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National Escrow Administrator

This is a first for Our Company - an employee decides to endorse and deposit recording fee checks into their own personal account! Is this a sign of the times? Find out how a title officer stole recording fee checks for years before he was finally caught by his co-workers in the story entitled "RECORDING fee rip off."

If the first story doesn't scare you to death and make you suspicious of everyone, then

read "STOLEN payoff check," a story about a check stolen right out of the UPS® delivery van. The check was duplicated several times and successfully cashed once, leaving the mortgage it was intended to pay completely unpaid – while also accruing penalties and interest.

"DEAD and gone" is the third story in this edition. It provides the details of a simple keying error by an escrow officer on an outgoing wire form which also went undetected by the counter-signer. Those two mistakes caused a loss of \$536,000

plus outside attorney fees. To date, we have not recovered the funds.

The Company has rewarded heroic employees \$93,000...you could be next! We would love to hear your story. In addition to sharing heroic stories, *Fraud Insights* is intended to provide helpful tips and tricks to aid in the prevention of losses and claims. Even though the last two stories in this edition did not involve employees who saved the day, they hope their stories will prevent you from making their same mistakes.

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RECORDING fee rip off

At the Chicago Title office in Great Falls, Mont., officers Doris Eckenstein and Linda K. Smith recently went to their manager with information and concerns they had about another title officer. They explained that even though the internal job functions had changed, the title officer still insisted on handling all of the miscellaneous recordings that came in on title-only files. Both ladies thought it was out of the ordinary because typically, no one at any operation wants to handle miscellaneous recordings. Linda typically processed all recordings including miscellaneous recordings.

With miscellaneous recordings, clients send a check with their documents to be recorded. Doris had looked into some of the recording packages they received over a period of months. She found instances where the Company recorded a document and would be billed for the recording by the recorder's office. The subsequent payment was never deposited into Chicago Title's operating account...even though it should have been!

A system was in place with the Cascade Clerk & Recorder's office, which allows title companies to record documents and then receive a monthly invoice. When the

Company receives a check from customers made payable directly to the county recorder, the county recorder will endorse those checks over to Chicago Title.

Many times the documents recorded from out of state do not meet the local guidelines and are charged additional fees for being nonconforming. Thus, the initial checks are for an incorrect amount and another check is requested from the customer for the difference. Each miscellaneous recording package typically involves the endorsement and deposit of two recording fee checks.

Doris and Linda found certain instances of documents that were received with the initial check attached and recorded but never deposited. The ladies had copies of the checks that should have been deposited. They asked the check remitters to provide a copy of the back side of the check to see if they had been endorsed by the county recorder's office and whether or not they had ever been cashed.

The check copies arrived and Doris and Linda reviewed them. Their suspicions were correct. The checks had been endorsed from the county recorder to the other title officer personally – then deposited into his own account!

After disclosing this information to their county manager, the title officer was brought in for questioning. He confessed to everything and even gave authorization for full access to his personal and business bank accounts. Needless to say he was terminated on the spot.

A full investigation going back four years found the title officer had embezzled \$9,922 and placed the money into his bank account. The title officer has since paid back Chicago Title in full. The Company reported this matter to law enforcement and it is our understanding that charges are pending against this former employee.

Doris and Linda could have easily turned a blind eye to their co-worker's suspicious activities, but did not. His embezzlement of recording fees certainly did not affect their work in any way. They stood up for what is right and defended the Company against a crime. If it were not for their actions the title officer could still be at work robbing us blind. As a result of their efforts, Doris and Linda have each received a \$1000 reward on behalf of the Company and a letter of recognition.



STOP

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STOLEN payoff check

In 2011, a Chicago Title office processed a sub-escrow payoff for an independent escrow office on a residential refinance. Later they received a call from the escrow officer, on behalf of the borrower, claiming the prior loan was never paid off. The borrower had been receiving delinquency notices from his lender for payments on the old loan. The title officer pulled the file and confirmed a check for the payoff was sent on Nov. 22, 2011 and the check had cashed on Dec. 5, 2011. The title officer told the escrow officer they would call the lender to prove to them the loan had been fully paid.

Before the title officer made the call to the payoff lender, Wells Fargo Bank, she pulled a copy of the cancelled check so she would have it in hand. She viewed the check front and back and was shocked. The original check, numbered 870159622, was made payable to Wells Fargo Bank in the amount of \$73,025.74. The check with the same number she held in front of her was payable to Bertha Flores Americ in the amount of \$73,025.74! She viewed the endorsement on the check and, sure enough, the check had been deposited to the account of Bertha Flores Americ on Dec. 5, 2011!

