



# FRAUD UPDATE



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Our mission is to provide knowledgeable and responsive underwriting solutions to support our network of title insurance agents across America. Title Resources is dedicated to growing lifelong relationships and maintaining quality through integrity and financial stability.

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# Why is Fraud A Title Issue?

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- The Consequences
  - ❖ Forged deed or satisfaction can result in a complete failure of title or loss of lender's first mortgage position
  - ❖ Fraud subjects agents, attorneys and underwriters to large claims & high defense costs
  - ❖ Reputational damage
  - ❖ Business losses – worse if not covered by E&O policy





# What Do We Mean by Fraud?

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- Mortgage Fraud
- Real Estate Title Fraud
- Cyber Fraud



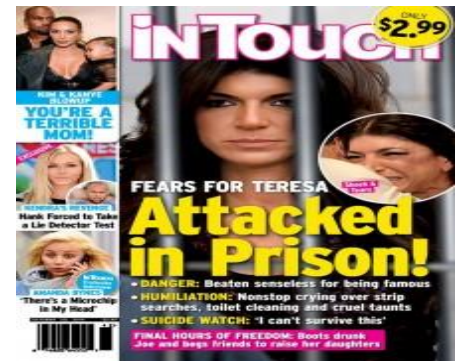


# Mortgage Fraud

Definition:

Material misstatement, misrepresentation, or omission relied on by an underwriter or lender to fund, purchase, or insure a loan.

Teresa Giudice: [The Real Housewives of New Jersey](#)





# Mortgage Fraud

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## Types of Mortgage Fraud\*:

- Employment/Income Fraud
  - ❖ Misrepresentations made to meet underwriting loan guidelines.
- Property Valuation
  - ❖ Manipulating property values to create "equity" which is then extracted by loan based on inflated fictitious value

\*Source: The Interthinx 2014 Mortgage Fraud Risk Report



# Mortgage Fraud

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## Types of Mortgage Fraud\*:

- Identity Fraud
  - ❖ Fraudster uses a “straw” borrower or a stolen identity to obtain a credit profile meeting lender guidelines.
- Occupancy Fraud
  - ❖ Borrower falsely claims that they will occupy a property to obtain a mortgage with a lower down payment and/or lower interest rate.

\* Source: The Interthinx 2014 Mortgage Fraud Risk Report



# Real Estate Title Fraud

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- Identity Fraud
  - ❖ Impersonation
  - ❖ Fake Identification
- Document Fraud
  - ❖ False, forged or suspicious:
  - ❖ Deeds
  - ❖ Mortgage Satisfactions
  - ❖ Powers of Attorney



# Spotting Possible Fraud

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- From any angle, a title agent, the closing attorney and support staff must be alert to the possibility of fraud.
- Red Flags can be identified by the Parties, the Transaction, the Property and the Documents which have been recorded or are presented at settlement for recording.







# Spotting Possible Fraud

- Red Flags: The Parties

- ❖ Are the parties known to you or are they strangers?



- ❖ Are the parties “local”? Or are they coming in from another County or State to sell or refinance property?



- ❖ Were the parties referred to you by a trusted source? Or did they seem to pick your name out of a phone book?



- ❖ Is this a conventional loan from a known lender OR is this a “**hard money**” lender with “**flexible**” underwriting standards, high interest rates and closing costs, a lender who is savvy enough to know that a loss due to forgery will be covered by title insurance?





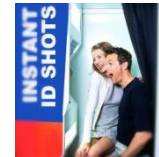
# Spotting Possible Fraud

- Red Flags: The Parties:



- ❖ Do the parties have normal contact information?  
Mailing address, phone including cell # and e-mail?

- ❖ Have the parties presented government issued identification?



- ❖ Has someone said that this is a "***super rush deal***"? Have you received multiple calls urging that closing occur asap?





# Spotting Possible Fraud

- Red Flags: The Transaction

- ❖ Earnest money deposit coming from someone other than borrower/buyer; Source of deposit a mystery.



- ❖ Payouts to third parties not to be listed on HUD-1.



- ❖ Seller take back mortgage not disclosed to lender.



- ❖ Recently recorded lien involving a disbursement paid to a participant in the transaction.



- ❖ Recent changes to record title where the new owner is now selling the property.





