



स जयति सिन्धुरवदनो देवो यत्पादपङ्कजस्मरणम् ।
वासरमणिरिव तमसां राशीन्नाशयति विघ्नानाम् ॥

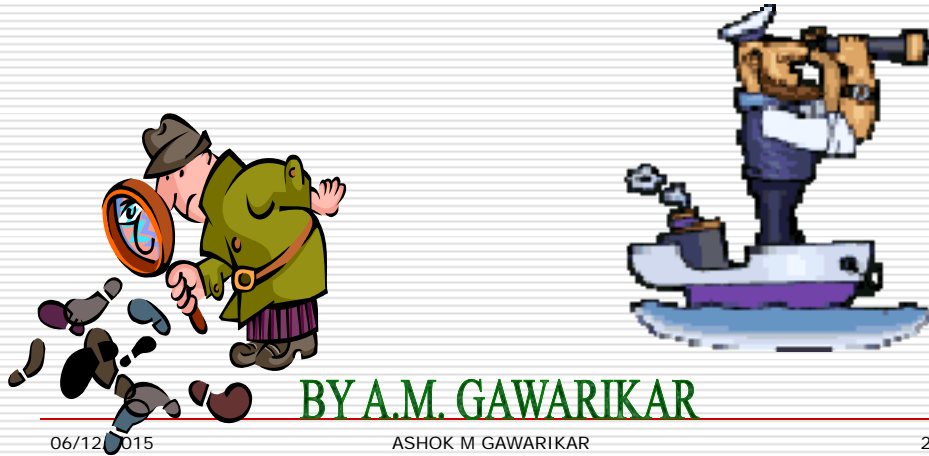
We pray to the god of wealth & success, to remove
darkness from our life by way of enlightening the
knowledge

06/12/2015

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MARITIME FRAUDS



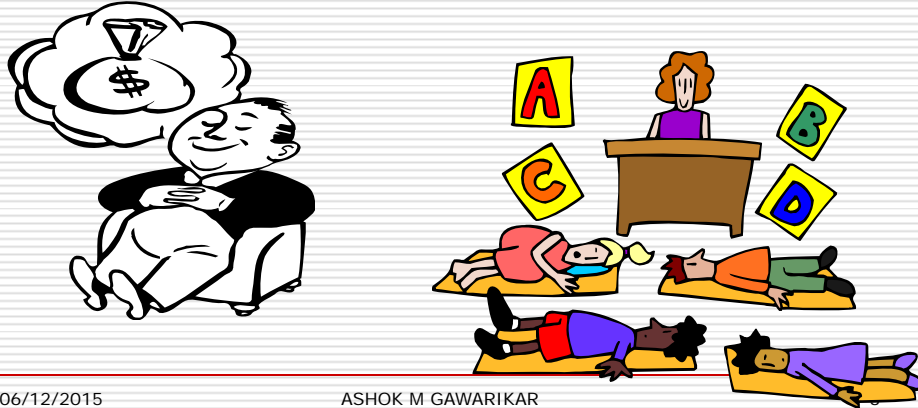
BY A.M. GAWARIKAR

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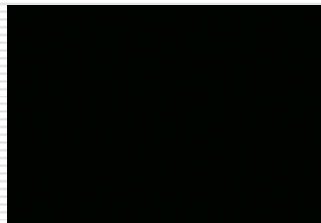
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After good breakfast or lunch you are at liberty to sleep but do not snore loudly, you might wake up or you may disturb your neighbor who is also sleeping and you will also disturb me as I am in habit of sleeping during long pause I take during lecture like our ex.P.M



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DEFINATION OF FRAUD

- ❑ Unjustly,illegally obtaining money or goods from another party connected in carriage
- ❑ Non discloser of material facts

The illustrations is aimed to cover precautions preventions etc.)

The Executive Fraud Triangle



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Who is defrauding whom?

