

October 2014

The National NOTARY®

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BABY BOOMERS

**The Latest
Target of
ID Thieves**



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Our Mission

The National Notary Association is committed to the education and service of Notaries throughout the United States. As the foremost authority on the American Notary office, we are dedicated to imparting knowledge, understanding and unity among all Notaries, and instilling in them the highest ethical standards of conduct and sound notarial practice.

Our Core Values

The National Notary Association serves its membership by promoting five essential core values that empower and protect Notaries when assuming the responsibilities of the office and performing official notarial acts.

Our Core Values of Membership promote:

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- **Professionalism** to promote reliability, competence and integrity
- **Opportunities** to increase earning potential

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Understanding the Needs of Lenders Will Win Business

Jeremy Yohe

Regulatory changes for lenders are affecting the entire mortgage industry. Jeremy Yohe of the American Land Title Association explains how the title insurance industry is adapting and what Notaries need to know to thrive.

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What to Do if You Become a Victim of Notary Identity Theft

Kelle Clarke

Con artists often seek to steal or forge a Notary's seal and signature from documents. Now some states are taking action to combat that scam, and there are steps Notaries can take to protect themselves if their tools are forged or stolen.

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When 'Tricks' or 'Treats' Aren't Fun and Games

David Thun

For children, the phrase "trick or treat" means fun and candy on Halloween — but for Notaries, it means something else entirely. Sometimes shady signers try to "trick" you with a false ID, a phony story or even disguises, or you are offered "treats" such as gratuities, gifts or other items that may or may not be appropriate to accept. *The National Notary* shares stories from the NNA community about these instances of tricks or treats.

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Baby Boomers: The Latest Target of ID Thieves

Michael Lewis

America's 76.4 million baby boomers have already started hitting retirement age, and according to government statistics, they also are prime targets for identity thieves. As the 50+ generation moves into retirement, they likely will cross paths with Notaries. Ensuring that signers are who they say will be a crucial element in protecting this generation of Americans from fraud — but it won't be easy.

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The 21st Century Notary: A 'Remarkable' Transformation

defined by their functions and duties, are suddenly discovering that their responsibilities, though finite, have grown.

In the 21st century, Notaries must not only present documents but explain them with detachment. They must counter identification with privacy. They must understand volition and its alternative — coercion — and embrace and avoid them respectively.

of competence through certification or examination.

This is subtly changing the office that we have grown comfortable with.

Many might remember Arthur Spooner in the episode of the sitcom “The King of Queens” when he lamented the heady responsibility of the Notary office as a “young man’s game” (www.bitly.com/kingofqueensnotary). And that was nearly twenty years ago!

As simple a task as identifying a signer now encompasses a familiarity with multiple forms of identification documents. For the Notary, the menace of identification theft looms and yet the confidence placed on the authenticity of the notarial act demands the most exacting proficiency.

Even longevity is altering how we notarize. Determining acknowledgment and willingness has become a special skill as the population ages and notarizations involve an older population.

The Notary is no longer the simple ministerial officer witnessing a signature for fifty cents. Notarization has developed, for those disposed to the challenge and reward of the office, into a fulfilling profession.

How remarkable that almost every aspect of the Notary office has changed, yet the definition, were I to look it up now, would not have changed at all.

Almost everything I read, I read electronically. Newspapers, magazines and books — all on my omnipresent iPad. The debate about book versus e-book, paper or screen, mass against portability has long ceased for me. The built-in dictionary — available to every book — sold me on the very first day.

Though I like to think four years of Latin provided me with a fine ability to comprehend the meaning of most words, age and maturity have changed that. Spending more than three decades writing about Notaries has transformed it.

There was a time when the definition of a Notary was pretty elementary and included concepts like impartiality, identification and acknowledgment. Qualifications were similarly uncomplicated and fees trivial. I wouldn't say that today.

On the contrary, Notaries, though still legally and statutorily

“Notaries are being asked to do more and yet, retain the most fundamental and essential features of the office.”

Suddenly, the meaning of Notary is changing — and so the profession.

Notaries are being asked to do more and yet, retain the most fundamental and essential features of the office.

Though still a state regulated office, industry-prescribed guidelines are now being introduced to address federal government compliance rules. Whether or not states require education or training regarding notarization, organizations and individuals who rely on the value of the notarial act are compelling the Notary to provide proof

Home Office 'No-No's'

WORKING FROM HOME HAS ITS PERKS: Zero commuting, flexible scheduling, and working in your pajamas, to name a few. But it also has its fair share of distractions and challenges. Here are some tips to ensure efficiency and comfort.

Don't Mix Business and Pleasure: If you plan to write off your home office, the IRS requires it be used exclusively for business. This means never using your workspace for non-business activities, such as television-watching, bill paying, or even Facebook surfing.

Don't Share Passwords Or Devices: Never let friends or family members log on, as it could result in privacy breaches, accidental deletion of important files, or dangerous viruses.

Don't Neglect Style Or Comfort: Organize with convenience in mind (no tripping over wires to get to the printer), and splurge on comfortable, ergonomic furniture with good back support.

Millennials, Minorities Key to Housing Growth

THE FUTURE OF THE HOUSING MARKET RECOVERY could be largely in the hands of minorities and young adults, says a recent report from Harvard University.

According to the State of the Nation's Housing 2014 report, increased home sales and a rise in home values indicate that the housing market is going in the right direction. But full recovery remains stunted due in part to higher interest rates and staggering consumer debt.

With millions of millennials reaching their 30s within the next decade, this group will help boost the near-future housing demand, according to the report. Likewise, it is predicted that the next generation of homebuyers should be the most diverse yet, with minority households making up a predicted 46 percent of first-time homebuyers by 2025.

Earn Extra Income as a Virtual Assistant

MANY NOTARY PROFESSIONALS have found innovative ways to expand their services. One is becoming a virtual assistant.

As independent contractors, VAs offer a wide variety of services, depending on the Notary's particular skillsets or work experience, including administrative, technical, or creative services.

The International Virtual Assistants Association (IVAA) has published a list of more than 101 ways to use a virtual assistant, including book-keeping, database management and processing, event planning, Internet marketing and social media management, real estate assistance, website development, and much more.