# Spotting Possible Fraud

- Red Flags: The Property

❖ Is the property “apparently” free and clear of any mortgages or other encumbrances? ***Does it seem ODD that there is no mortgage to be paid off?***



❖ Is the property owner occupied? Or is it vacant with an absentee owner?



❖ Is the property a primary residence or a second home?



❖ **Is party walking away with a LARGE amount of cash?**





# The Documents

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- Red Flags: Suspicious Deeds

- ❖ Has a Deed been recently recorded? Why couldn't the Deed have been recorded as part of your transaction?



- ❖ Did the recently recorded Deed remove anyone from title? For example, did the Deed remove one of the spouses from title without reference to the Deed being executed as part of a final divorce settlement?





# Cyber Fraud

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But wait, there's more!





# The Rise of Cyber Fraud

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## □ How did we get here?

- ❖ In the past 20 years, the internet and computer technology has transformed how we do business
- ❖ We have gone from in person closings and telephone communication to relying on e-mail to communicate
- ❖ We have gone from issuing checks and deposit slips to funding and disbursing by wire.....
- ❖ Our escrow process has become speedier, more efficient, convenient, hassle free. All good things!
- ❖ **But there is a trade-off.** Criminals also have access to the net and to our computers





If THIS can happen, hacking into your email account is a piece of cake

## Hackers Steal Up to \$1 billion from Banks

***Los Angeles Times-02/16/2015***

A gang of international hackers have stolen as much as \$1 billion from 100 banks across 30 countries by installing malware that allowed them to take control of the banks' internal operations, a cybersecurity firm says in a report released Monday.







# NOT A DAY GOES BY WITHOUT A CYBERCRIME HEADLINE

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*“Inside the Hack of the Century: What Really Happened. Why **Sony** Should Have Seen It Coming. And Why It Should Terrify Corporate America.”*

*“**JPMorgan Chase** Hacking Affects 83 Million Households”*



# NOT A DAY GOES BY WITHOUT A CYBERCRIME HEADLINE

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*“40 million cardholders compromised at  
**Target**”*

*“An attack at **Home Depot** affects 56 million  
cardholders”*

*“**Time Warner** Cyberattack Exposes Personal  
Information of 300,000-Plus Customers”*



# NOT A DAY GOES BY WITHOUT A CYBERCRIME HEADLINE

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*Biggest Cyber Hack Ever Said To Loom In Student Loan  
Records*

*01/11/2016*

*Hackers had a busy 2015, breaking into everything from the Ashley Madison database to CIA Director John Brennan's AOL account. 01/12/2016*

*Data Security Firm Believes U.S. Presidential Campaign or Election will be Breached and that **ISIS** Will Emerge as a Hacking Force. 01/12/2016*



# DEFINITION

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**Cyber crime** is the act of committing criminal activities by using or involving computers or computer networks.



# Cyber crime is divided into 2 categories

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## “TARGET” & “WEAPON”

- ❑ Crimes that target computers directly such as viruses, attacks and malware. (e.g. ransomware)
- ❑ Online crime that uses computer networks or devices as a means to commit fraud and identity theft.



# Trends in Cyber Crime

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- Cyber crime is here to stay. The reason is simple: Cybercrime pays and the rewards far outweigh the risks.
- Threat will increase & change. On the horizon:
  - ❑ Cybercrime as a service
  - ❑ Smaller won't be safer
  - ❑ Mobile device attacks
  - ❑ “Extortapalooza”



## OUR FEDERAL GOVERNMENT IS HIGHLY FOCUSED ON THE CYBER THREAT

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U.S. Director of National Intelligence ranks cybercrime as the top national security threat, above terrorism, espionage, and WMDs. [Pew Research Center's State of Cybercrime Survey](#) (2014)

U.S. government spent \$100 billion on cybersecurity over the past decade, and has \$14 billion budgeted for cybersecurity in 2016. *The Business of Cybersecurity: 2015 Market Size, Cyber Crime, Employment, and Industry Statistics.* [Forbes Magazine](#) 10/16/2015

*Cybersecurity Information Sharing Act 2015* – passed by U.S. Congress 12/18/2015



# PRIVATE SECTOR HAS BEEN HUGELY IMPACTED

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- ❑ Cyber-attacks costing businesses \$400-\$500 billion a year
- ❑ Banking and financial services - fastest growing non-government cybersecurity market
- ❑ The cyber insurance market – mainly a U.S. market – has grown from \$1 billion to \$2.5 billion over the past two years
- ❑ \$1 billion+ spent annually on security awareness training to reduce the number of breaches due to human error and ignorance.