- a) The shipper on the buyer?
- b) The buyer on the shipper?
- c) The seller or the buyer (or both) against Customs or government
- d) The seller or the buyer (or both) against the carrier
- e) The cargo owners against the insurers
- f) A fraudster against another party

3 categories of: Insurance Fraud

- claim fraud or policy holder fraud,
- intermediary fraud and
- internal fraud

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CHEATING

LEADS TO

TEACHING



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1 in 10 insurance claims turns out to be a fraud

Mayur.Shetty@timesgroup.com

Mumbai: Insurance claim frauds — which are growing in number and getting more innovative — have put insurers in a dilemma. Companies want to simplify the claims process and wipe out the trust deficit faced by insurers. But this is tough when frauds are close to one in ten claims in some retail categories.

“Our estimate is that industry frauds are in the range of 10% of claims, which I feel is a conservative one,” said Ritesh Kumar, MD & CEO, HDFC Ergo General Insurance. The choice is between being very careful in accepting proposals and liberal in settlement, or in being liberal in accepting proposals and vigilant while settling. Excess scrutiny in policy issuance makes it difficult to sell in a market with low penetration. But delaying claims worsens the trust deficit among individuals, reflected in

LOSING MONEY

- > Personal accident insurance fraud by buying cover a year after death and fudging date of death in official reports
- > Manipulating a/c no. in cheque image presented for electronic transfers
- > Selling vehicle in another state and then filing theft claim
- > Insurance fraud using unclaimed bodies lying in morgues

the belief that getting claims paid is a challenge.

Simplifying claim settlement is something that most companies are trying to do in order to build a retail portfolio. “If a policyholder who has spent lakhs on an overseas trip claims \$300 for lost baggage, we would accept the claim,” said Sanjay Datta, head of underwriting and claims at ICICI

Lombard General Insurance. Even state-owned New India Assurance had a few months earlier launched a household policy that settles claims for breakdown of electronic equipment where all household items would be covered on good faith without the buyer having to declare each individual item or provide proof of ownership.

According to G Srinivasan, chairman, New India Assurance, frauds are expected to be around 10% and the company is trying to address frauds by drawing patterns and through analytics without inconveniencing policyholders. Insurers have also created an electronic database that serves as a blacklist.

The challenge is that fraud patterns are also changing fast.

According to Bhaskar Jyoti Sarma, MD, SBI General, a large chunk of frauds are also in motor insurance.

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ORGANISATION COMBATING FRAUDS

ICC INTERNATIONAL MARITIME BUREAU

FAR EAST REGIONAL INVESTIGATION TEAM



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ASIB

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GROUPS OF MARITIME FRAUDS

- ◆ CARGO & DOCUMENTARY FRAUDS
- ◆ SCUTTLING OF SHIPS
- ◆ PHANTOM SHIP
- ◆ PIRACY
- ◆ CARGO THEFTS
- ◆ IN CONNECTION WITH CHARTERERS



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GROUPS OF MARITIME FRAUDS

- ◆ BUNKERING FRAUDS
- ◆ PORT RELATED FRAUDS
- ◆ BLACK MAIL FRAUDS
- ◆ CYBER RELATED FRAUDS
- ◆ FAKE JOBS ADVERTISEMENTS
- ◆ INFORMATION PHISHING



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DOCUMENTARY FRAUDS

- Bill of lading is issued but cargo not loaded on vessel planned for scuttling.**
- Advance bill of lading-shutout cargo**
- Wrong /bogus lsb certificate issued**
- With inside information fake B/L is submitted to clear cargo promptly.**
- Cargo sold ex. Jetty on fake documents**
- Deliberate over statement of cargo laden**
- Trojan container (spurious cargo)**
- Mis discretion of cargo laden.**

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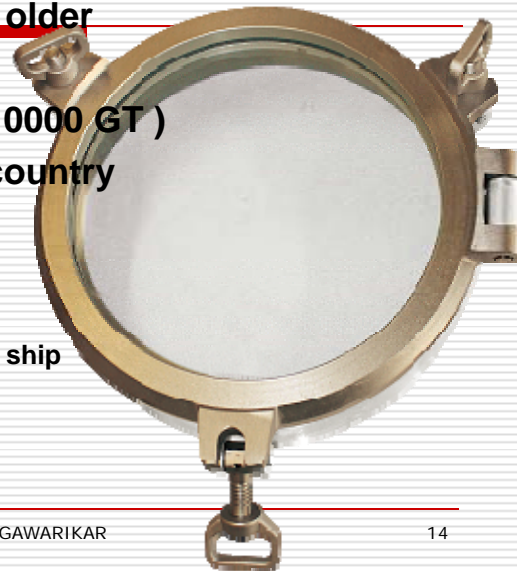
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SCUTTling OF SHIP

