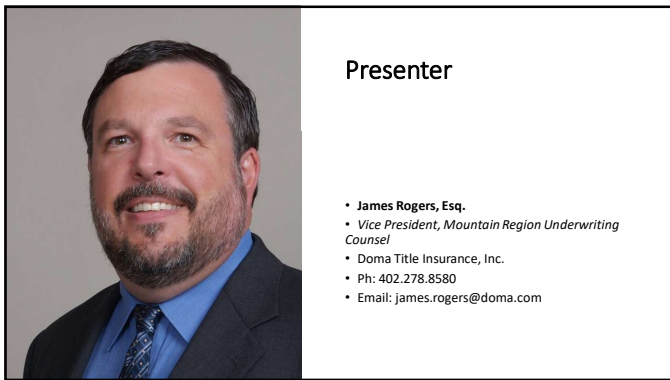
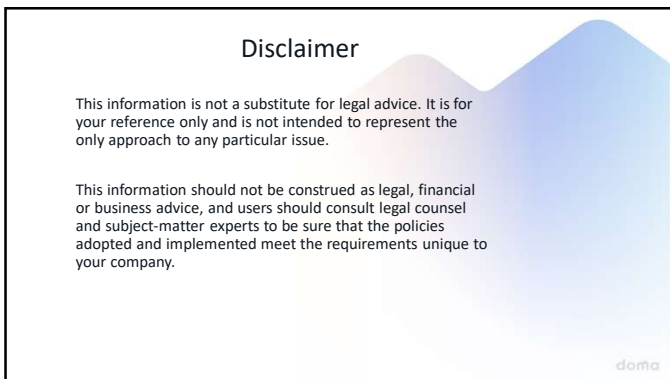




1



2



3

Where Are We Headed?


- Ethics in the Title Insurance Industry
 - What is ethics?
 - Laws and regulations involved
 - Real world examples
- Ethical Considerations of Fraud
 - Why fraud?
 - What does ethics have to do with it?
 - Examples
- The Ethics of AI in Title Insurance
 - Role of AI in title insurance
 - Ethical issues related thereto



Proprietary and Confidential | 4

4

We'll be using Mentimeter today. Let's give it a try...



Proprietary and Confidential | 5

5



Ethics in the Title Insurance Industry

Text

Proprietary and Confidential | 6

6

Ethics in the Title Insurance Industry

- Objectives
 - Define key ethical principles in the title insurance industry
 - Review relevant laws, regulations, and compliance standards
 - Identify common ethical dilemmas and real-world examples and how to address them
 - Discuss best practices to uphold ethical standards




Proprietary and Confidential | 7

7

Audience Poll

I have faced an ethical conundrum in my career?

- 1st Yes
- 2nd No
- 2nd Unsure



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8

What is Ethics?

We are in the trust business

We are the independent, trusted party necessary to effectuate transactions between buyers and sellers



dema

9

What is Ethics?

- Definition: Ethics refers to the moral principles that govern a person's behavior or the conducting of an activity.
- Ethics in business: Ensuring actions meet accepted standards of right and wrong.
- The application of ethical values to business behavior
- Relevant both to the conduct of individuals and to the conduct of the organization as a whole
- Applies to all aspects of business conduct, from boardroom strategies and how companies treat their employees and suppliers, to sales techniques and accounting practices

Principles and Confidential 1.10

10

Why Ethics Matter

- Protects consumers
- Maintains industry reputation
- Prevents legal and financial risks
- Fosters trust with clients and partners

Principles and Confidential 1.11

11

Core Ethical Principles

1. Integrity: Acting with honesty and strong moral principles.
2. Transparency: Being open and clear about processes, fees, and potential conflicts.
3. Confidentiality: Protecting client information.
4. Fairness: Ensuring unbiased treatment of all parties.
5. Accountability: Taking responsibility for actions and decisions.

Principles and Confidential 1.12

12

Integrity in Action

- Avoiding deceptive practices
- Providing accurate information to clients
- Maintaining professional conduct

Principles and Confidential 13

13

Transparency and Disclosure

- Clear communication about fees and charges
- Disclosing any conflicts of interest
- Keeping clients informed throughout the process

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14

Confidentiality

- Protecting client information
- Building trust
- Going beyond what is legally required

Principles and Confidential 15

15

Fairness

- Equal treatment of all clients
- Impartial decision-making
- Transparency in processes

Principles and Guidelines | 16

16

Accountability

- Responsibility for actions and decisions
- Transparency and openness
- Facing consequences

Principles and Guidelines | 17

17

Audience Poll

Join at meet.cisco.com | user code: 46286437

What are some other values you might include as it relates to ethics and ethical behavior?

Principles and Guidelines | 18

18

What is Ethics?



American Land Title Association Values:

- We Lead
- We Deliver
- We Protect

Principles of Fair Conduct:

- “promote behavior within the title insurance industry that serves the needs and interests of consumers.”

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What is Ethics?

Doma Title Insurance, Inc.

CULTURAL VALUES



Customer Obsessed:
We always put our customers first.



Solution Driven:
We solve problems other people are afraid to.



People Leaders:
We grow all of our people into leaders.



