

THE REPORT OF THE

STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
HENRY McMASTER

INSURANCE FRAUD DIVISION

2003 ANNUAL REPORT



January 2004

MESSAGE FROM THE ATTORNEY GENERAL

Herein the 2003 Annual Report of the Insurance Fraud Division is respectfully submitted to the General Assembly. The Insurance Fraud Division is beginning its 10th year of operation, spearheading South Carolina's fight against insurance fraud.

I am deeply concerned about insurance fraud and its effect on the citizens and businesses of our state. I am pleased to report, however, that we have achieved unprecedented successes even in these times of budgetary constraints.

In order to ensure the continued success in prosecuting insurance fraud in South Carolina it is necessary for us to retain the support and cooperation of those outside of the Insurance Fraud Division itself. I also wish to thank Chief Robert Stewart and the South Carolina Law Enforcement Division (SLED) for dedicating its agents, time and resources to aid us in this fight against insurance fraud. Additionally, I would like to commend the efforts of the Special Investigative Units in the insurance industry whose achievements and professionalism allow this office to achieve even greater success.

There is no doubt that some of our greatest challenges lie before us. Working together, as we have in 2003, we can move forward to eliminating the insurance fraud problem in South Carolina.

As we reflect upon the changes and successes of 2003 we can look forward with great hope and confidence to the challenges of 2004.

A handwritten signature in black ink, reading "Henry McMaster". The signature is fluid and cursive, with the first name "Henry" and last name "McMaster" clearly distinguishable.

HENRY McMASTER

CUMULATIVE STATISTICS OF THE INSURANCE FRAUD DIVISION

TOTAL FILES OPENED	3967
TOTAL COMPLAINTS UNFOUNDED OR DECLINED	2499
CRIMINAL CONVICTIONS	637
CIVIL REMEDIES	354

Type of Fraud	Amount Reported
Health/Medical	\$4,796,691.56
Workers' Compensation	\$4,828,114.65
Personal Property	\$11,249,171.17
Automobile Insurance	\$8,324,127.67
Life Insurance	\$7,922,145.61
Premium Fraud	\$6,084,762.54
Disability Insurance	\$4,764,223.71
Other	\$2,244,902.48
TOTAL	<u>\$50,214,139.39</u>

Types of Monies Collected	Amount Collected
Criminal Fines	\$273,567.91
Criminal Restitution	\$2,104,613.64
Civil Penalties	\$917,002.19
Civil Restitution	\$826,642.87
Total	<u>\$4,121,826.61</u>

SUMMARY

Status of Cases – 2003

Complaints

Received	844
Complaints Unfounded or Declined*	268
Complaints Referred to Other Agencies	99
Files Opened**	354

**Several complaints declined in 2003 for lack of prosecutorial merit were the result of a complaint filed in a previous year.*

*** Reflects an inter-office procedure for officially opening files and assigning an Office of the Attorney General case number.*

Pending Cases on Docket

Open Files	627
Under Investigation by SLED	622

Indictments Presented

True Bills	127
No Bills	0
Pending 2003 Indictments	116

Cases Disposed Of

Criminal Convictions	42
Civil Remedies	49

MONIES COLLECTED AND/OR ORDERED IN 2003

Criminal Penalties, Civil Penalties, Fines and Restitution

The following tables indicate the amounts of fines, penalties, restitution and attorneys' fees that have been ordered paid by the Courts or by a Memorandum of Understanding.

