

Title Alert 2018-08
Preventing Wire Fraud and Other Fraud

December 31, 2018
PA - GUIDELINE

GUIDELINE

Wire fraud continues to be a serious threat to the title and settlement industry. In defense, we recommend that you remain vigilant and carefully examine all funding instructions. Specifically, we recommend that you confirm all payoffs, including wiring instructions, with the mortgage lender or servicing agent via a trusted source. In addition, we recommend that you validate payee bank account credentials with the payee via a trusted source. Keep in mind that calling a known telephone number is typically the safest way to verify information. Fraudsters can hack email accounts and even transmit fake wire instructions via fax. Therefore, you should carefully review all incoming communications.

Examples of Wire Fraud Schemes include:

Intercepted Email Traffic:

In this scheme, the fraudster hacks and monitors unsecure email traffic connected to the real estate transaction. The fraudster hijacks the lender's initial email that establishes a password or other security option for the party requesting the payoff, and then uses this information to reroute the payoff. The unsuspecting lender then issues a payoff statement directly to the fraudster, who in turn creates a fraudulent payoff statement and wire instructions directing the parties to send money to the fraudster.

Spoofed Payoff Portal:

In this scheme, the fraudster creates a website that is identical to the lender's payoff portal website, and then directs the settlement agent to the spoofed portal via email or other means. The settlement agent logs into the spoofed portal and supplies the proper credential information to generate a payoff, and the fraudster uses that information to create a fraudulent payoff statement directing the parties to send money to the fraudster.

Remember that misdirected funds may be extremely difficult or impossible to recover once paid. Contact us if you have any questions or concerns. Other more traditional forms of fraud continue to abound as well. Fraudsters have a sophisticated "insider's" knowledge of the title and settlement business, and routinely use it to perpetrate real estate fraud. Remain vigilant and use caution if any of the **red flags** listed below appear in your transaction.

For your convenience, we have prepared and attached a helpful one-page flyer identifying red flags for fraud. Contact us if you have any questions or concerns.

CLOSING RELATED RED FLAGS

- The current transaction is a flip or is part of a successive series of transactions
- Unexplained disbursements from seller's proceeds (e.g. payments or repairs with no supporting bill or documentation)
- Changing wire instructions (language, timing, amounts, etc.)
- Instructions sent by email, especially when sent late in the transaction
- Requests to wire funds to a foreign or unknown bank
- Requests to wire funds to a payee who isn't one of the principals in the transaction

- Requests to wire seller's proceeds to an account that does not list seller's name
- Extracting significant equity through a cash-out transaction
- Sales price is unusually higher or lower than market value
- The transaction is being pushed through as a "rush" transaction

PARTY RELATED RED FLAGS

- Non-institutional or private "hard money" lenders
- Powers of attorney, especially when used late in the transaction
- Seller/borrower is unavailable or does not personally appear in transaction
- Seller/borrower appears disoriented, demonstrates a lack of understanding, or is unable or not allowed to speak on their own
- Seller/borrower is elderly, especially when they have substantial equity in property
- Changing the contact person or authorized representative

PROPERTY RELATED RED FLAGS

- For Sale by Owner (FSBO) property
- Private referrals
- Property is unoccupied
- Property is occupied by someone other than the seller, tenant, or borrower
- Free and clear property
- Mortgage releases that are not associated with new financing, especially when recorded shortly before the current transaction
- Financial distress (i.e. pending foreclosure, judgments, tax delinquencies, or bankruptcies)
- Purchase contract has confusing amendments, counter offers, or unusual terms
- The chain of title contains nonsensical, illogical transfers in title or other documentation demonstrating an intent to confuse the title or evidence
- Deeds in the chain that remained unrecorded for an unusually long time
- Property is dilapidated, in major disrepair, or subject to a notice of substandard housing

If you have any questions, please feel free to contact us.

Republication of First American's Corporate Underwriting Department Communication PA-2018-012-Guideline. First American Title Insurance Company makes no express or implied warranty respecting the information presented and assumes no responsibility for errors or omissions.

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NOTE TO APPROVED ATTORNEYS: Under the Approved Attorney system, the scope of our relationship is limited to the functions of underwriting and the issuance of title insurance policies on your behalf and does not include closing or escrow services. We sometimes provide information and recommendations with regard to your closing or escrow business as a courtesy to you. Moreover, some communications, depending on whether noncompliance could impact on liability under our policies or closing protection letters, should be considered directives. This Title Alert is being provided to you with those considerations in mind.

* * * * This Title Alert should become a permanent part of your records to assure compliance with its requirements. * * * *

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FRAUD RED FLAGS

Fraud in the title insurance and settlement services industries is a continuous concern. The schemes invented by fraudsters are sophisticated and show an “insider’s” knowledge of our business. Schemes include email hacking/spoofing, fraudulent wiring instructions, forged deeds and reconveyances/releases, and phishing and other attempts to obtain private information. The key to not falling victim to these traps is being educated, aware and vigilant.



The following “Red Flags” will help you identify at-risk transactions and the tips at the end offer guidance on keeping NPI safe.

DISTRESSED PROPERTIES/FORECLOSURE ISSUES

Fraudsters often target properties in financial distress.

Red Flags:

- ▶ Recently recorded Assignment of Mortgage/Security Deed/Deed of Trust.
- ▶ Recently recorded Release, Reconveyance, Trustee Deed, Substitution of Trustee, or other foreclosure document.
- ▶ Request to rush the opening or closing of a transaction.

