



CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

TOM GALLAGHER

January 3, 2006

The Honorable Tom Lee
President, Florida Senate
Room 409, The Capitol
Tallahassee, Florida 32399

Dear ~~President Lee:~~

Enclosed is the joint report from the Divisions of Workers' Compensation and Insurance Fraud, pursuant to section 626.989(9) F.S. The report summarizes the department's work in combating workers' compensation fraud for the period July 1, 2004, through June 30, 2005.

Florida's workers' compensation system continues to improve at a dramatic pace for both employers and workers. The reforms enacted in SB-50A by the 2003 Legislature continue to improve our state's business climate.

The hard work of these divisions has helped facilitate positive results through improved compliance and a reduction in fraud. Compliance efforts have added over \$52 million in evaded premiums to Florida's workers' compensation system ensuring nearly 21,000 employees have coverage. This year, workers' compensation insurance rates will decrease by a statewide average of 13.5 percent, with a cumulative drop in rates of 32.6 percent since 2003.

This is certainly good news and the Department of Financial Services will continue to work aggressively to root out fraud in the system and assure workers receive quality care and fair compensation if they are injured on the job.

If you have any questions regarding this report, please contact Tanner Holloman, Director, Division of Workers' Compensation at 850-413-1600 or Eric Miller, Director, Division of Insurance Fraud at 850-413-3115.

Sincerely,


Tom Gallagher

TG/kcr
Enclosure

cc: Mr. Allan Bense, Speaker, Florida House of Representatives



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**Joint Report to
The President of the Florida Senate and
The Speaker of the Florida House of
Representatives**

**The Florida Department of Financial Services
Division of Insurance Fraud and
Division of Workers' Compensation**



January 1, 2006

**JOINT REPORT TO
THE PRESIDENT OF THE FLORIDA SENATE
AND
THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES**

BY

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES

**DIVISION OF INSURANCE FRAUD/BUREAU OF WORKERS' COMPENSATION FRAUD
AND
DIVISION OF WORKERS' COMPENSATION**

January 1, 2006

The Florida Department of Financial Services, Division of Workers' Compensation and Division of Insurance Fraud /Bureau of Workers' Compensation Fraud submit this joint report to the President of the Florida Senate and the Speaker of the Florida House of Representatives, pursuant to §626.989(9), Florida Statutes 2003. The joint report addresses the areas identified in §626.989(9), for the period of July 1, 2004 through June 30, 2005.

I. DIVISION OF INSURANCE FRAUD/BUREAU OF WORKERS' COMPENSATION FRAUD

The Bureau of Workers' Compensation Fraud continues to implement a proactive approach in addressing the issue of fraudulent practices in the workers' compensation system. The Bureau continues to work closely with the Division of Workers' Compensation, Bureau of Compliance and the Department of Professional and Business Regulation by sharing information and participating in joint enforcement sweeps throughout the state. Significant increases from last year's totals were achieved in the following: referrals, up 303; cases opened, up 17; cases closed, up 41; cases presented for prosecution, up 100; and arrests, up 100. In addition, the value of the fraud cases presented for prosecution increased by over \$10 million dollars.

The case-type percentages remained somewhat the same this year with approximately 50% of the referrals being related to claimant fraud. There was a slight increase in cases involving companies working without the required workers' compensation coverage. This increase is attributed to the influx of out-of-state contractors after 2004's hurricane season. A significant new trend involving premium fraud cases and money laundering has developed in south and central Florida. The Bureau is working several large cases of this kind with the assistance of local law enforcement agencies. One of the cases in south Florida should be completed in January, resulting in up to six arrests. The subjects will be arrested for a variety of crimes to include Premium Fraud, Conspiracy, and Racketeering Influenced Corrupt Organization offenses. The fraud value in these cases exceeds \$20 million dollars.

1. Statewide Statistics FY 2004-2005 (July 1 – June 30)

| Referrals | Cases Opened | Cases Closed | Cases Presented | Arrests | |
|-----------|--------------|--------------|-----------------|---------|--|
| 2166 | 579 | 504 | 244 | 213 | |

2. Referrals by Source

| | Insurance Carriers | DWC-Compliance | Others |
|----------|--------------------|----------------|--------|
| Received | 599 | 101 | 1466 |
| Opened | 140 | 52 | 387 |

3. Referrals sent to Division of Workers' Compensation Compliance - 38

4. Convictions- Total 100

| Type | Number of Convictions |
|---|-----------------------|
| Claimant Fraud | 43 |
| Working Without Workers' Compensation Insurance | 27 |
| Premium Fraud | 10 |
| Fraudulent Certificate of Insurance | 20 |
| Uttering a Forged Instrument | 0 |
| Grand Theft | 0 |

