

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Office of Risk Management
Baton Rouge, Louisiana

April 2, 2001



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Office of Risk Management

April 2, 2001



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
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Table of Contents

	Page
Executive Summary	1
Background and Methodology.....	3
Findings and Recommendations:	
Employees Received Cash by Paying Fraudulent Insurance Claims	7
Breakdown of Internal Controls Allowed Fraudulent Insurance Claims to Be Paid	12
Attachment I - Management's Response.....	19
Attachment II - Legal Provisions.....	29

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DANIEL G. KYLE, PH.D., CPA, CFE
LEGISLATIVE AUDITOR


April 2, 2001

MR. SETH KEENER, STATE RISK DIRECTOR
OFFICE OF RISK MANAGEMENT
Baton Rouge, Louisiana

Transmitted herewith is our investigative report on the Office of Risk Management. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations, as well as your response. Copies of this report have been delivered to the District Attorney for the Nineteenth Judicial District of Louisiana and others as required by state law.

Respectfully submitted,


Daniel G. Kyle, CPA, CFE
Legislative Auditor

DPD:SLC:DGP:dl

[ORM]

Executive Summary

Investigative Audit Report Office of Risk Management

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Employees Received Cash by Paying Fraudulent Insurance Claims

(Page 7)

Finding:

From November 1997 to December 2000, Ms. Carry Emerson, Claims Examiner with the Office of Risk Management (ORM), organized and executed a scheme whereby 349 fraudulent insurance claims totaling \$1,036,972 were processed and paid by ORM. Another 47 claims, totaling \$120,783, are suspected to be fraudulent. Ms. Emerson and others participated in the scheme and shared the proceeds. Of these participants, 104 have admitted to their involvement in the scheme.

Recommendation:

We recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Management's Response:

The management of the Office of Risk Management concurs with this finding. Management would like to add:

Although it is extremely unfortunate that this event took place, it is important to note that everything that is possible to prevent a similar occurrence from taking place in the future will be done. However, it should also be noted that the cut that the Office of Risk Management has sustained in its Table of Organization will exacerbate the problem of supervisors, adjusters, and examiners being able to adequately handle their caseloads, oversight and review. Because of the cut in the Table of Organization and because of the need for claims

adjusters, ORM has not been able to hire an internal auditor. The critical need for an internal auditor is recognized but the overwhelming need for positions to process claims cannot be ignored.

**Breakdown of Internal Controls Allowed
Fraudulent Insurance Claims to Be Paid**

(Page 12)

Finding:

Though the Office of Risk Management had a system of internal controls in place, management's oversight and adherence to these controls was not sufficient to ensure that improper payment of road hazard claims would be detected in the normal course of business and in a timely manner. Management was negligent in its duties in ensuring that the controls were actually followed, rendering the system ineffective as follows:

1. Though road hazard small claims increased from \$101,048 in 1997 to \$811,059 in 1999 (an increase of 800%), management took no definitive action to determine the cause of such increase.
2. All road hazard claims were not approved by the claims supervisor as required by policy.
3. Reviews conducted by the claims supervisor were not adequate and failed to discover that required documentation was missing and fraudulent documents were used to support many of the claims.
4. The claims supervisor admittedly approved blank payment authorization forms at the request of the claims examiner.
5. Though control reports were generated by the office's accounting system listing all claims paid by individual claims examiners, the claims supervisors accepted handwritten reports from the road hazard claims examiner. These reports did not include all of the claims actually paid.
6. Though claims required approval of the claims supervisor, claims were entered into the claims payment system and checks were generated and disbursed without proper approval.

7. Accounting records were falsified showing that claim checks were mailed to the claimant when, in fact, the checks were picked up at ORM or given to an ORM employee.

Recommendation:

We recommend that management review its internal control over its claims review and payment processes and implement such controls that will ensure that only valid, properly documented, and properly authorized claims against the state are paid. In addition, management should implement a system of review to ensure that all employees, in every situation and circumstance, adhere to these accounting controls.

