Illinois Department of Financial and Professional Regulation
Division of Insurance
Workers' Compensation Fraud Unit

2007 Annual Report to the Workers' Compensation Advisory Board

Rod R. Blagojevich, Governor

Dean Martinez, Secretary
Michael T. McRaith, Director of Insurance

Illinois Department of Financial and Professional Regulation

Division of Insurance

ROD R. BLAGOJEVICH
Governor

DEAN MARTINEZ
Secretary

MICHAEL T. McRAITH
Director
Division of Insurance

August 29, 2007

Dennis Ruth
Chairman
Illinois Workers' Compensation Commission
100 W. Randolph St., Suite 8-200
Chicago, IL 60601

Re: 2007 WCFU Annual Report -- Data Clarification.

Dear Chairman Ruth:

On August 27, 2007 and pursuant to Section 25.5(h) of the Workers' Compensation Act, the Division of Insurance ("Division") provided the Workers' Compensation Fraud Unit's ("WCFU") 2007 Annual Report to the Workers' Compensation Advisory Board.

The Division modified a data collection standard used in the report in order to increase the reliability of WCFU statistics. The attachment provides further detail about the modified standard, along with updated 2006 WCFU referral statistics.

Respectfully Submitted,

Illinois Division of Insurance

Michael T. McRaith
Director

2007 WCFU ANNUAL REPORT: DATA CLARIFICATION

ILLINOIS DIVISION OF INSURANCE

Background

On August 27, 2007 and pursuant to Section 25.5(h) of the Workers' Compensation Act (820 ILCS 305/25.5(h)), the Illinois Division of Insurance ("Division") provided the Workers' Compensation Fraud Unit's ("WCFU") 2007 Annual Report to the Workers' Compensation Advisory Board. The report contained data regarding the number and value of cases referred by the WCFU to prosecuting authorities.

The Division modified a data collection standard to ensure uniform treatment of cross-year cases. The 2006 referral data reported in the 2007 WCFU Annual Report includes cases initiated in 2006 but referred for prosecution in the beginning of 2007. Moving forward, all WCFU referral data reported by the Division, including data published in annual reports, will be subject to the following standard: referral statistics in any calendar year will include only cases referred in that same calendar year. This new standard will ensure the reliability of the data, which in turn will allow meaningful evaluation of the WCFU.

2006 WCFU Data Clarification

- Original Data: 2006 WCFU Data Found in 2007 WCFU Annual Report
  - 23 referrals for prosecution ($1,025,647)
    - 20 involved employee-based fraud ($918,647)
    - 3 involved employer-based fraud ($107,000)

- Revised Data: 2006 WCFU Data Using New Data Collection Standard
  - 13 referrals for prosecution ($618,391)
    - 12 involved employee-based fraud (594,391)
    - 1 involved employer-based fraud ($24,000)

Illinois Department of Financial and Professional Regulation

Division of Insurance

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Director
Division of Insurance

August 27, 2007

Dennis Ruth
Chairman
Illinois Workers' Compensation Commission
100 W. Randolph St., Suite 8-200
Chicago, IL 60601

Dear Chairman Ruth:

On behalf of the Division of Insurance and pursuant to Section 25.5(h) of the Workers' Compensation Act, I hereby submit the Workers' Compensation Fraud Unit's 2007 Annual Report to the Workers' Compensation Advisory Board.

Respectfully Submitted,

Illinois Division of Insurance

Michael T. McRaith
Director

I. Introduction

Almost every working resident of Illinois must be covered by workers' compensation insurance. State laws require employers to pay for workers' compensation benefits through insurance policies or self-insurance. Employers and employees benefit from the State's mandatory no-fault system: employers avoid costly litigation and employees receive fair compensation for work-related injuries.

The integrity of the workers' compensation system must be carefully maintained. Illinois enjoys a competitive business environment in part due to reliable and cost-effective insurance that guards against employment-related injuries. In 2006, Illinois employers paid the lowest average premiums of the seven most populous states.

In 2005, Governor Blagojevich's administration led a group of business, labor, and government leaders who worked to craft a legislative response to the problem of fraud and non-compliance in the Illinois workers' compensation system. Later that year, on July 20, 2005, Governor Blagojevich signed into law HB 2137 (Public Act 94-0277), which amended the Illinois Workers' Compensation Act. This historic legislation established in Illinois, for the first time, a statute devoted specifically to criminalizing and authorizing investigation of workers' compensation insurance fraud.