Number of Convictions by Judicial Circuit

| Circuit | Convictions | Circuit | Convictions |
|---------|-------------|---------|-------------|
| 1st | 3 | 11th | 32 |
| 2nd | 1 | 12th | 1 |
| 3rd | | 13th | |
| 4th | 9 | 14th | 3 |
| 5th | 6 | 15th | 9 |
| 6th | 5 | 16th | |
| 7th | 4 | 17th | 3 |
| 8th | | 18th | 1 |
| 9th | 6 | 19th | 11 |
| 10th | 1 | 20th | 5 |

5. Staffing

| Office Location | Workers' Compensation Funded Investigators | |
|-----------------|--|--|
| Pensacola | 1 | |
| Tallahassee | 0 | |
| Jacksonville | 3 | |
| Tampa | 3 | |
| St. Petersburg | 3 | |
| Orlando | 4 | |
| West Palm #1 | 0 | |
| West Palm #2 | 6 | |
| Ft. Myers | 2 | |
| Broward #1 | 0 | |
| Broward #2 | 0 | |
| Broward #3 | 2 | |
| Miami #1 | 0 | |
| Miami #2 | 0 | |
| Miami #3 | 4 | |
| Totals | 28 | |

6. Prosecutions Declined

| Judicial Circuit | Number of Prosecutions | Reason For Decline |
|------------------|------------------------|---|
| 1st | 1 | Successful prosecution unlikely |
| 2nd | 0 | |
| 3rd | 0 | |
| 4th | 6 | 4- Civil Settlement 2- Successful prosecution unlikely |
| 5th | 2 | 2- Successful prosecution unlikely |
| 6th | 6 | 3- Successful prosecution unlikely 3- Civil Settlement |
| 7th | 5 | 4- Successful prosecution unlikely 1- Civil Settlement |
| 8th | 1 | Statute of limitations |
| 9th | 1 | Successful prosecution unlikely |
| 10th | 0 | |
| 11th | 0 | |
| 12th | 1 | Successful prosecution unlikely |
| 13th | 3 | 2- Civil Settlement |
| 14th | 0 | |
| 15th | 2 | 1-Victim refused to cooperate 1- Civil Settlement |
| 16th | 0 | |
| 17th | 4 | 2-Civil Settlement 2- Successful prosecution unlikely |
| 18th | 1 | Civil Settlement |
| 19th | 0 | |
| 20th | 0 | |

7. Average Caseload and Turnaround Time by Case Type

*Indicates workers' compensation fraud funded investigator

Caseload averages may include all types of cases not only workers' compensation fraud cases.

| OFFICE LOCATION/ INVESTIGATOR# | AVERAGE CASELOAD | AVERAGE TURNAROUND TIME IN MONTHS | | | |
|-----------------------------------|---------------------|-----------------------------------|------------------|-------------------|-------------------|
| | | Working Without | Premium Fraud | Claimant Fraud | False Certificate |
| Pensacola: | | | | | |
| 00897 | 13 | | | | |
| 01539 | 19 | 7 | | 4 | 2 |
| 01217 | 7 | 5 | | | |
| 01172* | 14 | 6 | 3 | 4 | 3 |
| Tallahassee: | | | | | |
| 01496 | 10 | | 7 | | 2 |
| 01496 | 14 | | | | |
| Jacksonville: | | | | | |
| 01547* | 20 | 5 | 5 | | 7 |
| 01011 | 15 | | | 14 | |
| 01505* | 15 | 2 | 12 | 5 | 14 |
| 01013 | 25 | 11 | 14 | 10 | |
| 01009 | 25 | 3 | 10 | 2 | |
| 01233* | 12 | 12 | | 14 | 3 |
| Miami: | | | | | |
| 01548* | 10 | | | 4 | 4 |
| 01549* | 9 | | | 2 | |
| 01193 | 12 | 6 | | | |
| 01186* | 19 | 4 | 16 | 4 | 6 |
| 01610* | 16 | 3 | | 4 | 3 |
| West Palm Beach: | | | | | |
| 01307* | 9 | 6 | 3 | | 1 |
| 01611* | 9 | 2 | | | 4 |
| 01310* | 11 | 11 | 8 | | 6 |
| 01183* | 14 | 8 | 10 | | 4 |
| 01308* | 5 | 3 | 10 | 2 | |
| 01607 | 21 | 18 | 13 | 3 | |
| Ft. Myers: | | | | | |
| 01260* | 16 | 6 | | 6 | 9 |
| 01201* | 13 | 2 | 3 | 3 | 2 |
| Broward County: | | | | | |
| 01173* | 116 | 3 | 3 | 2 | 1 |
| 01609* | 15 | 4 | 4 | 4 | 1 |
| Orlando: | | | | | |
| 01156* | 16 | 2 | | 3 | 7 |
| 01504* | 23 | 6 | 2 | 3 | 4 |
| 01191 | 19 | | | 1 | |
| 01234* | 15 | 3 | | 12 | 12 |
| 01139* | 29 | 2 | | 2 | |
| St. Petersburg: | | | | | |
| 01536 | 19 | | | 2 | |
| 01312* | 23 | 2 | | 6 | 3 |
| 01503* | 20 | 2 | | 5 | 11 |
| Tampa: | | | | | |
| 01157* | 16 | 1 | | 2 | 3 |
| 01235* | 22 | 4 | 5 | 4 | 3 |

