

**THE REPORT OF THE
STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
HENRY McMASTER**

INSURANCE FRAUD DIVISION

2004 ANNUAL REPORT



January 2005

MESSAGE FROM THE ATTORNEY GENERAL

I am proud to present to the General Assembly the 2004 Annual Report of the South Carolina Insurance Fraud Division, which has been leading the fight against insurance fraud for 11 years. This report may be accessed on the web at <http://www.scattorneygeneral.org>.

In 2004, the Insurance Fraud Division secured 59 criminal convictions which represents a 20% increase from 2003 (47). This is a testament to the dedication and effort put forth by our sole insurance fraud prosecutor, two SLED agents and insurance industry fraud investigators who have fought this crime in the face of crippling state budget cuts.

In 2004, there was a reduction in the number of insurance fraud complaints that were filed with the Attorney General's Office. We received 595 complaints of insurance fraud in 2004 which is down from the 844 complaints that we received in 2003. The types of fraud complaints break down as follows: Auto—41% (243), Health/Medical—12% (74), Workers' Compensation—12% (68), Personal Property—11% (62), Disability—8% (50), Life 7% (41), Premium—6% (36), Other—3% (21). Of the 595 complaints received by the Insurance Fraud Division, 323 were formally opened by the Office of the Attorney General and referred to SLED for investigation.

Last year, legislation to assess the insurance industry for additional insurance fraud investigators and prosecutors stalled in committee. This year we will try again. It is my hope that the insurance industry will join with us and support adding additional resources to combat insurance fraud.

Our record of accomplishment with minimal resources is outstanding; increasing our efforts through additional funding will allow us to get closer to our ultimate goal of leading the nation in fewest incidents of insurance fraud.



Henry McMaster

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 South Carolina Worker's Compensation Commission, insurance companies, private citizens, law enforcement agencies, as well as attorneys and private law firms throughout the State of South Carolina.

In last year's annual report, I advised the General Assembly that due to budgetary constraints, the Insurance Fraud Division had been combined with the Prosecution Section of the Attorney General's Office. This year, on December 30, 2004, Attorney General Henry McMaster, combined the Prosecution Section, the Insurance Fraud Division and the State Grand Jury, all of which fall under the umbrella of the new Criminal Prosecution Section. I have been appointed the supervisor of all three sub-sections.

During 2004, the Insurance Fraud Division suffered a setback due to the failure of certain legislation, which would have amended the Omnibus Insurance Fraud and Reporting Act. The proposed legislation would have assessed the industry in the amount of \$2.5 million in order to supplement the budgets of SLED, the Insurance Fraud Division, and to create a Civil Enforcement Unit at the South Carolina Department of Insurance. Due to some uncertainty among the industry, the legislation stalled and failed to pass through the Labor, Commerce and Industry Committee. We expect that similar legislation will be introduced during the 2005 Legislative Session.

The Insurance Fraud Division had numerous successes in 2004. The number of convictions rose over 20% from 2003. (47 in 2003 to 59 in 2004). However, we again experienced problems in trial due to anomalies in the current insurance fraud statutes, which we plan to remedy with the proposed legislation.

In 2004, we developed new working relationships with members of law enforcement and private industry representatives but most importantly, we maintained productive relationships with the individuals with whom we have worked in years past. 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.

Again, I am particularly appreciative of the support and leadership of Attorney General Henry McMaster. Even in times of budgetary difficulties, Attorney General McMaster spearheads the fight against insurance fraud and continually seeks to secure alternative funding sources to support our activities. Finally, I would like to acknowledge the dedication of Lt. Lansing P. Logan, SLED, and Senior Agents Willard Polk and Joe Jordan. Without their hard work and expertise the Insurance Fraud Division would not be in a position to experience its many successes.

Thank you to everyone who helped us in the past year and we look forward to achieving greater successes in 2005.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennifer D. Evans".