Management's Response:

The management of the Office of Risk Management concurs with this finding. Although controls were in place, some of the controls were being bypassed or were not being properly followed. The procedures have already been revised to tighten the controls in the area of computer input of claims and releasing of checks. Copies of these revisions are attached. A project is underway agency-wide to revise the policies and procedures. It is estimated that this project will not be completed until year-end. On page 18 of this finding, a copy of an Email is shown along with the audit recommendation. The Claims Officer, Ms. Lorraine LeBlanc, has been asked to respond to this and her response is attached. Again, management of the Office of Risk Management would like it to be noted that the cuts to TO and dollars in all of its programs has greatly affected the operations of the agency. This is offered not as an excuse for the event that triggered this audit, but as a comment to establish that ORM will make every effort within the limits of its resources to function in a manner that protects the State's assets which are under the responsibility of ORM.

Background and Methodology

The Office of Risk Management is an agency of the State of Louisiana charged with administering the self-insurance program within the state. ORM divides the state's risk, and therefore insurance, into seven areas, one of which is "Road Hazards." The Road Hazard Section is responsible for investigating, adjusting, and managing claims against the state for negligence and/or defects in roadway design, construction, and/or maintenance. ORM classifies road hazard claims into two categories: small claims that do not involve litigation and those claims that will be litigated.

On December 7, 2000, the Legislative Auditor received an allegation that Ms. Carry Emerson, Claims Examiner with the Office of Risk Management (ORM), organized and executed a scheme whereby fraudulent insurance claims were processed and paid by ORM. Four other ORM employees were also implicated in the scheme. This investigation was conducted jointly between the Office of Legislative Auditor and the Baton Rouge City Police.

The procedures performed during this investigative audit consisted of (1) interviewing employees of ORM and claimants; (2) interviewing other persons as appropriate; (3) examining selected ORM records; (4) performing observations and analytical tests; and (5) reviewing applicable state and federal laws and regulations.

The results of our investigation are the findings and recommendations herein.