Next, the title officer pulled the UPS tracking information for the package containing the payoff check. The tracking information indicated the delivery status for the package remained "undelivered." The title officer's heart sank.

She immediately contacted her manager and obtained a new, updated payoff figure from Wells Fargo Bank. She filed a loss to cover the new payoff amount and this time remitted the funds via wire transfer.

On the same day, the accounting center received two checks from their trust bank, Bank of the West, that were being rejected for payment because they did not have a matching positive pay record.

The first check was numbered 870169624 in the amount of \$63,025.74 payable to Smooth Sailing Productions. The second check was numbered 870169626 in the amount of \$9,025.74 payable to Michael S. Dittelman. The checks were deposited, but the bank refused to pay them.

Then out of the blue, Peggy Riley in Chicago Title's accounting center received a call from another check's payee, named Michael Brunner, who had received check number 870169629 in the amount of \$9,052.50. He had no idea why he received the check and was suspicious, because he had no transactions with Chicago Title Company and his name was misspelled on the check. Peggy confirmed the check was counterfeit and Mr. Brunner mailed the check to Peggy's attention.

Working closely with her accounting center, the title officer was able to determine the package containing the payoff check was stolen from the UPS delivery truck. The check was then used to make a duplicate of the original check payable

to another payee. That check cleared the bank, since there was a positive pay record at the bank containing the valid check number and valid check amount. Positive pay does not match a check's payee name. The other subsequent checks did not clear the bank, since there was no positive pay record to match the check numbers and check amounts.

The office's management team worked quickly to file a claim with UPS for non-delivery of the package as well as a claim with Bank of America for acceptance of a counterfeit check. Bank of America honored the claim and reimbursed the trust account the \$73,025.74 lost. The operation only took a loss for the additional days interest in the approximate amount of \$200.

MORAL OF THE STORY

When possible, payoff funds should be sent via wire transfer and not by check. If the payoff lender demands a check, then the package containing the check should be sent by some traceable means. Additionally, someone in the office must be responsible for tracking that package to a successful delivery.

DEAD *and gone*

An escrow officer initiated a wire transfer for sale proceeds in the amount of \$536,000. Her assistant served as the counter-signature on the outgoing wire form. After the form was signed, the escrow officer scanned and emailed the form to the accounting center to initiate the wire using the online banking system.

Later that day the seller called complaining he had not received his proceeds. The escrow officer looked up the federal reference number and gave it to the seller to provide to his bank to trace the wire transfer. The bank traced the wire, but unfortunately the funds were deposited to another account – not the account of the seller.

The seller called back to let the escrow officer know the wire was sent to the wrong account. The escrow officer pulled her file and compared the posted wire information against the wire instructions provided by the seller. Sure enough, the account number posted by the escrow officer on the outgoing wire form had one duplicate digit: “22”!

The escrow officer began working with the accounting center to recall the wire. The accounting center representative contacted the sending bank representative at Bank of America, who recalled the wire from the receiving bank (Wells Fargo Bank). Wells Fargo Bank requested authorization from the account holder to recall the wire. In the meantime, the escrow officer



filed a loss for the proceeds so she could pay the seller, who was anxiously awaiting the money.

The recall request remained unanswered for more than a week. The escrow officer and her management team assumed the account holder was out of town for spring break, but after a week the accounting center followed up with Bank of America regarding their recall request. Bank of America contacted Wells Fargo Bank and their representative informed them the account holder had died!

The Bank of America representative, the accounting center representative and the escrow officer were shocked! How could they obtain account holder authorization when the account holder was deceased? Wells Fargo agreed to attempt to contact the account holder’s wife, since they could not release the account holder’s name or contact information to the escrow officer.

Now weeks later, the branch is still out the \$536,000 loss and has not recovered the funds initially wired. Luckily, the account is frozen and the deceased person’s heirs cannot access the money sent to the account in error. The Company has retained outside counsel to petition the bank, as well as the heirs to the deceased person’s estate, to return the funds.

MORAL OF THE STORY

The person providing the counter-signature on a check or a wire transfer should:

- » Review the wire instructions to ensure the check or wire form matches in all respects to the wire transfer instructions provided by the payoff lender, seller or any other party receiving funds from our trust account.
- » Check the account name, account number, bank name and bank routing number, keeping in mind banks do not match account holder names on incoming wires. Incoming wires are posted automatically by account number only.
- » Take the responsibility seriously. It is a policy put in place to ensure accuracy and guard against defalcation.