

Attorney General's Report

Concerning the Colorado Department of Law
Insurance Fraud Unit - 2008 Annual Report



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The Insurance Fraud Unit (“Unit”) is part of the Department of Law’s Financial Fraud Unit within the criminal justice section of the office. The Unit investigates and prosecutes criminal offenses relating to insurance fraud. In 2008, the Unit consisted of two attorneys, four investigators, one paralegal, and half of the time of one administrative assistant.

During 2008, the Unit processed 337 referrals of potential criminal cases relating to insurance fraud. Nearly all of these referrals were made to the Unit by the Colorado Division of Insurance (DOI). As a result, the Unit opened 54 new felony investigations. On July 1, 2008, the Unit obtained access to the electronic insurance fraud reports made to the National Insurance Crime Bureau. During 2008, the National Insurance Crime Bureau received 450 referrals of potential criminal cases relating to insurance fraud.

In 2008, the Unit filed 17 new cases in Colorado courts. The cases were filed in Adams, Arapahoe, Denver, Douglas, Larimer, and Jefferson counties. Five of these cases were initiated by indictments issued by the Colorado Statewide Grand Jury; the remainder were filed by Complaint and Information.

During 2008, no cases went to trial; however, 19 cases were resolved through plea negotiations. Noteworthy cases included the following:

Michael Bauman, owner of AMB Family Construction, and his employee, Shawn Harmer, were indicted by the statewide grand jury for intentionally causing damage to roofs. Bauman and Harmer inspected roofs in Larimer and Weld Counties after hailstorms, and broke shingles to give the appearance that the shingles had been damaged by hail. Claims for hail damage were then filed with the insurer. Bauman and Harmer were charged with 17 felony counts, including Theft, Criminal Attempt-Theft, Criminal Mischief, and Criminal Conspiracy. Both defendants entered pleas and were ordered to pay restitution of \$56,476.70.

Acen Phillips, CEO of American Church United (ACU), obtained a life insurance policy for his employees at ACU through American International Group, Inc. (AIG). Phillips began adding parishioners and other individuals not associated to ACU to the policy. Phillips backdated policies for individuals who were deceased and did not have life insurance policies with AIG, in order to receive benefits for ACU and other organizations with which he was associated. Moreover, Phillips altered original policies by changing the percentage of benefits each party would receive so that ACU and other organizations could receive a greater portion of the benefits than originally entitled. On June 5, 2008, Phillips pled guilty to Theft by Receiving, a class three felony, and was ordered to pay \$500,000.00 in restitution.

Andrew Rivera was charged with Criminal Attempt-Theft and Third Degree Arson for the staged theft and subsequent burning of his vehicle. Due to the economic downturn, the incidence of this type of crime is rising. These cases often cannot be prosecuted because of lack of evidence to prove beyond a reasonable doubt the identity of the person who started the fire. In this case,

strong circumstantial evidence was developed, and Rivera pled guilty to an added count of Fourth Degree Arson. He was ordered to pay restitution to the insurer, the lienholder on the vehicle, and the Fire Department for a total of \$27,564.81.

Robert Walker worked as an insurance agent and employee for Conseco Insurance Company. During his employment, Mr. Walker was an elderly couple's insurance agent for several years and became friendly with the couple. The couple, who were both over the age of 60 at the time, purchased an inflation rider policy as an addition to their Long-Term Care insurance policy from Mr. Walker. They paid \$24,596.44 in premiums over a period of approximately 5 years to Mr. Walker for the inflation rider policy. Mr. Walker did not notify Conseco of their purchase of the inflation rider policy nor did he submit any of the payments he received from them as a result of that fraudulent inflation rider policy. Mr. Walker pled guilty to Theft from an At-Risk Victim, a class three felony, and was ordered to pay \$24,596.44 in restitution.

James Whitney, mayor of Monte Vista, was employed as an insurance agent. Whitney collected premium payments but did not issue policies. Whitney was charged with Theft, pled guilty and was ordered to pay restitution of \$34,726.98.

During 2008, the Unit supervised the restitution payments of 39 defendants on probation for insurance fraud related crimes. \$107,385.84 in restitution was collected from January through mid-December 2008. Additionally, the Unit achieved new restitution orders totaling \$1,188,858.42 in 2008 and cost and fine orders totaling \$42,024.