

ANTIFRAUD (D) TASK FORCE

Antifraud (D) Task Force December 6, 2009, Minutes

Antifraud (D) Task Force
San Francisco, CA
December 6, 2009

The Antifraud (D) Task Force met in San Francisco, CA, Dec. 6, 2009. The following Task Force members participated: Sandy Praeger, Chair, represented by Ted Clark (KS); Kim Holland, Vice Chair, represented by Michael Ridgeway (OK); Linda S. Hall represented by Linda Brunette (AK); Jay Bradford represented by William Lacy (AR); Steve Poizner represented by Rick Plein (CA); Gennet Purcell represented by Steve Perry (DC); Karen Weldin-Stewart represented by Elliott Jacobson (DE); J.P. Schmidt represented by Gordon Ito (HI); Michael T. McRaith represented by Bob Wagner (IL); Carol Cutter represented by Doug Webber (IN); James J. Donelon represented by Warren Byrd (LA); Ralph S. Tyler, III represented by Dudley Ewen (MD); Glenn Wilson represented by Paul Hanson (MN); John M. Huff represented by Angela Nelson (MO); Monica J. Lindeen represented by Robert Moon (MT); Wayne Goodwin represented by Angela Ford (NC); Adam Hamm represented by Mary Hoberg (ND); Roger A. Sevigny represented by Barbara Richardson (NH); Scott J. Kipper represented by Joy Miller (NV); James J. Wrynn represented by Jack Chasky (NY); Mary Jo Hudson represented by Michelle Brugh (OH); and Mike Kreidler represented by Leslie Krier (WA). Also participating was: Robert Wake (ME).

1. Nevada Insurance Alert

Commissioner Kipper and Dan Morgan (Interwest Advertising) provided a presentation on Nevada's efforts to alert consumers about unauthorized entities selling fake insurance products. They shared their print, online and television advertising campaigns for 2007, 2008 and 2009. Mr. Morgan said Web site hits during active advertising campaign periods increased dramatically. The goal of the campaign is to encourage consumers to verify the validity of an entity selling insurance with their state insurance department prior to signing up for any insurance.

2. Antifraud Liaison (D) Working Group

Mr. Perry discussed the draft Antifraud Plan Guideline released for comment by the Working Group. He said the proposed Antifraud Plan Guideline was intended for use by the 31 NAIC members that have not adopted Antifraud Plan laws, regulations, bulletins or other directives. The Antifraud Plan Guideline could also be used by members of the industry who want guidance in writing their Antifraud Plans for state regulators. Mr. Perry said the current draft is geared toward property/casualty insurers, but the Working Group would like input on sections specific to health care insurers. The Working Group would consider adding additional sections for other areas, such as viaticals. Mr. Perry said written comments on the proposed Antifraud Plan Guideline should be submitted to Keri Kish (NAIC) by Jan. 22, 2010. A conference call will be set up to discuss written comments from interested regulators and parties the first week of February 2010. The proposed revisions may be reviewed on the Task Force Web page or by contacting Ms. Kish.

Mr. Perry said the draft Guideline should be revised to exclude requirements for companies summarizing their hiring practices for fraud investigators. Additionally, he recommended that Plans should be required to be submitted every three to five years, but changes to plans should be filed in the year they occur. Mr. Perry asked for verbal comments from Task Force members, interested regulators and interested parties. Mr. Byrd recommended that the last sentence of Section 4—"The filing of the information required is not intended to constitute a waiver of an insurer's privilege, trade secret, confidentiality or any proprietary interest in its anti-fraud plan or its anti-fraud related policies and procedures"—be removed and placed on its own for a new Section 5. Mr. Hanson suggested a section should be added regarding company's internal procedures for meeting 18 USC 1033 and 1034 consent requirements. Ms. Brugh suggested that the Guideline clarify requirements for companies with internal Special Investigation Units (SIU), external SIUs and insurers with no SIUs.

Howard Goldblatt (Coalition Against Insurance Fraud—CAIF) said CAIF would file written comments with input from their members, but initially recommends that the Antifraud Plan Guideline include a section directing commissioners to conduct an audit of insurers' filed plans to confirm that they are in compliance. The CAIF encouraged the Working Group to require annual filing only of changes to antifraud plans. Lastly, the CAIF recommended an expansion of Section 1—Application to explain the expected legislative application for states of the Guideline.

Alan Haskins (National Insurance Crime Bureau—NICB) said NICB felt the draft Guideline may be overly burdensome for their members. Additionally, they encouraged the Working Group to consider deleting several sections that appear redundant. They support plan filings on a three-to-five-year basis. The NICB will file written comments as well.

Rey Becker (Property Casualty Insurers Association of America—PCI) said PCI will submit written comments after their own subcommittee reviews the draft. He agreed with the comments of NICB and CAIF. He said they agree with Mr. Perry that a requirement for the insurers to discuss their hiring practices is unnecessary. Mr. Becker stated that PCI supports Section 4 of the draft guideline but encouraged the Working Group to consider adding provisions that the commissioner will maintain all plans filed by the insurer as confidential and not release plans to outside parties.

3. Federal and International Enforcement Coordination Working Group

Mr. Ridgeway said the Working Group will recommend two revisions to the *Guidelines to State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994: 18 USC 1033 & 1034* (1033 Guidelines). He said he believed Section B(5)(c) Methodology to Determine Who is the “Appropriate Regulatory Insurance Official” and Attachment F “Further Descriptions and Examples of Dishonesty or Breach of Trust” should be revised. Mr. Ridgeway also recommended the addition of an attachment of a state and federal index of cases involving 18 USC 1033 & 10334 or similar state statutes.

Mr. Ridgeway said written comments to the proposed revisions to the 1033 Guidelines should be sent to Ms. Kish by Jan. 15, 2010. The proposed revisions may be reviewed on the Task Force Web page or by contacting Ms. Kish. Mr. Ridgeway asked for verbal comments from Task Force members, interested regulators and interested parties. Mr. Wagner recommended further review of the revisions of Attachment F. Mr. Wagner said the attachment should not rely on federal felonies to dictate state felonies or laws. Mr. Wake said it is important that the Guidelines indicate that the first state to make a decision if an applicant falls under the federal law should be the final decision; therefore, the Guidelines, if revised, must be worded carefully. Mr. Byrd said the Guidelines should reflect the appropriate individuals who should apply for a consent application from an insurance commissioner.

4. Antifraud Training and Seminar (D) Working Group

Ms. Brugh said the 2010 Antifraud Seminar will be held at the NAIC Central Office in Kansas City, MO, on June 14 and 15, 2010. She requested all interested regulators and parties to submit suggested topics to Ms. Kish.

5. Comments from Guests

The Task Force received reports from the CAIF, NICB, the Financial Crimes Enforcement Network (FinCEN) and the Office of Foreign Asset Control on the quarterly activities.

Having no further business, the Antifraud (D) Task Force adjourned.

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