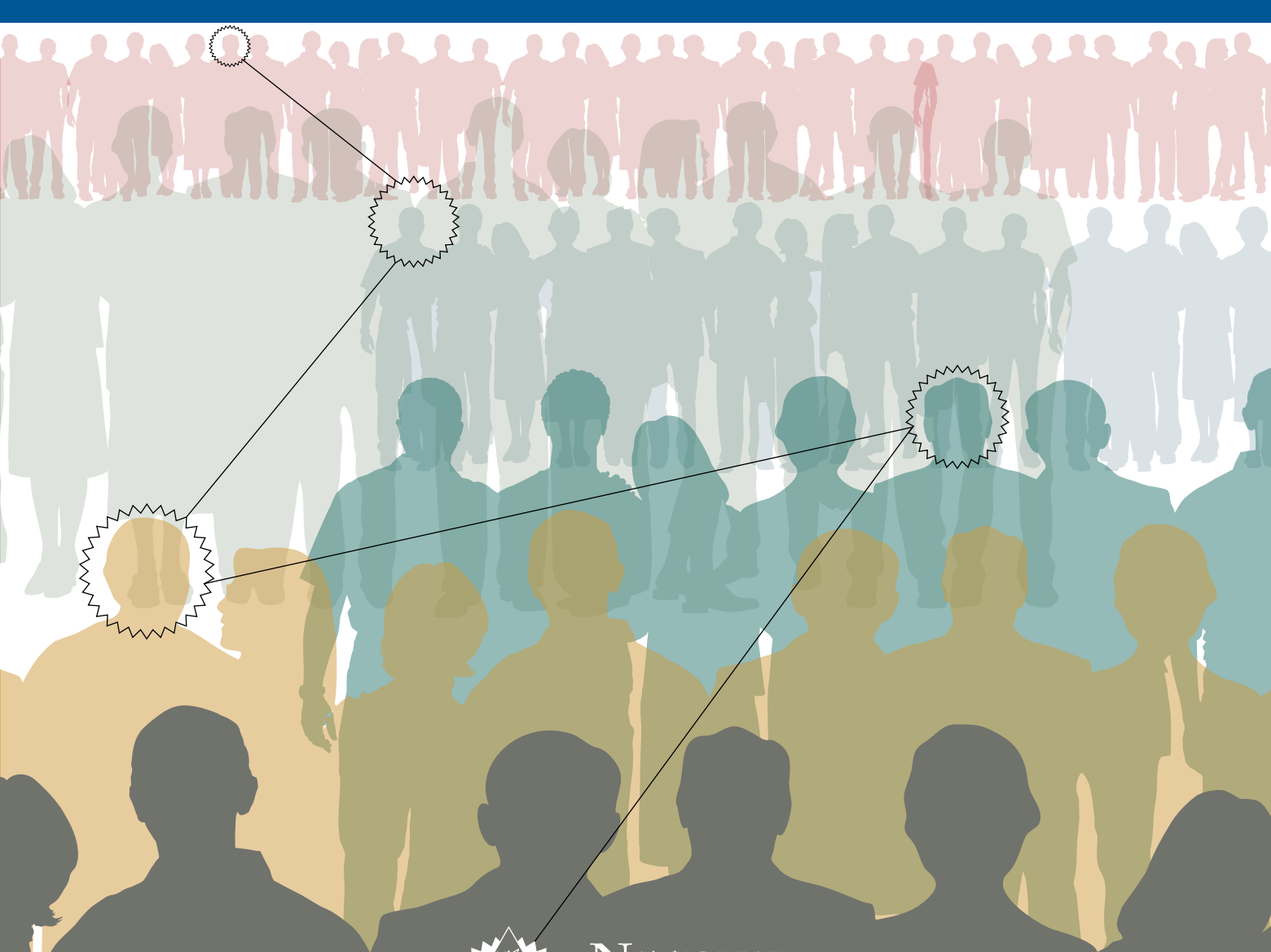
Check out www.ivaa.org for more information.



Four Common Notary Mistakes to Avoid

IN A WORLD FULL OF HUMANS, mistakes will happen. But some notarial errors can have serious consequences for signers, including legal delays or rejections of mortgage applications. Here are some of the more common errors Notaries should avoid, according to the Utah Lieutenant Governor's office:

- 1. Mixing Up Notarial Acts:** An acknowledgment is different from a jurat, and it's imperative to know the difference. However, the signer must always choose which act to perform.
- 2. Failure to Require Personal Appearance:** Many cases of fraud involving a notarization start with an absent signer. The signer must always physically appear before you. This requirement cannot be ignored, even for bosses or best friends.
- 3. Incomplete Certificates:** Missing names, dates, venues or signatures top the list of common errors made on documents. Double or triple check all documents to prevent future rejection.
- 4. Failure to Require Proper ID:** Your signer must provide satisfactory evidence of identity that complies with your state laws. In states lacking specific guidelines, the NNA recommends requiring a current ID containing a photo, description and signature of the signer.



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WE'VE UPDATED OUR WEBSITE, NationalNotary.org, with an all-new look, and new features and content to better serve our nationwide community of Notaries.

Changes include updates to our *Notary Bulletin* online articles at NationalNotary.org/bulletin, which are now searchable by category and readers can comment directly on the article web page; all-new pages for becoming a Notary, renewing your commission and purchasing supplies; an expanded Knowledge Center with additional resources for Notaries, signing agents, government officials and the public; and much more.

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We hope that you find the new site helpful. Visit us today at NationalNotary.org and let us know what you think at social@NationalNotary.org.



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South Carolina Enacts 'Model Act' Provisions, Raises Notary Fees

SOUTH CAROLINA RECENTLY ENACTED A major revision to its Notary statutes based in part on the NNA's *Model Notary Act*. Among its key provisions, it allows Notaries to charge higher fees, provides clear guidelines for identifying document signers, and defines various notarial acts.

Senate Bill 356 raises the maximum fee for acknowledgments and jurats in South Carolina to \$5. It also allows a Notary to charge a travel fee, provided the Notary and signer agree on the fee in advance, and the Notary explains that the travel fee is separate from the notarization fee.

SB 356 also:

- Provides definitions for "acknowledgment," "oath," "jurat," "official misconduct," "personal appearance" and other key notarial terms based on the *Model Notary Act*.
- Requires Notaries to identify signers through personal appearance or satisfactory proof of identity.
- Prohibits notarizing without the physical presence of the signer.
- Provides procedures for notarizing a signature by mark, and also allows a third party or a Notary to sign a document on behalf of a signer who cannot sign his or her name or make a mark.



U.S. Notary Law Database Unveiled

WANT TO FIND OUT WHAT Notary laws have changed in your state? You will find everything you need in the NNA's Law Updates database, recently unveiled as part of the new National-Notary.org website.

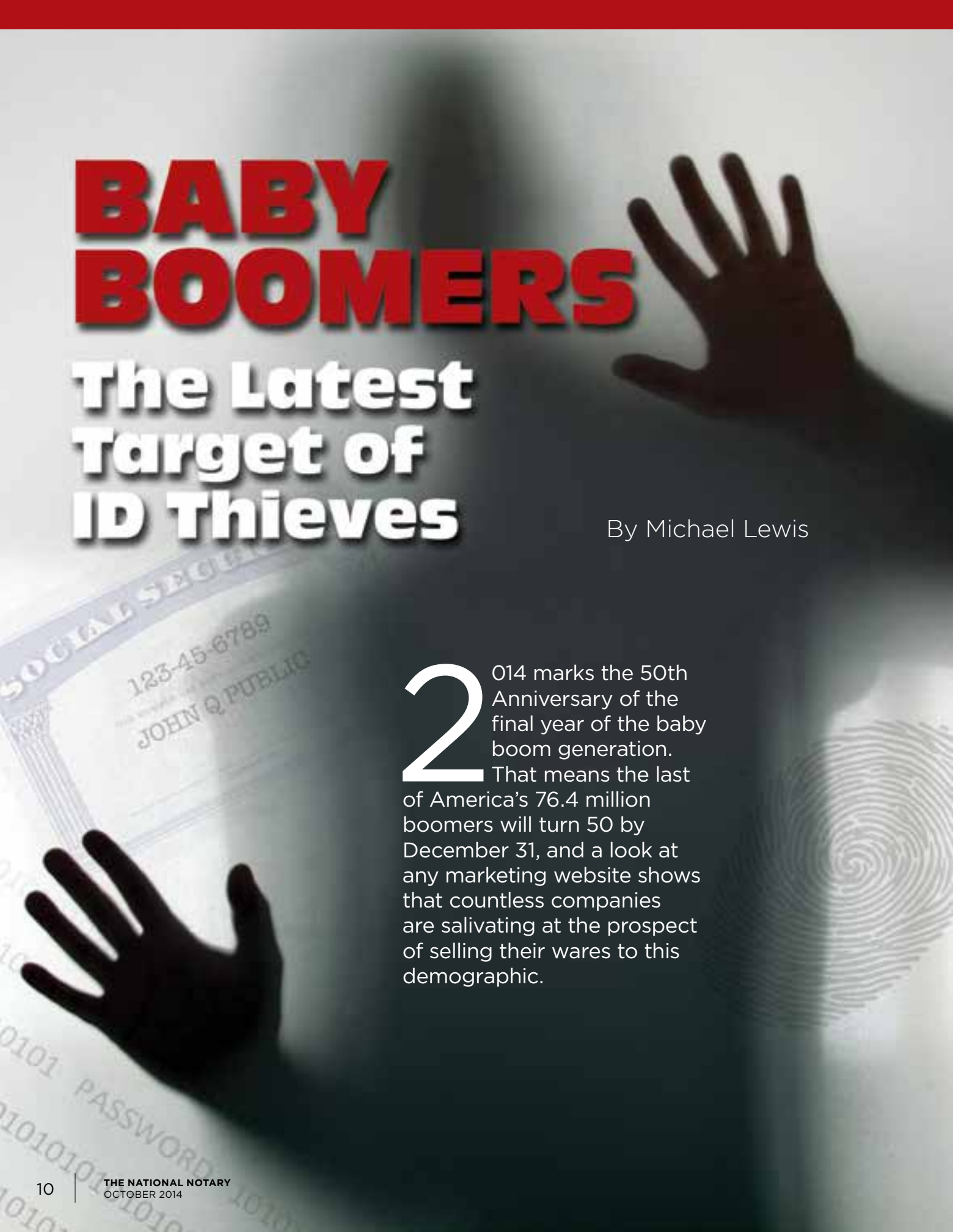
Notary laws, administrative rules and executive orders throughout the U.S. are easily found. The Law Updates database is available at bitly.com/LawUpdates.