II. General Summary of Reform

Public Act 94-0277, later codified as Section 25.5 of the Workers' Compensation Act (the "Act"), ushered in two major anti-fraud reforms. First, the Act calls for the Illinois Department of Financial and Professional Regulation, Division of Insurance ("Division"), to create an investigative unit, hereafter referred to as the Workers' Compensation Fraud Unit ("WCFU"), to examine reports of workers' compensation fraud and insurance non-compliance. Section 25.5(c) provides that it "shall be the duty of the [WCFU] to determine the identity of insurance carriers, employers, employees, or other persons or entities who have violated the fraud and insurance non-compliance provisions."

The Act's fraud and insurance non-compliance provisions – provisions which define the WCFU's investigative mission – constitute the second major reform. Prior to the passage of P.A. 94-0277, the Workers' Compensation Act did not specifically define as unlawful the fraudulent receipt, denial, or application for workers' compensation benefits. The Act now outlaws eight specific fraudulent acts, namely:

1) Intentionally presenting or causing to be presented any false or fraudulent claim for the payment of any workers' compensation benefit;

2) Intentionally making or causing to be made any false or fraudulent material statement or material representation for the purpose of obtaining or denying any workers' compensation benefit;

3) Intentionally making or causing to be made any false or fraudulent statements with regard to entitlement to workers' compensation benefits with the intent to prevent an injured worker from making a legitimate claim for workers' compensation benefits;

4) Intentionally preparing or providing an invalid, false, or counterfeit certificate of insurance as proof of workers' compensation insurance;

5) Intentionally making or causing to be made any false or fraudulent material statement or material representation for the purpose of obtaining workers' compensation insurance at less than the proper rate for that insurance;

6) Intentionally making or causing to be made any false or fraudulent material statement or material representation on an initial or renewal self-insurance application or accompanying financial statement for the purpose of obtaining self-insurance status or reducing the amount of security that may be required to be furnished;

7) Intentionally making or causing to be made any false or fraudulent material statement to the WCFU in the course of an investigation of fraud or insurance non-compliance; and

8) Intentionally assisting, abetting, soliciting, or conspiring with any person, company or other entity to commit any of the acts listed above.

These eight prohibitions define the nature and scope of WCFU investigations.

WCFU responsibilities under the Act involve investigation and enforcement. Violations must be reported to the Attorney General or to the appropriate county State's Attorney for prosecution. Penalties vary based upon the offense at issue. For example, persons who make a false report of fraud are guilty of a Class A misdemeanor while those who violate any of the Act's fraud provisions are guilty of a Class 4 felony and must pay restitution in addition to any fine imposed.

III. Creating the WCFU

Section 25.5(c) of the Illinois Workers' Compensation Act charges the Division with responsibility for establishing the WCFU. The Division continues to fulfill this statutory duty.

A. Investigators

First, the Division identified and hired a team of seasoned investigators. Leading the team is Supervisor of Investigations Ronald Palmer. Prior to joining the WCFU, Palmer spent more than three decades honing his investigative skills. Palmer spent 29 years with the Chicago Police Department ("CPD"): 16 of those years were spent supervising detectives in the Detective Division Violent Crimes Unit; at the time of his retirement he was a supervising Sergeant in Personnel Investigations, the CPD section that conducts background examinations of prospective police officers. Palmer then worked as a medical investigator, supervisor, and then enforcement administrator for the Arizona Medical Board. Finally, during a part-time career spanning more than 20 years, Palmer worked for Probe International, Inc., a DuPage County-based private investigation firm that focuses on white collar crime, including insurance fraud.

Edmund Rooney joined the WCFU as an investigator in the summer of 2006. Rooney benefits from over 25 years of investigative experience. Legal investigations, many insurance related, define the first fifteen years of his career. Since 1997 Rooney has conducted a wide variety of investigations as a private detective licensed by the State of Illinois.

The WCFU added four more investigators to its staff in April of 2007.

B. Best Practices

Led by Supervisor Palmer, WCFU and other Division staff researched, identified, and implemented best practices. Division staff conducted a nationwide survey of state insurance fraud units and state workers' compensation fraud units. The survey identified key operational challenges and, when available, best practices. As a result of the

nationwide survey and careful Illinois-specific planning, clear and efficient systems govern WCFU operations from the report of fraud to closure or referral for prosecution.

