



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

January 1, 2010

The Honorable Jeff Atwater
President of the Senate

Room 400-Senate Office Building
Tallahassee, Florida 32399-1100

The Honorable Larry Cretul
Speaker of the House

The Capitol – Suite 420
Tallahassee, Florida 32399-1300

Dear President Atwater and Speaker Cretul:

The Division of Insurance Fraud and the Division of Workers' Compensation appreciate the opportunity to provide you with this joint report regarding workers' compensation fraud, pursuant to section 626.989(9), Florida Statutes.

This report is a summary of our efforts and activities in combating workers' compensation fraud for the period of July 1, 2008 – June 30, 2009.

If you have any questions or concerns regarding this report, please give either of us a call.

Sincerely,

Handwritten signature of Tanner Holloman in black ink.

Tanner Holloman, Director
Division of Workers' Compensation
(850) 413-1600

Sincerely,

Handwritten signature of Major Jack Kelley in blue ink.

Major Jack Kelley, Asst. Director
Division of Insurance Fraud
(850) 413-4001

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

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JOINT REPORT TO
THE PRESIDENT OF THE FLORIDA SENATE
AND
THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES

BY

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF INSURANCE FRAUD/ BUREAU OF WORKERS' COMPENSATION FRAUD
AND
DIVISION OF WORKERS' COMPENSATION

**JOINT REPORT TO
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**DIVISION OF INSURANCE FRAUD/BUREAU OF WORKERS'
COMPENSATION FRAUD
AND
DIVISION OF WORKERS' COMPENSATION**

January 1, 2010

The Florida Department of Financial Services, Division of Workers' Compensation (DWC) and Division of Insurance Fraud / Bureau of Workers' Compensation Fraud (BWCF) submit this joint report to the President of the Florida Senate and the Speaker of the Florida House of Representatives, pursuant to §626.989(9), Florida Statutes. The joint report addresses the areas identified in §626.989(9), for the period of July 1, 2008 through June 30, 2009.

**I. DIVISION OF INSURANCE FRAUD/BUREAU OF WORKERS'
COMPENSATION FRAUD**

According to the Coalition Against Insurance Fraud (CAIF), Florida's Division of Insurance Fraud leads the nation in the recovery of insurance fraud related losses through court-ordered restitution. In Fiscal Year 2008/2009, cases presented for prosecution by the Division of Insurance Fraud resulted in \$34 million in court-ordered restitution. Additionally, according to the Coalition, Florida ranks in the top four (4) among all states' fraud divisions and bureaus in key measurements of success:

- 2nd in the number of arrests
- 3rd in the number of cases presented for prosecution
- 4th in the number of referrals

Florida's Division of Insurance Fraud continues to be a perennial leader in the fight against insurance fraud. During Fiscal Year 2008/2009, investigative efforts by the Division of Insurance Fraud resulted in 982 cases presented for prosecution, 834 arrests, and 532 convictions. Also during Fiscal Year 2008/2009, the Division of Insurance Fraud received and reviewed 12,084 insurance fraud referrals and opened 1,971 cases for investigation.

As a result of the Division of Insurance Fraud's Strategic Planning Meeting in May of 2009, the BWCF is in the process of restructuring, and will soon be a completely "stand-alone" unit within the Division of Insurance Fraud, with a clearly defined chain-of-command, a Bureau Captain, and five (5) dedicated workers' compensation squads, each supervised by a Lieutenant; assigned geographically throughout the state based on need. We believe that this restructuring will allow for a more focused approach to combating the various types of workers' compensation insurance fraud, as well as make the Bureau more responsive to changing trends, by virtue of all workers' compensation fraud referrals being channeled through one contact point within the Division of Insurance Fraud. This restructuring will also create clearer lines of communication between the BWCF and our partners in the industry, as well as increased accountability for BWCF management and members via enhanced oversight. We expect a 50% increase in worker's compensation arrests as a result of these important changes.

The BWCF will expand its to implement proactive approach in addressing fraudulent practices in the workers' compensation system, and will continue to work closely with the Division of Workers' Compensation Compliance (DWCC) and the Department of Business and Professional Regulation (DBPR) by sharing information and participating in joint enforcement operations throughout the state.

The prevailing trend, identified in previous reports and years, continues to be the illegal sale and brokering of certificates of workers' compensation coverage throughout the construction industry. That is, the "renting" of insurance certificates for a fee to uninsured subcontractors who subsequently present themselves as representatives of the named insured on the certificate of insurance for the purposes of securing work.

The most basic scheme involves contractors selling the use of their "legitimately" obtained certificates of insurance to groups of uninsured subcontractors for an average of five to ten percent of the subcontractor's actual payroll; thereafter, the uninsured subcontractors present the illegally purchased certificates of insurance to general contractors as proof of workers' compensation insurance, as is required to obtain construction contracts. Efforts to combat this scheme include an initiative by the DWC to increase the amount of information made available to general contractors by way of the DWC Online Compliance Database; specifically, the number of employees covered under a specific workers' compensation insurance policy, and the scope, or type, of operation insured. Suggested changes to F.S. 440 include a mandatory requirement that general contractors query this database upon receiving a certificate of insurance, to not only verify that a policy is in place, but also to ensure that the number of employees insured and the scope of operation is consistent with the contract being offered.

A more sophisticated scheme, also identified in previous years but still very prevalent, involves the use of fictitious companies in collusion with check cashing stores and money service businesses (MSB's). Within this scheme, individuals incorporate shell companies which provide no bona fide goods or services, and often have nothing more than a mailing

address, for the sole purpose of obtaining a workers' compensation insurance policy with the lowest possible premium. The shell companies then sell their certificates of insurance to uninsured subcontractors. The subcontractors then misrepresent themselves to general contractors as employees of the fictitious company, and submit the shell company's certificate as proof of coverage. The general contractors unknowingly remit payment to the uninsured subcontractors, posing as employees of the shell company, under the shell company's name. The uninsured subcontractor's cash their payroll checks at MSB's, and pay a pre-determined percentage to the owner of the shell company. The MSB's participate in the scheme by agreeing with the shell company's owners to cash the company checks for individuals other than the company's owners (a violation of FSS 560 et al, Requirements of MSB's), many times falsifying the documentation supporting the transaction.

The MSB's benefit by receiving the standard two to three percent check-cashing fee on the value of all checks cashed, as well as the increased amount of business. The uninsured subcontractors pay between five and thirteen percent in fees for the use of the illegally obtained certificate plus the check cashing services, but this is a significant savings compared to the cost of paying legitimate workers' compensation premiums and related payroll taxes.

Over the past year, in addition to working in conjunction with the Division of Workers' Compensation, the BWCF has worked closely with the Florida Office of Financial Regulations, Bureau of Financial Investigations. The agencies entered into a Memorandum of Understanding (MOU) in an effort to better regulate, examine and investigate violations perpetrated by MSB's. Further, the agencies conducted cooperative training sessions intended to foster a stronger working relationship between the agencies and develop a better understanding of one another's duties and responsibilities. This practice of joint training will continue this year, when BWCF personnel will present at the Office of Financial Regulation annual training in February. One of the dedicated squads within the BWCF (located in Plantation, Broward County) will focus primarily on the referrals from the Office of Financial Regulation, and a member of that squad has been assigned full-time to the Broward Sheriff's Office Money Laundering Task Force, members of which are focusing strictly on MSB's facilitating the scheme described above.

An example of a BWCF investigation into the above type scheme was the discovery and current prosecution of six individuals, two of whom were MSB owners, accused of facilitating the avoidance of workers' compensation insurance premiums on 27 million dollars of construction industry payroll.

