



Danger, Danger! - Claims Prevention & Current Fraud Trends

Presented By: Dulce Phelps

Stewart Title Guaranty Company



How does a claim arise?

When there is a defect in the title that gives rise to a Claim under the title insurance policy.

What is the basis of a claim?

Contract – Something is only a Claim if the policy (including endorsements) says it's a claim – meaning it is a Covered Risk.

Who can file a claim?

Insured – the insured under the policy, or an agent of the insured.

The American Land Title Association divides claims into eight categories:

Fraud or Forgery

Survey Issues &
Legal Descriptions

Mechanic's Liens

Closing Procedure

Search Errors

Typing & Policy
Review

Judgment Error

Taxes & Special
Assessments

Coverages

- **2006 and 2021 Owner's Covered Risk**
 - 2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes ... insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
- **2006 and 2021 Lender's Covered Risk**
 - 2.(a) A defect in the Title caused by
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Closing Protection Letter (CPL)/Insured Closing Letter (ICL)

Provides protection against loss by reason of acts by the issuing office in connection with written closing instructions as they relate to the status of title, the obtaining of documents, and the collection and payment of funds.

This really happened...

A solid green circle containing the text "Lender - Kiavi".

**Lender -
Kiavi**

A solid yellow circle containing the text "Escrow- ESW/Rivera".

**Escrow-
ESW/Rivera**

A solid green circle containing the text "Title & Sub-Escrow Ticor".

**Title &
Sub-Escrow
Ticor**

A solid yellow circle containing the text "Borrower - Tang".

**Borrower -
Tang**

And it doesn't stop there...



Access

Insured filed a claim after the County alleged that there was no right of access to insured land and would not allow the insured permits for additional work the insured wanted done. There was no applicable exception in the policy related to access.



The Title Officer indicated the property was adjacent to a publicly maintained County road.



Claims investigation determined that a prior BLA had resulted in a gap between the insured land and the adjacent County road, leaving approximately 4.5 feet running the width of the property.

How could we have prevented this error?

- ❖ A better review of the boundary line map?
- ❖ 4.5 feet is pretty wide that might have been noticeable on an aerial
- ❖ Was there a Metes and Bounds description at some point, did it qualify to the public road?
- ❖ Compare that “parent description” to the new descriptions after the boundary line was moved



Affirmatively Insuring Access

If Schedule A includes a statement such as “together with an easement for ingress and egress...”, the policy is affirmatively representing that the insured has ingress and egress by way of **that easement.**

An exception in Schedule B does not negate a claim even if you have taken exception for the terms and conditions of the easement if the claim is that the easement is invalid.

A claim is not denied even if the insured has another right of legal access if we have affirmatively insured an access easement in Schedule A.



Legal Description Error

The insured filed a claim after Assessor refused to update tax records claiming the vesting deed was incorrect. The statutory warranty deed referenced Condo Unit #103 instead of #301.


Should be an easy fix, right???



- Reached out to Seller for corrective deed. No response. A few months go by. Finally, get ahold of the realtor who represented the Seller who advises that she moved to Taiwan, and he does not have her forwarding address! She is elderly and does not use email.
- Insured unable to move forward with planned work on the property (including obtaining a building permit) without corrected deed.



Prevention - Does the legal match in all related documents?