One Team:
We believe inclusion and teamwork produce the best results.



Direct With Respect:
We communicate with honesty and respect to our colleagues, customers and partners.

20

What is Ethics?

Ethics program*

Embed values

- Code of ethics
- Communication and engagement
- Training and reinforcement
- Leadership, supportive environment and speak up
- Risk assessment, monitoring and accountability
- Open culture



*Source: Institute of Business Ethics
<https://www.ibe.org.uk/knowledge-hub/the-business-ethics-framework.html>

21


What is Ethics?

Why develop values and a code of ethics?*

Recent surveys show the general public finds businesses are behaving more ethically

- Public expectations
- Private sector expected to be a force for social change
- Specific issues training

*Source: Institute of Business Ethics
<https://www.ibe.org.uk/resources/surveys-on-business-ethics.html>



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Ethics Defined



Why develop values and a code of ethics?*

- A company's values are the cornerstone of its culture
- They are the basis of how a business functions
- They set you apart from the competition, make you unique and are essential to achieving an organization's goals

*Source: American Land Title Association
<https://www.alta.org/business-tools/our-values.cfm>



23

Audience Poll

I work for an organization that has a published/defined code of ethics?


Yes
 No
 Unsure

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Regulatory Guidance and Compliance

- Federal Agencies
- MT Commissioner of Securities and Insurance
- MT Secretary of State
- State Bar Associations
- MT Land Title Association




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25

Key Federal Regulations

- McCarran-Ferguson Act
 - Rates shall not be excessive, inadequate or unfairly discriminatory
 - File and approve rates and rating systems
 - Prohibition on rebates
- Real Estate Settlement Procedures Act (RESPA)
 - Business referrals
 - Splitting charges



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Key State Laws/Regulations

- Regulation of the business of insurance
- States may suspend, revoke or refuse to issue or renew any title insurance license if the insurance agent or applicant:
 - Provides incorrect, misleading or incomplete information
 - Obtains license by fraud or misrepresentation
 - Misappropriates money in the course of insurance business
 - Convicted of or pleads guilty to a felony
 - Commits any insurance unfair trade act or insurance fraud
 - Otherwise exhibits a lack of trustworthiness



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Key State Laws/Regulations

- Title 33, Chapter 25, Montana Title Insurance Act
- See Section 33-25-301, reasons to revoke:
 - (a) made a material misstatement in an application for a title insurance producer license;
 - (b) commingled funds belonging to applicants, escrow participants, or others;
 - (c) intentionally misrepresented the terms of a title insurance policy to an applicant or policyholder or has misrepresented material facts to, concealed material facts from, or made false statements to a party to an escrow, settlement, or closing transaction;
 - (d) in conducting affairs as a title insurance producer, used coercive practices or demonstrated financial irresponsibility;
 - (e) aided, abetted, or assisted another person in violating the provisions of this title or a rule adopted by the commissioner

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Key State Laws/Regulations

- Title 33, Chapter 25, Montana Title Insurance Act
- See Section 33-25-401, prohibited practices:
 - (a) give or accept a fee, rebate, or thing of value pursuant to an agreement or understanding that title insurance business will be referred to a title insurance producer; or
 - (b) give or accept a portion, split, or percentage of a charge made or received for title insurance business in connection with a transaction involving real property in this state, other than for services actually performed.
- See also Section 33-25-402

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Key State Laws/Regulations

- Title 33, Chapter 25, Montana Title Insurance Act
- See Section 33-25-403, prohibited practices:
 - A producer or associate may not, directly or indirectly, require as a condition, agreement, or understanding of providing another person a loan, loan extension, credit, sale, property, contract, lease, or service that the other person obtain title insurance of any kind from a particular title insurer or title insurance producer. A title insurer or title insurance producer may not knowingly participate in a plan or transaction prohibited by this section.

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Key State Laws/Regulations

- Administrative Rules of Montana, Title 6, Chapter 6, Sub-Chapter 22
- 6.6.2201 Liens, Encumbrances, and Standards of Insurability
- 6.6.2202 Escrow, Closing, or Settlement Services
- 6.6.2203 Rebates and Inducements

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Rules of Professional Responsibility
Ethics and the Title Insurance Industry

PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

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Montana Land Title Association By-Laws

- Active Member:
 - Any sole proprietorship, partnership or corporation which primarily engages in the business of land title evidencing, **subscribes and adheres to the Code of Ethics and [sic] the American Land Title Association** as adopted, amended, or interpreted from time to time, and agrees to be governed by the By-Laws of this Association shall be eligible for Active Membership in the Montana Land Title Association by obtaining a Certificate of Membership issued by the Executive Committee of said Association.

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ALTA Principles of Fair Conduct

Preamble

- The Principles describe ALTA's expectation of its Members to adhere to the highest standards of ethical behavior and the laws and regulations governing the business of title insurance.
- ALTA encourages all if its Members to pledge to support The Principles, and to incorporate them into their daily business practices.