BABY BOOMERS

The Latest Target of ID Thieves

By Michael Lewis



2014 marks the 50th Anniversary of the final year of the baby boom generation. That means the last of America's 76.4 million boomers will turn 50 by December 31, and a look at any marketing website shows that countless companies are salivating at the prospect of selling their wares to this demographic.

But they aren't the only ones eyeing boomers. Identity thieves are, too.

While identity fraud can hit just about anyone, from infants to the elderly, members of the baby boom generation are finding themselves right in the cross hairs of con artists, hackers and identity thieves.

Consider that consumers 50 and older accounted for 37 percent of all reports of identity theft submitted to the Federal Trade Commission in 2013. That's up from 28 percent in 2010. It's also more than any other age group.

Research by the U.S. Department of Justice indicates that the baby boom generation is one of the favorite targets of identity thieves.

As the 50-plus generation moves into retirement, they likely will cross paths with Notaries with increasing frequency. Whether it's a power of attorney, trust documents, a healthcare directive, a home equity loan or a deed, a Notary will be there. And ensuring that signers are who they say they are will be a crucial element in protecting this generation of Americans from fraud.

The reason that boomers are prime targets for identity thieves is simple: As a group, they are enormously wealthy.



Boomer Wealth At Risk

Baby boomers' total wealth exceeds \$12 trillion, according to data from the U.S. Census Bureau and the Research Institute for Housing America. And they are in the process of inheriting another \$9.2 trillion.

Much of that wealth is tied up in home equity. More than 80% of boomer households own homes, and many own two homes. Moreover, many boomers have built up a substantial amount of equity in their homes, making them candidates to take out home equity lines of credit or reverse mortgages. In short, boomers have what ID thieves, scammers and con artists want.

"Baby boomers, like everybody else, are prime targets for identity thieves, but that demographic is a vulnerable population," said Eva Velasquez, President and CEO of the San Diego, California-based Identity Theft Resource Center (ITRC).

The generation born from 1946 through 1964 has worked hard for a long time, and

as they hit retirement, they're enjoying the fruits of their careers, Velasquez continued. Many boomers are traveling and trying new things, and they are very attractive targets to identity thieves because they have large savings accounts and good credit.

As boomers get older and become less able to care for themselves, they will hire more people to provide services in their homes, she said. Those service providers will come across all kinds of financial and identity information — from bank and credit card statements to driver's licenses and social security cards to computer passwords.

Boomer Melony Micheals and her husband John Foster certainly know the price of identity theft — which could have been prevented by a careful Notary. Foster, a UPS delivery driver living in a suburb of Minneapolis, Minnesota, had his identity stolen in 2006 by a local real estate agent.

According to court records and local media accounts, the agent, Larry Maxwell, got a co-conspirator to impersonate Foster in the course of taking out four fraudulent mortgages on various properties. Notary Janie Coates, who had no knowledge of the

"Baby boomers, like everybody else, are prime targets for identity thieves, but that demographic is a vulnerable population."

— Eva Velasquez, President and CEO, Identity Theft Resource Center (ITRC)

fraud, acted as the closing agent for the transactions and failed to properly identify the imposter.

"It is undisputed that the fraud caused enormous financial damage... to Foster and his wife," read an appeals court ruling. "They lost their access to credit, were declared in default, and had their credit card balances accelerated." Foster also had to cash out his retirement accounts and savings, paying substantial tax penalties in the process.

Maxwell and his co-conspirator ultimately were convicted of fraud and identity theft. Foster and Micheals filed a civil suit against Maxwell as well as the title company and the Notary in 2010 and won an \$850,000 judgment three years later. But the case is still dragging on through appeals — eight years after it began.

In issuing the judgment, District Judge Mel Dickstein noted that the fraud "could not have been successful if a number of people had performed their jobs in a businesslike manner."

Identity Challenge

"In the 21st century, the most important asset we have to protect... is our identity," then-Secretary

Red Flags for Fraud

For Notaries, the first and only indication that a fraud might be taking place will occur when you're asked to notarize a document. While not every scammer will show up wearing a blood-stained shirt, there are signs — taken from real-life occurrences — that things might not be right:

- Is another person dominating or trying to control the signer?
- Does the signer seem unaware of what's going on?
- Is the signer explaining why their signatures might not match or why they don't look like their ID photo?
- Is the signer trying to rush you or distract you from your normal procedures?



Looking Signers in the Eye

Matching an ID with a signer can be a challenge. People change over time. Instead of looking at hair, weight and other changeable features, Dr. Megan Papesh of Louisiana State University recommends focusing on features that don't change as much:

- Shape and position of ears
- Mouth
- Nose
- Eyes

of the Department of Homeland Security Michael Chertoff declared in 2008. “The entirety of our economic livelihood is going to turn in large measure upon our ability to verify identity for those who want to transact business.”

But that asset is under relentless assault. The revelation a few months ago that Russian hackers stole the usernames and passwords of 1.2 billion people from 420,000 websites was just the latest in a string of massive data breaches to come to light in recent years.

The San Diego, California-based Identity Theft Resource Center (ITRC) reports that more than 630 million personal records of American consumers have been compromised in data breaches since 2005. That's twice as many records as there are people in the U.S.

Protecting identities is the very essence of what Notaries do. But how they carry out this duty is not always simple in a world with hundreds of different types of legitimate IDs — and fakes of virtually every one of them.

There was a time when Notaries were far more likely to personally know signers, and most states still permit Notaries to rely on their personal knowledge to identify a signer. But in our highly mobile society, Notaries and signers are far more likely to be complete strangers to each other, which means Notaries need to rely on IDs.

But which ones can be trusted? California spells out exactly which types of ID a Notary may accept. Georgia and New Jersey, on the other hand, leave it up to the Notary.