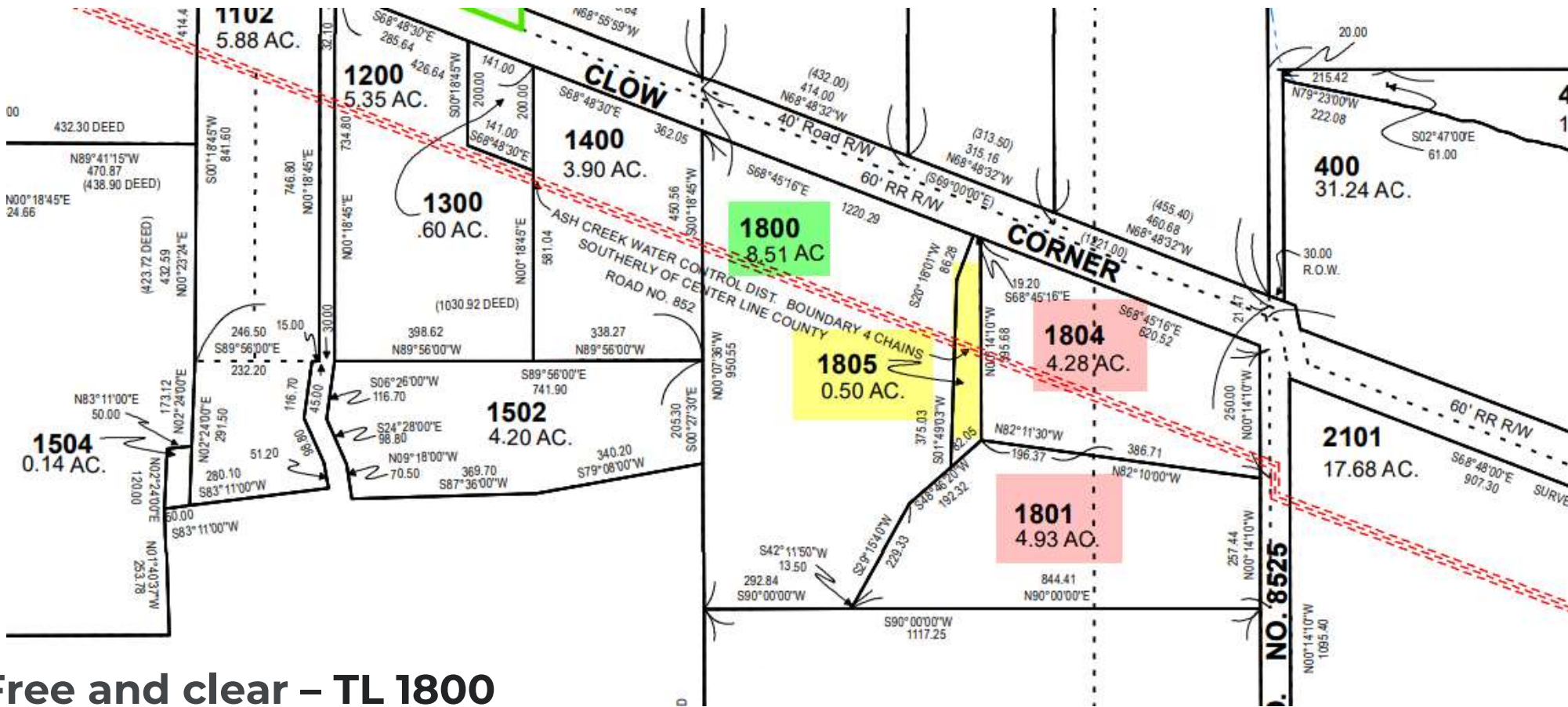
A cartoon illustration of a woman with long, dark red hair, freckles, and a thoughtful expression. She is wearing a black top and has her hand to her chin. A thought bubble above her head contains the text "This does not look right...".

This does not look right...

- Purchase and Sale Agreement
- Commitment/Preliminary Report
- Policy
- Deed of Trust

All MUST have identical information.

You can't make this stuff up...



Free and clear – TL 1800

Encumbered by DOT – TL 1801, TL 1804, and TL 1805

How was a claim prevented?



Definitions

Fraud:

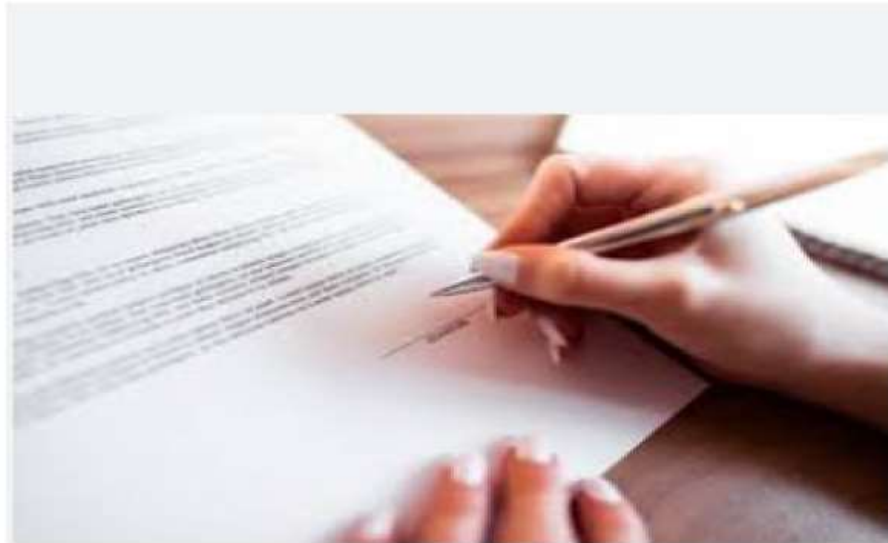
Intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right.

Fraudulent misrepresentation – A person **knowingly** makes an untrue statement of fact that induces the other party to act to their detriment or loss.

Also occurs when a person either does not believe the truth of his or her statement of fact or is reckless as regards to its truth.

