

FRAUD THREATS

Facing the Title Industry



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Featured Speakers



Jon Biggs,

Vice President and Director of Risk Management,
Investors Title Insurance Co.



Lindsay Nickle,

Partner, Vice Chair of Cybersecurity and Data Privacy
Constangy, Brooks, Smith & Prophete, LLP



Jewel Quintyne

Senior Title Operations Consultant
Qualia

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Facing the Title Industry



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Fraud Threats Facing the Title Industry

- 1) Fraud Threats
- 2) Ransomware
- 3) Seller Imposter Fraud
- 4) Social Engineering
 - a) Phishing
 - b) Artificial Intelligence (AI)
- 5) Wire Fraud / Payoff Fraud
- 6) Conclusion

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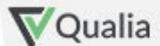
 THE TITLE
REPORT

Two Part Test:

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Two Part Test:

1) Do I Have a Computer?

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Two Part Test:

- 1) Do I Have a Computer?
- 2) Do I Have a Cellular Phone?



If You Answered “YES” to either, then you **NEED** to watch this presentation on **Fraud Threats Facing the Title Industry!**

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Cyber Crime Trends

In 2023, the IC3 received a record number of complaints: 880,418 complaints with potential losses exceeding \$12.5 billion, which is nearly a 10% increase in complaints and a 22% increase in losses compared to 2022.



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Ransomware Attacks

- **Full-scale Criminal Business Models**
 - Ransomware-as-a-service
 - Customized malicious code, credential stealing Trojans, stealthy attack tools
 - Press releases, shaming sites, outreach to leverage payment
 - Aggressive communication and secondary attacks
- **Effective execution of attacks**
 - Multiple attack vectors – phishing, RDP, unpatched vulnerabilities
 - Legitimate applications used for malicious purposes
 - Deletion of backup data
 - Theft of sensitive data before encryption

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Seller Imposter Deed Fraud - How it Works:

- 1) **Remote Seller:** Remote seller that is not personally known to the real estate agent and/or the settlement agent and they want the proceeds wired.

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- 2) **External Execution:** Conveyance documents are:
 - a) prepared outside of your office by and not known to the realtor or settlement agent; or
 - b) prepared in your office but executed and notarized outside of your office.

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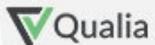
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- 4) **Vacant or Non-owner Occupied:** Investment property, vacation property or other vacant (including improved and unimproved) property, where a potential fraudulent sale would not draw the attention of the true property owner.

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- 5) **Entity Ownership:** (a corporation, limited liability company or trust) In some cases, the entity was recently formed with the same name as a dissolved entity and purports to transfer the property of the dissolved entity.

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Seller Imposter Deed Fraud

Problems

- 1) Title is Good, but does not belong to person selling
- 2) Standard of Care is to not validate the notary public acknowledging the document
- 3) Rely only on the notarial certificate
- 4) Funds Wired and not hope for return

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Result if not mitigated:

- 1) Lawsuit between the Rightful Owner and the Bona Fide Purchaser for Value
- 2) Primary Fact at issue in the case is that Closing Attorney recorded a fraudulent deed

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1) Seller: Red Flags

- a. Resides out of state and does not attend closing.
- b. Only has a digital presence and only communicates by text or email.
- c. Contacted the real estate agent on the internet or lists the property “For Sale by Owner.”
- d. Demands that proceeds be wired (often to an account in a different location than the property).
- e. Signature does not match or resemble previous signatures in the chain of title.
- f. Refuses to meet online in a virtual video call.
- g. Cannot produce identification.
- h. Refuses to adhere to routine protocols and procedures put in place by the settlement agent.
- i. Only wants to receive documents via email.
- j. Uses P.O. box for address.

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2) Notary: Who Controls Notary

- a. Notary is not known to the settlement agent.
- b. Notary is in a state other than where the property is located.
- c. Notary is in a state other than where the seller is located.

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3) Targeted Properties: Vacant or Non-Owner-Occupied Property

- a. Investment property, vacation property, or rental property.
- b. Rental property where the seller does not discuss assigning the lease, pro-rating rents, or transferring security deposit.

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4) Entity Ownership

- a. Owned by a non-personal entity such as a corporation, limited liability company, or trust.
- b. Entity may have been formed after the acquisition of the property.
- c. Entity with the same name existed prior to the formation of the seller entity and is now dissolved.
- d. Entity with very similar name also exists (e.g., Seller, Inc./Seller, LLC, or Property Owner, Inc., and Prop. Owner, Inc.).

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 THE TITLE REPORT

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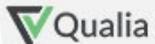
5) Others

- a. No outstanding secured debt.
- b. Below-market sales price – goal of a quick sale.
- c. Back taxes unpaid.
- d. Property offered for sale online by another real estate firm.

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 THE TITLE REPORT

SIMPLE

SELLER'S IDENTITY MUST
PRECEDE LITERALLY EVERYTHING

**KNOW YOUR CLIENT
& KNOW THE SIGNS**

- Remote Seller
- External Execution
- Unknown Notary
- Vacant or Non-owner Occupied

It's S.I.M.P.L.E.

- Seller
- Identify
- Must
- Precede
- Literally
- Everything

<http://InvTitle.com/wire>

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PRECAUTIONS AND MITIGATION EFFORTS

1) Contact Seller at Tax Address:

- 1) Definition of Non-Owner-Occupied Property

2) Verify or select the notary:

- a. Require that the notarization be performed by a vetted and approved notary, which could include RON, when authorized.
- b. Verify the notary's credentials with the commissioning authority.
- c. Contact the notary directly, at an independently discovered phone number, to confirm or arrange the execution of the documents.
- d. Request a copy of the notary's errors and omissions insurance or notary bond.
- e. Arrange for the seller to go to an attorney's office, title agency, or bank to execute the deed. (It is more important that the seller does not know the notary than it is for the settlement agent to know the notary.)

3) Control the disbursement:

- a. Compare that wire instructions match account detail on seller's Disbursement Authorization Form.
- b. Require a copy of a voided check with the Disbursement Authorization Form.
- c. Require that a check be sent for seller proceeds rather than a wire.

4) Investigate the property:

- a. Search the property address online to see what information is available, such as whether it is publicly advertised as being on the market for sale.

