



CONESTOGA TITLE
INSURANCE CO.

SAFEGUARDS FOR AGENTS & CLIENTS

Course Materials



CONTACT US:

800-732-3555



**To learn more, visit us
conestogatitle.com.**



Safeguards for Agents & Clients

May 13, 2025

- | | |
|-------------------|---|
| 9:00 A.M. | Registration/Continental Breakfast |
| 9:30 A.M. | Opening Remarks
John N. Papoutsis, Esq.
Commercial Counsel, Conestoga Title Insurance Co. |
| 9:45 A.M. | Title Agent Federal Reporting Responsibilities
John N. Papoutsis, Esq.
Vice President, General Counsel, Conestoga Title Insurance Co. |
| 10:45 A.M. | Break |
| 11:00 A.M. | Wire & Online Banking Fraud Related to Real Estate
Mike Pontikis, Vice President Treasury Management
Bram Berlin, Vice President Treasury Management
Sandy Spring Bank, a division of Atlantic Union Bank |
| 12:00 P.M. | Lunch |
| 1:00 P.M. | Ethical Title Agent Liability
Nancy Gusman, Esq., CLTP
Gusman Legal, LLC · Brick House Consulting Services, LLC |
| 2:00 P.M. | Break |
| 2:15 P.M. | Protecting Your Agency: Cyber, Fidelity/Crime, E&O
Michele Blanco, Sr. Account Director
Norman Spencer Insurance |
| 3:15 P.M. | Adjourn |



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Speaker :
Nancy L. Gusman, Esq

301-321-8566

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Closinglock



CONESTOGA TITLE INSURANCE CO.

Closinglock and Conestoga Title Insurance Co. have partnered together to combat fraud in real estate. By modernizing the transfer of funds and information, we are helping title companies, law firms and financial service providers overcome critical challenges ranging from wire fraud to seller impersonation.

Our easy-to-use platform streamlines the closing process and provides the tools you need to protect your transactions from start to finish.

Fraud-free transactions on a single platform



Wire Instructions

Send and receive wire instructions through a secure portal.



Secure Payments

Receive earnest money deposits and cash-to-close as Good Funds.



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Protect all stakeholders with instant and accurate identity verification.



Payoff Verification

Confirm loan payoff accounts and routing numbers in real time.



Document Exchange

Share documents back and forth with clients and get status updates.



eSigning

Request and receive government-compliant eSignatures.



Cutting-edge security that is SOC 2, Type II compliant



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Do you have dormant accounts?

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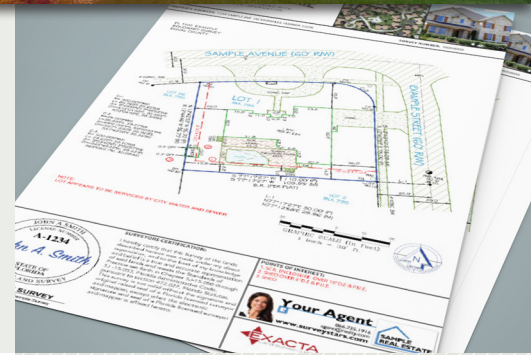
Contact – Carol Frye, 443-375-7380
cfrye@escrowresolutionservices.com



Why Choose Exacta for Land Surveys and House Location Drawings?

Exacta is the nation's leading provider of residential and commercial land surveys for real estate transactions. Real Estate Brokers, Lenders, Attorneys and Title Companies rely on our ease of ordering, leading technology, and exceptional customer service.

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Why get a land survey? Do I really need it?

- A location drawing indicates the location of physical improvements in relation to the property lines.
- A house location drawing is the only reliable way of obtaining and confirming basic information about a property.
- It shows the relationship of the property to adjoining properties.
- It establishes discrepancies between actual occupation or use and the description of record.
- Occasionally there are errors in a legal description when property is transferred. A location drawing or boundary survey will often find these errors before your deed is recorded.
- Many home buyers get a copy of an old plat or existing survey and figure it's perfectly fine, but it may not be. Have things changed on the property? Have local laws changed that might affect your property rights? The perceived boundaries of a property, such as tree lines or that beautiful new fence in the back yard often differ from the actual recorded boundaries. Obtaining a survey prior to closing brings such discrepancies to light before it is too late.

If your lender or title company doesn't require a survey, it is up to you. As this is likely one of the biggest purchases of your life, isn't it worth the extra money to know what you are buying?

Location Drawing

A field technician is sent to the property to locate all improvements and to locate control points on or near the property. The final drawing shows the property lines and all visible improvements affecting the property. If noted in the deed or on the plat, a location drawing will show any easements, building restrictions lines, or any right-of-way that affect the property. In most cases, a location drawing is accurate up to +/- 1 feet. A location drawing is not suitable for obtaining permits.

A location drawing should not be used to place or remove any improvements due to the potential margin of error. If the location drawing shows anything that is a concern, a boundary survey may be recommended.

Boundary Survey

A field technician locates all improvements and finds enough control to determine the exact location of the property corners. A drawing is provided and the crew returns to mark all property corners with iron rebar in the ground as well as visible markers such as a wood stake or temporary flagging. Extra points on line can be flagged for an additional fee.

A boundary survey can be used for the addition of improvements, and a boundary survey is suitable for obtaining permits..

Service Requested: ☐ Boundary Survey ☐ Location Drawing

PROPERTY ADDRESS

CITY, STATE, COUNTY, ZIP CODE

I (we) the undersigned buyer(s), have read and understand the above description of the surveying service, and agree to have the service performed by Exacta Maryland Surveyors, Inc. Any price difference between the above quoted amounts will be communicated for your approval before services are performed.

Authorized:

BUYER(S) SIGNATURE

OR

I (we) the undersigned buyer(s), have read and understand the above description but decline obtaining a land survey for this property, **or** would like the services performed by a different provider. If choosing a new provider, please provide the name and contact information below.

Authorized:

BUYER(S) SIGNATURE

Please note: Exacta Maryland Surveyors is our preferred provider for surveying services. You are not required to use Exacta Maryland Surveyors and you may choose another land surveying company to perform this service.

Patty Aiken

pattyaiken@exactaland.com | 301-904-0153

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OUR FIELD EXPERTISE

Backed by over 30 years of experience with title agents, abstractors, lawyers and real estate agents, Michele Blanco and Melissa Van Noy will be the best duo to help get you started with our programs. Give us a shout!

TYPES OF BUSINESS

Title Insurance Agent

Title Abstractor, Title Searcher

Escrow Agent

Closing Agent

Settlement Agent

Witness Closer, Mobile Closer
or Signing Agent

Caring for all of your insurance needs...



A Leader in Title & Escrow Banking Services

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*Automate & Streamline Manual Processes
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*Positive Pay, ACH Filters, Dual
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NATIONWIDE FOOTPRINT



COMMUNITY VALUES



PURPOSE & PARTNERSHIP

"Delivering Success Together."



Jessica Sinnott
SVP Fiduciary Banking



703.297.6690



jsinnott@odnb.bank



www.odnb.bank



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Pat Bayne, Recruiter/Owner

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Title Advantage Program

Managing a business takes a lot of time and your day-to-day banking activity shouldn't hold you back. The Title Advantage Program is an innovative solution designed to meet the financial needs of title companies. Our specialized bankers take the time to listen and provide a customized solution to meet the needs of your title company.

Locally-Based Support & Relationships

What sets us apart is our dedication to our clients through bankers with deep ties to the industry and specialized support call center staff for our title company clients. From onboarding and training to ongoing support, they're the benefit you didn't know you needed.

Personalized Banking

We tailor financial solutions to you and your business which includes a mix of lending, deposit, and treasury management services. The expertise of our bankers in the title industry is invaluable.

Security & Fraud

Fraud is a top concern for any title company and it's something we take seriously and address through:

- Advanced security measures and fraud detection.
- Business online banking services.
- ACH and Check Payee Positive Pay service which serves as an early warning system for all written checks and ACH debit transactions.