- Vessel should be 15 years older**
- Single owner/singleton**
- Small size ships (7000 to 10000 GT)**
- Registered in tax heaven country**
- Flag of convenience**
- Asian origin crew**

Scuttling is the deliberately sinking of a ship by allowing water to flood in to the Hull



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PHANTOM SHIP OR TRUCK

- Vessel is operating on fake certificates
- Cargo is loaded and vessel never reaches her designated destination.
- The vessel can not be traced as identity is immediately changed.
- Cargo is sold in war lord countries



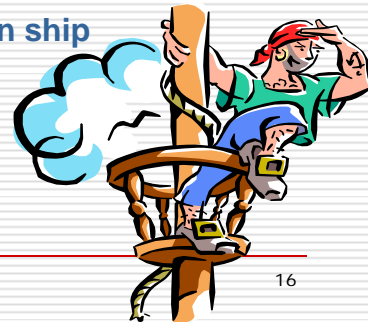
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PIRACY

- Icc imb weekly piracy report
- Pirates **low life pirates**
- Sophisticated organized gangs**
- War lords**
- Installation of sea jack alarm on ship**



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PIRACY

- Somalia**
- A failed state that clearly is unable to react
- The Gulf of Aden**
- A shipping choke point bound by a failed state (Somalia) and a notorious haven for terrorists (Aden)
- Historical Lessons?**
- Would suggest that this situation is disastrous for shipping – events proving so
- Why the Middle East Important ?**
- Oil – is there a choice?



TABAR PROVIDING PROTECTION TO MV JAG ARNAV POST FOILING HIJACK ATTEMPT



TABAR PROVIDING PROTECTION TO MV JAG ARNAV POST FOILING HIJACK ATTEMPT

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TABAR'S HELO LANDING MARINE COMMANDOES ON MV JAG ARNAV FOR INFUSING CONFIDENCE AND BOOSTING MORALE OF THE MERCHANT SHIPS CREW

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TABAR'S HELO LANDING MARINE COMMANDOES ON MV JAG ARNAV FOR INFUSING CONFIDENCE AND BOOSTING MORALE OF THE MERCHANT SHIPS CREW

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The Middle East – Malacca Strategic Choke

Points



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VESSEL CHARTERING FRAUDS

CHARTER PARTY FRAUDS



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VESSEL CHARTERING FRAUDS

CHARTER PARTY FRAUDS

❖ DOUBLE PLAY CHARTER PARTY

❖ ADVANCE FEE FRAUD

❖ INTERCEPTED FREIGHT FRAUDS



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DOUBLE PLAY CHARTER PARTY

- o Time Charterer A (TCA)
- o Voyage Charterer B (VCB)
- o TCA's Broker BB1
- o VCB's Broker BB2
- > Fixture for Mumbai to Mombasa
- > Cargo was laden & B/L's issued
- > TCA sent Invoices to VCB

Reply received were as follows:

- VCB had paid to different time charterer DTC
- That was as per fixture of BB2 on behalf of VCB and DTC
- VCB denied contract with TCA and refused to pay.

NO SUBSTITUTE FOR RIGOROUS THIRD PARTY CHECKS.

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ADVANCE FEE FRAUD

- o Vessel owner gets fixture for cargo from sanction country
- o Request for advance for port charges
- o Request for payment in Middle east due to sanctions
- o Unknown broker runs away with booty

NO SUBSTITUTE FOR RIGOROUS THIRD PARTY CHECKS.