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4) Verify the seller's identity:

- a. Contact the seller directly at an independently discovered and validated phone number.
- b. Ask the seller for a copy of their government issued identification.
- c. Ask the seller to meet you online (Zoom or other platform) to share identification.
- d. Use an identity verification platform, such as CertifID, to validate the seller's credentials.
- e. Check to see where the tax bill is sent and compare it to the seller's contact information.
- f. Ask a neighbor how to contact the property owner.
- g. Upon receipt of documents, compare the seller's signature to the seller's signature in previously recorded documents (whether in the chain of title or, if an entity or trust, with the secretary of state or on trust documents).
- h. If the property is leased:
 - i. Ask the tenant for the landlord's (property owner's) contact information.
 - ii. Ask the property owner or the tenant for a copy of the lease.
 - iii. Ask about the assignment of the lease.
 - iv. Ask about the rent payments/security deposit.
- i. If the property is owned by an entity:
 - i. Compare the address of the officer(s) and/or the registered agent to the seller's contact information.
 - ii. If the registered agent is the seller's attorney, contact them for verification of the seller's legitimacy and authority.
- j. If the property is owned by a trust, request a copy of the trust document and contact the beneficiary(ies).

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Social Engineering

- Phishing remains the most common form of cyber crime globally.
 - Over 80% of US companies reported successful phishing attacks in the last year.
 - US companies reporting having experienced a cyber incident in the last year, 45% reported network intrusion while 30% reported phishing. Over half of the network intrusion incidents originated from phishing.
- The majority of major threat groups still use phishing as their primary attack vector (45-65%).
- MFA has recently prevented over 60% of targeted spear phishing attacks, and over 90% of bulk (spam) attacks.
 - Attackers are working to develop tactics to evade MFA.

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AI Phishing

- AI phishing harnesses AI technology to make it easier for scammers to mass execute scams that are more convincing to potential victims.
 - Since the fourth quarter of 2022 (which was around when ChatGPT entered the scene), there's been a 1,265% increase in malicious phishing emails.
- An AI phishing attack leverages artificial intelligence to make phishing emails more convincing and personalized.
 - A bad actor could use AI algorithms to analyze vast amounts of data on a target segment, such as social media profiles, online behavior, and publicly available information which allows them to create personalized campaigns.
- AI deepfakes use technology to spoof videos, texts, websites, and voice calls.

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Business Email Compromise

- Phishing attacks aimed at gaining access to email accounts
- Aimed at finding financial transactions
- Intercept wire or ACH payments
- Additional concerns about data breach

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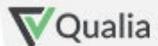
"You know, you can do this just as easily online."

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"You know, you can do this just as easily online."

Average Bank Robbery = \$3,816

Average Wire Fraud Loss = \$129,427

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**Online You can make 3400%
of Bank Robbery Haul**



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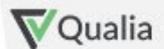


Seller



Buyer

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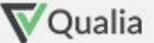


Seller



Buyer

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Seller



Buyer

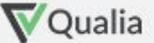


Listing Broker



Selling Broker

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Seller



Buyer



Listing Broker



Selling Broker



The Team



The Team

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Seller



Listing Broker



The Team



Attorney



Buyer



Selling Broker



Banker



The Team

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Seller



Listing Broker



The Team



Buyer



Selling Broker



The Team

Surveyor



Insurance



Repairs



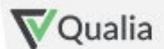
Loan Processor



Inspector



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Seller



Listing Broker



The Team



Buyer



Selling Broker



Banker



The Team



Surveyor



Insurance



Repairs



Loan Processor



Inspector

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Seller



Listing Broker



The Team



Attorney



Buyer



Selling Broker



Banker



The Team



Surveyor



Insurance



Repairs



Loan Processor



Inspector

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Seller



Listing Broker



The Team



Attorney



Paralegal



Banker



Buyer



Selling Broker



The Team



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Repairs

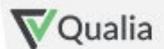


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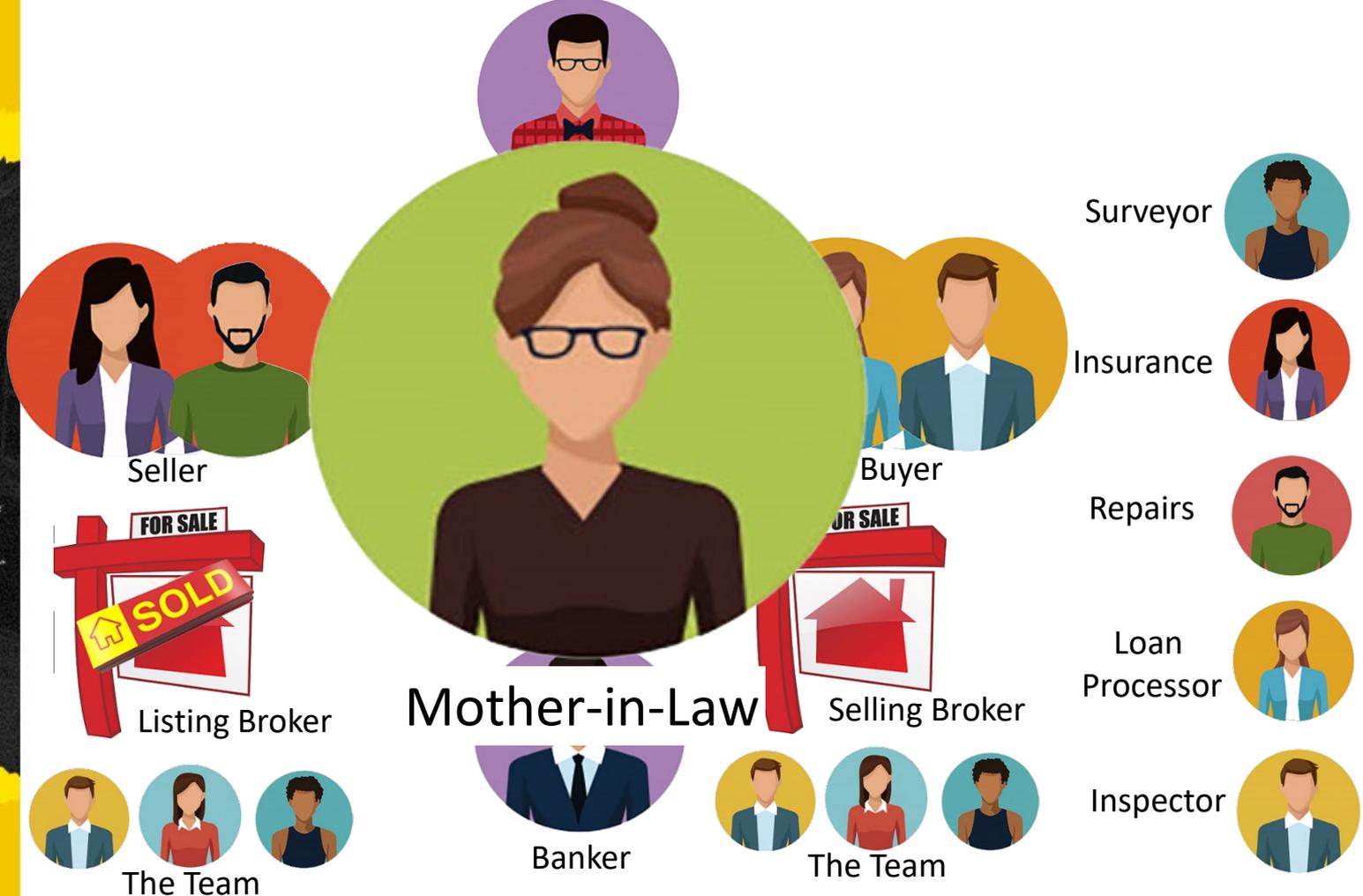
Inspector