Jennifer D. Evans
Chief, State Grand Jury/Prosecution
Director of Insurance Fraud Division

CUMULATIVE STATISTICS OF THE INSURANCE FRAUD DIVISION SINCE 1994

TOTAL COMPLAINTS RECEIVED	6102
TOTAL FILES OPENED	4290
CRIMINAL CONVICTIONS	696
CIVIL REMEDIES	392

Type of Fraud	Amount Reported
Health/Medical	\$5,011,479.02
Workers' Compensation	\$4,907,479.28
Personal Property	\$12,031,177.85
Automobile Insurance	\$9,488,750.16
Life Insurance	\$9,702,360.75
Premium Fraud	\$6,565,458.21
Disability Insurance	\$5,330,058.96
Other	\$2,451,497.80
TOTAL	<u>\$55,488,262.03</u>

Types of Monies Collected	Amount Collected
Criminal Fines	\$278,970.23
Criminal Restitution	\$2,187,340.63
Civil Penalties	\$1,048,667.24
Civil Restitution	\$873,651.32
Total	<u>\$4,388,629.42</u>

SUMMARY
Status of Cases – 2004

Complaints Received 2004

Received	595
Complaints Unfounded or Declined*	368
Complaints Referred to Other Agencies	45
Files Opened**	323

**Several complaints declined in 2004 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	706
Under Investigation by SLED	704

Indictments Presented

True Bills	82
No Bills	0
Pending 2004 Indictments	45

Cases Disposed Of

Criminal Convictions	59
Civil Remedies	38

MONIES ORDERED AND/OR COLLECTED IN 2004
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	\$3,400.00
Fines Collected on Orders From Previous Years	\$2,002.32
Restitution Ordered	\$82,726.99
Restitution Collected on Orders From Previous Years	\$0
TOTAL	<u>\$88,129.31</u>

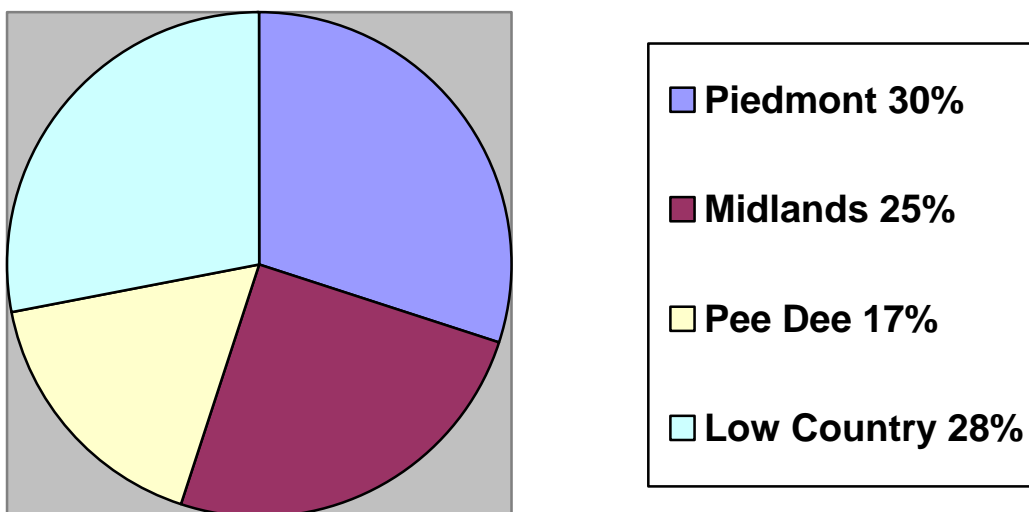
Monies Ordered and/or Collected Pursuant to Civil Disposition

CIVIL	AMOUNT
Fines Ordered	\$131,450.00
Fines Collected*	\$131,665.05
Attorney Fees Collected	\$0
Restitution Ordered	\$47,008.45
Restitution Collected	\$47,008.45
TOTAL ORDERED	<u>\$178,458.45</u>
TOTAL COLLECTED	<u>\$178,673.50</u>

* *Includes civil fines collected that were ordered in previous years*

BREAKDOWN OF CASES BY REGION

During 2004, the Insurance Fraud Division of the Attorney General's office opened 323 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	89	28%
Piedmont	97	30%
Midlands	81	25%
Pee Dee	56	17%
TOTALS	323	100%

