

**STATE OF CALIFORNIA  
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes  
Sacramento, California  
June 19, 2019**

In attendance: Don Marshall, Chairperson; and Commission Members John Riggs, Joel Sherman, and Dante Robinson.

Others present: George Mueller, Deputy Commissioner (DC), Enforcement Branch (EB), California Department of Insurance (CDI); Eric Charlick, Assistant Chief (AC), Enforcement Branch (EB); Patricia Hein, Senior Staff Counsel, CDI Legal Division.

**Opening Remarks**

Chairperson Marshall opened the meeting at 10:35 a.m. and asked the Commissioners if they wished to make any opening comments and there were none.

**Summary Meeting Minutes**

Chairperson Marshall then proceeded with the approval of the summary minutes from the January 9, 2019, meeting.

**Motion**

Commissioner Riggs made a motion to accept the January 9, 2019, summary minutes as submitted. Commissioner Sherman seconded the motion.

**Action**

The summary minutes were unanimously accepted and Chairperson Marshall moved to the next agenda item.

**Sub-Committee Reports**

Chairperson Marshall reported that, on June 4, 2019, he met with CDI staff to discuss the Request for Application (RFA) format and process revisions. He reported that the current RFA and process was developed approximately 25 years ago and the revision discussion is moving in the right direction. He further expressed that the CDI staff appears to understand the strategies and issues that need to be addressed to move the project forward.

There was no update from the Goals and Objectives sub-committee at this time.

### **Public Comments**

Chairperson Marshall asked if there were any public comments and there were none. He then moved to the next agenda item and turned the meeting over to DC Mueller of the Enforcement Branch.

### **Enforcement Branch Report**

#### **Funding Process and Recommendations**

DC Mueller began by recognizing the Enforcement Branch, Local Assistance Unit staff for all of the work they put into the Workers' Compensation Application Review Process.

DC Mueller stated that, per the California Code of Regulations, the Insurance Commissioner convenes a Review Panel. This year's panel convened on June 5, 2019, and the review panelists were: Don Marshall, Fraud Assessment Commission (FAC) Chair; Joel Sherman, FAC; Ana Kathryn Benedict, designee for the Director of the Department of Industrial Relations (DIR); Lieutenant Chris Sexton of the CHP, an expert in consumer crimes designated by the Insurance Commissioner; and AC Charlick representing CDI. The Review Panel's funding recommendations were presented to the Insurance Commissioner for his determination on the most effective distribution of funds.

DC Mueller noted that on September 5, 2018, the FAC determined a funding level of \$42,440,580 to be available for distribution to District Attorneys (DAs) for Fiscal Year (FY) 2019-20. This year the Department received 36 applications representing 46 counties, requesting \$47,534,487, which is \$5,093,907 more than the available funding.

DC Mueller continued with the overview of the Funding Recommendation Process. On June 12, 2019, DC Mueller and AC Charlick met with the Insurance Commissioner to review the funding recommendations submitted by the Review Panel. The Insurance Commissioner reviewed the Panel's recommendations and the advice from the Fraud Division. The Insurance Commissioner takes this responsibility very seriously and many questions were asked and answered. As a result, he made three (3) modifications to the Review Panel's Recommendations:

Kern County	decreased from	\$ 914,171	to	\$ 869,171;
Orange County	decreased from	\$5,628,240	to	\$5,553,240;
Santa Clara County	increased from	\$3,014,262	to	\$3,134,262;

The letter from the Insurance Commissioner was submitted to the FAC for advice and consent. Copies of this letter which includes the funding award chart were made available to the members of the public in attendance. DC Mueller then read a section of the letter in which the Insurance Commissioner expressed his sincere appreciation for the contributions made by the DAs in the battle against Workers' Compensation fraud.

DC Mueller informed the Commissioners that the Insurance Commissioner's Review Panel made a recommendation for the pro-rata distribution of any FY 2018-19 funds determined to be available at the year-end and the Insurance Commissioner has agreed with this recommendation.

DC Mueller asked the Commissioners if they had any comments or questions. There being none, he then moved to the next agenda item.

### **Administrative Update**

DC Mueller asked if the Commissioners would like to see any changes to the content of the CDI Annual Report that will be provide at the September meeting. There were none.

DC Mueller indicated that the Fraud Division is working on two IT projects: (1) the addition of an outreach section to the DA Portal that can be used by DAs to share best outreach practices and as a repository for outreach material and (2) network enhancements necessary to allow online application submittal.

