

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Rancho Cucamonga, California
September 14, 2011**

In attendance: Don Marshall, Chair; John Riggs, Vice-chair; and Commission Members Lilia Garcia, Joel Sherman, Jiles Smith, and Douglas Williams.

Others present: Rick Plein, Deputy Commissioner, Enforcement Branch, California Department of Insurance; Eric Weirich, Bureau Chief, Enforcement Branch; Vanessa Himelblau, Senior Staff Counsel, Legal Division.

Chairperson Don Marshall opened the meeting by asking for a motion to approve the submitted minutes from the June 15, 2011 meeting.

Motion

Commission member Douglas Williams made a motion to accept the minutes as submitted. Commission member Jiles Smith seconded the motion.

Action

The summary meeting minutes were unanimously passed.

Chairperson Marshall called on each of the thirty-six grant-funded counties to provide oral presentations if the district attorneys had additional or new information to support their prospective budgets. In summary, eleven counties voluntarily addressed the FAC. They were Alameda, Contra Costa, Fresno, Imperial, Los Angeles, Monterey, Riverside, San Diego, San Francisco, Santa Clara, and Tulare.

District Attorney Report

Gary Fagan, Co-Chair of the California District Attorney Association (CDAA) Insurance Fraud Sub-Committee spoke on behalf of CDAA. "I think every office that's here, every county here, has a desire to at least maintain what we have; and I think that our request is that you do what is necessary to do that", stated Mr. Fagan. He made a suggestion to the Commission that they use the money in the workers' compensation fraud account to add to the current assessed amount rather than using it to offset the assessment for next year. Mr. Fagan reminded the Commission that the counties do not have extra money to supplement the grant like they have in past years, and he suspects AB 109 will cause added economic pressures for the counties in the future.

Fraud Division Report

Rick Plein, Deputy Commissioner, Enforcement Branch requested the funding remain stable for the Fraud Division. He highlighted a few significant cases the Fraud Division worked on in conjunction with the district attorney offices. "The goal of the Fraud Division is to produce quality and cost effective investigations resulting in successful enforcement actions", stated Mr. Plein. He explained the four critical elements required

to have successful outcomes: an aggressive outreach program, partnership with key stakeholders, effective trend analysis, and maintaining a balanced caseload.

Mr. Plein reported that the regional offices have been realigned to ensure they are placing investigators in the geographical areas where more crimes occur. "We do have dedicated personnel in the workers' compensation program. We have identified people from each of the regional offices who will be working workers' compensation cases", stated Mr. Plein. He also reported that the Enforcement Branch has been hiring due to part of the Department's budget being restored after a 15 percent cut a couple years ago.

Mr. Plein mentioned that the Department will continue to work a balanced caseload and work the impact cases (i.e., medical provider, premium fraud and willfully uninsured cases). "Currently we have 37 medical provider fraud cases going on throughout the state, as well as 180 premium fraud cases", stated Mr. Plein.

In the last year, we participated in 91 outreach sessions to over 3800 people in the public, private and governmental agencies. We've also revised the eFD-1 form so that it's easier to fill out for the average citizen to report suspected insurance fraud. A medical provider fraud training session is also in the planning stages. "We want to train not only our people but the district attorneys on how workers' comp claims are handled as well as some of the things to look for on the medical provider fraud side", stated Mr. Plein.

The Local Assistance and Fraud Grant Audit Units have begun training workshops throughout the state for the district attorney offices on how to fill out the Requests-for-Application and what to expect during a CDI audit. We hope to make this workshop available on the internet in the future.

"As I mentioned, we are requesting to maintain stable funding at \$21,395,608 for the fiscal year 12/13. We do have available in the workers' comp account, to offset the aggregate of \$4,382,634", stated Mr. Plein.

Public Comment

Jeff Morita, Special Investigation Unit Manager for FirstComp Insurance, thanked the district attorney offices his company has worked with. "They have done an outstanding job in getting these cases pushed forward not only for us but for the other carriers", stated Mr. Morita. He suggested the Commission emphasize funding for those counties that have solid plans to combat medical provider insurance fraud as this area of fraud is the biggest cost driver in the workers' compensation system.

