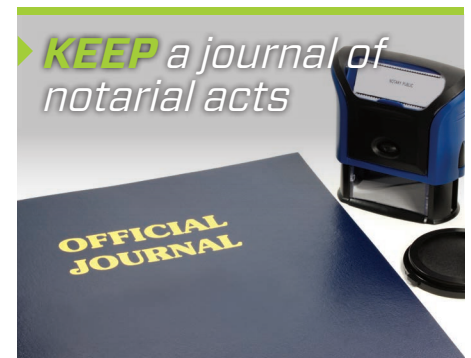
The law firm of Scott B. Umstead, a title policy issuing agent of Chicago Title Insurance Company in Myrtle Beach, South Carolina, was recently the target of a fraudster attempting to divert the seller proceeds. Fortunately one of Scott's employees, Shellie Mire, Real Estate Paralegal, recognized the signs of the fraud and the firm did not fall victim. Scott was very impressed by Shellie's actions. Read "POT o' gold" to see what he had to say.

Fraudsters never give up on their efforts to find an unsuspecting escrow officer to fall for their scheme, especially during this past

2016 holiday season. Fortunately, settlement agents across the country remembered what they had learned in previous editions of *Fraud Insights* and stopped the fraudsters in their tracks. Read "HOLIDAY cash" to discover how one clever escrow officer detected fraudulent wire instructions.

Most state notary laws do not specify a notary journal is required. Read "KEEP a journal of notarial acts" to discover why every commissioned notary should maintain a journal, even if it is not required under the laws of their state.

## IN THIS ISSUE



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



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**Had it not been for Shellie Mire, a Real Estate Paralegal in Myrtle Beach, South Carolina, being alert her office would have been the victim of a Business Email Compromise (BEC) scam in the amount of \$143,486.39. The sale was proceeding just like any other. It was a split closing.**

The seller's attorney sent over the signed disbursement sheet instructing Shellie to wire the seller's proceeds. The seller's real estate agent was very involved in the transaction and with his client. He caters to clients who tend to lean on him for many little things. He emailed Shellie.

The real estate agent confirmed his client had already signed her closing documents and wondered if she could have her proceeds wired to her trade account rather than her personal account. Shellie replied she certainly can if she prefers.

The real estate agent asked if this would change the Closing Disclosure, concerned it could delay closing and Shellie confirmed it would not. Shellie did explain the seller would have to complete and sign a new disbursement sheet providing her trade account information.

The real estate agent asked Shellie to email him a blank disbursement sheet and Shellie did so. He filled it out with the trade account information and stated his client signed it there in his office, and then he emailed the completed form back.

Turns out, those seemingly harmless and non-suspicious email exchanges were actually a fraudster at work. The fraudster appears to have allegedly compromised the real estate agent's email and communicated with Shellie as if he was the real estate agent. Fortunately, Shellie did not fall for the fraud.

There were several red flags:

- Shellie noticed each email from the real estate agent was a new email as opposed to being a reply to the email chain about the disbursement of the seller's proceeds.
- She thought it was odd the real estate agent asked if the new disbursement instruction, "will change the CD."
- The signature on the new disbursement sheet did not match the seller's signature on the other documents. It was electronically signed but it was not eSigned using the technology which is used by the real estate agents brokerage that includes a statement that it was electronically signed.

Shellie decided to pick up the phone and call the seller's attorney to confirm the seller's request and the wire instructions received. He knew nothing of the request so they called the seller who confirmed she had not made any changes with her real estate agent.

Calling confirmed that Shellie had not been emailing with the actual real estate agent's email account, but rather a fraudulent email address that initially looked similar, meaning it was different than her legitimate email address. Shellie put her mouse over his email address and noticed it ended with @gmx.com — not @gmail.com.

Scott Umstead shared this story with his agency representative. He felt there were three good lessons to share:

1. There is no substitute for a good sixth sense.
2. Slow down! Transactions get faster and faster; everyone hounds each other for more speed in every phase of a closing. If one does not find a way to make the transaction go faster the real estate agent does not send any more closings, the bank takes the closing firm off their approved list, and the buyer, seller or borrower give them a 1-star review on GOOGLE™.
3. Appreciate your employees because they are the ones who actually stop fraudsters in their tracks.