Forgery

- To falsely sign or place a forged seal, or to alter a genuine signature, seal or imprint



Seller Impersonation and Non-Owner-Occupied Fraud Scheme



1 Public records searched to identify vacant lots



3 Listing price of the property is below current market value



5 Scammer requests a remote notary signing and impersonates the notary



2 Posing as seller, scammer contacts real estate agent to list the property for sale



4 Scammer quickly accepts the offer, with a preference for cash sales



6 Funds transferred to scammer and not discovered until later

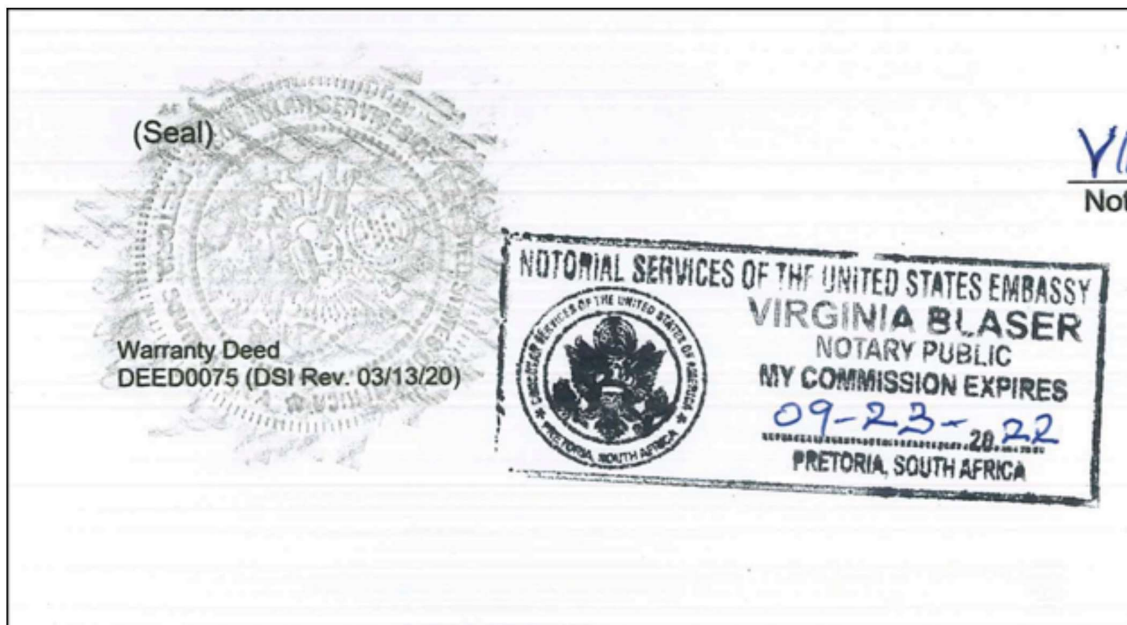
Red Flags

- No outstanding mortgages - free and clear property;
- Vacant land or Non-Owner Occupied;
- Seller in a rush to close;
- Real estate agent never meets with principals and is hired by e-mail;
- Sale documents are e-mailed to the seller, no in-person closing or use of RON;
- Typographical errors and non-matching signatures are common;



Red Flags continued

- Notary acknowledgments are suspect, slow down and really look at them
- Purported owner is not currently located at the owner's address listed in the county's tax records;
- Wiring instructions utilize banks not located in the owner's country of residence (as shown in county's tax records) and/or list third-party payee/account owner;
- Documents sent to title company already executed without prior inquiry to title company about how they need to be completed and acknowledged.



Ways to verify seller identity-



1

Treat any vacant lot or not-owner occupied property with additional caution



2

Ask Real Estate agent to provide source of lead and verify that they've met or had a video call.



3

Contact seller directly to begin intake process



4

Ask seller for color copy of ID



5

Ask seller for original title commitment or closing disclosure



6

Ask seller for most recent tax payment receipt

Breaking News US • 1d • 🌐

My Grandparents are Urgently looking for a family that can occupy their Vacant Home before they move to their Retirement Home for \$550/ mo. The house has a garden and is pet friendly, RENT TO OWN! 3-beds, 2-baths, 1,620sqft. Ready for move in Find more details here I will be notified and I will contact you to set up an appointment. Follow >>

<https://rentownclub95.godaddysites.com/>



A tale of two Title Companies



- Contract received from a trusted realtor
 - Escrow had previously done 3 – 4 transactions with the buyers
 - Knew seller but had not seen him for 10 – 15 years
 - \$620k vacant land deal. Quick close
 - Recorded deed wires sent
 - Banks were alerted, hoping they caught it – but they haven't heard definitively yet
 - IP3 report filed with FBI/Park City police in charge
 - Full identity theft on B. Gold – the fraudster knew SS# and where he grew up.
 - Escrow officer said she knew better, but never questioned it at all, given the people involved.
- Contract received from trusted realtor
 - Escrow knew the seller
 - \$620k vacant land deal
 - Quick close, cash buyer
 - 4 days before closing reached out to seller B. Gold
 - Finally, the day before closing B. Gold responded
 - Not selling a lot. Never listed lot. Don't close.
 - Company didn't close, called to warn other local title companies in case the fraudster tried it with one of them... But they were too late to stop the deal at brand X

How can we prevent this scam?