*The Business of Cybersecurity: 2015 Market Size, Cyber Crime, Employment, and Industry Statistics. [Forbes](#)10/16/2015*





## PRIVATE SECTOR HAS BEEN HUGELY IMPACTED

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“Financial services firms are hit by security incidents a staggering **300 times more frequently** than businesses in other industries—which is natural, **since that’s where the money is**”

“J.P. Morgan, Bank of America, Citibank and Wells Fargo spending \$1.5 Billion to battle Cyber Crime”



## What should you do?

- **RECOGNIZE** that cyber fraud poses a **real** threat to your clients, to your reputation and ultimately to your livelihood
- **REMEMBER** that the parties rely on you to:
  - ❖ **Safeguard their funds** (ALTA's second pillar of its "**Title Insurance and Settlement Company Best Practices**" provides policies and procedures on safeguarding client funds)
  - ❖ **Protect their personal information** (ALTA's third pillar of its "**Title Insurance and Settlement Company Best Practices**" encourages implementation of a written privacy and information security program to protect non-public personal information)



# Cyber Fraud

- Phishing Attacks – Clicking the wrong link

“Cyber fraud starts by clicking on an e-mail you shouldn’t. This e-mail distributes **malware** onto your computer. These Trojan viruses then just lay low in the background, without you knowing it. They sit and wait, monitoring your activity, and then they drain your escrow account in one swift move or slowly over time-whatever scheme the criminals have devised”.



“Getting Smart About Cyber Fraud”, [The Legal Description](#), September 12, 2011





# Cyber Fraud

- Phishing Attacks: What should you do?\*
- ✓ Never click on an e-mail OR a link in an e-mail that is unknown or looks suspicious
- ✓ Protect your computer with anti-malware and anti-spyware software;
- ✓ Keep your computer updated with latest software;
- ✓ Check security settings on social networking sites.



\*For more, read [“Top Cyber Threats and 10 Security Tips for Title Professionals”](#), ALTA News (09/18/2014) Summary of presentation to Ohio LTA by FBI’s Kenneth Bixby of trends in cyber fraud and best practices to safeguard against an attack.



- Email Hacking/Wire Misdirection Fraud

“....cyber thieves are **targeting email accounts of sellers, buyers, attorneys, title agencies and real estate agents**. Shortly before a closing takes place, the hackers pose as a participant in the transaction and initiate instructions to send funds to a fraudulent account. ....this is done by changing the wiring instructions or cancelling requests for certified funds, and requesting wired funds into an account the hackers control. The money is then transferred immediately to an untraceable overseas.”\* ***“Attorneys, Closing Agents Warned of Fraud Scheme Involving Emailed Wire Instructions”*** ALTA NEWS, 12/17/2014

\*the inclusion of a **SWIFT-BIC code** in wiring instructions is a **red flag** for a fraudulent wire. Its use suggests that once a domestic wire transfer is received by the depository bank, it may immediately be resent to an international destination. The large increase in attempted thefts from title industry originates from foreign countries.



# Email Hacking/Wire Misdirection Fraud

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- What can you do?
  - ❖ **Email Hacking/Wire Misdirection Fraud**
  - ❖ **Confirm** wire and other disbursement instructions received from your clients by email by telephone [do not use tel.# at the bottom of the email you are trying to confirm]
  - ❖ **Be wary** of any change in wiring instructions.
  - ❖ *Who really changes their wire instructions that frequently?*



# Prevention Checklist

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- **KNOW** the signs of a potentially fraudulent transaction
- **BE** alert and suspicious [sadly]
- **ASK QUESTIONS** – **its your job to protect your client and your livelihood!**
- **TRUST** your instincts – excuse yourself from the settlement table & share your concern with fellow staff and lender
- **BEWARE** of last minute change to wire/disbursement instructions





## Case Studies: Fraud & Forgery

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Those involved in real estate fraud and forgery can be clever and persistent, which can spell trouble for your home purchase.

An innocent buyer purchased an attractive home site through a realty company, accepting a notarized deed from the seller. Then another couple, the true owners of the property — who lived in another locale — suddenly appeared and initiated legal action to prove their interest in the real estate was valid.