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PORT RELATED FRAUDS

- ❖ Bogus invoices of shipping related activities to supply to vessel.
- ❖ Threatens to arrest the vessel i.e. Blackmailing
- ❖ Advance payment requested on impossible low quotations

BLACKMAIL FRAUDS

- ❖ Website purporting quasi official Government site
- ❖ Complaints of aggrieved seafarers against manager or owners are registered on the site.
- ❖ The company is blacklisted for further investigations
- ❖ The offered solution make payment

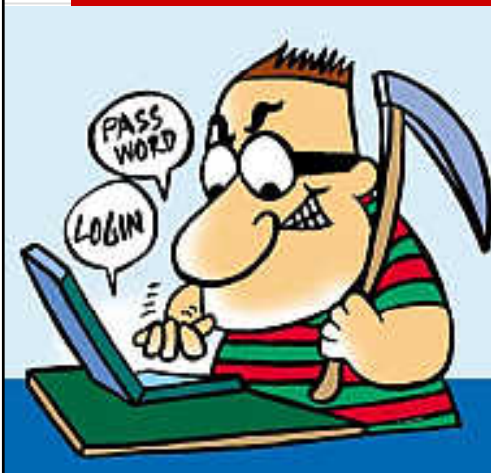
FAKE JOB FRAUD



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CYBER FRAUD



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WANTED: CATASTROPHE ADJUSTER

Job Requirements: Must be a mind reader, a hypnotist, and an athlete. Must be acquainted with machinery of all types and materials of all kinds. Must know the exact current price of everything. The desired candidate must know all, see all, and report all. Ability to travel long distances, endure long separations from family and friends, reside in mediocre accommodations, and survive on fast food is required. The ability to be in multiple locations at the same time is a plus.

Qualifications: Must possess detailed understanding of all types of insurance policies, as well as electricity and engineering, physics and plumbing, chemistry and contracting, mechanics and manufacturing, science and shipping, bookkeeping and banking, real estate and retailing, horse trading, human nature, and fraud in all of its forms.

Desired Characteristics: The candidate should be courteous, diplomatic, shrewd, persuasive, an expert jokester, even-tempered, good looking, in possession of a photographic memory, an English scholar, acute in business judgment, and the embodiment of virtue.

Education: LLD, PhD, and JD degrees preferred.

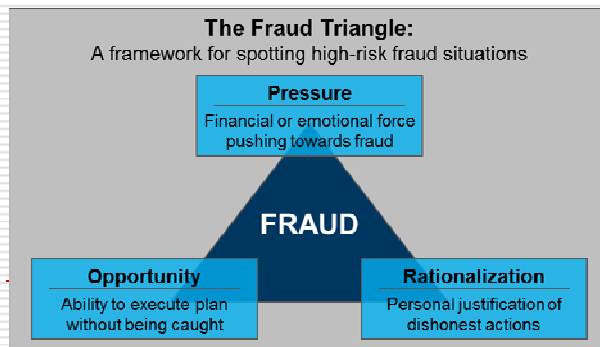
All qualified individuals are encouraged to apply.