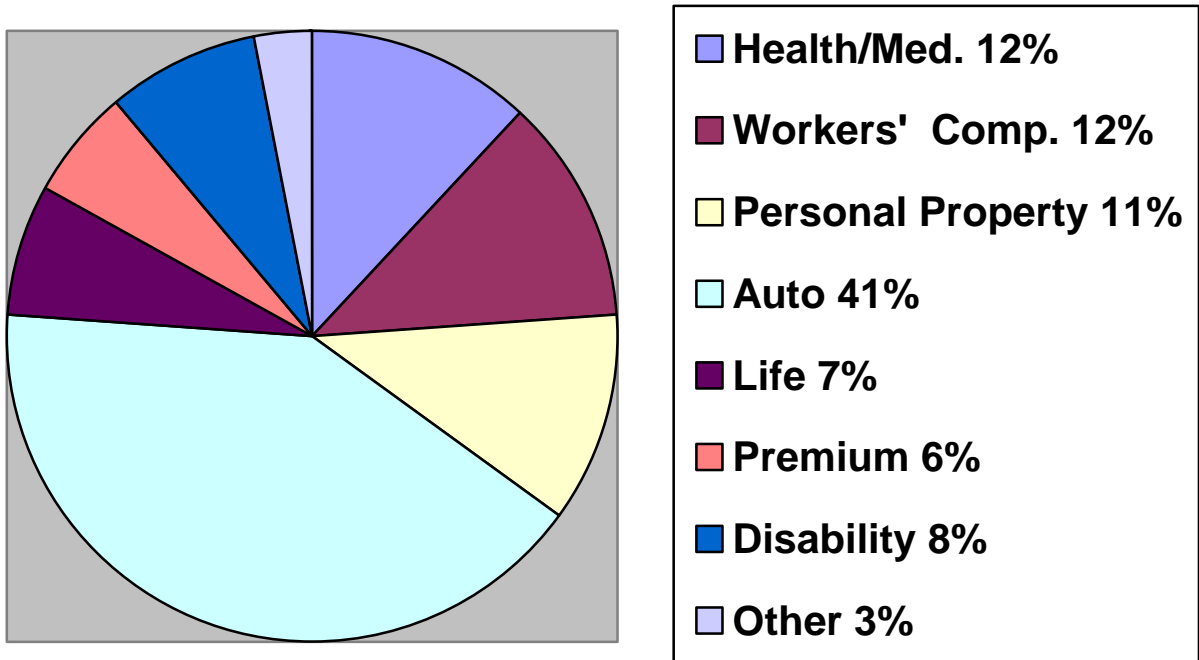
BREAKDOWN OF COMPLAINTS RECEIVED BY TYPE

The fraud complaints received during 2004 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	74	12%	\$214,787.46
Workers' Comp.	68	12%	\$79,364.63
Personal Property	62	11%	\$782,006.68
Automobile	243	41%	\$1,164,622.49
Life Insurance	41	7%	\$1,780,215.14
Premium Fraud	36	6%	\$480,695.67
Disability	50	8%	\$565,835.25
Other	21	3%	\$206,595.32
TOTAL	595	100%	<u>\$5,274,122.64</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 – 2004



BREAKDOWN OF COMPLAINTS BY COUNTY

ABBEVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	\$2500.00	0
Workers' Comp.	1	0	0
TOTAL	2	\$2500.00	0

AIKEN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	4	\$1,240.00	1
Workers' Comp.	1	0	0
Automobile	5	0	1
Life Insurance	7	\$1,023,520.00	1
Premium Fraud	1	0	0
TOTAL	18	\$1,024,760.00	3

ALLENDALE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	1	0	0
Automobile	1	\$3,867.75	1
TOTAL	2	\$3,867.75	1

ANDERSON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	3	\$16,621.23	0
Workers' Comp.	1	0	0
Personal Property	3	\$2,508.92	0
Automobile	8	0	1
Life Insurance	1	0	0
Premium Fraud	2	0	0
Other	1	\$55,039.32	0
TOTAL	19	\$74,169.47	1

BAMBERG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	1	0	0
Automobile	3	\$7,207.62	2
TOTAL	4	\$7,207.62	2

BARNWELL COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	2	\$10,000.00	0
Workers' Comp.	1	0	0
Personal Property	1	0	0
Premium Fraud	1	\$15,000.00	1
Disability	2	0	1
TOTAL	7	\$25,000.00	2