## Case Studies: Fraud & Forgery

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As it turned out, the forger spent time in advance at the local court house, searching the public records to locate property with out-of-town owners who had been in possession for an extended period of time. The individual involved then forged and recorded a deed to a fictitious person and assumed the identity of that person before listing the property for sale to an innocent purchaser, handling most contacts through an answering service. Also, the identity of the notary appearing on deeds was fictitious as well.



## Case Studies: Fraud & Forgery

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1. Is this scenario a case of a hidden title defect?
2. At the time of closing the buyer had purchased owners coverage for title insurance. Would this be a covered claim?
3. At the time of closing the buyer waived the option of owners coverage for title insurance. Their lender had title insurance coverage. Could this coverage protect the new owners as well?



# Fraud & Forgery: Answers

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1. Fraud and forgery are examples of hidden title hazards that can remain undetected until after a closing despite the most careful precautions.
2. Although emphasizing risk elimination, an Owner's Policy protects your client financially through negotiation by the insurer with third-parties, payment for defending against an attack on the title as insured, and payment of valid claims. Under the Owner's Title Insurance Policy of the innocent buyer, bought for a one-time fee at closing, the title company provided a money settlement to protect against financial loss.
3. An Owner's Policy is necessary to fully protect a home buyer. Lender's title insurance, which is usually required by the mortgage lender, serves as protection only for the lending institution.



## Case Studies: Conflicting Wills

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After purchasing a residence, the new owner was startled when a brother of the seller claimed an ownership interest and sought a substantial amount of money as his share. It seemed that their late mother had given the house to the son making the challenge, who placed the deed in his drawer without recording it at the court house. Some 20 years later, after the death of the mother, the deed was discovered and then filed.



## Case Studies: Conflicting Wills

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Permission was granted in probate court to remove the property from the late mother's estate, and the brother to whom the residence initially was given sold the house. But the other brother appealed the probate court decision, claiming their mother really did not intend to give the house to his sibling. Ultimately, the appeal was upheld and the new owner faced a significant financial loss.

At the time of closing the buyer had purchased owners coverage for title insurance. Would this be a covered claim?



## Case Studies: Conflicting Wills

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At the time of closing the buyer had purchased owners coverage for title insurance. Would this be a covered claim?

**Answer:** Since the new owner had acquired an Owner's Policy of Title Insurance upon purchasing the real estate, the title company paid the claim, along with an additional amount in legal fees incurred during the defense.



## Case Studies: Missing Heirs

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A couple purchased a residence from a widow and her daughter, the only known heirs of the husband and father who died without leaving a will.

Soon after the sale, a man appeared - claiming he was the son of the late owner by a former marriage. As it turned out, he indeed was the son of the deceased man. This legal heir disapproved of his father's remarriage and had vanished when the wedding took place. Nonetheless, the son was entitled to a share of the value of the home, which meant an expensive problem for the unwary couple purchasing the property.



## Case Studies: Missing Heirs

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At the time of closing the buyer had purchased owners coverage for title insurance. Would this be a covered claim?





## Case Studies: Missing Heirs

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At the time of closing the buyer had purchased owners coverage for title insurance. Would this be a covered claim?

**Answer:** Although the absence of a will hindered discovery of the missing heir in a title search of the public records, an Owner's Policy of Title Insurance issued for a one-time fee at the time of the real estate transaction would financially protect the couple from the claim by the missing heir. For a one-time charge at closing, an Owner's Policy will safeguard against problems including those even an exhaustive search will not reveal.



## Case Studies: Line of Credit

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A seller established a \$100,000 equity line of credit against a property that is under contract for sale. The unscrupulous seller then closes the sale of that property 10 days later, which is too soon for the equity line encumbrance to show up in a normal property title search. At the time of closing the buyer opted to waive title insurance.

A year later, the new buyer went to re-finance his mortgage and discovered the \$100,000 lien against his property with the original seller long gone without paying. Citing the property title used to establish the \$100,000 equity line, the lending financial institution started foreclosure proceedings against the existing owner. The new owner calls his title insurance company to file a claim.

Does the title company allow the owner to file a claim?



## Case Studies: Line of Credit

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Does the title company allow the owner to file a claim?

**Answer:** The title company informs the owner that since they waived an owners insurance policy at the time of closing, that the responsibility to defend would be the responsibility of the owner. Had the owner obtained title insurance at the time of closing, the property owner could have simply asked the title insurance representative to resolve the problem and a claim could have been filed.