Monies Ordered and/or Collected Pursuant to Court Order

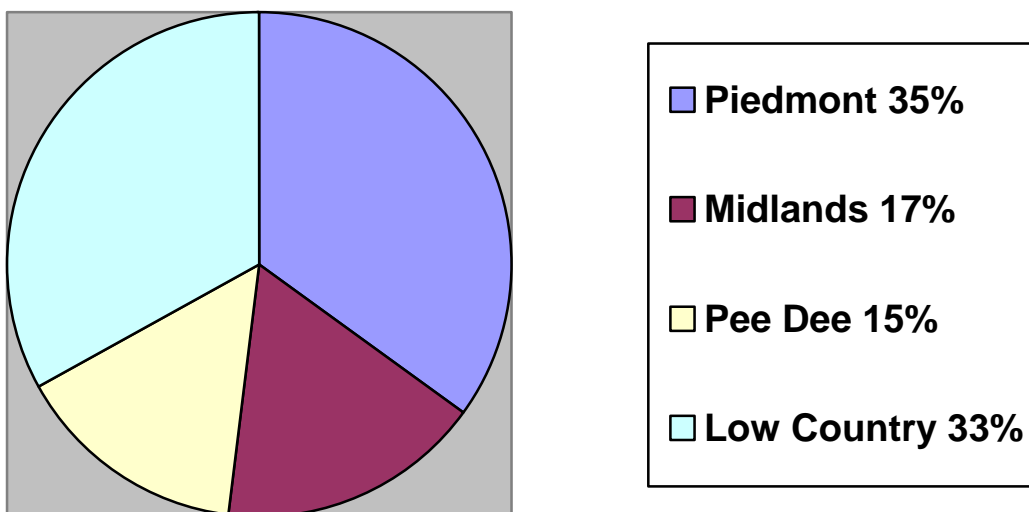
CRIMINAL	AMOUNT
Court Ordered Fines	\$3,275.00
Fines Collected on Orders From Previous Years	\$1,265.88
Restitution Ordered	\$146,297.61
Restitution Collected on Orders From Previous Years	\$150.00
TOTAL	<u>\$150,988.49</u>

Monies Ordered and/or Collected Pursuant to Civil Disposition

CIVIL	AMOUNT
Fines Ordered	\$35,700.00
Fines Collected	\$35,530.00
Attorney Fees Collected	\$2,400.00
Restitution Ordered	\$55,790.21
Restitution Collected	\$47,659.88
TOTAL	<u>\$177,080.09</u>

BREAKDOWN OF CASES BY REGION

During 2003, the Insurance Fraud Division of the Attorney General's office opened 354 cases. As the chart below indicates, these cases were received from all areas of the state:



REGION	NUMBER OF CASES	PERCENT OF TOTAL
Low Country	119	33%
Piedmont	123	35%
Midlands	60	17%
Pee Dee	52	15%
TOTALS	354	100%

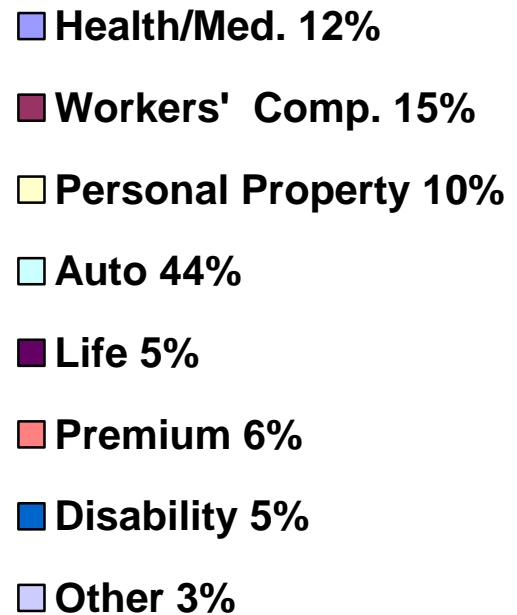
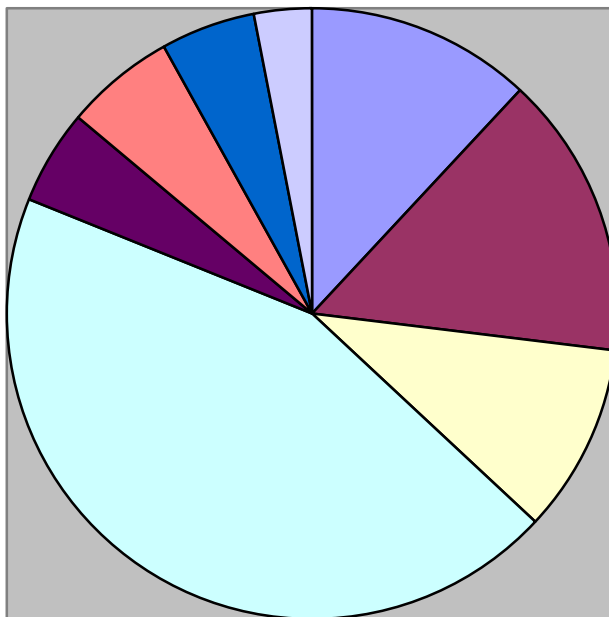
BREAKDOWN OF COMPLAINTS RECEIVED BY TYPE

