



EIGHTEENTH STATEWIDE GRAND JURY
Case No. SC 07-1128

SECOND INTERIM REPORT
OF THE STATEWIDE GRAND JURY

CHECK CASHERS: A CALL FOR ENFORCEMENT

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Thomas D. Hall, Clerk
Supreme Court of Florida

By: 

Deputy Clerk

residences. There are no references or any other information in the files that would provide leads to the investigators trying to identify the principals of the companies cashing checks.

The Workers Compensation Fraud Scheme

When it comes to workers compensation premium fraud, check cashers are not content with passively laundering others' profits. They instead opt to be a part of the fraudulent scheme itself.

Workers compensation premium fraud has been a problem in Florida for many years. Unfortunately, many employers find it easier and more profitable to cheat than compete fairly. Most of the fraud occurs in the construction trades where the premiums are highest. DIF has been fighting against this fraud in all its various forms for years. Over the last few years these insurance cheats have concocted a new scheme with the help of check cashers to avoid paying their fair share of insurance premiums.

Chapter 440 of the Florida Statutes requires most employers and virtually all construction companies to provide workers compensation insurance for their employees. Premiums are calculated by a formula that takes into account the amount of payroll paid by the employer and the classification of employees on that payroll. The more dangerous the job the higher the rate for that classification. Thus, insurance rates for roofers are much higher than those for clerical workers. The calculation is also influenced somewhat by the employer's safety record, referred to as the modifier. Once these numbers are put into the formula, the estimated premium for the year is calculated by the insurer. In the construction industry, the amount of payroll will fluctuate during the year depending on the number

of projects undertaken, so the actual premium owed at the end of the year may differ from the original estimate. Some insurers require monthly updates from their insured; most, however, rely on year-end audits to determine whether more premium is owed or a refund is due.

The primary way for a contractor to cheat is to simply under-report the amount of payroll. The simplest way to do this is to buy a bare minimum insurance policy claiming almost no payroll and then claim that all the workers on the job site are actually employees of a subcontractor. In reality, there is no subcontractor, and the workers are, in fact, the cheating contractor's own employees.

This poses two problems for the contractor. In order to get contracts and pass site inspections by DIF, the contractor must have a certificate of insurance showing that the employees are covered by the mythical subcontractor's insurance. Secondly, the contractor must still be able to pay his labor force without creating a paper trail leading back to him and revealing that the "subcontractor's" employees are really his own.

This is where some check cashers join in the fraud. First a "shell" company is formed in the name of a nominee owner, often a temporary resident of the U.S. This company has no real operations or employees. This shell company will then buy a bare minimum insurance policy so as to procure the all important certificate of insurance that the contractor needs to show. Certificates of Insurance do not show the amount of coverage so a certificate covering \$10,000,000 of payroll looks the same as a certificate covering \$10,000 of payroll. The contractor then writes checks to this shell company playing the part of the phony subcontractor. One recently indicted Miami check casher went so far as to create mobile check cashing units that

would come straight to the contractor's construction site. In reality, the contractor is actually cashing the check he's just written to the phony company and taking the cash back to pay his employees under the table. On paper, however, it appears he's paying another company for their work on the project. The only people aware of the scheme are the contractor and the check casher. These checks are almost always over the \$10,000 limit and must be reported on a Currency Transaction Report (CTR) to the federal government. Here again the check casher does his part by either falsifying the CTR, claiming to have paid the money out to the phony subcontractor, or, in some cases, dispensing with the CTR altogether. Both of these actions are 3rd degree felonies. For their trouble and risk the check cashers will get 7% of the value of the check or more for cashing the checks, over the legal limit check cashers are allowed to charge and closer to what traditional money launderers receive for their services.

The contractor has now hidden his payroll and procured the necessary certificate of insurance without purchasing any insurance for his workers. At the end of the year the insurance company will attempt to audit the shell company only to learn it has closed its doors and the nominee owner is nowhere to be found, having usually gone back to his home country. While it appears that the insurance company is left holding the bag, in fact, the insurance rates simply go up to offset the fraud and contractors who don't cheat pay ever higher rates for their coverage.

When investigators move in and try to identify the people behind these workers compensation schemes, they run into the same problems as other investigators: skimpy customer files, fraudulent paperwork, and a dead end.

Some check cashers are not content with passively waiting for

contractors to figure out this scheme and come to them. They take a more proactive approach by creating these shell companies themselves, securing the certificates of insurance and aggressively seeking out contractors for their business. We have seen examples of this aggressive approach by corrupt check cashers in Southeast and Southwest Florida.

The impact of this workers compensation fraud scheme is not just felt by insurers. This scheme works by hiding payroll and paying workers cash off the books. That means no federal taxes paid, no money going into the social security fund, no money to Medicare, and no money into the unemployment fund. This scheme also impacts legitimate businesses that don't cheat. An honest businessman can't win bids on contracts against contractors who are saving hundreds of thousands of dollars on taxes and insurance by cheating. Worse, even as they lose contracts, honest businessmen will be paying higher premiums to make up the shortfall caused by the cheaters; and injured workers that aren't insured will still wind up at county hospitals, their bills being footed by the taxpayers.

The problem is bigger than many people think and frankly much larger than we had imagined. In one single investigation by DIF, ten construction companies funneled one billion dollars through check cashing stores in the last 3 years. We don't believe there is any legitimate excuse for all that money being cashed at check stores. We believe, based on all the evidence we've heard, that this billion dollars represents money flowing into the underground economy and, unfortunately, probably represents only a part of what's being lost to society.

An indepth inquiry of illicit practices in the construction industry in Florida is beyond the scope of this grand jury, but we have heard enough

evidence to raise questions that might be answered by a future grand jury. In the short term, it may be prudent for the legislature to inquire of the industry, when considering this Grand Jury's recommendations, why they have apparently decided over the last few years to move increasingly to an all cash payroll.

We have heard enough to know that paying workers in cash certainly facilitates not only the hiring of undocumented workers, but also the evasion of insurance and payroll taxes.

Criminal Investigations

The conduct described above has been discovered through long and diligent investigations by South Florida law enforcement. Unfortunately, their investigations into the individuals behind much of the fraud and money laundering are hampered by the complicity of many check cashers in the money laundering. This complicity most often takes the form of poor record keeping in order to shield the identities of the criminal clientele of the check cashers.

The most critical part of the record keeping is the Currency Transaction Report or CTR. CTRs are required by both state and federal law. A CTR must be filled out and filed by a financial institution for every transaction that exceeds \$10,000 in cash. CTRs are then filed with FinCen and such records are available to law enforcement around the country. Failure to fill out and file a CTR when required is a felony under state and federal law.

Financial institutions, including check cashers, are required to make necessary inquiry to make sure of the identity of their customer. Verification of customer identification is a critical component of the required Anti-Money