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# Northern California FRAUD INVESTIGATORS ASSOCIATION

N E W S L E T T E R

ISSUE 4

FALL 2004

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dan.stroski@yolocounty.org

Christopher Webster - *Past President*  
650.342.9495  
cwi.pi@ix.netcom.com

### SPEAKER ANNOUNCEMENT . . .

Our own Mike Kinnison and Jerry Hasser will be the speakers at our next quarterly meeting on December 3, 2004. Mike and Jerry will give us their presentation on *Application, Policy and Premium Fraud*. Jerry is one of our NCFIA board members and is an investigator with NICB. Mike is one of our past presidents and is with the Special Investigations Unit of CSE Insurance Company. Come join us! ■

### Come Honor Our PAST PRESIDENTS . . .

No, not the dead ones on your greenbacks. At our next quarterly meeting on December 3rd, we will be honoring the NCFIA past presidents with our Annual Past Presidents Luncheon. So, come say hello to them and show our thanks for the time and energy they've put into our association. ■

### UPDATE . . .

Government Code Section 985(g) gives the trial court the authority to deny reimbursement of any collateral source if necessary to avoid hardship on the injured person, and this provision may be applied to deny Medi-Cal liens.

See Garcia vs. County of Sacramento (2002) 103 CA 4th 67 or Cal Rptr 2d 465. ■

### TOYS FOR TOTS . . .

At our next quarterly meeting on December 3, 2004, we will have the opportunity to show our support for the Annual Toys for Tots Drive put on by our U.S. Marines. We will be honored and privileged to have present that morning the Marines color guard. Please bring your contributions of money and/or new, unwrapped toys. Happy Holidays to come for all!

We will be at:

ZIO FRAEDO'S  
December 3, 2004  
Starting at 9:00 a.m.

They are located at:

611 Gregory Lane  
Pleasant Hill, CA  
(925) 933-9091

Sure hope to see you all there. ■

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## NEW MEMBERS . . .

Peter Brown..... *Peter Brown & Associates*  
Christopher Champlin..... *Napa Valley Insurance Services*  
Katherine Clear..... *Pennsylvania Life Insurance*  
Dean Cornelison..... *Esurance*  
Kathleen Famulener..... *Alameda County D.A. Office*  
Matthew King..... *CSI Central Valley*  
Ann Mahony..... *West Coast Forensic Specialists*  
Leslie Mason..... *Department of Insurance*  
Mark Neyer..... *Silicon Valley Surveillance Experts*  
Mike Nichols..... *Frasco, Inc.*  
Beth Ossino..... *Golden Bear Insurance*  
Kathy Richards..... *CGI*  
Robert Tanner..... *CGI*  
Lisa Villasenor..... *Manning, Marder, Kass, Ellrod & Ramirez*  
Sean Walsh..... *Pennsylvania Life Insurance*  
Steven Ward..... *Commercial Claims Solutions*  
Jack Williams..... *Williams Investigations*  
Mozelle Yarbrough..... *Allstate/Encompass* ■

## SECRETARY'S MESSAGE . . .

*Greetings – hot summer days have been replaced by the time change, holidays, sweaters, fires and cooler weather – what has not changed is on-going fraud and our commitment to identify it, prosecute it and try to alleviate it. That is why NCFIA is here and what we try to accomplish every time we meet. Our quarterly meetings and our Annual Conference are excellent training vehicles – don't miss a one and that way you will always be on top of what is going on.*

*Dues renewals went out in October – on BRIGHT YELLOW paper -- please sign the form, answer the 2 questions and return it to me with \$35 – that way you will keep up to date with all that is going in the Association and all that we have to offer.*

*Eager to see you all at the December meeting – and Happy Holidays – please be safe.*

**Lea Smith**  
*Executive Secretary, NCFIA* ■

## REMINDERS . . .

OUR NEW ADDRESS is 1141 Catalina Drive, #155, Livermore, California 94550.

PLEASE SHARE IT WITH YOUR FELLOW MEMBERS. Do you have an update – a case you are working on – legal updates/information – a new technique you have developed – a new way for folks to perpetrate fraud that you have run across? This is how we stay ahead of the “bad guys.”

