



TIPS for real estate agents

By Lisa A. Tyler
National Escrow Administrator

Property theft from absentee-owners continues to be a problem. The syndicates attempting to commit this crime learn from each success and failure, then modify their scheme. They have learned the title industry’s best defense in thwarting this crime is the notary. Settlement agents who have honored an imposter’s demands to use their own notary, find out later that the seller is an imposter.

It is important to verify a signer did appear in front of the notary who notarized the documents. Read “ALWAYS verify” to learn how an escrow officer discovered a seller impersonator.

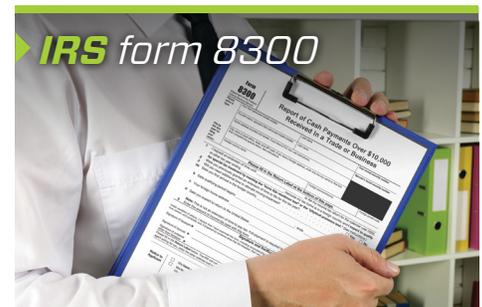
Efaxing can be just as risky as sending an email. Depending on the efax provider the sender or receiver is using, the fax may not be properly encrypted to protect the data being transmitted. This is problematic for settlement agents because they never really know what type of encryption a sender has in place.

“THE dangers of efax” demonstrates how risky an efax can be and why settlement agents must always ensure they are verifying wire instructions received in this manner. Read on for all the details.

Settlement agents only report “cash” deposits received into their trust account. If a buyer deposits their earnest money with the real estate broker, it is the broker’s responsibility to monitor and report those deposits, not the settlement agent. Once multiple “cash” deposits have been received and (when combined) total more than \$10,000 — then IRS Form 8300 is filed.

IRS Form 8300 is due to the IRS no later than 15 days after receipt of the “cash” instruments. The deadline has nothing to do with the timeline of the transaction. It begins the day the “cash” items received total more than \$10,000. It has nothing to do with the date the file opens, closes or even cancels. Read “IRS form 8300” for more information.

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volume 18 issue 9
September 2023

Publisher
Fidelity National Financial
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ALWAYS *verify*

Kerry McCall, Escrow Officer with Chicago Title Inland Empire, received an order for the sale of a vacant lot for \$65,000. Upon receipt of the order, Kerry pulled the owner's address where the tax bill is mailed and sent a notice of pending real estate transaction overnight to confirm the owner was selling the property.

As soon as the order was opened, the listing agent contacted Kerry to let her know the seller was currently in Texas but would sign the deed at an attorney's office. The deed was prepared and emailed to the seller. The deed was executed and returned to Kerry via overnight delivery. Included with the deed was a completed questionnaire from the notary.

Kerry called the number provided on the questionnaire to obtain information about the law firm that employed the notary. The person who answered the call indicated they did not work for a law firm and the conversation with him was very odd, so Kerry asked her manager, Jennifer Young, to review the file with her.

Together, Jennifer and Kerry determined the deed had to be re-executed with a notary selected and approved by Chicago Title. Kerry reached out to the seller to notify him and arrange for the notary to meet with him. Kerry also notified the listing agent.

Jennifer attempted to locate the notary who notarized the deed independently (not using the phone number provided on the notary questionnaire). She searched for him online and found his contact information. She called and left him a message.

The notary immediately returned her call and verified he is a commissioned notary and the seal

number from his notary stamp matched, but the seller never appeared in front of him and he did not notarize the deed. He indicated this was not the first inquiry he received, so he was going to contact his secretary of state next.

Kerry never received a response from the seller to re-sign the deed and other closing documents. No one ever responded to her notice sent to the mailing address of the tax bill either. The listing agent discussed her concerns with the buyer's real estate agent, who asked Chicago Title to verify whether the transaction was legitimate or not.

The listing agent and the buyer's real estate agent requested an indemnification and hold harmless for the benefit of the real estate brokerages and real estate agents, however, the Company does not offer that type of indemnification. Kerry resigned from the transaction and received \$1,500 for her fraud fighting skills.

This scam is not going away. If anything, the fraudsters are ramping up their efforts and getting better at the scheme. It is so commonplace, many states have issued advisories to their licensed real estate agents, so they know how to properly vet sellers before listing the property for sale.

Tips for Real Estate Agents

- ✓ Research the seller online using search engines and social media to confirm any information they have provided. Look for online pictures of them.
- ✓ View the property online or in-person. What is the terrain like? How many structures are on the property? What else makes it distinct?



STOP

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**STOPPED
FRAUD**

settlement@fnf.com or
949.622.4425



[ALWAYS verify — continued]

- ✓ Contact any neighbors of the property the seller wants to list for sale. Ask them if they know the owner and if they know how to contact them.
- ✓ Ask the seller to meet you at the property, so they can walk it with you to familiarize yourself with it.
- ✓ If the seller cannot meet at the property, ask them to meet you virtually using Microsoft® Teams® or other video conference software. Ask them to hold up their I.D. to the camera to review. Confirm the picture matches the person along with the date of birth, etc. Ask them to describe the property they own and want to list for sale. If they cannot meet virtually, carefully consider whether or not to proceed.
- ✓ Support the settlement agent. When the seller is unavailable or demands to use their own notary, do not interfere in the settlement agent's requirements to use a known, trusted notary of their own.
- ✓ Use trusted title companies for the exchange of closing documents and funds.
- ✓ **Never let the buyer waive the purchase of an owner's title policy.**

Article provided by contributing author:
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THE dangers of efax

Denise McCormick, Senior Escrow Officer with Ticor Title Company, closed a sale wherein the seller asked Denise to transfer his sales proceeds to an independent escrow company to fund the purchase of an investment property. She agreed and reached out to the escrow officer at the independent escrow company to coordinate the transfer.