Value of fraud cases presented - \$15,042,092.00

II. DIVISION OF WORKERS' COMPENSATION (Division)

1. Referrals between the Division of Insurance Fraud and other Agencies

The Division of Workers' Compensation and the Division of Insurance Fraud continue to closely cooperate in carrying out our respective statutory duties. The Division of Workers' Compensation enforces administrative compliance with the workers' compensation law, pursuant to s. 440.107, F.S., while the Division of Insurance Fraud enforces the criminal provisions of the workers' compensation law, pursuant to s. 440.105, F.S. Our jointly developed referral program facilitates the efficient referral of cases between the divisions and allows each division to determine if an investigation will be initiated based upon a referral. Referrals are made to each division within 24 hours of a suspected violation of the law, and are considered a priority to be acted upon immediately.

The Bureau of Compliance and Division of Insurance Fraud made the following referrals during the period of July 1, 2004 through June 30, 2005:

- The Division of Workers' Compensation referred 101 employers to the Division of Insurance Fraud for possible criminal investigation.
- The Division of Workers' Compensation received 38 referrals from the Division of Insurance Fraud for administrative investigations.

In addition to referral activities with the Division of Insurance Fraud, the Division of Workers' Compensation is participating in a referral program with the Department of Business and Professional Regulations (DBPR). If an employer is suspected of failing to secure workers' compensation coverage during a DBPR investigation, the employer is referred to the Division of Workers' Compensation for further investigation. If, during a Division investigation, an employer is suspected of working without a required state license, the Division will refer the employer to DBPR for further investigation.

The Division also works closely with many local building and permitting agencies. These relationships mutually benefit the Division and the local agencies. The local agencies assist the Division in identifying employers who may not have workers' compensation insurance, while the Division refers unlicensed employers and employers who violate local ordinances to the local agencies.

The Division recognizes the importance of cooperating with other state and local enforcement agencies and will continue to facilitate these partnerships. The partnerships help maximize the Division's resources as well as enhance employer compliance with the various state and local statutory requirements.

2. Enforcement Activities and Workers' Compensation Exemptions

Stop-Work Orders and Sweep Operations

During the period of July 1, 2004 through June 30, 2005, the Division:

- Served 2,672 stop-work orders, an increase of 50% from the prior fiscal year;
- Assessed \$46,046,169 in penalties, an increase of 188% increase from the prior fiscal year;
- Caused \$52,621,146 in additional workers' compensation insurance premium to be generated, an increase of 108% from the prior fiscal year; and
- Caused 20,955 new employees to be covered by workers' compensation insurance, an increase of 59% from the prior fiscal year.

The Bureau of Compliance conducted two, three-day workers' compensation compliance sweeps. The first sweep took place in April of 2005 and consisted of three teams working in the following areas: St. Augustine (St. Johns County), Palm Coast (Flagler County), Daytona (Volusia County), and West Palm Beach (Palm Beach County).

Residential contractors, roofers, landscaping contractors, painters, and masonry contractors were the primary focus of the sweep. During the sweep, the investigators contacted the following number of employers to determine if workers' compensation coverage was in effect:

- The St. Johns/Flagler County sweep team: 274 contacts and issued 39 stop-work orders
- The Volusia County sweep team: 272 contacts and issued 17 stop-work orders.
- The Palm Beach County sweep team: 300 contacts and issued 38 stop-work orders.

A total of 94 stop-work orders were issued during this three-day sweep operation.