DC Mueller reported that the outreach committee, which is comprised of CDI and DA Office personnel, is discussing ways to share and develop material that is customizable by each county and will deliver a consistent message statewide. Some counties have already developed material targeted at employers, employees, other groups, and in multiple languages. The IT project to add an outreach section to the DA Portal will create a repository for outreach information and allow the sharing of material.

DC Mueller then provided an update on CDI's hiring, recruiting, and outreach efforts. At this point DC Mueller asked the Commissioner if they had any questions or comments.

Commissioner Sherman commented on the outreach efforts and Chairperson Marshall inquired about CDI's staffing to which DC Mueller explained the impact of current compaction issues.

Chairperson Marshall then inquired about how CDI addresses insurance company failures to respond to county requests for information. Steve Smith, EBHQ Chief of Support and Compliance, responded by explaining that he works with the Local

Assistance Unit to provide information, via an e-blast, to the DA personnel on how to obtain contact information, what to do if not receiving timely information, and how to report instances of noncompliance. He further explained that CDI seeks corrective action on the part of SIUs but has and will imposed fines and penalties when appropriate.

### **Public Comment**

Chairperson Marshall opened the floor for public comments and Kevin Clark with the Yolo County DA Office inquired about the reporting of insurer noncompliance and Steve Smith offered to meet with him to discuss. There were no additional public comments and Chairperson Marshall moved to the next agenda item.

### **Advice and Consent**

Chairperson Marshall started by sharing comments regarding his experience as one of the two FAC representatives participating on the Insurance Commissioner's Review Panel. He indicated that he has been on the panel nine (9) years; that the requests exceed the available funding; presentations were concise and focused; that proposed efforts are going in the right direction; and, as funds have increased, he considers if a county is getting better or has reached a plateau. He thanked the counties for their efforts.

Chairperson Marshall explained that Commissioner Riggs, although identified at the January meeting as the second FAC representative, was unable to participate and Commissioner Sherman agreed to take his place.

Commissioner Sherman commented that this was his second year in a row and he was impressed with the improvement; he would like to see a clearer presentation of outreach efforts and have data presented in a way that allows more analysis; and that he felt the presentations were good.

Chairperson Marshall then introduced Anna Kathryn Benedict, the DIR designee for the Insurance Commissioner's Review Panel, and asked if she would like to comment on her experience. Ms. Benedict expressed that she enjoyed the experience, appreciates the work the counties are doing, and appreciates the opportunity to participate.

Chairperson Marshall further expressed that some counties are putting too much information in their applications and he hopes that the RFA revisions will make it clearer what counties are doing with the cases that come in.

Chairperson Marshall opened the floor for public comments and there were none.

**Motion**

Commissioner Riggs made a motion to accept the Insurance Commissioner's funding recommendations. Commissioner Sherman seconded the motion.

**Action**

The Commission voted unanimously to approve the funding recommendations.

**Other Business****Next Scheduled Meetings**

Chairperson Marshall moved to the next item on the agenda and announced that the next scheduled meetings will be held on September 4 and 11, 2019, at 10:30 a.m. The September 4<sup>th</sup> meeting will be for the purpose of receiving the FY 2018-19 Annual Report and the September 11<sup>th</sup> meeting will be for the purpose of setting the aggregate assessment for FY 2020-21.

**Public Comment**

Chairperson Marshall opened the floor for public comments and there were none.

**Closing Remarks**

Chairperson Marshall asked the Commissioners if they had any closing remarks.

Commissioner Robinson commented that he was glad the review process went smooth.

Commissioner Sherman confirmed that the September meeting will be in Sacramento.

Commissioner Riggs thanked the Review Panel for their efforts and Commissioner Sherman for stepping in for him.

Chairperson Marshall expressed his appreciation for the work being done by the prosecutors and his hope, that as investigations move forward, they will lead to successful prosecutions. He offered the reminder that employers are paying for this assessment.

Chairperson Marshall called for any further comments and DC Mueller took the opportunity to recognize Captain Goldberg who was retiring in July and announced that Jack Horvath, the Fraud Division Chief, would be retiring in September.

There were no additional comments. Chairperson Marshall asked for a motion to adjourn the meeting.

**Motion**

Commissioner Robinson made a motion to adjourn. Commissioner Riggs seconded the motion.

**Action**

The FAC unanimously approved and the meeting was adjourned at 11:10 a.m.