16th ANNUAL CONFERENCE  
Conference dates March 23, 24, 25, 2005 . . . Golf, Tennis, Pool date March 22, 2005 . . .  
Same place! More information later, but we could update the dates. ■

## NEW BOARD . . .

Here are the election results for the Officers and Board of Directors:

*President*..... Kevin Traylor  
*Vice President*..... Peter Meshot  
*Secretary*..... Lea Smith  
*Treasurer*..... Mike Sloan

New Directors:

Eric von Geldern..... *Alameda Co. D.A. Office*  
George Cramer..... *Cramer Investigations*  
Jerry Hassler..... *NICB*

Returning Directors:

Dan Stroski & Steve Begley

*Thank you to all who ran for and expressed interest in the Board.* ■

## NEWSLETTER CONTRIBUTIONS WELCOME ! . . . .

Your contributions of articles, announcements, information, etc., to the newsletter are most welcome and encouraged.

Deadline for the next issue is October 25, 2004. Advertisement space is still available and can be purchased for the advertising cycle of July 1, 2004 to June 30, 2005.

Please contact Peter Meshot at (916) 564-9710 (pmeshot@mcdowelllaw.com) for details on contributions and ads.

Thank you for supporting your association! ■



# SPONSORSHIP FORM

NCFIA 2005 Golf Tournament at Carmel Valley Ranch Golf Course  
Tuesday, March 22, 2005

- |  |   |
|--|---|
| <input type="checkbox"/> \$500 GRAND SPONSOR             | <input type="checkbox"/> HOLE IN ONE PRIZE SPONSOR  |
| <input type="checkbox"/> \$500 DRINK CART SPONSOR        | <input type="checkbox"/> LONGEST DRIVE SPONSOR      |
| <input type="checkbox"/> \$250 PLATINUM SPONSOR DONATION | <input type="checkbox"/> CLOSEST TO THE PIN SPONSOR |
| <input type="checkbox"/> \$100 TEE SPONSOR DONATION      |   |

TEE SPONSOR: \_\_\_\_\_

NAME ON SIGN: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: (WORK) \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

PLEASE ATTACH A BUSINESS CARD FOR ACCURACY

## NCFIA ANNUAL CONFERENCE SPONSORS

The following is a current list of those kind and generous sponsors who have contributed to our 16th Annual Seminar. Please contact George Cramer at (925) 833-2675 or [gcramer@gcinvestigations.com](mailto:gcramer@gcinvestigations.com) if you would like to add your name to this list. Please support your organization!

### SUSTAINING MEMBERS

*George Cramer*  
*California State Automobile Association*  
*Haims, MacGowan, Valentino & Peebles*  
*Law Offices of David McDowell*  
*Low, Ball & Lynch*  
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*J.D. Wesson & Associates, Inc.*  
*Capital Investigations, Inc.*

### CONTRIBUTORS

*Mid Peninsula Investigative Services*  
*Hercules Police Officers Association*  
*Ginter Investigations, Inc.*  
*Maurice Bircher* ■

A tee sign will be placed on a designated hole with the above information.

Mail check and form to:  
William M. Jones  
P.O. Box 398, Brentwood, CA 94513-0398

Call William at (925) 625-4994  
if interested in Hole-in-One, Longest Drive  
or Closest-to-Pin Sponsorship

IRS#: 94-3110147 ■

## ANNUAL CONFERENCE EXHIBITORS

Here's the list of those who have already signed up as exhibitors for our next annual conference.

- ◆ Probe Information Services
- ◆ Llorente Investigations
- ◆ Commercial Claims Solutions
- ◆ Benchmark Medical Consultants
- ◆ ISO Claims Solutions

Space is limited so contact:

Norm Parker at (916) 362-4028  
or [PAKERN2@Nationwide.com](mailto:PAKERN2@Nationwide.com)

to see about being an exhibitor. ■

## THE NCFIA 2005 MEMBERSHIP DRIVE

THE NCFIA NEEDS YOU, YOUR FRIENDS, AND YOUR COLLEAGUES!