A review of the 2007/2008 fiscal year's statistics as compared to the 2008/2009 statistics revealed few changes in existing trends and conditions. Employee/claimant fraud continues to account for the highest number of referrals; however, the percentage of those referrals decreased slightly from 55 to 53 percent of all referrals. Referrals for fraudulent use of social security numbers in employment and workers' compensation claims moved to

second, representing 14 percent of all referrals. Referrals for working without workers' compensation coverage slipped to third, representing 10 percent of all referrals. Also significant is the emergence of employer premium fraud, which is currently the fourth largest category of referrals, representing a 137 percent increase from the previous year.

The overall number of referrals received by the BWCF *decreased* by 24 percent from 1,984 to 1,506 from Fiscal Year 2007/2008 to Fiscal Year 2008/2009 and, correspondingly, the number of arrests decreased by 21 percent from 301 to 239 during that same period.

Also during Fiscal Year 2008/2009, cases presented for prosecution by the BWCF resulted in requested restitution in the amount of \$7,644,582.10, and \$5,579,935.33 in court-ordered restitution for cases reaching final disposition during the 2008/2009 fiscal year.

The BWCF is dedicated to providing continuing education to its personnel, and has made significant advances in this effort during the 2008/2009 fiscal year. Many BWCF members became Certified Fraud Examiners (CFE) during the past year, a highly-touted global designation given to those who successfully complete a rigorous, year-long training program, and supervisors are attending executive management classes at the Southern Police Institute (SPI). Online training is now available and being taken by increasing numbers within the BWCF, and additional new training materials are being made available to all personnel, 24/7. During the past fiscal year, sworn personnel have received training in workers' compensation fraud investigations, money service business investigations, interview and interrogation techniques, and high liability topics such as legal issues, firearms, arrest procedures, along with other practical training which will assist them in the performance of their duties.

Workers' Compensation Annual Report
Fiscal Year 2008-2009

Referrals and Cases by Source

Source	Number of Referrals Received	Number of Cases Opened
Carriers	587	247
DWCC	80	56
Others	839	265
TOTALS	1506	568

Fiscal Year Statistics

Number of Cases Closed	Number of Cases Presented for Prosecution	Number of Arrests	Referrals to DWCC Compliance
621	256	239	80

Number of Convictions by Type

Type of Convictions	Number of Convictions
Agent	2
Agent Premium	0
By Attorney	1
By Claimant	0
By Employee Claimant	57
By Employer	1
By Person	1
By Provider	0
Employee Payroll Deduction	1
Employer Premium	8
Fictitious Certificate of Exemption	2
Fictitious Certificate of Insurance	13
ID Theft of Number or Name	20
Leasing Company	0
Violation of Stop Work Order	19
Working without Coverage	55
TOTAL	180

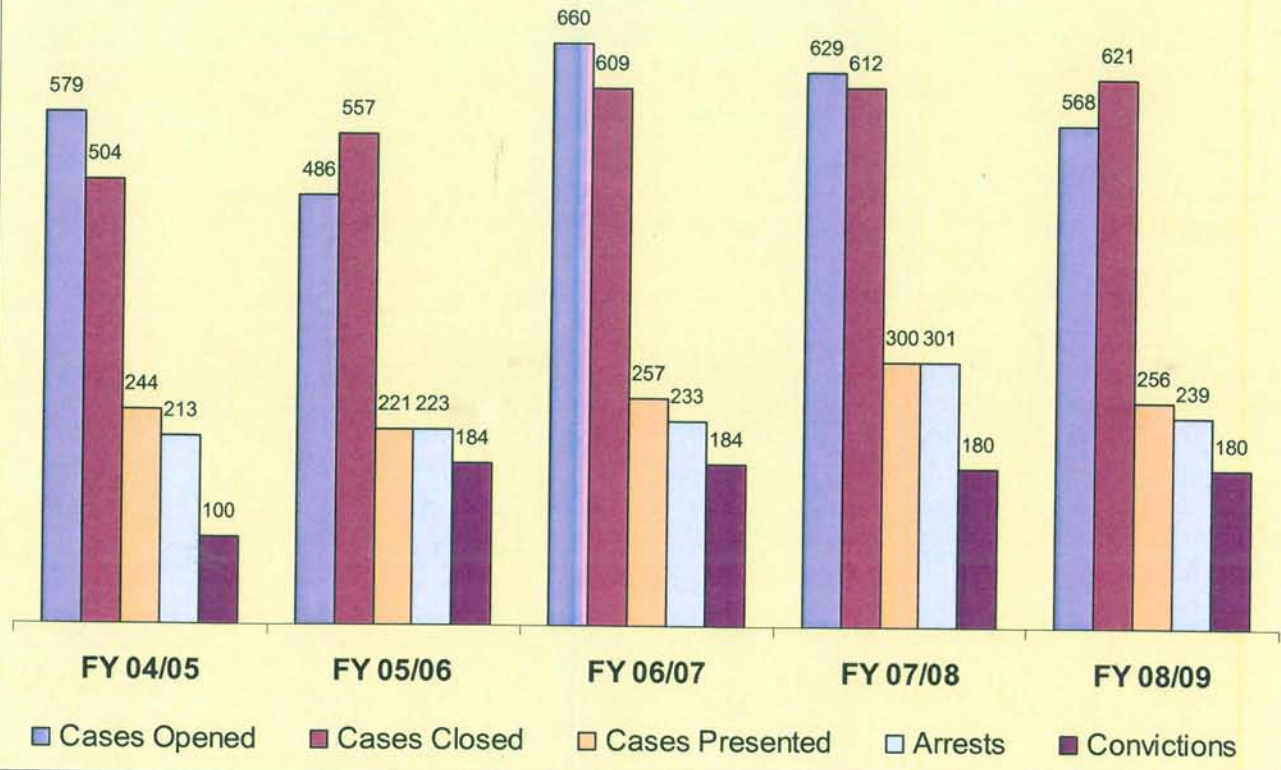
Number of Convictions by Judicial Circuit

Judicial Circuit	Convictions
1st	17
2nd	12
3 rd	1
4 th	4
5 th	8
6 th	15
7 th	3
8 th	3
9 th	8
10 th	4
11 th	20
12 th	15
13 th	7
14 th	2
15 th	20
16 th	2
17 th	13
18 th	3
19 th	17
20th	6

Number of Prosecutions Declined by Judicial Circuit

Judicial Circuit	Number of Prosecutions Declined	Reason for Declined
1st	5	3- Decline to Prosecute 1- Prosecution Unlikely 1-Lack of Intent
2nd	1	1- Decline to Prosecute
3 rd	1	1- Prosecution Unlikely
4 th	6	2- Civil Settlement 4- Decline to Prosecute
5 th	0	
6 th	3	2- Decline to Prosecute 1- Civil Settlement
7 th	3	3- Decline to Prosecute
8 th	0	
9 th	2	2- Decline to Prosecute
10 th	0	
11 th	5	3- Decline to Prosecute 1-Civil Settlement 1- Witness Died
12 th	2	2- Decline to Prosecute
13 th	5	3- Decline to Prosecute 1- Charges Dismissed 1-Civil Settlement
14 th	1	1- Decline to Prosecute
15 th	0	
16 th	0	
17 th	9	4- Prosecution Unlikely 4- Decline to Prosecute 1- Witness Refused to Cooperate
18 th	3	2- Decline to Prosecute 1- Charges Dismissed
19 th	0	
20th	19	13- Decline to Prosecute 1- Civil Settlement 3- Charges Dismissed 2- Unable to locate Witness