The Principles

1. To engage only in business practices that are lawful and consistent with a high standard of ethical behavior.
2. To encourage a culture of compliance within their organizations for federal and state laws that govern the title insurance business and for these Principles.
3. To treat consumers in a fair and ethical manner.
4. To provide consumers with timely and comprehensive information regarding their policies, services, products, and prices so as to enable consumers to shop effectively among providers of title-related services.
5. To encourage and assist consumers to be educated purchasers of title insurance and title-related services.

Principles and Guidelines | 14

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Montana Notary Regulations

- Per the Montana Sec. of State:
 - The Montana Secretary of State expects all Montana notaries public to always uphold the highest standards of honesty and integrity in the performance of their official duties. While the state has not formally adopted a Code of Ethics for Montana notaries, we look to the American Society of Notaries' **Code of Ethics**, the National Notary Association's **Notary Public Code of Professional Responsibility**, and the Signing Professionals Workgroup's **Notary Signing Agent Code of Conduct** as authoritative guidelines for the ethical behavior and practices that are the intended hallmark of a practicing Montana Notary Public.

Principles and Guidelines | 15

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American Society of Notaries Code of Ethics

- To uphold the trust placed in me by the public I serve;
- To maintain a professional manner suitable to the office I hold;
- To treat each individual fairly and equally, with kindness and respect;
- To always be satisfied that the individual appearing before me understands the contents of the document to be executed or oath to be administered, before proceeding;
- To always satisfy myself as to the identity of the individual appearing before me in my capacity as notary public;
- To not betray the confidence of any individual appearing before me;
- To never perform any notarial act in which I am a party in interest or from which I stand to benefit;
- To never divulge the contents of any document nor the facts of execution of that document without proper authority;
- To keep informed of the law regarding the duties and powers of the office of notary public in my jurisdiction and not compromise that law;
- To not use the office of notary public as a means of financial gain, for myself or others, in any other business or profession;
- To exercise extreme care to insure that the notarial seal, stamp, and records are kept in a safe place and are not used by any other person;
- To always conduct myself and perform my duties in a manner which will bring credit to myself, my office, and the Society.

Principles and Guidelines | 16

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Audience Poll

Join at menti.com | use code **1628 6437**

How frequently does fraud occur?

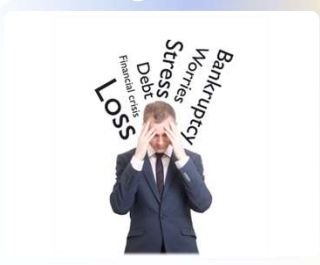
- 1st | 100% of the time
- 2nd | > 75% of the time
- 3rd | > 50% of the time

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Unethical Behavior

- Unethical behavior is probably more common, more mundane and much closer to home.



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Unethical Behavior

By the numbers

According to the 2020 Global Study on Occupational Fraud and Abuse by the Association of Certified Fraud Examiners:

- Study estimates that the typical organization loses 5% of annual revenues due to fraud
- Median loss in the study was \$125,000
- Lack of internal controls contributed to about 1/3 of frauds
- Median duration of fraud schemes in the study was 14 months
- Control weaknesses: Lack of internal controls, lack of management review, override of existing internal controls

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Unethical Behavior

Red Flags

- A red flag is a set of circumstances that are unusual in nature or vary from normal activity
- It is a signal that something is out of the ordinary and must be further investigated
- Red flags do NOT signal guilt, but merely provide possible warning signs of fraud or dishonest, unethical behavior



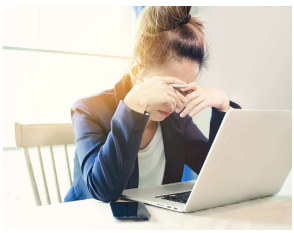
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Unethical Behavior

Red Flags

- Lifestyle changes: Expensive cars, vacations, jewelry, homes, clothes
- Significant personal debt and credit problems
- Refusal to take vacation or sick leave
- Lack of segregation of duties in a vulnerable area
- Behavioral changes: Could signal drug, alcohol or gambling addiction




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Unethical Behavior

Red Flags

- Act quickly and decisively
- Investigate further if you are presented with multiple red flags
- Seek advice and direction from senior management or company counsel
- Have a human resources representative handle the matter, who may confront the suspected party discreetly and with one or more witnesses present
- Limit financial, data and NPI access
- Follow local, state and federal law in such matters



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Identifying Ethical Dilemmas

Hypothetical and Real-World Examples


- Conflict of interest
- Misrepresentation of information
- Pressure to cut corners
- Handling confidential information improperly
- Misappropriation of funds

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Examples and Case Studies

- **Case Study 1: Cash Out**
- Description:
 - No-cash out refinance
 - Closing ASAP
 - Too much money on the bottom line
 - You adjust the figures
- Outcome:
- Lesson:



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Case Study One

John at mortgage.com (user code: 90285437)

Was this ethical?

0 Yes 0 No 0 Unsure

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Examples and Case Studies

- **Case Study 1: Cash Out**
- **Description:**
 - No-cash out refinance
 - Closing ASAP
 - Too much money on the bottom line
 - Closer adjust the figures
- **Outcome:**
 - Should have gone back to lender
 - Re-do docs
 - Re-approval docs
- **Lesson:**
 - What if closer increased your fees to balance?