Scott says settlement agents must come to a FULL STOP. Yes, a FULL STOP to properly protect everyone — including the law firm — to make 100 percent sure procedures are followed and everything makes sense. One more phone call might be the very step to save the customer and law firm; it was the most important step for the prevention in this story.

We agree with you Scott. Great job Shellie! The National Escrow Administration interviewed Shellie to ask her how she became familiar with this type of scam in order to recognize the signs. Shellie regularly reads *Fraud Insights*.

In addition Shellie is keenly aware of the many warnings settlement agents and law firms use in their email signature line such as, "we will never revise our wire or disbursement instructions by email." One phone call is all it took to confirm her suspicions were right.



**TELL US HOW YOU  
STOPPED  
FRAUD**

settlement@fnf.com or  
949.622.4425

# HOLIDAY cash

## Joanne Stellini, Escrow Officer with Lawyers Title Company in Castro Valley, California, reads each and every issue of *Fraud Insights* and takes it all to heart

Based on what she has learned she never acts on wire instructions she receives by email. Instead, she picks up the phone and calls the sender at a trusted phone number to verify they sent her wire instructions, AND she verbally confirms the wire instructions are correct by confirming the bank, account number and account name.

In December 2016, one day before closing, the listing agent emailed asking her when the file was scheduled to close. This was odd because she already knew the file was scheduled to close the next day.

The font contained in the body of the email was completely different than it was in all the other emails Joanne received from her. She also noticed the email address did not match. The real estate agent normally used a vanity email account similar to Jane@janedoe.com. The email came from jane.janedoe@gmx.com.

Joanne picked up the phone and called the listing agent who confirmed she did not send the email. Joanne suggested she contact her IT department to check her email account. Shortly after they hung up the real estate agent called back and said she changed her password, and hoped the hacker was no longer able to track the transaction.

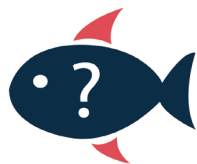
The next day another email came from jane.janedoe@gmx.com, which included wire instructions. Joanne already knew the instructions came from a fraudster but she noticed right away the instructions were flawed because the account name did not match her seller's name. She called the listing agent who asked her to take a picture of the email and send it to her phone so she could share it with her information technology officer.

Joanne reported the email to information security at our Company using the Report Phishing Button.

She continued to communicate with the parties to her transaction only by phone. Joanne always verifies emailed wire instructions on all her transactions. Way to go Joanne! For her adherence to policy and procedure, and saving the Company on this file she has been rewarded \$1,500.

### Another thing we have learned...

In the examples that follow, the emails purportedly coming from the listing agent's sale transactions are date/time stamped from a completely different time zone! That is right, the real estate agent is supposed to be in the same geographic location as the



## Report Phishing

settlement agent, but the emails are coming from a different time zone altogether.

These examples of messages are listed from oldest to newest. The escrow officer is responding immediately to the emails, but the time stamp shows a five hour time difference between her response and the listing agent's response.

**From:** Larry Lister  
**Sent:** Thursday, December 15, 2016 11:35 AM  
**To:** Escrow Officer  
**Subject:** 2942 Cardassi  
Seller wants proceeds wired to their XXXXX bank account, What information do you need to initiate the wire?

**From:** Escrow Officer  
**Sent:** Thu, Dec 15, 2016 4:36 pm  
**To:** Larry Lister  
**Subject:** RE: 2942 Cardassi  
There should have been a wire form in the closing package. Did he complete it?

**From:** Larry Lister  
**Sent:** Thursday, December 15, 2016 11:47 AM  
**To:** Escrow Officer  
**Subject:** Re: 2942 Cardassi  
Seller is not sure he did, can you send it via email?

