Anatomy of A Claim â?? Part 2

Description

It has been a long day. After your calls to your title insurerâ??s underwriting counsel, your E&O carrierâ??s agent and your lawyer, you pulled together your file and retraced your steps. With 20/20 hindsight, it has become clear that you may have made a couple mistakesâ?¦â?¦

Your first question had been â??Why us?â?• After all, Joe was from Maryland wanting you to handle the sale of a property in the District of Columbia. What was he doing in a title company located in Fairfax County, Virginia? You allowed yourself to be distracted by Joeâ??s promise of business and flattered that an unknown realtor had recommended you. Charm and unsolicited promises are two of the tools used by fraudsters and something to guard against when dealing with an unknown individual.

And then there was the deed. How often does a person hand over a deed to a perfect stranger and trust that they will bring back the consideration once the property has been resold? How many people do you know who have a pre-signed deed just lying around the house â?? a pre-signed deed notarized not in the District of Columbia, but in the State of Maryland? You suddenly regret not looking more closely at the illegible notary seal or verifying the identity of the notary. You promise yourself that tomorrow you will implement a procedure in your office requiring a detailed examination of a deed and the circumstance under which it was signed outside of your office. A read of your E&O policy has disclosed a common practice â?? it only extends coverage against issues regarding acknowledgments if the document was signed in the presence of a notary hired or retained by the insured.

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As you stare at the ceiling that night, it occurs to you that someone should have insisted on speaking directly to Sadie or should have required some form of identification prior to closing. One dangerous aspect to accepting photocopies of license is the ability to create licenses. One need only Google â??Fake California IDâ?• to find myriad sites offering just that (NOTE: it is neither suggested nor recommended that the reader click on any of those sites). You learned that an annual guide to driverâ??s license forms can be ordered online at https://www.driverslicenseguide.com/book-us.html.

You might have done some of the above, but Joe had been so chatty, providing a barrage of details, pulling you into his confidence and soliciting your assistance in protecting him against the possibility that Sam might try to broker a different deal with Sadie. Your attorney explained to you that these are some more telltale signs of a fraudster. Use of too many details distracted you from the obvious â?? that you knew nothing about Joe. Placing the deed in your possession and soliciting your assistance is a practice known as forced teaming, designed to make the mark feel closer to and trusted by the fraudster.

The speed and urgency of the transaction was also intentional. Joe appearing at the end of the month and the speed with which the transaction moved were all designed to keep you from taking the time to focus on the story as a whole. You scribble on a pad to turn a critical eye on any transaction where urgency is demanded by the customer â?? especially one that you do not know.

Joe also appealed to your greed with not one, but two transactions based upon an initial purchase price that was incredibly low given the assessed value of the property. Sometimes if a transaction looks too

good to be true, it is. The next time this happens, you will call your underwriting counsel or another person in the industry whose opinion you trust to get a second opinion.

Giving up on sleep, you re-read your file once again and the red flags start popping out at you:

- Joeâ??s request that you list him as the owner of the property. The record owner should always be the name that appears on the commitment. By acceding to Joeâ??s request, you inadvertently assisted him in defrauding Elwood and placed yourself squarely in the crosshairs of a civil suit; it also did not do much to curry favor with your title insurer and may have affected your E&O coverage.
- Samâ??s lack of a bank account â?? and wiring instructions that sent money to a third party
- Lack of any connection to Sadie. You were given no opportunity to speak to the actual property owner; even after she failed to show up, Joe remained the sole avenue of communication.
- Lack of required documentation. The missing FP7-C should have caused you to more closely examine both instrument and the story behind it, and stopped any funding in its tracks. Requiring Sadie to appear and sign the FP7 would have alerted you to the fraud.
- Unfamiliarity with the recording jurisdiction played a part in Joeâ??s selection of your title company, your willingness to accept Joeâ??s help and your delay in seeking assistance after the closing
- Delay in reaching out to your title insurance underwriter. Sitting on the file may have spent whatever good will you may have had remaining with both your title insurer and your E&O carrier.

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The sky begins to brighten, you pull yourself together and head into the office for what promises to be another long day.

If any lesson is to be taken from this, it is that one should know and work within their limitations, both as to staffing and knowledge. Documents should be carefully examined in all transactions and the pace within an office should stay manageable. It is better to refer business away than to risk liability and reputation.

And now the twist. After this event was resolved, a decision was made to base a seminar on the facts of the actual transaction. While reviewing his notes in preparation for the seminar, the writer received a call from a Towson, Maryland based agent with a concern about an â??internetâ?• deed. The seller claimed to have purchased the property from a woman in the District of Columbia, but had failed to record the deed. After the property was placed into tax sale, the seller had contacted the tax sale purchaserâ??s attorney seeking to redeem the property.

The agent sent their underwriting counsel the contract of sale and the deed in question. The deed was an internet form deed dated in 2013. Because the agent had concerns, the deed received a closer than usual review and one thing was noted â?? a copyright of 2016 appeared at the bottom of the last page. Since it would have been a little difficult to sign a deed bearing a 2016 copyright in 2013, the agent was advised to reject the deed as a forgery.

Then the writer glanced at the contract. Several of the names seemed very familiar; a quick glance at his notes confirmed that the several of the parties to the Towson transaction had participated in the Virginia transaction. Even the formula was similar â?? an assignment to Sam and ultimate sale to an unsuspecting third party. Joe had been replaced by another individual and the construction company was now a realtor. The transaction had arrived late in the month and the seller was pressing to close as soon as possible. After a quick call, the agent telephoned the seller, advised him he had â??set his

underwriter straightâ?• and that he would be happy to complete the transaction.

As karma would have it, the attorney representing the tax sale purchaser was also representing Great Expectations. He, too, recognized the names and insisted that the deed be recorded before he would provide any redemption figures. The fraudsters, smelling a payday up in Maryland, were all too happy to record the deed. They then heading to Maryland for an end of month closing.

The settlement attorney in Towson completed settlement and excused himself to go make copies and cut checks. He did not return. Entering instead were, the six FBI agents who had been alerted ahead of time and were posing as settlement customers in the waiting room. This only happened because the settlement agent followed instincts and called for a second set of eyes when something just did not feel right.

The story does not end there. The fraudsters had recruited a gentleman to take title under the forged deed. That deed remains on record in the Office of the Recorder of deeds and the gentleman continues to be contacted by real estate agents who see a vacant property and look up the owner via the DC Land Records. Each time he is contacted, despite being under investigation for his part in the attempted fraud, he agrees to sell! Because the property continues to be listed as being in tax sale, at least three settlements have been thwarted when tax sale redemption amounts were requested.

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But it may only be a matter of time before that deed finds its way into your office.

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1. Title Examination
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3. Title Examination

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