



# Giving in to Temptation

Why Do Good Agents Do Bad Things?

By Dave Willis

Rob had it made. He grew up in a successful, respected, community-minded family. Dad was a well-known corporate CEO; mom was a private school teacher and administrator for decades. After high school, Rob headed off to college where he earned a degree and a spot in the school's athletics record books.

Following graduation, he returned to his hometown – a large community east of the Mississippi River – and landed a job as a producer with a prominent local insurance agency. It didn't take long for him to get into the groove. Active in the local business community, Rob was engaging new prospects and writing new business. His career was taking off.

However, Rob apparently had what one former insurance company CEO once dubbed “a little larceny in his heart.”

Such larceny, while relatively uncommon among agents, does surface from time to time. Understanding what triggers it and implementing sound hiring, training, and oversight practices can help reduce its likelihood and minimize its impact.

For Rob, problems started a couple of years into his career, when, audits show, the former choirboy began cooking the books. Reportedly, the pressure of meeting sales goals got the best of him. So Rob – not his real name, but rather one chosen, in part, because of its pun value – got creative.

According to public information, Rob started writing and issuing policies through carrier portals, pocketing the commissions, and then, more often than not, canceling the policies before they made it to the office. He reinstated canceled policies, falsified applications and other records, and engaged in other illegal activities to boost production and increase his income.

For more than a year, this went on without anyone being aware of it. Eventually, things started to fall apart. A client complaint opened agency management's eyes, which subsequently led to a full audit of the young agent's book. Confronted with facts, Rob admitted to stealing what was a relatively modest amount of money. He was terminated and eventually convicted and sentenced. The agency's crime insurance policy covered the loss, and Rob's family paid back the carrier.

On the other side of the Mississippi, an agent close to retirement found herself engaged in illegal activities. Bea – not her real name, either, but given her age and self-proclaimed compassion for others, one might envision the aunt from Mayberry – was nearing the end of a 30-plus-year run as a producer.

In 2008, a claims professional with a carrier that never had a relationship with the agent tipped off state investigators that Bea had apparently falsified insurance certificates using the name of the claims professional's employer. Bea used that carrier's logo because, according to state records, the company had a good reputation. In fact, she said she tried unsuccessfully to get a contract to represent the firm.

Investigators from two states took a closer look at her business. According to insurance department investigations, throughout several years she took more than \$500,000 from more than three dozen medical businesses and individuals for what the department calls “fictitious and nonexistent policies of insurance.” Because the statutes of limitations reportedly expired on some offenses, today Bea faces more than a dozen counts of first-degree theft for taking more than \$40,000 in premiums and not issuing policies, according to court documents.

In a 2008 letter written to an investigator working the case, Bea offered her side of the story, calling herself a “... woman who loves working with people.” She cited “a reputation as the insurance agent that cared,” bringing or sending homemade cookies to clients and being singled out at industry meetings as an example of someone who offered clients “TLC treatment.”

The letter recounted Bea getting an exclusive appointment in the late 1990s with a niche professional liability carrier as well as appointments with other carriers offering complementary coverages – including a company that offered business owner policies for her target market.

Business was good for a time, but after the BOP carrier exited the market, Bea tried unsuccessfully to replace it. The letter says she renewed one BOP policy on her own without having a carrier to write it because she expected “an appointment in the near future .... One month turned into more months, with no one interested in my business.”

Fake BOP policies accompanied legitimate professional liability policies for a few years until the other shoe dropped. After 10 years of what she dubbed “complete loyalty to the company,” the professional liability provider pulled her contract. Following this, she added, “... I went into a deep depression,” and suffered other severe medical problems.

Bea concluded her missive saying, “I am deeply sorry for doing this deed. My family and friends have no idea of this situation. They think of me as a respectable and professional businesswoman, as well as a loving mother and wife.” Claiming she was in the process of retiring, she asked the department's forgiveness and agreed to accept whatever punishment followed.

However, department records show that she continued issuing fraudulent billing statements for as long as eight months after penning the letter. Because her case is still active Bea was limited in what she could share directly, but she expressed frustration with carrier disloyalty and said she “made a poor choice and ended up in a dark hole, which [she] will always regret.”

