

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Sacramento, California
September 15, 2021**

In attendance: Don Marshall, Chairperson; and Commission Members Christine Baker, Jay R. Bobrowsky, Branden Lopez, John Riggs, and Joel Sherman.

Others present: George Mueller, Deputy Commissioner (DC), California Department of Insurance (CDI) Enforcement Branch; Eric Charlick, Division Chief, CDI Enforcement Branch; Victoria Martinez, Assistant Chief, CDI Enforcement Branch; and Yvonne Hauscarriague, Senior Counsel, CDI Government Law Bureau.

Pursuant to Governor Gavin Newsom's Executive Order N-29-20, in response to the COVID-19 pandemic, this meeting was held entirely via Zoom Conferencing Services.

I. Fraud Assessment Commission

a. Opening Remarks

Chairperson Marshall opened the meeting at 10:45 a.m. and provided an explanation of the logistics for the online and telephonic meeting.

Chairperson Marshall then asked the Commissioners if they wished to make any opening comments and there were none.

b. Approval of the Summary Meeting Minutes

Chairperson Marshall then asked for a motion to approve the submitted summary minutes from the September 8, 2021, meeting.

Motion

Commissioner Bobrowsky made a motion to accept the September 8, 2021, summary minutes as submitted. Commissioner Riggs seconded the motion.

Action

The summary meeting minutes were unanimously approved via a roll call vote.

c. Public Comments

Chairperson Marshall opened the floor for Public Comment and there were none.

Chairperson Marshall moved to the next agenda item and turned the meeting over to DC Mueller.

II. Enforcement Branch

a. Administrative Update

DC Mueller expressed his appreciation for the presentations made at the prior meeting.

DC Mueller then informed the Commissioners that, when he met with the Insurance Commissioner in June, the Commissioner had approved the use of the pro-rata approach for calculating the distribution of prior year funds that may be available. He estimated that the District Attorneys had submitted approximately \$415,000 in fines and penalties during Fiscal Year 2020-2021.

DC Mueller explained that International Fraud Awareness Week is November 14-20, 2021, and highlighted some of the outreach messages shared during the prior year's Fraud Awareness Week.

He then asked if the Commissioners had any questions or comments and there were none.

b. Public Comments

The floor was opened for public comments on this agenda item and there were none.

III. Aggregate

a. Discussion

Chairperson Marshall indicated that setting the aggregate assessment is one of the most important roles of the Commission and the meeting turned to discussion by the Commissioners.

Commissioner Lopez acknowledged comments made at the prior meeting regarding the request for an increase, fellow commissioners' concerns, and the impact of the assessment on employers. He highlighted areas he was taking into consideration, such as the value to Californians, the statistical data presented, the current and future impact of COVID, and employer assessment rates. He further stated that he felt an increase would add value but was not set on the amount of the increase.

Commissioner Sherman expressed that he would consider an increase. He posed a question regarding comments made by speakers the prior week on the impact of COVID on fraud.

Commissioner Bobrowsky expressed appreciation for the collaborative efforts highlighted at the prior meeting. He commented that restitution effort is an area he considers. He responded to Commissioner Sherman's question.

Commissioner Baker expressed that she was open to an increase and commented on CDI's requested 5% increase and the difficulties in measuring fraud that has occurred and fraud that will occur.

Commissioner Riggs had no comments at this time.

Chairperson Marshall responded to Commissioner Sherman's question and highlighted some recent trends he has noted in workers' compensation fraud.

There were no more comments from the Commissioners.

Chairperson Marshall asked if there were any public comments.

Deputy District Attorney (DDA) Kate Zimmerman of Kern County commented on the number of court cases and investigations being handled by her county and the need for additional funding.

Bruce Wick, Director of Risk Management with Housing Contractors of California, expressed appreciation for the presentations the prior week indicating how the employers' assessment money is being spent. He commented on the value of outreach to inform and engage employers.

Chief DDA Robert Brown of San Bernardino County indicated that a 5% increase reflected what CDI needed but was not representative of the DA needs. He further commented on the increase for funding needed by counties to meet the backlog of cases in court due to COVID in addition to the current new cases.