Photo: iStockphoto.com/Chris Jones

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Examples and Case Studies

- **Case Study 2: Failure to Disclose**
- **Description:**
 - Failing to disclose title issues in the commitment and/or to the underwriter to keep the deal and get the income.
- **Outcome:**
- **Lesson:**




Photo: iStockphoto.com/Chris Jones

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Case Study Two

Join at mortgage loan code: 95274588

How would you assess this scenario?

- 1st Unethical and illegal
- 2nd Unethical but still legal
- 3rd Illegal but ethical
- 4th Ethical and legal

Photo: iStockphoto.com/Chris Jones

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Examples and Case Studies

• Case Study 2: Failure to Disclose

- Description:
 - Failing to disclose title issues in the commitment and/or to the underwriter to keep the deal and get the income.
- Outcome:
 - Legal action
 - Reputational damage
- Lesson:
 - Always disclose material facts
 - Most likely committed fraud as it relates to your underwriter



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Examples and Case Studies

• Case Study 3: Tax Payments

- Description:
 - Retaining real estate tax refunds from a double payment until the borrower "discovers" the double payment and requests a refund.
- Outcome:
- Lesson:



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Case Study Three

Join at [menti.com](https://www.menti.com) | use code 5523 4588

Was this ethical?

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Examples and Case Studies

- **Case Study 3: Tax Payments**
- **Description:**
 - Retaining real estate tax refunds from a double payment until the borrower "discovers" the double payment and requests a refund.
- **Outcome:**
 - Legal action
 - Reputational damage
- **Lesson:**
 - What procedures do you have in place for this?
 - What about procedures for your mail?




Photo: iStockphoto.com/Robert J. ...

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Examples and Case Studies

- **Case Study 4: Relatives**
- **Description:**
 - You are handling a transaction for a relative.
 - She is selling her house using your title company.
 - No disclosure is made to other parties.
- **Outcome:**
- **Lesson:**




Photo: iStockphoto.com/Robert J. ...

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Case Study Four

Janet@realtor.com | user code: 95274588

What are your thoughts on this?

All responses to your question will be shown here. Each response can be up to 200 characters long. Turn on voting to let participants vote for their favorites.

Photo: iStockphoto.com/Robert J. ...

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Examples and Case Studies

- **Case Study 4: Relatives**
- **Description:**
 - You are handling a transaction for a relative.
 - She is selling her house using your title company.
 - No disclosure is made to other parties.
- **Outcome:**
 - Reputational damage?
 - Did you violate state law?
- **Lesson:**
 - Always discloses potential conflicts of interest




Photo: iStockphoto.com/Chris Hill

55

Examples and Case Studies

- **Case Study 5: Fraudulent Transactions**
- **Description:**
 - A title agent created a corrective deed document without the knowledge, consent, or signature of the parties.
- **Outcome:**
- **Lesson:**




Photo: iStockphoto.com/Chris Hill

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Case Study Five

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Was this ethical?

Photo: iStockphoto.com/Chris Hill

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Examples and Case Studies

- **Case Study 5: Fraudulent Transactions**
- **Description:**
 - A title agent created a corrective deed document without the knowledge, consent, or signature of the parties.
- **Outcome:**
 - The agency agreement was terminated with the agent.
- **Lesson:**
 - Disclosure
 - Better ways to handle?




Property and Casualty | 18

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Examples and Case Studies

- **Case Study 6: Legal Description Issues**
- **Description:**
 - An employee falsified documents to expedite a liquor license application.
- **Outcome:**
- **Lesson:**



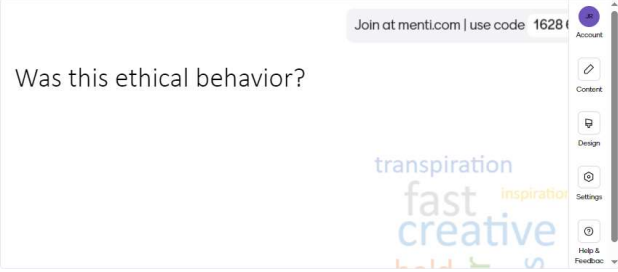
Property and Casualty | 18

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Case Study Six

Join at menti.com | use code 1628 f

Was this ethical behavior?



Property and Casualty | 18

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Examples and Case Studies

- **Case Study 6: Legal Description Issues**
- **Description:**
 - An employee falsified documents to expedite a liquor license application.
- **Outcome:**
 - Employment termination
 - 12-month suspension that was stayed on the condition that the respondent does not engage in further misconduct.
 - Reputational damage
- **Lesson:**
 - Uphold integrity and verify all documentation.

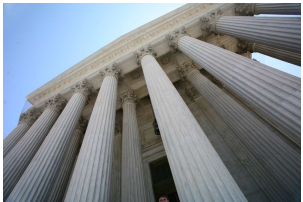


Proximity and Confidence | 10

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Examples and Case Studies

- **Case Study 7: File With A Claim**
- **Description:**
 - A claim that has been filed on a transaction insured by your office.
 - Claim's counsel for underwriter is working the file
 - Insured is a good developer friend of yours
 - You insure over the claim item on a subsequent transaction without notifying the underwriter
- **Outcome:**
- **Lesson:**



Proximity and Confidence | 10

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Case Study Seven

Join at meetroom | user code: 9028 6437

What are your thoughts on this scenario?

