

2008 Investigations Annual Report



**Division of Insurance Fraud Prevention
Minnesota Department of Commerce**

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II. MESSAGE FROM THE DIRECTOR

The costs of insurance fraud are substantial and affect everyone in Minnesota, including citizens, businesses, and state and local governments. Every dollar of insurance fraud adds up to millions of dollars a year in the form of higher insurance premiums. On average, every Minnesota family pays more than \$1000 per year because of insurance fraud. In some cases, the costs of human suffering go far beyond the costs measured in dollars.

Since 2005, the Division of Insurance Fraud Prevention of the Minnesota Department of Commerce has been fighting insurance fraud. Our goal is to protect Minnesota citizens and businesses by raising public awareness and understanding on insurance fraud and aggressively investigating violations of insurance fraud and related criminal offenses.

In the past year, we have seen an increase in the complexity and the number of insurance fraud cases. In some instances, we're seeing insurance fraud as an integral part of schemes involving mortgage fraud, securities fraud and health care fraud. We've seen an influx of out-of-state contractors submitting excessive claims to insurers for storm-related damage and chiropractors soliciting accident victims and submitting bills to insurers for treatment not rendered. The problem is widespread and only expected to grow during these difficult economic times.

Our staff of dedicated professionals in the Division of Insurance Fraud Prevention, and all of our fraud fighting partners in law enforcement, the insurance industry and government agencies will continue our efforts to combat insurance fraud in Minnesota. We are hopeful that our hard work will significantly reduce the number of fraudulent insurance claims and decrease the costs of insurance premiums for every Minnesotan.

George S. Kyrilis
Director, Special Investigations
Division of Insurance Fraud Prevention
Minnesota Department of Commerce

III. INTRODUCTION

In 2004 Minnesota joined 41 other states in the fight against insurance fraud when Governor Tim Pawlenty signed legislation creating the Division of Insurance Fraud Prevention at the Minnesota Department of Commerce. The legislation authorized the Commissioner to appoint peace officers and establish a law enforcement agency to conduct investigations and make arrests. The jurisdiction of the agency is limited to offenses related to insurance fraud in the State of Minnesota.

The Division of Insurance Fraud Prevention is authorized to conduct criminal investigations of insurance fraud by Minnesota Statute 45.0135. Its statutory duties include reviewing referrals of suspected fraudulent insurance fraud submitted by insurers, responding to notification or complaints of suspected insurance fraud generated by other law enforcement agencies and consumers, initiating inquiries and investigations when the division has reason to believe that insurance fraud has been or is being committed and referring for prosecution those instances of insurance fraud to the appropriate prosecutorial agency.

The Minnesota Division of Insurance Fraud Prevention maintains a positive working relationship with insurance companies, special investigation units and claims adjusters, and relies on the cooperation of many partners in local, state and federal law enforcement as well as prosecutors' offices.

IV. MISSION STATEMENT

“The detection, reduction and deterrence of insurance fraud crimes by aggressive investigation, identification and prosecution of violators by working cooperatively with the insurance industry, law enforcement and the citizens of the State of Minnesota.”

V. STAFFING

In order to accomplish its mission and responsibilities, the Division of Insurance Fraud Prevention employs a Chief Law Enforcement Officer, Investigations Supervisor, seven investigators and five analysts. The Chief of Police is George Kyrilis and has been involved in law enforcement since 1978. He came to the division after being a Special Agent of the Federal Bureau of Investigations for almost 27 years. The Investigations Supervisor is Penny Kandt and has been with the division since its inception and involved in law enforcement since 1988. The seven investigators have extensive experience in law enforcement with local, county and state law enforcement agencies.

VI. FUNDING

The Division of Insurance Fraud Prevention is funded by an assessment on each insurer authorized to sell insurance in the state of Minnesota. Specific assessment language can be found in Minnesota Statute 45.0135, subdivision 7.

