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OIFP Civil Enforcement Actions Pack a One – Two Punch in the Fight on Fraud

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by Melaine Campbell

Terry McSweeney may have thought he found a "slick" way to boost profits at his chiropractic practice in Newark, New Jersey when he used a "runner" to find patients to increase his business. McSweeney's problem was that he was paying a person who was actually working in an undercover capacity for New Jersey's Office of the Insurance Fraud Prosecutor (OIFP). In New Jersey, it is a serious crime for licensed medical providers, such as doctors and chiropractors, to pay "runners" to obtain patients for their professional practices in order to obtain insurance benefits or to assert insurance claims.

McSweeney was indicted for the crime of "criminal use of runners" and pled guilty. He ultimately entered New Jersey's Pre-Trial Intervention (PTI) Program on the criminal charges. But his troubles were not over. In a one-two punch in New Jersey's fight against insurance fraud, McSweeney was hit with an additional penalty--a $15,000 civil insurance fraud fine. His activities were also referred to the Board of Chiropractic Examiners, which licenses chiropractors, for appropriate licensing action.

L. C. Thomas was a licensed insurance agent, formerly doing business in Teaneck, New Jersey, who fraudulently obtained more than $1.2 million in life insurance policies. Thomas admitted that he assisted William Conyers, a licensed funeral director who owned and operated the Conyers Funeral Home in Hackensack, and Conyers' wife, Mollie, vice-president of Conyers Funeral Home, in falsifying several life insurance applications submitted to carriers for life insurance policies. They concealed the fact that the insured persons had pre-existing medical conditions such as the AIDS virus and falsified the applications by naming persons as beneficiaries who had no insurable interest in the lives of the insured persons.

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L. C. Thomas was convicted of attempted theft by deception and sentenced to probation. Both Conyerses were also convicted of various offenses following a 17-day jury trial. William Conyers was sentenced to 11 years in State prison and Mollie Conyers was sentenced to two years probation conditioned upon serving 364 days in the county jail. Then, the civil penalty portion of New Jersey's anti-fraud insurance statute kicked in and L. C. Thomas was also fined $5,000.

Civil Actions Complement the Criminal Prosecutions

The investigation of cases of suspected insurance fraud by OIFP-Civil provides law enforcement with an invaluable weapon in the battle against insurance fraud. Actions by OIFP-Civil can stand alone or can complement the prosecution of a criminal case. In fact, most cases which result in a successful criminal prosecution also result in the imposition of civil penalties under the Insurance Fraud Prevention Act (Fraud Act). Since the imposition of a civil fine under the Fraud Act requires the lesser "preponderance of the evidence" burden of proof for civil cases, civil enforcement actions can be successfully pursued in cases where criminal prosecutions are not appropriate. Furthermore, the Statute of Limitations for civil insurance fraud actions is ten years, substantially longer than the five year time limit within which most criminal prosecutions can be brought. Consequently, the majority of OIFP's insurance fraud investigations are conducted by the civil side of the Office.

During 2003, OIFP successfully brought numerous civil actions in conjunction with criminal cases prosecuted by OIFP or by County Prosecutors' Offices. OIFP's Operation "Give & Go" targeted automobile "give-ups" and auto thefts involving 46 vehicles valued at over $1 million. By the end of 2003, 38 New Jersey residents were indicted for "giving-up," or for their involvement in the theft of late model luxury automobiles in order to fraudulently collect insurance monies. In addition to criminal prosecution, all the defendants face substantial civil fines.

The Fraud Act provides for fines of up to $5,000 for a first violation, $10,000 for a second violation, and $15,000 for third and subsequent violations. Each misrepresentation or fraudulent omission in a claim or application constitutes a separate violation of the Act, triggering liability for the specified fines. In addition to the imposition of civil fines, where appropriate, OIFP-Civil also seeks to recover restitution and attorneys' fees from the violator.

Civil Actions at Nationwide High Levels in 2003

Issuance of Civil Consent Orders are authorized under the Fraud Act after an investigation reveals a violation of the Act. A Civil Consent Order represents a preliminary settlement offer to the violator providing the violator with the earliest opportunity to voluntarily agree to the terms of the order, the findings of the investigation, and the imposition of an agreed upon civil fine. Otherwise, the case is referred to civil attorneys in the Division of Law for litigation.

OIFP-Civil imposed 4,362 Insurance Fraud Sanctions in 2003. This statistic supports the 2003 Coalition Against Insurance Fraud report which noted that New Jersey led all other states in the number of civil actions taken against people trying to cheat the system. Greater emphasis on better civil investigations has yielded a significant increase in the per case resolution obtained by civil attorneys in OIFP's litigated cases. In 2002, the average case resolution was $5,600. By contrast, the

average case in 2003 was $9,400. The total number of judgments for 2003 was 397, as compared to 356 in 2002.