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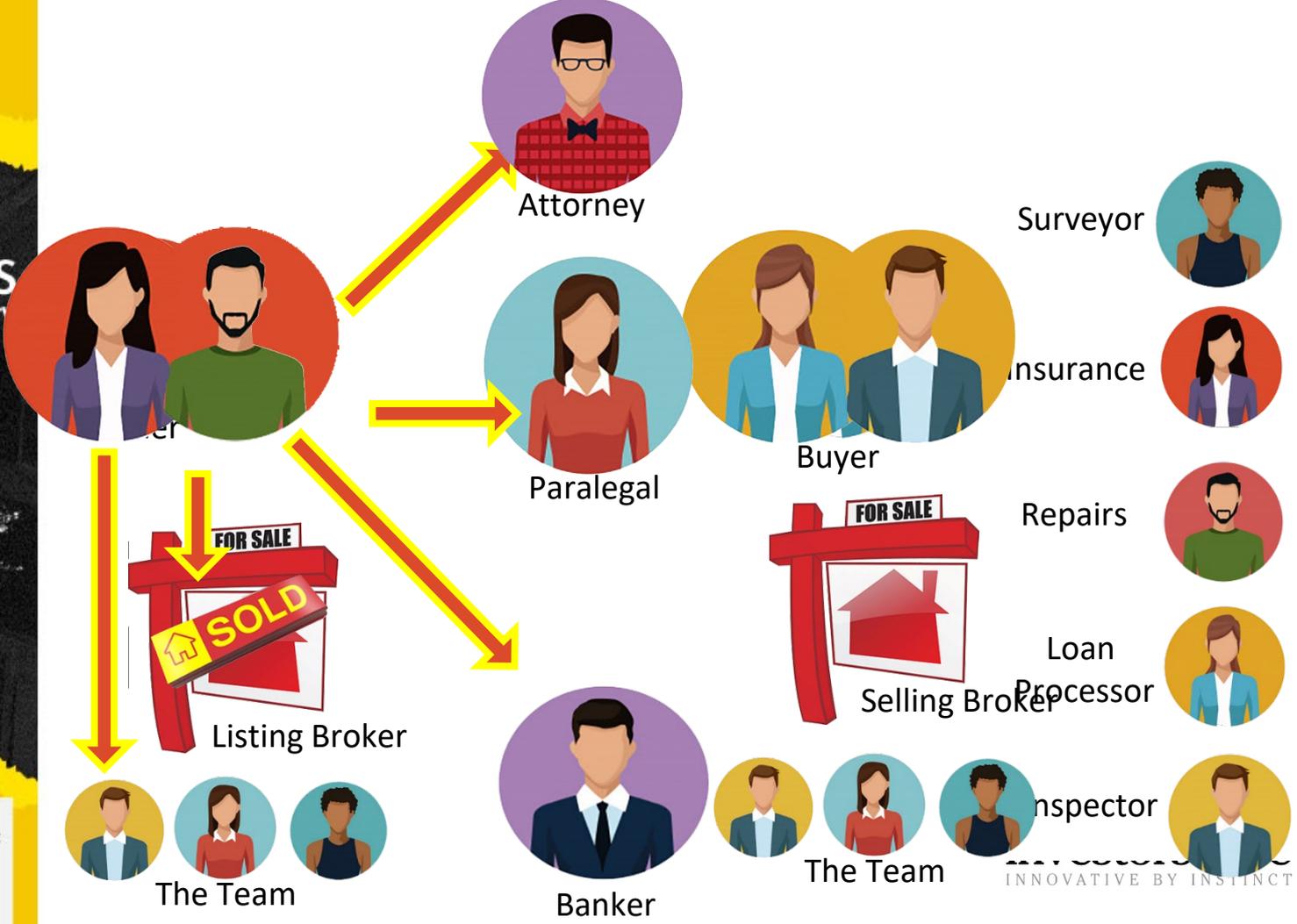


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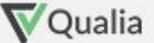


