



Preventing Fraud

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Seller impersonation

Federal Trade Commission calculated fraud losses at more than \$10 Billion in 2023, attributing \$2.7 Billion of that to imposter related scams.

What's happening in Claims?

- Increase in fraud claims – new vacant land fraud claims every month!!!
- Increase in number of claims filed in 2024 versus 2023 at same time

As it pertains to fraudulent transactions:

- Lack of involvement in escrow/closing
- Different techniques
- Short/rush closings
- Unknown notaries (often out of state)

Red Flags

- Out of state parties to a transaction
- Remote Seller – phone/email contact only
- Ultra competitive pricing – often at or below assessed value
- Rush to closing and concessions easily given
- Seller picked escrow/notary
- Cash transactions
- Wiring instructions to out of state bank

Notary related fraud

Many vacant land fraud transactions have an aspect of fraud involving the notary or notarization issues.

- * fake notary credentials
- * stolen notary stamp
- * expired notary

Mitigation techniques

- Send out a letter to the address listed with the assessor upon opening a new transaction
- *Virtual Underwriter has multiple bulletins available that include a link to the letter template. Specifically, SLS2022004 which discusses the increase in fraudulent attempts and provides a short letter the Agent can use and modify to send to customers.*
- Attend training on fraud prevention



Agent Name and Address; include Agent's phone number and email]

Date

[Name and mailing address of the property owner listed in the Tax Assessor's Records]

Subject Property: 125 Main Street, Anywhere, 11122 (the "Property")

Assessor's Parcel No. 11-22-33-4444-CP30

Agent File Number: 202X-123456789

Pending Property Sale to: (John/Jane Buyer)

Dear [Name of Property Owner listed in the Tax Assessor's Records]:

[Agent Name] was selected to provide title insurance involving a purchase and sale of the above Property. We are writing to you today as part of our fraud prevention efforts. We want to alert you that a transaction may be pending.

The purpose of this letter is to alert you that someone is trying to convey and/or encumber this Property, and to confirm that we are communicating with the true owner of the Property and that the transaction is being done with your knowledge and permission. If you are selling or refinancing this Property, please allow this letter to serve as our thank you for allowing [Agent Name] to handle this transaction. We appreciate your business.

IF YOU ARE NOT IN THE PROCESS OF SELLING THIS PROPERTY, PLEASE CONTACT US IMMEDIATELY AT [(xxx) xxx-xxxx] OR BY E-MAIL AT THE ADDRESS FOUND ABOVE.

We thank you for your attention to this matter.

Sincerely,

[Agent Name]

