



## CRIMINALS hope you download their document (instead of a safe one)

By Lisa A. Tyler  
*National Escrow Administrator*

National Escrow Administration receives more than 100 inquiries per business day from a network of the most well-trained and experienced escrow settlement agents nationwide. In the article titled “Q&A with your escrow administrators” you can read some of the most commonly asked questions and our standard responses. Our goal in publishing these responses is to ultimately allow you to efficiently and effectively service customers and perform closings.

In the October 2021 issue of *Fraud Insights*, we introduced the concept of “watering hole attacks.” The scheme uses PDF files (or other documents) to victimize unsuspecting web users. But the documents are not documents at all. Instead, they are a

malicious code uploaded to websites, disguised as a document the user finds during an internet search. When the user “downloads” the document the malicious code is stored on their computer. It allows a fraudster to launch a ransomware attack, compromise security or even allows a fraudster to take control of the victim’s computer. How do we navigate the web knowing these risks are out there? Can we trust any website anymore? Even reputable ones? Read “UPDATE: watering hole attacks” for more details.

In order to understand the who, what, where, why and how of ransomware, it is important to define some terms used to describe the scam. Therefore, this month’s featured article is titled “DEFINED ransomware terms.” Do not skip it, read it!

### IN THIS ISSUE



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## Q&A with your escrow administrators

**Want to take the guess work out of your next closing? This article reflects some of the most common questions that National Escrow Administration answers, from the hundreds of emails we receive on a daily basis. We hope sharing these questions and answers provide insight into properly closing your next transaction.**

**Q.** There is some talk in Tennessee, and I have an agent who wants to market closings with cryptocurrency. From what I have read, it is legal in Tennessee. What is our Company's position on handling these type of closings?

**A.** Yes, the Company has been closing transactions where the consideration was tendered using cryptocurrency, since 2013. The seller has to open a wallet to receive the type of cryptocurrency agreed upon in the purchase and sale agreement, on the agreed upon closing date; the seller sends the buyer their public key or address to receive the payment in cryptocurrency. The seller has to wire transfer in U.S. Dollars to pay off any existing encumbrances, taxes and closing costs. The buyer has to send a wire transfer in U.S. Dollars to satisfy their closing costs, as well.

**Q.** We have a seller that has requested we pay a \$300,000 personal loan out of the proceeds from the sale. This "loan" is not a recorded lien on our property. We told them NO, that unless it was a lien on the property, we could NOT do so...am I thinking correctly? If so, can you remind me of the reasons why? I want to be able to give him a detailed answer.

**A.** Correct, we do not make courtesy payments from escrow because our duty is to consummate the real estate transaction. We only pay liens of record for the seller in order to clear title to the property and provide an owner's policy of title insurance to the new owner.

The funds held in our trust accounts are the public's funds, they are not funds belonging to our Company and; therefore, we have a higher standard of care to protect them and not use the account as a checking account to pay consumer debt.

The seller needs to pay their personal debts directly and outside of escrow from their own bank account.

**Q.** The borrower on a cash-out refinance is requesting the loan proceeds be made to him as an individual, because he does not have an account in the name of his trust. The borrower on the note is the individual and the trust.

**A.** On a loan transaction where the borrower is receiving proceeds, we follow the lender's written direction and pay the proceeds in accordance with the loan instructions. In the absence of any

instructions to the contrary, the settlement agent must pay the borrower on the promissory note and no one else. If both the individual and trustee of the trust direct the settlement agent to pay all the proceeds to the individual in writing, we would accept that instruction and pay the proceeds accordingly.

**Q.** I have an escrow that is closing today and just want to confirm that nothing will be needed from escrow from the parties involved regarding a divorce. Listing agent has advised them each that without a stipulation or court order the proceeds will be split 50/50 and has advised me to disburse the proceeds this way. I have signed Form 1099-S from both sellers agreeing to split proceeds 50/50. Do I need anything else from them?

**A.** Yes, you need written, mutual instructions from both sellers to split the proceeds in half. The reporting of the real property transfer on IRS Form 1099-S does not dictate how the proceeds are paid at closing. A written instruction from all the sellers as to the split of the proceeds is required and it does not need to match the split amount on the Form 1099-S. Otherwise, the proceeds will be paid to both sellers in one check.

**Q.** The seller in my current transaction is an LLC. He never established a bank account in the name of the LLC. He is selling off the only asset owned by the LLC and is directing us to pay him the proceeds as an individual. Is that acceptable?