The fraud complaints received during 2003 by the Insurance Fraud Division consisted of the following types of fraud:

Type of Fraud	Number of Complaints	Percentage of Total	Amount Reported
Health / Medical	106	12%	\$402,027.37
Workers' Comp.	130	15%	\$99,640.65
Personal Property	82	10%	\$593,111.46
Automobile	370	44%	\$1,165,076.68
Life Insurance	39	5%	\$737,619.18
Premium Fraud	51	6%	\$328,663.35
Disability	41	5%	\$245,658.81
Other	25	3%	\$116,672.85
TOTAL	844	100%	<u>\$3,688,470.35</u>

Note: Tables may show cases reported with no corresponding dollar amounts. In these cases, no dollar amount could be determined at the time the complaint was received, or the claim had been withdrawn or denied.

Breakdown of Complaints by Type of Fraud – 2003



ABBEVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Referrals Pending
Health/Medical	1	\$2,596.92	0
Workers' Comp.	1	0	0
Personal Property	1	0	0
Automobile	1	0	1
Disability	1	\$6,699.73	1
TOTAL	5	\$9,296.65	2

AIKEN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Referrals Pending
Health/Medical	3	0	1
Personal Property	3	\$9,500.00	1
Automobile	13	\$17,878.97	7
Life Insurance	6	\$537,343.72	4
Disability	2	\$1,582.34	1
TOTAL	27	\$566,305.03	14

ALLENDALE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Referrals Pending
TOTAL	0	0	0

ANDERSON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	\$1,903.00	1
Workers' Comp.	5	0	1
Personal Property	2	0	1
Automobile	11	\$45,836.67	5
Life Insurance	2	\$76,500.00	1
Disability	2	0	1
TOTAL	23	\$124,239.67	10

BAMBERG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	1	0	0
Personal Property	1	0	1
Automobile	2	0	1
Premium Fraud	1	\$3,494.00	1
TOTAL	5	\$3,494.00	3

BARNWELL COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Personal Property	1	0	1
Automobile	3	\$13,848.14	2
TOTAL	4	\$13,848.14	3

BEAUFORT COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	0	1
Workers' Comp.	4	0	3
Personal Property	4	\$17,052.76	3
Automobile	9	\$1,651.92	4
Premium Fraud	1	\$136.90	0
Disability	1	\$42,300.00	0
TOTAL	21	\$61,141.58	11

BERKELEY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	4	0	2
Personal Property	5	\$115,193.68	2
Automobile	18	\$117,356.90	11
Life Insurance	1	0	1
Disability	1	\$5,274.18	1
TOTAL	29	\$237,824.76	17

CALHOUN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Automobile	3	\$22,070.25	1
Life Insurance	2	\$100,000.00	0
TOTAL	5	\$122,070.25	1

CHARLESTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	6	\$7,610.01	2
Workers' Comp.	7	0	3
Personal Property	2	\$126,408.00	1
Automobile	26	\$87,740.42	15
Premium Fraud	1	0	0
Disability	2	\$13,642.53	2
Other	1	\$40,000.00	1
TOTAL	45	\$275,400.96	24

CHEROKEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$260,000.00	1
Automobile	2	\$1,000.00	0
Disability	1	0	1
TOTAL	5	\$261,000.00	2

CHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	3	0	1
Workers' Comp.	1	0	1
Automobile	3	\$14,120.69	1
TOTAL	7	\$14,120.69	3

CHESTERFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	\$338.00	1
Workers' Comp.	4	\$15,856.00	2
Personal Property	2	\$172,858.77	2
Automobile	3	\$6,839.00	2
Premium Fraud	1	\$3,282.07	1
TOTAL	11	\$199,173.84	8

CLARENDON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Personal Property	1	\$2,240.14	0
Automobile	1	\$2,500.00	0
Life Insurance	1	0	0
Disability	1	\$6,257.61	1
TOTAL	4	\$10,997.75	1

