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Absentee owner scams have become a real estate epidemic! Absentee owners of real property are the target of criminals who pose as the owner offering the home. These imposters sell the property and abscond with the sale proceeds. The real property owner has no idea their property is the subject of a real estate transaction.

The latest twist on the scam involves the criminal using the property as collateral for a new loan and fleeing with the loan proceeds, attempting to strip any equity the true owner may have in the property. Settlement agents can prevent this crime from happening by following the three steps found in the "HOW to rescue \$1 million" article.

In certain areas of the country, it is not uncommon for the buyer and seller to retain representation or separate counsel to assist with their side of a sale transaction. The buyer signs their closing documents with their title company and the seller with their own counsel or attorney-owned title company.

The buyer's title company may have limited or no direct communication with the seller. Instead, the attorney and title company (or two title companies) communicate with each other to work towards the same goal: consummation of the transaction.

Generally, the buyer's title company receives the new loan funds. That title company coordinates the recording of the deed and deed of trust or mortgage. The buyer's title company then sends the proceeds and funds to cover the seller's costs to the seller's attorney or title company.

Recently one of our offices, working as the title settlement agent for the transaction, identified several red flags surrounding the seller — who was represented by a law firm. Read "ATTORNEY closing" for more information.

We are continuing with article ten in our twelve-part series on cash reporting. After "cash" has been received and the required information about the remitter of the "cash" is gathered, be sure to complete Form 8300. Read "COMPLETING form 8300" for all the details.

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## HOW to rescue \$1 million

**At a title company around the corner, a cash-out loan transaction was opened by a local hard money (non-institutional) lender in the amount of \$1 million. The lender was a trust, and the trustee opened the transaction on August 4, 2023.**

- » The property was free and clear of any liens and worth more than \$2 million.
- » The property used as the collateral for the loan was non-owner occupied. The owner of record lived in San Mateo, California, and the property was in Los Angeles.
- » The loan documents were signed outside the office with a mobile signing agent in San Diego.

On August 11, 2023, the cash-out loan transaction closed, and a wire transfer was sent to the account indicated on the borrower's signed Disbursement Instructions in the amount of \$944,305.53. On August 17, 2023, the real owner of the property reached out to the lender asking why they had made an inquiry on their credit.

The lender reached out to the title company to let them know the true owner contacted them stating they had never completed the loan application and never signed the loan documents. The person who signed the cash-out loan documents was an imposter who forged the signature of the true property owner on every document.

As a result, the title company recalled the wired proceeds for fraud. The title company requested the receiving bank restrict the receiving account until the recall was processed, to prohibit the fraudster from syphoning off the loan proceeds sent to the imposter's account.

Luckily, the bank was holding the wire transfer due to the amount and the fact the account had just recently been opened. The fraudster's account was not credited. On the same day, the fraudster reached out to the lender wanting the funds to be wired to a completely different bank account, since the other account had not been credited.



The difficult task was unwinding the transaction. The title company had to perform the following steps:

- » Notify the true owner of the transaction by sending a letter to the address where the property tax bill was sent.
- » Recall the wire transfer and provide the receiving banks with indemnity letters.
- » Obtain a refund of the account servicing set up fee.
- » Obtain a refund of the hazard insurance premium paid at closing.
- » Work with the lender to sign and record a reconveyance of the lien.
- » Reimburse the lender.
- » Reverse all title and escrow fees earned in the transaction.

The title company should have followed three steps to avoid closing and insuring this loan transaction:

**1. Assume it is fraud** – Prior to opening the order and placing an order for a title report, compare the address provided by the borrower to the address where the property tax bill is being mailed. If the address provided by the borrower is different from the address where the property tax bill is being sent, send a written notice of pending real estate transaction to the owner.

Caution: In some instances, the fraudster may have changed the mailing address with the tax collector. When possible, contact the tax collector to determine whether a change of address was submitted recently.

If the subject property is located within a common interest community with a homeowner's association (HOA), contact the management company to verify the contact information for the true owner.

**2. Verify, verify, verify** – Interview the borrower using an online meeting platform and ask questions such as:

- a. When did they acquire the property?
- b. How much did they pay for the property?
- c. What is the purpose of the loan? (In the above story the property was worth \$2 million, so why would the borrower need a hard money loan?)
- d. What type of property is being used as collateral for the loan?

**3. Utilize the best line of defense** – Employ an approved mobile signing agent trained to spot fake identification. Compare the borrower's signature to signatures contained in previously recorded documents.

STOP

TELL US HOW YOU  
**STOPPED  
FRAUD**

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# ATTORNEY closing

Liberty Title & Escrow in Virginia Beach, Virginia, worked as the title company for the buyer on a transaction where the seller was represented by a law firm. The sale was for a vacant lot with a sales price of \$110,000. The buyer was a builder who intended on clearing the lot to build on it immediately.

The signed deed and other seller documents were hand-delivered to the closer, Shae Rylan, Customer Service Representative at Liberty Title & Escrow. The courier instructed Shae to overnight a check to the seller — per the attorney’s written instructions.

Shae began going through the closing documents she received. They were a mess. The package did not include the notary affidavit required when the documents are signed with a mobile signing agent.

In addition, the notary completed the notarial certificate on the deed and other affidavits but failed to affix her seal to any of the documents. The seller supposedly lived in Connecticut, but the notary was commissioned in New Jersey.