In 2003, OIFP-Civil referred 318 cases to the Division of Law for the filing of civil enforcement actions stemming from the refusal of insurance fraud violators to either voluntarily execute consent orders or to make payments on outstanding consent orders. There were 345 civil actions resolved by the Division of Law in 2003, resulting in the imposition of $3,133,869 in penalties, fees and restitution.

Specialization in the Fight Against Insurance Fraud

OIFP-Civil is divided into squads and teams which investigate allegations of insurance fraud arising out of property and casualty, health and life, and automobile insurance coverages. When fully staffed, 54 investigators are assigned to auto insurance fraud, 34 to property and casualty insurance fraud, and 43 to health and life insurance fraud investigations. In addition, 12 Criminal and Civil Investigators are assigned to supervisory positions in OIFP-Civil, while another six Civil Investigators perform various professional support functions in OIFP-Civil, such as maintaining required databases, production of OIFP training videos and other publications, and performing similar tasks requiring a high level of expertise. The following describes each of the teams and highlights typical cases brought by the teams throughout the year.

Jersey's insurance fraud prosecutions tops in U.S.

By William Young

When it comes to insurance fraud, New Jersey is tops in the nation. Prosecuting it, that is.

The Washington, D.C.-based Coalition Against Insurance Fraud released a study of the 43 state insurance fraud bureaus in the nation and found the New Jersey Office of Insurance Fraud Prosecutor led all others in the number of civil actions it took against people trying to cheat the system.

It has only been five years since the insurance fraud office was created, so its ascension to No. 1 is somewhat remarkable.

"This report establishes unequivocally that our Office of Insurance Fraud Prosecutor leads the nation when it comes to fighting this costly crime of insurance fraud," said Gov. James E. McGreevey. "Insurance fraud costs the average New Jersey household $200-$300 a year in added premiums."

The office opened 4,986 new cases in 2002, more than double the number of second-ranked California. Additionally, the office took 2,590 civil actions against fraud perpetrators last year.

Fraud Prosecutor Greta Gooden Brown noted that nationwide, insurance fraud is an $80 billion industry.

"For years, law enforcement paid little attention to insurance fraud, because they viewed it as a minor, non-violent crime," she said.

The fraud office said this year's statistics should mirror last year's in terms of total cases filed and civil actions, and that as of the end of November, 318 people had been charged with some criminal charge related to insurance fraud, up from 302 in 2002.

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Auto Fraud Teams

During 2003, a significant number of investigations successfully targeted vehicle owners and lessees seeking to dispose of their vehicles in order to collect insurance proceeds and escape their expensive lease or loan payments. These cases are commonly known as owner "give-ups."

John P. Fagan, a former West Orange police officer, filed a false police report with the Wayne Police. He also filed an Affidavit of Theft with his insurance company containing false and misleading information. Although Fagan claimed that his vehicle had been stolen, Fagan voluntarily relinquished the car to other persons as part of a scheme to obtain payment from the insurer. Fagan pled guilty to

criminal charges and executed consent orders totaling $8,000 for his part in this "owner give-up" scheme.

Other types of automobile insurance fraud, such as phony and exaggerated claims for property damage, phony claims associated with staged accidents, and fraudulent claims by "jump-ins" who falsely claim to have been injured as passengers in an automobile accident when they were not involved at all, are also investigated.

Several individuals entered into Consent Orders during 2003 resulting from their involvement in a staged accident scheme. As a result of this scheme, 28 persons were indicted on charges that they "set-up" more than 90 "staged" automobile accidents which resulted in 24 insurance companies paying more than $2 million in fraudulent automobile accident and personal injury claims. In addition to criminal penalties upon conviction, these individuals will face substantial civil penalties.

In addition to the civil component of criminal investigations, the Civil Auto Fraud Teams investigate cases where civil fines have traditionally been levied. These cases typically involve "rate evasion," where an insured misrepresents the garaging location of an insured vehicle in order to obtain a lower premium rate or "application fraud," where the insured lies on an insurance application such as misrepresenting the individuals residing in the household who are of driving age, or the actual use of the vehicle, or fraudulently registering commercial vehicles as personal vehicles in order to obtain the lower insurance rates which reflect the lower risks associated with non-commercial vehicle use. Insureds who are caught committing rate evasion or application fraud typically are fined an amount which is far greater than the savings they would have enjoyed by misrepresenting the use or drivers of their vehicles to their insurance companies.