BEAUFORT COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	2	0	0
Workers' Comp.	2	0	0
Automobile	3	\$7,567.00	2
Premium Fraud	3	\$381,000.00	0
Disability	5	\$10,590.54	2
Other	1	0	1
TOTAL	16	\$399,157.54	5

BERKELEY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	3	\$200.00	0
Workers' Comp.	4	0	0
Personal Property	1	0	1
Automobile	5	\$16,309.00	1
Life Insurance	1	\$63,333.00	0
Disability	1	\$11,505.15	1
TOTAL	15	\$91,347.15	3

CALHOUN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
TOTAL	0	0	0

CHARLESTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	7	\$10,245.00	0
Workers' Comp.	3	0	1
Personal Property	3	\$33,438.00	2
Automobile	20	\$65,289.30	1
Life	1	0	1
Premium Fraud	5	\$8,149.91	0
Disability	5	\$18,039.81	2
Other	1	0	0
TOTAL	45	\$135,162.02	7

CHEROKEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp	1	0	0
Automobile	1	0	0
Disability	2	\$59,126.13	0
TOTAL	4	\$59,126.13	0

CHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	0	0
Workers' Comp.	2	0	0
TOTAL	3	0	0

CHESTERFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	4	0	1
TOTAL	4	0	1

CLARENDON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	0	0
Automobile	4	\$24,197.07	0
Disability	1	\$3,956.42	1
TOTAL	6	\$28,153.49	1

COLLETON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Personal Property	1	\$93,239.00	0
Automobile	8	\$15,568.28	0
Life Insurance	1	0	0
TOTAL	10	\$108,807.28	0

DARLINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	1	0	0
Automobile	2	\$20,533.33	0
Life	1	0	0
Premium Fraud	1	\$13,060.20	0
Disability	1	0	0
TOTAL	6	\$33,593.53	0

DILLON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	4	\$2,450.00	0
TOTAL	4	\$2,450.00	0

DORCHESTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	1	0	0
Personal Property	2	\$6,311.99	1
Automobile	12	\$113,531.16	1
Life Insurance	1	0	0
Disability	3	\$1,299.77	1
Other	2	0	0
TOTAL	21	\$121,142.92	3

EDGEFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Premium Fraud	1	0	0
TOTAL	1	0	0

FAIRFIELD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	\$8,935.00	0
Automobile	1	\$7,500.00	0
Life Insurance	1	0	0
TOTAL	3	\$16,435.00	0

FLORENCE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	2	0	0
Workers' Comp.	2	\$39,000.00	0
Personal Property	1	\$170,000.00	0
Automobile	10	\$24,624.60	2
Life Insurance	3	\$188,310.73	0
Premium Fraud	1	\$4,500.00	0
Disability	3	\$101,005.39	1
Other	1	0	0
TOTAL	23	\$527,440.72	3

GEORGETOWN COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	2	\$5,159.00	0
Workers' Comp.	2	0	0
Personal Property	1	0	1
Automobile	5	\$4,600.00	0
Life Insurance	2	\$50,000.00	0
Disability	2	\$84,471.58	1
TOTAL	14	\$144,230.58	2

GREENVILLE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	8	\$7833.00	1
Workers' Comp.	8	\$10,745.12	0
Personal Property	9	\$166,145.85	1
Automobile	28	\$489,983.42	2
Life Insurance	1	\$290,000.00	0
Premium Fraud	4	\$2,909.00	0
Disability	3	\$7,208.97	0
Other	1	0	0
TOTAL	62	\$974,825.36	4

GREENWOOD COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	1	0	0
TOTAL	1	0	0

HAMPTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	\$1,400.00	0
Workers' Comp	1	\$21,376.00	1
Automobile	3	0	0
TOTAL	5	\$22,776.00	1

HORRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	4	0	1
Workers' Comp.	8	0	1
Personal Property	5	\$21,520.47	0
Automobile	10	\$24,000.00	1
Life Insurance	1	0	0
Disability	3	\$5,924.46	0
Other	2	0	0
TOTAL	33	\$51,444.93	3

JASPER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp	1	0	0
Personal Property	1	\$1,539.61	0
Life Insurance	1	\$11,110.00	0
TOTAL	3	\$12,649.61	0

KERSHAW COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	\$608.00	0
Workers' Comp	1	0	0
Automobile	2	\$45,393.34	0
Disability	2	\$503.31	1
TOTAL	6	\$46,504.65	1

LANCASTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	0	0
Personal Property	1	\$4,712.03	0
Other	1	0	0
TOTAL	3	\$4712.03	0

LAURENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Personal Property	2	\$121,000.00	1
Automobile	5	0	0
Life Insurance	2	0	0
TOTAL	9	\$121,000.00	1

LEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
TOTAL	0	0	0

LEXINGTON COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	3	\$8,900.00	1
Workers' Comp.	3	0	0
Personal Property	3	\$13,000.00	0
Automobile	5	\$30,000.00	2
Life Insurance	2	\$30,000.00	0
Premium Fraud	2	\$3,388.00	0
Disability	4	\$4,795.74	0
TOTAL	22	\$90,083.74	3

MARION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	1	0	0
Personal Property	2	\$1,725.00	1
Automobile	4	\$16,500.00	0
Disability	1	0	0
TOTAL	8	\$18,225.00	1

MARLBORO COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Personal Property	1	0	0
Automobile	1	0	0
TOTAL	2	0	0

McCORMICK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	1	\$27,031.58	0
TOTAL	1	\$27,031.58	0

NEWBERRY COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp	3	0	0
Personal Property	1	\$800.00	0
Automobile	1	\$3,500.00	0
Other	1	0	0
TOTAL	6	\$4,300.00	0

OCONEE COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	0	0
Personal Property	2	0	0
Automobile	2	0	0
Other	1	0	0
TOTAL	6	0	0

ORANGEBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	5	\$77,075.00	0
Workers' Comp.	1	0	1
Personal Property	2	\$14,000.00	1
Automobile	10	\$44,585.00	0
Life Insurance	1	\$132.79	0
Premium Fraud	1	0	0
Disability	1	0	0
TOTAL	21	\$135,792.79	2

PICKENS COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Workers' Comp.	2	0	0
Personal Property	3	\$2,042.64	0
Automobile	9	0	0
Life Insurance	1	\$8,248.37	0
Premium Fraud	1	0	0
Other	1	0	0
TOTAL	17	\$10,291.01	0

RICHLAND COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	8	\$41,600.00	0
Worker's Comp.	6	\$8,243.51	0
Personal Property	6	\$8,000.00	1
Automobile	33	\$29,571.00	3
Life Insurance	6	\$98,000.00	0
Premium Fraud	5	\$54,918.64	0
Disability	4	\$195,019.68	0
Other	1	\$1556.00	0
TOTAL	69	\$436,908.83	4

SALUDA COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	1	\$23,000.00	0
TOTAL	1	\$23,000.00	0

SPARTANBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	5	\$9,046.75	0
Workers' Comp.	3	0	0
Personal Property	6	\$13,866.47	2
Automobile	12	\$50,267.50	3
Life Insurance	3	\$17,560.25	0
Premium Fraud	1	0	0
Other	1	0	0
TOTAL	31	\$90,740.97	5

SUMTER COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	0	0
Workers' Comp.	1	0	0
Personal Property	2	\$7,156.70	0
Automobile	4	\$20,575.00	0
Premium Fraud	1	\$9,270.12	0
TOTAL	9	\$37,001.82	0

UNION COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	1	\$1,683.13	0
TOTAL	1	\$1,683.13	0

WILLIAMSBURG COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Automobile	2	0	0
Premium Fraud	1	0	0
Other	1	0	0
TOTAL	4	0	0

YORK COUNTY

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	6	\$222.00	0
Workers' Comp.	1	0	0
Personal Property	2	\$101,000.00	0
Automobile	8	\$40,787.41	0
Premium Fraud	2	0	0
Disability	1	\$33,000.00	0
Other	1	\$150,000.00	0
TOTAL	21	\$325,009.41	0

OTHER

Type of Fraud	Number of Complaints	Total Amount Reported	2004 Complaints Pending
Health/Medical	1	\$13,202.48	0
Workers' Comp.	4	0	0
Personal Property	1	0	0
Automobile	4	\$4,500.00	0
Life Insurance	4	0	0
Premium Fraud	3	\$1,560.00	1
Disability	6	\$16,328.10	0
Other	4	0	0
TOTAL	27	\$35,590.58	1

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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