

## **Did You Know? May, 2016**

### **Phishing for Trouble Compliments of Jennifer Felten, RELAW, APC**

It should come as no surprise to anyone that electronic communications are inherently insecure. The programmers who designed email way back when were dealing with a much smaller place (the Internet) that we have today, at a time when protocols and rules were in flux. As such, it was designed to be a simple, store-and-forward messaging system for people using different kinds of computers. The world has changed since then and scammers have realized that they can intercept emails and use the information contained in them for financial gain.

Known as “phishing” these scams are wreaking havoc in the real estate community. Our industry communicates with each other and with consumers electronically all day long. Scammers appropriate these communications, nefariously insert themselves into the communications, and convince people (both consumers and industry professionals) to send money to them instead of the intended recipients. When this occurs a buyer’s deposit never gets to escrow or a seller’s proceeds are lost.

The recent proliferation of such scams has caught the attention of industry professionals and regulators combined. Attorneys like me tell everyone who will listen that they need to encrypt all emails with financial information and that best practices requires calling and verifying information before sending a wire. I recently reviewed a set of lender’s instructions from Citibank that stated: “For security reasons Lender does not permit you, Closing Agent, to obtain Borrower(s) wiring instructions via email, unless it is via secure/encrypted method. If wiring instructions are needed from Borrower(s), please obtain via fax, postal mail or over the phone from Borrower(s).” At the last Escrow Advisory Committee Meeting a representative from the enforcement division of the Department of Business Oversight advised that the Department considers sending funds based upon an emailed wiring instruction without independent verification a punishable violation of the escrow law.

Based hereon it is imperative that everyone transacting trust funds put policies in place to minimize their exposure to these phishing scams or face the consequences. I’ve had several clients with losses in excess of \$100,000 due to these scams. You don’t want to be the next.