



# Safety News

News for Members of the Contractors Insurance Safety Council – Group 44 Program

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July, 2010

## Safety Engineer and Union Rep Named to OSHA Standards Board

Governor Arnold Schwarzenegger has appointed a former Chevron safety engineer and a labor union business representative to the Occupational Safety and Health Standards Board.

The governor appointed Henry McDermott of Moraga and David Thomas of Modesto to the seven-member board, which sets standards for the state Occupational Health and Safety Division (Cal-OSHA).

McDermott, 65, has been president of H.J. McDermott since 2002. Previously, he worked for Chevron Corp. as team leader of occupational safety and health from 1993 to 2002, chief industrial hygienist from 1989 to 1993 and staff industrial hygienist from 1980 to 1989, the governor's office said.

McDermott is a California licensed professional safety engineer. He has declined to state membership in a political party on voting records.

Thomas, 52, of Modesto, has been a business representative for the Northern

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## Fraud Assessment Commission Divides Nearly \$30M in Grants

District attorneys in 36 California counties will split nearly \$30 million provided, courtesy of employers, through the state Department of Insurance this fiscal year to combat workers' compensation fraud.

The money, as allocated by the department's Fraud Assessment Commission, provides a slightly smaller pool of money in the current fiscal year, which began July 1. The 2010-2011 total is \$29,827,500, down less than 1% compared with \$29,886,407 last year.

The money comes from an assessment on employer's workers' compensation premiums, and the distribution is subject to approval of the state budget.

Big winners this year include Napa County, which had no funding last year but received \$85,000 in the 2010-11 grants; Yolo County, which saw a 33% jump to \$230,000; and Tehama County, which more than doubled its grant from \$30,566 to \$65,000. Some larger counties saw minor increases, including Riverside, up \$95,000 to \$1,225,000; and Orange, up more than \$75,000 to \$3,190,000.

Senior Deputy Orange County District Attorney Jo Marie Escobar, program director of the insurance fraud unit, said the county opened 127 investigations and brought 47 cases to court last year. Of the 17 cases that have concluded, the courts have ordered more than \$18.4 million in restitution and collections so far exceed \$951,000.

Escobar said her office prefers high-visibility cases where a crooked lawyer or unscrupulous medical provider can be convicted, which acts as a deterrent to others

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## Jailed OC Insurance Broker Also Faces \$2M Civil Judgment

A jailed Orange County insurance broker who is serving a 10-year prison sentence for workers' compensation insurance fraud now has to deal with a \$2 million civil judgment.

Irvine lawyer Douglas J. Pettibone said he was able to obtain a mediated judgment against broker Mitchell Basil Zogob, who admitted in April to 23 felony counts connected to his collecting more than \$4 million in workers' compensation insurance premiums and never obtaining the insurance.

Pettibone, representing Transworld Solutions, separately pursued a civil case against Zogob and his company MS Management in the Los Angeles Superior Court, alleging fraudulent misrepresentation, deceptive trade practice and breach of contract.

In a release, Pettibone said he used "the alter ego theory" to assert that Zogob, shareholders and officers did not operate the company as if it were a separate legal entity. Pettibone said the remaining shareholders agreed to the \$2 million settlement after a three-day mediation, which resolved all remaining issues in the civil case.

Source: WorkCompCentral

# SAFETY... It Pays



## CISC

Contractors Insurance  
Safety Council

Group 44 Program

### Participating Exchanges

#### Valley Builders Exchange

Modesto—Chapter 12

Karen Bowden, Executive Director  
Phone 209/522-9031

#### Kern Co. Builders Exchange

Bakersfield—Chapter 16

Roy Alvarez, Executive Director  
Phone 661/324-4921

#### Southern California Builders Association

Whittier—Chapter 17

John Trocolli, Insurance Administrator  
Phone 909/792-9190

#### Santa Maria Valley Contractors Association, Santa Maria—Chapter 27/29

Robin Hayhurst, Executive Director  
Phone 805/925-1191

#### San Luis Obispo County Builders Exchange. San Luis Obispo—Chapter 28

Leslie Halls, Executive Director  
Phone 805/543-7330

#### Builders Exchange of Merced Mariposa

Merced—Chapter 30

Bernice Vigil, Manager  
Phone 209/722-3612

#### Santa Barbara Contractors Association

Santa Barbara—Chapter 32

Karin Perissinotto, Executive Director  
Phone 805/884-1100

#### Tulare Kings Builders Exchange

Visalia—Chapter 38

George Elam, Executive Director  
Phone 559/732-4568

[www.ciscgroup44.org](http://www.ciscgroup44.org)

## Accident Investigation: Preventing the Next Accident

When you can't prevent an accident, you have to investigate so that you can prevent the next accident. Most workplace safety and health programs follow the same basic route for preventing job accidents:

- Inspections
- Hazard analysis
- Correction of known hazards
- Establishment of safety rules and procedures
- Employee training and education

There is, of course, another important element—accident investigations. To prevent future accidents, you have to understand today's accidents.