## Crime & Penalty

Stories like Rob’s and Bea’s could fill a small book, possibly even a large one, according to Curt Pearsall, founder of Pearsall Associates, a Whitesboro, New York-based agent errors and omissions consultancy.

But why do seemingly good agents do bad things? Fort Worth, **Texas-based insurance expert witness Burl Daniel knows** firsthand why one agent did. A producer at an agency he once owned turned to fraudulent activity by diverting agency commissions to his home in his own name. “I think he was trying to run with a crowd that was way above his income level,” he recalled. “He didn’t have any moral compass.” Daniel fired the producer and told him to pay the money back or go to jail. The agent paid Daniel back.

In other cases, employees face family problems and need extra cash. “Kids get on drugs, a spouse leaves, debts pile up, gambling problems may surface, and what had been an honest, dependable worker gives in to the stress,” **Daniel explained.** “**They don’t know where else to turn for money.**”

Tim Sullivan, vice president of claims for NAMIC Insurance Company in Indianapolis, has seen a few cases of agents gone bad. While wholesale fraud surfaces occasionally, he says it mostly involves a single agent and one or two policies. “Once they’re in it, they just can’t figure out how to get out,” he said.

In one case, an insurance department forced an agent who wrote a fictitious policy to surrender his license and retire,

but the department took no further action. “The department said, ‘It’s your problem. Take care of it,’” Sullivan recalled. While E&O policies exclude criminal or intentionally wrongful activity, Sullivan says final adjudication is often required before coverage can be denied. No criminal charges were filed in the case he mentioned. The company paid out under the agent E&O policy.

Agencies shouldn’t rely on E&O coverage, according to Pearsall, who led Utica National Insurance Group’s agent E&O program for more than 20 years and now serves as president of the American Insurance Marketing & Sales Society. “If something happens, the agent could be personally liable or the agency could be corporately liable for damages,” he explained. Crime policies can provide needed protection.

## Hiring, Training, & More

While it’s nearly impossible to predict criminal activity, upfront work can reduce the likelihood of issues down the road. “Perform background checks, follow through on references, identify skill sets, and use the right interview approach,” Pearsall advised. “Interviewing is tough because candidates are generally well prepared for standard questions.”

Create some out-of-the-box questions that probe analytical skills and responses to certain ethical scenarios. Addressing ethics at the interview stage sets the framework for ongoing enforcement of its importance.

Credit checks may be another tool. “A bad credit rating and bills piling up may be indicators that someone isn’t right for the **job,**” **Daniel said.**

Once someone is hired, the real work begins. “What type of orientation or training program is there?” asked Pearsall. “If the agency doesn’t have a formal program, find an outside resource for technical, sales, and marketing training.”

Pearsall encourages this because he had no training when he entered the business. “When I started in an agency, I was responsible for S through Z for personal, commercial, and claims,” he explained. “Quite literally it was, ‘Here’s your desk; here’s your phone; here are your files. If you have questions, let us know, he said.’”

And work to supplement training with oversight. “At times, circumstances lend themselves to looking back and asking, ‘Where was the supervision? Why didn’t anybody know what was going on?’” Pearsall said. “There needs to be a high degree of supervision. Too often, agencies don’t think they have the time to do that.”

**That’s how Daniel got burned.** “The market chaos from multiple years of massive hailstorms had carriers ducking for cover, and I was working sixty hours a week trying to keep the doors open,” he recalled. “I didn’t have five minutes in a day to check up on the guy, and he took advantage of it. Sharks always swim in during the chaos of a perfect storm.”

Avoiding sharks requires diligent quality-control practices and features. “Agencies have different checks and balances they must adhere to on a disciplined basis,” said Pearsall. “For instance, managers can look at employee work queues and review documentation trails.”

Pat Alexander, an insurance agency coach and consultant in Fort Worth, Texas, stresses the importance of managing automation access for employees and implementing procedures to reduce the chance of loss. “To the extent possible, keep producers out of the portals,” she said. “Producers should be selling. If they need portal access, check what they’re doing.”

She says to pay attention to commissions, too. “Most agency management systems let you confirm the premium has been paid before you pay out commissions,” Alexander noted.