Five Year Statistical Data



Measurement	FY 04/05	FY 05/06	FY 06/07	FY 07/08	FY 08/09
Cases Opened	579	486	660	629	568
Cases Closed	504	557	609	612	621
Cases Presented	244	221	257	300	256
Arrests	213	223	233	301	239
Convictions	100	184	184	180	180

BWCF STAFFING (Sworn)

Office Location	W/C Funded Detectives Fiscal Year 2008/2009	Vacant W/C Funded Detective Positions Fiscal Year 2008/2009	Total Number of W/C Funded Detective Positions Fiscal Year 2008/2009
Pensacola	2	2	4
Central Administration	1		1
Tallahassee		1	1
Jacksonville	4		4
Tampa	4	1	5
St. Petersburg	1		1
Orlando	4	2	6
West Palm Beach Squad 2	6	1	7
Ft. Myers	2		2
Broward Squad 3	1	1	2
Miami Squad 3	5		5
TOTALS	30	8	38

Office Location/ Investigator Position Number	AVERAGE TURN-AROUND TIME IN MONTHS							
	<i>*Indicates Workers' Compensation funded positions</i>	Case Load	Working Without	Premium Fraud	Claimant Fraud	False Certificate of Insurance	Violation of Stop Work Order	Identity Theft of Number or Name
Pensacola:								
01539	11	3.6						
01503*	9	1.4		3.6	.06			
01543	8	6.3	7.1	14.5				
01803*	12	2.0		9.2	3.7	2.3		
Tallahassee:								
01496	11			7.9			7.2	
01804	7			10.5				
01695	6			1.8				
01805	9					1.7	6.20	
Jacksonville:								
01011	18					.13		
01505*	15	.16		11.4	1.8	.46		
01781*	12			6.4				
01793*	10	4.3	35.5	25.3		14.6	17.5	
Ocala:								
01796*	13			21.5				
01009	12			18.1	2.8	.13	2.7	
Plantation #1:								
01840	27						1.0	
Plantation #3:								
01835	17	9.3		12.3	16.8			
01597	21	2.6						
01609*	15	6.6		9.4				
Ft. Myers:								
01841	15			7.0				
01260*	5					3.2		
01842*	11	6.3		15.1		.1		
Miami #3:								
01836*	12			39.0			7.0	13.3
01780*	13			32.6	6.3			
01779	11	5.9						
01542*	10			11.0				
01548*	14			9.4				
01690	6	6.3						

Office Location/ Investigator Position Number	AVERAGE TURN-AROUND TIME IN MONTHS							
	Case Load	Working Without	Premium Fraud	Claimant Fraud	False Certificate of Insurance	Violation of Stop Work Order	Identity Theft of Number or Name	Attorney
<i>*Indicates Workers' Compensation funded positions</i>								
Orlando #1:								
01232*	11			13.3				
01546	5			5.4				
01504*	23	9.9		71.7	.73		1.3	
01156*	16			43.6				
01547*	14			58.0				
St. Petersburg:								
01801*	31	6.5		9.9				
01312*	19	15.7		17	5.0			
01831	17		.56	4.8				
01832	14			1.0				
Tampa:								
01198	10			4.9				
01157*	22			60.70		3.6		
01691*	9			16.9				
01701*	7			9.9				
01193					4.4			
West Palm Beach #1:								
01607	32	11.4	27.9	28.7			5.6	
West Palm Beach #2:								
01834	13	4.8					10.4	
01013	3	11.5					1.13	
01183*	12	13.9		3.3			2.3	
01794*	19	.1	26.2	55.4		2.6	10.0	
01308*	34				.46	2.53	8.9	
01792*	28		20.3	5.8			4.6	
West Palm Beach #3								
00138	10						.27	

II. DIVISION OF WORKERS' COMPENSATION (Division)

The Division's mission is to actively ensure the self-execution of the workers' compensation system through educating and informing all stakeholders in the system of their rights and responsibilities, compiling and monitoring system data and holding parties accountable for meeting their obligations.

The Division is responsible for ensuring that employers comply with their statutory obligations to obtain appropriate workers' compensation insurance coverage for their employees. Ensuring that employers adhere to workers' compensation coverage requirements results in coverage for employees that were previously without coverage due to non-compliance; ensures that covered employees with work-related injuries receive all statutorily required benefits; levels the playing field for all employers who are bidding jobs; and adds premium dollars to the system that were previously evaded due to non-compliance. The Division accomplishes its mission through enforcement investigations, management of the exemption process and education of employers. The Division conducts investigations to determine employer compliance and assesses penalties against employers who fail to meet their statutory obligations.

In addition, the Division recognizes the importance of cooperating with other state and local enforcement agencies, especially the Division of Insurance Fraud, and has established partnerships with a variety of state and local agencies and industry-related associations and organizations to make the best use of resources and to increase employer compliance.

Pursuant to section 626.989(9), Florida Statutes, the following report highlights the Division's activities and achievements during FY 2008-2009.

1. Referrals

Division of Insurance Fraud

The Division of Workers' Compensation and the Division of Insurance Fraud continue to work closely in carrying out our respective statutory duties. Our jointly developed referral program facilitates the efficient referral of cases between the divisions and allows each division to determine if an investigation will be initiated based upon a referral. Referrals are made to each division within 24 hours of suspected violations of the law and are considered a priority to be acted upon immediately.

The Bureau of Compliance uses the referral process to notify the Division of Insurance Fraud of employers who are possibly committing criminal acts or omissions.

The Bureau of Compliance and Division of Insurance Fraud made the following referrals during the period of July 1, 2008 through June 30, 2009:

- The Division of Workers' Compensation referred 91 employers to the Division of Insurance Fraud for possible criminal investigation.
- The Division of Workers' Compensation received 12 referrals from the Division of Insurance Fraud for civil violations under Chapter 440, F. S.

One of the benefits of the divisions working together has been the development of a format for greater communication. Not only do the divisions communicate with each other upon receipt of a referral, but the Division of Workers' Compensation has had occasion to strategize and work in conjunction with the Division of Insurance Fraud. This was especially evident in the case of a large security company that was engaged in workers' compensation fraud and operating without workers' compensation coverage. The Division of Workers' Compensation issued a Stop-Work Order to the security company for failure to obtain coverage and assessed a penalty against the employer in the amount of \$65,720. Through a joint investigative effort, the Division of Workers' Compensation and the Division of Insurance Fraud were successful in getting the owner of the company criminally charged by the State Attorney's Office for failure to provide workers' compensation coverage, insurance fraud and underreporting. The owner entered into a plea agreement which resulted in a sentence of ten years probation and a fine of \$291,299.

Referrals to Other Agencies

In addition to the referrals for workers' compensation fraud, 63 employers were referred to other agencies where the employers were suspected of violating the laws regulated by those entities. Eighty-eight percent of those referrals were made to the Department of Business and Professional Regulation. The two primary reasons for the referrals continue to be unlicensed activity for failure to be licensed to work in the trade in which the employer was working and failure to provide workers' compensation insurance to its employees, which is a violation of the condition for licensure. Referrals were also submitted for operating as an unlicensed employee leasing company and contracting without a license. The Division also submits referrals to the Agency for Healthcare Administration, the Department of Agriculture, Department of Revenue, and the Department of Homeland Security (Immigration and Customs Enforcement).

The Division maintains a close relationship with local building and permitting agencies. These relationships are enhanced by the Bureau's timely response to local agencies' calls for assistance in verifying employers who are in violation of the Workers' Compensation laws. During this fiscal year, joint operations were conducted throughout the state with a number of city and county code enforcement offices, the Department of Business and Professional Regulation and the Division of Insurance Fraud.