1. Reports

The WCFU reporting system solicits, records, and tracks reports of insurance fraud. Complainants are required by statute to identify themselves and can report fraud by regular mail, electronic mail, or by calling the Unit's toll-free telephone number (1-877-923-8468). After receiving the report, a WCFU investigator contacts the complainant and, if necessary, requests additional information. The investigator may refer the complainant to the Division of Insurance website, which prominently displays detailed information about the complaint process, including the minimum information necessary to initiate an investigation.

2. Investigations

An investigation begins after the WCFU receives all necessary information. The Supervisor first reviews the report of alleged workers' compensation fraud. If the report is frivolous or unsubstantiated, the investigation ceases and the report is closed. If the Supervisor finds evidence sufficient to justify further inquiry, the report information is entered into a central computer database and a case number and investigator are assigned.

While structurally similar, each investigation differs based upon a host of factors, including the nature and quality of the initial report. Most investigations involve: 1) review of documentary and physical evidence; 2) interviews of persons related to the case (*e.g.*, complainants, witnesses, insurance company personnel, and physicians); 3) review and analysis of physical and geographic circumstances; and 4) detailed background checks of persons related to the case (*e.g.*, investigative targets and witnesses). The

WCFU also issues subpoenas and engages in undercover surveillance to ensure complete and meaningful investigations.

3. Referrals for Prosecution

At the close of each investigation, the WCFU either closes the case or refers it for prosecution. If the inquiry does not produce evidence sufficient to find probable cause to believe an individual or entity committed a Class 4 felony under the Act, the case is closed. Investigations that produce evidence sufficient to meet the probable cause standard are referred to the Attorney General and/or the State's Attorney of the county in which the offense allegedly occurred.

The WCFU has contacted and cultivated relationships with relevant prosecuting authorities. The WCFU contacted and continues to work with the Office of the Attorney General. All State's Attorneys in Illinois have been notified of the WCFU's existence by mail. In 2006 WCFU representatives personally contacted the Office of State's Attorney in Christian, Cook, Dewitt, Lake, and Williamson County.

4. Confidentiality

The confidentiality of all fraud reports and their associated medical records is strictly maintained. The Act makes two exceptions to this general rule. First, WCFU referrals to prosecuting authorities include case-related confidential information. Second, in limited circumstances, the Act requires disclosure of limited information about the report. For example, upon receipt of the report of fraud, the Unit must immediately notify the respondent of the reported conduct, including the verified name and address of the complainant if the complainant is connected to the case.

5. State Agency Coordination

In order to promote the efficient administration of state government, the WCFU takes reports from and shares expertise with existing state agencies, including the Illinois' Workers' Compensation Commission and the Department of Employment Security. The Unit also benefits from expertise provided by the Office of the Illinois Attorney General and various county State's Attorneys.

C. Outreach

The Division aggressively promotes the WCFU. The outreach effort focuses on two populations. First, the Division reaches out to individuals and entities most likely to be affected by workers' compensation fraud. In 2006, Michael T. McRaith, Director, Division of Insurance, and Supervisor Palmer made 18 public presentations about the unit in 15 different counties (See Exhibits A-B). Audiences include elected officials and their constituents, local chambers of commerce, insurance companies, and insurance-related associations. The second part of the outreach effort focuses on prosecutorial authorities. All county State's Attorneys in Illinois have been notified of the WCFU by mail. In addition, WCFU representatives have personally contacted the Office of State's Attorney in Christian, Cook, Dewitt, Lake, and Williamson County, the jurisdictions to which fraud cases were referred in 2006.

IV. Investigations and Referrals – 2006

The WCFU received 74 reports of workers' compensation fraud in 2006, many of which were notices of possible fraud that did not warrant further investigation because of insufficient evidence or because the statute of limitations expired. For those 74 reports,

the WCFU initiated 38 case investigations. To complete the investigations, the WCFU: 1) spent approximately 496 hours conducting field investigations; 2) reviewed approximately 248 hours of surveillance footage; and 3) reviewed well-over 100,000 emails and hard-copy documents.