The escrow officer emailed over a copy of her assignment of funds, which included her wire instructions. The instructions were not yet executed, but she promised to forward them upon receipt of all the signatures.

Several days later, Celeste Marquez, Jr. Escrow Officer with Ticor Title Company, followed up with the independent escrow officer who said they were still working on obtaining signatures.

The next day, a gentleman purportedly from the independent escrow company called. The conversation was very odd as he was unable to answer questions about the transfer of funds or the transaction. His answers were nonsensical. He also asked questions that made no sense.

The following day, Denise received the fully executed assignment of funds instruction via email. She called the number shown on the assignment. The call went straight to voicemail, which she knew was very odd. A business phone will regularly ring before it goes to voicemail.

Denise looked in the file to confirm she called the correct number. The number in the file was different. She compared the unexecuted assignment of funds she received days earlier against the one just received and noticed the wire instructions had been changed.

Denise called the known, trusted phone number previously provided and verified the wire instructions had been altered. She spoke to the owner of the independent escrow company, who indicated one of her employees was having issues with her efax account.

Upon further review, it appeared the independent escrow company's email accounts may have been compromised, too. Monica, a representative of the independent escrow company, purportedly sent the email with the instructions for the fully executed assignment of funds to Ticor Title and addressed the



email to Celeste Marquez, but her last name was spelled with an "s" — Marques.

Another email sent to Celeste (purportedly from Monica) was addressed to Monica (instead of Celeste) and signed from Monica. Celeste believed from all indications that Monica's email had been compromised. Celeste reported this to Denise.

Had Denise relied on the email received — instead of calling to verify the wire instructions received at a known, trusted phone number — the funds would have been wired to a fraudster. The fake seller would have netted nearly \$110,000 in proceeds from the sale.

For Denise's successful efforts, her story is being featured here and she has been rewarded with \$1,500. This serves as a reminder to always be sure wire instructions are verified using a known, trusted phone number.

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IRS form 8300

IRS Form 8300 is completed by the receiver of the “cash,” not the remitter.

As a reminder, the IRS defines “cash” to include (a) coins and currency (U.S. and foreign), and (b) cashier’s checks, bank drafts, traveler’s checks and money orders, with a face value of \$10,000 or less.

“Cash” does NOT include (a) personal checks drawn on the account of the writer, nor (b) a cashier’s check, bank draft, traveler’s check or money order with a face value of more than \$10,000.

The latest version of the form can be downloaded from www.irs.gov. The form is made up of four parts. To properly complete the form, the preparer will need:

- ✓ A copy of the remitter’s identification
- ✓ The remitter’s U.S. Taxpayer Identification Number (TIN)
- ✓ The remitter’s occupation and the principal’s occupation

A U.S. Taxpayer Identification Number is a generic term which includes:

- ✓ A Social Security Number (SSN),
- ✓ An Individual Taxpayer Identification Number (ITIN) or
- ✓ An Employer Identification Number (EIN) [if an entity].

The settlement agent should request the TIN using IRS Form W-9. The IRS instructions indicate this is the proper method to obtain the TIN which is being reported to the IRS. Following this procedure provides the settlement agent with protection from fines or penalties, should the person provide an incorrect TIN or refuse to provide one.

When the “cash” is remitted by a third party on behalf of a principal to the transaction, obtain the identification and U.S. TIN from the remitter and the buyer. Should the remitter fail to provide

the requested information, contact management for additional directions. Be sure to document the file with evidence of when and how the TIN was requested and include copies of the correspondence sent to them.

To ensure proper delivery, send the form to the IRS by certified mail, return receipt requested or by overnight delivery. Failure to file a correct, complete and timely form may result in significant penalties.

In addition to reporting the “cash” payments, the IRS requires the filer of the form to provide a written statement to each person named in IRS Form 8300. The statement must be sent on or before January 31st of the year following the calendar year in which the “cash” is received. Although the remitter has a deadline, there is no reason to wait. The notice can and should be sent as soon as the Form is filed.

The statement must show the filer’s company name and branch address who received the “cash,” the name and phone number of a contact person, the total amount of reportable “cash” received and acknowledge that the information was furnished to the IRS.

Keep the form and a copy of the statement for five years. Operations should designate a contact person for all IRS Form 8300s filed by the operation within the calendar year.

Next month we will discuss how to properly complete each part of Form 8300.

The information provided herein does not, and is not intended to, constitute legal advice; instead, all information, and content, in this article are for general informational purposes only. Information in this article may not constitute the most up-to-date legal or other information.

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