Non-Compliance Referral Database

Since its inception, the Division has investigated referrals about employers that allegedly failed to provide workers' compensation coverage. Previously, the method by which referrals were received was cumbersome and labor intensive, with a limited ability to provide a response to the person making the referral. During FY 2008-2009, the Division designed and implemented an electronic referral tracking database to increase responsiveness and provide real-time feedback to the person making the referral.

A referral can be submitted electronically by accessing the Non-Compliance Referral Database on the Division's website. The person making the referral has the option to submit the referral anonymously or to provide an email address to receive electronic notification on the status and outcome of the referral. However, even if an email address is not provided, the referring person has the ability to track the status and outcome of the referral by entering into the database the confirmation number that is provided upon electronic submission of the referral. The electronic referral tracking database enables

the Division to receive referrals much more quickly which will streamline the process to initiate investigations earlier and provide real-time feedback to the person who made the referral.

Since its deployment, the Division has received 1,115 referrals submitted via the Non-Compliance Referral Database. This represents an annual increase of 51%. The investigations initiated by the referrals resulted in the issuance of 156 Stop-Work Orders and \$5.4 million dollars in assessed penalties against non-compliant employers.

The following case summaries taken from actual FY 2008-2009 cases are examples of the types of investigations conducted by the enforcement efforts of the Division of Workers' Compensation.

Case One: The Division received a public tip regarding a company that employs 35 individuals who travel to Florida Wal-Mart stores to assemble bicycles for display and sale. A Business Records Request was issued and served on the employer to determine compliance with workers' compensation coverage requirements. The investigation revealed the employer was out of compliance; however, the employer obtained a valid workers' compensation policy prior to the issuance of a Stop-Work Order. A subsequent Business Records Request was issued and served to the employer for penalty calculation purposes. The employer was issued and served an Order of Penalty Assessment in the amount of \$81,355. The employer came into compliance by obtaining a workers' compensation policy covering 35 employees, which generated \$52,539 in premium dollars and by entering into a Periodic Payment Agreement.

Case Two: While conducting routine investigations in Jacksonville, an Investigator conducted a site visit at a construction drywall company. The Investigator observed 17 employees on-site and only two were legally documented U.S. citizens. The investigation revealed the employer had a workers' compensation policy with a reported payroll of \$60,000. A Stop-Work Order for underreporting and concealing payroll and a Business Records Request were issued to the employer. Subsequent to the site visit and after the issuance of the Stop-Work Order, the employer attempted to increase the payroll from \$60,000 to \$400,000 in an effort to avoid being cited for the non-compliance violation. Coincidentally, the day after the Stop-Work Order was issued, another Investigator conducting routine investigations in St. Augustine, came across a different job being completed by the same employer and found four additional undocumented workers. The total employees identified for the employer on both job sites were 21.

A Business Records Request was issued to general contractors that had hired the employer and records revealed that the general contractors had paid the employer in excess of \$2 million for services provided. The employer failed to provide all of the requested business records and an imputed payroll was calculated using the statewide average weekly wage multiplied by 1.5. A penalty was assessed in the amount of \$61,815. The employer came into compliance by terminating the undocumented workers, adding 27 employees to his workers' compensation policy, which generated \$55,370 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Three: While conducting routine investigations in the Pensacola area, an Investigator conducted a site visit to a picture framing business. An investigation revealed that the business had three separate locations with a total of nine employees and no workers' compensation coverage. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A penalty was assessed in the amount of \$47,863. The employer came into compliance by obtaining a workers'

compensation policy covering nine employees, which generated \$6,127 in premium dollars and entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Four: The Division initiated an investigation in Escambia County after a public complaint was levied by a local county code enforcement office alleging an employer was working without workers' compensation coverage. The Investigator observed a number of workers preparing to load several aerial trucks for sign installation. The employer stated the workers were independent contractors, although none of the workers owned their own companies or had a Certificate of Election to be Exempt. The investigation revealed that the workers were employees and the employer did not have a valid workers' compensation policy. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. The penalty was assessed at \$11,140. The employer came into compliance by reducing the number of employees below the statutory threshold and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Approximately two years later, the employer defaulted on the Periodic Payment Agreement and the Stop-Work Order was reinstated. Two months later, the employer was found working in violation of the reinstated Stop-Work Order. A referral was made to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud and the employer was assessed an additional penalty in the amount of \$12,000 for working in violation of the Stop-Work Order. Six months later, the employer was found working in violation of the Stop-Work Order a second time. The employer was assessed a third penalty in the amount of \$121,000. Two more months later, the employer was found working in violation of the Stop-Work Order a third time. The employer was assessed an additional penalty in the amount of \$50,000. The Division of Insurance Fraud arrested the employer for knowingly violating the Stop-Work Order. The total amount of penalties assessed against the employer for working in violation of the Stop-Work Order was \$183,000.

Pursuant to a court order, the employer submitted a payment of \$18,000 toward the assessed penalty. The remaining balance is currently outstanding and the employer is awaiting criminal sentencing for insurance fraud.

Case Five: While conducting routine investigations in Broward County, an Investigator observed two daycare centers operating in close proximity to each other. Investigations of both centers were initiated to determine compliance with the workers' compensation coverage requirements. The investigations revealed that both daycare centers were operating in violation of the Workers' Compensation Law. Stop-Work Orders for failure to secure coverage and Business Records Requests were issued to the daycare centers. A penalty was assessed against the first center in the amount of \$20,000. The employer came into compliance by obtaining a workers' compensation policy covering 16 employees, which generated \$4,789 in premium dollars and by entering into a Periodic Payment Agreement. A penalty was assessed against the second center in the amount of \$32,000. That employer came into compliance by obtaining a workers' compensation policy for seven employees, which generated \$2,486 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Orders were conditionally released.

Case Six: While working as a part of an inter-jurisdictional enforcement team with local municipal and county building code investigators in Palm Beach County, an Investigator observed three workers renovating a building. Information obtained on the job site indicated the employer had secured workers' compensation coverage through an employee leasing company. However, contact with the employee leasing company revealed that the three workers were not reported on the employee leasing payroll. A Stop-Work Order for failure to secure coverage and a Business Records Request were

served on the employer. A penalty was assessed in the amount of \$35,000. The employer came into compliance by adding the workers to the employee leasing contract, which generated \$3,510 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Seven: While conducting routine investigations at a job site in the Orlando area, an Investigator discovered two workers performing tile installation. The investigation revealed the owner had elected to be exempt from obtaining workers' compensation coverage, but had failed to secure workers' compensation coverage for his employees. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A review of the business records revealed additional uninsured employees. A penalty was assessed in the amount of \$15,000. The employer came into compliance by reducing the number of employees below the statutory threshold and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released. The two uninsured employees established their own corporation and obtained Certificates of Election to be Exempt.

Case Eight: While conducting a routine investigation of a restaurant in Orlando, an Investigator observed approximately eight employees working. The owner was contacted regarding their workers' compensation coverage. The owner stated he had a workers' compensation policy and he was on his way to his office to retrieve it. A Business Records Request was issued to the employer for purposes of determining compliance with the workers' compensation coverage requirements. The owner responded to the Business Records Request several days later by providing a workers' compensation policy that had been obtained after the date of the site visit. The employer was served an Order of Penalty Assessment in the amount of \$32,500. The newly obtained workers' compensation policy covered 14 employees, which generated \$8,296 in premium dollars. The employer came into compliance by entering into a Periodic Payment Agreement.