To date, the assessment has collected almost \$6.3M for fiscal years 2005 through 2008. Expenditures total approximately \$3.8M for the same period. In addition, the assessment for fiscal year 2009 was collected during May, 2008 because the statute requires payment to be received on or before June 1, 2008.

During the 2008 legislative session language was enacted that will transfer \$3M from the Division of Insurance Fraud Prevention account to the General Fund during fiscal year 2009. In July 2008, \$1.5M was transferred to the General Fund and another \$1.5M will be transferred in June 2009, as prescribed by law.

VII. REFERRALS

A. Procedure

The Division of Insurance Fraud Prevention is responsible for investigating violations of insurance fraud under Minnesota Statute 609.611, and the division received 924 referrals during the calendar year 2008. The referrals came from the insurance industry, general public, law enforcement or other government agencies. When a referral is received it is reviewed by a committee to determine if sufficient facts exist to warrant an investigation. If such facts exist, the committee recommends opening an investigation to Investigations Supervisor Kandt, who assigns it to an investigator. If insufficient facts exist, the committee either recommends assignment to an analyst for additional review and analysis, or the committee recommends closing the referral. For the referrals assigned to an analyst, the committee will conduct a second review of the referrals and then make a recommendation to either open or close the matter. All referrals received are entered into a database for indexing purposes. Persons who want to make a referral concerning suspected insurance fraud are encouraged to call, write, or visit the Division of Insurance Fraud Prevention at 85 7th Place East, Suite 500, St. Paul, MN 55101, 1-888-FRAUDMN. Insurance companies licensed to do business in the State Of Minnesota are required by Minnesota Statute 60A.952 to report suspicious or fraudulent activity to the Division of Insurance Fraud Prevention. Referral forms and the Minnesota Statutes and Federal Statutes that may be applicable to insurance fraud can be found at the Minnesota Department of Commerce website, www.insurance.mn.gov, under the Fraud Statutes and Penalties hyperlink. All referrals and complaints are kept confidential until criminal charges are filed.

B. Statistics

Once the referrals are reviewed and classified by a division Analyst, they are entered into the divisions' confidential case management database. The Division of Insurance Fraud Prevention maintains the database for the purpose of file management and compiling statistics. The main statistics assembled from our database are related to the type, and source of the fraud.

1. Losses

The amount of loss in each case referred for criminal prosecution is recorded to evaluate the financial cost of insurance fraud uncovered from our investigations. The division does not document the losses reported for each and every referral since some losses are unsubstantiated and are a derivative of abuse and error, rather than fraud. In 2008, the amount of losses on the investigations referred for prosecution was \$9,542,971. In comparison, the losses in 2007 were \$2,647,422.

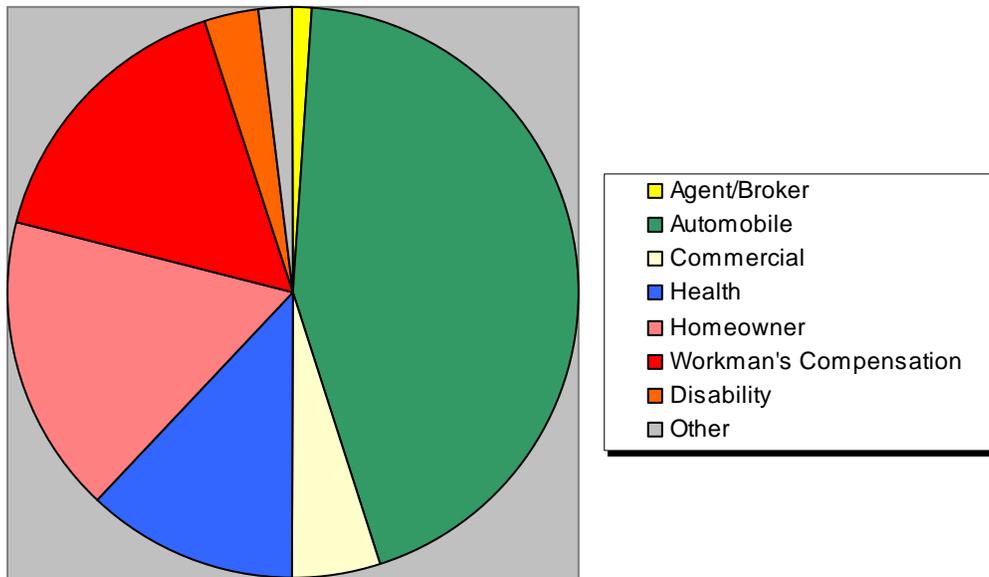
The division records the amount of restitution in cases that have resulted in successful prosecution. In 2008, the court ordered restitution of \$2,656,970 to the victims in our investigations, compared to \$3,065,930 in the previous year.