The second three-day workers' compensation compliance sweep conducted by the Bureau of Compliance took place in July of 2005 and consisted of two teams working in Miami (Dade County), and Orlando (Orange County). Residential contractors, roofers, drywall contractors, and masonry contractors were the primary focus of the sweep. During the sweep, the investigators contacted the following number of employers to determine if workers' compensation coverage was in effect:

- The Dade County sweep team: 333 contacts and issued 35 stop-work orders.
- The Orange County sweep team: 515 contacts and issued 65 stop-work orders.

A total of 100 stop-work orders were issued during this three-day sweep operation.

In addition to the two statewide sweeps, each Bureau of Compliance district conducted several intra-district sweeps. The intra-district sweeps utilize all the investigators assigned to the district who then converge upon and investigate construction employers at large residential and commercial job sites.

The Bureau of Compliance has also increased its enforcement activities toward non-construction employers. Each month investigators focus on a particular non-construction employer group, such as restaurants, motels/hotels, and auto repair shops. The non-construction employer groups are selected based upon the number of referrals received by the Bureau and the risk hazard associated with the employer groups. With this enforcement effort, investigators are required to make at least twelve contacts per month with employers in a selected group. Investigators made 1,825 contacts with non-construction employers, wrote 52 stop-work orders, generated premium in the amount of \$311,751, and caused 509 new employees to be covered with workers' compensation insurance from November 1, 2004 through June 30, 2005.

Conditional Release of Stop-Work Orders and Periodic Payments of Penalty Plans

Effective July 1, 2004, section 440.107(7)(a), Florida Statutes was amended to authorize the Division of Workers' Compensation to conditionally release an employer from a stop-work order upon a finding that the employer has complied with the coverage requirements of Chapter 440, Florida Statutes, and has agreed to remit periodic payments of the penalty pursuant to a payment agreement schedule. An employer is required make an initial down payment that equals at least 10% of the total assessed penalty or \$1,000, whichever is greater. Pursuant to Rule 69L-6.025, F.A.C., an employer had either 12 or 24 equal monthly payments to repay the remaining penalty. Effective July, 2005, Rule 69L-6.025 was revised to amend the periodic payment agreement to allow an employer who has been assessed a penalty greater than \$1,000 to remit up to sixty monthly installment payments to pay the remaining penalty.

Since July 1, 2004, 754 employers have entered into periodic payment plans with assessed penalties totaling \$17,523,926.

Construction Policy Tracking Database

The Division has developed a Construction Policy Tracking Database, which can be accessed through the Division's website at www.fldfs.com/WC. This database system provides information to contractors and other

interested parties regarding the workers' compensation coverage status of the sub-contractors they use. The system is designed to send automatic electronic notification to the contractor concerning any changes to the sub-contractors' coverage status. This database is also a useful tool for local permitting and licensing officials and insurers. As of December 1, 2005, a total of 4,346 Construction Policy Tracking Database registrants are tracking 15,371 workers' compensation policies.

Compliance Stop-Work Order Database

In August 2004, the Division unveiled the Compliance Stop-Work Order Database. The database lists the employers that have been issued stop-work orders, the date the stop-work was issued, the date the stop-work was released, and the type of non-compliance violation. This database can also be accessed through the Division's website at www.fldfs.com/WC.

3. Training

Between July 1, 2004 and June 30, 2005, the Division of Workers Compensation held numerous workers' compensation enforcement-training sessions for its compliance investigators, which are summarized below:

Ethics Training: This was a four-hour course taught by a certified instructor from the Florida Department of Law Enforcement that assisted new investigators in identifying potential ethical dilemmas, analyzing different situations that face investigators, and provided investigators with additional tools to assist in making ethical decisions. The ethics training was provided to all newly hired investigators.

Service of Process: This was a two-hour class taught by an expert in the field of serving process. The instructor is the General Counsel for the Pinellas County Sheriff's Department and also serves as an instructor for the Florida Sheriff's Association in the field of criminal and civil process. The class provided investigators with the laws that govern process, who process can be served by and to, special days when process cannot be served, and the chronology of service to officers of a corporation or members of a limited liability company. This training was made available to all investigators and supervisors at the May 2005 statewide staff meeting.

Verbal Judo: This was a three-hour class taught by a certified instructor with the Florida Department of Law Enforcement who has taught leadership and communications to over 300 governmental agencies nationwide. Verbal Judo is the art of de-escalating volatile situations. The class provided investigators with techniques to read hostile individuals, highlighted means of tactical communications, and methods to deflect resistance and anger. This training was made available to all investigators and supervisors at the May 2005 statewide staff meeting.