Findings and Recommendations

EMPLOYEES RECEIVED CASH BY PAYING FRAUDULENT INSURANCE CLAIMS

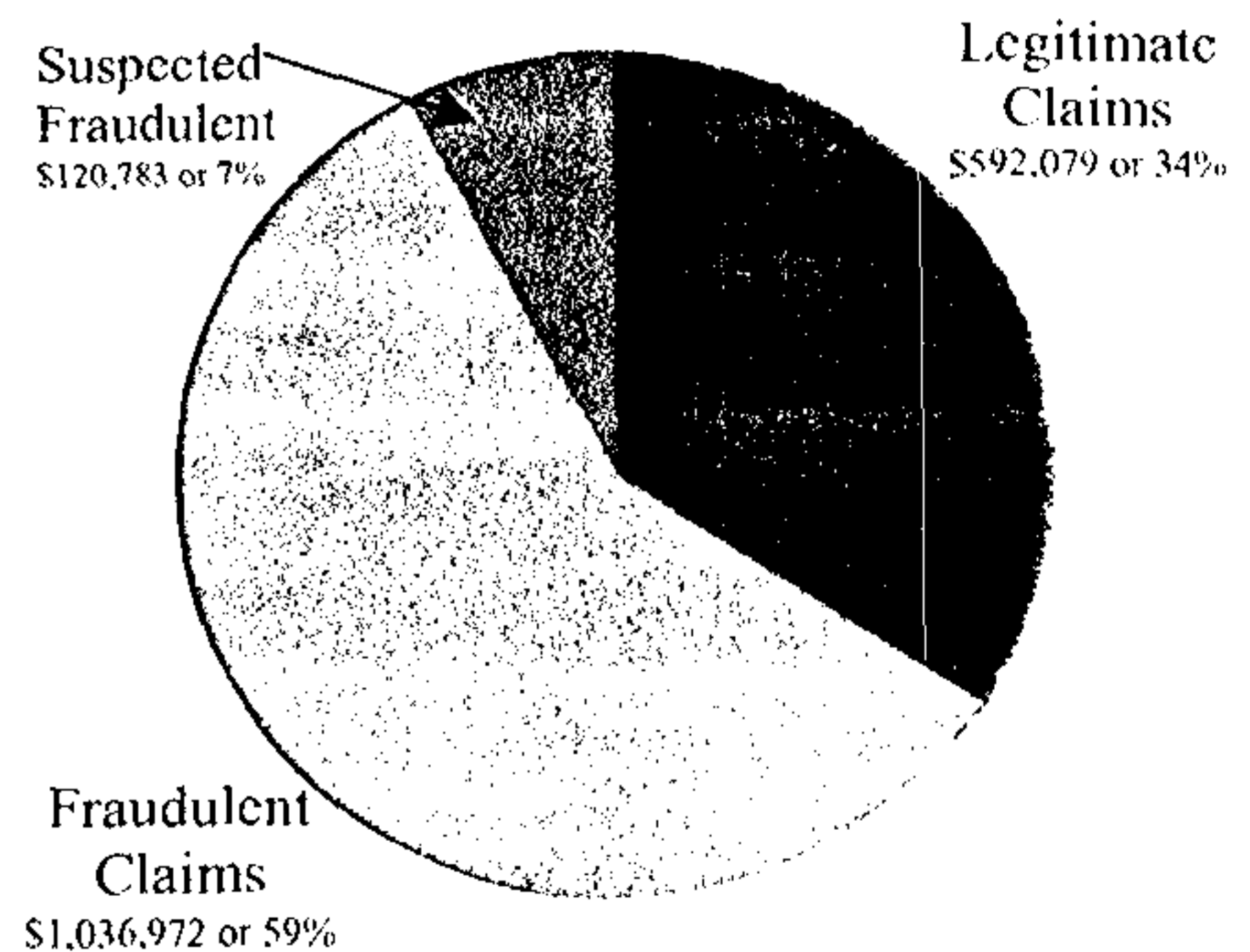
From November 1997 to December 2000, Ms. Carry Emerson, Claims Examiner with the Office of Risk Management (ORM), organized and executed a scheme whereby 349 fraudulent insurance claims totaling \$1,036,972 were processed and paid by ORM. Another 47 claims, totaling \$120,783, are suspected to be fraudulent. Ms. Emerson and others participated in the scheme and shared the proceeds. Of these participants, 104 have admitted to their involvement in the scheme.

The Office of Risk Management is an agency of the State of Louisiana charged with administering the self-insurance program within the state. ORM divides the state's risk, and therefore insurance, into seven areas, one of which is "Road Hazards." The Road Hazard Section is responsible for investigating, adjusting, and managing claims against the state for negligence and/or defects in roadway design, construction, and/or maintenance. ORM classifies road hazard claims into two categories: small claims that do not involve litigation and those claims that will be litigated.

Road hazard claims are first received by the Road Hazard Supervisor. The supervisor assigns the claim to an examiner or adjuster for review and determination of the claim's validity. Claims are assigned to examiners and adjusters depending on the complexity of the claim. Complex claims involving litigation are assigned to a claims adjuster. Small claims, which are those not involving litigation, are assigned to the claims examiner. The claims adjuster and examiner differ in that the examiner has a lower level of authority.