Additional Benefits

The Title Advantage Program is nearly unmatched in the industry for benefits to clients. In addition to everything mentioned, clients also enjoy complimentary:

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- Free Business Check Stock*
- MAHT and CRESPA
- Business Online Banking with up to 18-months of transaction history data
- Remote Deposit with Scanner

For more information about our services please contact:

Bram Berlin

VP, Treasury Management Officer

301-570-8325

BBerlin@SandySpringBank.com

Mike Pontikis

VP, Treasury Management Officer

571-328-0969

MPontikis@SandySpringBank.com

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HIGH NOTARY STANDARDS

We spend our time interviewing the best available closers to eliminate "side hustle" notaries. We blacklist negative notary reviews to avoid fires. We focus on positive reviews and relationship-based, not transaction-based closers.



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We require full scans on all files which we approve & correct in real-time to ensure next day delivery is met and our clients can fund & record on time! Our team is extremely detailed & has reviewed thousands of packages. This is a completely FREE service!



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We achieve over 99% accuracy by having repeatable processes for hiring, communication, document review & fedex tracking. If you want to reduce client churn and land more referrals, having a consistent operation is *crucial*.

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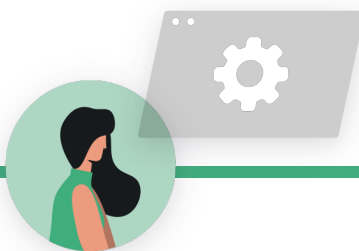


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Safeguards for Agents & Clients

Session 1

Title Agent Federal Reporting Responsibilities

presented by



John Papoutsis, Esq.
Conestoga Title Insurance



John N. Papoutsis, Esq.
Vice President, General Counsel

Over the past twenty years, John has been a practicing real estate attorney and Conestoga Title agent in the Harrisburg, PA area. As an experienced title agency owner and operator, John has processed and closed a high volume of both residential and commercial transactions.

John was part of our Conestoga Title Team before he entered private law practice. While at Conestoga Title, John was a key member of our Legal Department, Commercial Division and Senior Management and is very familiar with our Company and with the needs of our title agents. John's experiences as both a title underwriter and a title agent provides our agents with positive value and unique insights.

John is an experienced resource for our agents – for any questions regarding title underwriting, agency operations and real estate closings. He is especially helpful in providing assistance with our agents' complicated commercial transactions.



CONESTOGA TITLE
INSURANCE CO.

Title Agent Federal Reporting Responsibilities

The Corporate Transparency Act, 31 CFR Part 1010

and

The Bank Secrecy Act, 31 CFR Chapter X

John N. Papoutsis, Esq.
Vice President, General Counsel
Conestoga Title Insurance Co.



Disclaimer

Conestoga Title Insurance Co. states that this material is for educational purposes only and does not constitute legal advice. We assume no liability for errors or omissions.



THE BIG PICTURE of the real estate transaction

What is happening?

Who wants what?



Why is everyone in such a hurry?

Why did I become a title agent?



Title Agent Roles

Title agents have responsibilities to multiple parties

- ▶ **Buyers** Title search, Title insurance, Transaction coordinator
- ▶ **Sellers** Private info, Lien clearance, Preparation of seller documents, Wired funds
- ▶ **Realtors** Source of the business? - Affiliated Business Arrangement?
- ▶ **Lender** Loan documents and Loan funding
- ▶ **Payees** Everyone wants a check
- ▶ **Attorneys** Seller and/or Buyer representation
- ▶ **Underwriter** The principal title insurer
- ▶ **Others?** Now, FinCEN and More Federal Reporting



Purpose and Background

United States Department of Treasury
Secretary of the Treasury

Financial Crimes Enforcement Center (FinCEN)
Director of FinCEN

Federal, State & Local Law Enforcement Agencies



Business Entities as Parties

- What makes them distinct?
- Purposes of business entity formation and use
- Types of business entities
 - Corporation
 - Limited liability Company (LLC)
 - Partnership
 - Limited Partnership





Business Entity Issues for Title Agents

1. Lien Concerns - *The Entity*

- a) State Lien Certificates
- b) Corporate Good Standing
- c) Federal Liens

2. Who can sign? - *The Individuals*

- a) Review of Entity Documents - Operating Agreement, By-Laws, Resolutions, Minutes, Other Agreements
- b) Communications with entity representatives and signors
- c) Working with the business entity PEOPLE



Similar but Different Federal Statutes

Corporate Transparency Act - applies to most entities but doesn't require much of title agents.

Bank Secrecy Act - applies to certain cash transactions anywhere in the United States and requires a great deal of title agents.



Corporate Transparency Act 31 USCA §5336 31 CFR Parts 1010



What is it?



Why was it created?

BENEFICIAL
OWNERSHIP INFORMATION

Who does it apply to?

What information is required for compliance?

How do you comply?



What is it?

Requires all companies created in the United States to provide information on ownership.

Known as the “Beneficial Ownership Information Reporting Requirement” (BOI)

Act was enacted by US Congress in 2021 to address issues related to foreign companies doing business in the US.



Why was it created?

Criminals launder dirty money through real estate by hiding behind anonymous shell companies. Those companies hide their identities during the purchase and then they collect the rent or resale income.



Who/What does it apply to?

- Any “domestic reporting company” - a corporation, limited liability company or any other type of entity that is created by the filing of a registration document with the State.
- Any “foreign reporting company” - a corporation, limited liability company or other entity formed under the laws of a foreign country and registered to do business in the United States.
- The “company applicant” that filed the documentation that created the entity with the State.



Who/What does it apply to?

Entities created prior to January 1, 2024 - must have been reported by January 1, 2025.

Entities created after January 1, 2024 must report within 90 days after filing the creation documents.
(This group must report the entity information as well as information on the company applicant as well.)



Texas Top Cop Shop, et.al. vs Merrick Garland, Attorney General of the United States, et.al. 2024 WL 5049220 (slip opinion)



Current Status of Reporting Obligation

Case brought in US District Ct. for the Eastern District of Texas - *Texas Top Cop Shop vs. Merrick Garland, Attorney General of the US.* (Civil Action No. 4:24-CV-478)

Court issued a nationwide injunction suspending obligation to file, largely on constitutional grounds

Case was appealed to the Fifth Circuit Court of Appeals. (24-20792)

U. S. Department of Treasury's recent rule amendment



Current Status of Reporting Obligation

Three judge motions court panel of Appeals Court issued a stay of the injunction - once again reinstating the obligation to file (issued on December 23, 2024)

On December 26, 2024 the merits panel of the Appeals Court reversed the order of the motions panel and reinstated the original injunction - filing is no longer required - voluntary only.

March 26, 2025 - FinCEN announces domestic reporting companies exemption and foreign reporting companies new reporting deadlines.



Who/What does it apply to?

It does not apply to:

- Common law general partnerships (registration not required in most jurisdictions)
- Certain types of trusts (though some do have to register)



Any exemptions? (23 categories)

- Publicly traded companies (governed by Securities Act)
- Government Authority (i.e. water authority)
- Bank, Credit Union, Depository Institution or Money Services Business
- Securities dealer or exchange/clearing house
- Investment company/venture capital fund
- Insurance company or insurance producer
- Accounting firm (if Sarbanes-Oxley registered) *Law firms are NOT exempt*
- Public utility
- Tax exempt entity
- Large Operating Co.
- Subsidiary of certain exempt entities





Title Company Exemption

§1010.380(c)(2)(xiii) State-licensed insurance producer.

Any entity that: (A) Is an insurance producer that is authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State; and (B) Has an operating presence at a physical office within the United States



Title Agent/Closing Agent Obligations

There is no requirement for any title agent, closing agent, or title company to file the BOI on behalf of any entity involved in a transaction.