All responses to your question will be shown here.

Each response can be up to 200 characters long.


Turn on voting to let participants vote for their favorites.

Proximity and Confidence | 10

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Examples and Case Studies

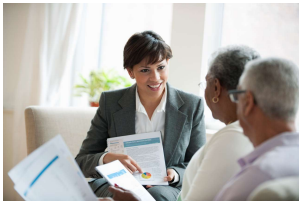
- **Case Study 7: File With A Claim**
- **Description:**
 - A claim that has been filed on a transaction insured by your office.
 - Claim's counsel for underwriter is working the file
 - Insured is a good developer friend of yours
 - You insure over the claim item on a subsequent transaction without notifying the underwriter
- **Outcome:**
 - Termination of agency agreement?
 - Underwriter loses possible defenses to claim
- **Lesson:**
 - If there is a claim, always involve the underwriter
 - Don't try to self-help the situation



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Examples and Case Studies

- **Case Study 8: Elderly Couple**
- **Description:**
 - You are handling the closing of a transaction with an elderly woman and someone purporting to be their son.
 - The woman seems confused about the transaction and is having trouble communicating with the closer.
- **Outcome:**
- **Lesson:**

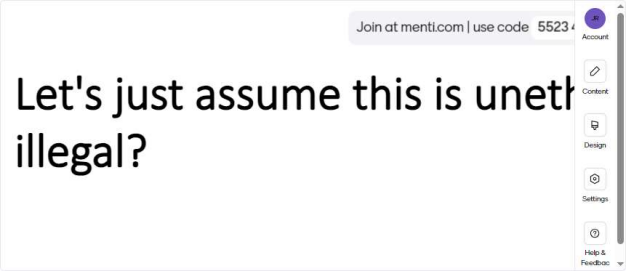


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Case Study Eight

Join at menti.com | use code 5523

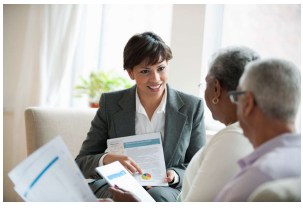
Let's just assume this is unethical or illegal?



66

Examples and Case Studies

- **Case Study 8: Elderly Couple**
- **Description:**
 - You are handling the closing of a transaction with an elderly woman and someone purporting to be their son.
 - The woman seems confused about the transaction and is having trouble communicating with the closer.
- **Outcome:**
 - The transaction was stopped by the closer.
 - It turns out the had been disinherited years ago in her will, so yes, it was potentially illegal elder abuse
- **Lesson:**
 - Trust your gut!
 - What are you required to do by the state?
 - What procedures does your organization have in place for this sort of situation?



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Best Practices

- Continuous Training
- Clear Communication
- Documentation
- Whistleblower Policies
- Audit and Oversight
- Claims Procedures

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Best Practices



Communication and engagement

- Provide copies to the employees
- Talk about it
- Live it

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Best Practices




Education

- Stop and think
- Know your values and the law
- Just say no
- If you are in doubt:
 - Talk to co-workers and managers
 - Talk to underwriting counsel
 - Retain outside counsel

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Best Practices



Live your values

- Constantly educate and remind staff of ethical behavior
- Create a climate of good ethical practices
- Teach associates to confront pressure and temptation

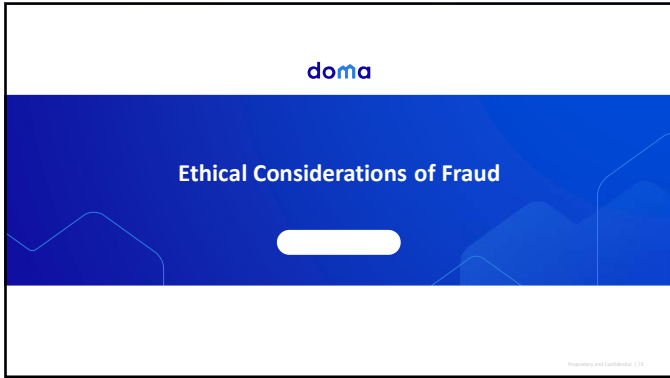
71



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Questions?

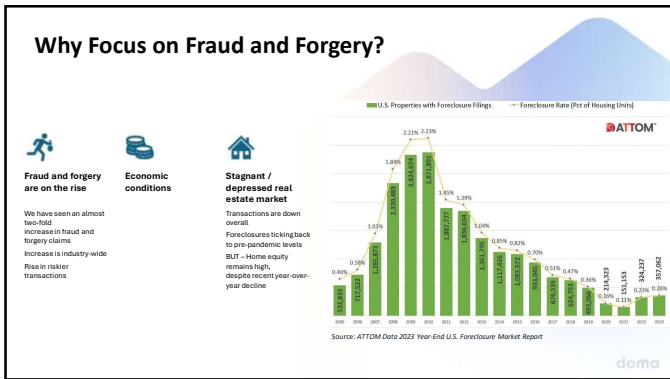
72



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74



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High Cost of Fraud and Forgery Claims

