

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Sacramento, California
January 8, 2020**

This meeting was held at the CDI Enforcement Branch Headquarters in Sacramento, CA. In attendance: Don Marshall, Chairperson; and Commissioners 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; and Patricia Hein, Assistant Chief Counsel, CDI Government Law Bureau.

I. Fraud Assessment Commission

a. Opening Remarks

Chairperson Marshall opened the meeting at 10:35 am and requested a moment of silence in memory of Damian Scribner. Chairperson Marshall explained that Commissioner Lopez was appointed to the Fraud Assessment Commission (FAC) in October 2019 and asked him to introduce himself.

Commissioner Lopez indicated his interest in preventing an underground economy and fostering fair competition. He acknowledged the impact premium fraud has on workers and employers in staying competitive.

Chairperson Marshall then wished everyone a Happy New Year and asked the Commissioners if they wished to make opening comments. Commissioner Sherman acknowledged Mr. Scribner and there were no additional opening comments.

Chairperson Marshall introduced Patricia Hein, Assistant Chief Counsel of the CDI Government Law Bureau and the meeting was turned over to Ms. Hein to proceed with the election of the FAC Chair and Vice-Chair.

b. Election of the FAC Chair and Vice-Chair

Ms. Hein read aloud the basic rules that govern the election process. The FAC Chair and Vice-Chair will serve through January, 2021. Ms. Hein then asked each Commission Member if they intended to run for Chair.

Chairperson/Commissioner Marshall indicated that he would like to run for Chair. The remaining Commissioners declined to run for the position.

Ms. Hein then requested that Commissioner Marshall introduce himself and his platform regarding the Chair position for the upcoming year.

Commissioner Marshall indicated that he has been on the Commission for 10 years; is proud of what the Commission, CDI, and the District Attorneys (DAs) have accomplished; that all types of fraud are important; and acknowledged agreement with Commissioner Lopez's comments regarding the importance of protecting employers and the impact of the underground economy.

Ms. Hein opened the floor to for public comments.

Public Comment

Steve Zeltzer, representing United Public Workers for Action (UPWA), commented on injured workers in the Workers' Compensation system and then commented a State Auditor's report and one of Governor Brown's appointments to the Commission. Mr. Zeltzer then asked the Commissioners for their opinion regarding the appointment.

Dina Padilla, an injured Kaiser worker also representing UPWA, commented on one of the appointments to the Commission.

Len Welsh commented on the same State Auditor's report and appointment to the Commission.

There were no additional public comments.

Chairperson Marshall responded to Mr. Zeltzer's question by clarifying that the Executive Department of the State of California is responsible for the appointments to the Commission and suggested that Mr. Zeltzer contact the Governor's Office with any concerns he may have and further clarified that all of the Commissioners serve at the will of the Governor.

Ms. Hein then moved to the vote.

Vote

Ms. Hein took a roll call vote for the Chairperson position. The vote was unanimous that Chairperson Marshall continues as Chair for the upcoming year. Chairperson Marshall thanked the other Commissioners for their votes.

Ms. Hein then asked each Commissioner if they intended to run for the Vice-Chair position. Commissioners Riggs and Bobrowsky indicated that they would like to run for Vice-Chair and the rest of the Commissioners declined.

Ms. Hein then requested that Commissioners Riggs and Bobrowsky introduce themselves and their platform regarding the Vice-Chair position for the upcoming year.

Commissioner Riggs commented that he has also served on the Commission for 10 years and expressed his gratitude for the opportunity to support CDI, the DAs, and the people of California.

Commissioner Bobrowsky commented that he is a long-time fraud fighter, he believes in the integrity of the system, he is committed to fighting fraud, and serves as President of the Anti-Fraud Alliance.

Ms. Hein opened the floor to for public comments.

Public Comment

Steve Zeltzer asked the Commissioners for their opinion regarding one of the appointments to the Commission. He commented on current and prior Commissioners, the Insurance Commissioner, and the Governor. He asked the Commissioners to comment on the Commissioner's appointment.