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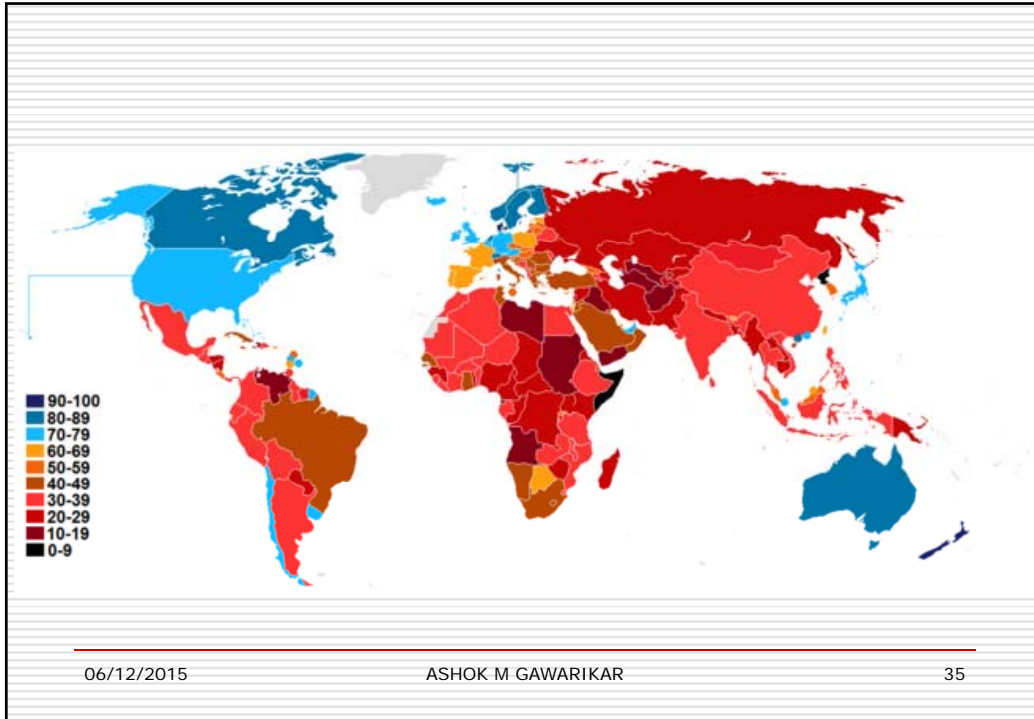
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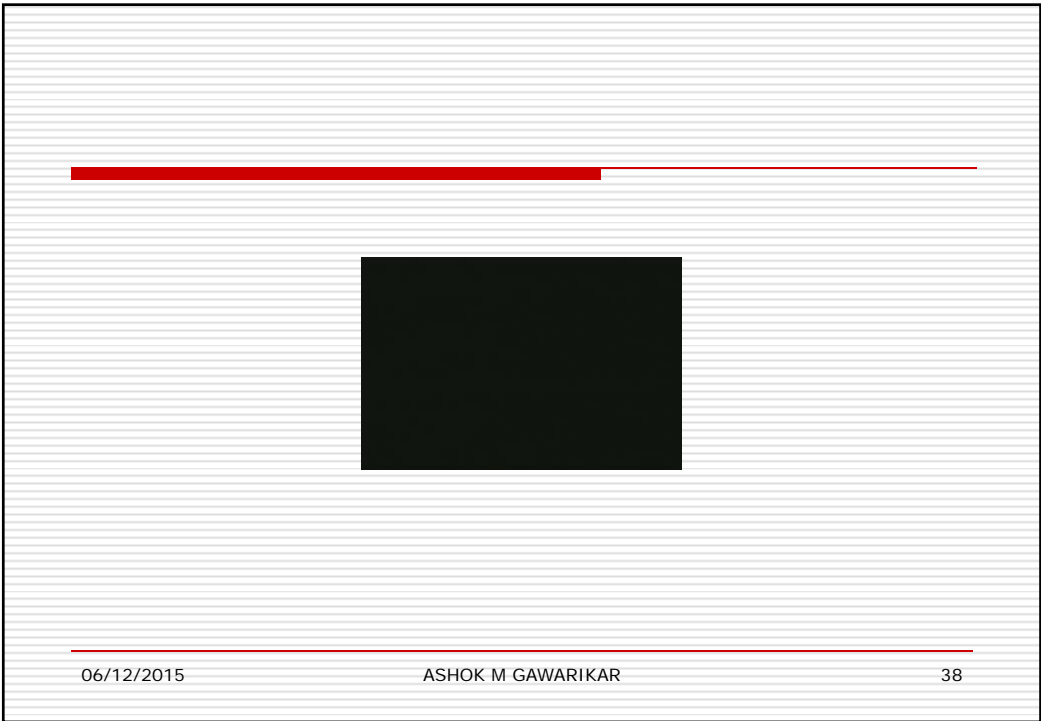
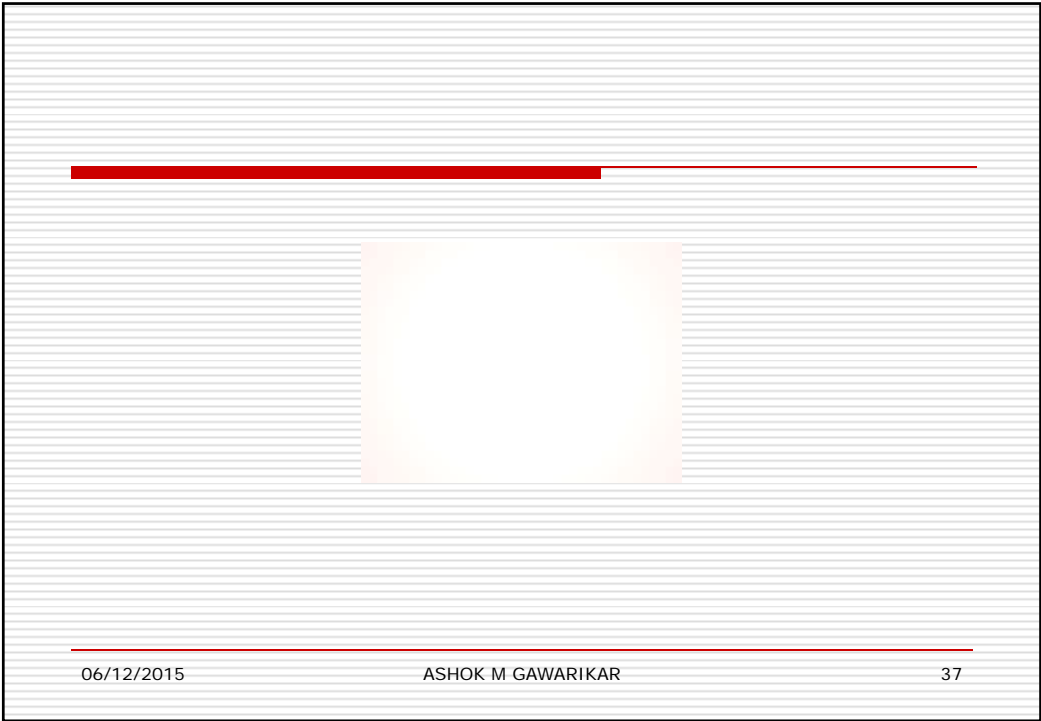
CARGO THEFTS