- Fraud and forgery claims often cost more to handle and result in higher losses
- From 2013 through 2022, fraud and forgery claims accounted for 37.5% of the combined Net Loss and Loss Adjustment Expense (LAE), despite comprising only 7.5% of claims
- Fraud claims tend to have high LAE and can result in a high loss
- Forgery claims often result in a full policy loss

% of Net Loss and LAE by ALTA Code

| ALTA Code | Percentage |
|--------------|------------|
| A1 - Fraud | 30% |
| A2 - Forgery | 12% |

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IC3.gov

- Established in May 2000
- Provides information
- Public awareness
- PSAs, scam alerts, publications
- Sends information to local, state, federal and international law enforcement agencies for investigation
- Helps state and local law enforcement improve capability and capacity to combat and investigate cyber crime
- Provides training and a national platform for cyber crime complaints

Report any and all attacks!

doma

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Cyber Crime

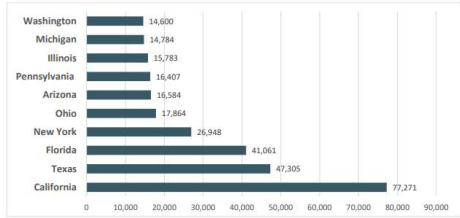
- Reports to IC3.gov:

| | |
|-----------|----------------|
| 2013-2017 | \$5.52 billion |
| 2018 | \$2.71 billion |
| 2019 | \$3.5 billion |
| 2020 | \$4.2 billion |
| 2021 | \$6.9 billion |
| 2022 | \$10.3 billion |
| 2023 | \$12.5 billion |

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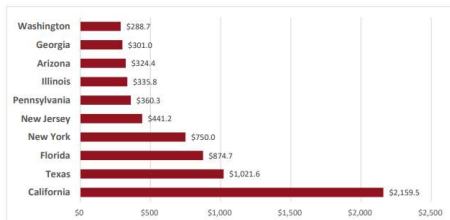
Cyber Crime: State Stats for 2023 Number of Complaints



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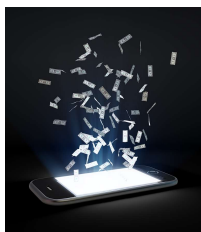
Cyber Crime: State Stats for 2023 Loss in Millions



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External Behavior: Fraud



Business email compromise (BEC)

- Sophisticated scam targeting businesses and individuals performing wire transfers
- Carried out by compromising legitimate business email accounts through social engineering or computer intrusion techniques to conduct unauthorized wire transfers
- Fraudsters use methods most commonly associated with victim's normal business practices

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External Behavior: Fraud

Business email compromise (BEC): Who are its victims?

Affects a wide range of victims, but it's not known how they are selected

- Title/escrow agents
- Attorneys/law firms
- Real estate professionals
- Lenders

Sometimes linked to scareware/ransomware scams that happen before a BEC incident

Scams happen in all 50 states and in 131 countries

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External Behavior: Fraud

Business email compromise (BEC) in real estate transactions

Cyber criminals request wire transfers, or attempt to interfere with wire transfers, in emails that look like they are from:

- Real estate agents
- Banks
- Buyers and sellers
- Corporations
- Attorneys

Perpetrators are somehow able to monitor the transaction and time requests for change in payment type, or switch to a different account under their control

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External Behavior: Fraud

Coalition to Stop Real Estate Wire Fraud

- <https://stopwirefraud.org/>
- Raise awareness of wire transfer fraud and educate homebuyers, real estate and mortgage professionals and policymakers about the urgency of the problem
- Provide concrete steps that people can take to prevent the risk of fraud
- Identify and empower those who have been victimized to tell their story and advocate for solutions



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What is Seller Impersonation Fraud?

Seller Impersonation Fraud:

- Identity theft type fraud
- Fraudster pretends to be the seller
- Tricks realtors, buyers & title companies into believing the fraudster is the property owner who wants to list and sell the property



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What is Seller Impersonation Fraud?

Target Properties:

- Absentee owners – not owner-occupied
- Tax bill mailing address is different than property address
- Vacant land or lots
- Acreage
- Investment properties/rentals
- Second homes
- Vacation homes



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Red Flags of Seller Impersonation Fraud

- Typically “free and clear” properties
- Vacant residential lots or acreage
- ASAP - “Rush” orders coming in late in the day, pushing for closing within 1-2 business days
- Often new customers, without reputable referral source
- Frequently mail away closings, seller never comes to office
- Fraudulent identification documents using record taxpayer’s name and address of record



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How it Happens

- Normal looking contract with realtors on both sides
- Seemingly normal quick to close cash transaction-since investment or land/lot there are no movers
- Happy buyer since it is a good deal, very cooperative. Realtor gets full commission without closing delays
- Happy seller
- Tax Identification Number (TIN) checks out
- Drivers License looks legitimate and not expired, with correct birthday
- Seller offers to provide deed prepared by their own attorney signed before their own notary
- Documents signed by mobile notary
- Sales proceeds wired out like any normal closing

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Transaction Closes, Disburses, Records and Policy Issues

ALL FRAUDULENT!!!!!!!

