When Deceptions Can Cost More than Murder

By: Ron Hixon

The term *homeland security* can be misleading. Many of the articles written in regard to this term are about *terroristic* threats such as enemies of our culture invading our country to inflict fear, physical injury, or/and random death to Americans such as occurred on *September 11, 2001*. Some articles and books have discussed internal threats of violence like the bombing of the Federal Building in Oklahoma City in April, 1995 by Timothy McVeigh. Literally thousands of television hours have been spent on the kidnapping, killing, and/or molestation of children by parents or sexual predators. Then there are the books detailing the surreal serial killings such as the BTK of Wichita, Texas. With the sentencing of Wall Street's king of deception, Barney Madoff to 150 years in prison for defrauding Americans and others around the world of all or much of their life savings, we have yet another type of terrorism that is killing the dreams, spirits, and, in some cases, even the livelihoods of defenseless Americans. While often just as horrific, these scandals never quite seem to make the news in the way that bloody bodies do and the attention to these acts of financial and emotional violence just don't seem to be as *titillating* as have the more physical threats and acts of violence. Nevertheless, they are just as <u>financially and emotionally devastating and are much more common than acts of physical violence</u>. **Such deceptions kill family security, dreams, bank accounts, and often cause people to do irrational things or develop life-threatening diseases**.

Scams of deception are acts of fraud and are affecting Corporate America and the average consumer by increasing their costs of living and those of everyday life by billions of dollars each year. It robs them of their hard earned income, crushes their dreams of financial security and stamps out a family member's peace of mind. Every time we buy a financial product or an insurance policy, a portion of the costs go to pay for theft and/or fraud detection. The Coalition Against Insurance Fraud regularly reports on the different forms of fraud and deceit: health care, personal identification theft, retail theft, arson, staged-accidents, falsification of records or statements on loan or insurance applications, and exaggerating injuries. These acts seldom get the publicity they deserve. While acts of terrorism make for bigger headlines, they seldom touch as many lives as the various forms of fraud perpetrated by a surprisingly large percentage of insurance agents and financial planners right here in America.

Life insurance organizations generate trillions of dollars of revenue each year. Just like in Wall Street, where there is greed and lots of money, there are opportunities for deception. For example; in the life insurance industry there may be more opportunities for agents to misrepresent their products and services in exchange for a quick commission. Like all businesses, the life insurance companies, including their agents and salespeople, must comply with laws designed to protect consumers from unethical or illegal practices. In the medical industry, doctors are held to a higher standard and it is assumed they'll always place their patient's well-being ahead of their own monetary interest. In the world of insurance, agents and their employees should also be held to the same professional standard and expected to act in their insured's best interest. The agents, their agencies and employees *are supposed to* abide by the rules of the company and the regulations of the states in the agent's licenses are obtained. Most consumer protection laws are included in the regulation of this industry and the licenses issued under this law. Most regulations will include a list of deceptive or otherwise illegal practices that specify, without being all-inclusive, certain actions which are expressly forbidden.

In an article published in February 2000, Insure.com named the four best-known life insurance fraud consultants in the nation. At the top of the list was California native, Mark J. Colbert. Mark has been investigating life insurance fraud over 15 years and his work has included major life insurance corporations and their agents. If he was chasing terrorists he might be wealthy and famous. He chooses neither. He is passionate about enforcing a more ethical way of doing business simply because “it is the right thing to do”. The home page of his website states “**In 1997, a team of Life Insurance Fraud Experts estimated that 40% of all life insurance written since 1983 will not perform as sold”.** “Think about that” says Colbert, “four out of every ten life insurance policies sold in America since 1983 will never benefit anyone but the agent and the insurance company. To me, that’s simply mind-boggling”.

The organizations he has investigated include Metropolitan Life, Prudential, American Income Life, National Income Life, New York Life, State Farm, Allstate, Americo, Guardian, Jackson National Life, Lincoln Benefit Life, Primerica, Nationwide Life, and many others. An example of Mark’s cases include the College/Americo Financial Life and Annuity Insurance Company which lost a $24 million class-action lawsuit in 2001 in Laredo, TX for unlawfully selling life insurance and annuities to school employees. The plaintiffs’ attorney, G. Wade Caldwell of San Antonio accused the Americo of engaging in fraud, breach of duty and good-faith, and negligent misrepresentation. Colbert claims that as recently as February 2006, members of Americo's IMOs (independent marketing organizations) were still selling fraudulent 403(b)-based life insurance and retirement plans to teachers across California.

