



By Lisa A. Tyler
National Escrow Administrator

The phrase “TRUST but verify” became popular in the United States when former President Ronald Reagan used the saying while working on nuclear disarmament with the Soviet Union. As it turns out, it has Russian roots and is considered a rhyme. Maybe the rhyme should be changed to “Don’t Trust and Always Verify!”

The industry continues to experience attacks by criminal syndicates trying to divert wire transfers, steal properties from legitimate property owners and more. This story is a bit different. The perpetrator in this story was an actively licensed business that worked with U.S. Citizens to negotiate settlements and payment plans with the IRS and other creditors on behalf of their clients. Read “TRUST but verify” for all the details.

Thinking of traveling soon? According to the Federal Bureau of Investigations (FBI) and the Federal Communications Commission (FCC) you should be careful when you plug in your cell phone, laptop and other devices into public charging stations. The FCC and FBI are warning about a cybercrime they refer to as “JUICE jacking.”

Be sure to read the article to learn how you can guard against becoming a victim.

Our Company’s core product is title insurance. We are a title insurance company that provides escrow services to consummate real estate transactions. Our settlement agents are skilled in title clearance and title curative matters. They work closely with title officers who carefully and thoroughly examine the documents that make up the chain of title.

The Company is not a deed preparation or recording service company. Read “SCAMS change — red flags don’t” to discover how settlement agents can be duped into providing services not related to the issuance of a title insurance product.

If you have been following along with our series on cash reporting, then you will know the answers to this month’s questions on what the Internal Revenue Service (IRS) considers “cash.”

Take the quiz in “WHAT payments must be reported and when?” to test your knowledge of what you have learned from the past seven articles published regarding cash reporting.

IN THIS ISSUE



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TRUST but verify

The borrowers, Owen Big and Penny Less, needed to consolidate some of their debt. Penny failed to pay her income taxes and Owen defaulted on a credit card. The IRS had levied their property and a creditor had a judgment, which was also attached.

The Release of Levy and the judgment were both subordinate to a first and second mortgage. They needed every last cent of the equity in their home to consolidate these outstanding debts. Unfortunately, they did not have enough equity in their home.

They enlisted the assistance of Faked Out Tax Services, LLC to assist in negotiating a release of the IRS lien to qualify for the consolidation loan. The IRS has procedures in place which provide for a partial release or full release of a taxpayer's property, IF that taxpayer is working with them to put a payment plan in place and making those payments timely.

Sometimes the IRS will accept a partial payment in exchange for the release. Faked Out Tax Services, LLC was retained to assist with this process.

The loan officer continued to work with their underwriting department to approve the loan — with the condition the IRS lien would be released — so the lender's new loan would be secured by a deed of trust in first lien position against the borrower's home.

The borrower's interest rate lock was set to expire in seven days. The loan officer ordered the loan documents and was coordinating with the borrowers and escrow officer to have them signed. The escrow officer informed her she was still waiting for the IRS payoff demand.

The loan officer reached out to the case officer at Faked Out Tax Services, LLC who indicated the revenue officer at the IRS agreed to release the lien; however it had not yet been provided or generated.

The case officer asked if there was anything they could provide to help the borrower close. The loan officer asked her to provide something from the revenue officer indicating the release was being processed. The case worker emailed Form 668-D, Release of Levy/Release of Property from Levy.

Janice Metz, from Fidelity's Albuquerque, New Mexico operation, was the escrow officer assigned to the transaction. She took one look at the Release of Levy and knew it was a fake.

The fonts on the Release of Levy were different and some of the letters were different sizes. It appeared to be cut and pasted. The release named Penny and Owen as the taxpayers, yet the recorded Levy was in Penny's name only.

Janice did not stop there. She verified her suspicions by calling the IRS agent. The voice mail indicated the number was for a different agent.

Janice instructed the loan officer to notify the borrowers they needed to contact the IRS directly and authorize them to send the Release direct to Fidelity National Title. That is how the borrowers found out what Faked Out Tax Services, LLC had done.

Less hired them to negotiate on her behalf. She had paid them nearly \$20,000 for their services. In the end, the borrowers' lock expired, the file canceled and the borrowers still owed the IRS \$99,900. Fortunately, the IRS is now investigating Faked Out Tax Service, LLC.

Janice Metz protected the Company, the lender and borrower from being victims of a forgery by trusting her instincts and verifying they were correct. One simple phone call and she knew. She is being rewarded with \$1,500 and a letter from the Company. Thank you, Janice!

Article provided by contributing author:
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JUICE jacking

If you are traveling and your battery is running low, be aware that juicing up your electronic device at public USB port charging stations found in airports, hotel lobbies and elsewhere, could cause you to become a victim of juice jacking.

The perpetrators of the cybercrime deemed juice jacking can download malware (which is software) that is designed to disrupt, damage or gain unauthorized access to a mobile phone or computer system.



Cybersecurity experts warn criminals can load malware onto public USB charging stations to maliciously access electronic devices while they are being charged. Malware installed through a corrupted USB port can lock a device or export personal data and passwords directly to the perpetrator. Criminals can then use that information to access online accounts or sell it to other criminals.

Here are some tips from the FCC to guard against juice jacking:

1. Use AC power outlets to help you avoid any potential risks. Be sure to pack AC, car chargers and your own USB cables with you when traveling.
2. Carry an external battery.
3. Carry a charging-only cable from a trusted supplier. It prevents data from sending or receiving while charging.
4. Select "charge only." If you plug your device into a USB port and a prompt appears asking you to select "share data" or "trust this computer" or "charge only," always select "charge only."