The 38 investigations, aided by the Division's issuance of 52 subpoenas, produced the following results:

- 23 investigations led to referrals for prosecution.
    - Of the 23 referred cases, 20 cases involved allegations of workers' compensation fraud committed by an employee and 3 involved employer-based workers' compensation fraud.
    - The referred cases involved approximately $918,647 in employee or claimant fraud and $107,000 in employer or premium fraud, for a total of $1,025,647 (See Exhibits C-D).
- 13 investigations remained active at the close of calendar year 2006.
- 2 cases were investigated and closed without referral for prosecution.

The investigated cases involve a variety of fraudulent actors (*e.g.*, employees, employers, insurers, medical providers) and a range of ill-gotten gains. In some cases the fraud was detected before the award of any compensation; other cases involve workers' compensation fraud resulting in payments ranging from hundreds to hundreds-of-thousands of dollars. Examples of cases referred for prosecution include:

- Employee or Claimant Fraud
    - An employee claimed he suffered a work-related knee injury and collected approximately $38,000 in temporary total disability ("TTD") and medical

payments. According to several eyewitnesses, the employee injured his knee outside of work while riding an ATV in the snow. The employee works for his father, who encouraged him to file for benefits under the company's workers' compensation insurance policy.

  - An employee claimed she hurt herself in a slip-and-fall at work and collected approximately $184,000 in TTD and medical payments. Evidence suggests she actually fell over cases of canned goods in her kitchen on the previous day.

- Employer-Based Premium Fraud
  - A roofing contractor lowered its workers' compensation insurance rates by intentionally identifying itself with a lower-risk National Council on Compensation Insurance classification – it used the carpenter instead of the roofer code. Evidence uncovered by the WCFU allowed the insurance company to recover approximately $83,000 in lost premium in 2006. Audits for 2004 and 2005 may lead to additional recovery.
  - A construction company located its primary office in Collinsville, Illinois. Evidence suggests the company falsely claimed a primary office in Missouri to obtain lower workers' compensation premiums. Surveillance by the insurance company and an admission by the company owner corroborate the allegations. The premium fraud at issue involves approximately $24,000.

C. Prosecutions

The WCFU investigates workers' compensation fraud, it does not prosecute. The power to decide whether and when to press criminal charges related to WCFU investigations rests solely with prosecutors who accept WCFU referrals – the Attorney General's Office and/or the relevant county State's Attorney. One 2006 WCFU investigation has already resulted in criminal charges. On February 1, 2007, the Lake County State's Attorney filed felony insurance fraud and workers' compensation fraud charges against an employee who received over $30,000 in workers' compensation payments. The case is currently set for trial in September 2007.