- Bill of lading is not signed by master
- Ship has stolen some cargo
- Theft from docks /thefts from containers
- Cargo thefts on highways



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General trend in marine insurance fraud

- Fraud at Inception
- Fraudulent Claims
- Fraudulent Devices
- Why plead fraud?

A close-up photograph of a yellow folder labeled "INSURANCE POLICY". The folder has several sub-labels: "AUTO", "HOME", "LIFE", and "MEDICAL". The folder is slightly open, and the text is printed in a bold, sans-serif font.

Fraud at inception

Principle of utmost good faith.

“Good faith forbids either party, by concealing what he privately knows, to draw the other party into a bargain from his ignorance of that fact and his believing the contrary”.

Lord Mansfield 1766

Carter v Boehm

Section 17 of the Marine Insurance Act 1906

“A contract for marine insurance is a contract based upon the utmost good faith, and if the utmost good faith be not observed by either party, the contract may be avoided by the other party”.

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The fraudulent claim

“If a claim is fraudulently inflated so that the claim is made in an amount which the plaintiff clearly knows he has not suffered that will amount to a fraudulent claim”.

Nsubuga v Commercial Union 1998

“In my view, very clear evidence of fraud will be required because one has to accept as a matter of commercial reality that people will often put forward a claim that is more than they believe that they will recover. That is because they expect to engage in some form of horse-trading or other negotiations”.



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Fraudulent Devices

- Defense where false statement or document
- a) Directly related to the claim
 - b) Was intended to improve the insured's prospects of settlement or of winning any litigation against the insurer and
 - c) Would, if successful, significantly improve in assureds' settlement or litigation prospects



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Proving fraud

“On this issue the burden of proof rests unequivocally on the insurers and that degree of standard of proof which the law requires makes the burden heavier than that which rests upon the ship-owners. Although the same balance of probabilities test applies, the standard of proof required is commensurate with the gravity of the allegation made... the burden of proof is not discharged in our judgment if the evidence fails to exclude the substantial possibility that the loss was accidental”.