States are incorporating a wide range of new security features in their driver's licenses and identity cards — such as raised lettering for names and birth dates, laser-perforated images, ghost images, barcodes and more. But older licenses without these features remain in use and are considered valid.

That's the case in Missouri, which also issues driver's licenses without photos — usually to military personnel or individuals who object on religious grounds.

Then there are the stolen and fake IDs.

In 2012, the Chicago field office of U.S. Customs and Border Protection, which covers 12 states, confiscated about 100,000 fake IDs that were produced in China, said public affairs liaison Brian Bell.

Bell called the quality of modern-day fake IDs “outstanding,” though they often can be discerned by their lack of microprinting — ultra-tiny words that are grouped to form images on a document — and for holograms that are often “just a little bit off.”

Of course, a Notary would have to be savvy enough to know those details.

With a growing foreign-born population, passports also are a common form of acceptable ID, but high quality fakes of these also exist. Corrupt officials in some countries sell passports in fake names, and since 2002 Interpol has compiled a list of nearly 40 million stolen or lost passports.

Some unacceptable IDs are easier to spot than others. Cheryce Chartier of Oakhurst, California, remembers the couple who asked her to notarize a set of trust papers. Both the husband and wife proffered passports, but they were emblazoned with the words “World Passport.”

The “passports” are distributed by a nonprofit group whose holders feel it is their “inalienable right” to travel the world, but most countries, including the United States, don't recognize them.

Chartier refused to do the notarizations. “They argued with me. They just felt really strongly that this should be able to be used as regular ID.”

But it's often hard to tell if an ID and signer go together. Many states auto-renew drivers licenses, and the signer's ID photo could be a decade or more old. Have they gained weight, changed their hair, had plastic surgery or just aged?

“It's incredibly difficult to match a face to a photo ID,” said Megan Papesh, an assistant professor of psychology at Louisiana State University.

She and her research partner, Stephen Goldinger, a psychology professor at Arizona State University, recently published a study that examined the reliability of facial recognition with photos.

Papesh and Goldinger showed their test subjects more than 200 pairs of photos of strangers. One photo was from a student ID that was taken anywhere from a few months to seven years earlier. The second photo was a candid, recent shot either of the person in the student ID or an imposter.

Test subjects who were shown a high percentage of mismatched photos missed the fakes 20 percent of the time. Subjects exposed to a low number of mismatched pairs let about 45 percent of the fakes slip by — even



Know Your ID

With literally hundreds of different types of valid IDs issued by government agencies, it can be tough telling the fake from the real.

- Take your time. Don't just copy information from the ID into your journal entry.
- Look at the ID closely and check the various security features, such as the ghost images, microprinting and raised lettering.
- Have an ID guide handy for out-of-state IDs.

when they were asked to take their time or were given repeated opportunities to catch the fakes.

Cross-cultural differences complicate matters, Papesh said. People have a much harder time accurately identifying people from another culture or race.

Unfortunately, Papesh said, there isn't a better way to identify people at present because reliable facial recognition technology is not available.

Meeting The Challenge

No matter how flawed people are at correctly identifying their fellow humans, it remains the number one responsibility of every Notary at every notarization.

Speaking at a Mortgage Bankers Association Forum in September, Bill Anderson, Vice President of Legislative Affairs for the NNA, recommended an identity-vetting protocol for Notaries incorporating three best practices.

Best Practice 1: Be alert for suspicious circumstances

Anderson cited a sensation case involving the murder of a retired Palm Springs, California, art dealer by a con gang. One of the conspirators impersonated the victim to get a power of attorney notarized, which allowed them to sell the victim's property. The imposter apparently came straight from the murder because he had blood on his shirt. But the Notary still notarized the power of attorney.

In another case, an Ohio signing agent showed up at a married couple's home and found the husband wearing a cast on his signing hand. The wife explained that he'd had surgery on his hand and would have trouble signing the loan documents as he normally would. It turned out that the man was an imposter who was using the real husband's ID.

"Be aware of things that raise your suspicions," Anderson said. "A little bit of common sense goes a long way."

Best Practice 2: Know your IDs

This starts with your state's IDs, Anderson said. Be familiar with all the security elements your state incorporates into driver's licenses and ID cards. Do they have micro printing or raised printing for signatures and serial numbers? Do they have bar codes or ultra-violet images?

"It's not enough to just glance at the ID and record information from it in your journal," Anderson said. "Take a close look at it. Run your fingers across it. Hold it up to the light. Make sure it contains all the security elements — on the front and back."

While every Notary should know their own state's IDs backward and forward, it's too much for them to be experts in the hundreds of different IDs that they may encounter.

In a recent post on LinkedIn, Easton,

Pennsylvania, Notary Kim Volshon said she uses government websites to check IDs. Most state motor vehicle departments show what their IDs should look like and list the security features.

ID reference books also can be helpful, as Seattle, Washington, Notary Cathy Betts found with a suspicious signer. "I got out my ID checking book, and the person took back their ID and left."

There also are affordable devices, such as UV light pens or smartphone apps that can scan various security elements on an ID to make sure they are authentic.

Best Practice 3: Match the signer to the ID

This is the crux of what Notaries do. But as Papesh noted, it's a very imperfect process.

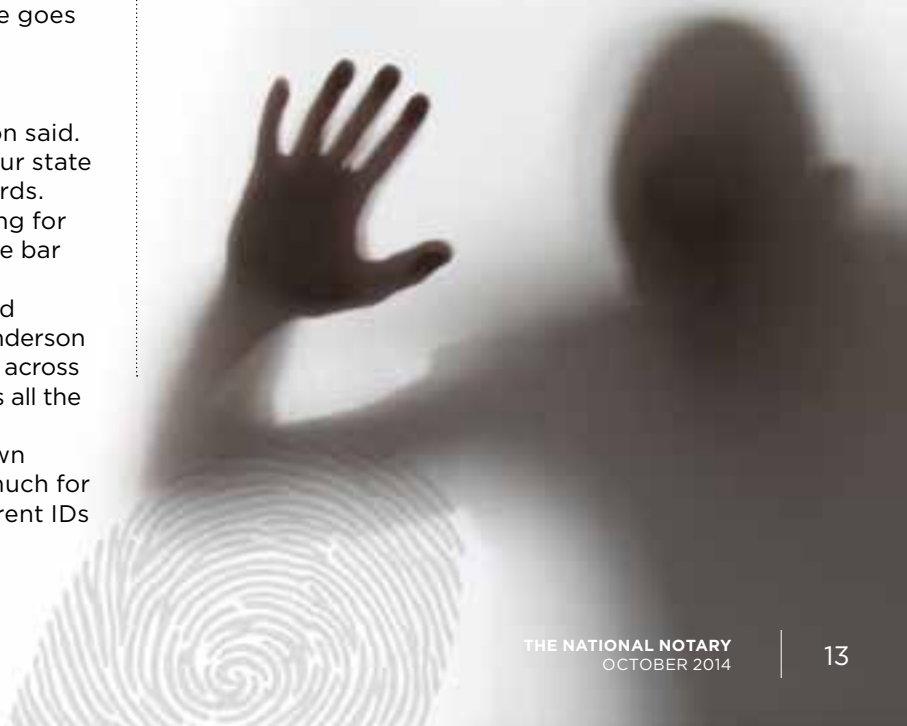
She offered some suggestions to minimize the risk of missing an imposter.