*Here is your chance to win a conference registration for  
The 16th Annual NCFIA Training Conference in Monterey  
March 23-25, 2005!*

Who is eligible to participate in the membership drive? All 2004 NCFIA members!

How is it done? It's easy!

1. *Recruit a new member – a private investigator, someone from law enforcement, insurance industry personnel, an attorney, or anyone else in an anti-fraud related position.*
2. *Provide the new member with a membership application or have them download an application from the NCFIA website – [www.ncfia.org](http://www.ncfia.org).*
3. *Have the new member list your name as “sponsor” on the application.*
4. *Have the new member submit the application, along with the \$35 annual membership fee.*

Upon approval of the application by the Board of Directors' Membership Committee, you will be credited with a new membership!

Who is eligible for membership? Membership in the NCFIA is limited to peace officers, investigators, prosecuting attorneys, members of the insurance industry, or anyone in a related field engaged in fraud investigation – insurance claims personnel, members of state or federal agencies, private investigators and attorneys. (See the NCFIA By-Laws, “Article II – Membership,” online at [www.ncfia.org](http://www.ncfia.org))

What are the benefits of membership? The NCFIA provides its members with a unique opportunity to participate in the activities of the premier anti-fraud organization in the State of California.

With an emphasis on networking and training, the NCFIA is an essential component of any fraud suppression program, whether in the insurance industry, law enforcement, or other related fields. The NCFIA strives to provide the best in training and instruction certified by POST, MCLE and the California Department of Insurance. Membership is *only* \$35 per year. Training is provided at quarterly meetings and at the NCFIA's annual two and one-half day training conference held in the beautiful environs of the Monterey Peninsula.

How do you win? The 2004 member with the most new members recruited and approved as of February 1, 2005 will win, a \$235 value! This is subject to a minimum of 5 new members recruited by the 2004 member and approved by the Board of Directors.

### THE NCFIA NEEDS YOUR SUPPORT!

ARE ALL OF THE MEMBERS OF YOUR AGENCY, SIU, OFFICE OR LAW FIRM INVOLVED IN ANTI-FRAUD ACTIVITIES MEMBERS OF THE NCFIA?

DO YOU WORK WITH PEOPLE ON FRAUD SUPPRESSION ACTIVITIES WHO ARE NOT MEMBERS OF THE NCFIA?

SIGN THEM UP TODAY! ■

## SUB-ROSA VIDEO . . . and Its Submittal to the District Attorney

By Dan Stroski

September 13th, 2004

A thought came to me this morning as, like a good NCFIA member should, I contemplated what would be print worthy in our publication. After close to seven years of experience in doing workers' compensation investigations and prosecutions a thought came to me. Many of us review or actually take sub-rosa video for later use in court. I thought this information may prove helpful. It is important to note that the video tape and its content is not evidence. Yes, I said it's not evidence, but it could be used as evidence at a later date with the proper foundation.

So what's the difference you ask? The submittal of sub-rosa video tape to the District Attorney's office is good in that it gives them the sense of what the applicant is doing and allows for contrasting that which was told to the doctor. The video or misrepresentation should be in close proximity to the misrepresentation. We are always looking for the proverbial "I was having a good day" defense. So acts and / or frequency of acts are compared to that which was given to either the doctor, Defense Counsel during an Deposition, or claims personnel. Also, we evaluate how the questions are posed so as to avoid the "I didn't understand" defense.

The video is merely a representation of that which was seen by the investigator on the dates and times depicted. It is the testimony of the investigator that is evidence. For these reasons, video tapes need to be authenticated before being shown in court. Who took the video, when, and is this ALL the video taken during the case, are all questions that need to come out before the case is filed. It is important to note that the District Attorney carry's the burden

of knowledge of all evidence, whether you have shared it with us or not. (Hence, we ask) Videos should be broken out, so that if three investigators worked the claim, there should be three videos depicting what each investigator saw. Each video that is submitted to the District Attorney should be signed by the investigator who took it, authenticating that it accurately reflects what he/she saw on the dates and times depicted.