Health and Life Teams

Civil Investigators conduct investigations of a variety of schemes perpetrated by both medical providers and patients to bilk insurance companies. Frauds perpetrated by providers include billing for services not rendered, misrepresenting the nature of services rendered in order to charge a higher fee, and "unbundling" or billing for multiple services when billing for only a single procedure is appropriate. Other fraud perpetrated by providers may involve billing for services rendered beyond the scope of a provider's license.

OIFP-Civil imposed a $100,000 civil fine against Yong Jin Kim who practiced acupuncture without a license. Kim forged the signature of his father, Ki Min Kim, a licensed acupuncturist who had died, in order to renew his father's license to practice acupuncture. Kim submitted claims to insurance carriers using the name and license number of his deceased father. Kim was charged by the Ocean County Prosecutor's Office with health care claims fraud and pled guilty.

In addition to Yong Jin Kim, another provider, Thomas Boselli, was fined $100,000. Boselli had been practicing chiropractic medicine for 16 years without a license. An investigation determined that Boselli submitted 1,870 claims for 56 patients since 1995 totaling more than $125,000, of which he was paid in excess of $54,000. Boselli fraudulently signed all the claim forms as a licensed chiropractor.

Other OIFP-Civil cases involve insurance fraud committed by patients or purported patients. These cases include patients submitting fabricated bills for treatments that were never provided or subjects submitting bills for reimbursement of fraudulent prescriptions.

Patricia and Paul Sullivan were fined $25,000 for three schemes designed to defraud Metlife Insurance

Company and Blue Cross/Blue Shield out of $48,380. The schemes included altering co-pays on prescription receipts, seeking reimbursement for costs not actually incurred, and seeking reimbursement for the full costs of drugs when the drugs were never actually dispensed. The Sullivans were also prosecuted criminally.

Cassandra Hankins and Jay Earl Hankins defrauded MetLife Insurance Company. Cassandra misrepresented herself as Jay's ex-wife, using the ex-wife's insurance card to obtain an abortion and dental work. Cassandra and Jay Hankins were each fined civilly in the amount of $5,000.

John Currie repeatedly misrepresented his inability to work, receiving $38,169 in disability benefits to which he was not entitled. Surveillance and employment verification by Unum Provident SIU revealed that Currie was employed full time while claiming to be disabled. Currie reimbursed Unum for the claim and paid a $10,000 fine levied by OIFP-Civil.

Property and Casualty Teams

Cases investigated by the Property and Casualty Teams arise out of different types of insurance policies, including homeowners and commercial insurance policies. Fraudulent claims under these policies often involve the exaggeration or fabrication of claimed losses due to theft, burglary or casualty, or the making of multiple claims for a single loss. The Teams also investigate instances of suspected insurance agent fraud which typically involve the embezzlement of clients' premiums or the purposeful misrepresentation of information on insurance applications in order to obtain lower rates on behalf of a client.

John P. Miller and Louise Miller filed a fraudulent homeowners claim in relation to a fire loss of their residence. The investigation revealed that Louise Miller conspired with her brother-in-law, David Clark, in the arson of the home, for the purpose of collecting insurance benefits. John Miller became aware of the arson after the incident, but failed to notify Ohio Casualty that the fire had been set intentionally. The Millers were civilly fined $6,500 and prosecuted criminally, Louise for committing arson to collect insurance, and John for hindering apprehension.

Fireman's Fund Insurance Company referred an allegation that Solomon "Sammy" P. Bouzaglou falsely claimed that his inventory was accidently damaged by a faulty sprinkler head, when, in fact, he had conspired with others to purposefully destroy the inventory and collect the insurance proceeds. Bouzaglou and co-conspirator, Joseph Benlolo, were each fined $5,000 by OIFP-Civil in addition to facing criminal prosecution by OIFP-Criminal.

OIFP *Civil 2003 Initiatives*

In addition to investigating and developing cases referred to OIFP by insurance carriers or citizens, OIFP-Civil Investigators continued working in 2003 on proactive initiatives to ferret out insurance fraud in its many forms.

Contractors who thought they could beat the system by paying cheaper rates for private passenger auto insurance on their commercial vehicles were in for a rude awakening in 2003. Civil Investigators targeted this fraud scheme, successfully bringing actions against numerous contractors.

OIFP-Civil continued working with the Philadelphia Fire Marshal's Office and other law enforcement agencies to investigate auto "give-ups" which have been found burned in Philadelphia. These cases involve New Jersey vehicle owners and lessees who "give-up" their cars to co-conspirators who, for a fee, dispose of the cars by burning them in Philadelphia. The owners or lessees then file false insurance claims for theft. To date, OIFP-Civil has imposed several civil penalties in New Jersey resulting from this initiative.

Throughout 2003, Civil Investigators continued to develop significant cases, analyze trends, and explore new and creative ways to combat the endemic problem of insurance fraud in New Jersey.

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