2. Referrals by Type of Fraud

The Division of Insurance Fraud Prevention assigns a case code to every case referred to the division to classify the type of fraud. The classification system enables the division to determine the most prevalent type of insurance fraud in Minnesota. The categories for each type of fraud, the number of referrals, and the percent of total in the year 2008 are as follows: agent and broker fraud– 13 (1%), auto claim fraud – 403 (44%), commercial fraud – 50 (5%), health claim fraud – 108 (12%), homeowner fraud – 155 (17%), workers' compensation fraud – 151 (16%), disability fraud – 26 (3%), and other types of fraud including life insurance, premium fraud, mortgage insurance fraud and unemployment fraud – 18 (2%).

The graph below depicts this breakdown for each type of fraud.

2008 Referrals by Type of Fraud



3. Referrals by Source

The Division of Insurance of Insurance Fraud Prevention receives case referrals from four main sources: the general public, insurance companies, law enforcement agencies and government agencies. The subject of the referrals varies from individuals to businesses suspected of committing insurance fraud. The majority of these referrals are received from the insurance companies through the National Insurance Crime Bureau. The general public contact for the division is through our telephone hotline (1-888-FRAUDMN), the US Mail and the Minnesota Department of Commerce web site. The division has inter-agency agreements with the Minnesota Department of Labor and Industry and the Minnesota Department of Employment and Economic Development for workers' compensation insurance fraud and unemployment insurance fraud, respectively.

VIII. PREVENTION

A. Educational Presentations

One of the primary goals of the Division of Insurance Fraud Prevention is to educate the public, insurance industry, law enforcement, government agencies and prosecutors that insurance fraud is a crime and that it has a negative impact on insurance rates in Minnesota. According to the Coalition against Insurance Fraud the average Minnesota family pays about \$1,000 per year in higher insurance premiums and other costs because of insurance fraud. Nationally, it is estimated to cost over \$120 billion annually, and 15% of every premium dollar spent has to be used to cover false and/or inflated insurance claims.

To get this message out in 2008, the Division of Insurance Fraud Prevention made several presentations to the general public, insurance industry, law enforcement and government agencies. In 2008 the division leased exhibit booths at the annual conferences for the Minnesota Chiefs of Police Association, Minnesota Crime Victims Association, Minnesota Crime Prevention Association and the Minnesota State Fair to provide awareness about insurance fraud and the reporting of insurance fraud.

B. Educational Materials

As part of its public awareness program, the Division of Insurance Fraud Prevention developed a pamphlet on insurance fraud to distribute to the general public and businesses. The pamphlet provides information about why people commit insurance fraud, the types of insurance fraud, the elements of an insurance fraud and how to contact the Division of Insurance Fraud Prevention. The division also distributes pamphlets designed by the Coalition Against Insurance Fraud, "Insurance Fraud, the Crime You Pay For," which has information on the types of fraud, the costs of fraud and how to prevent becoming a victim of insurance fraud.