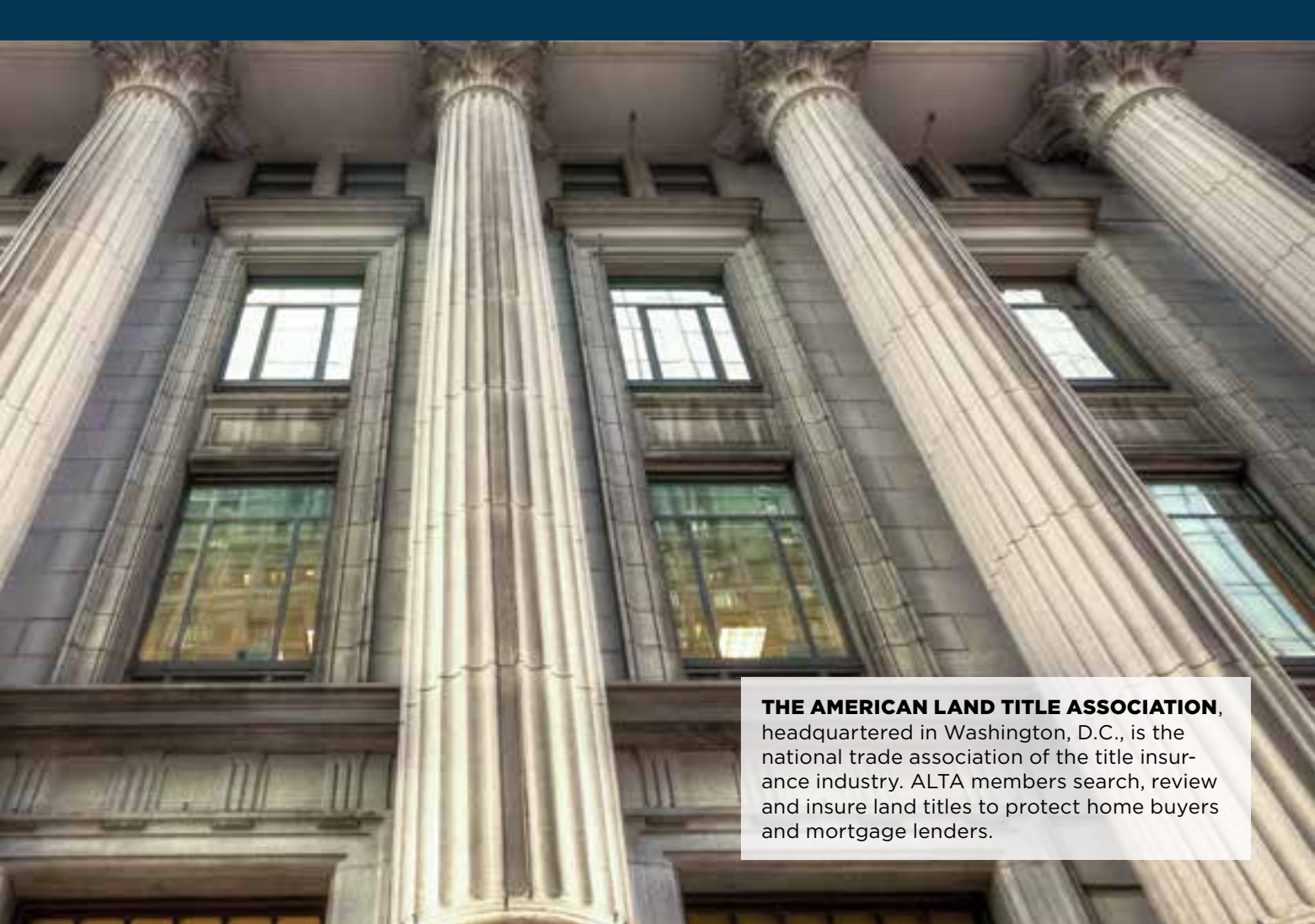
Discount things like hair and other changeable features, she said. Instead, focus on features that don't change much, such as ear lobes. "The relative ear position usually doesn't change." The same is true of the nose and mouth.

Anderson recommended that Notaries incorporate these three best practices into an identity-vetting protocol they follow for every notarization. That way, Notaries can show that they are taking every reasonable step to properly identify signers.

Properly identifying signers is important for every notarization. But with nearly \$20 trillion in assets — much of them controlled by documents requiring a notarization — it will be critical for boomers as they age and become more susceptible to elder financial abuse.

Tim Dees, a law enforcement consultant and former Reno, Nevada, police officer, put it succinctly: "When somebody goes to a Notary with a false ID, they're probably trying to do something a lot more sinister than just getting into a bar." ■





THE AMERICAN LAND TITLE ASSOCIATION, headquartered in Washington, D.C., is the national trade association of the title insurance industry. ALTA members search, review and insure land titles to protect home buyers and mortgage lenders.

ALTA: UNDERSTANDING THE DEMANDS ON **LENDERS** WILL WIN YOU **INDUSTRY BUSINESS**

By Jeremy Yohe

L**ENDERS HAVE BEEN RESPONSIBLE** for their service providers' actions for years, but only recently have federal regulators issued bulletins, enforcement orders and corrective actions demonstrating their intent that banks should oversee the activities of third party contractors and vendors — including Notary signing agents.

These regulations — and evolving consumer expectations — are changing the way the mortgage industry does business. Everyone in the life of a mortgage, from the time it is originated until it is satisfied, is being affected. For Notaries, understanding and adjusting to the demands on lenders will help ensure that they continue to get loan-signing assignments.

In the past few years, a number of federal agencies have instructions and guidance on selecting and managing outside service providers.

The Federal Reserve Board, for example, released guidance on December 12, 2013, reminding financial institutions to exercise appropriate risk management and oversight when using service providers. The 14-page document titled “Guidance on Managing Outsourcing Risk,” describes factors financial institutions should consider when choosing a service provider and how service providers should be overseen.

The Office of the Comptroller of the Currency (OCC) issued similar guidance in November 2013 to national banks and federal savings associations for assessing and managing risks associated with third-party relationships. Banks are expected to practice effective risk management regardless of whether the bank performs the activity internally or through a third party.

Both agencies echo the message from the Consumer Financial Protection Bureau’s (CFPB) April 2012 bulletin that said lenders need to increase oversight of their service providers and may be held responsible for the actions of the companies with which they contract.

The CFPB has made it clear that banks must ensure that consumers are not harmed if there is a violation of federal consumer law. From the CFPB’s perspective, the way to protect consumers from being harmed is for lenders to know who their third-party service providers are. Because many lenders use mobile Notaries to handle loan signings, these Notaries are viewed as third-party service providers.

Highlighting its intent to protect consumers, the CFPB in July 2012 ordered Capital One Bank to pay \$210 million because a third-party call center the bank hired used deceptive marketing tactics. In June 2013, the regulator ordered U.S. Bank and one of its third-party vendors to refund \$6.5 million for allegedly hiding fees and committing other violations in auto loans to U.S. military

members. These enforcement actions are instructive because it shows the CFPB will penalize financial institutions when their third-party vendors’ actions harm consumers.

Best Practices

It’s important for settlement services providers — including title and settlement agents, Notaries, mobile closers and attorneys — to understand the demands being put on lenders.

Service providers must be proactive and aware of how the industry will operate going forward as lenders will be more inclined to work with companies and people that can ensure the least amount of risk when closing real estate transactions.

To help lending institutions supplement their risk-management programs, the American Land Title Association developed its “Title Insurance and Settlement Company Best Practices” framework. The Best Practices highlight policies and procedures the industry uses to help ensure a positive and compliant real estate settlement experience.