Colbert said that the Americo Financial Life and Annuity Insurance Company, which was given A- ratings by both of the insurance industry's premier rating authorities, Standard and Poor's and AM Best, somehow made arrangements to get their agents onto countless numbers of school campuses and in front of the teachers. Here, Colbert, who was instrumental in the investigation of Metropolitan Life and Prudential back in the mid 90s, said the agents falsely claimed to be affiliated in some way with the CA State Teachers Retirement System CALSTRS. Colbert said that he has already investigated nearly two dozen cases in California from Shasta County all the way down to San Diego. In these cases, Americo agents were allowed onto the school campuses, given access to a teacher's lounge or classroom, and had teachers ushered in to meet with them throughout the day. It was the same routine that got them in trouble 6 years previously in Texas.

"Once the agents convinced the teachers that they were working with CALSTRS and were there with the school district's blessing, it must have been like shooting fish in a barrel," Colbert said. Colbert also noted how teachers expressed to him how they had no idea what was going on. They were told by the agents that they were with CALSTRS but that was not true. Teachers and school administrators claimed they received notices in their school mailboxes informing them of a 403(b) Retirement Workshop to be held at local restaurants.

Colbert has provided assistance to members of a firm that could potentially represent thousands of California teachers in a class action suit. This suit, filed with the U.S. District Court, Northern District of California, in January 2009, was brought against Americo by the law firm of Casper, Meadows, Schwartz and Cook in Walnut Creek, CA. A number of teachers have also filed individual suits with firms like Born, Pape, and Shewan of Clovis, CA. Colbert is an

Investigator for them as well and his work and expert testimony was reported directly to investigators at the CA State Dept. of Insurance. “I have been investigating insurance fraud in America for a little more than 15 years,” Colbert remarked, “and my investigations have led to the permanent revocation of a lot of agent’s insurance licenses. But it hasn’t stopped the giant life insurance companies from doing business as usual.”

From his years of investigation, Colbert has turned up fraudulent actions that can be summarized into a number of categories, these are a few.

a. **Churning** – This occurs when agents sell a new policy to an existing customer that is not needed and essentially, is sold just to generate a commission. In most cases, an agent will call a long-time policy owner and claim that there is something horribly wrong with the existing policy. After causing the person a great deal of distress, the agent will apologize on company's behalf, and explain that the problem can be fixed with the purchase of a new “upgraded” policy. The agent claims that because the company feels so bad about what happened, they are going to allow the equity from the old policy to be applied directly to the new plan. The agent will state that by using this money to “front-load” or “kick-start” the new, often larger policy, it will eliminate, or greatly reduce the premium payments for the new policy. Agents with experience in this type of fraud know that when they replace an existing policy, they are required by law to complete a *policy replacement form* and must also submit information pertaining to that policy on the new application for insurance. Correctly doing so, however, creates a policy replacement paper-trail that can be monitored by both the insurer and certain regulatory agencies.

When Colbert has questioned agents about this, the agents have explained that they are only required to complete the forms when replacing a policy from Company A with another from Company B. They've claimed that they are not required to do so if/when they are replacing their own company's policy. The agents making these claims were wrong and several of them have had their licenses to sell insurance permanently revoked due to the work Colbert has done for the policyholders.

Colbert pointed out that agents will try to avoid a paper-trail which might come back to bight later on. To avoid such a trail agents will strip the policy of its cash value and/or dividends. At some point the older policy lapses without any cash value. When the money from the old policy is depleted and there isn't any money to pay for the new policy, the policy owner gets a bill from the insurance company for the new policy's premium. If the insured is unable to budget these often very large payments, the new policy lapses as well. In the end, Colbert claims, the long-time policyholders are left with nothing to leave their loved ones.