- Seller was a fraudster and the deed recorded is VOID
- Seller proceeds wired to fraudster's bank account, then routed overseas, GONE FOREVER!
- Driver's license and photo FAKE!!
- Both Realtors defrauded and must give back commissions
- Buyer NOT the owner of the property and has lost their CASH (and will make a claim on their title policy)
- Title Company/Underwriter has total failure of title and FULL POLICY LOSS



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Recent Real World Claims Example



- Agent received new order via email from Seller.
- Agent had no idea where referral to the agency originated.
- Vacant lot in South Florida that was "free and clear".
- Seller insisted on a mail-away closing as he was traveling and unable to come to agency office, also insisted on closing in less than 48 hours.
- Agent did not send letter to titleholder of record as required in Doma National Title Bulletin 2024-01.

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Recent Real World Claims Example



- Agent did not use vetted mobile notary and did not use RON, with its additional Knowledge-Based Authentication (KBA) requirements.
- Shortly after closing, purchaser files claim as they were blocked from entering land by title holder of record.
- Claim Loss – Total title failure \$350,000.
- Agency Loss – Valued senior staff member quit, afraid that association with loss could impact her professional reputation.

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Could this claim have been prevented?
YES!!!!!!!



- **YES**- Claim could easily have been prevented
- **SLOW DOWN** – When Seller pushed for 2-day turnaround, agent should have advised that they cannot guarantee it as they need to confirm title holder of record to protect Seller, Buyer and the title agency/underwriter from potential loss.
- **CONTACT REAL SELLER**- Agent should have corresponded via U.S. Mail with title holder of record per tax rolls to confirm they placed the order.
- **REQUIRE RON** – Deal occurred in FL where RON is standard practice. Added scrutiny of ID documents and Knowledge Based Authentication (KBA) questions could have thwarted fraudster.

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Common Claim Example: Fraudulent and Forged Satisfaction/Releases

- Fraudster records a forged satisfaction of a mortgage or deed of trust
- Fraudster then sells or refinances the property as if it were free and clear of liens
- Agent fails to catch fraudulent satisfaction, and proceeds to close the transaction and issue a policy to the new owner/lender
- Fraudsters takes off with the proceeds/equity
- Property owner files a claim when they are served with the foreclosure
- This is an example of a "naked satisfaction"



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Identity Theft

- All types of properties affected
- Fraudsters select property they want - Easiest one to attack
- Assume identity of the true title holders: Fake IDs, Social Security cards
- Download deed forms to create fake deed transferring property to themselves
- Forge owner's signature using fake IDs and record deeds in public records
- Revise or amend LLC organizational filings with Secretary of State, naming fraudster as "new" member/manager



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Identify Theft

Red Flags of Identity Theft

- Cash-out "hard money" financing
- Lack of contact with seller/borrower
- Unencumbered or vacant property
- Recently amended Secretary of State filings
- Recently issued or expired ID
- Request to disburse to third party (not seller/borrower)



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Recent Claim Example: Identify Theft


LLC Filings Fraudulent

- Fraudster filed amendment to LLC with Secretary of State, naming himself as Manager
- Transaction was refinance of "free and clear property" with hard money lender
- Despite recent amendment, agent did not contact the prior manager for the LLC to confirm change in manager; Agent failed to contact title holder of record
- Fraudster received \$2.1 million in refinance ... and decided it was not enough!
- A few months later, before the initial loan went into default, fraudsters returned to same lender and agent to close a second refinance of \$6.5 million
- Based on previous transaction experience, agent failed to confirm ownership of record, as they treat each customer as a "returning customer"
- Next call was from Insured Lender filing claim, as true title holder was not aware of the loan until lender contacted them with notice of default for non-payment

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Could This Claim Have Been Prevented?




YES! Claim could have been prevented

- **SLOW DOWN** – When reviewing corporate documents, take note of recent managerial changes, filings with the Secretary of State
- **CONTACT REAL SELLER** – Agent should send correspondence via U.S. Mail to title holder of record, based on tax rolls, to confirm true seller placed the order
- **REQUIRE RON** – This transaction occurred in FL, where RON is standard practice; Added scrutiny of ID documents and KBA questions could have thwarted fraudster
- **HARD MONEY LENDERS** – Recall that unlike institutional lenders, who must “know their customer,” hard money lenders are only concerned with amount of equity in property
- **HARD MONEY LENDERS DO NOT VALIDATE AUTHENTICITY OF THEIR BORROWER**

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Fraudulent Authority

- Similar to other types of fraud, but perpetrated by someone stating they have authority to act on behalf of another person or entity
- **Common claim scenarios:**
 - **Limited Liability Companies**
Recent changes should be scrutinized
 - **Estates**
Independently check the estate filings
 - **Trusts**
Confirm validity of the successor trustee
 - **Powers of Attorney**
Talk to the principal:
Why are they not available to sign?
Where applicable, why not use RON?