The seven pillars of the Best Practices urge professionals to:

1. Establish and maintain current license(s) as required to conduct the business of title insurance and settlement services.
2. Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.
3. Adopt and maintain a written privacy and information security program to protect Non-public Personal Information (NPI) as required by local, state and federal law.
4. Adopt standard real estate settlement procedures and policies that ensure compliance with federal and state consumer financial laws as applicable.
5. Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.
6. Maintain appropriate professional liability insurance and fidelity coverage.
7. Adopt and maintain procedures for resolving consumer complaints.

“The Best Practices serve as a benchmark for the real estate settlement and mortgage lending industries and illuminate the high level of professionalism that ALTA members follow to protect consumers and businesses,” said Michelle Korsmo, ALTA’s chief executive officer. “The

From the CFPB’s perspective, the way to protect consumers from being harmed is for lenders to know who their third-party service providers are.



title insurance industry has always been serious about protecting consumers and combating criminal behavior. It is beneficial for those in the title business to promote self regulation through the publication of best practices that meet high professional standards of operation to protect consumers and businesses.”

In addition to the Best Practices, ALTA has developed Assessment Procedures to assist lending institutions in determining if a title professional meets the pillars of the Best Practices.

The Assessment Procedures are designed to be objective and uniform and provide a national standard that lenders can use to assess services providers. ALTA is hopeful the Assessment Procedures will allow various companies to conduct assessments acceptable to lenders.

“As our lender clients work to develop their own risk-management systems, the land title industry continues to lead by example,” said Rob Chapman, ALTA’s 2013-14 president. “The Best Practices framework will continue to be a responsive product to meet market needs.”

Implementation

Major lenders are encouraging the title industry to adopt ALTA’s Best Practices.

In a March newsletter to its network of settlement agents, Wells Fargo said that it values local title and settlement providers that deliver a high level of professionalism, customer service and quality to the lender’s customers. To help highlight the policies and procedures that are being followed, Wells Fargo encourages settlement agents to implement ALTA’s Best Practices.

“Wells Fargo supports ALTA’s Best Practices, and considers them to be guidelines for sound business practices that should ideally already be in place for businesses providing title and

closing services for our customers,” the lender said in its newsletter.

ALTA members across the country have been implementing the Best Practices over the past year. The good news for settlement services providers is that, from a purely operational standpoint, many of them are already in compliance with ALTA’s Best Practices. What’s missing may be formal documentation of compliant practices and procedures.

As an example, Georgia-based law firm McCurdy & Candler LLC engaged with the CPA firm Habif, Arogeti & Wynne LLP to help ensure it had the appropriate written policies and procedures.

To help prepare, the CPA firm suggests companies:

- Have written policies and procedures that are closely aligned to ALTA’s Best Practices.
- Perform a cursory in-house inspection of your documentation that supports adherence to ALTA’s Best Practices.

- Engage a CPA firm with industry knowledge to perform your compliance assessment and certification. That experience and knowledge reduces the time your company needs to get compliant.

Title and settlement companies across the country rely on Notaries and contract closers to get loan documents signed and notarized.

What This Means to Notaries and Mobile Closers

With title and settlement companies encouraged to maintain policies to protect non-public personal information, companies that utilize third parties such as Notaries or contract closers will want to ensure they comply with an information security program.

Title and settlement companies will need to take reasonable steps to select and retain service providers that are capable of appropriately safeguarding NPI. Notaries and mobile closers may be

asked to sign a Gramm-Leach-Bliley disclosure and provide a copy of their information security policy. The policy should be signed acknowledging that the vendor understands and agrees to follow the policy.

Banks frequently require at a minimum that their vendors maintain a current service auditor's report using the Statement on Standards for Attestation Engagements No. 16 (SSAE 16) (replacement for the SAS 70 Auditing Standard). Title and settlement companies may also consider including this in their due diligence with service providers.

It can be expected that many lenders will be more likely to conduct business with third parties that hold compliance verification.

This means that every entity involved in the real estate transaction will be required to document policies and procedures. After all, lenders are assuming all legal liability for every company they work with, so it is a prudent risk-management practice for lenders to work only with companies that have taken the time to show complete compliance with ALTA's Best Practices.

Title and settlement companies across the country rely on Notaries and contract closers to get loan documents signed and notarized. In order to keep this business, Notaries and contract closers also will want to show compliance with protecting customer information.

There is a competitive advantage to being compliant. ■

About the author: *Jeremy Yohe is the director of communications for the American Land Title Association. He can be reached at jyohe@alta.org.*



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WHAT TO DO IF YOU BECOME A **VICTIM OF NOTARY IDENTITY THEFT**

By Kelle
Clarke

Notaries are called upon every day to protect the public against identity theft. But what happens when a Notary's own identity is stolen?

Across the nation, savvy con artists are forging Notary seals and signatures to commit real estate and other types of fraud. While states do what they can to battle the issue, Notaries need to be aware of the threat, understand the ways that they can help prevent it, and know exactly what they can do to protect themselves if it happens to them.

One Notary Identity Theft Crime: Many Victims

In a recent, highly publicized case in Philadelphia, criminals were able to forge Notary seals and signatures to steal hundreds of homes from unsuspecting homeowners. Sadly, the Pennsylvania crime spree is far from being an isolated case. Seal forgeries are also on the rise in California, where the perpetrators often target the elderly, the poor and immigrants. In such cases, Notaries may pay the price.

When scammers use forged Notary seals and signatures, there are many victims. A forged signature and falsified Notary seal can be all it takes to transfer a deed to a home, leaving the homeowner without his property, the buyer without his

purchase, and the Notary, whose signature and seal has been forged, smack dab in the middle of the crime — left to fend off possible criminal charges.

Thieves are able to access a Notary's seal stamp and signature once it appears on public records, such as deeds or other documents. A knowledgeable forger can then copy that seal and signature, using a number of fraudulent methods, to steal property or other valuables. And, in most cases, Notaries are unaware that their seal and signature have been used fraudulently until the crime is detected. The Notary may only find out after being named as a defendant in a civil lawsuit or law enforcement authorities come asking about their potential involvement in the crime.

How Notaries Can Protect Themselves Against Notary Identity Theft

The obvious first line of defense against identity theft is to prevent the theft: always secure your Notary tools. Never leave a seal stamp or journal where others can access them, even colleagues or family. If you work in an office, secure your seal and journal when away from your work area, even for a quick break. And never leave your tools visible in your car.

Unfortunately, you cannot stop the scammer who randomly picks your seal and signature to copy from publicly recorded documents. However, there are critical steps you can take to ensure the best outcome, should your Notary seal or signature ever be brought into question in a court of law.

- Report any instances of fraud immediately: In one case, a perpetrator of a fraud ring in three Southern California counties was brought to justice when an alert Notary reported a forgery involving the Notary's seal to authorities.

- Keep a meticulous journal: Whether or not you live in a state where journals are required, maintaining a record of all signings protects you. A Notary's detailed journal often provides key evidence in Notary seal forgery cases.

- Protect yourself with Errors & Omissions Insurance: If a lawsuit is brought against you, even if you've done nothing wrong, you could face the daunting challenge of having to respond to the claim. Based on the seal forgery cases handled by the NNA's insurance program, it can cost nearly \$7,000 on average and as much as \$25,000 to be dismissed from the case. You will need a strong defense provided by an attorney who is experienced in handling Notary seal forgery cases, which is why having Notary E&O insurance is so important. With a Notary E&O insurance policy, the insurer has an obligation to defend you against such claims — even if they are entirely bogus. The attorney representing you can apply a number of effective defenses, including bringing experts in to prove that the forged seal and signature are not

yours. Without E&O insurance, you'll have to pay an attorney out of your own pocket to mount a legal defense.