**//N magazine asked the Independent Insurance Agents & Brokers of America, an alliance of more than 300,000 insurance professionals, to share its thoughts on when agents go bad.**

**Bill Wilson, associate vice president of education and research and director of the Big “I” Virtual University, shared insights on licensing, education, and employee screening and referrals:**

“Make sure everyone is licensed. Some degree of a screening process is generally built into the licensing procedure. The test itself may also weed out people who might get in over their heads and resort to unethical or illegal practices to get out of a situation. Similarly, high-quality continuing education and not just CE-approved courses can help keep people on the straight and narrow.

“Tap outside resources for training and information. A number of sources exist, including our Big “I” Virtual University that offers members everything from research library access to our ‘Ask an Expert’ service, where it’s not uncommon for us to address ethical and procedural questions. Similarly, our E&O program participants can purchase a Rough Notes package we call ‘Virtual Risk Consultant’ that provides checklists, reference materials, and other tools to help agents better service their customers. For commercial lines, you can’t go wrong with reference materials from IRMI. They provide ‘just-in-time’ education and coverage information for specific situations or claims.

“While in management, my best screening process was employee referrals. If an outstanding employee highly recommended someone else, I almost always struck gold. People of high character, I believe, tend to associate with others of similar character. In addition, screening/testing programs like Caliper’s can enable a better job fit. The better the fit the less likely you’ll encounter situations that lead to improper conduct.”

**Chris Amrhein, industry consultant and Big “I” Virtual University faculty member, offered his own thoughts on hiring, agency culture, and professional development:**

“With screening and referrals, employers should look for long-term vs. short-term thinking. People get in trouble when short-term needs/issues mislead them into situations that bring long-term pain. In my experience, folks looking for the quick kill or easy sale get in trouble when they’re no longer there. Pro athletes – gods one day and flat broke two years after retirement – are classic examples. They never thought the day would come when everything wasn’t right there for the taking. Before long, they’re on drugs or holding up a liquor store for \$800. It’s really sad. Employees should see the business as marrying their clients, not a one-night stand.

“At every turn, procedures, compensation, training choices, owner attitudes, etc., must reinforce the agency’s long-term view. When Enron claims the high ethical ground, but then tells employees to do whatever necessary to hit quarterly numbers, you have a train wreck in waiting. If owners want producers or customer service representatives to ‘do the right thing,’ they need to know what the ‘right thing’ is and that agency leaders are serious about rewarding that path and punishing the other choices. Too often, I hear, ‘Of course we want the producer to form good habits and call on the right accounts the right way, but he needs some sales now.’

“Finally, training and education must stress a ‘trusted advisor/career’ over ‘sales.’ Again, it’s about a long-term view rather than a short-term cash focus. Education must focus on overall excellence and not the gimmicks and details. Ethics training must address long-term decision-making quality, not simply avoiding specific legal or moral situations.”

She doesn’t advocate removing automation access altogether, though. “There are things producers should be looking up themselves,” Alexander explained, “and, frankly, they should be required to work in the management system. They need to input customer information and use the information for follow-ups.

“But they shouldn’t be involved with invoicing or commissions,” she added. “Today, you can finitely define security so it’s not difficult to cut off access to certain functions.”

Formalize audit procedures, as well. Daniel points out how agents’ associations offer E&O audit checklists. “They’ll offer a number of generic questions,” he said. “From time to time, open ten files and see how things are entered. Agencies can do that or hire a consultant to do it for a fee.”

Pearsall urges agencies to complement procedural controls with personal interaction. “If you have a young producer who appears to be doing extremely well, sit down and ask, ‘What is working for you? We want to duplicate that success.’ Then ask questions and find out if there are holes in the story,” he said.

### Parting Advice

Pearsall says that too often employees cut corners nobody notices, and all of a sudden the employees believe they won’t be caught. “They do get caught,” he said. “Successful agencies have active quality-control processes in place to help identify areas that could cause problems down the road.”

NAMICO’s Sullivan encourages carriers to make sure agencies are protected. “I recommend carriers get a copy of the dec page each year,” he said. “From there, it’s ‘trust but verify.’ Contact the agent that sold the policy.”

Daniel’s counsel: “Don’t get lackadaisical,” he said. “Never assume you know what’s going on. People under stress do crazy things when their world falls apart.” Rob and Bea probably agree. ■

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