Here's a quick review of accident investigations from start to finish.

**Conduct the investigation promptly.** Schedule an immediate on-site investigation before the trail "gets cold." Good investigators are trained in data gathering, problem identification, cause analysis, and action planning. They should be experienced and open-minded.

**Have your investigation kit ready for action.** Some of the important items include:

- Camera and film
- Investigation forms, clipboards, and pens
- Barricade tape to block off the accident area
- Flashlight, in case the lighting is inadequate
- Measuring tape to determine distances
- Tape recorder to record observations by the investigating team
- Personal protective equipment (PPE), as appropriate

**Survey the scene.** Make sure that your fact-finding presents a complete and accurate picture of just what happened.

**Get the facts.** Talk to those involved and those who witnessed the accident. Don't play the blame game! Emphasize that the purpose of the investigation is PREVENTION!

**Analyze your findings.** Review the facts. Read the description of the accident and events leading up to it. If this was a routine situation, consider any factor that was unusual on that particular day. To phrase it another way: What was not normal? What went wrong? Consider all the possibilities.

**Identify causes.** Identify the immediate cause—person, place, or thing. Very often this is the easy part. List contributing factors—there may be several. List underlying root causes. Were any factors completely unpredictable? Discuss any alternative theories if the investigating committee is not in agreement.

**Report your findings and recommendations.** Summarize the facts of the accident and events leading up to it. Make recommendations to reduce future risks. List immediate corrective actions. Get approval for your proposals.

Follow up to ensure that recommended action is taken. Check to see that immediate changes have been made. Continue to review until all long-term preventive changes have been completed.

Source: *BLR's Safety Daily Advisor*

## Comp Insurers Post \$1.5B Underwriting Loss in 2009

**A** weak economy and soft workers' compensation rates spawned a \$1.5 billion underwriting loss by California workers' compensation insurers in 2009, according to a summary of Workers' Compensation Insurance Rating Bureau (WCIRB) data prepared by the California Workers' Compensation Institute.

Incurred losses plus expenses for 2009 totaled nearly \$10.7 billion, or 116.5% of earned premium, with \$18 million paid in policyholder dividends, producing a pre-tax underwriting loss of \$1.5 billion, according to the institute.

Earned premium for insurers last year totaled \$9.1 billion, down 16.5% from \$10.9 billion in 2008. The earned premium is gross of deductible credits or recoveries, and doesn't include retrospective rating, dividends or nonstandard coverage.

Payments for medical treatment increased to \$3.68 billion last year from \$3.64 billion in 2008. Of that amount, payment to physicians was the largest share at \$1.47 bil-

lion, which declined from \$1.51 billion in 2008. Hospitals received nearly \$1.05 billion, down from \$1.1 billion and "other payments," including payments to injured workers for future medical benefits, was \$829 million -- up from \$674 million in 2008. Pharmacy reimbursements accounted for nearly \$340 million, compared to about \$368 million the previous year.

The institute said indemnity payments represented a quarter of system costs in 2009, with temporary disability at \$1.36 billion, which was down 6.1% from 2008. Aggregate permanent disability payments declined 1.2% to \$1.34 billion last year, and death benefits held steady at nearly \$72 million.

The WCIRB report, "2009 California Workers' Compensation Losses and Expenses" is posted online at [https://wcirbonline.org/wcirb/resources/data\\_reports/pdf/2009\\_loss\\_and\\_expenses.pdf](https://wcirbonline.org/wcirb/resources/data_reports/pdf/2009_loss_and_expenses.pdf).

Source: CWCI

## Uninsured Contractor Arrested, Deported

**A**n unlicensed cement contractor who failed to carry workers' compensation insurance has been arrested and deported, according to a news report.

Bakersfield Now, a website operated by two television stations in the city, reported that Jose Chavez Villegas, 27, was working at a home in the area last week when a Contractors State License Board investigator issued him a court notice to face charges of contracting without a license, illegal advertising and soliciting an excessive down

payment.

Additionally, an investigator with the Kern County district Attorney's office issued Villegas a court notice for failure to carry workers' compensation insurance, and Immigration and Customs Enforcement agents booked Villegas and three of his employees for deportation.

Villegas and his employees, who were not identified, were deported later that evening, according to the license board. Source: Bakersfield Now

**(ASSESSMENTS—continued from page 1)**  
who may consider illegal acts.

"The worker who exaggerates their injury may get a few thousand or maybe more than \$100,000, but that's nothing compared to a doctor who may pad bills for hundreds of patients," she said. "It's the lawyer and provider fraud. That's where the money's at."