There is no obligation to confirm that this filing has been made by any entity involved in the transaction. No searchable database other than by police and Treasury.



Bank Secrecy Act 31 USC 5311, et seq. 31 CFR Chapter X



What is it?

Why was it created?



What types of transactions does it apply to?

Who is required to file the report?

What information is required for compliance?



What is it?

An expansion of the FinCen geographic targeting orders for *non-financed residential real estate* transactions.

The reporting obligation is now nationwide.



Why was it created?

When FinCEN reviewed the existing reports from 2017 - 2024, approximately 42% of non-financed real estate transfers that were reported were conducted by individuals or entities on which a Suspicious Activity Report had been filed.

In federal money laundering cases from 2016-2021, nearly 61% involved at least one transfer in a county not covered by a geographic targeting order.



What types of transaction does it apply to?

- Non-Financed (a/k/a/ - Cash deals) transfers of residential real estate.
 - Single family houses
 - Apartment building(s) and complexes
 - Mixed use buildings
 - Vacant land where purchaser intends to build housing
- Also includes transfers financed by Seller or other lender not subject to US banking laws. (Private mortgage)



Exceptions to Reporting - Types

- Transfers to individuals
- All transfers resulting from death
- Transfers supervised by a Court
- Transfers incident to divorce or dissolution of civil union
- Transfers to Trusts (with certain criteria) - mostly estate planning related
- Transfers to Qualified Intermediaries for §1031 exchange (Transfers from the intermediary to the exchanger are potentially reportable.)



Exceptions to Reporting - Transferee Entities

- Securities issuer/broker/dealer
- Government authority
- Bank/credit union/depository holding co.
- Money services business
- Securities exchange
- Insurance Co./state-licensed insurance producer
- Public utility
- Financial market utility
- Registered investment co.
- Subsidiary of an exempted entity



Multiple Transferees/Transferors

If at least one of the transferees is a reportable entity - transaction requires reporting, but only requires information for the reportable entity/individual.



Who is required to file the report? (in descending order of preference.) Referred to as the 'reporting cascade'

1. **Person listed as closing or settlement agent on the closing or settlement statement, or**
2. Person who prepares the closing or settlement statement, or
3. Person that files the deed or transfer document, or
4. Title insurance agent, or
5. Disbursing agent, or
6. Title searcher, or
7. Person who prepares the deed or transfer document.



Alternate Filing Method

Designation Agreement: Agreement between individuals listed in reporting cascade designating who is to report.

Used to have someone subordinate on the cascade do the reporting.

Separate agreement required for each transaction.



What Information is Required for Compliance?

About the Transferee or Transferor entity:

- Legal name and trade name
- Current street address (not PO box)
- Taxpayer Identification Number (TIN) (EIN)



What Information is Required for Compliance?



About every individual beneficial owner of the Transferee or Transferor entity:

- Full legal name
- Date of birth
- Current street address
- Citizenship
- Unique identifying number (SSN for US citizens)

What Information is Required for Compliance?



About each signing individual:

- Full legal name
- Date of birth
- Current street address
- Unique identifying number (SSN for US citizens)
- Description of capacity in which individual is signing
- If signer is acting as an employee, agent or partner-
name of individual's employer, principal or
partnership

Who is a Beneficial Owner?

“Individual who, directly or indirectly, either exercises substantial control over such reporting company or owns or controls at least 25% of the ownership interests of the reporting company.” 31 CFR §1010.380 (d)

“Substantial control” - a) senior officer, b) has hiring/firing authority over senior office or a majority of the Board, c) directs, determines or has substantial influence over important decisions, d) other forms of substantial control.



What is “Substantial Control”?

- A. Serves as senior officer of the reporting company
- B. Has authority over the appointment or removal of any senior officer or a majority of the board of directors.
- C. Directs, determines or has substantial influence over important decisions made by the reporting company, including:
 - i. Nature, scope and attributes of the business of the reporting company, including sale, lease, mortgage or other transfer of principal assets
 - ii. Reorganization, dissolution or merger of the reporting company
 - iii. Major expenditures or investments, issuances of any equity, incurrence of any significant debt, or approval of the operating budget
 - iv. Selection or termination of business lines or venture, or geographic focus
 - v. Compensation schemes and incentives
 - vi. Entry into or termination, or the fulfillment or non-fulfillment of significant contracts
 - vii. Amendments of any substantial governance documents



Calculation of Beneficial Ownership

- Calculations made at present value
- **Partnerships** - calculated as a percentage of the total outstanding capital and profit of the entity.
- **Corporate** - Determined as the greater of i) voting power rule or ii) total value rule.
- **Failsafe calculation** - if otherwise not calculable, any individual who owns or controls 25% or more of any class or type of ownership interest of a reporting company shall be deemed to own or control 25% or more of the ownership interests of the reporting company.



Information about the Property

- Street address
- Legal description
- Date of closing





Information about the Money

- Amount of payment
- How was payment made. If wired from a financial institution - name and account number.
- Total consideration to be paid by transferee
- Any hard money or private loan information
- If wire or funds comes from third party - name of payor



When must you file?

Within 30 days of settlement or final day of month following date closing occurred.

(Recommendation is that you do it the day of settlement while you have all the parties available.)

How to File

- File electronic real estate report with FinCen - <https://bsaefiling.fincen.treas.gov/main.html>
- Will require individual user to create login account through login.gov. (Do this before you have to start reporting.)
- Real Estate Report has 111 distinct fields.

How to File

Review course materials for all the details on the information that you will be required to obtain from the buyer and seller.

FinCen has not finalized the regulations yet. Conestoga will advise as to final regulations. Significant changes aren't likely.

Final Take Away

All reporting will end with individual names and information.

Layered entity ownership must be reduced to individuals involved with the layered entities.

The Act is designed to track people and their money.



Questions for our speaker?

John N. Papoutsis, Esq.
Vice President, General Counsel
Conestoga Title Insurance Co.
jpapoutsis@conestogatitle.com

Conestoga Title Insurance Co. invites you to explore business opportunities working with the exceptional personalized underwriting support we offer to all sizes of title agencies and law firms.



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Safeguards for Agents & Clients

Session 2

Wire & Online Banking Fraud Related to Real Estate

presented by



Bram Berlin
Sandy Spring Bank
A Division of Atlantic Union Bank

Wire & Online Banking Fraud Related to Real Estate

presented by



Mike Pontikis
Sandy Spring Bank
A Division of Atlantic Union Bank

Bram Berlin

Vice President, Treasury Management Officer / Title Advantage Team



With more than 25 years' experience in financial services, **Bram Berlin** has demonstrated expertise in many areas, including Portfolio Management, Cash Flow and Managerial Finance with a special focus on developing the **Title Advantage Team** to serve unique banking needs for title insurance agent offices. Since 2018, Berlin has worked for Sandy Spring Bank as a dedicated Treasury Management Officer, helping a variety of clients effectively manage core business functions through a variety of treasury management solutions. A graduate of the University of Maryland Global Campus, Berlin holds a Bachelor of Science in Finance. He is an enthusiastic member of his community, currently sitting on the Membership & conference committees of the Maryland Land Title Association as well, the Board of Directors of the Columbia Festival of the Arts.

CONTACT INFO:

Plases feel free to contact me to learn how we can support all your banking needs.



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Mihalis T. Pontikis

***Vice President, Treasury Management Sales Officer,
Treasure Management and Commercial Banking***



Mike Pontikis has worked for **Sandy Spring Bank** for more than a decade, first in Community Banking and then as a Treasury Management Sales Officer, his current area of practice. He has a demonstrated expertise in Commercial Banking and Title, but his knowledge is more expansive. In 2023, he successfully completed the Virginia Bankers School of Bank Management, a rigorous three-year program covering all areas of bank management. A Virginia native, Mike is active in his local community most notably with Loudoun Habitat for Humanity for which he is the current Vice Chair of the Board.