C. Other Activities

As part of our mission to reduce and deter insurance fraud, the Division of Insurance Fraud works cooperatively with the insurance industry, law enforcement and the citizens of the State of Minnesota. The divisions' staff has joined, or is associated with various professional groups, both from the insurance industry and the law enforcement community. These groups include but are not limited to the Insurance Federation of Minnesota, National Insurance Crime Bureau, National Association of Insurance Commissioners, Coalition Against Insurance Fraud, Mid-States Organized Crime Information Center, FBI Mortgage Fraud Task Force, Minnesota Health Care Fraud Task Force, National Health Care Anti-Fraud Association, Twin Cities Securities Partnership, Association of Certified Fraud Examiners, Minnesota Chiefs of Police Association, High Technology Crime Investigation Association and Minnesota Cyber Crimes Task Force. Our association and participation with these groups provide valuable assistance,

resources and information to the Division of Insurance Fraud Prevention in our efforts to combat insurance fraud in Minnesota.

IX. INVESTIGATIONS

A. Overview

The Division of Insurance Fraud Prevention conducts criminal investigations on insurance fraud and offenses related to insurance fraud. The investigation process includes activities such as interviewing witnesses, conducting background checks on suspects, interviewing victims, witnesses and suspects, executing search warrants, serving subpoenas, conducting surveillances, reviewing/analyzing documents and evidence, and conducting computer forensics.

The following cases are samples of some the division's investigations in 2008. Details on additional cases can be found on the division's web site. (Individuals who have been convicted and whose names have been publicly disseminated have been identified).

1. Convictions

- David Skjerven, an insurance agent from Sedona, Arizona, was arrested last July after Minnesota investigators got a tip that he might be returning to the state to attend his daughter's wedding. Skjerven took money from 21 investors in Minnesota and North Dakota in exchange for promissory notes that promised certain rates of return, but instead converted that money for personal use. The agent pled guilty to theft by swindle and theft by misrepresentation in MN and 18 counts of fraudulent practice and 20 counts of property theft in ND. He will serve a prison term of two years and make restitution of more than \$1.8 million after pleading guilty in Norman County, MN and Cass County, ND. The investigation was conducted in concert with the North Dakota Securities Division.
- Nicholas Fisher from Afton, MN, pled guilty to felony theft in Washington County, MN. Fisher reported the theft of several household items, including stereo equipment and remote control model airplanes, during a home invasion. However, there was no theft and he had sold the stolen items on eBay and to his co-workers. He forged his girlfriend's name to receive payment in the amount of \$42,171 from her insurance company. Fisher received 33 months in prison, probation for up to 10 years and ordered to make restitution to the insurance company. His prison sentence was stayed since he was already incarcerated on a sex crime in Wisconsin and would not be released until March 2010.
- Donna Ruch and Chyree Hutchinson, from Blaine, MN, ran Alternative Counseling Clinic, also known as Healthcare Reimbursement Consultants, a provider of psychiatric and mental health services. From March 2003 to March 2007, the two women executed a scheme to defraud several health insurance

providers through their Coon Rapids business. The pair submitted false claims to the insurers for counseling services, which resulted in their business receiving in excess of \$200,000. They plead guilty to one count of health care fraud in U.S. District Court and confessed that they submitted false claims for services not provided and not authorized. The investigation was conducted with the FBI, U.S. Department of Health and Human Services and the Minnesota Attorney General's Office. Both women were sentenced to 18 months in prison and ordered to pay \$200,000 in restitution.