Contra Costa County had its fraud grant increased 4.1% this year to \$625,000, which "will allow our office to devote more attorney time to the prosecution of workers' compensation fraud," said Deputy District Attorney Edward Dang, who oversees the insurance fraud unit.

The Department of Industrial Relations has stepped up the number of cases it has referred for investigation, so Dang said the plan is to add a second full-time attorney. Another goal is to expand the department's outreach efforts, such as an annual seminar it holds for employers, carriers, labor and third-party administrators on the basics of how to spot fraud.

Santa Barbara County took a slight cut, as its funding dropped \$10,000 to \$290,000 this year. "We'll continue to do all our prosecutions, even if we have to dip into our own pocket," said John MacKinnon, the deputy district attorney devoted to comp cases. The volume of cases in Santa Barbara County has grown from 20 to 25 last year to more

than 30, and the number of uninsured employers is on the rise, he said. "It may be the economy, but we're seeing a number of companies that are blowing the whistle on their competitors. We've found a number of companies that have operated for years without workers' compensation insurance," MacKinnon said.

Also losing funds are Los Angeles County, which had its grant cut 1.7% to \$5,000,000; Amador County, down 7.6% to \$425,000 and Shasta County, down 7.2% to \$150,000.

Left out of the money this year are San Luis Obispo County, which received \$94,000 last year but nothing in the latest round of allocations. Tuolumne County also saw its dollars cut to nothing, from a modest \$20,000 last year.

Dolores Schlichtmann, who manages the office for the Tuolumne District Attorney, said losing the grant came at a bad time for the department, which has experienced reduced staffing due to countywide cutbacks.

"We've lost two investigators and we've had layoffs in other areas, so any loss of funding is problematic for us," said Schlichtmann.

To see the complete list of fraud grants, go here:

<http://www.insurance.ca.gov/0400-news/0100-pressreleases/2010/release097-10.cfm>

Source: WorkCompCentral

## EDD Worker Gets Prison for Arranging Phony Disability Payments

A California Employment Development Department employee in the San Fernando Valley was sentenced Wednesday to five years in prison and ordered to pay \$100,000 in restitution for fraudulently arranging state disability payments to several friends in exchange for kickbacks of up to 50%.

Audrey Renee "Star" Bell, 49, of Pacoima, pleaded guilty in November to 10 counts of mail fraud. She had faced up to 20 years in federal prison and a fine of up to \$250,000.

Bell worked as a disability insurance program representative in EDD's Van Nuys office. In that job, Bell reviewed and authorized payments on disability claims, according to a press release from the U.S. Department of Justice.

Bell was busted by anonymous calls to the department's fraud hotline, which led to an investigation. The first call reported that an EDD employee known as "Star" had illegally given disability insurance benefits to a friend. Another tipster reported that a claimant was collecting disability benefits while employed full time.

Evidence at Bell's trial showed that in order to authorize payments to friends, Bell made entries in the EDD computer system to falsely indicate she had received required documentation to substantiate the claims, such as doctor's certifications, when in fact she had not. The false entries caused disability benefit checks to be mailed to Bell's friends.

At trial, several of Bell's friends testified against her, saying that they committed fraud with Bell, and that Bell generally took a cut of about half the money. In addition, a chiropractor testified that he would meet Bell in a post office parking lot to collect cash from Bell in exchange for certifying that Bell's friends were disabled.

*Source: Department of Justice*

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**(STANDARDS BOARD— from p. 1)**

California District Council of Laborers since 2009. Previously, Thomas was a business agent for the Laborers Local Union No. 73 from 2001 to 2009 and, from 1994 to 2001, was a business representative for the Northern California District Council of Laborers. Prior to that, he was a business representative for the Laborers Local Union No. 73 from 1987 to 1994. Thomas is a Democrat. He is a member of the San Joaquin Building Trades Council.

Neither appointment requires Senate confirmation. Board members are paid \$100 per diem, the governor's office said.

*Source: Calif. Governor's Office*

## OSHA Pilot Program Enlists Local Building Inspectors

Fed OSHA is launching a pilot program seeking to partner with building inspectors in 11 American cities to reduce injuries and fatalities at construction sites.

OSHA will work with and train bidding inspectors on hazards associated with the four leading causes of death at construction sites, namely, falls, electrocution, being crushed or caught between objects, and being struck by machinery or objects. Under this program, building inspectors would notify OSHA when they observe, during the course of their work, unsafe work conditions. OSHA, in turn, would send a federal agency compliance officer to that workplace for a safety inspection.

"This initiative allows us to expand our eyes and ears," said Dr. David Michaels, assistant secretary of labor for OSHA. "Although we are adding 110 new inspectors this year, OSHA simply cannot inspect every construction site in the country."