CONTACT INFO:

**Plases feel free to contact me
to learn how we can support all
your banking needs.**



301.774.6400 ext. 7364



mpontikis@sandyspringbank.com



www.SandySpringBank.com



Wire & Online Banking Fraud

A Real Estate & Title Industry Perspective

Bram Berlin | Mike Pontikis

Credit card
protection

Cybersecurity



**FRAUD
PREVENTION**



Identity
protection

Key Terms

Phishing

Account
Takeover

Tokens

Email
Compromise

Wire vs ACH
Fraud

Fraud in Financial Services – Current Landscape



More than half of surveyed banks, FinTechs and credit unions report a 50% increase in business fraud.



Check fraud has grown 2x more prevalent in the last 4 years. One in five SAR reports involve check fraud.



35% of financial services companies experienced 1000+ fraud attempts.



By 2027, advances to Gen AI will cost banks \$40 billion in fraud losses.



Most common fraud types - bust out fraud, APP fraud and account takeover.



25% of banks report losing \$1M or more due to fraud over a 12-month period.

Fraud Types

Account Takeover

Social Engineering and
Phishing

Wire Fraud |
Ransomware

Real Estate & Title Industry

Mortgage
Fraud

Title Fraud

Payments
Fraud

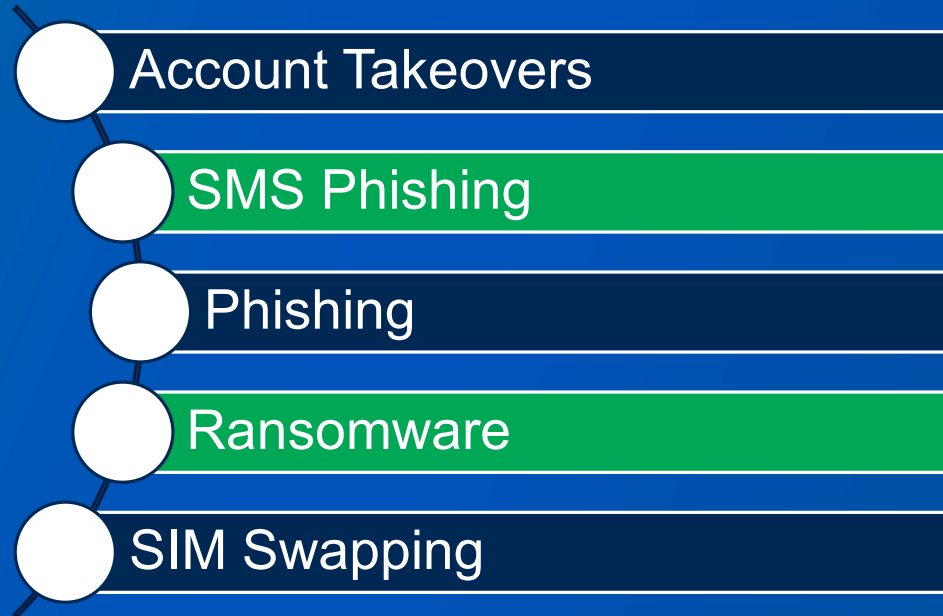
Phishing

Social
Engineering

Internal Controls & Training



Online Banking Fraud



AI & Fraud



Deep Fake



Phishing

Case Study: Online Banking Fraud

Background:

Established company with around 100 employees. Two employees, however, share the same credentials for online payroll system.

The Scam:

Through phishing, fraudsters gained access to the payroll service credentials and accessed the company's account. They created a new payroll direct deposit instruction list. The fraudsters used this to send distributions to non-employee accounts.

Loss to this company was over \$100,000

How it Could've Been Prevented:

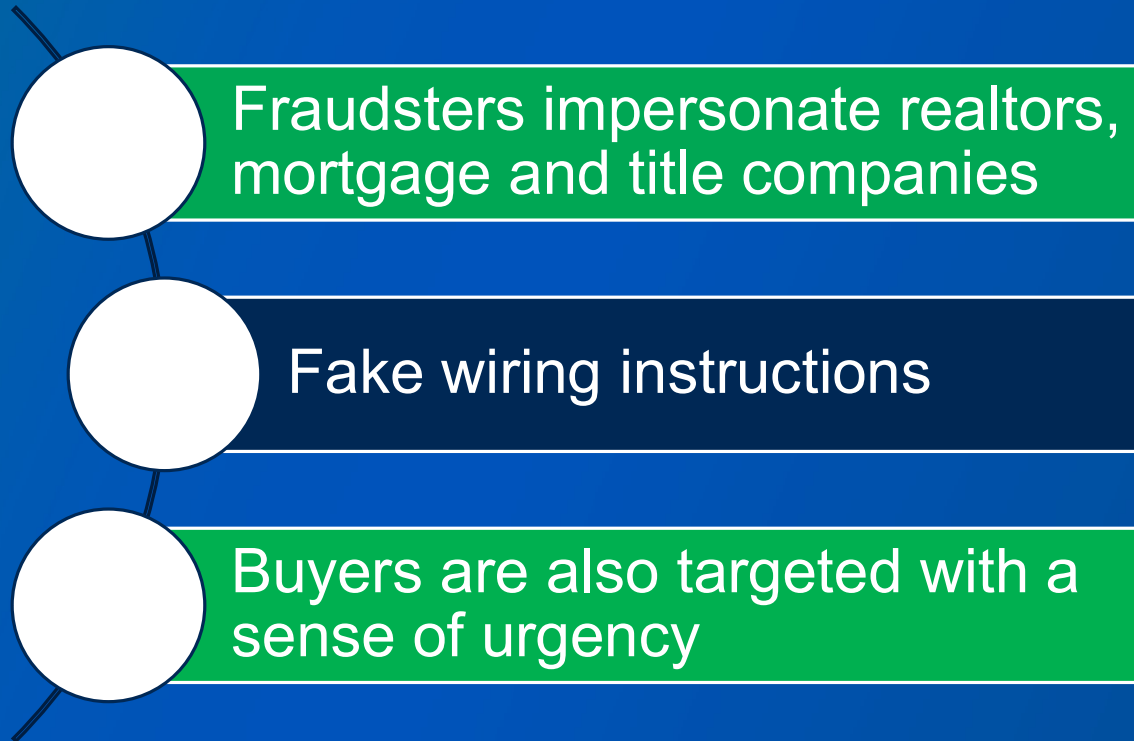
Dual Controls, Individual Passwords, Tokens, Audit of the operating account transactions.