Case Nine: While conducting routine investigations in Sarasota County, an Investigator observed four employees working in a restaurant. A Business Records Request was issued to the employer for purposes of determining compliance with the workers' compensation coverage requirements. The business records revealed a total of 19 employees. However, the current employer had purchased the restaurant from another owner and failed to secure workers' compensation coverage. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A penalty was assessed in the amount of \$17,000. The employer came into compliance by purchasing a workers' compensation policy covering 19 employees, which generated \$5,270 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Ten: Based on a public complaint in Hillsborough County, a site visit was conducted and eleven workers were observed installing cement blocks at a three-story hotel under construction. The investigation revealed that the employer's workers' compensation policy was canceled 40 days prior. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A penalty was assessed in the amount of \$56,509. The employer came into compliance by purchasing a new workers' compensation policy, which generated \$9,078 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Eleven: Based on a public complaint, the Division initiated an investigation of a security company that supplies armed and unarmed security officers to government agencies, residential developments and business establishments in a large metropolitan area in Miami-Dade County. The

complaint alleged the employer was operating without workers' compensation coverage. The investigation revealed that the employer had secured workers' compensation coverage through an employee leasing company. However, contact with the employee leasing company revealed that the employer's leasing contract only covered 25 security officers. The employer employed an additional 15 security officers that were not listed on the leasing contract. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A review of the employer's business records revealed that the company employed approximately 136 security officers. The penalty was calculated in the amount of \$65,720. The employer came into compliance by adding all employees to the employee leasing contract, which generated \$84,839 in premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Through a joint investigative effort the Bureau of Compliance and the Bureau of Workers' Compensation Fraud (Division of Insurance Fraud) were successful in getting the owner of the company criminally charged by the State Attorney's Office for failure to provide workers' compensation coverage, insurance fraud and underreporting. The owner entered into a plea agreement which resulted in a sentence of ten years probation and a fine of \$291,299.

Case Twelve: The Division received a tip that a resort hotel was operating without workers' compensation coverage. An investigation confirmed the employer employed 8 individuals and did not have workers' compensation coverage. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. A review of the business records revealed the hotel had been in operation for 10 years without securing workers' compensation coverage while employing at least seven employees during that time frame. A penalty was assessed in the amount of \$42,330. The employer came into compliance by obtaining a workers' compensation policy covering seven employees, which generated \$6,658 of premium dollars and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

Case Thirteen: While conducting routine investigations in Hillsborough County, an Investigator observed 13 workers performing masonry work at a residence under new construction. The investigation revealed the employer had secured workers' compensation coverage through an employee leasing company. The employee leasing company reported that 63 employees were currently covered through the leasing contract; however, the 13 workers performing masonry work were not included on the employee leasing payroll. A Stop-Work Order for failure to secure coverage and a Business Records Request were issued to the employer. The employer was assessed a penalty in the amount of \$261,114. The employer came into compliance by reducing the number of employees below the statutory threshold and by entering into a Periodic Payment Agreement. The Stop-Work Order was conditionally released.

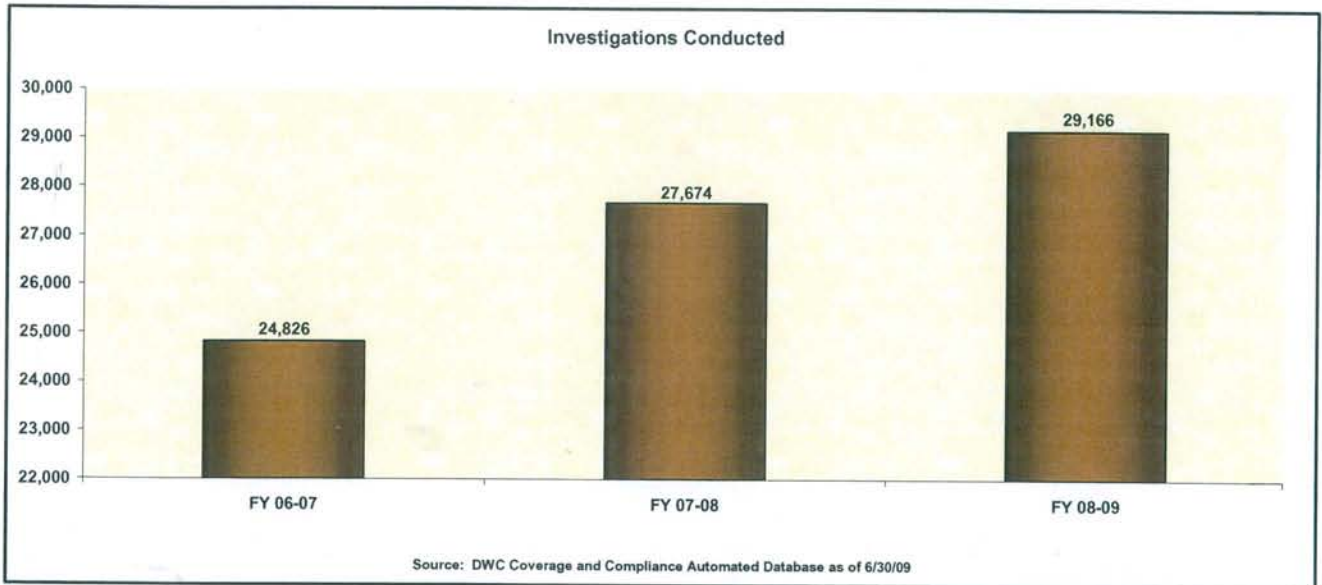
2. Enforcement Activities and Workers' Compensation Exemption Statistics

Stop-Work Orders

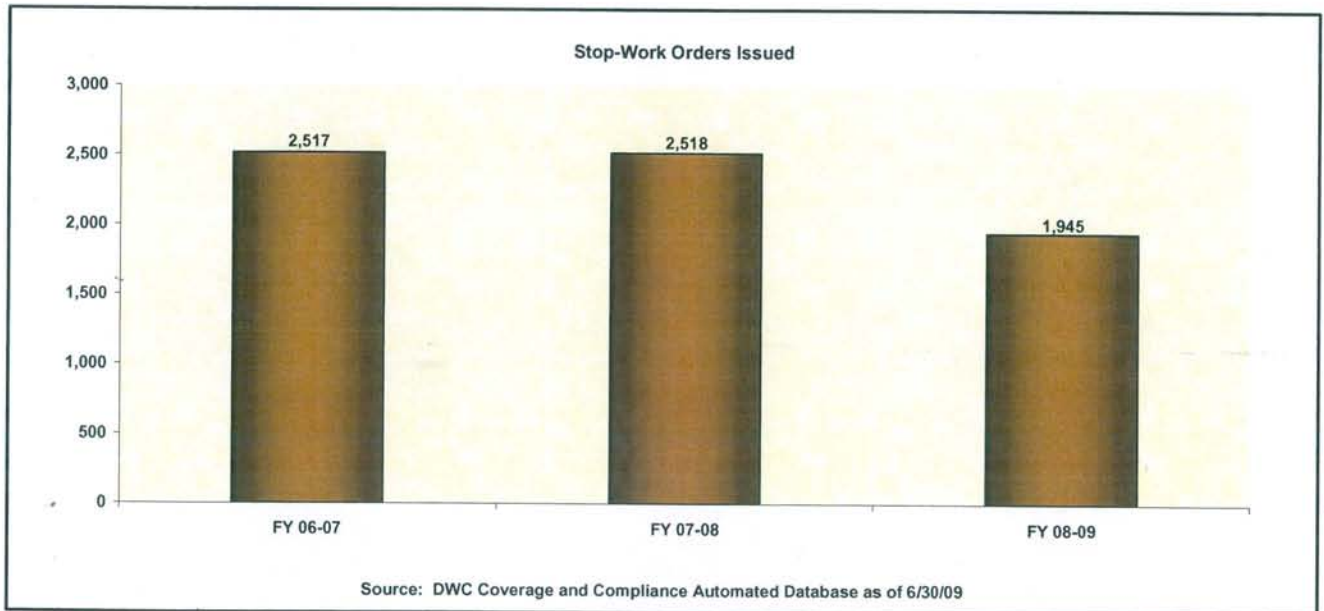
Through its enforcement and investigative efforts, during the period of July 1, 2008 through June 30, 2009 the Division:

- Conducted 29, 166 investigations. The graphic below shows the volume of investigations performed during the last three fiscal years. Investigations are physical on-site inspections of

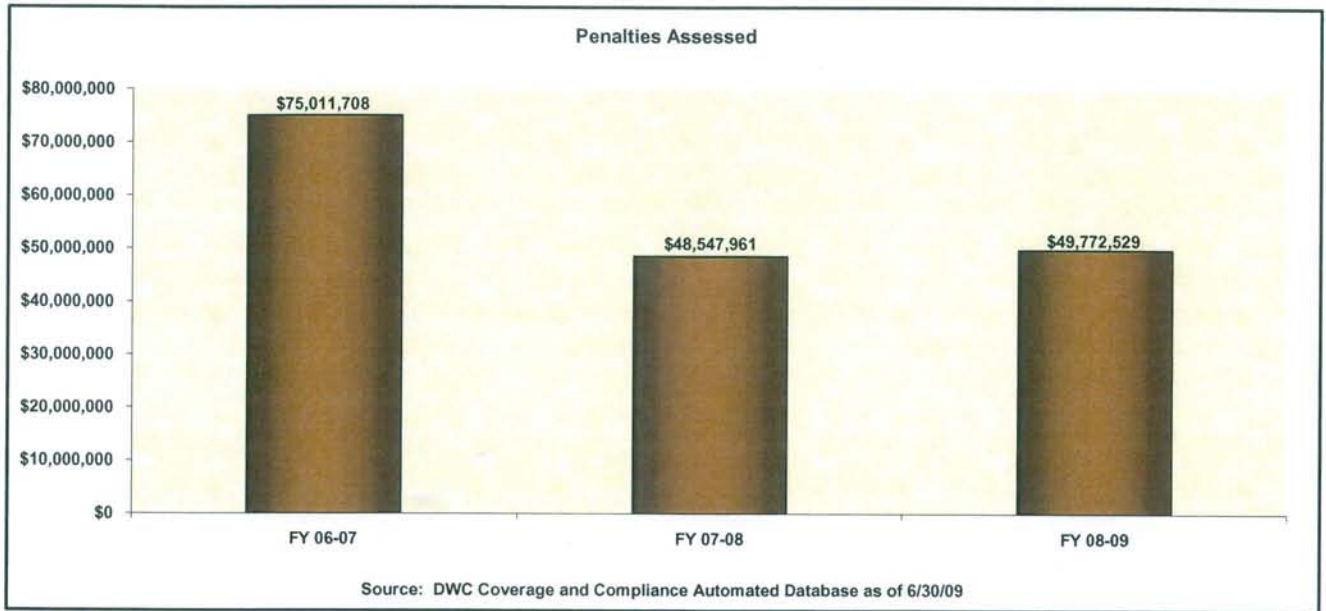
an employer's job-site or business location conducted to determine employer compliance with the workers' compensation coverage requirements.



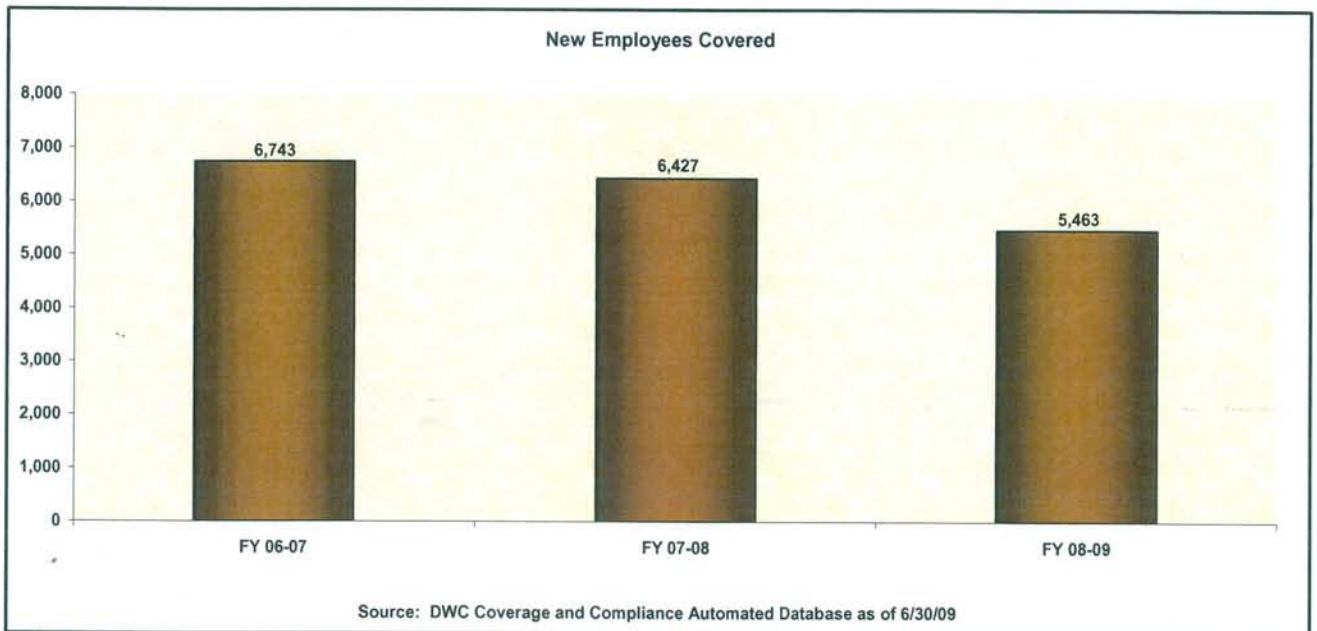
- Issued 1,945 Stop-Work Orders. Stop-Work Orders are issued based upon a determination that an employer has failed to comply with the coverage requirements of Chapter 440, F.S. Stop-Work Orders require the employer to cease business operations until the Division issues an Order Releasing the Stop-Work Order.