Contact seller using independent sources

First choice if they are not signing in your office should be a vetted RON Notary

Control the Disbursement

Verify the seller's identity

Use the public record

Say What!!

- PSA agreement for the sale of rental home \$700k
- 2 TDs and 2 Judgments
- Payoffs obtained with wire instructions
- Funds wired to creditors.
- 2 days later law firm called – where is the \$\$\$??
- Where did wire go?



DO NOT EVER EVER EVER EVER!!!!

CALL to verify wire instructions using a phone number on an email or on the payoff statement.

Verify the instructions using a phone number on file for the appropriate lender/creditor/seller/etc.



Wire Fraud... It happened



Ripped from the Headlines (well actually a real email received)

"It just came to our attention that a lawyer representing a seller on a transaction we just closed had his email hacked resulting in our receipt of fake wire instructions, which we confirmed by phone at the number on the fraudulent instructions provided after which we proceeded to send the amount of \$872,000.00 to pay off the seller's mortgage.

We will keep you posted on developments. Please call us to discuss the next steps."

How could we have prevented this??

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WIRE FRAUD STATISTICS

- \$106,557 was the average wire fraud loss for consumer recovery cases
- Real estate wire fraud continues to be one of the most prevalent cybercrimes in the U.S.
- Of the recovery requests for wire fraud, 41 percent were buyer cash-to-close transactions, 24 percent were mortgage payoffs, and 11 percent were seller net proceeds.
- During the Covid-19 pandemic in 2020, 19,369 Business email compromises (BEC) were reported, resulting in losses of \$1.8 billion FBI estimates only 12-15 percent of all wire fraud is reported

Forged Reconveyance



You can trust me!

- Mom and Dad died. Left family farm in trust.
- 5 siblings
- Escrow officer familiar with family, grew up with some of kids, did work for two of the brothers for years
- One brother goes out of country for service work
- Other brother wants to sell home, as co-trustee of family trust
- Out of country brother needs to sign as co trustee



Phishing - using emails to try and obtain sensitive information such as usernames, passwords, etc.



Different types - whaling, clone phishing and spear phishing

How Spear Phishing Works?



Threat actor identifies a target



Sends legitimate-looking email



Victim opens the email containing malware



Hacker gains access to steal data

Curry County computer system ‘starting from scratch’ after ransomware attack



By **Jane Vaughan** (Jefferson Public Radio)

May 15, 2023 4:45 p.m.

The Southern Oregon county is struggling to function after a ransomware attack left it unable to access any of its digital information.

How to identify a spear Phishing attack

Review emails carefully

- examine the sender's email address, is it the correct address? Hover your mouse over the email address to see what the "real" address is...
- look for misspellings
- review the signature line and email address in the signature block
- Does the email itself make sense? Would you expect an email like this from the sender

If you are suspicious... PICK UP THE PHONE



Smishing

With Smishing the attackers send the target an engaging text message to their phones, which is used to trick them into clicking on a link.

This link shares private information from the target's smartphone with the attacker or even installs malicious software onto the target's smartphone.



Artificial Intelligence - AI





Meet Dulce Phelps, an Underwriter with Stewart Title Guaranty. With over 30 years of experience in the title industry, Dulce has worked her way up the ranks, starting as a courier and gaining invaluable experience in all positions in the title department.

Dulce is a true "title nerd" with a passion for legal descriptions and maps. She takes pride in her ability to navigate the intricacies of title work, and her expertise has led her to work on a variety of transactions, from Native American Lands to Timberland Transactions, and everything in between.

Dulce's extensive experience has given her a deep understanding of the title industry and its many nuances. She is a trusted resource for her colleagues and clients alike, and her commitment to providing the highest level of service has earned her a reputation as a true professional in the field.

How do I get my hands on this amazing webinar?

This webinar along with others in the OLTA Educational Webinar Series will be available for download on the Oregon Land Title Association webpage, www.OregonLandTitle.com

If you have any questions, please email info@Oregonlandtitle.com

If you want to email me, Dulce.Phelps@Stewart.com



That's all Folks!