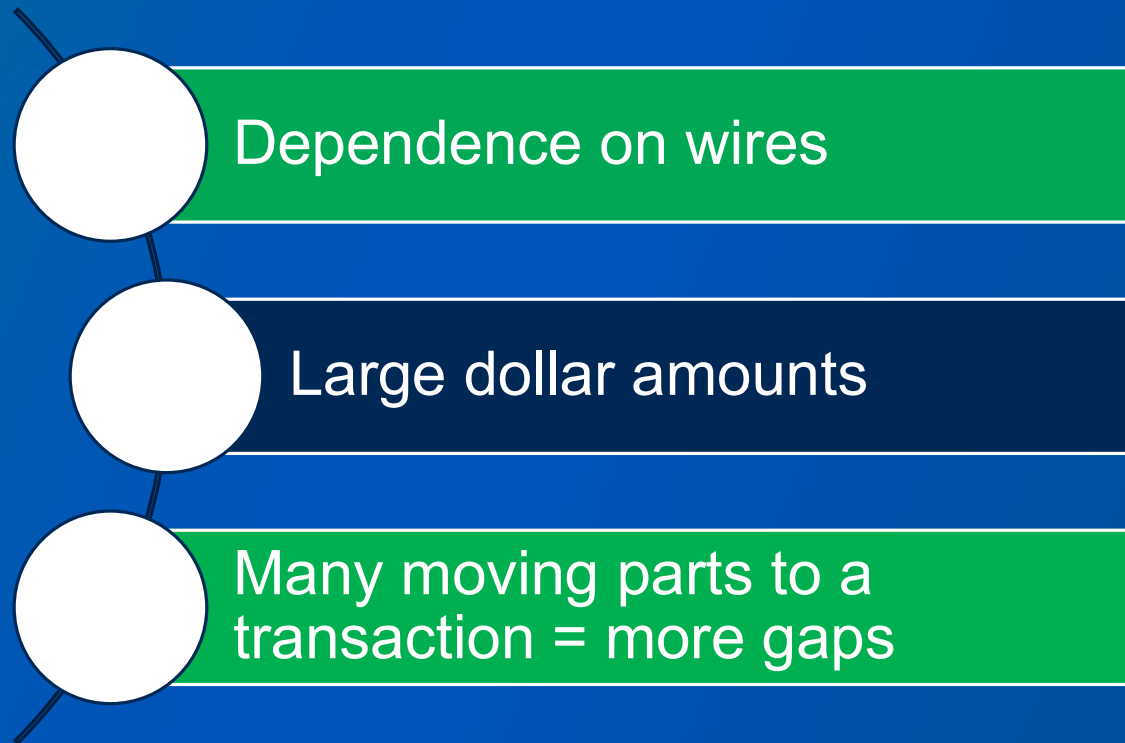
Internal Controls & Training



Wire Fraud in Real Estate



Why Real Estate Fraud is Attractive



Case Study: Wire Fraud

Background

Title Company is finalizing a closing and receives wire instructions from the realtor on behalf of the mortgage company to fund the closing proceeds. Title Company wires the money, however the mortgage company never receives the funds and the loan payoff does not occur.

The Scam

Knowing that many realtors use email addresses separate from the brokerage, a fraudster gained control of the realtor's Gmail account. They then were able to send false wiring instructions directly from the email account.

How it Could've Been Prevented

ALWAYS phone verify wire instructions. When new wiring instructions are sent, verify by phone.



Internal Controls & Training



Other Considerations

- Realtor Partners
- Check and ACH Filters/Blocks
- Cybersecurity
- Business Insurance
- Banking partner who understands the risks

Realtor
Partners

Check & ACH
Filters/Blocks

Cybersecurity

Business
Insurance

Knowledgeable
Banking
Partner

Case Study: Other Factors

Background

Clients are receiving calls about unusual online banking activity. The callers are claiming they are from the Security Department of their bank and in some cases are spoofing the phone numbers. The “security” team asks for the client’s login information to verify who they are and the transactions.

The Scam

The fraudsters obtain login information in real time, using the victim to help them send wires or make other transactions.

How it Could’ve Been Prevented

Never provide your username, password or one-time codes to someone who calls, texts or emails you. A bank will never reach out asking for this information. Dual Control on wires would require at least two individuals to log in and confirm the transaction.



Internal Controls & Training



Putting the Pieces Together

Understand
the Risks

Know Your
Team

Be Fraud
Aware

Utilize Available
Resources

Wire

The Unexpected

Q&A



Bram Berlin



Mike Pontikis



Safeguards for Agents & Clients

Session 3

Ethical Title Agent Liability

presented by



Nancy Gusman, Esq.
Brick House Consulting



Nancy L. Gusman, Esq.

ngusman@gusmanlegal.com

After over 35 years as an attorney practicing real estate and business law, Nancy Gusman has now redirected her focus on helping title companies, real estate brokerages, and other small businesses turn more of their revenues into profits.

In 2022, she opened Brick House Consulting Services, LLC to provide consultation services to small business owners, with 0 to 50 employees, who want to increase productivity and reduce overhead costs, with a particular focus on title companies and real estate brokerages. Specifically, they specialize in consulting on office protocols such as day-to-day operations, processes and workflows, company policies and procedures, best use of team members, hiring and firing best practices, proper accounting and bookkeeping practices, management training, leadership skills, and practices that reduce liability. They also provide specialized training and education for real estate agents, title professionals and real estate investors.

Nancy's greatest passion is helping her clients grow their businesses from the inside out. She has a deep and thorough understanding of general business operations, as well as the real estate and the title industries. Having owned five businesses and managed multiple title and escrow companies and law practices, she has honed her business management and leadership skills. It's this experience that has allowed her to lend her expertise to her clients, many of whom have gone on to lead their own successful businesses, grow in their managerial skills or achieve more success in their company roles. Equally important are her former team members, co-workers and employees who were hired with no experience in the real estate or title industries but have gone on to own their own businesses or successfully manage someone else's.



To Protected.....

Understanding Your Title Agency's
Agency's Risk & Liability



“The trust and integrity of the land title industry depends on the ethical conduct of every title agent.”

JOHN DOE, TITLE INDUSTRY ETHICS COUNCIL

Introduction to Title Agent Liability

Today we are talking about title agent liability. Why? Because if you are not closing the gaps in your liability and expenses, you are not only losing money, you are risking the sustainability of your business.

Title agent liability refers to the legal responsibility of a title insurance agent to policyholders. Agents can be held liable for negligence, fraud, or failing to disclose information that would have prevented a claim. Agents have a duty to search title records and disclose any defects. Failing to do so can make the agent liable for losses the buyer or lender suffers.



Most title & escrow companies are opened by a processor or settlement officer who has been working for others for several years and believe that they can run their company as well or better than their previous employers. But the fact is, most are running their companies the same way they observed in their prior employment with few variations.



So how do we measure the success of a title company?

The number of closings performed?

The amount of gross revenues generated?

I agree that these are factors that contribute to the measure of a successful title company.

I would also offer that success is also measured by:

- Level of compliance with statutory and underwriting requirements, as well as ALTA's Best Practices
- The number of claims made to your underwriters or complaints received from customers or clients
- The amount of profit left after all of your expenses have been paid out
- Team members who are motivated to complete their tasks efficiently, accurately and timely while communicating calmly and effectively both internally and externally
- Customer & client satisfaction

Believe it or not, understanding your liability is going to:

Enhance your level of compliance with statutory and underwriting requirements and Best Practices

- Reduce the number of complaints and claims made
- Reduce your overall company expense
- Enhance the performance of your team members
- Increase customer & client satisfaction
- Increase the number of closing orders received
- Increase Revenues
- Increase Profits



Title Insurance

Title insurance is a type of insurance that protects the lender and/or owner against any losses that may occur due to disputes over the title of a property. Often, these disputes arise due to an error that occurred in a title office while processing a transaction.

Title insurance does not protect the title agent from liability for errors that occur in their office due to recording errors, negligence, fraud or other errors that may have caused the title defect.

Title Agent Liability Insurance

Errors & Omissions (E&O) Insurance

Covers negligent acts, errors, or omissions made by the title agent that result in financial loss.

Who Needs It

All title agents should carry E&O insurance to protect themselves and their agency.

Policy Limits

Typical limits are \$500,000 to \$1 million per claim and \$1 million to \$2 million aggregate.

Deductibles

Deductibles typically range from \$5,000 to \$25,000 per claim.

Coverage

Covers claims like failure to detect title defects, improper recording, and negligence in closing transactions.

We all know that insurance companies would not be in business long if they paid every claim that came in and, even when they pay a claim, pay 100% of the amount claimed. Therefore, your title insurance underwriter and your E&O carrier are both going to closely examine the claim and the cause of the claim to determine whether or not they are liable under their policy, whether there may be an exception in their policy that allows them to deny the claim, how much they may actually be liable for and, if they do pay the claim, whether there is a way to recoup their loss.



Do You Know If You Are Covered for these Errors or By Whom?