2006 WCFU SPEAKING ENGAGEMENTS
DIRECTOR MICHAEL T. McRAITH

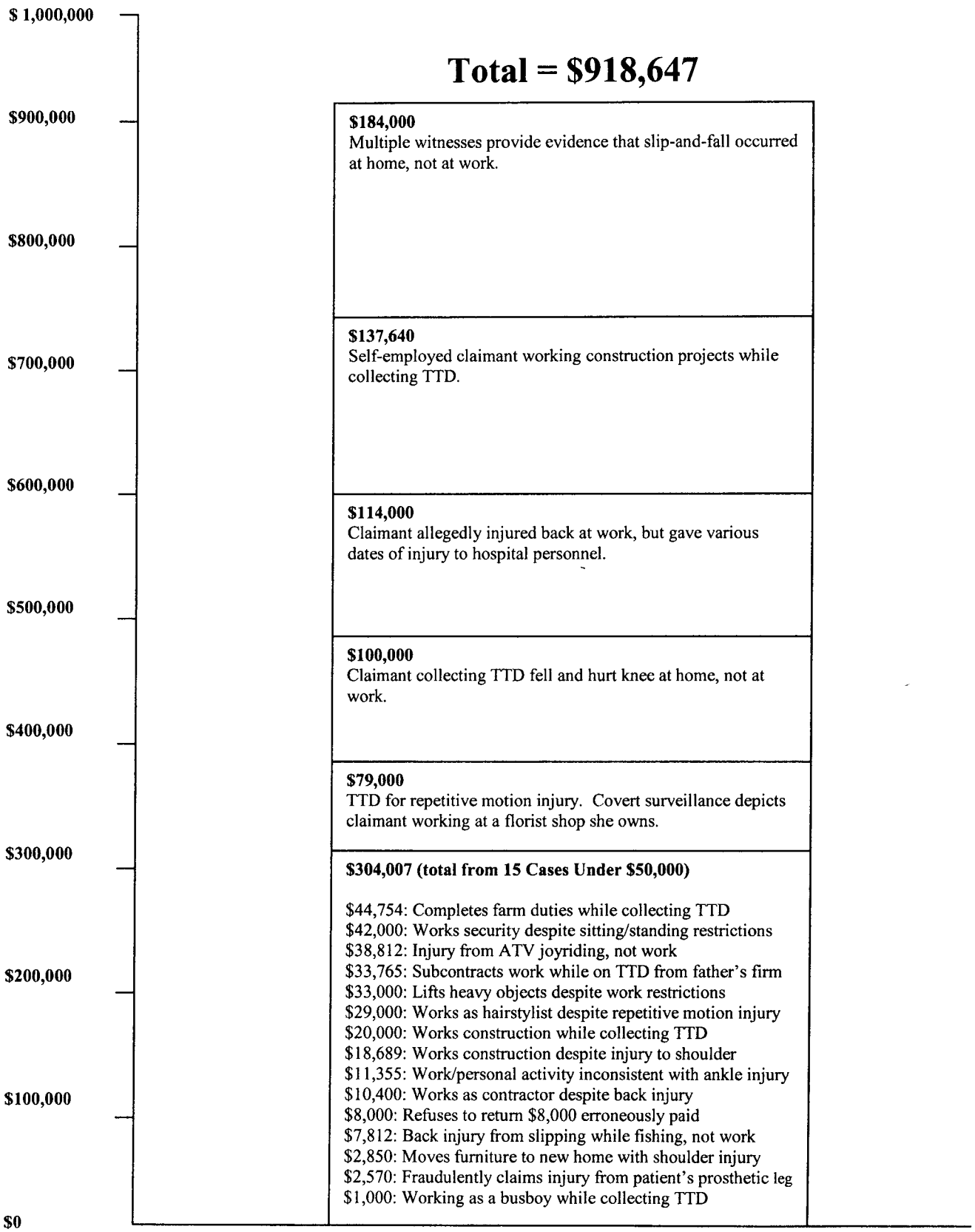
Date	Host	Topic	Location
June 22, 2006	Representative Flider	Workers' Compensation Seminar	Decatur, IL (Macon)
July 6, 2006	Representative Dugan	Workers' Compensation Seminar	Bradley, IL (Kankakee)
July 11, 2006	Representative Chapa LaVia	Workers' Compensation Seminar	Aurora, IL (Kane)
July 12, 2006	Representative Gordon	Workers' Compensation Seminar	Morris, IL (Grundy)
July 24, 2006	Representative Boland	Workers' Compensation Seminar	Moline, IL (Rock Island)
July 28, 2006	Representative Jefferson	Workers' Compensation Seminar	Rockford, IL (Winnebago)
August 10, 2006	Representative Brady	Workers' Compensation Seminar	Bloomington, IL (McLean)
August 15, 2006	Representative Franks	Workers' Compensation Seminar	Woodstock, IL (McHenry)