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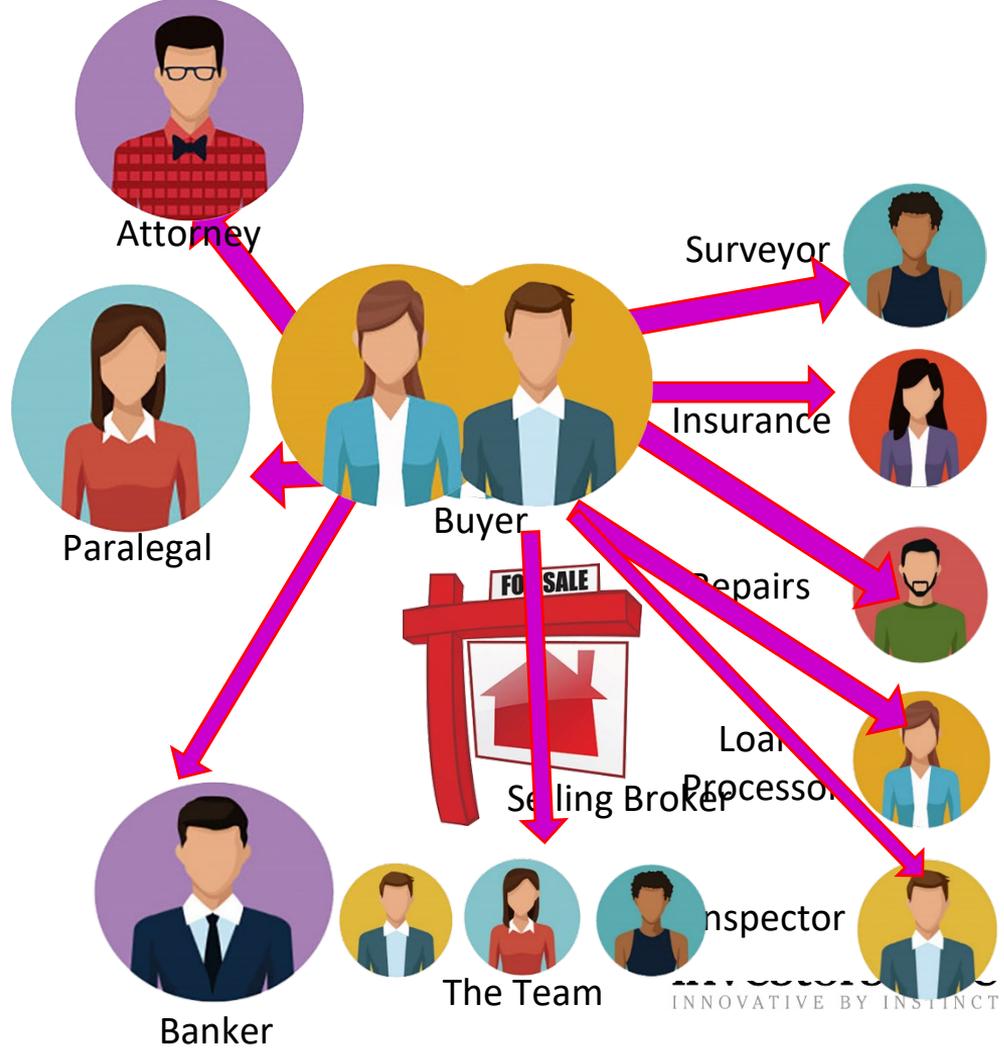
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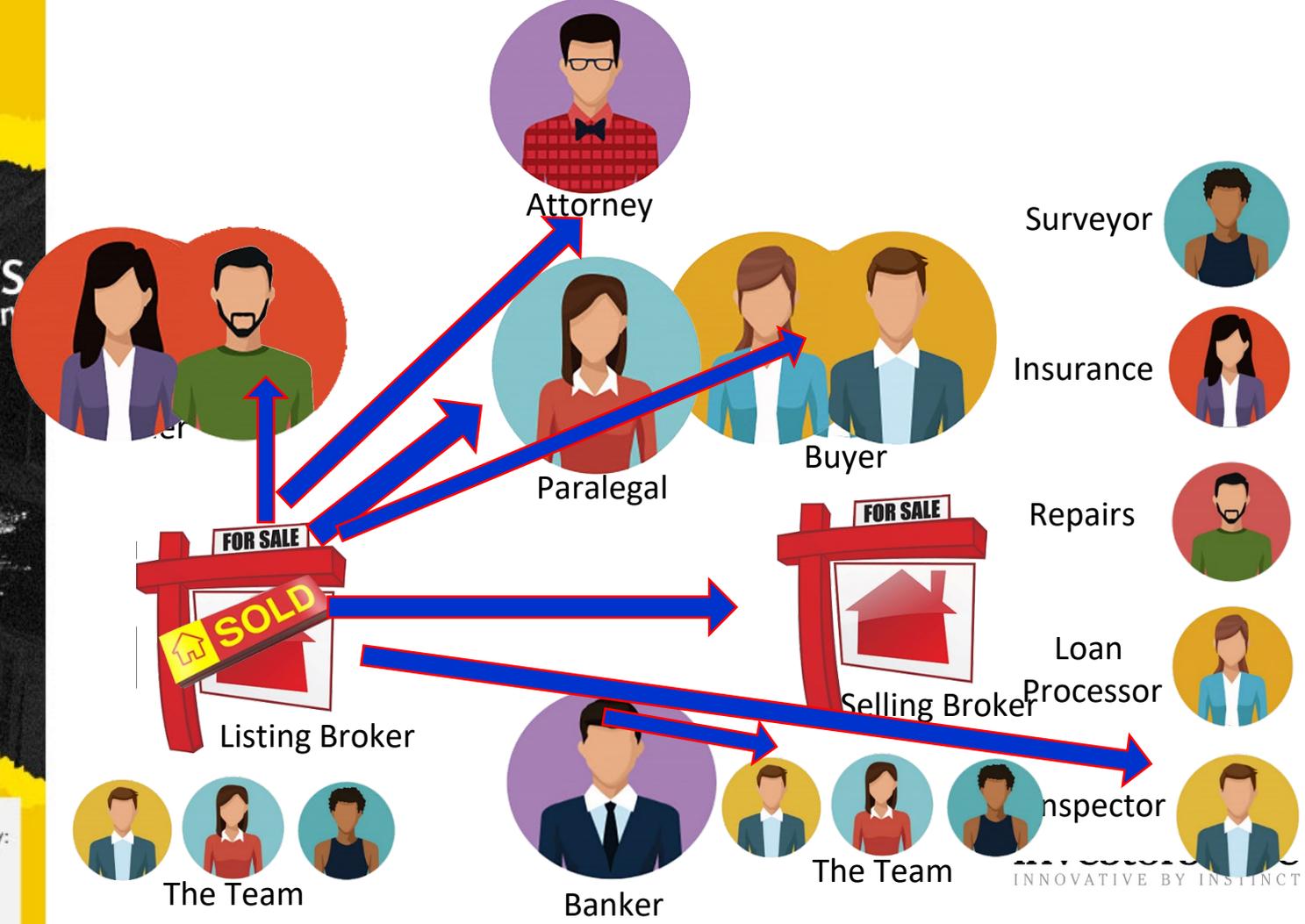