Title Insurance

Depending on the error, your title insurer may pay out a claim by an insured party, but there may be consequences such as

- Termination of your agency agreement
- Pursuing your agency for reimbursement of any claims paid
- Required reporting to state insurance authorities which may result in suspension or revocation of your title insurance license

E&O Insurance

This is really going to be dependent upon the exact terms of your policy, however, the two most common considerations are

- Timeliness of Reporting the Error to the insurer
- Whether there is an exception in their policy that covers the claim



So let's take a quiz... for each of the following scenarios tell me which insurance provider you think is covering the incident – the title insurer or your E&O carrier

Scenario 1:

You send a payoff request to ABC Mortgage Company, and they provide a payoff statement good through August 18. On August 21, without further request, you receive a computer-generated updated payoff statement good through September 18. The new payoff appears to be identical to the first one with simply the interest updated for the new payoff date. You close on the transaction and wire the payoff funds per the instructions on the 2nd payoff statement. What you did not notice is that the account information on the wire instructions differ between the 2 payoffs and no one in your office called to verify the wire instructions before sending. It goes without saying that your wire did not reach the correct hands.

Scenario 2:

Your title search reveals a covenant recorded in 2021 that is listed as an exception in your title insurance commitment and policy. However, no one in your office read the covenant to see that it requires the seller of your property to list the property with a specific real estate brokerage and failure to do so triggers a 3% commission due to that brokerage. Your seller listed the property with a different brokerage and you did not inquire of the seller or collect any commission or fee for the brokerage that recorded the covenant.

Scenario 3:

You complete a closing, collecting government issued photo IDs and social security numbers from your buyer and seller. Later, after closing, you discover that the Seller was not the true owner of the property and had provided fake identification.

Scenario 4:

You complete a closing where the seller is the personal representative or executor of an estate. You collect and review all of the appropriate estate and probate documents and follow all of your underwriting guidelines in the completion of the sale. You later discover that the Seller did not properly list all of the potential heirs in their probate filings and now one of those heirs is claiming an ownership interest in the property.

Losses Incurred from Errors

We all know that not all errors turn into insurance claims
BUT your title agency is spending money to avoid those claims.

You lose money every time you have to pay an additional recording fee, cover additional interest on a payoff that went out late, cover the underwriter's portion of the title insurance premium because the premium was miscalculated, left a debt or fee off of the CD or HUD-1. Some states even have a financial penalty for late recordings.

All of these losses are avoidable and are reducing your profit margin.



Most Common Processing errors that trigger claims/expenses/losses



Failure to properly comply with FIRPTA, 1099 or similar state tax requirements



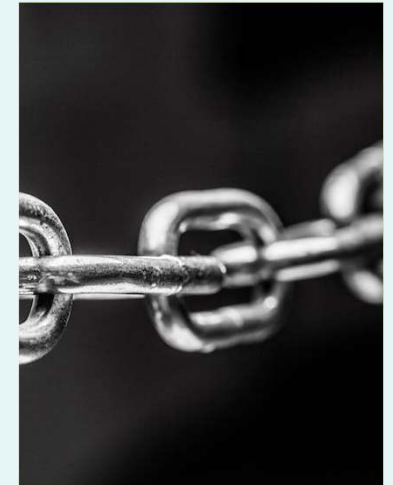
Failure to properly identify signing and closing authority for a business entity, estate, trust, guardianship, power of attorney, etc

[illegible]

Failure to include a debt,
tax or expense on your CD
or HUD-1

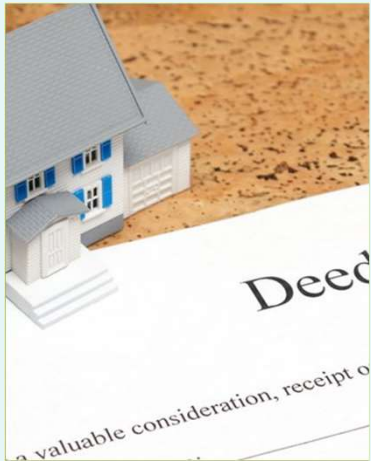


Failure to list a Requirement/Exceptions in your binder/policy or listing different exceptions in the policy than were disclosed in the binder



Missed Lien or Title Defect in your Title Search/Report

Most Common Processing errors that trigger claims/expenses/losses



Errors contained in deed
or other documents for
your transaction



Documents not timely
filed for recording,
rejected or incomplete



Closing fails to comply with the contract of sale



Commingling funds or
"borrowing" from the
escrow account or other
mismanagement of
escrow account



- Kickbacks or Relationships with other industry professionals that violate or appear to violate RESPA restrictions



Failure to Detect Fraud Leads to Liability

1. Sellers may defraud Buyers
2. Buyers may defraud Sellers
3. Buyer or Seller may defraud their lenders
4. Buyer/Borrower/Seller Impersonation
5. Coercion of Elderly or Impaired
6. Wire or Check Fraud

Read The Following Documents to Determine Your Exposure



- All of your title insurance agency agreements. Do not assume they are all the same.
- Your E&O policy so you know what is and is not covered and what you must do to make sure a claim is properly covered
- The title insurance policy
- The Closing Protection Letters for each of your title insurance underwriters

All of these have limits to their coverages and may hold you directly liable for certain failures in your office

Common Team Behaviors That Can Lead to Loss of Business or Loss of Licensing

- Poor Communication Skills/How Your Team Interacts with clients/customers
- Unauthorized Practice of Law
- Inconsistent Level of Service
- Fraudulent Practices
- Failure to Properly Protect Non-Public Information

How To Protect Yourself From Loss

- **Written, Clear, Concise Policies & Procedures that include ALTA Best Practices**

Make sure your team has read these, understands them and is following them. Every file must be processed identically regardless of which team member is handling the transaction.

- **Quality Control Systems**

Nothing should leave your office without another pair of eyes to look at it. This includes all versions of CDs, HUD-1s, Title Insurance Commitments/Policies, Recordings, Disbursements, any settlement or legal documents prepared in your office.

- **Keep detailed records**

Maintain thorough files on each transaction to respond to any later claims or disputes.

- **Disclose all material facts**

Fully disclose all information that could impact the transaction to avoid accusations of misrepresentation.

- **Avoid Fraudulent Money Transfers**

Verify source and availability of funds for cash purchases to avoid failed transactions; verify wire instructions prior to initiating any wires, advise your borrowers and sellers to beware of wire fraud scams

- **Ask Questions**

Verify identities, speak to the Grantor of a POA to make sure they know about the transaction and verify the relationship to the agent, look closely at payoff statements and any restrictions attached to a short sale, make sure lender originating new loan is aware of all details, verify both Buyer and Seller have the same understanding of the transaction



Services Include:

Title Agent and Processing Training

Assist with Establishing and Putting Policies & Procedures in Writing

Creating your Business Plan, Marketing Plan and Financial Plan

Delegating Tasks

Management Training

Defining and Establishing Your Company Culture

Team Building Exercises and Retreats

Hiring/Retaining/Terminating Employees

Diversity, Equity and Inclusion

Managing Staff/Processes

Basic Supervision

Administration & Time Management for Principals/Managers

Budgeting/Accounting/Payroll/Bill Paying

Employee Benefits

Shopping for/Maintaining products/services



BRICK HOUSE
CONSULTING SERVICES, LLC



Nancy L. Gusman, Esq

Chief Experience Officer

nancy@mybhexperience.com

www.mybhexperience.com

301-563-9669



Safeguards for Agents & Clients

Session 4

***Protect Your Agency:
Cyber, Fidelity/Crime
E & O***

presented by



Michele Blanco
Norman Spencer Insurance

Michele Blanco

Michele has been dedicated to supporting the Title and Real Estate Industry since 1996, specializing in insurance and bonds for this sector. Over the years, she has built a reputation as a specialist in these fields, offering invaluable insights to industry professionals.

Since 2006, Michele has been an educator, teaching continuing education courses that focus on the intersection of insurance and the title industry. She has delivered seminars for Title Underwriters and various State Associations, sharing her extensive knowledge with professionals looking to stay current.

