ALTA Title Topics: Fraud

And Your Escrow / Trust Account

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

SUNTRUST

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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How To Balance Your Bank of America Account

FIRST, start with your Account Register/Checkbook:

1. List your Account Register/Checkbook Balance here .... $ ______
2. Subtract any service charges or other deductions not previously recorded that are listed on this statement .... $ ______
3. Add any credits not previously recorded that are listed on this statement (for example interest) .... $ ______
4. This is your NEW ACCOUNT REGISTER BALANCE .... $ ______

NOW, with your Account Statement:

1. List your Statement Ending Balance here .... $ ______
2. Add any deposits not shown on this statement .... $ ______

SUBTOTAL .... $ ______

3. List and total all outstanding checks, ATM, Check Card and other electronic withdrawals

Checks, ATM, Check Card, Electronic Withdrawals		Checks, ATM, Check Card, Electronic Withdrawals		Checks, ATM, Check Card, Electronic Withdrawals	
Date/Check #	Amount	Date/Check #	Amount	Date/Check #	Amount

4. TOTAL OF OUTSTANDING CHECKS, ATM, Check Card and other electronic withdrawals .... $ ______
5. Subtract total outstanding checks, ATM, Check Card and other electronic withdrawals from Subtotal
   This Balance should match your new Account Register Balance .... $ ______

Upon receipt of your statement, differences, if any, should be reported to the bank promptly in writing and in accordance with provisions in your deposit agreement.

IMPORTANT INFORMATION FOR BANK DEPOSIT ACCOUNTS

Change of Address. Please call us at the telephone number listed on the front of this statement to tell us about a change of address.

Deposit Agreement. When you opened your account, you received a deposit agreement and fee schedule and agreed that your account would be governed by the terms of these documents, as we may amend them from time to time. These documents are part of the contract for your deposit account and govern all transactions relating to your account, including all deposits and withdrawals. Copies of both the deposit agreement and fee schedule, which contain the current version of the terms and conditions of your account relationship, may be obtained at our banking centers.

Electronic Transfers: In case of errors or questions about your electronic transfers
If you think your statement or receipt is wrong or if you need more information about an electronic transfer (e.g., ATM transactions, direct deposits or withdrawals, point-of-sale transactions) on the statement or receipt, telephone or write us at the address and number listed on the front of this statement as soon as you can. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

- Tell us your name and account number.
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

For consumer accounts used primarily for personal, family or household purposes, we will investigate your complaint and will correct any error promptly. If we take more than 10 business days (10 calender days if you are a Massachusetts customer) (20 business days if you are a new customer, for electronic transfers occurring during the first 30 days after the first deposit is made to your account) to do this, we will recredit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

For other accounts, we investigate, and if we find we have made an error, we credit your account at the conclusion of our investigation.