- Joseph Hughes from Stewartville, MN was a registered representative of AXA Advisors LLC, a financial services company that sold insurance, investment products and retirement planning services, from May 2004 through December 2006. In June 2005, he took on an elderly couple from Elkton, MN, as clients after the husband had suffered a stroke. Hughes then began embezzling more than \$400,000 by diverting the couple's AXA investment account for his own use and benefit. He used the embezzled funds to buy cars, pay for college tuition, mortgage, country club membership, jewelry, a wedding, and personal debt. Hughes pled guilty in U.S. District Court to one count of mail fraud and one count of tax evasion. The investigation was a joint effort with the IRS, Criminal Division and the US Postal Inspection Service. Hughes was sentenced to 46 months in prison and ordered to pay \$456,970 in restitution.
- Two men and one woman from Brooklyn Park, MN staged an automobile accident in the parking lot of an apartment building. Chuku Kamara drove a U-Haul truck into the parking lot, followed by Kelvin Smith who was driving a 1997 Cadillac. While Smith and Geraldine Karngbaye watched, Kamara parked the Cadillac behind the U-Haul truck. Kamara then took control of the truck and backed it up into the Cadillac, causing damage to the vehicle's door. However, Karngbaye reported to police that she backed the U-Haul into the Cadillac, and that Smith was driving the Cadillac with Kamara as his passenger. The three reported head injuries in the accident and made a claim for more than \$1,700 damages with the insurance company. Karngbaye admitted that she provided false information to the police to collect insurance proceeds from the accident. All three were charged with insurance fraud and intentional damage to property in Hennepin County, MN. Karngbaye and Kamara plead guilty to insurance fraud and received stayed prison sentences, probation and were ordered to make restitution.
- Larry Atkins, an insurance agent and owner of a brokerage services company in Fargo, North Dakota, took more than \$5 million from 33 investors in Minnesota and North Dakota. He took the money in exchange for promissory notes that promised certain rates of return, but instead converted that money for personal use. The Ponzi scheme occurred over an 18-year period. The investigation on Atkins was developed through the investigation on his former business partner, David Skjerven. A complaint was filed in Cass County charging Atkins with 21 counts of transacting business as an unregistered insurance agent; 27 counts of

offering for sale or selling unregistered securities; 29 counts of engaging in fraudulent practices and one count of exploitation of a vulnerable adult. He pled guilty and was sentenced to 8-years in prison.

2. Complaints and Indictments

- A woman from St. Paul, MN filed a long-term disability claim with her insurance company in June 2002, claiming that she could not work. She signed a form stating that her insurance benefits would be reduced by any social security benefits paid to her or any of her dependents. While on disability she failed to notify her insurance company that she received social security benefits and was employed as a nurse in the Minneapolis public school system. She obtained nearly \$40,000 in long-term disability payments from her insurance company until September 2006. She was charged with one count of Theft by Swindle in Ramsey County.
- A man from Burnsville, MN owned a pick-up truck which was involved in a multi-vehicle accident, while parked in his driveway. He filed an insurance claim stating that his \$12,000 model airplane had been destroyed in the accident. At the time of the accident, a police officer and witnesses involved in the accident stated that there was nothing in the back of the man's pick-up truck. The insurance company was able to stop payment on the insurance claim. A complaint was filed in Dakota County, charging him with one count of insurance fraud and one count of theft.
- A man from Waseca, MN, was involved in a single vehicle accident with no passengers and enlisted another individual to claim that he was a passenger in his vehicle and had sustained injuries. The man told the other individual to make a false insurance claim and \$27,500 was paid on those claims by the insurance company. The man took this individual to a chiropractor, who classified him as being totally disabled, even though he was not in the accident and had sustained no injuries. A complaint was filed in Faribault County charging the man with insurance fraud.
- A Maple Grove, MN man reported to police that his 1997 Dodge Ram pick-up had been stolen. He filed a claim with his insurance company for \$11,220 and received payment from his insurance company. The pick-up truck was subsequently located in Iowa. The driver of the pick-up truck was a former employee of the man, who had reported the vehicle stolen, and had secured a written contract to purchase the reportedly stolen vehicle. When the original owner was confronted by his insurance company, he paid back the \$11,220 insurance payment. A complaint was filed in Hennepin County charging the man with insurance fraud and theft by swindle.