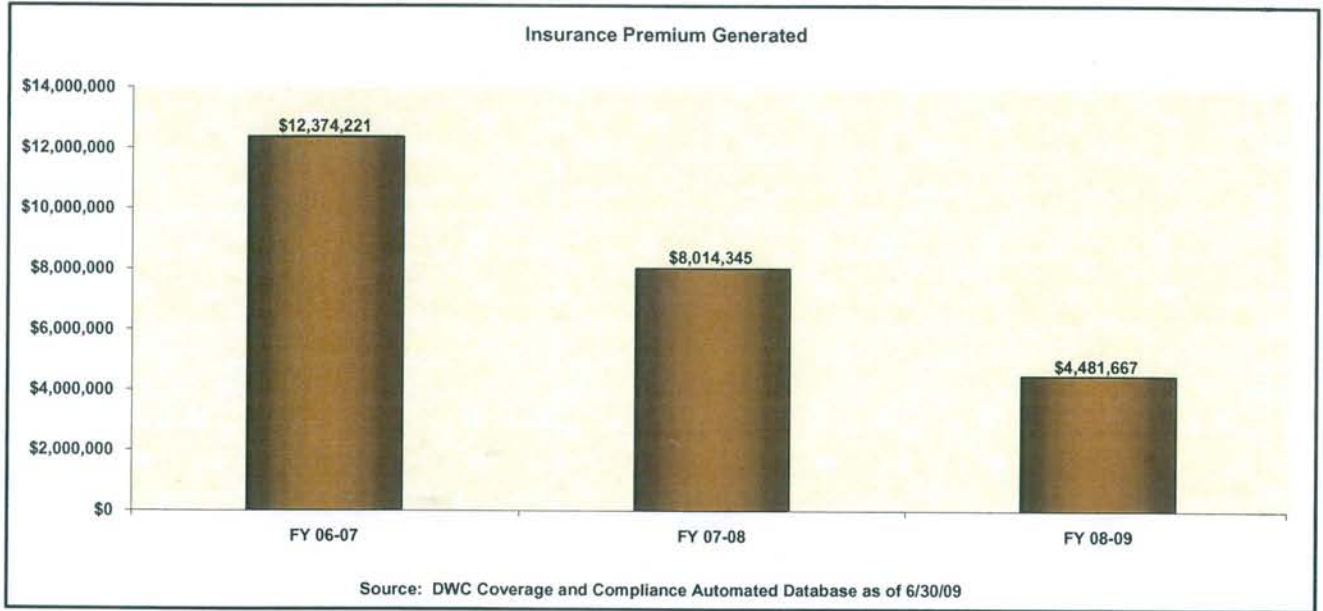
- Assessed \$49,772,529 in penalties. Assessed penalties are equal to 1.5 times what the employer would have paid in workers' compensation insurance premiums for all periods of non-compliance during the preceding three-year period, or \$1,000, whichever is greater. In order to come into compliance with the coverage requirements, employers must obtain coverage based on the current number of employees, which may be different than the number of historical employees, upon which the penalty was based.



- Caused 5,463 new employees to be covered under the Workers' Compensation Law. The Graphic below shows the number of employees covered as a direct result of the Division's intervention.

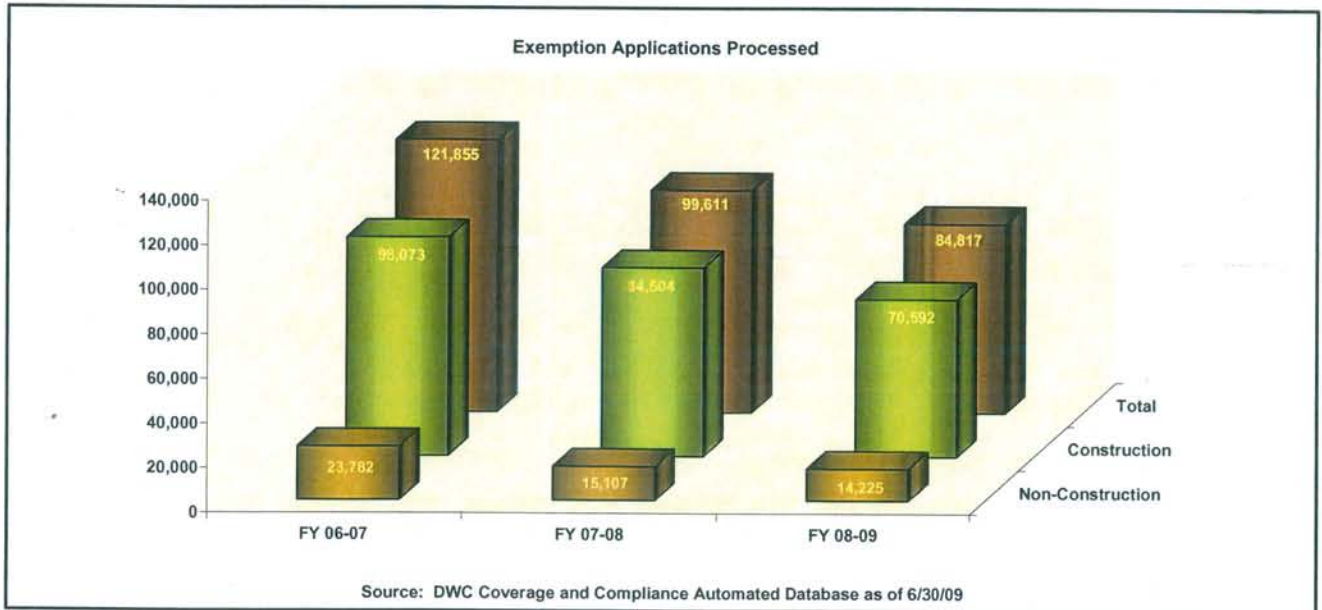


- Caused \$4,481,667 to be added to the premium base that had been previously evaded. During the last six years, the workers' compensation rates have decreased on average by over 60% due to the major statutory reforms in 2003. This rate reduction also resulted in reduced workers' compensation insurance premiums.



Exemption Statistics

- Processed 70,592 construction industry exemption applications and 14,225 non-construction industry exemption applications. As of June 30, 2009 there were 332,334 active construction exemptions which expire every two years. The 798,462 active non-construction exemptions do not expire, pursuant to Chapter 440.



3. New Initiatives

Expansion of Employer Education Campaign

During FY 2008-2009, the Division continued its emphasis on educating employers and helping them understand their statutory obligations under the Workers' Compensation Law by partnering with the U.S. Department of Labor, Office of Safety and Health Administration (OSHA) to provide employers with information related to both workers' compensation and workplace safety. The Bureau obtained licensure to provide instruction and continuing education credits for training on workers' compensation and workplace safety to employers who are licensed by the Department of Business and Professional Regulation, the Department of Financial Services, Bureau of Fire Prevention and the Florida Water Well Administration.

The Bureau conducted 66 education seminars in 20 cities throughout the state, providing education to 1,798 business owners, licensed contractors, employers and stakeholders who attended those workshops. The education seminars were conducted in both English and Spanish to ensure the information was accessible to all interested stakeholders.

Use of Internal and External Data to Promote Compliance

The Division is developing two new data mining initiatives to help identify a higher percentage of non-compliant employers. The Division began partnering with the Department of State, Division of Corporations, to obtain data related to new businesses being registered. The data is matched against the Division's proof of coverage records to identify those employers that have not reported workers' compensation policy information. The second initiative consists of a separate analysis of the Division's proof of coverage records to identify employers whose workers' compensation policies have been cancelled or expired and have not reported subsequent coverage information to the Division. This initiative enables the Division to utilize internal resources, employer correspondence and tracking mechanisms to identify potential non-compliant employers and initiate employer investigations.

Historically, many non-compliant employers have complied with the workers' compensation coverage requirements as a result of enforcement action by the Division. This initiative will enable the Division to measure the number of employers that obtain coverage in response to the Division's correspondence, making it unnecessary to initiate formal enforcement activities.

Enhancements to Public Databases

The Division is in the initial phase of enhancing two of the most frequently used databases on the Division's website; the Construction Policy Tracking Database and the Proof of Coverage Database. The Construction Policy Tracking Database is designed to send automatic electronic notification to an employer concerning any changes to its subcontractors' workers' compensation coverage status. Currently, the system allows an employer to track policy information only; however, the enhancements to the database will allow an employer to track the exemption status of all its subcontractors' corporate officers.

The Division amended Rule Chapter 69L-56, F.A.C., to require insurers to report payroll and number of employees to the Division. In addition, the Division promulgated Rule 69L-56.205, F.A.C., to specify insurer requirements for reporting proof of coverage to the Division for an employee leasing

company and its client companies. Historically, uniform proof of coverage reporting requirements for employee leasing companies and their client companies have been non-existent. This lack of uniformity and standardization has made it difficult to verify coverage information for employee leasing companies and their client companies and hinders enforcement of the workers' compensation law.

