



Vacant Land Scams & Fraud

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Topics to be Covered

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- Discussion of Trends, Issue Spotting, Avoidance Measures:
 - Unencumbered Land Sale Scams
 - Theft of Business Entities
 - Wire Fraud



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Unencumbered Land Sale Scams

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Trending Fraud/Forgery Scheme – Unencumbered Land Sale

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- Claim Presented: Sade is looking for vacant land to build a home. She searches coast to coast, LA to Chicago, across the north and south to Biloxi... where she finds a lot for sale. The lot is listed on Zillow with only an email address. The transaction ultimately closes with Sade appearing to take title and receiving her Owner's Policy. However, Sade and the Policy-Issuing Agent receive letters from a lawyer stating that she represents the *actual* owner of the lot and that the actual owner never sold the lot. The actual owner lives in Germany and only learned of the sale when he called the Tax Collector to ask why he never received a tax bill. It appears Sade (and the realtors and agent) fell victim to a Smooth Operator, who used a fake driver's license or passport to steal the identity of the actual owner, forged documents in connection with the closing, and received the proceeds.
- Result: Typically, Full Policy Loss issued to Insured
 - No reimbursement of additional expenses (e.g.: cost of clearing land, cost of building materials, cost of permits)
 - "Actual Owner" still not in record title to property
 - No obligation to defend Insured in Quiet Title Action
- Preventable? Could be.



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Unencumbered Land Sale Characteristics / Red Flags

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- Vacant land; Very recent trend → Improved land; Not permanent residence
- No Deed of Trust
- Owner of land resides out of the country; Recent trend → Out of state
 - View address listed with Tax Assessor and/or Tax Collector
- Property is posted for sale on internet site or unsolicited contact
 - Recent trend is use of Zillow
 - Random For Sale sign on lot
- Sales price below FMV
- Rush to close
- Cash buyer
- Realtor/Real Estate Agent has never personally met with "Seller"
 - Typically, hired by unsolicited email



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Unencumbered Land Sale Characteristics / Red Flags (Cont.)

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- Inconsistencies in communications
 - Flip-Flopping first and last name
 - Slight changes in information → Confusion
 - Inconsistent signatures
- Multiple Locations Used
 - Owner resides in one country or state
 - “Seller” executes and has documents notarized in another country or state
 - No use of RON
 - Funds to be wired to another country or state



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Unencumbered Land Sale Bulletins

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- For STGC Agents – Virtual Underwriter:
 - SLS2021007 (October 20, 2021)
 - SLS2022004 (April 20, 2022)
 - SLS2023003 (January 30, 2023)
- For Non-STGC Agent – Consult Underwriting Counsel/Underwriters



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Unencumbered Land Sale Tips for Avoidance

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- Confirmation/Thank You Letter to address shown for Owner on County records:

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.



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Unencumbered Land Sale Tips for Avoidance (Cont.)

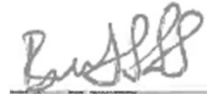
10

- Double-check signatures:

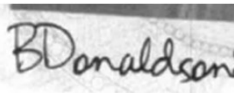
- Signature on Contract:



- Signature on Settlement Statement:



- Signature on Driver's License:

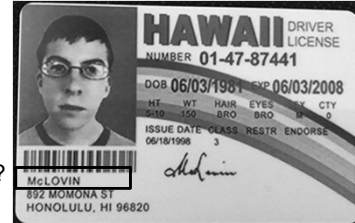


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Unencumbered Land Sale Tips for Avoidance (Cont.)

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- Closely review identification provided
 - Missing information?
 - Photo used on ID appears to be photoshopped or cut/pasted?



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Unencumbered Land Sale Tips for Avoidance (Cont.)

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- Arrange a call or virtual meeting with the Seller to determine Seller's familiarity with the property
- Require multiple forms of identification from Seller
- If photo on identification looks photoshopped or cut & pasted, run reverse image search online
- Put together a checklist with all of the potential red flags or methods used to confirm/verify identities and information.
- Attempt to contact the notary directly and verify the acknowledgment
- Verify the notary through the Secretary of State where the document was "notarized"



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Theft of Business Entity in Connection with Real Estate Transaction

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Trending Fraud/Forgery Scheme – Theft of Business Entity in Connection with Real Estate Transaction

