Protect Your Business Against Motor Carrier Fraud

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Cargo theft activities have increased significantly in the United States and Canada. According to CargoNet, nearly 2,500 cargo theft events were recorded across the U.S. and Canada in the first three quarters of 2024, and the total value of stolen goods exceeded $183.5 million.

Organized crime groups have emerged as primary drivers of cargo theft. Many no longer use strong arm tactics to steal cargo but, instead, utilize technology to strategically plan their fraudulent activities. Activities often involve some form of identity theft, fraudulent documentation, and exploitation of cyber vulnerabilities. Common tactics include fictitious pick-up, re-brokering, and intermodal deception.

"Fictitious Pick-Up": Organized crime groups strategically buy established Motor Carrier (MC) numbers and register a sophisticated domain address to trick logistics companies into handing cargo over to them, which they subsequently sell on the open market. Unfortunately, no specific regulations currently govern the procedure of transferring/purchasing MC numbers. Spoofing on bid boards (using fake orders to deceive the market and manipulate prices) and identity theft are also commonly used tactics by criminals to steal cargo by deception.

Re-brokering of Cargo: Double or re-brokering of cargo is a common practice in the supply chain industry; however, it can lead to losses. Bad actors may re-broker loads to another provider, often at rates above market level, with no intent of ever paying. They collect freight charges from their client and vanish without paying the actual carrier. The carrier is then forced to pursue the cargo owner for payment, resulting in increased costs for the cargo owner.

"Intermodal Deception": Intermodal deception has become a challenging issue and occurs when a motor carrier is hired to move a sensitive or valuable long haul load, which they transfer to an intermodal van and move via a lower-cost intermodal option. They then pocket the difference between the expedited all-motor invoice and intermodal remittance. This practice can result in delays, damage/loss during additional handling, and rejection when chain of custody issues arise.

Strategic Best Practices to Mitigate Risks

While the frequency of these types of crimes continue to rise, they have significant financial and reputational impacts on innocent transporters. There isn't a simple solution, but transportation intermediaries can mitigate risks by employing strategic best practices. Some recommendations include:

Maintaining Consistent and Accessible Terms & Conditions of Service

It is advisable to hire a Trade Attorney to prepare bespoke Terms & Conditions documents tailored to fit your specific business needs. The T&C docs will comprehensively address all your service verticals, clearly defining your role as the Service Provider. Additionally, they will explicitly state liability exclusions and limits of liability, ensuring all aspects of your services are covered. The documents should be:

- accessible by clients prior to freight tender,
- on the company's website with easy accessibility,
- linked in all email signatures,
- appended to credit agreements and Powers of Attorney,
- attached to or on reverse of invoices,
- included in all quotations,
- included in new customer onboarding documents,
- signed and/or acknowledged.

Have Contracts in Place for Each Customer

A standard document, drafted by a legal professional, will represent you as the Service Provider. It is crucial to diligently review all contracts originating from Shippers, being particularly cautious of enhanced liability terms, waivers of T&C's, and inaccurate definitions of the provider. Consulting with a Trade Attorney and Insurance Provider is recommended to navigate these complexities. Additionally, it is important to carefully select and restrict who within the company has the authority to approve Shipper contracts.

Maintain a Consistent, Robust Carrier & Broker Vetting Process

To ensure a documented, comprehensive, and repeatable process, consider utilizing third-party service providers such as Carrier Assure, Xworks, RMIS/ Truckstop, Highway, Carrier 411, and Verified Carrier for vetting.

When selecting a Carrier or Broker, be aware of red flags/key requirements: FMCSA authority that is less than six months old is a red flag, there should be at least one DOT inspection on record in the last two years, and the safety rating should not be unsatisfactory or conditional. Additionally, review safety performance through BASIC scores.

Ensure the Carrier has at least $1 million in Contingent Auto Liability and $100,000 in Motor Truck Cargo Legal Liability, and only accept evidence of insurance from insurance brokers, not the Carrier. Scheduled VIN policies require extra diligence. Verify contact information via the FMCSA database, and if it has changed in the last 90 days, use past information. Avoid virtual addresses. Finally, ensure financial security is provided via a bond or trust.

Formalize Relationships in Writing

Broker/Carrier and Co-Broker Agreements should clearly define the roles and expectations of both parties, as well as their respective liability exposures and insurance requirements. These agreements must prohibit "deferred" services and sub-brokering without prior approval.

The agreements should be executed by authorized representatives of every Carrier and co-Broker before dispatch. Additionally, these agreements need to be reviewed and updated periodically on a fixed schedule. Dispatch should be restricted to approved Carriers who have been properly vetted, have a formal agreement in place, and have a positive track record.

Comprehensive Risk Transfer –> Have the Right Insurance

- Cargo Legal Liability or Contingent Cargo Liability
- Errors & Omissions (Professional Liability)
- Cyber Insurance: First Party (Cyber Crime) and Liability

Ideally, you should consolidate your transportation insurance with the same Broker/Insurer to streamline coverage and management. Utilize consultative and collaborative insurance advisors who specialize in transportation-related exposures to ensure comprehensive protection. It's crucial to thoroughly understand your coverage by carefully reading the warranties and exclusions. Additionally, submit all contracts that assign non-standard liability agreements to the Insurance Company for approval to avoid any potential issues.

Some Tactical Best Practices

In addition to the Strategic Best Practices outlined above, we also suggest employing the following Tactical Best Practices, so you are readily able to identify common tactics/red flags in your operations:

- Verify documentation, driver identification, and company vehicle at time of pick-up
- Strictly adhere to bill of lading and work order terms
- Enforce use of GPS tracking and enhanced diligence when using public load boards
- Decline loads that necessitate variance from established procedures

Understanding your risks and knowing how to reduce them can help prevent or eliminate the possibility of your company falling victim to fraudulent cargo theft activities.

Questions? Please contact us at **info@worldinsuranceagency.com.**