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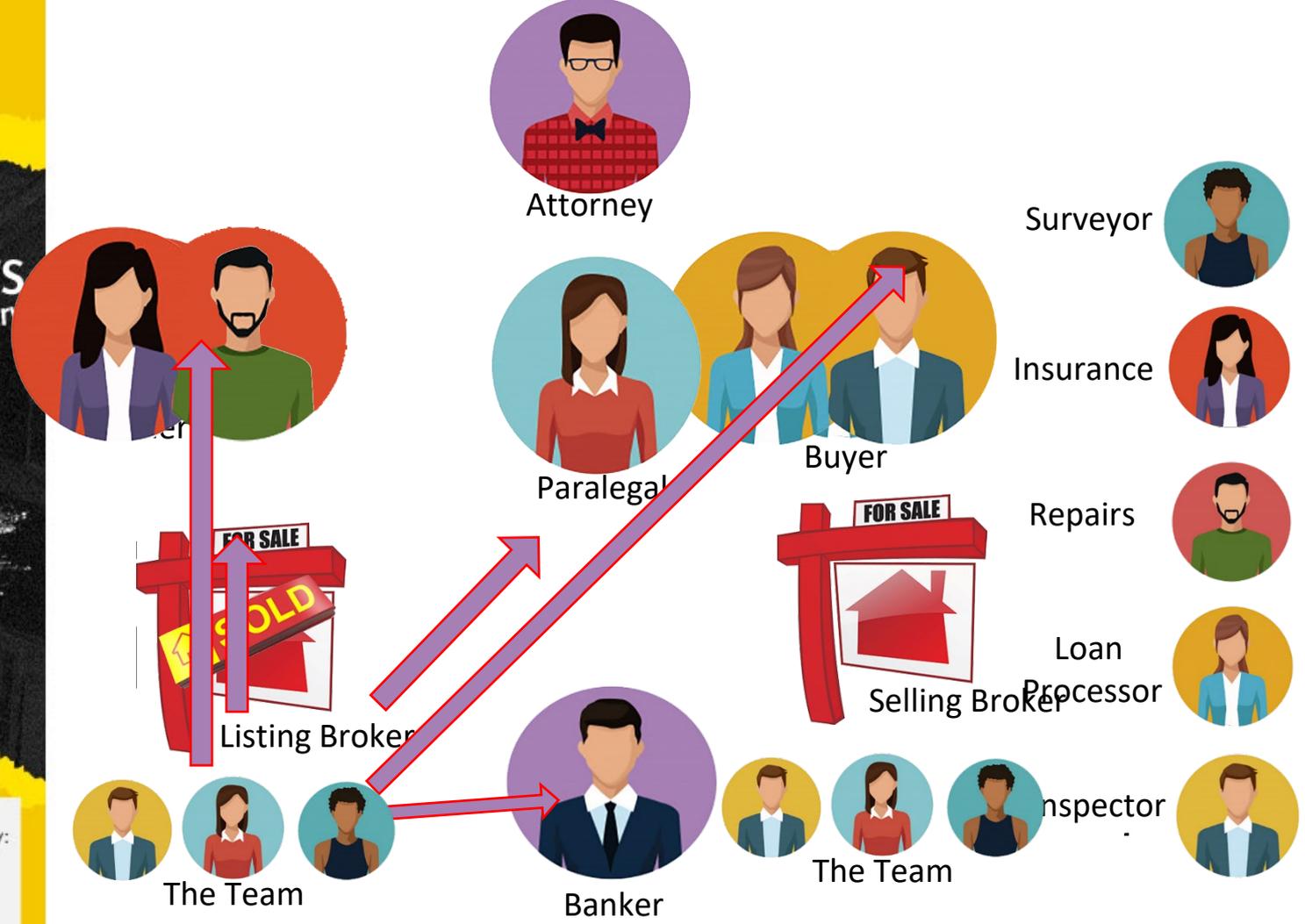
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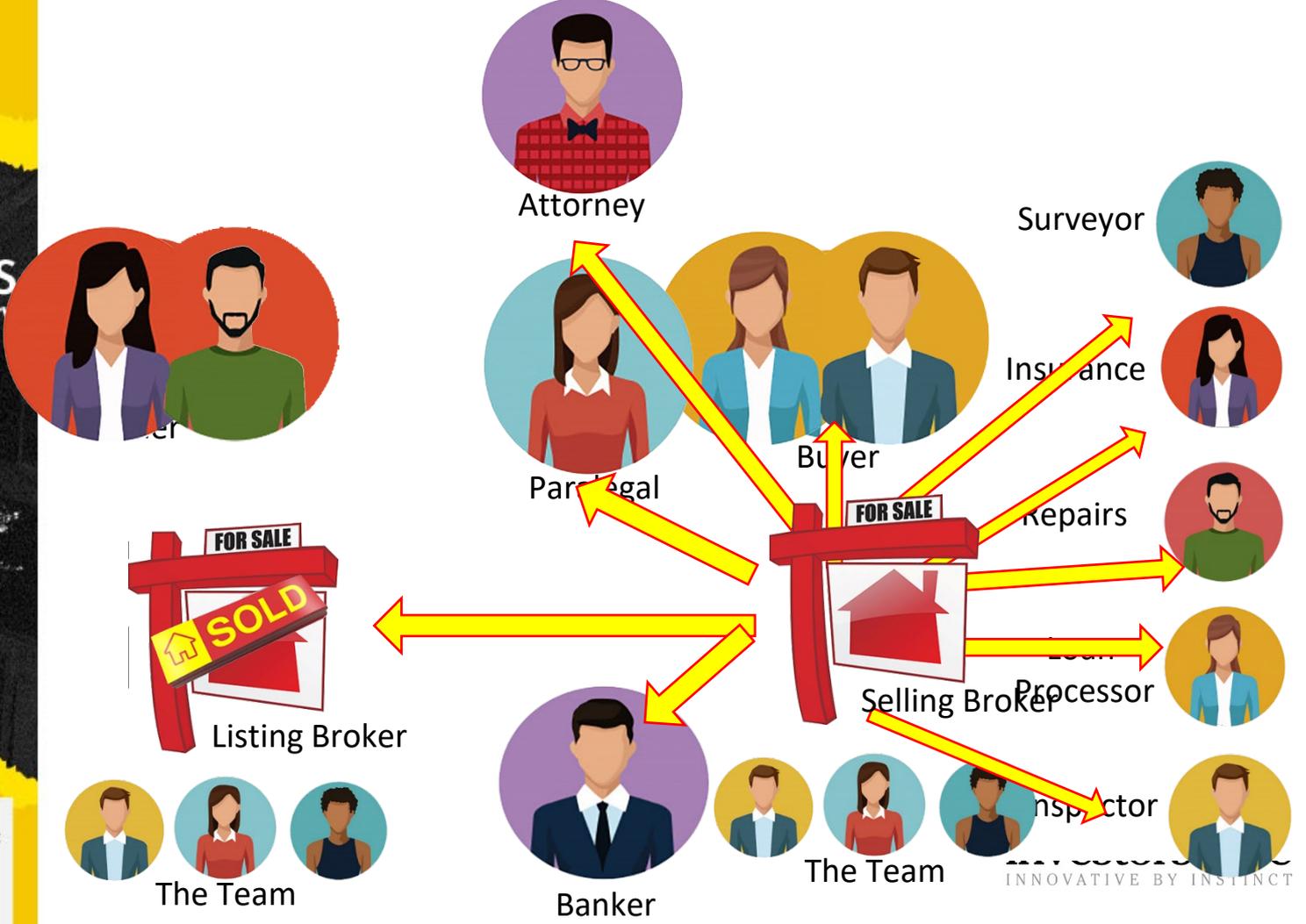