On the Disbursement of Proceeds Instruction, the seller checked the box indicating they wanted a wire but did not finish completing the form with his bank wire information. He did sign the instructions and provide his mailing address.

Shae compared the signatures on the documents to that of a previously recorded deed of trust (signed and notarized in Connecticut). The signature was drastically different.

Shae contacted the seller’s law firm to request a copy of the seller’s identification. They did not have a copy of his identification and indicated he kept demanding a wire for his proceeds. He had called them several times but never provided his wire instructions.

Shae called the seller who firmly demanded a wire from her. She explained to him she was the escrow agent and he hung up on her. She called him back using the phone number she had on file. He did not answer, and his voice mail message did not match the voice of the person she just spoke to.

Shae called the law firm. She explained the errors with the closing documents and informed them she would not close unless the seller re-signed the documents with a Bancserv notary. The seller and law firm never responded.



Although the buyer was anxious to close, Shae explained her concerns. He was relieved she was holding up closing. He understood her concerns and appreciated the fact she would not close unless the seller met with a Bancserv notary. He realized if she ignored the red flags and proceeded to close, the transaction would potentially have had to be unwound. He was very grateful for her professionalism.

George T. Dillon III, Esq., Managing Attorney, is the one who nominated Shae. He said, “This is also a great lesson for the rest of the company. Following company standard operating procedures and having the courage to question things when they don’t pass the smell test is vital to keeping our operations safe and claims free!”

George, the buyer and the Company are all grateful. Although it was the last day of the month when several files were closing, Shae did not let the pressures overcome standard operating procedures. For halting the transaction and refusing to close, she is being rewarded \$1,500. Her actions saved the Company from a potential claim of \$110,000. Keep up the good work!

**Article provided by contributing author:**  
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## COMPLETING form 8300

As mentioned in the September 2023 edition, Form 8300 is made up of four parts. Refer to the form’s instructions to ensure it is completed correctly.

In Part I, enter the name and other identifying information of the person from whom the cash was received. In Item 6, enter their U.S. Taxpayer Identification Number (TIN). Their occupation is entered in Item 13 and the type of identifying document, along with the number and who issued the ID, is entered in Item 14.

Use Part I on the form’s second page (top of page) if more than one individual provided cash.

Part I Identity of Individual From Whom the Cash Was Received					
2 If more than one individual is involved, check here and see instructions <input type="checkbox"/>					
3 Last name	4 First name	5 M.I.	6 Taxpayer identification number		
7 Address (number, street, and apt. or suite no.)			8 Date of birth (see instructions) M M D D Y Y Y Y		
9 City	10 State	11 ZIP code	12 Country (if not U.S.)	13 Occupation, profession, or business	
14 Identifying document (ID)	a Describe ID ▶ c Number ▶		b Issued by ▶		

[Continued on pg 4]

[COMPLETING form 8300 - continued]

If the funds were deposited by a third party or someone other than the buyer, complete Part II with the principal's name and information. In most instances, this will be the buyer's name and other identifying information.

Use Part II on the form's second page (middle of the page) to add additional principals.

Do not complete Part II if the person or persons named in Part I remitted the funds on their own behalf.

Part II Person on Whose Behalf This Transaction Was Conducted					
15 If this transaction was conducted on behalf of more than one person, check here and see instructions <input type="checkbox"/>					
16 Individual's last name or organization's name		17 First name		18 M.I.	19 Taxpayer identification number
20 Doing business as (DBA) name (see instructions)					Employer identification number
21 Address (number, street, and apt. or suite no.)				22 Occupation, profession, or business	
23 City		24 State	25 ZIP code	26 Country (if not U.S.)	
27 Alien identification (ID)	a Describe ID ▶ c Number ▶			b Issued by ▶	

To complete Part III, refer to the IRS instructions. In Item 32 write the check or money order number of each "cash" item received. Do not include any other information, such as a copy of the receipt. If the "cash" received is actual coin or currency, do not accept this form of payment. It is FNF's policy to not accept actual coin or currency.

Part III Description of Transaction and Method of Payment					
28 Date cash received		29 Total cash received		30 If cash was received in more than one payment, check here <input type="checkbox"/>	
M	M	D	Y	Y	Y
:	:	:	:	:	:
		\$ .00		\$ .00	
32 Amount of cash received (in U.S. dollar equivalent) (must equal item 29) (see instructions):					
a	U.S. currency	\$	.00	(Amount in \$100 bills or higher \$ .00 )	
b	Foreign currency	\$	.00	(Country ▶ )	
c	Cashier's check(s)	\$	.00	} Issuer's name(s) and serial number(s) of the monetary instrument(s) ▶ ----- -----	
d	Money order(s)	\$	.00		
e	Bank draft(s)	\$	.00		
f	Traveler's check(s)	\$	.00		

In Part IV, complete the name of the company, branch address and the company's Employer Identification Number which received the "cash." If you do not know the Employer Identification Number, contact your Operational Accounting Center (OAC). The settlement agent responsible for the transaction may sign the form and remit it.

Part IV Business That Received Cash	
35 Name of business that received cash	36 Employer identification number
_____	_____

Be sure to send the form to the IRS within 15 days of receipt of the cash by some traceable means. The IRS requires the filer to keep a copy of the form and supporting documentation (such as the ID and W-9) for five years. If, after you have reported the cash, the payer makes additional "cash" deposits that once again exceed \$10,000, you will need to file another Form 8300 for the later deposits.

*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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