Michele actively participates in industry seminars and educational events, ensuring that she remains informed about evolving trends and changes. This ongoing commitment allows her to provide up-to-date support, expert information, and solutions to industry stakeholders. She is also dedicated to staying aligned with Best Practices and understanding their impact on title agents.

Outside of her professional life, Michele enjoys spending time with her family. Her daughter, a recent graduate of the University of Maryland, is launching her career in science. Michele has a passion for composting and the fascinating process of turning food scraps, cardboard, and household waste into rich, nutrient-dense soil.

Michele is an engaged member of the Virginia Land Title Association (VLTA), Maryland Land Title Association (MLTA), and the District of Columbia Land Title Association (DCLTA).



Michele Blanco, CLTP | CA License # 4020253
Norman-Spencer | CA License # 0B64551

O | 443-263-2822 Direct

C | 240-381-3660

E | micheleblanco@norman-spencer.com



10050 Innovation Drive, Suite 340; Miamisburg, OH 45342



Crime, Cyber, E&O: The Insurance & The Losses Due To Fraud. Where Is The Coverage

A Little Bit about Michele

-  I started in insurance way back in 1996.
-  I work and care for the Real Estate and Title and Legal professions.
-  I spent these three decades learning the needs of this industry.

- When I am not working in insurance, I spend time with my family. I love composting and learning how to grow vegetables and flowers. While also trying to keep them safe from deer, rabbits and bugs.

Course Description



- Cyber Liability
- Fidelity / Crime
- Errors & Omissions

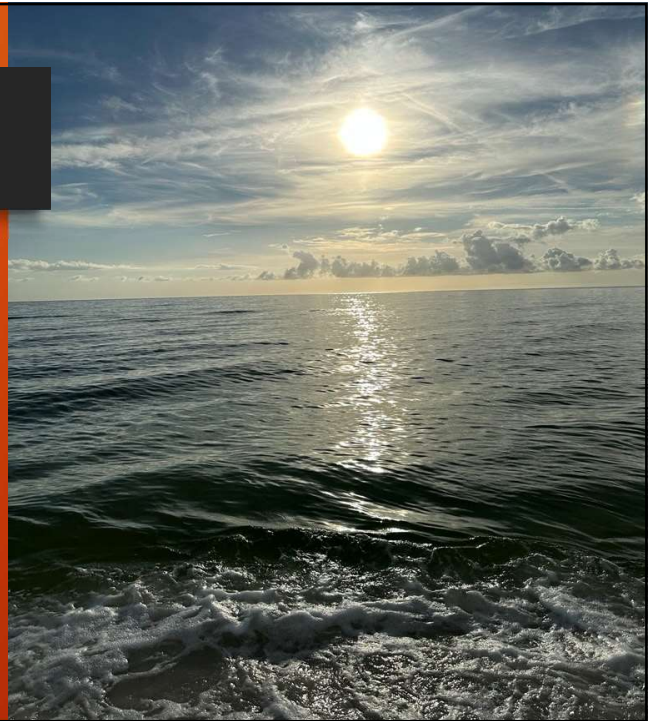
Is there insurance
for Fraud?

I think the premise of what you want
to know is:
Where is the coverage for
loss of money due to: Wire Fraud ???

*Might be Nowhere - unless you
verified and documented the
wire instructions before you
sent the wire*

Where do you look for coverage when money has been lost?

- Crime policy or Fidelity policy: First Party, YOUR direct loss.
- Maybe the Cyber.. but most Cyber do NOT protect from theft of funds.
- E&O? Only if you have an endorsement that specifically offers this coverage. ■



E&O

will not cover
Cyber losses.

Policy Basics

Fidelity
/ Crime

Direct loss of
Funds.

Cyber
Liability

Liability for a
System Breach.

Cyber Liability

You need this policy to protect after your computer systems have been hacked.

When you have been breached, and during an active threat, that is the time to contact to policy for a claim and immediate support.

If your system becomes inoperable, and you can't work, you may need to use the Business Interruption coverage. This coverage will reimburse you for the loss of income that happens during an extortion or ransom event as well.

Check your policy to see if it has Cyber Risk Management support tools, when you get your policy.

Social Engineering - your agency is tricked - funds are sent to a crook.

- a) the coverage for loss of money is usually found under a crime/fidelity policy. IF it has Social Engineering or Fraud Induced Transfer coverage.
- a) If there is social engineering included in a cyber policy, there may be conditions that limit coverage.
- a) it is imperative that you read the conditions in the policy, to see if a Call Back process is required to verify wire instructions.
- a) Most Cyber polices that have social engineering coverage DO require a call to verify wire instructions.

What is the best practice to understand your cyber policy and your crime policy

- Read the policy.
- Read the exclusions
- Look for Social Engineering endorsements.
- Look for Exclusions for loss of money.
- Look to see if there is a call back verification for wire instructions.
- **VERIFY EVERY WIRE INSTRUCTION PRIOR TO SENDING.**



- **\$500k – recovered**

- Crook issued wire out of client bank account. Just after getting a “token device” from their bank, title agent was trying to send a wire but kept getting system errors on their computer. Rebooted their computer and was able to log in. That reboot somehow allowed the crook access and the crook wired out \$495,000. The title agency had dual notification on the wires, (only to notify), so the wire was able to go out.

- **\$500k - recovered**

- Realtor was involved in payment part of the transaction.
Only the realtor communicated with the seller.
“New” wire instructions sent to title agency via fax.
All fraudulent communications were due to realtor sending and receiving wire instructions in a non-secure manor.

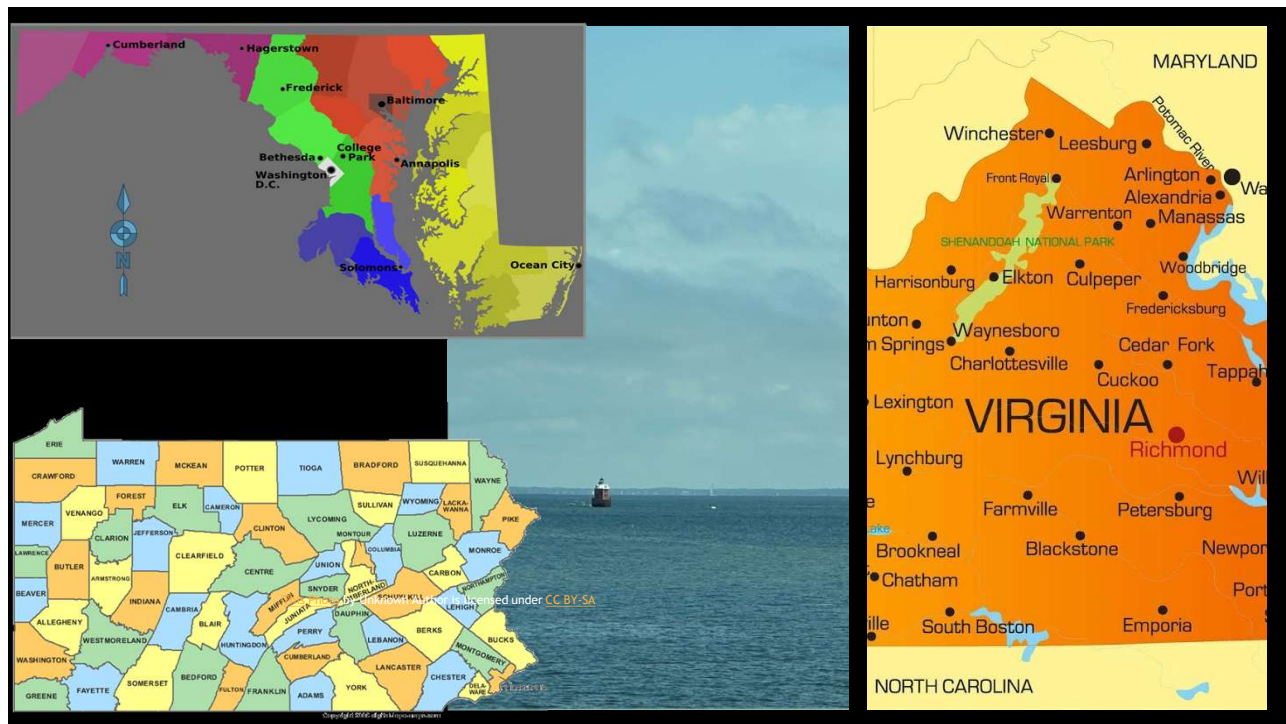
\$1mm - recovered

- Realtor involved in the payment of the transaction
Realtor had the title agents wire instructions and would send to the buyers or sellers, via non-secured email. Mid-way through the email address sending the wire instructions, switched to something similar, but a different address, mid-email conversation, man in the middle, and nobody noticed.