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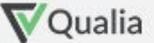


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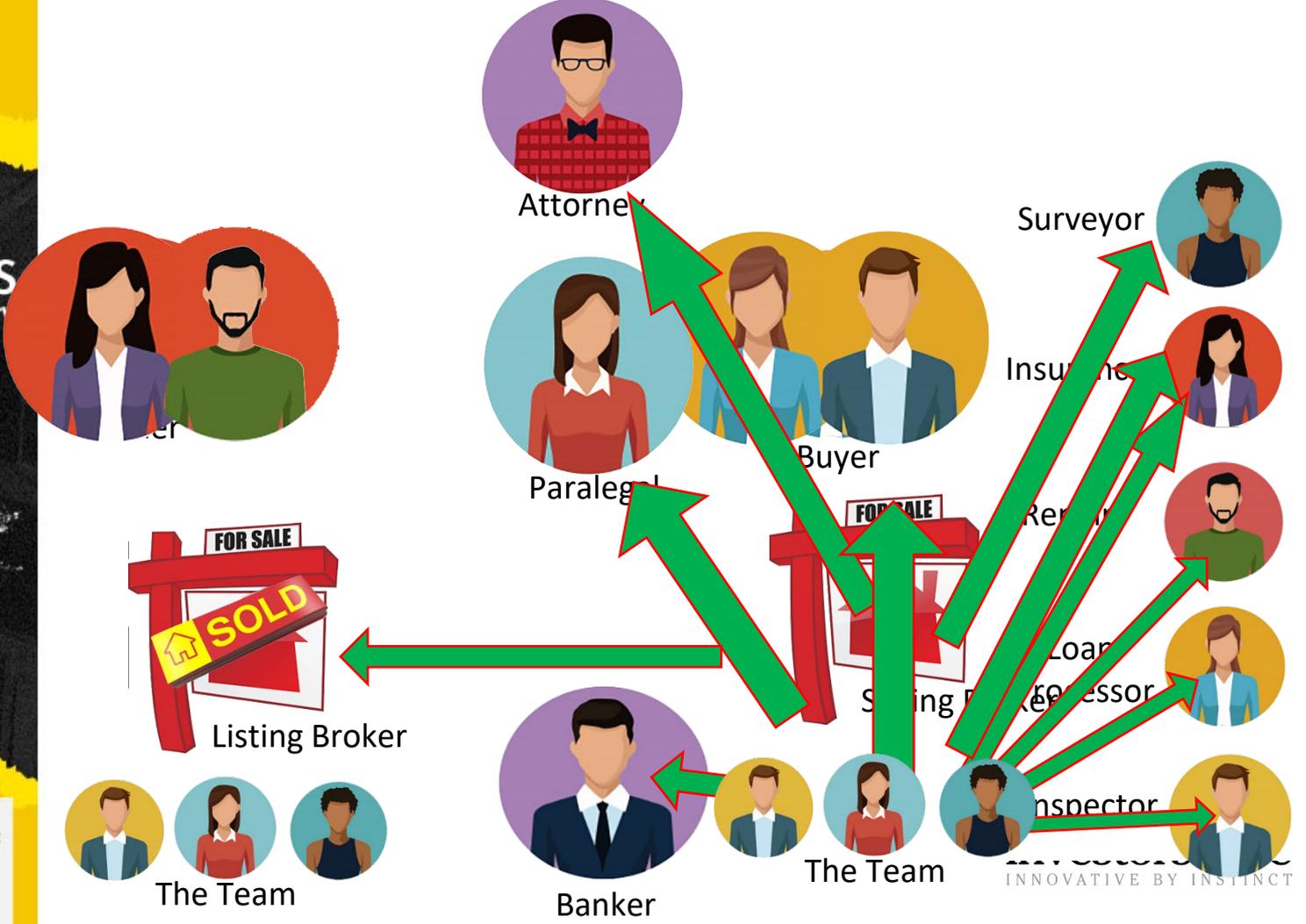
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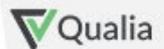