States Seeking Remedies

The problem of Notary identity theft is so prevalent nationwide that a number of states have proposed or passed new laws to address the issue.

In Pennsylvania, the City of Philadelphia instituted a Document Notice Program wherein the Records Department notifies current property owners via mail of transactions registered with the City, such as a deed or mortgage, involving their property. A similar law in California now allows the Los Angeles Recorder to send notices to parties involved in the execution of a deed, quitclaim deed, or deed of trust within 30 days of the transaction. This way, homeowners could immediately contact the recorder or law enforcement agency and put a halt to a fraudulent transaction before any financial exchanges are made.

"By notifying property owners, the city is combating crime and giving owners opportunities to take corrective action," said Joan T. Decker, Records Commissioner for the City of Philadelphia.

The General Assembly has twice debated legislation to create a special type of Notary who would

The fact is, in an alarming number of cases, the identity theft is in no way the fault of the Notary.

be permitted to notarize real property documents. The bills would require Notaries to have special education in real property transactions, carry a \$100,000 bond, and obtain thumbprints of grantors in their journals. The bills also call for these Notaries to charge a higher fee for real property transactions.

In a just-concluded legislative session, Missouri lawmakers considered a bill requiring Notaries to place their thumbprint on any deed they notarize.

Policymakers in several other states have considered using technology to prevent Notary identification fraud by utilizing protected identifiers such as barcodes.

Perhaps the answer may be to require the signer and the Notary to place their thumbprints on both the notarized document and in the Notary journal — for all notarizations.

Clearly, there is no easy solution. However, individually, we can protect ourselves by securing our seal stamp and journal, obtaining errors and omissions coverage, and adhering to Notary best practices. ■

WHEN 'TRICKS' OR 'TREATS' AREN'T FUN AND GAMES

DANGERS COULD BE LURKING FOR NOTARIES AMID SIGNER SHENANIGANS

By David Thun

For children, the phrase “trick or treat” means fun and candy on Halloween — but for Notaries, it means something else entirely.

Sometimes you run into shady signers who tried to “trick” you with a false ID, a phony story or even disguises, or you are offered “treats” such as gratuities, gifts or other items that may or may not be appropriate to accept.

State laws don't cover every situation you may encounter, so sometimes you must rely on common sense, ethical guidelines and your own judgment. Below are some murky situations Notaries have encountered with “tricks” and “treats” and some suggestions if you come across a similar situation.

Watch Out For Signers Trying To “Trick” You ...

It seemed like a straightforward request. A husband and wife approached Notary James Franklin of Gulfport, Mississippi and asked him to notarize their signatures on documents for a condominium purchase. But Franklin noticed something was amiss when the “wife” presented her identification.

“They had a copy of the wife’s ID, which was 30 years old and expired,” he said. Odder still, the “wife” looked much younger than thirty. Clearly, the woman wasn’t married to the “husband.” He was trying to buy property under his real wife’s name, Franklin said.

Unfortunately, Franklin’s experience wasn’t the first time that a signer has tried to trick a Notary — and he’s not likely to be the last, either.

Aynn McGuire of San Diego, California, shared a very similar encounter with the NNA’s Facebook community. She, too, had a dubious husband and wife issue. “I knew his wife — we went to the same hair salon!” McGuire said. She knew instantly that the woman in front of her was an imposter.

Sometimes a dishonest person’s efforts to fool a Notary are so obvious they seem funny, like when Seattle, Washington, Notary Valeria Rodruck had a signer appear twice before her on the same day, the second time claiming to be his own twin brother. But remember that fraud is a serious offense, and tricking a Notary can be part of an attempt to commit a more serious crime, as Notary Don Aoki discovered.

Aoki went to the New York City home of a woman named Irene Silverman to notarize signatures for a real estate transaction. Aoki was met by a young man and an older woman who failed to provide valid identification for herself and refused to sign her name in Aoki’s presence. Suspecting something was seriously wrong, Aoki halted the notarization and left. A few months later, Aoki learned the two were the notorious mother-son con artist team, Sante and Kenneth Kimes. Both later were convicted of murdering Silverman to take over her home and estate.



Preventing document fraud is one of your most important responsibilities, and dishonest people will go to great lengths to try and trick Notaries. Here are some warning signs of fraud to watch for:



- *Asking you to notarize a signature for an absent person.* Remember that personal appearance before the Notary is a fundamental rule of notarization. If someone asks you to bend the rules in order to notarize an absent person's signature — don't do it, no matter what reason they give. It's possible someone is trying to scam the absent signer.
- *The photo or information on an ID doesn't match the signer.* Be careful if the photo on an ID doesn't look like the signer — for example, the signer is much older or younger than the person in the picture, or their hair, eyes or features don't match the ID.
- *The signer behaves oddly.* Refusing to answer questions, being unwilling to remove sunglasses or a hat indoors, or other strange behavior could be a warning that the signer is trying to hide something. If signers behave suspiciously, don't ignore it. If something seems off, it's OK to ask questions or ask signers to provide additional credentials to confirm they are who they claim to be. If you have doubt

about a signer's claims that can't be put to rest, don't proceed with the notarization.

... But You Also Need To Be Wary When Offered "Treats"

It's always nice to be appreciated, and sometimes a signer will offer a Notary a gift or gratuity as a way of saying thanks for a job well done. But be careful, because while some of these "treats" may seem harmless or simply generous, in some situations it may not be ethical or even legal to accept them.

Some "treats" are as simple as being offered a soda or snacks by a signer during a notarization. Because some cultures consider refusing an offer of food to be impolite, Jason Roffe, a Michigan signing agent, says he sometimes accepts pastries offered by signers. "I tend to take some to go as to not insult them."

Louisiana Notary Suzanne Belletto encounters a similar culture in her area regarding food. "Down here, it's an insult if you refuse their offer, because if they didn't want you to have it, they wouldn't offer," she said, saying she's been offered cookies, cakes, fruits and vegetables during notarizations.

However, things get more complicated when Notaries are offered more valuable gratuities than snacks. Some Notaries have been offered tickets to sporting events and theme parks, gift cards for



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coffee shops, and even cash “tips” ranging from \$20 to \$300 — and that’s where Notaries have to be careful.

Though many states limit the maximum fee that can be charged for a notarial act, that limit varies widely from state to state. South Carolina recently raised its maximum fee to \$5 per notarial act, while California’s maximum has been set for many years at \$10. Notaries must be very careful about accepting any kind of “treat” that could constitute a violation of state laws. It’s very important to know your state’s permitted fee schedule and any other specific rules your state enforces regarding payment for Notary services. For example, Maine has no set fee schedule for Notaries, permitting them to charge a “reasonable” fee for services, but North Carolina maintains that the only fee Notaries may accept for their services is the maximum \$5 per notarization set by state law.

Even if no improper request is involved, being seen accepting gifts other than the allowed notarization fee could hurt a Notary’s reputation and business in the long run. Florida signing agent Marie Rambaran said she was offered a tip by a signer during a loan signing assignment. When the company she was working for found out she was

offered a tip, the company told her it was unacceptable, refused to pay her full fee for the assignment and stopped contacting her for loan signings. Since then, she’s made it her policy to never accept tips. “People always offer me something, but now I just refuse to take it,” she said.

If you’re offered a tip, gratuity or other treat, ask yourself the following questions:

— *What do my state Notary laws say about this?*

If the gift’s value exceeds the maximum fee you’re allowed to charge for notarizations, or could violate other statutory limits on payment for services, it’s safer to say, “No thank you.”