Assistant Head Deputy Marcia Daniels of Los Angeles County commented on the presumption of eligibility for workers' compensation benefits related to COVID.

DDA Erika Mulhere of Riverside County commented on the fraud trends in her county.

Assistant DA Jill Nerone of Alameda County responded to Mr. Wick's comment regarding outreach to employers.

DDA Susan Park of Ventura County commented on her counties productive use of funds.

Supervising DDA William Lee of San Bernardino County commented on the current backlog of cases in court due to COVID and the current and future impact of underfunding.

Division Chief Sherry Thompson-Taylor of San Diego County commented on the impact on the program within counties due to Cost-Of-Living-Adjustments (COLA) and expressed agreement with Mr. Lee's assessment of the future impact of underfunding.

There were no more public comments on this agenda item. Chairperson Marshall moved to the next agenda item.

b. Determination of Aggregate Assessment for Fiscal Year 2021-22

Chairperson Marshall started the discussion by explaining that after listening to the reasons and concerns expressed, he is considering a 10% increase but was not ready to make a motion yet.

Commissioner Lopez commented on the various increase amount requested and explained his analysis process. He commented on the importance of deterrence and the impact of not being able to address suspected fraudulent activity. He commented on the value of the investment in the program and expressed that he was considering a 15% increase.

Commissioner Baker expressed her support for anti-fraud efforts but also acknowledged employer struggles. She questioned the cost to employers.

Commissioner Sherman commented on the impact COVID has had on employers. He indicated that while the economy is starting to rebound and businesses are reopening, they are still are not back to pre-pandemic levels. He further expressed that more businesses had to close than the number of new business that opened. He expressed support of a realistic increase.

The meeting had a 15 minute break due to technical problems.

Commissioner Lopez responded to Commissioner Baker's question regarding the cost to employers.

Commissioner Bobrowsky commented that the funding for fighting fraud is an investment for all people and further highlighted benefits to employers. He expressed support for an increase in the range mentioned by Chairperson Marshall.

Commissioner Riggs expressed appreciation on behalf of self-insured employers for the anti-fraud efforts and understands the challenges. He further commented that California is reopening but it is not back and understaffing may cause a lower payroll and a higher cost.

Commissioner Sherman expressed that many employers are being asked to do more with less.

Chairperson Marshall referred to Mr. Lee's comments regarding the impact of current funding on the future and made a motion.

Motion

Chairperson Marshall made a motion for a 10% increase. Commissioner Bobrowsky seconded the motion.

The floor was opened for discussion by the Commissioners and there were no comments.

Action

A roll call vote was taken. Commissioners Lopez, Baker, Bobrowsky, and Marshall voted 'yes' and Commissioners Sherman and Riggs voted 'no'. The motion passed with 4 'yes' votes and 2 'no' votes.

Chairperson Marshall clarified that the amount of the assessment for FY 2022-23 is \$85,700,386 and restated the motion.

Restated Motion

Chairperson Marshall made a motion for a 10% increase which is an assessment of \$85,700,386. Commissioner Bobrowsky seconded the motion.

Action

A roll call vote was taken. Commissioners Sherman and Riggs voted 'no' and Commissioners Lopez, Baker, Bobrowsky, and Marshall voted 'yes'. The motion passed with 2 'no' votes and 4 'yes' votes.

The floor was opened for public comments and there were none.

IV. Other Business

a. Next Scheduled Meeting

Chairperson Marshall announced the next scheduled meeting as January 12, 2022.

b. Public Comments

The floor was opened for public comments and there were none.

V. Public Comments

Chairperson Marshall asked if there were any public comments regarding any of today agenda items. There being no further public comments, Chairperson Marshall moved to the next agenda item.

VI. Closing Remarks

Chairperson Marshall asked the Commissioners if they wished to make any closing comments.

Commissioner Sherman expressed his intent to retire in early 2022.

Commissioner Lopez commented on the time to review meeting minutes.

Commissioner Bobrowsky thanked CDI and the counties for their efforts.

There were no other comments.

Motion

Commissioner Bobrowsky made a motion to adjourn and Commissioner Lopez seconded the motion.

Action

The Commissioners unanimously approved and the meeting adjourned at 12:15 p.m.