COLLETON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$189.99	1
Personal Property	2	0	1
Automobile	8	\$20,726.54	7
Premium Fraud	2	\$42,552.16	1
Disability	3	\$1,500.00	2
TOTAL	17	\$64,968.69	12

DARLINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	4	\$4,920.00	2
Workers' Comp.	3	0	3
Personal Property	4	0	2
Automobile	5	\$6,442.83	3
Premium Fraud	3	\$40,000.00	2
Other	1	0	1
TOTAL	20	\$51,362.83	13

DILLON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	1	0	0
Personal Property	1	\$30,195.00	0
Automobile	4	\$13,731.19	1
Life Insurance	1	0	0
TOTAL	7	\$43,926.19	1

DORCHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	3	\$45.00	1
Workers' Comp.	11	\$1,450.72	7
Personal Property	2	\$20,500.00	2
Automobile	8	\$104,953.97	7
Premium Fraud	1	\$4,510.64	0
Disability	2	0	1
Other	2	0	0
TOTAL	29	\$131,460.33	18

EDGEFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	0	0
Automobile	2	0	1
TOTAL	3	0	1

FAIRFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	2	0	0
Personal Property	1	0	0
Automobile	4	\$16,005.00	2
Life	1	0	1
Disability	1	0	1
TOTAL	9	\$16,005.00	4

FLORENCE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	5	\$500.00	1
Workers' Comp.	4	0	1
Personal Property	1	0	1
Automobile	14	\$12,385.54	10
Life Insurance	1	\$2,247.16	1
Premium Fraud	7	\$20,001.98	5
Disability	2	0	0
Other	1	0	0
TOTAL	35	\$35,134.68	19

GEORGETOWN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	3	0	2
Workers' Comp.	4	\$12,619.00	2
Automobile	7	\$12,371.66	4
Premium Fraud	2	\$10,007.14	1
Disability	1	0	0
Other	1	0	0
TOTAL	18	\$34,997.80	9

GREENVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	11	\$28,660.38	5
Workers' Comp.	8	0	3
Personal Property	7	0	3
Automobile	24	\$72,332.75	15
Life Insurance	1	0	0
Premium Fraud	6	\$54,506.04	4
Other	7	\$41,340.09	3
TOTAL	64	\$196,839.26	33

GREENWOOD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	0	0
Automobile	5	\$103,388.24	3
Disability	2	\$6,010.45	0
TOTAL	8	\$109,398.69	3

HAMPTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	1	0	0
Personal Property	1	0	1
Automobile	3	0	2
TOTAL	5	0	3

HORRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	4	\$20,123.18	2
Workers' Comp.	12	0	8
Personal Property	9	\$72,225.00	4
Automobile	32	\$95,854.83	16
Life Insurance	1	\$6,000.00	0
Premium Fraud	4	\$43,875.00	4
Disability	5	0	2
Other	1	0	0
TOTAL	68	\$238,078.01	36

JASPER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	\$24,986.00	0
Personal Property	1	0	0
Automobile	2	\$3,000.00	1
TOTAL	4	\$27,986.00	1

KERSHAW COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Automobile	5	\$589.00	2
Premium Fraud	1	\$587.85	0
Disability	2	\$5,615.53	1
Other	1	\$1,582.76	0
TOTAL	9	\$8,375.14	3

LANCASTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$6,600.78	1
Workers' Comp.	1	0	1
Personal Property	1	0	1
Automobile	7	\$9,679.06	4
Premium Fraud	2	\$4,558.00	0
TOTAL	13	\$20,837.84	7

LAURENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Personal Property	1	0	1
Automobile	4	\$13,674.68	4
Premium Fraud	2	\$7,640.00	1
TOTAL	7	\$21,314.68	6

LEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	0	0
Workers' Comp.	1	0	1
Automobile	4	\$10,080.35	2
Life Insurance	1	0	1
TOTAL	7	\$10,080.35	4

LEXINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	7	\$910.00	3
Workers' Comp.	16	0	9
Personal Property	3	\$3,400.00	3
Automobile	14	\$55,396.93	5
Life Insurance	2	\$3,515.00	2
Premium Fraud	3	\$6,635.89	3
Disability	1	0	1
TOTAL	46	\$69,857.82	26