\$200k – NOT recovered

man in the middle - insurance responded

- Title Agency communicated with the buyer via a known secure portal.
- Buyer confirmed that they had the secure portal and understood the process.
- Buyer received and **EMAIL** “updated wire instructions” from the “title agency” **outside** of the secure portal.
- Buyer said that they “called the title agency and spoke to staff that confirmed these new wire instructions” the ones that came **OUTSIDE** of the portal.
 - Since the wire instructions were not correct, there is no way the buyer talked to the title agency, potentially they called a number that routed to the crook.



\$500k – Recovered

- Money stolen directly from the Title Agency's escrow account, allowed by bank. The bank allowed a crook to open an account and then allowed that crooked account to connect with the bank accounts of the title agency, as the "owner" of the title agency. Then the crook transferred all the money out.

\$357K, \$234k, \$384k - mostly recovered

Title agency received wire instructions from a law firm, one settlement, but three different wires.
The Law Firm had received the fraudulent wire instructions first and did not verify on their end.
They recovered all but \$150k.

- **\$800k – NOT Recovered**

Seller side title agency collected the lender payoff and seller proceeds data and provided it to the buyer side. The title agent for the buyer side (B) did not verify what they received and sent the funds to a crook.

2023 - \$555k – NOT recovered

man in the middle.

- The biggest error on this one, the buyer never ever spoke with the title agency. The buyer only talked to the realtor, but there was a man in the middle, that would intercept the emails and provide different responses to the buyer or realtor, depending on the topic.
- When they got to closing, the title agency asked for the money, buyer said “I already sent it to you”, and that was it.
 - The title agency didn’t do anything wrong, because the realtor never connected the buyer to the title agency, they didn’t even know this was all going on, until it was too late.

2023 - \$150k – NOT recovered

Property stolen from “nursing home”

- Realtor did not verify they had the owner of the property
- Fake owner of property “had to sell and was too sick to go to closing” and had to use their own notary.
- The crook played on the heart of the title agency, to feel sad for sickness. The Title Agency did not do the due diligence to find out if they had the actual owner of the property.

2024 - \$315k – NOT recovered

🗣️ What happened?

- Legitimate Realtor listed a property on the MLS and brought fraudulent seller to the title agency, but no one ever met this seller in person.
- Vacant land, No mortgage
- The “seller” used the exact name and address of the actual owner of the property. The “seller” is probably using the same fake ID channels that college students use, so the ID looks

\$1,500,000 - mostly recovered

Bank allows crook access to Escrow Accounts to wire 55 wires out, in small amounts. This is bank fault, but a very big bank and they did not accept responsibility.

recovered 1.3MM - after very difficult time with bank and bank denying liability.

Additional known incidents:

\$80k January 2021 - not recovered	\$95k September 2022 - not recovered
\$250k August 2021 - not recovered	\$227k October 2022 - not recovered
\$2.2MM, October 2021 - recovered most of it.	\$300k, \$250k and \$400k one title agency November 2022
\$258k February 2022 - not recovered	\$387 same title agency as above. (recovered \$137k)
\$2.2MM March 2022 - recovered	
\$70k August 2022 - not recovered	
\$2MM, August 2022 - recovered	
\$350k August 2022 - \$250k insurance covered	

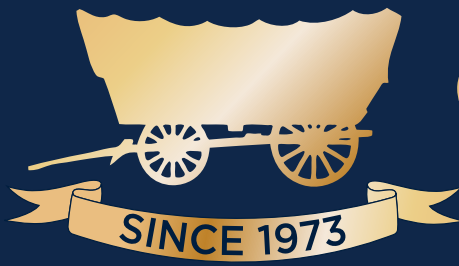
\$8,737,000.00



Michele Blanco



- Norman-Spencer Agency
- micheleblanco@norman-spencer.com
- 443-263-2822



CONESTOGA TITLE INSURANCE CO.

Over 50 Years Serving Independent Title Agencies & Real Estate Attorneys

- ✓ Experienced and responsive underwriting department
- ✓ Title search product
- ✓ Qualia & SoftPro integrations
- ✓ Demotech Financial Stability Rating® A' (A Prime), Unsurpassed
- ✓ Employee training
 - *Title production & software*
 - *New staff development*
- ✓ Competitive commission splits
- ✓ Top rated CE & CLE courses



800-732-3555
ConestogaTitle.com

VIRGINIA INSURANCE CONTINUING EDUCATION COURSE INTRODUCTION STATEMENT

Agents should visit www.VirginiaInsuranceCE.com to view their CE Transcript.

The Provider is required to post your credits within 10 days of course completion.

1. Course category (*check one*):

<input type="checkbox"/> Company/Agency	<input type="checkbox"/> Non-Company/Non-Agency
---	---

Course 228813

2. This course has been approved for how many credits? _____

3. This course has been approved for (*check all that apply*):

<input type="checkbox"/> LH	<input type="checkbox"/> Public Adjuster	<input type="checkbox"/> PC	<input type="checkbox"/> Ethics 1.0
<input type="checkbox"/> TI 3.0	<input type="checkbox"/> Laws and Regulations	<input type="checkbox"/> OGI	<input type="checkbox"/> Flood
<input type="checkbox"/> LTC	<input type="checkbox"/> Mitigation	<input type="checkbox"/> LTCP	<input type="checkbox"/> Annuity Best Interest 4

4. Classroom courses - One credit hour is 50 minutes of continuous instruction or participation. Your attendance will be verified via the sign-in/ sign-out sheet.

5. A certificate of course completion will be provided within 20 days. If a course does not appear on your transcript contact the provider.

6. Agents cannot receive CE credit for the same course in the same renewal cycle regardless of the format.

7. Excess earned Ethics credits may be applied to cover other CE requirements in the current renewal cycle. Any remaining ethics credits may be carried over to the next renewal cycle and applied to the Ethics requirements first and then to other CE requirements.

8. **ONLY** the Virginia Insurance License Number (VLN) or the National Producer Number (NPN) are permitted forms of identification.

9. Agents are expected to give their full attention to this class. Cell / smart phones should be turned off and put away unless being used to register class attendance or to access instructional material. The use of these devices is permitted in the classroom for learning purposes but should not cause a distraction. The volume of these devices should either be completely turned down or muted. Earbuds and headphones are not permitted.

10. This class may be audited.

11. Review the [Continuing Education Handbook](#) for complete guidelines at www.VirginiaInsuranceCE.com.

For Self Study Courses:

- Self-study exams do not require a proctor if administered on-line, or at an approved test center. See the handbook for proctor requirements.
- Self-study courses may or may not require an exam for CE credit. Exams must be taken in a manner approved by the Board. Address any questions regarding testing with your course provider.
- Student and Proctor Certifications, when required, must be submitted to the course provider without delay upon completion of the course.

Agents and consultants are required to notify the Virginia Bureau of Insurance within 30 calendar days of any email, address or name change at <https://scc.virginia.gov/pages/Online-Services-Information>. Those who fail to update their contact information may not receive important notices.