WIRE FRAUD

Fraudsters often use compromised email accounts to deceive parties involved in real estate transactions in order to misappropriate funds through unauthorized wire transfers.

Red Flags:

- ▶ Changes to wiring instructions (language, timing, amounts, etc.). Wire instructions rarely change.
- ▶ Wire account name payee differs from the principals in the transaction.
- ▶ Request to wire funds to foreign or unknown bank.
- ▶ Instructions sent by email, especially when sent late in the transaction process when verification would be more difficult – at month end, for example.
- ▶ Instructions marked as rush, urgent or secret.

CLOSING FRAUD SCHEMES

Properties with no encumbrances (sometimes referred to as “free-and-clear properties”) and properties that are not owner occupied are common targets for fraudsters. Unencumbered properties are tempting targets due to the available equity, and non-owner occupied property makes the fraud easier to conceal. Properties owned by elderly principals are another target. The elderly owner may lack the capacity to consent to a sale or mortgage—or may be the subject of undue influence.

Red Flags:

- ▶ Free and clear property has no mortgage to be paid off.
- ▶ Seller positioned to receive a large amount of cash.
- ▶ Sales price on non-owner occupied property seems too good to be true.
- ▶ Purchase contract has confusing counter offers, amendments or unusual terms.

- ▶ Property is being transferred to another party immediately after close of escrow.
- ▶ Use of a Power of Attorney (POA) to sign documents. Requests to disburse funds to the holder of the POA.
- ▶ You are unable to speak to, or communicate directly with, a principal at the request of another party (the principal is “out of the country” or “very busy”).
- ▶ Chain of title reveals a recent purchase, or flip, indicating a sale price significantly different from the previous and/or current transaction.
- ▶ Recent transfer of title for no consideration.
- ▶ Requests for a rush closing.
- ▶ Unexplained disbursements from seller proceeds. (Payments or repairs with no supporting bill or documentation provided).
- ▶ Sales/loan proceeds are paid to someone other than the borrower or seller of record.
- ▶ Seller or borrower appears disoriented, demonstrates a lack of understanding or unable/not allowed to speak on their own behalf.
- ▶ Change of contact person or authorized representative.

INFORMATION SECURITY: Title insurers receive lots of Non-Public Personal Information (NPI) in the course of handling real estate transactions. Take the following security measures to reduce the risk of leaking NPI or other sensitive information.

- ▶ Use FA-Secure Email or Secure Portal when sending messages or attachments containing NPI.
- ▶ Click Smart. Be aware of possible “phishing” emails. Do not click on suspicious links.
- ▶ Improve your network security. Avoid public Wi-Fi when traveling or working remotely.
- ▶ Keep software up to date so you have the latest security patches.
- ▶ See the Information Security (Info Sec) home page on FALive for more tips.



First American Title™

800.854.3643 ▼ www.firstam.com

Fraudulent Email Correspondence

From: Jane Doe <jdoe@honnedeals.com>
Sent: Wednesday, December 19, 2018 9:14 AM
To: Title Processor
Subject: Re: 21 Drive, PA. Payoff

That is fine, Just needed to sure you have the faxed updated payoff statement with wire instructions updated.

On 2018-12-19 09:10, Title Processor wrote:

Closing has already started, and the wire will not be able to go out until tomorrow. Because we had been planning on sending the payoff overnight. (And the buyer had to bring a little more than \$80K to closing and the check will not show in our account until tomorrow.

But I called our closer and told him I am sending a new seller sheet over with the wire fee of \$25.00 added and the overnight fee of \$30.00 removed.

Thanks!

Title Processor

From: Jane Doe [mailto:jdoe@honnedeals.com]
Sent: Wednesday, December 19, 2018 9:07 AM
To: Title Processor
Subject: Re: 21 Drive PA. Payoff

Thank you Please have that updated on your file.

What time are you closing and disbursing?

Jane Doe

Settlement Coordinator

Phone/ Fax

jdoe@homededeals.com

On 2018-12-19 08:57, Title Processor wrote:

I did just receive another payoff statement. And I will void our check out and we can send a wire instead.

Title Processor

From: Jane Doe [mailto:jdoe@homedeals.com]

Sent: Wednesday, December 19, 2018 8:55 AM

To: Title Processor

Subject: 21 Drive, PA. Payoff

PennyMac just confirmed faxing final updated payoff statement directly to you, The previous payoff was preliminary, please have the faxed payoff updated on your file which also has instructions to wire payoff.

Please confirm you got payoff

Thank you,

Jane Doe

Settlement Coordinator

Phone / Fax

jdoe@homedeals.com

Fraudulent Payoff Statement

PennyMac

P.O. Box 614367
Los Angeles, CA 90061-4367

Notice Date: December 18, 2018

Loan Number: 100 [REDACTED]
Property Address:
21 [REDACTED] DRIVE
[REDACTED] PA 17057

ANDREW [REDACTED]
21 [REDACTED] DR
[REDACTED] PA 17057

Payoff Demand Statement

Servicer: PennyMac Loan Services, LLC
Loan Type: VA RESIDENTIAL
Trustee: GINNIE MAE

PAYOFF INSTRUCTIONS:

1. A late fee in the amount of \$29.24 may be added after the 16th of the month.
2. Funds **MUST** be sent via wire transfer.

WIRE INSTRUCTIONS

Bank Name: Bank of America
Name on Account: Evelyn [REDACTED] Pennymac Payoff
ABA# [REDACTED]
Credit to Account: 898 [REDACTED]
Wire reference: Pennymac File Number [REDACTED]