Now, nothing I have said here says you have to have the videos signed before you submit the case to the D.A. for charging or investigation consideration. But, trust me, if you PI's don't want all your investigators playing the court room hurry up and wait game, this is to your advantage. PROP 115 allows Peace Officers to render hearsay testimony, with certain limitations. Prosecutors like to PROP 115 their investigators to death in an effort to avoid having to coordinate a Bazillion witnesses for a Preliminary Hearing. So your video tape can't come in, viewed, or be considered unless the court knows its been authenticated. Many times the video tape goes from the PI to the Claims Adjuster, to the Defense Counsel, and then to the Prosecutor. This practice, although practical and economic, will raise the red flag of contamination in a criminal proceeding. So, this will hopefully explain why video tape you have submitted is asked for again and in a different format.

Lastly, PROP 115 is for Preliminary Hearings only. If the matter goes to trial, the gloves come off and all the investigators have to come in for live testimony. ■

## AL - GEBRA MOVEMENT

Compliments of  
George Arata with Curtis & Arata

At New York's Kennedy Airport today, an individual, later discovered to be a public school teacher, was arrested trying to board a flight while in possession of a ruler, a protractor, a setsquare, a slide rule, and a calculator. At a morning press conference, Attorney General John Ashcroft said he believes the man to be a member of the notorious Al-gebra movement. He is being charged by the FBI with carrying weapons of math instruction.

*"Al-gebra is a fearsome cult," Ashcroft said. "They desire average solutions by means and extremes, and sometimes go off on tangents in a search of absolute values. They use secret code names like 'x' and 'y' and refer to themselves as 'unknowns', but we have determined they belong to a common denominator of the Axis of Medieval with coordinates in every country. As the Greek philanderer Isosceles used to say, 'there are 3 sides to every triangle.'" When asked to comment on the arrest, President Bush said, "If God had wanted us to have better weapons of math instruction, He would have given us more fingers and toes." ■*

# 16th ANNUAL NCFIA GOLF TOURNAMENT

Announcing the 16TH ANNUAL NCFIA GOLF TOURNAMENT, scheduled to take place on the Carmel Valley Ranch Golf Course, One Old Ranch Road, Carmel, CA, (831) 620-6406 on Tuesday, March 22, 2005. This is roughly 15 minutes from the Hyatt to the golf course. There will be a shotgun start at 8 a.m.

The tournament is open to the first 144 players to sign up. The format this year will be a four person SCRAMBLE and is a team format with blind bogey scoring.

With this format, players of all abilities have a chance to contribute to the team. Registration is open to all NCFIA members and their guests; conference attendance is not required to participate.

Entry fees are \$115.00 per player and will include the following:

- ◆ 18 Holes of Golf with cart
- ◆ Tee prizes for each participant
- ◆ Continental Breakfast starts at 7 a.m.
- ◆ One Mulligan per play per round
- ◆ Philly Cheese Steak Lunch
- ◆ Closest to the Pin Contest
- ◆ Complimentary on-Course beverages (No hard liquor or tobacco)
- ◆ Long Drive Contest
- ◆ Raffle Drawing Prizes
- ◆ Trophies and Awards

◆ ◆ ◆ SPECIAL HOLE-IN-ONE GIVE AWAY ON EVERY PAR 3 ◆ ◆ ◆

Come and join us for an exciting day of golf on the beautiful Monterey Peninsula. To guarantee your entry, complete and detach this registration form, enclose a check made payable to the NCFIA, and mail to address below.

◆ ◆ ◆ Checks must be received by March 10, 2005 ◆ ◆ ◆

## 16TH ANNUAL NCFIA GOLF TOURNAMENT REGISTRATION FORM

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: (DAY) \_\_\_\_\_ FAX: \_\_\_\_\_

FOURSOME: \_\_\_\_\_

Or we will pair you \_\_\_\_\_

PLEASE PREPAY TO SPEED REGISTRATION PROCESS. MAIL REGISTRATION TO:  
LEA SMITH, 1141 CATALINA DR., #130, LIVERMORE, CA 94550 ■

## PRACTICE ROUNDS AVAILABLE

Play at Carmel Valley Ranch Golf Course on Sunday, March 20, 2005 and Monday, March 21, 2005 for ONLY \$50 after 1:00 pm (including cart) and \$65 for morning TEE times—limited number of sign-ups allowed. You must be registered as a tournament player to receive this price. Call Carmel Valley Ranch Golf Course at (831) 620-6406 to reserve your tee time. Credit card payment may be required to hold your tee time.

