ALTA
Title Topics:
Fraud

And Your Escrow / Trust Account

Entrust Solutions - goentrust.com
Background of Jonathan Yasko

- Started working on the agency side (independent agent)
- Worked for 2 Florida law firms
- Started audit programs at 2 Underwriters
- Formed Entrust Solutions – title insurance servicing company
Crooks Want Money

- No surprise - criminals want what is in your escrow / trust account.
- End of month balances – most fraud is conducted at the end of the month
- Canadian fraud scheme
- Smart phone app
Banks are aware of scams

**FOCUS ON FRAUD**

**ENTERPRISE ALERT**

October 6, 2010

**COUNTERFEIT CHECK/SCAM ALERT**

Please share the information below with your clients in the legal profession:

The financial industry is seeing the return of a deposit fraud pattern that specifically targets law firms. Some SunTrust clients have already experienced this type of incident.

The typical scheme involves:

- A fraudulent buyer contacts a law firm via e-mail or fax indicating they are interested in the purchase of property as a cash sale.
- The agent then receives a check drawn on a Canadian bank representing earnest money on the pending purchase.

**WHAT TO DO…**

Please advise your clients to be cautious when approached with this type of new business. Advise them to follow reasonable identification processes and to
Banks are not always right

- If you think banks love you, think again...

- Check 21
  - Checks processed – no human interaction
  - Designed to eliminate the “Float”
  - Causes checks you issue to be debited within hours of deposit

- Expedited Funds Availability Act
  - Deposit holds up to 21 days* depending on limits and availability
Know your bank statement

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**TOTAL OF OUTSTANDING CHECKS, ATM, Check Card and other electronic withdrawl**

**SUBTOTAL**

**IMPORTANT INFORMATION FOR BANK DEPOSIT ACCOUNTS**

Change of Address: Please call us at the telephone number listed on the front of this statement to let us know about any change of address.

Deposit Agreement: When you opened your account, you received a deposit agreement stating that your account would be governed by the terms of that document, as we may change those terms from time to time. These terms are part of the contract for your deposit account and are effective as of the date you opened your account.

Electronic Transfer: In case of errors or questions about your electronic transfers, please refer to the information page provided with your electronic transfer doc. Any transaction, deposit or withdrawal will be completed in our record only and we will not be responsible for any errors in the record. We will complete all transactions in the order we receive them. All deposits and withdrawals will be completed in our account only and we will not be responsible for any errors in the record. We will complete all transactions in the order we receive them. All deposits and withdrawals will be completed in our account only and we will not be responsible for any errors in the record.

Direct Deposits: If you have arranged to have direct deposits made to your account at least once every 30 days by the same person or company, you may call us at the telephone number listed on the front of this statement to let us know if the deposit was made as instructed.

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Economy taking it’s toll on the industry

- 2008 LandAmerica closes it’s doors
- 2009 The Fund is declared deficient
2011 - title industry tries to survive

- New Jersey Title – shut down by $47M TitleServ defalcation
- Southern Title – shut down by $18.5M defalcation from agent cancelled in 2008
Underwriter’s decisions to industry actions

- Managements decision on minimums and splits
- Actions to be taken, no matter the size of the agent
- What can agents do to maintain a relationship
- Agency agreement is a 2 way street
Underwriter’s new initiatives

- Must keep the industry and company going – bottom line
- Mandate reconciliations on a monthly basis (not just for agents)
- Require outsourcing of reconciliations
- Remittance of policies no later than 60 days
- Centralized disbursing
- Awaiting final CFPB rule
What can you do to protect yourself?

- Utilize a good closing/reconciliation software system
- Reconcile your escrow / trust account timely – by the 15th
- Use your reconciliation as a guide – best tool for your business
  - Trial Balance – review daily for file shortages or overages > 6 months
  - Outstanding deposits/wires – nothing greater than 72 hours old
  - Outstanding checks/wires – review for lienable items that may affect you
  - Bank statement – look for unusual transactions
- Initiate ACH block on your escrow account
- Positive Pay (3 versions)
What can you do to protect yourself?

- Attorneys – strongly recommend maintaining a separate real estate trust account
- Segregate duties, limit access to who makes deposits, disburses checks and reconciles the account
- Require dual signatures on checks if office size permits
- Keep checks locked over night or when not in use
- Keep good accounting records (use duplicate deposit books, make copies of disbursed checks, maintain wire confirmations in respective files)
- Conduct Terrorist Name Search as required by the Department of Homeland Security
Tracking procedures and additional follow-up

- Keep files stored in separate areas (waiting for recording, waiting for policy, waiting for satisfactions, files with balances, closed)
- Utilize escrow/trust reconciliations as guide (balances, policy tracking, outstanding deposits and checks)
- When voiding checks cut signature line out or write void on checks, place stop payment at bank if you do not have actual check in hand remember to void in system.
- Organize files in a consistent manner (example; financial info on left of file, title information on right side of file).
Tracking procedures and additional follow-up

- Post deposits and disbursements and print ledger card before disbursing to ensure all funds have been received and the file balance is accurate.

- Disburse underwriter premium separately for each file and utilize outstanding check list as a tracker for stale policies.

- Utilize wire logs listing date, amount, file number/name and person at bank who verified wire.

- Limit access as to who can send wire transfers.

- **Zero Balance Accounts “ZBA.”**

- Back up computer system often, utilize system passwords.
Questions?

Don’t be shy, call us at 877-691-1287 or visit our website at www.goentrust.com

Presentation will be available for download at: www.alta.org/titletopics