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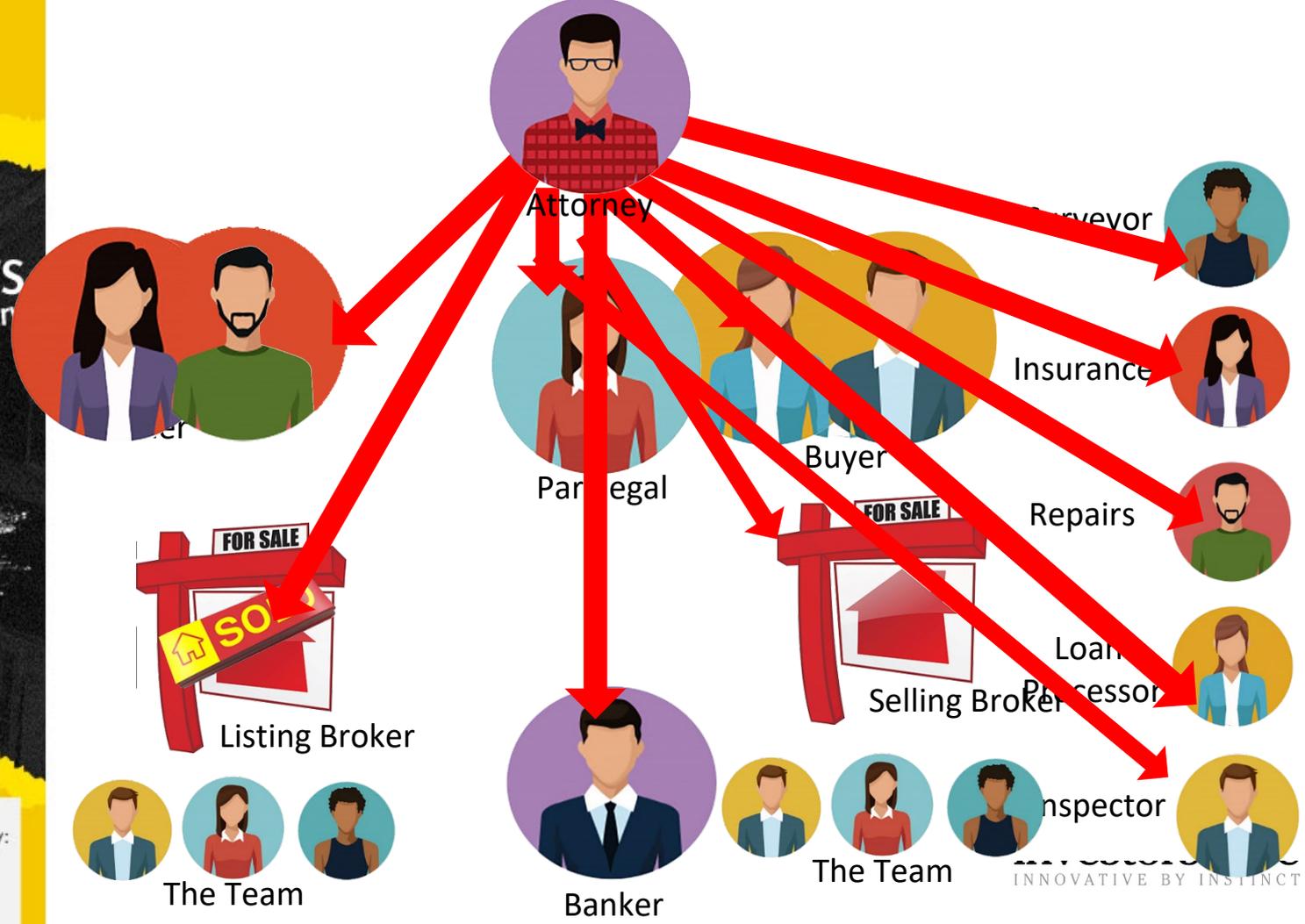
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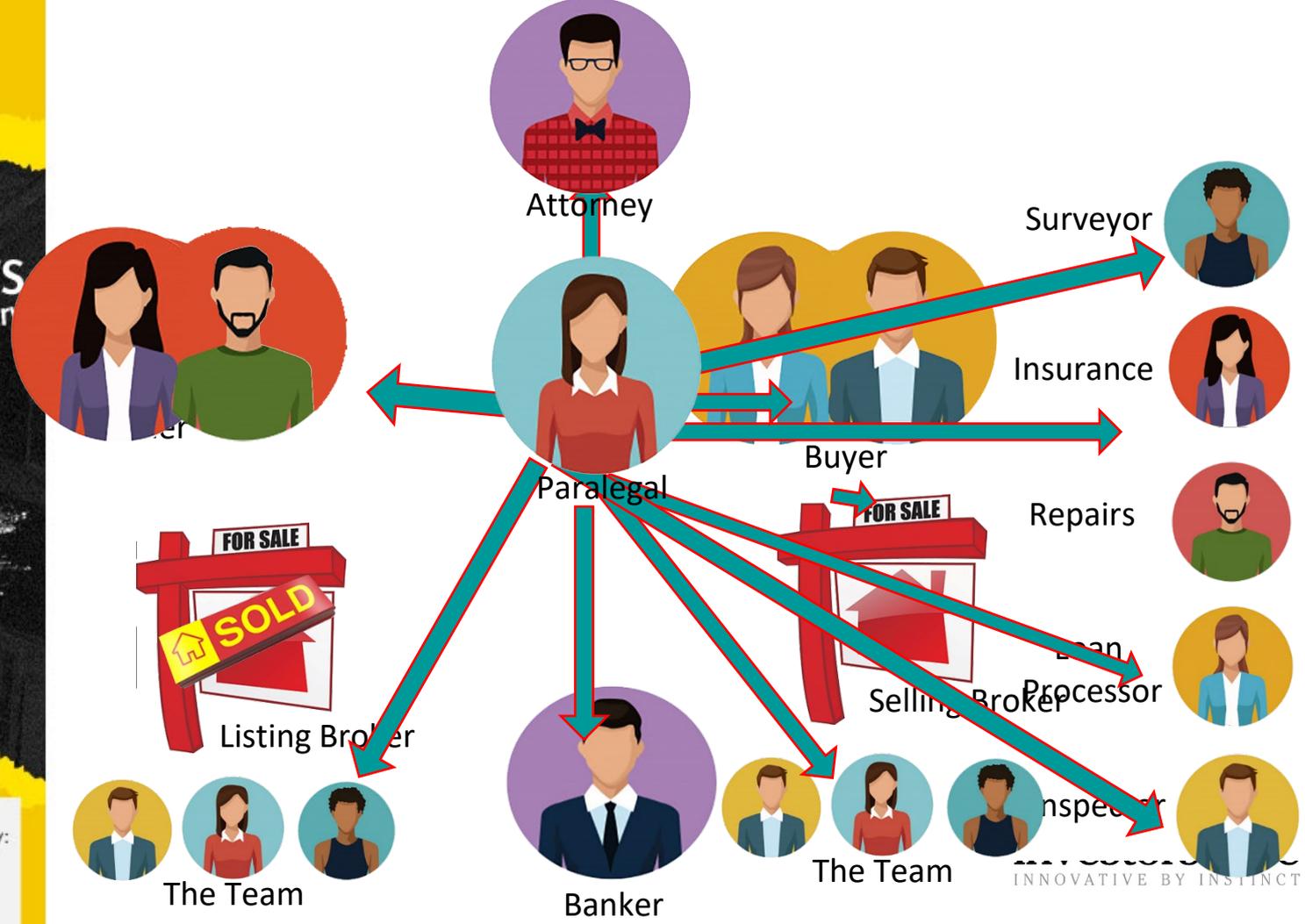
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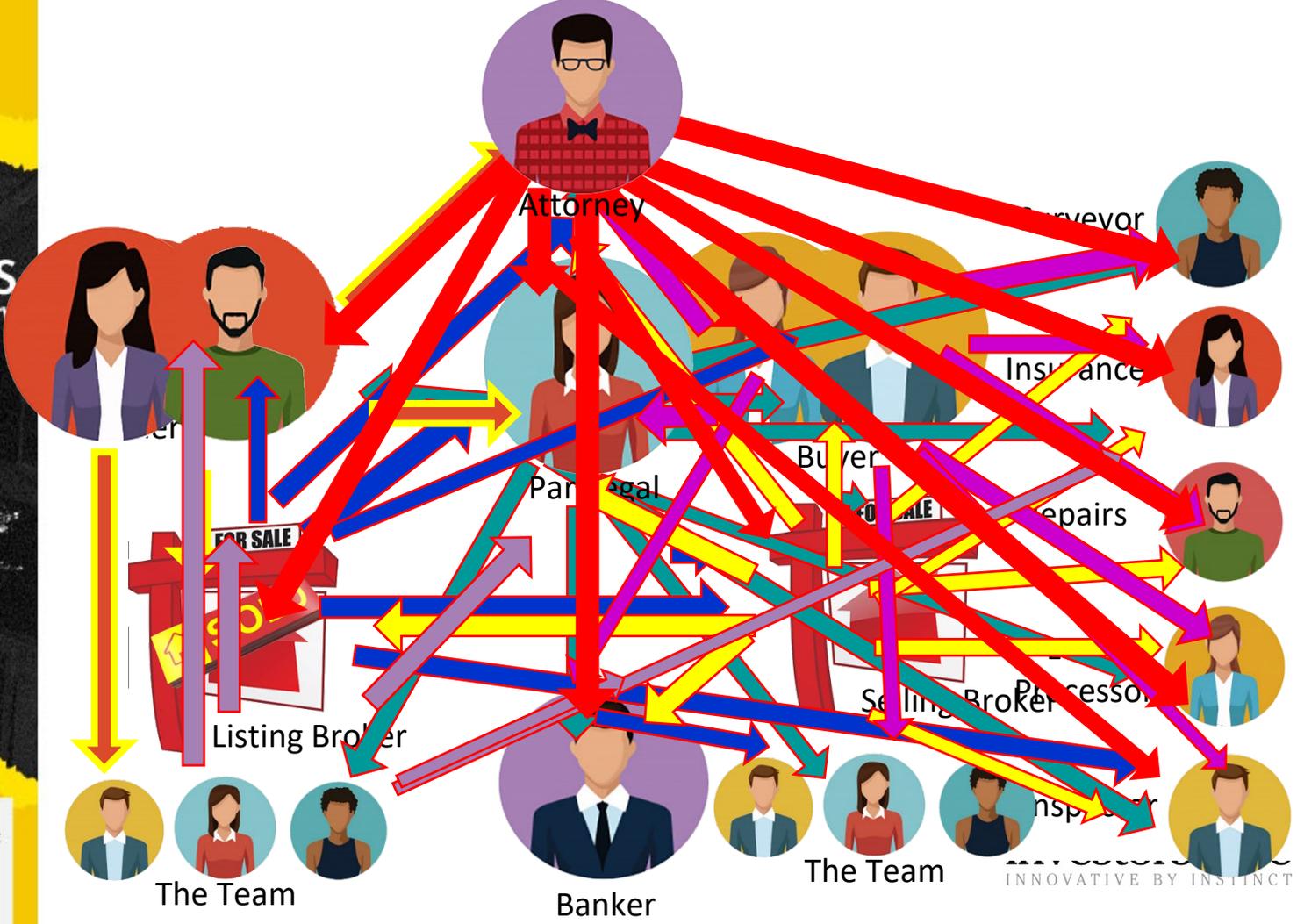
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WIRE.