MARION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	1	0	1
Personal Property	1	0	0
Automobile	5	\$8,043.25	4
Premium Fraud	1	\$4,379.83	1
TOTAL	8	\$12,423.08	6

MARLBORO COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Automobile	5	\$2,573.54	5
TOTAL	5	\$2,573.54	5

McCORMICK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	0	0
Automobile	2	\$2,915.00	2
TOTAL	4	\$2,915.00	2

NEWBERRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	1	\$24,125.00	0
Disability	1	0	1
TOTAL	2	\$24,125.00	1

OCONEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Workers' Comp.	2	0	1
Automobile	5	\$13,005.47	4
Life Insurance	1	\$5,000.00	1
TOTAL	8	\$18,005.47	6

ORANGEBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$500.00	0
Workers' Comp.	2	0	0
Personal Property	3	0	1
Automobile	17	\$15,075.00	13
Life Insurance	3	0	3
Premium Fraud	2	\$9,549.48	1
TOTAL	29	\$25,124.48	18

PICKENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$956.00	1
Workers' Comp.	5	0	2
Automobile	3	0	1
Disability	1	0	1
Other	1	0	1
TOTAL	12	\$956.00	6

RICHLAND COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	14	\$8,075.11	10
Worker's Comp.	11	\$21,680.07	6
Personal Property	8	\$5,449.99	6
Automobile	38	\$186,152.03	26
Life Insurance	4	0	1
Premium Fraud	5	\$7,051.60	2
Disability	3	2,954.96	2
Other	5	\$33,750.00	5
TOTAL	88	\$265,113.76	58

SALUDA COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
TOTAL	0	0	0

SPARTANBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	8	\$1,838.00	6
Workers' Comp.	6	0	1
Personal Property	8	\$18,088.12	6
Automobile	16	\$40,571.03	8
Life Insurance	3	\$2,513.76	2
Premium	1	\$1,642.03	1
Disability	1	0	0
Other	1	0	0
TOTAL	44	\$64,652.94	24

SUMTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	0	2
Workers' Comp.	2	\$48,034.86	1
Personal Property	1	0	0
Automobile	6	\$7,640.00	2
Life Insurance	1	\$3,499.54	0
Premium Fraud	4	\$20,252.74	1
Disability	0	0	0
Other	1	0	1
TOTAL	17	\$79,427.14	7

UNION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Personal Property	1	0	0
Automobile	2	0	1
TOTAL	3	0	1

WILLIAMSBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	2	\$1,600.00	0
Workers' Comp.	1	0	1
Personal Property	1	0	1
Automobile	8	\$7,343.75	2
Life Insurance	1	0	0
Premium Fraud	1	\$44,000.00	1
TOTAL	14	\$52,943.75	5

YORK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	3	0	2
Workers' Comp.	4	0	3
Personal Property	1	0	0
Automobile	4	\$302.08	2
Life Insurance	1	0	0
Disability	2	\$8304.81	2
Other	1	0	1
TOTAL	16	\$8,606.89	10

OTHER

Type of Fraud	Number of Complaints	Total Amount Reported	2003 Complaints Pending
Health/Medical	6	\$5550.00	3
Workers' Comp.	5	0	2
Personal Property	2	0	1
Automobile	12	0	5
Life Insurance	5	\$1,000.00	1
Disability	3	\$145,516.67	2
Other	1	0	1
TOTAL	34	\$152,066.67	15

SELECTED STATUTES FROM THE SOUTH CAROLINA CODE OF LAWS PERTAINING TO THE INVESTIGATION AND PROSECUTION OF INSURANCE FRAUD and GLASS COUPONING

§ 38-55-530. Definitions.

As used in this article:

(A) "Authorized agency" means any duly constituted criminal investigative department or agency of the United States or of this State; the Department of Insurance; the Department of Revenue; the Department of Public Safety; the Workers' Compensation Commission; the State Accident Fund; the Second Injury Fund; the Employment Security Commission; the Department of Consumer Affairs; the Human Affairs Commission; the Department of Health and Environmental Control; the Department of Social Services; the Department of Health and Human Services; the Department of Labor, Licensing and Regulation; all other state boards, commissions, and agencies; the Office of the Attorney General of South Carolina; or the prosecuting attorney of any judicial circuit, county, municipality, or political subdivision of this State or of the United States, and their respective employees or personnel acting in their official capacity.