**A.** We do not pay anyone other than the owner of record for the following reasons:

1. Legal reasons: We would have no idea if we had the entire operating agreement and all amendments to know whether or not a third-party payment was allowed, nor do we want to jeopardize the Company getting dragged into post-closing litigation for paying unauthorized third parties.
2. IRS Reporting reasons: Distributions made on behalf of the LLC to its members are separately reportable on a 1099. The settlement agent is only responsible for reporting the transfer of real estate on a 1099-S. We would not know which of the 17 different 1099 forms used to report distributions and we would not want to take on the responsibility or liability for reporting.
3. New lender: If there is a new lender on the transaction it is likely their loan instructions prohibit the payment of proceeds to anyone other than the owner of record, since payments to third parties out of the seller proceeds has historically proven to be a tell-tale sign of mortgage fraud. We would have issued a CPL binding the Company to close in accordance with those instructions.

[Continued on pg 3]



settlement@fnf.com or  
949.622.4425

## [Q&A with your escrow administrators - continued]

Alternatively, the owner of record could direct the escrow officer to pay the proceeds to the trust account of their attorney, on their behalf, to make the distribution and perform the necessary IRS reporting.

**Q:** I am working on a cash purchase. The buyer is sending in over \$300,000 and wants to know what assurances the Company will provide to him if the bank where our trust account is set up at fails. What can I provide him?

## **UPDATE:** watering hole attacks

**Using any internet connection potentially exposes the user to bad actors. Turning off the internet would be ideal, but with today's world it would be impossible to accomplish one's job. However, by using good judgment a user can mitigate searching the internet to a minimal risk. If you must search the web, be extra cautious and be aware of the risks described below.**

Have you ever purchased an electronic and then misplaced or lost the user manual? For instance, you just purchased a new big screen TV, a Samsung, model number QN55Q60RAFXZA and need to figure out how to hook up your surround sound.

Not having the paper manual can be problematic for trouble shooting problems. Thankfully, a quick search on the internet for "Samsung QN55Q60RAFXZA manual" yields the following:

About 8,060 results (0.50 seconds)

<https://www.samsung.com> › ... › Television › QLED

**55" Q60R Flat Smart 4K QLED TV (2019) - Samsung**  
55" Q60R Flat Smart 4K QLED TV (2019). Solutions & Tips, Download Manual, Contact Us. Samsung Support LEVANT.



<https://www.samsung.com> › support › televisions › 201...

**2019 Line Up, TVs Support | Samsung Care US**  
Manuals, drivers, and software · Request repair service · Watch how-to videos · Register your product · Warranty · Find replacement parts.

<https://manualsfile.com> › Samsung Owner's Manual

**User manual Samsung QN55Q60RAFXZA 55" Class Q60R ...**  
The page is about user manuals, installation instructions, specifications, pictures and questions and answers of Samsung QN55Q60RAFXZA.

<https://manualsfile.com> › Samsung

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**People also ask**

- Is the Q90T discontinued?
- Does the Samsung q50r have Bluetooth?
- Does Samsung Q90T have Bluetooth?
- Is there a manual for Samsung TV?
- Does Samsung q60r have a camera?

Feedback

<https://files.bbystatic.com> › ... PDF

**E-MANUAL**  
When you turn on the TV for the first time, the Samsung Smart Remote pairs to the TV automatically. If the Samsung. Smart Remote does not pair to the TV ...  
172 pages

<https://www.search-manual.com> › samsung-q60-55-clas...

**USER MANUAL Samsung Q60 55" Class HDR 4K**  
User Manual for Samsung Q60 55" Class HDR 4K UHD Smart QLED TV · Product category: Televisions Samsung · Brand: Samsung · Description and content of package ...  
HDR Compatibility: HDR10, HDR10+, Hybrid Panel Type: LCD

**A:** The FDIC insures deposits according to the ownership category in which the funds are insured and how the accounts are titled. The standard deposit insurance coverage limit is \$250,000 per depositor, per FDIC-insured bank, per ownership category. The Company does not offer insurance on the funds invested for deposit, in addition to the insurance offered by the FDIC.

To learn more about FDIC insurance limits visit

[FDIC: Deposit Insurance FAQs](#)

The first search result is for Samsung's own website. While this seems like a legitimate source of a Samsung product manual, you must still be careful when opening or downloading documents from websites. Opportunistic attackers can target legitimate websites.