According to Colbert, agents who routinely churn policies have a very lucrative sales history. They write new policies, pay for them with the equity from existing policies, and reap the commissions for writing new business. Along with this, agents could also make huge bonuses from insurance companies based on the number of polices they write. Churning large numbers of policies brought agents huge amounts of money, recognition, homes, cars, trips, and cruises all over the world. Companies will encourage high volume of sales and seldom audit their records for discrepancies or any signals of churning.

When money from an existing life insurance policy is taken for any reason, the policy owner is required to sign some type of *service request form* approving the transaction. Colbert's investigations have found agents mixing these forms in with others needing to be signed during the application process. In those cases, the prospective policy owners were not fully informed of the documents they were signing and were led to believe that forms allowing the use of the equity from existing policies to be used to purchase new policies were simply routine forms that had to be signed. In many of Colbert’s investigations, policy owners told him that their agents, sometimes claiming to be in a big hurry to get to another appointment, asked them to sign blank forms. The agents claimed they would fill in the rest of the information when they got back to their office.

Many of the insurance fraud victims Colbert has spoken with have said that when they received notices from their insurance company advising them that their old policies were about to lapse, or they needed to increase the premiums on their new policies, they were told by their agents that there was nothing to worry about and to disregard the notices.

b. **Short-selling** – According to Colbert, one of the great advantages to a *universal life policy* is the option to adjust the premium to suit your needs and /or financial goals. Most companies, however, will require that the target premium be paid for at least a year – sometimes two – before giving you the ability to alter (reduce) your premium. In this example, we'll say the Target Premium on your policy is $3600 annually and has a 2-year target premium requirement. However, in order to make the sale, Colbert notes, the agent represents that you will only need to make the $300 monthly payment for two years. Afterwards, agents claim that because their company pays very high rates of interest, you will have accumulated enough money to lower your premium payments from that point forward. Then the agent sells a new policy at the target premium level and crosses his fingers that in two years, you will have forgotten about what he/she said at the time of sale. If you haven't forgotten, the agent will have you sign a service request form instructing the insurer to lower the premium to somewhere around the minimum premium level.

Companies do not usually require a new application or illustration prior to making the premium adjustment. All that is required, Colbert reports, is the signed service request form and the agent's claim that he/she is doing exactly what you asked. In cases where *churning* is involved, the entire 2-year premium of $7200 is paid up-front with cash taken from the existing policy. Because this amount meets the 2-year target premium requirement, the policy's premiums will never be at the target premium level. Colbert reports that he has seen agents suggest that policy owners put the first two years' premiums on a credit card so that their monthly payments will be less. Policies that have been “short-sold” typically last between 7 and 15 years before requiring that the premiums be substantially increased.

c. **Illegal Policy Replacement or Twisting** – Twisting is another form of churning. Colbert explains how agents replace Company A's policy with a new one from Company B. When policies are churned, the money is taken from the first policy and applied to the second automatically. The policyholder never receives a check nor is required to do anything more than sign a service request form. In a twisting case, the first policy is actually terminated and the *surrender value* is sent directly to the policy holder. Colbert explains that the policyholder deposits the check into their account and then writes the agent a personal check. The agent receives the check and instructs the company to deposit it directly into the cash value portion of their client's policy. In most cases, this is called *paying premiums in advance*.

d. **Windowing** – This refers to the forging of someone else's signature and is derived from the illegal practice of holding an authentic signature up to a window and tracing over it onto another form. Windowing has been used to obtain service request forms, policy loan or change of dividend options on existing policy in order to pay for another policy an agent has fraudulently sold to the insured. Colbert reports that he has found agents selling new life insurance policies without the insured ever knowing about it.

e. **Scanner Fraud** – Colbert has caught agents using the latest “hi-tech” equipment to duplicate signatures to level never before imagined. When committing this type of fraud, a dishonest agent will scan a page containing a policyholder’s signature into their PC’s picture-processing software, isolate just the signature, magnify, and actually “clean up” the image, before storing it for later use. Colbert reports it takes very little effort to print this “authentic” signature on any document the agent chooses. He has addressed these issues with Special Investigations Units (SIUs), various regulatory agencies, and lawyers as well as state attorney general fraud offices. This is one scam that is very difficult to detect. In a number of cases that Colbert has consulted on he has found that even the policyholders were unable to tell the difference between the documents with falsified signatures and the originals; several would have claimed the forged signature as their own. What about those policyholders with messy or scribbled signatures? Remember that by utilizing today’s ever-advancing technology, if it can be scanned, it can be duplicated.