Chairperson Marshall responded by suggesting that Mr. Zeltzer contact the Governor's Office with any concerns he may have.

Dina Padilla commented on her experience as an injured worker, one of the current Commissioners, and California's Attorney General.

There being no additional public comments, Ms. Hein moved to the vote.

Vote

Ms. Hein took a roll call vote for the Vice-Chair position. The vote was split 2-2 with Commissioners Marshall and Sherman voting for Commissioner Riggs, Commissioners Baker and Lopez voting for Commissioner Bobrowsky, and Commissioners Riggs and Bobrowsky abstaining.

Commissioner Riggs withdrew his candidacy and Commissioner Bobrowsky was elected as Vice-Chair.

Ms. Hein turned the meeting over to Chairperson Marshall.

c. Approval of the Summary Meeting Minutes

Motion

Commissioner Sherman made a motion to accept the summary minutes as submitted for the FAC Meeting on September 11, 2019. Commissioner Riggs seconded the motion.

Action

The Commissioners unanimously approved the summary meeting minutes.

d. FAC Goals and Objectives

Chairperson Marshall referred the Commissioners to a draft version of the FAC Goals and Objectives for the Workers' Compensation Insurance Fraud Program for Fiscal Year (FY) 2020-21. Commissioner Sherman recommended continuing with the current draft version until the Insurance Commissioner makes changes to his Goals and Objectives.

Motion

Commissioner Sherman made a motion to accept the draft version of the FY 2020-21 FAC Goals and Objectives and Chairperson Marshall seconded the motion.

Action

The Commissioners unanimously approved the Goals and Objectives for FY 2020-21

e. FAC Representatives for the Workers' Compensation Grant Review Panel

Chairperson Marshall stated that the distribution of the funds to prosecutors in the State of California lies solely with the Insurance Commissioner. The FAC contributes two members to the Insurance Commissioner's review panel of five that makes funding recommendations to the Insurance Commissioner in June.

Chairperson Marshall indicated that he would like to sit on the panel and then asked if any other Commissioners were interested in sitting on the panel. Commissioner Bobrowsky expressed his interest in sitting on the panel and there was no interest expressed by the other Commissioners. Commissioners Marshall and Bobrowsky accepted the positions of review panelist.

Chairperson Marshall confirmed with CDI that all members of the FAC will receive copies of the county applications.

Chairperson Marshall opened the floor for public comments.

f. Public Comments

Steve Zeltzer commented on injured workers, employers, and Wells Fargo Bank.

Dina Padilla commented on self-insured employers and her personal experience.

There being no further public comments, Chairperson Marshall moved to the next agenda item and turned the meeting over to DC Mueller.

II. Enforcement Branch Update (some agenda items were taken out of order)

e. Administrative Update

DC Mueller began by welcoming Brandon Lopez to the FAC and acknowledged Damian Scribner's commitment and contributions to the Workers' Compensation Insurance Fraud Program.

DC Mueller then recognized the Enforcement Branch staff that was present, announced the promotion of Eric Charlick to Chief of the Fraud Division, and provided a personnel update which summarized changes in sworn staff positions and recruitment efforts.

DC Mueller indicated that disaster relief and outreach continues to be a primary focus of Insurance Commissioner Lara and EBHQ.