WHAT I REQUIRE EVERY TIME.



What I Require Every time

W. I. R. E. When you Wire

1. Proper Identification
2. Verbal Confirmation
3. Delivery Verification

What
I
Require
Every
Time

<http://InvTitle.com/wire>

WIRE. WHAT I REQUIRE EVERY TIME. Proper Identification. Verbal Confirmation. Delivery Verification.

File Number: _____ Closing Date: ____ / ____ / ____ Buyer(s): _____ Seller(s): _____

INCOMING WIRE

OUTGOING WIRE

STEP 1: PROPER IDENTIFICATION

Wire Instructions Sent to or Received from: _____

Contact Name _____

Party in Transaction

Buyer Seller Lender Other _____

Verified Contact Phone _____

Encrypted Email _____

Fax Number _____

Date Instructions Sent ____ / ____ / ____

Date Instructions Received ____ / ____ / ____

Format of Delivery of Instructions

Encrypted Email Fax

Mail/Overnight Seller Docs/Affidavit

Hand Delivery Other _____

Initials _____

STEP 2: VERBAL CONFIRMATION

Date Confirmation Call Made ____ / ____ / ____

**Call the Verified Contact Phone indicated in Step 1.
Do not rely on individuals that call you.**

Wire Amount: \$ _____

INCOMING WIRE

Which Trust Account: _____

OUTGOING WIRE

Account Name _____

Account Number _____

Routing Number _____

Bank _____

Wiring Instructions Verbally Confirmed and Attached

Initials _____

STEP 3: DELIVERY VERIFICATION

Wire Authorized by (If Outgoing Wire) _____

Wire Initiated by (If Outgoing Wire)

____ / ____ / ____ ____ / ____ / ____

Date Wire Sent

Date Wire Received

____ / ____ / ____

Date of Receipt of Wire Confirmation

____ / ____ / ____

Receipt of Wire Confirmed by _____

Type of Wire

Loan Payoff Seller Proceeds

Other _____

Equity Line Payoff **Remember the Block & Close Letter**

Initials _____

CHANGE IN OUTGOING WIRING INSTRUCTIONS? **CHANGES TO WIRING INSTRUCTIONS SHOULD REQUIRE A SECONDARY REVIEW**

Change Requested by: _____ Buyer Seller Lender Other _____

Was Change Requested by Contact: Yes No Date Change Request: ____ / ____ / ____

Manner of Change Request: Encrypted Email Telephone Fax Other _____

Initials _____

Was Change Verified Independently through Steps 1 and 2? Yes No

Who Confirmed Change: _____ Date Change Confirmed: ____ / ____ / ____

Manner of Confirming Change: Verified Contact Phone **(Recommended)** Encrypted Email Other _____

Change Approved By: _____ Date Change Approved: ____ / ____ / ____

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Jonathan W. Biggs, J.D.

Vice President of Risk Management & Education

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