f. **Bait and Switch** – This is a term for a misleading sales tactic that involves advertising an attractive product that an agent does not intend to sell. Once the advertisement or the "bait" has lured the prospect in, the salesperson gives a reasonable explanation why the advertised product is no longer available, and then makes a switch to the presentation of another product that is "better or just as good." There are a number of companies who claim to be affiliated in some way with labor unions, groups, organizations, or agencies in order to sell insurance to their members. Colbert explained how these companies contact labor union executives with offers for *free life insurance* for both their active and retired members. After acquiring the mailing list and/or contact information for these unions, the companies mail hundreds of thousands of flyers to members promising them free union benefits.

Colbert noted how he has seen advertisements that mention “free benefits” but in reality they are only *short-term accidental death policies*. After this term has expired, these “free” policies will lapse. Colbert has talked to many people who claim that they were told this insurance policy would provide coverage for the rest of their lives and would provide a benefit no matter how their death occurred. Normally, after a union member receives one of these advertisements, they are instructed to return a postage paid card within 7 - 10 days to a person and/or agency they believe is part of their union. When, in fact, they are simply returning their contact information to the insurance company. Somewhere on each of these cards, recipients are specifically instructed to not telephone their union office or representative with questions. This is undoubtedly due to the fact that the union has absolutely nothing to do with the advertisement nor do they have personnel qualified to answer questions about life insurance. Colbert has found that these deceptive agents will call a meeting with union members where they begin by discussing the “free” life insurance policy supposedly being offered by/through the union. However, at some point in the presentation, Colbert noted, the agent begin claiming to have something much better which the members can purchase at a very competitive price.

g. **Blending Fraud** – Colbert claims to have seen literally hundreds of cases of something he's termed Blending Fraud. In this example, an agent will contact you and, using terms like funeral arrangements and/or burial plans, they help you determine that you need a $100,000 life insurance policy. As with most other types of policies, you'll complete the application for insurance, possibly complete a health questionnaire, maybe even be required to give a sample of your urine or a swab taken of the inside of your mouth.

In a couple weeks, you'll receive your new policy in the mail. You won't remember very much about what the agent said, but you'll trust that he/she had your best interest in mind when they sold you the policy.

What you don't know is that the agent may have actually sub-divided the $100,000 coverage amount into several smaller policies. For example, the first section will be a $10,000 Whole Life policy sometimes called a "burial plan." This whole life plan may have additional fees added to a cost of insurance that is high by insurance industry standards.

The second part may be a $40,000 10-year level term policy. This policy will provide a benefit to your loved ones when you die – as long as you do so within the next 10 years and /or before you turn 70 years old.

The third and final part of the $100,000 policy might be a $50,000 Accidental Death Policy. There shouldn't be any doubt about this part of the policy. It will provide a $50,000 check to your loved ones when you die – as long as you do so by an approved accident and within any time stipulated on the policy.

In short, this type of policy will provide your loved ones with a check for $100,000 when your heart stops beating – as long as this is caused by an approved accident and within the next 10 years.

h. **Premium Misdirection** – This is actually another form of twisting but doesn't involve the replacement of an existing policy. Premium Misdirection occurs, reports Colbert, when the premium for one policy, usually a *universal life policy* with a flexible premium, is lowered so that the excess can be spent on a new policy. For example: A husband purchases a $100,000 Flexible Premium U/L policy and the wife insures his wife with a $50,000 Spouse Term Rider. Agents sometimes call this type of policy a "Family Insurance Plan." After just a few years, the agent returns and instructs the husband to lower his monthly premium (as I explained in the

Twisting section above). The agent then removes the wife's term rider and sells her another, often larger policy, with all or part of the money that was once applied to the husband's insurance plan. According to Colbert agents commit premium re-direction far too frequently. At some point, the policy holders usually get a large bill from the insurance company. When and if they are unable to pay the often exorbitant premiums, the policies cash accumulations are lost.

References