## PRESIDENT'S MESSAGE . . .



### A Rather Loud Wakeup Call

If you work for or with an SIU and you haven't read Title 10, Chapter 5, Subchapter 9, Article 2 of the California Code of Regulations lately, and the amendments thereto proposed by the Insurance Commissioner for the State of California, John Garamendi, it is time to do so.

This is particularly true if you are employed by one of the many insurers operating in the State of California that have elected to downsize the SIU, cut the SIU budget, outsource the SIU function to a contractor, narrowly define fraud, or to otherwise disappear from the anti-fraud community. For those insurers, as well as those that conscientiously comply with the regulations, the Commissioner's proposed amendments will have a profound impact. According to the Department of Insurance, "The proposed amendments and additions govern the functions and objectives of insurer fraudulent investigative claims units, commonly called 'Special Investigation Units' ('SIU' or 'SIUs') and the function and objectives of the California Department of Insurance (CDI) in monitoring SIUs." (If you need a copy of the proposed amendments, please email me at [tef@knoxricksen.com](mailto:tef@knoxricksen.com).) The message is a loud and unequivocal wakeup call: Every carrier operating in this state must know and adhere to the regulations, *including the extensive training requirements*, or face the consequences which will include penalties of up to \$55,000 *per violation*, as well as suspension or revocation of the insurer's Certificate of Authority. Needless to say, like the Ten Commandments, the regulations are not suggestions.

To enforce these provisions, the CDI will require an annual report, in which insurers are required to describe staffing, to disclose total claims processed and total number of claims referred to the SIU, to disclose the total number of claims reported to the CDI and local district attorney offices as suspected fraudulent claims, and to report on compliance by contractors, among other things. Proposed Section 2698.41, subsections (a) and (b) will permit the Commissioner to conduct "an examination of an insurer's SIU" whenever it is deemed necessary to "improve compliance" and "further the goal of preventing insurance fraud."

The days of slumbering SIUs are over. Each carrier is required to designate an SIU staff person to be responsible for coordinating the ongoing anti-fraud training program to ensure that the insurer will have an adequate and effective staff. Two levels of training are mandated, one for those new to the world of insurance fraud and a second level involving the identification of "red flags" and "red flag events," the documentation of fraud, investigative techniques, and training on "existing and new, emerging fraud trends."

Whether your company is on the cutting edge or running for cover, the NCFIA is your best resource for training and networking on compliance issues. Our Continuing Education Committee strives to provide members with the entire range of educational activities, from basic "red flag" training to presentations on sophisticated emerging trends in the anti-fraud business. The annual training seminar, set for March 23-25, 2005, in Monterey promises to deliver many of the essential components of the mandated training, including instruction by representatives of the CDI. Moreover, the NCFIA provides members with a unique opportunity to network with others in the industry, including SIU managers and personnel, the leadership and employees of the CDI, local district attorneys and their investigators, private investigators and attorneys, all of whom are dedicated to combating the relentless fraud.

Compliance with the proposed regulations can and must start today. As you might expect, from our perspective, the most effective way of demonstrating your SIU's commitment to fighting fraud is to enroll *all* of your SIU personnel as members of the NCFIA and to send *all* of them to the quarterly meetings and the annual training seminar. We are committed to working with our insurer members and the CDI to provide the very best in training that meets the requirements of the new proposed regulations. We know that the conscientious insurers already recognize the value of NCFIA membership. To the wayward companies who will be returning to the anti-fraud community, we have only one thing to say - welcome back!

**Tom Fraysse** Knox Ricksen  
President ■

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