

Fraud, an increasingly prevalent threat in real estate industry

A proliferation of brazen fraudsters are increasingly using sophisticated scams to not only fleece buyers and sellers, but also property practitioners.



Strident technological advances and the convenience of instant access to information and electronic communication have made our lives easier in many ways, but it has also opened up a whole new world of opportunities for fraudsters.

“Con artists are by no means a new phenomenon in the industry,” says Lew Geffen, chairman of Lew Geffen Sotheby’s International Realty, “but it has become far more prevalent in recent years with a spike in digital fraud prompting financial institutions to urge clients and property professionals to be vigilant and ensure they verify all credentials.”

Significant increase in electronic interception

According to Lara Colananni, specialist conveyancing attorney from Guthrie Colananni Attorneys, there has been such a significant increase in scams perpetrated by the electronic interception of communication between attorneys, estate agents and their clients that the Attorneys Indemnity Insurance Fund no longer covers attorneys who fall victim.

“This type of fraud is quite sophisticated. The fraudster sends a phishing-type email aimed at intercepting email correspondence to one of the parties and then monitors the progress of the transaction, sometimes even phoning the conveyancers to get updates. Shortly before payment is due to happen, they send a mail from a similar email address notifying the purchaser or conveyancer of a change in bank details. The email addresses are sometimes so similar that it’s easy to miss the small discrepancy.”

She says that, if successful, this scam has serious ramifications: “If the purchaser is deceived into paying into a fraudulent account, they can no longer financially perform in terms of the agreement of sale and will find themselves in breach of contract and liable for damages to the seller.

Double whammy

“It’s a horrible double whammy - they lose their money, don’t get the house and have to pay an additional fee for damages. And, unfortunately, the fact that this is due to fraud is not a viable excuse as neither the seller nor conveyancer were at fault. Similarly, if conveyancers get duped into paying the fraudster, they are also liable.”

Colananni says that their office recently experienced an attempt to intercept funds whereby another party to the transaction had their email account compromised.

“Fortunately, this was flagged by our systems and picked up by a vigilant conveyancer and we immediately contacted the fraud department of the bank where the fraudulent account was held, SAPS and the AIF who took steps to trap the fraudster.”

Audacious hoaxes

Geffen cautions that there are a number of other audacious hoaxes to be wary of including those run by syndicates that have people who very convincingly pose as estate agents, sellers and registered attorneys.

“One method is to sell homes that are not actually even up for sale. In order to transfer the title of a property you need an original title deed and a special power of attorney from the owner authorising the conveyancer to make the transfer, so these scams usually occur when the conveyancer is involved or is negligent in identifying who the seller really is. A syndicate member poses as the owner and the property transferred and proceeds paid without the seller being aware that his/her property has been sold.

“The fraudsters may also identify homes that are legitimately on the market and post an advert on sites such as Gumtree. In this case, one of the syndicate members poses as an estate agent and takes an unsuspecting buyer for viewing and when the unsuspecting purchasers are keen to buy, they are taken to the ‘agent’s’ lawyer to sign a sale agreement.

“The buyer is then instructed to deposit the sale amount to the seller’s bank account but the money is immediately transferred to various other accounts and withdrawn.”

Detecting fraud

Dawn Bloch, area specialist in Lakeside, Zwaanswyk and Kirstenhof for Lew Geffen Sotheby’s International Realty, says that now, more than ever, it’s critical to appoint well-established and accredited property professionals.

“Experienced conveyancing attorneys and estate agents affiliated to a registered and recognised brand are always current on all aspects of the industry, including potential pitfalls and dangers like fraud. They will also have systems in place to detect fraud and should carry insurance if they are negligent or misled by a fraudster.

“If you have any doubt about an agent’s legitimacy, don’t be shy to ask for current Estate Agency Board (EAAB) and Fidelity Fund Certificates (FFC).”

Colananni offers professionals and buyers/sellers the following advice to protect themselves against such scams:

1. Know your clients and always personally verify any change in payment instruction.
2. Be especially careful if bank details are changed and independently verify the bank account details directly with the bank. Most banks have systems to enable conveyancers to do this.
3. Do not pay into an account that does not belong to a party to the transaction.
4. Confirm that your agent is legit - you can also verify an agent on the Estate Agency Affairs Board website where all agents who are marketing properties must be registered.
5. Do not ever just click reply to an email when you are sending important information. Instead create a new email and find the person you want to send to in your outlook address book. That way you avoid replying to a fake email address that looks similar.
6. Buyers and sellers should always ask for verification of the bank account into which any funds are being paid.
7. Any mails requesting a change of banking details should be viewed with suspicion and never use banking details provided in an email, unless you have confirmed authenticity.
8. In a fast-paced, digital age, face-to-face meetings are not always practical however, important documents should always be signed in person and verification of bank details always completed.
9. Have adequate insurance.

Bloch concludes: "Property is the biggest investment most people ever make, so never let your guard down, don't be too embarrassed to ask for confirmation or verification and follow your gut instinct if you feel uneasy about any aspect of the transaction. And if you do have the misfortune of falling victim and paying into a fraudulent account, contact the fraud department of the recipient bank and of your bank immediately as they may be able to stop the money leaving the account.

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