— *For signing agents, does this violate federal law?*

Under the Real Estate Settlement Procedures Act, a tip potentially could be viewed as double-charging the signer. Any complaint could result in serious consequences for the company

that hired you. It also could be a violation of your contract with that company. If offered a tip, instead of accepting it, ask the signer to give you good marks on any post-closing survey.

— *Is it ethical for me to accept this?* Even if the law doesn’t specifically prohibit accepting a gift, it’s better to err on the side of caution and avoid the appearance of unethical conduct. ■

Notaries must be very careful about accepting any kind of “treat” that could constitute a violation of state laws.

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'Gray Areas' That Often Confound Notaries



Notaries often are asked to do something not covered by state law and that may — or may not — seem on the up and up. In these situations, is it better to perform the notarization or turn the request down? Below are scenarios that fall into this gray area of state law.

If You Suspect Fraud

There are occasions when something seems “off” to you about a notarization, even if the signer has satisfactory proof of identity and seems more than willing to sign. Your suspicions could be raised by something as simple as the document’s title, or the odd behavior of someone present for the notarization.

State laws don’t provide specific guidance or procedures to evaluate whether a notarization is suspicious or not. Here are some things we suggest to help you determine if something’s amiss:

A. If a signer’s mental state or demeanor raises concerns, engage the signer in a casual conversation. If the signer cannot coherently engage in conversation, you may decline to continue with the notarization. If your state laws do not specify otherwise, this should be sufficient to decide whether you can continue the notarization. Some states — such as Florida — require Notaries to refuse a notarization if the

signer does not understand the nature of the transaction requiring a notarial act.

B. If you suspect a signer is being forced or coerced by a third party, ask the third party to wait outside the room while you speak to the signer alone. If the signer is still willing and appears to clearly understand the document’s purpose, you may proceed. If the signer is unwilling or seems confused or unclear about the purpose of the document being signed, stop the notarization immediately.

Employer Requests

Another tough situation many Notaries face is requests from employers that conflict with state Notary laws. Some employers mistakenly assume that if they pay for an employee’s commission and tools, they may direct their employee to ignore statutory rules when notarizing. If your employer makes a request for you as a Notary Public, ask yourself the following questions:

1. Is the request legal in your state? If an employer asks you to do something clearly prohibited by state law — such as ignoring statutory ID requirements, backdating a notarization or falsifying a journal record — your duty is to refuse. But there are other situations that

aren’t addressed in every state’s statutes—for example, what if a Notary is asked to only notarize documents for customers but not non-customers during business hours? California allows employers who pay for a Notary’s commission and supplies to limit the Notary’s transactions to work-related notarizations during business hours — but only if the Notary agrees to do so. Iowa prohibits a Notary’s employer from restricting Notary services based on whether the signer is a customer or non-customer of the employer. If state Notary law doesn’t specify Notary-employee services, an employer does have a right to direct a Notary employee during business hours.

2. Is the employer’s request taking place during business hours? Some employers have tried to prohibit Notaries from performing notarizations outside of business hours. While in most states an employer may dictate when an employee-Notary may perform notarizations while on the job, outside of business hours, a Notary may perform any lawful, reasonable notarization requested by a member of the public.



Sharing Seals, Loose Certificates, and Traveling to Other States

Notaries nationwide rely on the NNA's Notary Hotline to answer their most challenging questions. The following questions are among the thousands our Information Services Team receives each month.

In an office where there are multiple Notaries, is it acceptable to have only one stamp or embosser to share?

— K.A., Gary, Indiana

As the Notary stamp will bear the name and commission information of a single Notary, it may only be used by that particular Notary; therefore, it may never be shared by colleagues, or anyone else for that matter. Each Notary must use only his or her own seal or embosser.

My boss and I are going on a business trip to Maryland, where they are going to need a Notary Public. I am a Notary in Arizona, but am I able to use my stamp in Maryland if it is for business purpose only?

— T.J., Glendale, Arizona

No. Given that you are commissioned by the state of Arizona, that is the only jurisdiction in which you are authorized to perform notarizations.

I notarized a deed that had an area at the bottom of the page for the seal. When the escrow company received it, the expiration date on the seal image had become illegible. The escrow company asked me to send a loose certificate with my stamp. I told them that I need another signature on the loose certificate but they said I did not. What is the best practice in this situation?

— T.T., Los Angeles, California

You may not send a loose certificate in the mail; the certificate must be endorsed on or attached to the document (Government Code, Section 8505[a][2]). The Secretary of State could fine you \$750 for doing this. The escrow

company should send the original document back to you. In its January 2014 Notary Newsletter, the Secretary has clarified that in order to correct a notarial certificate, you must meet with the customer again and re-notarize the customer's signature.

In Utah, if a notarial certificate requires the Notary to complete a "residing at" section, what information needs to be included there? Does it need to be the full address, or just the city, county, or state?

— C.B., Provo, Utah

We advise that you include the city, county and state in the "residing at" section, not your full address.





I work in two different branches for my bank and I don't want to carry my supplies with me because I don't want to be responsible for them. Would it be legal to keep one stamp and one journal at each branch?
— M.R., Batavia, New York

Technically, there is nothing to prevent a Notary from having journals and seals in different locations in New York. Ideally, use of a single journal and seal is a best practice for a New York Notary, but is not required.

I performed my brother's wedding ceremony over the weekend; however, I remembered that I threw out my stamp by accident. I ordered another stamp and it will be shipped

to me overnight as soon as it is made. Once I get the stamp I will place the impression of it on the document. Is this okay?
— C.F., Orlando, Florida

According to the *Governor's Reference Manual for Notaries*, a Florida Notary must complete the certificate section on the marriage license and return it to the office of the county court judge or clerk of the circuit court which issued the license within 10 days after solemnizing the marriage. (F.S. 741.08). However, F.S. 117.107(8) states that a Notary may not amend a notarial certificate after the notarization is complete. The question here becomes whether or not a notarization is complete if the

certificate has not been properly sealed by the Notary.

The best practice is that all duties of a Notary, including affixing the seal, should be done at the time the notarization is performed. Thus, in hindsight, it would have been best had you realized prior to performing the marriage that a new seal was needed, and had one on hand to properly complete the certificate portion of the marriage license after the ceremony.

That said, as long as you get the license back to the proper county official within 10 days as required by law with the seal on the certificate, you will have complied with the marriage statute.

As a Notary at the Greenfield Council on Aging, I am being asked to perform a jurat for clients who are applying for a tax program for seniors in my city to insure that any eligibility claims have been sworn as being the truth. Would this type of notarization be allowed?
— M.S., Greenfield, Massachusetts

The key words in your question are "jurat" and "sworn as being the truth." In Massachusetts, Notaries are authorized to perform a jurat. If the agency wants you to perform a jurat for these applicants, you can do this.



YOUR COMMUNITY

Notaries Making People Feel Acknowledged

“THAT’S MY MAIN JOB, acknowledging people. (We all should do it.) Notarizing documents is secondary!!” — Pamela Moody, Chico, CA. Share your stories of acknowledgment with us on Facebook, by visiting: www.bitly.com/notaryack.



"Sometimes I find myself going to a notary public just for the acknowledgment."

Meet Our Mascots

NEIL AND CAMILLE, the Notary Seals, are the official mascots of the National Notary Association! They're Internet stars, sharing photos of all their adventures, in and out of the NNA office. Follow all the fun on their Instagram accounts at instagram.com/neilseal001 & instagram.com/camilleseal001.

Stay tuned on our social profiles for opportunities to win your own Neil and Camille Notary Seal!



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