PRECAUTIONS SHOULD BE TAKEN BY BUYER

1. All documents as per Letter of Credit & get details of vessel
2. Quality & Quantity Inspection at Load port
3. Super cargo for costly cargo and Escorts from port to CFS
4. Be careful when offer of cargo is much less than market price.
5. Be careful when seller is breathing on neck for accepting offer.
6. Do not accept payment at place other than exporters country.
7. Obtain status report and performance bond from Bank

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Banks

Banks should take following precautions against maritime fraud.

- Make use of Lloyd's shipping index.
- Check Age, size and ownership and location of the vessel
- If necessary take outside help to confirm the details.
- Methods should be examined of improving documentary credit



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Insurers

- Insurers should take the following precautions against maritime fraud.
- Institute classification Clause
- Extra premium is attracted for over-age, under-tonnage, non-classification and FOC registration of a vessel.
- In India, the exporter is encouraged to use vessels "approved by GIC" to carry the export cargo. This system also applies to import cargo when the carrying vessel is bringing a full load of import cargo to India as also to imports on vessels from Singapore, Malaysia and Far East (excluding Japan, Mainland China).

Conference or national lines bills of lading should be used and marked "freight prepaid" with the amount of freight clearly stated in the bill of lading.

- Services of dependable and well-known forwarding agents, who are also members of a national association, should be engaged.
- **Buyers and sellers should attempt to identify whether the carrying vessel is on charter and who the charterers and owners are and whether chartering is done only through agents or reputable institutions.**

PRECAUTIONS WHO CAN TAKE

EXPORTER/IMPORTER

EMBASSY/CHAMBER OF COMMERCE

FREIGHT FORWARDERS

BANKS

INSURANCE COMPANIES

VESSEL OWNER/CHARTERER

PORT AUTHORITY



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IDENTIFY	<input type="checkbox"/> IDENTIFY POSSIBLE FRAUD RISK EVENTS <input type="checkbox"/> KEEP ABREAST WITH FRAUD TRENDS & ISSUES
ASSESS	<input type="checkbox"/> ASSESS IMPACTS & LIKELIHOOD FRAUD EVENTS <input type="checkbox"/> DEVELOP ANTI FRAUD TREATMENT PLANS
TREAT	<input type="checkbox"/> IMPLEMENT TREATMENT PLANS

CONTINUOUSLY IMPROVE FRAUD RISK MANAGEMENT TO ENSURE ROBUSTNESS

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PREVENTIVE FRAUD RISK

- BOARD & SENIOR MANAGEMENT GOVERNANCE & LEADERSHIP
- EMPLOYEE CODE OF CONDUCT
- INTERNAL CONTROL SYSTEMS
- CUSTOMER/SUPPLIER & 3RD PARTY CHECKS
- KEEP UPTODATE WITH FRAUD TRENDS & ISSUES
- RISK ASSESSMENT

DETECTION OF FRAUD RISK

- CLOSE & CONTINUOUS MONITORING OF CONSIGNMENTS
- REGULAR INTERNAL AUDITS/SPECIAL REVIEW
- WHISTLE BLOWING POLICY
- BENCHMARKING SYSTEMS & RATIO ANALYSIS
- SPECIALIST SOFTWARE

UK House of Lords Select Committee - 1836

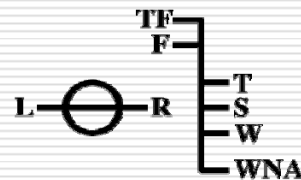
Review of the causes of ship losses - Conclusions:

- Poor level of training and experience among officers and crew in the merchant fleet
- Poor design
- Inadequate equipment
- Incomplete repairs
- Overloading and incorrect loading



Samuel Plimsoll

The UK Merchant Shipping Act (1876) and Samuel Plimsoll dealt with overloading.....



Key

- TF Tropical Fresh
- F Fresh
- T Tropical Zone
- S Summer
- W Winter
- WNA Winter North Atlantic
- LR Lloyds Register (for ships registered at Lloyds)

...but who will deal with the rest ?