Determination of the Aggregate

The Fraud Assessment Commission began their discussion and deliberation regarding the aggregate assessment for Fiscal Year 2012/13.

Vice-chair Riggs commented that he is happy with the outreach programs, but there needs to be improvement in the area of communication with the payers, providers, insurance carriers, TPAs and self-insured companies. He also stated his basis for

coming up with a recommendation on the aggregate assessment is from what he hears from the district attorneys and the Fraud Division.

Commission member Smith suggested the Commission come up with a system to judge and measure the district attorney efforts in order to see which counties are doing well and which ones are not. "These times are very, very important to the citizens of California and to the businesses, so what I take into account [when making a recommendation on the aggregate assessment] is all the variables that you heard", stated Mr. Smith. The two things he focuses on are whether or not the district attorneys are managing their resources given by CDI and restitution.

Commission member Sherman commented that he would like to see everyone do more with less, focus more on outreach, and communicate better with the insurance companies, employers and labor units in an effort at getting the stakeholders more involved. He also suggested the program come up with ways to notify the state when new types of fraud occur so everyone can be on the look-out for new trends.

Mr. Sherman's recommendation was for stable funding. "You have to take into consideration the totality of the funding assessments in this state. From an employer's perspective, these things begin to add up and suddenly those pennies are \$53 million", stated Mr. Sherman.

Commission member Williams was encouraged to hear counties are working together to fight insurance fraud. "To make sure that we are getting the biggest bang for the buck, I think that what you are presenting has given us a good idea about how we have got to fund it, and I personally think the previous commissioner's stance is right on the button", stated Mr. Williams.

Commission member Garcia suggested all parties involved take a step back and determine how they can do things differently and maximize their resources. "I am interested in learning how we can work with these agencies like the Department of Industrial Relations to where they could do more to help you work more effectively", stated Ms. Garcia. Commission member Garcia also suggested counties use a tool called the U Visa to assist when witnesses are discouraged from coming forward to law enforcement because of their immigration status.

Chairperson Marshall stated, "It pains me that there isn't sufficient funding available to maybe really hit at the heart of what is being impacted in workers' compensation and the cost drivers for many years." However, there are significant cases being worked and people are being impacted by these cases.

Chairperson Marshall proposed that the assessment level remains the same as last year at \$53,445,000, and \$4,382,634, the money in the workers' compensation account, will be used to offset that amount.

Motion

Commission member Smith made a motion to approve the aggregate assessment for FY 12/13.

Commission member Williams seconded the motion.

Action

The Fraud Assessment Commission unanimously approved the motion.

Deputy Commissioner Plein suggested the Commission spell out how the amounts are split out between the district attorneys and Fraud Division. Chairperson Marshall asked for the motion to be amended.

Motion

Commission member Smith made a motion that the district attorneys receive \$31,774,392, and the Fraud Division receives \$21,395,608. In addition, there is \$200,000 in incidental expenses; \$75,000 for the DIR notification; and \$4,382,634 to offset for a total collection of \$49,062,366.

Commission member Sherman seconded the motion.

Action

The Fraud Assessment Commission unanimously approved the motion.

Commission member Smith suggested that at the next meeting the Commission have a discussion about attempting to standardize the objective criteria involved in coming up with an assessment, that way everyone is on the same page. Chairperson Marshall agreed that it's something that needs to be discussed. "There are best practices out there, and I think that is something the CDAA should look at from a training perspective is the status quo necessarily the best for any given county", stated Chairperson Marshall.

Chairperson Marshall asked for a motion to adjourn the meeting.

Motion

Commission member Garcia made a motion to adjourn the meeting.

Vice-chair Riggs seconded the motion.

Action

The Fraud Assessment Commission unanimously approved the motion.

Action

The meeting was adjourned.