Exhibit A

2006 WCFU SPEAKING ENGAGEMENTS
WCFU INVESTIGATIONS SUPERVISOR RONALD PALMER

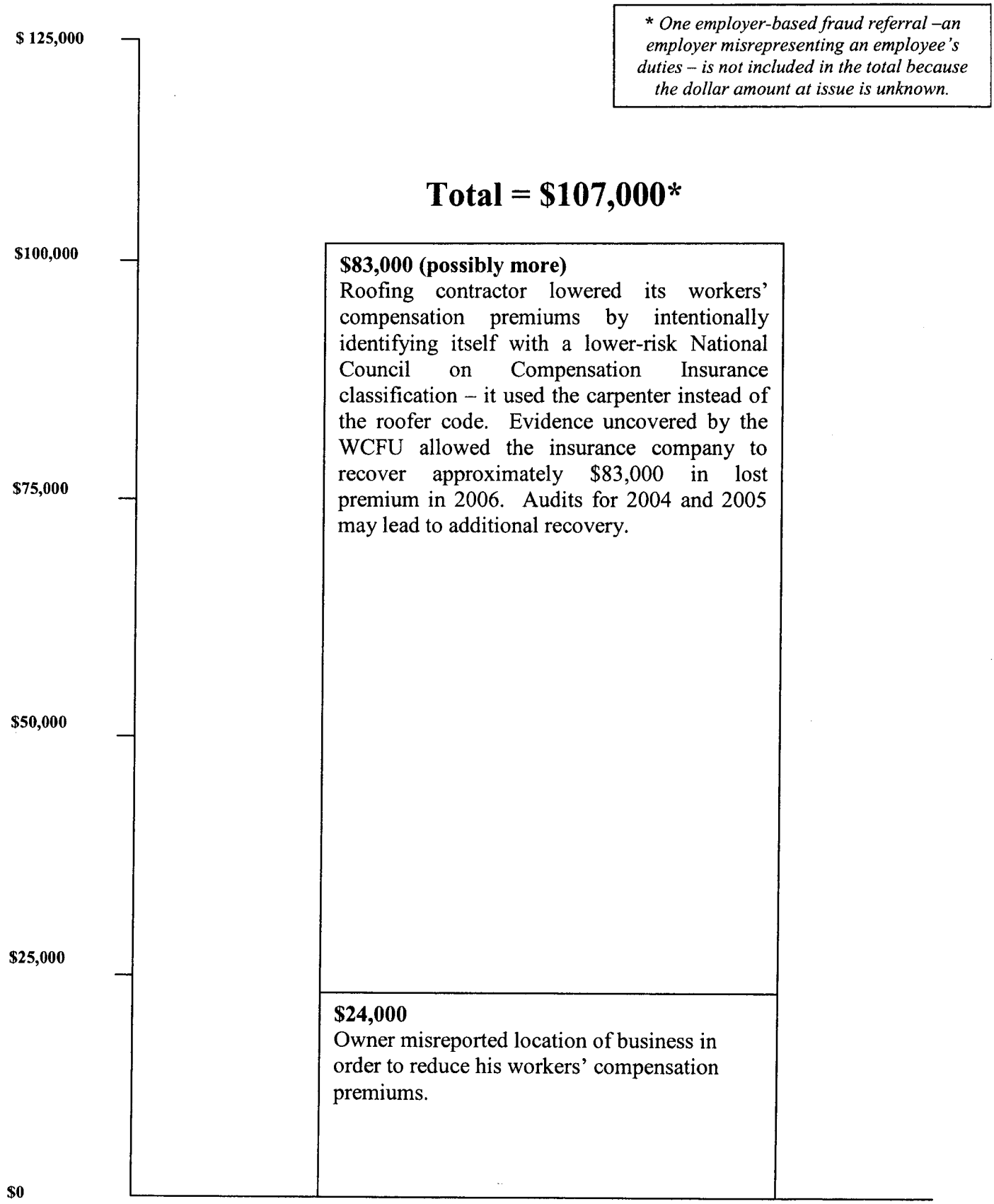
Date	Host	Topic	Location
May 11, 2006	Office of the Cook County State's Attorney, Financial Crimes Unit	WCFU Unit	Chicago, IL (Cook)
June 15, 2006	National Society of Professional Insurance Investigators Seminar	WCFU Unit	Hoffman Estates, IL (Cook)
July 18, 2006	Representative Granberg, Local Chamber of Commerce	WCFU Unit	Salem, IL (Marion)
July 19, 2006	Office of the Williamson County State's Attorney	WCFU Unit	Marion, IL (Williamson)
July 19, 2006	Local Chamber of Commerce	WCFU Unit	Godfrey, IL (Madison)
July 20, 2006	Internal Assoc. of Special Investigation Units and National Insurance Crime Bureau	WCFU Unit	St. Louis, MO
October 5, 2006	Illinois Self-Insurers Association	WCFU Unit	Lincolnshire, IL (Lake)
October 31, 2006	Representative Granberg, Mount Vernon Chamber of Commerce	WCFU Unit	Mt. Vernon, IL (Jefferson)
December 11, 2006	Blue Cross Blue Shield of Illinois	WCFU Unit	Chicago, IL (Cook)
December 15, 2006	Fort Dearborn Life Insurance	WCFU Unit	Downers Grove, IL (Du Page)

Exhibit B



2006 WCFU Referrals for Prosecution
Employee-Based Fraud Totals

Exhibit C



2006 WCFU Referrals for Prosecution Employer-Based Fraud Totals

Exhibit D