B. Statistics

The Division of Insurance Fraud Prevention reviewed 924 referrals in 2008. Of those, 235 referrals were opened to be investigated. The division closed 750 cases for the following reasons: insufficient facts, completed investigations with no prosecutable action, and completed investigations adjudicated in criminal court. The division sent 27 investigations to the state and/or federal prosecuting agencies for prosecution. Those cases had 103 victims and the financial losses were \$9,542,971.

C. Intelligence and Other Activities

Information is a key element in solving crimes. Insurance fraud is a white collar crime, which crosses jurisdictional boundaries of city, county and state lines. The Division of Insurance Fraud Prevention shares information and intelligence with other law enforcement agencies and government agencies throughout the state to accomplish its mission. Many of the division's investigations developed into coordinated efforts by multiple law enforcement agencies to bring forth successful prosecutions.

Some of the agencies that the division's investigators have either provided assistance to or worked with on joint investigations include the Sheriff's Offices, Police Departments, Federal Bureau of Investigation, Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms, U.S. Postal Inspection Service, U.S. Department of Health and Human Services, Social Security Administration, Minnesota County Attorney's, U.S. Attorney's Office, Minnesota Department of Labor and Industry, Minnesota Department of Employment and Economic Development, Minnesota Department of Human Services, and our own Insurance Market Conduct and Real Estate/Securities Divisions. This cooperation has helped solve many criminal cases, establish and build valuable relationships, and consolidate resources in the fight against insurance fraud.

X. PROSECUTION

A. Overview

The Division of Insurance Fraud Prevention is authorized to refer investigations on insurance fraud and offenses related to insurance fraud for criminal prosecution. The investigations are either referred to the Minnesota County Attorneys or the U.S. Attorney's Office, depending on the jurisdiction and criminal violations applicable to the investigation. Under state law, the division enforces violations on the Minnesota statutes for 609.611 Insurance Fraud, 609.612 Employment of Runners, 609.45 Perjury, 609.52 Theft and 609.63 Forgery. Under federal law, the division enforces violations of US Code, Title 18 for Section 1341 Mail Fraud, Section 1343 Fraud by Wire, Section 1347 Health Care Fraud and Section 1956 and 1957 Money Laundering. In all prosecutions, the division seeks the forfeiture of assets from defendants and restitution for the victims.

B. Statistics

The Division of Insurance Fraud Prevention referred 27 cases for criminal prosecution in 2008. These investigations involved 40 defendants. Some of these investigations are pending at several prosecuting agencies and are at various stages of the court and legal process. Of the investigations that were completed, legal action resulted in 11 criminal convictions, and restitution of \$2,656,970. In 2007, the division had 14 criminal convictions and restitution of \$3,065,930.

XI. ADMINISTRATIVE ACTIVITIES

Two additional investigative positions were added in 2008 bringing the total of authorized investigator positions to seven at year end, in addition to five existing analyst positions.

The Division of Insurance Fraud Prevention moved into new office space in 2008, which provided employees with more work space, including interview rooms, a conference and training room, major case work areas, a computer forensic lab, computer evidence and documentary evidence review rooms and evidence rooms.

A committee was organized to conduct an extensive review of case management systems to replace the division's aging system. After a detailed RFP process and vendor interviews, the division choose a product from the Law Enforcement Technology Group, which will be installed in early 2009. The Law Enforcement Technology Group will install its highly innovative browser based records management system, which will provide greater efficiency and effectiveness for the division to accomplish its mission.

XI. CONCLUSION

According to the Insurance Federation of Minnesota, insurance fraud costs consumers millions of dollars a year in the form of higher premiums. The Division of Insurance Fraud Prevention has worked with our partners in law enforcement, insurance industry, government agencies and the general public during 2008 in our efforts to combat insurance fraud. We will continue to aggressively investigate and seek prosecution of fraudulent insurance fraud acts and increase public awareness of insurance fraud across the State of Minnesota.

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