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- Claim Presented: Insured receives a demand letter or gets served in a quiet title action filed by G.I.R.L. LLC, which alleges that it owns the property and that it never sold the property to the Insured. The LLC alleges further that the person who signed the deed to the Insured as the purported manager of the LLC, Rick, was not authorized to sign on behalf of LLC. According to the letter or the allegations in the complaint, the sole member of G.I.R.L. LLC was Jessie. Rick and Jessie were friends. Jessie had been a good friend of Rick's, but then something changed when Jessie decided to form G.I.R.L. LLC and started investing in property. Rick became jealous of Jessie because of the money he was making and wished he had Jessie's G.I.R.L. So, according to the letter or the allegations, Rick "hijacked" the LLC by filing a forged/fraudulent amendment report with the State's Secretary of State/Division of Corporations.
- Result: It Depends
- Preventable? Maybe. However, if not, you can aid by establishing a defense for the Insured(s).



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Theft of Business Entity in Connection with Real Estate Transaction Characteristics / Red Flags

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- Business entity—corporation, LLC, partnership—owns property
- Recent filing with Secretary of State changing officers/managers or “merging” with new entity
- If sale of entity or merger involved, sale documents not prepared by counsel (RocketLawyer.com; LegalZoom.com)
- Property is posted for sale on internet site or without use of real estate agent
 - Recent trend is use of Zillow
- New “authorized” person sells property and signs necessary documents
- Rushed sale
- Below market value
- Mail-away closing



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Theft of Business Entity in Connection with Real Estate Transaction Tips for Avoidance

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- Contact person who prepared initial filing for entity to confirm “new” officer or manager information
- Review prior entity filings for any mention of person now “authorized” to sign on behalf of entity; How recent was last filing changing officers or authorized members?
- Obtain Affidavits and review requirements in company and corporate documents regarding authority to convey property
- Florida has fairly new statute to combat fraud→ Recorded Statement of Authority (Fla. Stat. § 605.0302)
 - (6) Subject to subsection (3), an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company, a certified copy of which statement is recorded in the office for recording transfers of the real property, is conclusive in favor of a person who gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value
 - (a) The statement has been canceled or restrictively amended under subsection (2) and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or
 - (b) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later effective statement is recorded in the office for recording transfers of the real property.



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Wire Fraud

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Wire Fraud (would have been nice if this was just a trend)

- Claim Presented: Funds were wired to pay off and satisfy a prior mortgage; however, the prior mortgage remains of record, and the prior lender or servicer advised that it never received the funds. The Insured Owner, Steve, received a pre-foreclosure notice, a notice of non-judicial foreclosure sale, or Steve and/or his lender (also an Insured) are joined in a foreclosure action.

In investigating the claim, it was determined that this is a story about Billy Joe and Bobby Sue. Two young lovers with nothing better to do (than hack realtors', agents', and banks' emails in order to slip in faulty wire instructions). They would have the funds wired to accounts they opened for the purpose of taking the money, closing the accounts, and running. (hoo-hoo-hoo)

- Result: Typically, a loss payment is issued.
 - Depends on amount owed on prior loan, amount of policy/policies, if any funds were frozen and retrieved, etc.
- Preventable? Yes.

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Wire Fraud

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- Targets
 - Parties to RE transactions: Buyer, Seller, Lenders, Real Estate Brokers & Agents, Attorneys, Title Agents
 - Most common methods:
 - Hack into email accounts
 - Send fraudulent email with similar email address
 - Create rushed conditions which lead to less time to verify
 - Provide new or altered wire instructions at last minute



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Wire Fraud

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Red Flags

- **ANY** change to Wiring Instructions or Instructions for the Distribution of Seller Proceeds and Mortgage Payoffs
- Wires Only; No option to send physical check
- Any communication through an unknown method from a party to the transaction
- Be aware of any email or correspondence that asks you to respond immediately or to rush
- Changes preceding weekends or holidays



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Wire Fraud

Tips for Avoidance (Prevention/Detection)

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- When you open your file – obtain email, fax, address, and telephone numbers for all parties to the transaction
- Look for email addresses that are similar, but not identical
 - johndoe@bank_net rather than johndoe@bank.com
 - johndoe@bank.com rather than johndoe@bank.com
 - johnd0e@bank.com rather than johndoe@bank.com
- Verify email addresses being used
 - Start new email strings, typing email addresses for recipients



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Wire Fraud

Tips for Avoidance (Prevention/Detection)

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- Review Entire Payoff Statement/Estoppel Letter

Interamerican Bank
PAYOFF STATEMENT FOR: [REDACTED]

May 9, 2022
Miami, Florida 33131

Mail Funds to: Interamerican Bank, F.S.B. Attention: Lien Operations 9190 Coral Way Miami, FL 33165
or Wire Funds to: Interamerican Bank, F.S.B. See New Wire Transfer Instructions Attached