(B) "Insurer" shall have the meaning set forth in Section 38-1-20(25) and includes any authorized insurer, self-insurer, reinsurer, broker, producer, or any agent thereof.

(C) "Person" means any natural person, company, corporation, unincorporated association, partnership, professional corporation, or other legal entity and includes any applicant, policyholder, claimant, medical providers, vocational rehabilitation provider, attorney, agent, insurer, fund, or advisory organization.

(D) "False statement and misrepresentation" means a statement or representation made by a person that is false, material, made with the person's knowledge of the falsity of the statement, and made with the intent of obtaining or causing another to obtain or attempting to obtain or causing another to obtain an undeserved economic advantage or benefit or made with the intent to deny or cause another to deny any benefit or payment in connection with an insurance transaction and such shall constitute fraud.

§ 38-55-540. Criminal penalties for making false statement or misrepresentation, or assisting, abetting, soliciting or conspiring to do so; restitution to victims.

Any person or insurer who makes a false statement or misrepresentation, and any other person knowingly, with an intent to injure, defraud, or deceive, who assists, abets, solicits, or conspires with such person or insurer to make a false statement or misrepresentation, is guilty of a:

(1) misdemeanor, for a first offense violation, if the amount of the economic advantage benefit received is less than one thousand dollars. Upon conviction, the person must be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed thirty days;

(2) misdemeanor, for a first offense violation, if the amount of the economic advantage benefit received is one thousand dollars or more. Upon conviction, the person must be punished by a fine not to exceed fifty thousand dollars or by imprisonment for a term not to exceed three years, or by both such fine and imprisonment;

(3) felony, for a second or subsequent violation, regardless of the amount of the economic advantage benefit received. Upon conviction, the person must be punished by a fine not to exceed fifty thousand dollars or by imprisonment for a term not to exceed ten years, or by both such fine and imprisonment.

Any person or insurer convicted under this section must be ordered to make full restitution to the victim or victims for any economic advantage or benefit which has been obtained by the person or insurer as a result of that violation.

§ 38-55-170. Presenting false claims for payment.

A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is five thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than one thousand dollars but less than five thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate's court if the amount of the claim is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury.

§ 38-55-550. Civil penalties for violations of article; costs; payment; use of revenues; Attorney General to assist Insurance Fraud Division; consent agreements.

(A) In addition to any criminal liability, any person who is found by a court of competent jurisdiction to have violated any provision of this article, including Section 38-55-170, is subject to a civil penalty for each violation as follows:

(1) for a first offense, a fine not to exceed five thousand dollars;

(2) for a second offense, a fine of not less than five thousand dollars but not to exceed ten thousand dollars;

(3) for a third and subsequent offense, a fine of not less than ten thousand dollars but not to exceed fifteen thousand dollars.

(B) The civil penalty must be paid to the director of the Insurance Fraud Division to be used in accordance with subsection (D) of this section. The court may also award court costs and reasonable attorneys' fees to the director. When requested by the director, the Attorney General may assign one or more deputies attorneys general to assist the bureau in any civil court proceedings against the person.

(C) Nothing in subsections (A) and (B) shall be construed to prohibit the director of the Insurance Fraud Division and the person alleged to be guilty of a violation of this article from entering into a written agreement in which the person does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding relating to any violation of this article.

(D) All revenues from the civil penalties imposed pursuant to this section must be used to provide funds for the costs of enforcing and administering the provisions of this article.

§ 39-5-170. Vehicle glass repair business; unlawful practices.

It is an unfair trade practice and unlawful for a person who is acting on behalf of or engaged in a vehicle glass repair business to offer or make a payment or transfer money or other consideration to:

- (1) a third person for the third person's referral of an insurance claimant to the vehicle glass repair business for the repair or replacement of vehicle safety glass;
- (2) an insurance claimant in connection with the repair or replacement of vehicle safety glass; or
- (3) waive, rebate, give, or pay all or part of an insurance claimant's casualty or property insurance deductible as consideration for selecting the vehicle glass repair business.