To resolve some of these issues, the Division plans to enhance the Proof of Coverage Database to allow users to view the number of employees and the governing class code reported for each policy. At a minimum, this information will provide users with additional data to assist in verifying whether the employer has obtained appropriate coverage. In addition, the new insurer reporting requirements will allow coverage information reported for employee leasing companies and their client companies to be displayed accurately in the Proof of Coverage Database and updated as client companies are initiated and terminated.

Strategic Planning

During FY 2009-2010 as part of its continuous efforts to increase knowledge of ongoing and developing fraudulent, non-compliant schemes and improve information sharing, the Division plans to participate in strategic planning discussions with the Division of Insurance Fraud. Strategic planning will allow the Divisions to collaborate on the development and implementation of new strategies and techniques to identify a higher percentage of non-compliant employers.

Initiation of Liens

Pursuant to s. 440.107(11), F.S., the Division will begin to file liens against employers who fail to pay their assessed penalty. The liens will be filed with the Department of State and the circuit court. Once a lien has been filed, the lien is applicable to all corporate assets and remains in effect for 5 years from the date the lien is recorded or until the assessed penalty is paid in full, whichever is less. The employer will not be able to sell any of its property encumbered by the lien. In addition, the existence of a lien may impact a contractor's ability to obtain a license with the Department of Business and Professional Regulation.

4. Investigator Training

The Bureau recognizes training as an integral component in identifying and sanctioning employers that are not in compliance. During the period of July 1, 2008 and June 30, 2009, the Bureau held numerous workers' compensation training sessions. The primary focus of the training sessions was to give each Investigator greater technical skills to enhance their enforcement efforts by reviewing and updating office procedures, comparing and analyzing data and identifying areas of improvement within the enforcement process. The training sessions are summarized below:

Reid & Associates Interview and Interrogation Techniques - This three-day interview and interrogation training program is widely recognized as one of the most effective means available to conduct investigations and develop interview and interrogation skills. The specialized interrogation training seminars are designed for law enforcement and government investigators. 22 investigators attended the training seminar.

New Investigator Training Program – This 10-week training program was developed and implemented for new investigators. As new investigators are hired, the District Supervisors provide individualized training on policies and procedures, processes, forms, databases, customer service and the investigative process. The investigator and the District Supervisor signs an acknowledgement form after each portion of the training program has been completed. The investigator is then assigned to accompany experienced investigators in the field prior to being assigned to perform enforcement action independently.

District Training

Each of the seven District Offices have provided various training sessions for their investigators based upon the needs of the districts. The District Supervisors consistently conduct regular training sessions with the investigators to review changes in processes and procedures, in addition to reviewing cases containing issues of interest. In addition, the periodic Management Reviews of District cases have provided opportunities for the Districts to perfect their skills in the application of enforcement processes.

Monthly / Quarterly Supervisor Meetings

These meetings serve as planning sessions where procedures are reviewed, data is analyzed, and solutions are found to challenges in the enforcement process. These sessions are attended by the Investigation Managers, District Supervisors, Bureau Chief and may include the Director, Assistant Director or a representative from our Legal staff.

5. Division of Workers' Compensation Website

The Division of Workers' Compensation Website is located at: www.myfloridacfo.com/wc/ and it contains links to several databases that are helpful to employers. The following is a list and description of databases within the Division's website. During FY 2008-2009, the Division databases were accessed more than 27,000 times per month.

- **Proof of Coverage Database**

The Proof of Coverage Database is available to the public and is particularly helpful to employers in both the construction and non-construction industries. An employer can determine if a subcontractor, or other entity, has a Workers' Compensation insurance policy, enabling them to access their own liability for providing coverage for unprotected workers, as required by section 440.10, F.S. As of June 30, 2009, 374,350 workers' compensation policies were in effect.

- **Compliance Stop-Work Order Database**

The Compliance Stop-Work Order Database, which is accessed through the Division's website, lists employers that have been issued stop-work-orders for failing to comply with the coverage requirements of Chapter 440, F.S. The database contains each employer's name, the date the stop-work order was issued, the date the stop-work order was released and the type of non-compliance violation.

- Online Penalty Payment Service

The Online Penalty Payment Service is available for employers to whom a Stop-Work Order or Order of Penalty Assessment has been issued. This free service allows employers to pay their penalty payment in full or submit monthly periodic payments as required in their Periodic Payment Agreement. The Penalty Payment Service is convenient, simple to set up and easy to use.

The Division also made available an online Employer Instructional Manual, which contains general information about the Online Penalty Payment Service and step-by-step instructions on setting up an online payment account. The Instructional Manual is provided to employers to whom a Stop-Work Order or Order of Penalty Assessment has been issued. In addition, employers can view and download the Instructional Manual from the Division's homepage.

- Construction Policy Tracking Database

The Construction Policy Tracking Database continues to be helpful to contractors and other interested parties regarding the workers' compensation coverage status of the subcontractors they use. The system is designed to send automatic electronic notification to an employer concerning any changes to the subcontractors' coverage status.

This database is also a useful tool for local permitting and licensing officials and insurers. As of June 30, 2009, a total of 6,650 Construction Policy Tracking Database registrants are tracking 30,924 workers' compensation policies.

- DWC e-alerts

As newsworthy events or important announcements are available, subscribers are sent email alerts. Events such as the promulgation of rules, announcements regarding employer seminars, and changes to the laws are examples of how the e-alert system is used. This is very helpful to employers who need to remain current with the changes in regulations governing their businesses.

6. Employer Education

The Division of Workers' Compensation participates in employer conferences and workshops with construction trade associations and industry groups to provide information regarding workers' compensation coverage requirements. This has included participation in conferences sponsored by the following:

- Bay Area Electrical Apprenticeship
- Cape Coral Construction Industry Association
- Career Central Jobs
- Certified Licensing Officials Association of Florida (CLOAF)
- Clearwater Business Association
- Community Associates Institute
- Contract Growers Association
- Florida Association of Electrical Contractors
- Florida Electrical Workers Association
- Florida Gulf Coast University

Florida Society of Accountants
 Hillsborough County Building Department
 Keys Contractors Association
 Lehigh Acres Chamber of Commerce
 Nova University
 Oldsmar Chamber of Commerce
 Palm Construction School
 Southern Association of Workers' Compensation Administrators
 Southwest Florida Roofers Association
 The Alliance of Florida Contractors
 University of Florida

7. DWC Office Locations and Staff

From an organizational perspective, the state is divided into an eastern and a western region. The eastern region consists of the following offices: Jacksonville, Ocala, St. Augustine, Orlando, Daytona Beach, Cocoa, Tavares, West Palm Beach, Plantation and Miami. The western region consists of the following offices: Pensacola, Tallahassee, Panama City, Ft. Walton Beach, Tampa, Sarasota, New Port Richey and Fort Myers. The enforcement staff consists of 70 Investigators, 7 District Supervisors, and 2 Investigation Managers strategically located in 18 cities throughout the state.

	Office Locations	Number of Investigators
District 1	Jacksonville – District Office	6
	Ocala	1
	St. Augustine	2
District 1A	Pensacola – District Office	4
	Panama City	2
	Ft. Walton Beach	3
	Tallahassee	3
District 2	West Palm Beach – District Office	6
	Plantation	5
District 3	Tampa – District Office	4
	Sarasota	4
	New Port Richey	2
District 4	Orlando – District Office	6
	Daytona Beach	2
	Cocoa	1
	Tavares	1
District 5	Miami – District Office	9
District 6	Ft. Myers – District Office	9

8. Average Caseload

For the period of July 1, 2008 through June 30, 2009, a total of 29,166 Bureau of Compliance cases were closed. The average caseload for each compliance investigator was 34.7 per month.