IRS-Tracking & Identifying Contractor Payments: This was a two-hour class taught by a senior tax specialist with the Internal Revenue Service. This class provided the investigator with a general overview of the tax return of a contractor and where and what to look for in the tax return to determine if a contractor has attempted to hide payroll. The training focused on three factors, (Behavior, Financial Control, and Relationship of Parties) to concentrate on when reviewing contractor records. This training was made available to all investigators and supervisors at the May 2005 statewide staff meeting.

Nuts & Bolts of an Insurance Audit: This was a two-hour class taught by a premium audit representative from a major insurance carrier. The class focused on the how a carrier conducts audits of their contractor policyholders. Key information discussed included how to question the contractor to assist in determining premium exposure, what records should be examined, and how an audit is conducted of an employee leasing company. This training was made available to all investigators and supervisors at the May 2005 statewide staff meeting.

Supervisor Meetings: These quarterly meetings serve as strategic planning sessions for the Bureau of Compliance in which Supervisors review and update operating procedures, compare and analyze data, and identify areas of improvement within the enforcement process. These sessions are attended by the Investigation Managers, District Supervisors, Bureau Chief and may include the Director and Assistant Director.

New Investigator Training: New investigators attended a four-hour training session in Tallahassee on the Mission and Goals of the Division and on the Bureau of Compliance's official database, the Compliance and Coverage Automated System (CCAS). As new investigators are hired, the District Supervisors provide individualized training on compliance laws and rules, policies and procedures, investigative and enforcement forms, databases, and customer service. The investigator is then assigned to accompany experienced investigators in the field for two to three months prior to being assigned to perform enforcement action independently.

Bi-annual statewide meeting: In the spring and fall of each year, the Division conducts statewide training sessions for its compliance investigators and examiners. The primary focus of these training sessions is to update staff on new procedures, policies, rule development, and projects the Bureau of Compliance is undertaking.

District-wide training: Each of the seven District offices have provided various training for their investigators. Some of that training included a class for dealing with difficult people, a cultural diversity class, training on wrap-up insurance policies for contractors, and various classes in the use of computer software. The District Supervisors consistently conduct regular training sessions with the investigators to review changes in processes or procedures.

CLEAR Training: The Council on Licensure, Enforcement and Regulation (CLEAR) provides a 24-hour Certified Investigator Training Course for regulatory investigators. The Investigator must obtain a passing score to receive the national certification. During the three-day session, the investigator is trained on professional conduct, inter-agency relations, administrative law, the investigative process, principles of evidence, interviewing techniques, report writing, and the administrative and criminal process. The Bureau of Compliance hosted CLEAR January 26-28, 2005. All investigators, supervisors, the bureau chief and director received a passing score on the test and received the national certification.

4. DWC Office Locations and Staff

The Division of Workers' Compensation Enforcement Staff consists of 71 Workers' Compensation Investigators, 7 District Supervisors, and 2 Investigation Managers strategically located in 18 cities throughout the state. From an organizational perspective, the state is divided into a northern and a southern region. The northern region consists of the following offices: Pensacola, Tallahassee, Jacksonville, Panama City, Fort Walton Beach, Ocala, St. Augustine, Orlando, Daytona Beach, Titusville, and Tavares. The southern region consists of the following offices: Miami, Ft. Myers, West Palm Beach, Plantation, Tampa, Sarasota, and New Port Richey. Investigators and Supervisors are allocated as follows:

| <u>District</u> | <u>Office Locations</u> | <u>Number of Investigators</u> | <u>Supervisor Location</u> |
|------------------------|---|---------------------------------------|-----------------------------------|
| I | Jacksonville Ocala St. Augustine | 5 2 2 | Jacksonville |
| I-A | Pensacola Panama City Ft. Walton Beach Tallahassee | 3 2 3 4 | Pensacola |
| II | West Palm Beach Plantation | 7 5 | West Palm Beach |
| III | Tampa Sarasota New Port Richey | 4 4 2 | Tampa |
| IV | Orlando | 7 | Orlando |

| | | | |
|--------------|---------------|-----------|-----------|
| | Daytona Beach | 1 | |
| | Titusville | 1 | |
| | Tavares | 1 | |
| V | Miami | 9 | Miami |
| VI | Ft. Myers | 9 | Ft. Myers |
| Total | | 71 | |

5. Average Caseload

For the period of July 1, 2004 through June 30, 2005, a total of 29,125 Bureau of Compliance investigative cases were closed. The average caseload for each of the 71 Compliance Investigators was 34.18 per month.