§ 38-55-173. Unlawful vehicle glass repair business practices; penalties.

(A) A person who is acting on behalf of or engaged in a vehicle glass repair business is guilty of a misdemeanor if the person offers or makes a payment or transfer of money or other consideration to:

- (1) a third person for the third person's referral of an insurance claimant to the vehicle glass repair business for the repair or replacement of vehicle safety glass;
- (2) an insurance claimant in connection with the repair or replacement of vehicle safety glass; or
- (3) waive, rebate, give, or pay all or part of an insurance claimant's casualty or property insurance deductible as consideration for selecting the vehicle glass repair business.

(B) If the amount of the payment or transfer of subsection (A) has a value of:

- (1) one thousand dollars or more, the person, upon conviction, must be fined in the discretion of the court or imprisoned for not more than three years, or both, per violation; or
- (2) less than one thousand dollars, the person, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both, per violation.

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INTRODUCTION

Director's Message

On July 1, 1994, the Governor enacted into law the Omnibus Insurance Fraud and Reporting Immunity Act establishing the Insurance Fraud Division of the Office of the Attorney General and mandating the prosecution of insurance fraud by this new division with the South Carolina Law Enforcement Division (SLED) conducting the investigations. The intention of the legislation was to aggressively confront the problem of insurance fraud in South Carolina. The Insurance Fraud Division receives referrals from the Department of Insurance, the Workers' Compensation Commission, insurance companies, private citizens, law enforcement agencies, as well as attorneys and private law firms throughout the State of South Carolina.

Due to budgetary constraints the Insurance Fraud Division decreased from two (2) Prosecutors and two (2) Legal Assistants with four (4) SLED Agents to one full-time Attorney and one Legal Assistant. Currently the Insurance Fraud Division is comprised of a Director, Jennifer D. Evans, one full-time Assistant Attorney General and one Legal Assistant. Additionally, although technically falling under the umbrella of SLED, two SLED Agents have been assigned to primarily investigate insurance fraud throughout the State.

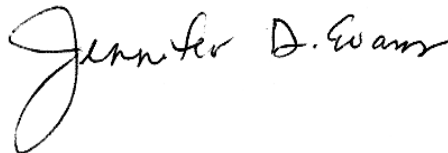
The Insurance Fraud Division is essentially the clearinghouse for reporting insurance fraud in South Carolina along with the subsequent investigation and prosecution of criminal cases. The investigation generally begins when reports or referrals are sent to this office from companies, law enforcement or other government agencies, private citizens, and attorneys. The referrals are then reviewed by the Insurance Fraud Division. Thereafter, if the prosecutor deems that there is sufficient underlying evidence, a target letter is sent to the suspect. The suspect is advised that he or she is being targeted for criminal prosecution. In most instances the file is then formally opened by the Office of the Attorney

General and referred to SLED. Thereafter, SLED investigates the allegations and reports the findings of its investigation to the Attorney General's Office, which then determines whether or not to prosecute. The Attorneys in the Insurance Fraud Division prosecute cases throughout the State.

Our concerted efforts seem to have had an effect on overall insurance fraud in South Carolina. This year the division had more indictments than ever (127) while the overall amount of reported fraud decreased in 2003. The value of the productive working relationships we have developed with others, such as the insurance industry, cannot be underestimated. I am particularly appreciative of the coordination efforts of the South Carolina Insurance Fraud Investigators (SC-IFI) and the diligence of the National Insurance Crime Bureau (NICB).

We are particularly appreciative of the leadership of Attorney General Henry McMaster. His continued support of these efforts, insight and guidance, has allowed the division to prosper in the face of economic hardships. Most of all, I would like to acknowledge the untiring efforts of Lt. Lansing P. Logan, SLED, and Senior SLED Agents Willard Polk and Joe Jordan. It is through their efforts and expertise that we will fulfill our mission as an agency committed to fighting insurance fraud on every front.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jennifer D. Evans". The signature is written in a cursive style with a large, looped initial "J".

Jennifer D. Evans
Assistant Deputy Attorney General
Director of Insurance Fraud and Prosecution