SCAMS change — red flags don't

It is true, some settlement agents have access to and know how to complete the blanks in a deed template. However, that does not give them approval to prepare deeds for any and all reasons.

Settlement agents are only authorized to complete deeds to consummate real estate transactions which may include title clearance matters. It is crucial settlement agents identify appropriate and inappropriate requests.

This story demonstrates how the preparation and recordation of a "correction deed" could have lent credibility to an elaborate scheme the perpetrators were committing.

The transaction was a loan only transaction for \$375,000. The lender was a family trust, but the loan was being originated by a mortgage broker and a real estate agent. The real estate agent presented a demand for \$12,000, representing his consultation fee.

Cathy Clark, Sr. Commercial Title Officer, worked on preparing the Preliminary Report. The search revealed that TNF, LLC acquired the property from a fraternity in 2021. That fraternity owned the property since the early 70's.

Two months after TNF, LLC acquired the title, a "correction deed" was recorded changing the owner to Totally Not Funny, LLC. The correction deed was recorded as a courtesy by another title company.

A year later, the property was transferred by a gift deed to Joe Kerr and Lou Zar, the borrowers. The deed was prepared by the real estate agent who was charging the consultation fee. None of the recent deeds were recorded as a part of an insured transaction, so uninsured deed affidavits were required prior to the Company agreeing to insure the lender's lien.

In addition to the uninsured deed affidavits, Cathy required that



the borrower obtain the authority documents from the fraternity for review to confirm the authorized signer had approval to transfer title to the LLC.

There was also a deed of trust in the amount of \$260,000 which was not insured by a title company. The beneficiary was a private family trust. The real estate agent indicated the new loan would be subordinate to the existing lien.

The organizational documents were provided. The deed was signed by the president of the fraternity, yet the individual who signed was not named anywhere in the fraternity's organizational documents.

Instead, the organizational documents reflected another individual as the sole owner of the fraternity. That individual had the same last name as the real estate agent who was one of the originators.

Cathy escalated her findings to MaryPat Noeker, Vice President,

[Continued on pg 4]

[SCAMS change — red flags don't — continued]

National Underwriter. MaryPat dug in and carefully examined Cathy's findings. She compared signatures found in the chain of title and identified some discrepancies.

Cathy searched other public records and found other transactions with similar characteristics including one property which had two liens, where the beneficiaries were individuals, yet the building was abandoned and boarded up.

The property was subject to an enforcement action by the local authorities for the dangerous building present on the property in addition to outstanding utility liens. Nothing was adding up and the documents did not provide any logical answers.

The Company elected to resign from the transaction. As a result, Cathy Clark and MaryPat Noeker shared the \$1,500 reward for their co-efforts in identifying a transaction with so many red flags.

MORAL OF THE STORY

The Company does not record deeds as an accommodation. We do not know if the deed in this story was forged or not.

We do know the person who did sign the deed from the fraternity to the LLC was not even a member of the fraternity. The title company that did record the deed may have unknowingly assisted in a forgery by recording the deed as an accommodation.

Article provided by contributing author:

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WHAT payments must be reported and when?

Settlement agents must file Form 8300 upon receipt of multiple "cash" items received in one transaction. The multiple payments may have been received at one time or over the course of the transaction. When working on a file, a settlement agent must report when "cash" is receipted into the file for deposit; and when the total of all the "cash" received is more than \$10,000.

Quiz Time! Which of the following transactions must be reported to the IRS?

1. An official check in the amount of \$10,000 and a wire for \$58,000.
 Yes No
2. A personal check for \$8,000 and a business check for \$9,000.
 Yes No
3. A personal check for \$8,000 and a cashier's check for \$9,000.
 Yes No
4. An official check in the amount of \$4,000 and a cashier's check for \$8,000.
 Yes No
5. A cashier's check for \$12,000.
 Yes No
6. A traveler's check for \$8,000 and a money order for \$9,000.
 Yes No
7. A cashier's check for \$8,000 and a money order for \$12,000.
 Yes No

While some of the instruments listed above have a face amount of \$10,000 or less, they are not defined as "cash" by the IRS for cash reporting purposes, such as personal checks or wires. Conversely, some of the instruments could be considered "cash" but are excluded when they have a face value of \$10,001 or more.

Keep in mind that just because the IRS classifies these instruments as "cash" they are not considered good or collected funds. All policies and procedures which determine when funds are collected must be adhered to before disbursing against any funds received.

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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Quiz Answers:

1. The answer is "No." U.S. or foreign currency must be reported only if the amount exceeds \$10,000 and includes multiple "cash" deposits.
2. The answer is "No." Personal or business checks do not fall within the definition of "cash," regardless of amount.
3. The answer is "No." While the total amount exceeds \$10,000, the amount deposited by personal check is not "cash" within the meaning of the statute.
4. The answer is "Yes." The total "cash" deposit exceeds \$10,000 and must be reported.
5. The answer is "No." Cashier's checks, official checks, money orders, bank drafts and traveler's checks that have a face amount greater than \$10,000 are not "cash" within the meaning of the statute and do not need to be reported.
6. The answer is "Yes." Both deposits fall within the definition of "cash."
7. The answer is "No." Only the cashier's check falls within the definition of cash, and since the amount of cash does not exceed \$10,000, the transaction does not need to be reported.