

# Details of a Fraud Case

Some success stories are more fun to share than others. This is one of them. Sometimes this work is so fun that I (almost) feel guilty getting paid for it.

I want to start with the premise that there is a difference between idiots and criminals. Some-times the end results don't differ but the path taken varies widely. I deal with the results of a lot of "professionals" who don't know what they are doing but, fortunately, I don't deal with a lot of criminals. However, they exist.

Here's my story. As a result of a piece I wrote, an accountant in the Chicago area called me asking for advice. He was trying to accomplish something for his client and it was within my expertise so we agreed on a modest engagement and moved forward.

He provided me the documentation I needed along with scores of emails between the client, his attorney, CPA, financial advisor and the insurance agent. I blocked a day out of my calendar to review everything and settled in for the ride.

The transaction was for the benefit of a business owner in the Chicago area and the policy was for tens of millions of dollars with a seven figure annual premium. This was predominately a cash value deal and purportedly premium financed after the first year. The goal was to fund retirement income and the contract was through a top name carrier.

A few hours into reviewing documents I believed I understood how the deal was structured although a few things didn't seem right. First of all, on the application it was specifically marked as not a premium financed transaction. I then found correspondence directing the client on how to answer questions and financing authorization paperwork was provided and dated after the contract was put in force. Clearly the agent was hiding the funding structure from the carrier for fear it would not be approved.

Beyond that, I reviewed many sales projections over many months in addition to the ultimate ledger used to implement the policy. I started to feel like I was reading a Grisham novel. It became very clear the agent worked only with the client to sell the deal and kept the rest of the advisor circle in the dark. At some point the advisors caught wind of what was happening and pushed for a meeting with everyone involved to go over all of the details of the transaction.

This is where it gets interesting. When push came to shove and the agent had to explain the deal to the advisors, I think he panicked, or maybe this is just how he regularly operates. He ended up creating an entire set of dummy ledgers to sell the attorney, CPA and financial advisor on the deal. The gross death benefit was the same but how the policy was built was vastly different which would strongly affect how it performed and what the cash value might grow to. Most significantly, he originally sold the client a deal which would net him \$2,000,000 in commissions but sold the advisor team on a deal which would net him "only" \$500,000 of commission that meaningfully improved the projected performance of the deal.

Upon discovering this, I had an "interesting" conversation with the advisors. Some of them were a bit incredulous as might be expected, especially seeing that the agent was a very high profile guy in the Chicago market specializing in very large cases and working with the who's who. That being said, at least one of the advisors, who has some life insurance background, was suspicious throughout the process and directly questioned a number of things but was consistently misled and outright lied to. He just couldn't drill deep enough into the issues to call the agent out on anything. For the client's part, the relationship



with the agent had already fallen apart (soon after the policy was implemented) which wasn't necessarily a surprise but it instantly answered a number of previously unanswered questions and suspicions.

Though my client is very well off, he balked at getting into a lawsuit as the agent is also very well off and my client was worried he would get buried in litigation expenses. I convinced him to let me take a run at it myself first.

What I ended up doing was taking all of the emails and ledgers I was provided and painted the agent into a corner from which he could not possibly escape. That's the beauty of having a smoking gun. Ultimately I approached the agent and effectively said "Listen, we can do this the easy way or the hard way but I will win and you will lose. How do you want to do it?"

In the end I got my client a couple million dollar settlement. Though that was a significant win, there are two particularly disappointing aspects of this case, besides the fact the agent would purposely and overtly hose his client to the tune of millions of dollars over time. One is that the insurance company refused to unilaterally act on this and would only act with the cooperation of the agent, the guy proven to have broken rules and laws as well as lie to the insurance company. If this was your ordinary agent they would have been summarily hung out to dry but this agent and his organization was extraordinarily important to them and they wouldn't risk it. Despicable but money does talk. Second is that since I pinned the agent into the corner and he had no-where to go, we never had to file suit so it was never public and to this day if one were to look him up on FINRA's Broker Check or the Illinois Insurance Department, he has a perfectly clean slate with no complaints or black marks.

What's the moral to the story? First, a specialist can often figure out things you can't. Second, always get whatever the agent proposes or tells you in writing. This is what the case turned on. If he says an aspect of the transaction is guaranteed, have it emailed to you. If he says "My company does (fill in the blank) differently and better than anyone else" have it emailed to you. If she says you can stop paying after 10 years, get it in writing. I have a couple cases on my desk right now where I have no doubt the client is telling me the truth about being misled but I may never get justice for them because the carrier will not lift a finger without proof. Interestingly, the recordings that can be found to prove you wrong can never seem to be found when the fault is pointing the other way. Document, document, document. My client wasn't necessarily trying to document things but fortunately the agent handed him the nails and hammer to his own coffin. Thank goodness he never deleted the emails.

Better yet, run it by an expert to reduce the chances you will even have to lean on the documentation to rectify a wrong.

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