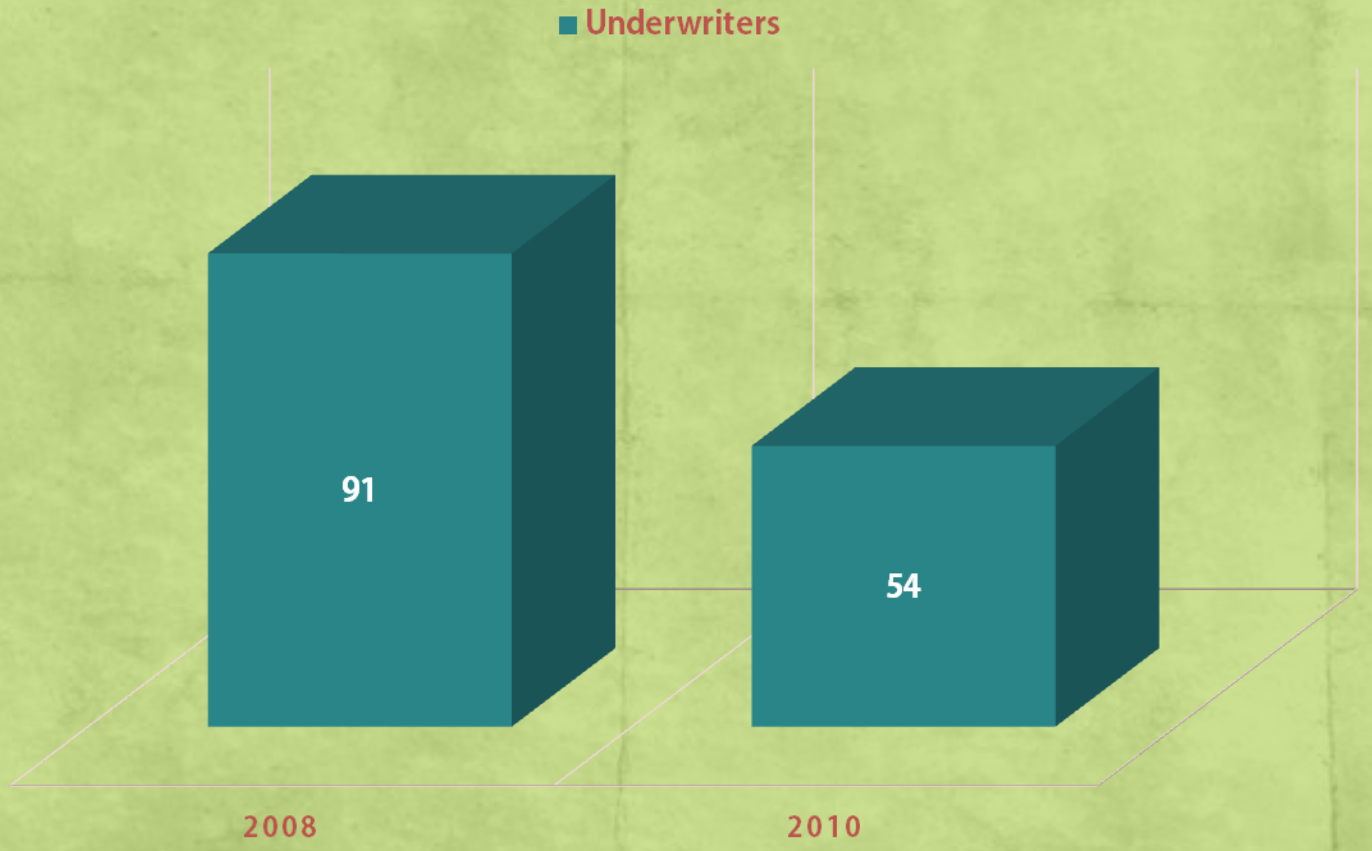
Reporting Other Problems. You must examine your statement carefully and promptly. You are in the best position to discover errors and unauthorized transactions on your account. If you fail to notify us in writing of suspected problems or unauthorized transactions within the time periods specified in the deposit agreement (which periods are no more than 60 days after we make the statement available to you and in some cases are 30 days or less), we are not liable to you for, and you agree not to make a claim against us for the problems or unauthorized transactions.

Direct Deposits. If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you may call us at the telephone number listed on the front of this statement to find out if the deposit was made as scheduled.

Bank of America, N.A. Member FDIC and Equal Housing Lender

Economy taking it's toll on the industry

- 2008 LandAmerica closes it's doors
- 2009 The Fund is declared deficient

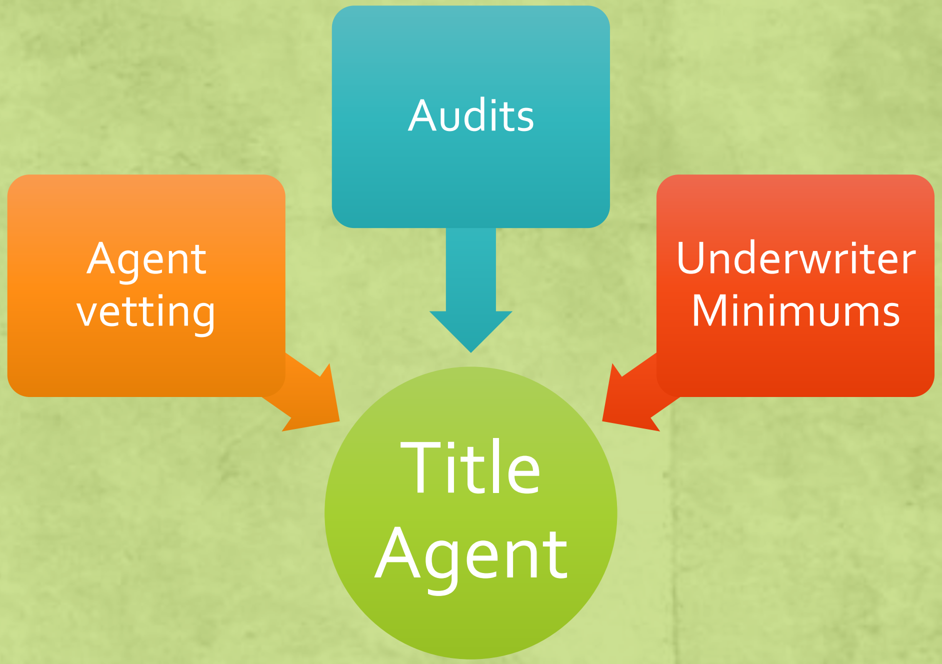


2011 – title industry tries to survive

- 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 15^{th}
- 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