XXXXXXXXXXXX

XXXXXXXX, XX 12345

Phone: XXX-XXX-XXXX

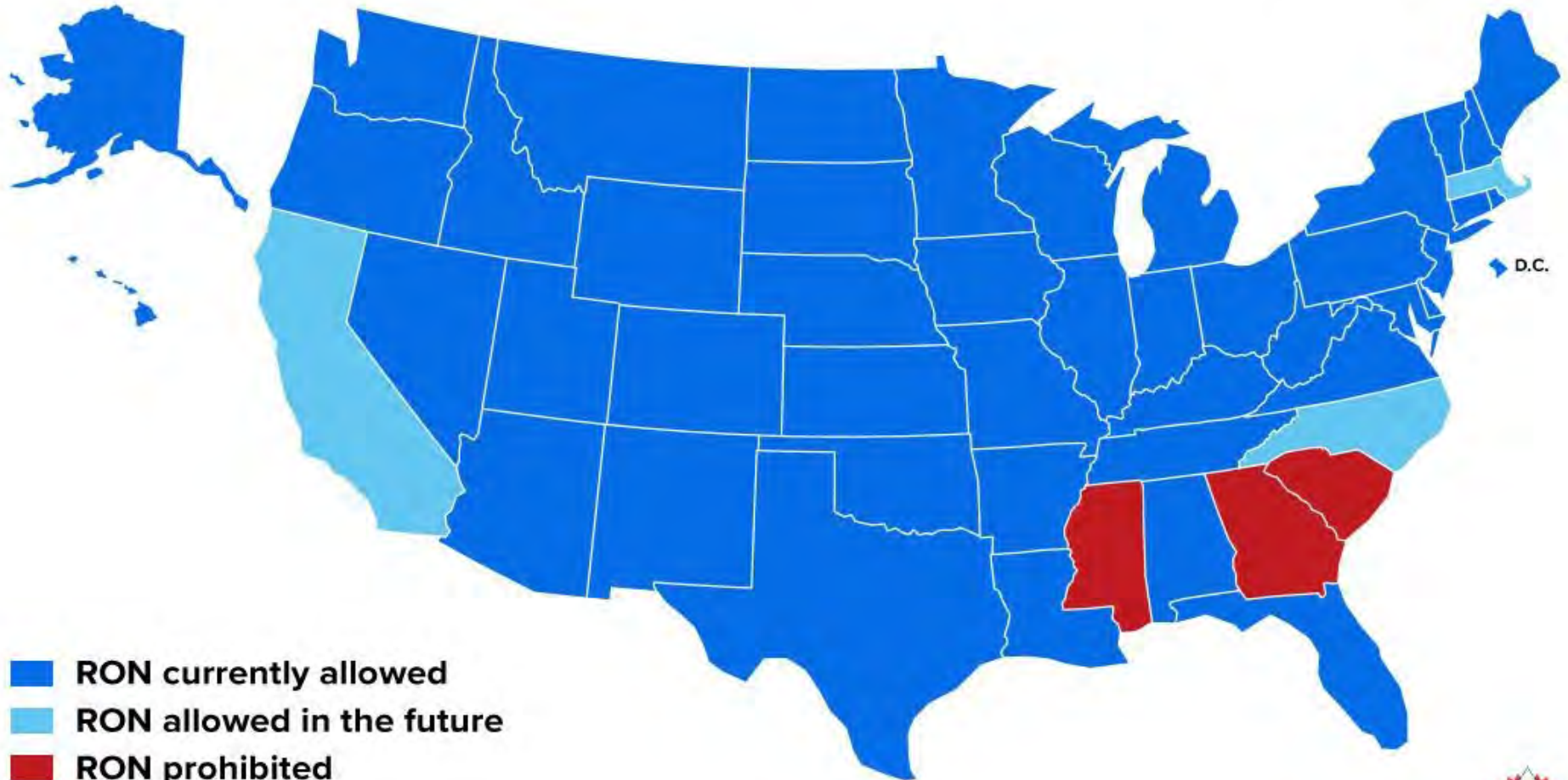
Mitigation techniques

- Verify notary through Secretary of State where docs notarized
- Attempt to contact notary
- Don't allow the Seller to arrange notary closing
- Independently search for the identity of the Seller
- Request in person/virtual meeting
- Be suspicious of changes

Identified controls – Use Remote Notarization

- Technology makes it harder to impersonate Notary or signer
- Retained records – other than notary's journal and memory
- Upload of IDs prior to signing – so they can be verified
- Use of RON when possible.

State of Remote Online Notarization (RON)



Updated: 07/01/2024

Visit NationalNotary.org/RON for more information



Create a Rapid Response Plan

- Agents should have a written Rapid Response Plan in place in the event of vacant land fraud or wire fraud including...
 - Identify list of internal persons to be immediately notified and contact information
- Steps to follow as quickly as possible are:
 - File with FBI Cybercrime unit at <https://www.ic3.gov>
 - File report with local law enforcement
 - Call all banks that are party
 - Notify all parties all other parties

Recent Claim Trends: Imposter or Stolen Entities

- Entity with exact same name but formed in a different State
- Secretary of State records do not match or recently changed
- Entity documents do not match
- -Documents may also contain grammatical errors, spelling mistakes, typos, etc.
- The use of virtual reality has reduced grammatical and spelling errors

Historical Sources of Claims: Power of Attorney

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), insures as of the Date of Policy and, to the extent stated in Covered Risks 9 and 10, after the Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

2. Any defect in or lien or encumbrance on the Title. Covered Risk 2 includes, but is not limited to, insurance against loss from:
 - a. a defect in the Title caused by:
 - v. a document executed under a falsified, expired, or otherwise invalid power of attorney;

Example of a POA Claim

- Mom and Dad execute POA naming Son-in-Law as agent before leaving for an extended trip out of the country
- POA was never revoked after Mom and Dad returned
- Son-in-Law uses POA to take out multiple unauthorized loans secured by Mom and Dad's free and clear properties
- Title company must defend validity of all loan documents executed via POA

Questions to Ask with a POA

- Why is the POA being used? Why can't the Principal sign?
- Is the Principal aware of the transaction? How do we know?
- Is the Principal competent? Is POA Durable?
- Does the POA authorize this particular transaction?
- Relationship of Principal and Agent? Is the family aware?

Historical Sources of Claims: Payoff Issues

- Never rely on a customer promise to pay off a lien outside of escrow
- Be wary of payoff statements or release documents not received directly from the lender or creditor
- HELOCs and other lines of credit must be frozen/terminated and fully released
- -A “Zero Balance” Letter is not acceptable

Escrow Claims: Wire Fraud

- \$850,000 Residential Sale Property is subject to:
- -DOT 1
- -DOT 2
- -Judgment 1 (\$86,000)
- -Judgment 2
- Payoffs already received from all Lenders and Creditors. Seller's Net Proceeds will be approximately \$142,000

Escrow Claims: Wire Fraud

- Seller tells Escrow that he is negotiating a reduced payoff on the \$86,000 judgment
- Seller provides \$50,000 payoff demand on eve of closing
- Escrow calls number on revised payoff to obtain wiring instructions

Escrow Claims: Wire Fraud

- Creditor's Attorney called the next day to ask about payoff
- “You sent the wire where?!?”
- Wire Fraud reported to the FBI

Escrow Claims: Avoiding Wire Fraud

- Residential Refinance for approximately \$135,000
- Existing lender faxes Payoff Statement dated November 8, 2021

Escrow Claims: Avoiding Wire Fraud

- Email from Existing Lender: “Can I have a copy of the payoff statement? I would like to review it before funding. Please also confirm what day you will be funding.”
- Closer: “Here you go!”
- Existing Lender: “What day are you funding?”
- Closer: “We are funding on November 30th

Escrow Claims: Avoiding Wire Fraud

- Lender: “I discovered a minor mistake on the payoff statement. We will be faxing an updated payoff statement later today. The change will not alter the figures on your CD. Please confirm receipt.”
- Closer: “Ok, I will watch for the updated payoff.”
- Lender: “Attached is an updated payoff statement. Please add it to the file and retract the old one with a note to use the updated payoff statement. Please confirm receipt.”

Escrow Claims: Avoiding Wire Fraud

- Revised Payoff Statement
- -Wiring Instructions changed
- -Arrived via email rather than fax
- -Projected Payoff Date changed
- -Per Diem Interest Rate changed
- -Lender address changed

Escrow Claims: Counterfeit Checks

- Various schemes designed to take advantage of the “float” when a check is deposited into your escrow account
- Usually involves a request for return of earnest money or other wire transfer before the counterfeit check is rejected by the paying bank
- No in-person interactions with any of the parties
- See Bulletin SLS2015008 for additional details

Questions?



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