DC Mueller highlighted joint outreach efforts by CDI and counties through participation in Fraud Awareness Week and the distribution of a consistent message using social media. Chairperson Marshall commented that he would like to see continued participation in Fraud Awareness Week.

c. Insurance Fraud Programs

DC Mueller explained that FY 2019-20 was the second year of the High Impact Insurance Fraud Program, \$1.5 million of was available for award, applications were received from seven counties for a total of 14 cases, and half were workers' compensation cases.

a. Annual Report Statistical Correction for County of Los Angeles

DC Mueller explained that revisions were made to documents that were distributed at the FAC meeting on September 4, 2019. The revisions were necessitated to correct statistics inaccurately reported by Los Angeles in their Year-End DA Program Report. Accordingly, revisions were made and the corrected documents were provided to the Commissioners and made available to the public on the table in the room.

c. Insurance Fraud Programs (continued)

DC Mueller gave an update on changes to the Request for Applications (RFAs) for the Workers' Compensation Insurance Fraud Program. CDI worked with the FAC Sub-Committee in FY 2019-20 and rolled-out some revisions last year and CDI has continued to incorporate revisions in the FY 2020-21 RFA. These revisions include changes to timekeeping requirements, outreach reporting, modifications to Attachment B reporting, and use of the Base Allocation formula. Chairperson Marshall identified himself as a member of the FAC Sub-Committee and acknowledged support for CDI's continuing phased efforts in making RFA revisions.

DC Mueller highlighted joint outreach efforts by CDI and counties through participation in Fraud Awareness Week and the distribution of a consistent message using social media. Chairperson Marshall commented that he would like to see continued participation in Fraud Awareness Week.

b. Department of Industrial Relations Assessment Collection for FY 2020-21

DC Mueller referred to Labor Code Section 62.6 and Insurance Code Section 1872.83 and indicated that CDI would send, on behalf of the FAC, a request to the Department of Industrial Relations to collect \$77,909,442 for FY 2020-21. The Commissioners had no comments.

c. Insurance Fraud Programs (continued)

DC Mueller announced the following dates:

- Request for Applications (RFAs) will be mailed out the week of February 10, 2020
- County applications are to be received by 5:00 pm on April 22, 2020.
- Informational Meeting will be held as a Webinar on February 26, 2020
- Three Grant Workshops were held in the fall to introduce and discuss the proposed RFA changes to timekeeping requirements, outreach reporting, and use of the base allocation formula,
- Three Grant Workshops will be conducted in Northern California on March 10th, Central California on March 12th, and Southern California on March 19th.

d. Insurance Commissioner's WC Grant Review Panel Meeting

DC Mueller announced that the Insurance Commissioner's Grant Review Panel meeting will take place on June 3, 2020, at the CA Peace Officers Standards and Training (POST) Facility located at 860 Stillwater Road, Suite 100, West Sacramento, CA.

At this point DC Mueller asked the Commissioners if they had any questions or comments and they did not. The floor was then opened to the public for comment.

f. Public Comment

Steve Zeltzer commented on Kaiser as an employer and service provider and commented on a prior public comment speaker.

Dina Padilla commented on her education, injuries, and personal experience.

There being no further public comments, Chairperson Marshall moved to the next agenda item and turned the meeting over to Deputy District Attorney (DDA) Scott Tsui.

III. California District Attorney Association (CDAA) Update

CDAA representative DDA Scott Tsui of Santa Clara County introduced Head DDA Jennifer Snyder of Los Angeles County and turned the meeting over to her to make a presentation on Restitution.

a. Restitution Presentation

Head DDA Snyder provided a presentation which addressed what restitution is and what it is not. She provided an overview of applicable Codes, explained the differences between chargeable fraud, restitution ordered, restitution collected, economic loss, and limitations on enforcement of restitution orders based on the defendant's ability to pay. Ms. Snyder then responded to various questions from the Commissioners.

b. Public Comment

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

IV. Other Business

Chairperson Marshall announced that the next scheduled meeting is June 17, 2020 at the Enforcement Branch Headquarters in Sacramento.

V. Public Comment

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

VI. Closing Remarks

Chairperson Marshall then asked the Commissioners for closing remarks. There being none, Chairperson Marshall asked for a motion to adjourn the meeting.

Motion

Commissioner Sherman made a motion to adjourn the meeting. Chairperson Marshall seconded the motion.

Action

The FAC unanimously approved. The meeting adjourned at 12:40 p.m.