**From:** Escrow Officer  
**Sent:** Thu, Dec 15, 2016 4:47 pm  
**To:** Larry Lister  
**Subject:** RE: 2942 Cardassi  
Absolutely. I will have to both of you shortly. Thanks

**From:** Larry Lister  
**Sent:** Thursday, December 15, 2016 1:48 PM  
**To:** Escrow Officer  
**Subject:** Re: 2942 Cardassi  
Did you send it yet?

**From:** Escrow Officer  
**Sent:** Thu, Dec 15, 2016 6:58 pm  
**To:** Larry Lister  
**Subject:** RE: 2942 Cardassi  
He filled out the form with account information for a TrustCo Bank account. Attached is a blank wire form. Please make sure that he knows that I can only issue proceeds to the entity in title. So, the account must be in the name of the corporation. Thanks

**From:** Larry Lister  
**Sent:** Thursday, December 15, 2016 11:30 AM  
**To:** Escrow Officer  
**Subject:** Re: 2942 Cardassi  
Please find the completed wire form. Send me an email as soon as the proceeds has been wired. Thanks so much for the help.

[Continued on pg 4]

[HOLIDAY cash - continued]

Another example reflects the time stamp on the response from the escrow officer to be prior to the request time from the listing agent:

**From:** Lyon Tamer  
**Sent:** Wednesday, December 21, 2016 1:39 PM  
**To:** Escrow Officer  
**Subject:** Re: 3509 Wendel Cove  
The sellers will like their proceeds wired into their trading account, What will you be needing to help them with this and will this affect their final figure? Thank you  
Sent from my iPad

**From:** Escrow Officer  
**Sent:** Wednesday, December 21, 2016 12:45 PM  
**To:** Lyon Tamer  
**Subject:** RE: 3509 Wendel Cove  
Here is the form we would need filled out and signed with that info.

Although not definitive, these timestamp differences are yet another red flag that could indicate fraud in the transaction. As we always advise, if something does not seem right about the email you receive, pick up the phone and call to confirm.

## **KEEP** a journal of notarial acts

**Although not every state requires the notary to keep a journal of notarial acts the Company highly recommends you do. Why? A notarization is valuable and important to the signer, and those relying on the content of the document being acknowledged.**

Think of the act as valuable as a bank deposit is to the account holder. The document being notarized is a legal transaction of profound legal weight and consequence. People are depending on the notarization to be valid. They are taking business risks based on the notarization.

In some transactions, the notarization is a primary indicator others can rely on to ensure the signers to a document are who they claim to be and that the signatures are genuine.

Notarization is no small matter. Because in some instances, notations in the journal may be the only proof prescribed by law that constitutes accepted evidence the notarization is truthful and legally valid, you may wish to strongly consider keeping a journal, even if your jurisdiction does not require that you do.

### **A journal provides proof that:**

- The person personally appeared before the notary
- The notary took every reasonable step to verify the signer's identity as provided by the state's notary law
- The signature notarized is genuine and belongs to the person who claims to own it

Of course, a commissioned notary who is in a state which requires he/she keep a journal has no choice. Regardless of whether the notary must keep a journal or he/she chooses to keep one, here are some best practices:

- In most cases only one active, sequential journal may be used and should be kept in a secure location under the direct control of the notary.
- All acts should be entered in to the journal; even those instances where the notary might have refused to notarize a document. Include the reason for the refusal.

- Be sure to keep the journal locked up — along with notary seal — so no one else may use them.
- If a journal is lost, contact the state regulator for details on what steps must be taken.
- If a notary leaves the Company he/she should consult with the state where he/she is commissioned for instructions on whether to take the journal or leave it with the employer.

A notary journal is a written record of every notarization performed by the notary. Everything recorded in the journal shall be deemed factually true in a court of law. It protects the signers, it protects the Company and it protects the notary personally from risk of legal liability.

The notary journal will guide the notary through the correct steps of a lawful notarization. It will prevent a notary from notarizing falsely, which is a criminal violation in every state. A notary journal will rescue a notary from unfounded accusations of wrongdoing.