The other results should be questioned. Are these legitimate websites? How did they obtain a copy of the manual? Did the website owner upload the manual? Is this a website where anonymous users can upload a file?

Not being able to verify the source of these files means there are dangers when downloading and opening them. Luckily, the TV is fairly new, and since Samsung still provides the manual directly through their product support, your best bet is to call Samsung and ask for a copy via email or ask that they provide the direct link to the manual.

The manual storage websites and other similar websites can be an amazing resource for older, rare electronics or manuals. Need a wiring diagram for a 1974 Yamaha motorcycle? They have that! The manuals may be completely harmless, and the document providers may be enthusiasts looking only to support fellow enthusiast.

Using these types of websites does create opportunity for a watering hole attack. Documents from these types of websites may be loaded with malicious code or potentially not be a document at all; instead, it may be an executable file containing malware.

The important thing to remember is to mitigate risk. If you are looking for a form or document do NOT just search and click. Be cognizant of the website you are using. Only trust websites you know, and always be careful when downloading documents from the internet.

If you cannot find a document through a known and trusted site that produced the form, do not take the risk of downloading from another site. Criminals target forms they know people — and more importantly settlement agents — commonly search for online. Then, they create their own documents to meet the demand — complete with malicious code.

In addition, be aware no website is immune from attack. Criminals have succeeded in uploading malicious files to known and trusted websites, blindsiding users. If you are downloading a form, make sure to look at the file extension to ensure it is, in fact, the document file type you are looking for, such as ".pdf," ".docx" or ".xlsx."

If it is any other file type, such as ".exe," do NOT download or open it. If the document asks to run macros or some other program, do NOT allow it. If you have opened a suspicious file, contact your local IT and shut off your computer immediately.

Watering hole attacks tempt us all to avoid the internet, however this is not always an option. If you are unable to find a document within your escrow processing system, always check the Company's intranet or ask management, title or National Escrow Administration if they have the document you need.

[Continued on pg 4]

[UPDATE: watering hole attacks - continued]

If you must search the web, be extra cautious and aware of the risks. Know there are criminals out there hoping you download their document (instead of a safe one).

*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. This article contains links to other third-party websites. Such links are only for the convenience of the reader, user or browser; Fidelity National Title Group does not recommend or endorse the contents of the third-party sites.*

## DEFINED ransomware terms

These unique terms will help you to comprehend ransomware and how it works.

- » Binary = A numeric system that only uses zeros (0) and ones (1). Computers store data and perform calculations using only 0 and 1.
- » Cryptocurrency = A digital or virtual currency, which uses strong cryptography to secure transaction records and verify the transfer of coin ownership. Cryptocurrencies typically are decentralized networks based on blockchain technology, which is a distributed ledger which uses a network of computers to establish and maintain the blockchain.
- » Cryptography = Uses codes and ciphers to secure communications.
- » Cybercrime = Use of a computer and a network as an instrument to further illegal ends, such as committing fraud. The computer may have been used by the hacker to commit the crime or it may be the target.
- » Email phishing = A type of social engineering where a cybercriminal, posing as a legitimate person or institution, sends a fraudulent email containing a malicious file or link, designed to trick their target into opening which will deploy malicious software on the victim's infrastructure like ransomware.
- » Encrypt = The process of encoding information. Encryption converts plaintext into a cipher or code to prevent unauthorized access. Only authorized parties who have the key can decipher a ciphertext back to plaintext.
- » Hacker = A person who breaks into a computer system.

Article provided by contributing author:

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- » Malware = Any intrusive software designed to cause damage and even destroy a computer, computer system, server or computer network.
- » Multi-factor authentication (MFA) = Technology which utilizes an electronic authentication method to verify a user's identity, enabling a user to login to a website or application. It combines what the user *knows*, such as a password with what the user *has*, such as a security token which randomly selects numbers which must be entered to gain access to the website or application when a user logs in.
- » Remote Desktop Protocol (RDP) = A proprietary network protocol which enables authorized persons to access and control a single computer over the internet.
- » Social engineering = The psychological manipulation of people into divulging confidential information.
- » Software Vulnerabilities = Enable hackers to take advantage of security weaknesses in commonly used software to break into a victim's network or computer, and deploy ransomware.

The articles that follow in the coming months will discuss how ransomware infects a network and will provide steps to prevent becoming a victim. Stay tuned.

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