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Forged Notarizations




Red Flags of Forged Notarization or Acknowledgment

- Seller purports to be overseas
- Seller often provides pre-signed conveyance deed notarized/acknowledged at a U.S. Embassy or Consulate in a foreign country; Confirm its validity!
- Unsolicited apostille

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Can These Claims Be Prevented?




YES! Forged notary claims can easily be prevented

- **SLOW DOWN** – If the seller is in a hurry, that is a red flag something may be amiss with the transaction
- **CONTACT REAL SELLER** – Agent should mail a letter to the title holder of record, based on review of tax rolls, to confirm the true seller placed the order
- **REQUIRE RON** – Where available, RON provides added scrutiny of ID documents and KBA questions
- **CONTACT NOTARY** by emailing them using the address listed on the U.S. Embassy or Consulate office websites

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Claims Prevention Steps



Comply with Bulletins

National Doma Bulletins

- 2024-01 Vacant and Unencumbered Land Fraud
- 2022-18 Underwriting Guidelines for Hard Money Loan Transactions
- 2022-15 -Fraud and Forgery Prevention – Naked Satisfactions and Fraudulent Quitclaim Deeds

Trust, but Verify

- ALWAYS call to verify wiring information
- Refusal to answer questions is a red flag
- Double & triple check the parties
- Verify driver's licenses



Slow Down

- Be vigilant
- Double & triple check the parties and documents
- Don't skip steps to speed up the transaction

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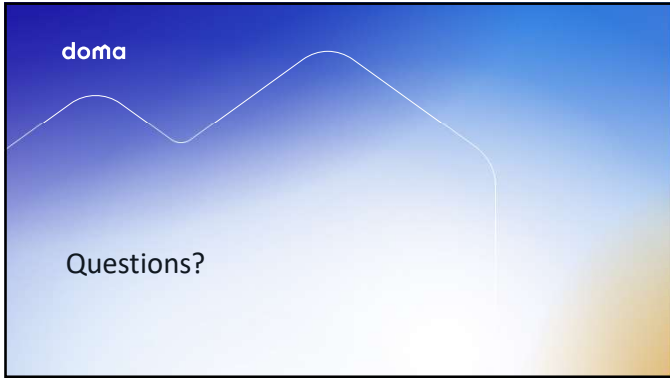
Claims Prevention Tool

- Identity Validation Solution
- Validates IDs and detects fake IDs 99.9% of the time
- Works with your existing hardware
- Available to your customers through their tablets, cell phones
- Currently being offered to Doma agents at no charge!

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AI's Role in Title Insurance

[Some Examples](#)

- Title Search Processes
- Underwriting
- Enhancing Customer Service
- Improving Marketing and Sales
- HR Processes
- Boosting Cybersecurity
- Automating Routine Tasks
- Personalizing Customer Experiences
- Facilitating Remote Work

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Audience Poll

Do you or your organization use any AI?

0 Yes 0 No 0 Unsure

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Ethical Considerations:

[Transparency](#)

- Algorithmic Transparency
- Black Box Problem
- Regulatory Compliance

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Ethical Considerations:
Bias and Fairness

- Bias in AI Models
- Fair Decision-Making

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Ethical Considerations:
Data Privacy and Security

- Sensitive Data Handling
- Data Breach Risks
- Compliance with Privacy Laws

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Ethical Considerations:
Accountability

- Responsibility for AI Decisions
- Human Oversight
- Legal Implications

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AI Use Case Study

Moto v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023)

- NY Attorney used ChatGPT to write a brief
- Fundamental misunderstanding of generative AI tech
- ChatGPT created citations to cases that didn't exist
- Still unaware of the "hallucinations" issue, the attorney doubled down with ChatGPT and asked it whether the cases were real.
- ChatGPT "responded that it had supplied 'real' authorities that could be found through Westlaw, LexisNexis and the Federal Reporter."

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Balancing Innovation with Ethics

- Ethical AI Development
- Stakeholder Involvement
- Ongoing Monitoring and Evaluation



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Regulatory Landscape

- Current Regulations
- Future Regulatory Trends
- Compliance Strategies



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Ethical Framework for Title Insurance

- Framework Components
- Implementation Steps
- Continuous Improvement

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Questions?

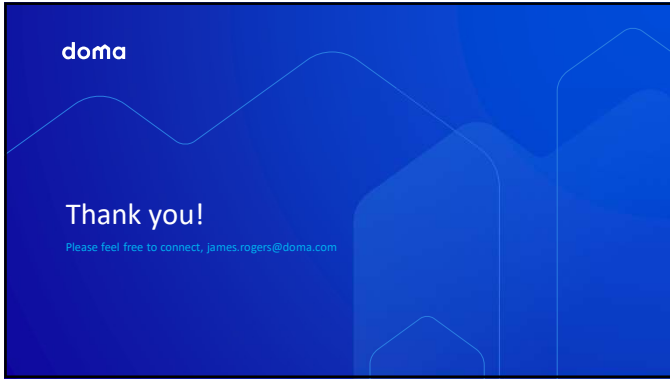
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Audience Poll

What is the biggest takeaway from today's presentation?

- 1st | Acting ethically is hard!
- 2nd | Staynet is active!
- 3rd | Never make a mistake again!

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