*** Attach a copy of this statement with the remittance. ***

Next Payment Due in May 15, 2022	05/16/2022	\$855,808.78
The current unpaid Principal Balance is		\$3,232.96
Interest at 4.250%		\$13,263.07
Other Charges (Late Charges & Collection Fees)		\$50.00
Estoppel Letter Preparation Fee		\$14.75
Recording Fees		\$872,369.56
Total Amount Due for Lien Release	05/16/2022	\$872,369.56
Per Diem Interest		\$201.03

*** TOTAL AMOUNT DUE *** \$872,369.56

These figures are valid through May 16, 2022.

*** There is a \$15.00 fee if sending payoff via wire transfer. ***

Note: Current escrow account balance for taxes and insurance is \$23,822.35. In the event of payoff, the escrow balance will be refunded by check payable to the borrower shown in this statement. If there is any refund overpayment due, a check will be payable to the party paying off

Interamerican Bank
PAYOFF STATEMENT FOR: [REDACTED]

May 9, 2022
Miami, Florida 33131

Wire Funds to: Escrow Bank & Trust See New Wire Transfer Instructions Attached

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Other Charges (Late Charges & Collection Fees)		\$50.00
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Payoffs Sent by Mail: For your payoff to be credited to your loan on the day it is received, a copy of this payoff statement and your payoff for Interamerican Bank, F.S.B. by 2:00 p.m. EST on a business day. Payment of a valid check or money order in the correct payment amount. Payments through Friday excluding holidays. Payments not received in the proper amount or correct address are subject to delays and or return.

Payoffs Made in Person at an Interamerican Bank F.S.B.: In order for your payoff to be credited to your loan on the same business day that it is received, the payoff must be received at Interamerican Bank, F.S.B. Main Office before 4:00 p.m. and must include a copy of this payoff statement.

NOTE: If this loan is included in an active bankruptcy case and was not approved by the Bankruptcy Court, or if you received a bankruptcy discharge associate is being provided for informational purposes only and is not an attorney. It does not offset any discharged debt previously incurred by you. However, remedies under the security instrument, including the right to foreclose, are not affected.

Interamerican Bank, F.S.B.
Loan Operations Department
Beatriz M Ferreiro
(305) 223-1434 Ext. 132

Main office: 9190 Coral Way, Miami, FL 33165 (305) 223-1434

*** In order to reduce discrepancies, you may order another payoff before the actual payoff without charge for processing. ***

Payoffs Made in Person at an Interamerican Bank F.S.B.: In order for your payoff to be credited to your loan on the same business day that it is received, the payoff must be received at Interamerican Bank, F.S.B. Main Office before 4:00 p.m. and must include a copy of this payoff statement.

NOTE: If this loan is included in an active bankruptcy case and was not approved by the Bankruptcy Court, or if you received a bankruptcy discharge associate is being provided for informational purposes only and is not an attorney. It does not offset any discharged debt previously incurred by you. However, remedies under the security instrument, including the right to foreclose, are not affected.

Interamerican Bank, F.S.B.
Loan Operations Department
Beatriz M Ferreiro
(305) 823-1434 Ext. 132

Main office: 9190 Coral Way, Miami, FL 33165 (305) 823-1434



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Wire Fraud

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Tips for Avoidance (Prevention/Detection)

- If communications received through method other than email, contact party via saved contact information in order to verify legitimacy
- Always confirm wiring instructions via telephone call to a trusted, verified phone number
 - Do NOT rely upon "new" wiring instructions provided by party to transaction without verifying instructions
 - Two-step verification:
 - Verify email from which wire instructions were received
 - Independently verify information contained in instructions
- Confirm appropriate party received wire through saved contact information



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Wire Fraud

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VERIFY
VERIFY
VERIFY!!

... but also
Wire Fraud



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WHAT TO DO IF ANY OF THESE ISSUES ARISE

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- Contact CertifID, Law Enforcement, etc.
- Tell Insured(s) to Submit Claim or Submit Claim with Approval from Insured(s)
- Hold funds still in account for transaction or returned to your office until Underwriter provides further instruction.
 - Do not automatically return funds to Insured(s), as loss analysis must be performed and loss needs to be issued, if appropriate, pursuant to policy.
- Notify E&O carrier?



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THANK
YOU!

Justin Davis

Southeast Team Lead; Senior Claims Counsel
Stewart Title Guaranty Company