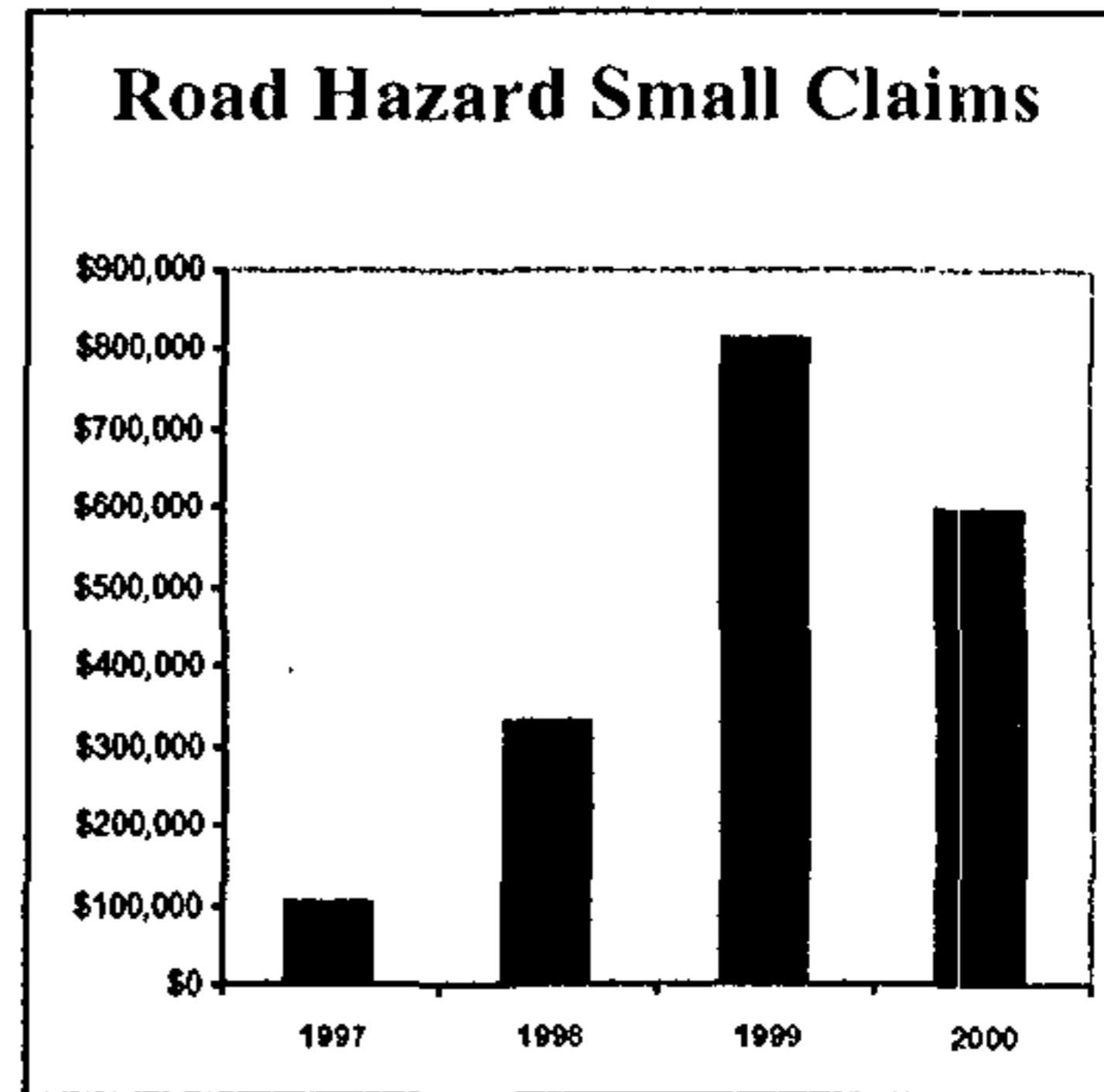
This report, and our investigative audit, concerns these small claims. For small claims, the examiner determines the validity of the claim based on a review of claim documentation, including a completed claim form, two estimates of repairs or a paid repair invoice, a valid vehicle registration, proof of insurance and Louisiana Department of Transportation and Development maintenance records and reports. Once the examiner determines that a claim is valid, the examiner has the authority to approve claim payments up to \$1,250 without a supervisor's signature approval. Any payments above \$1,250 are subject to further review and

Claims Paid by Carry Emerson



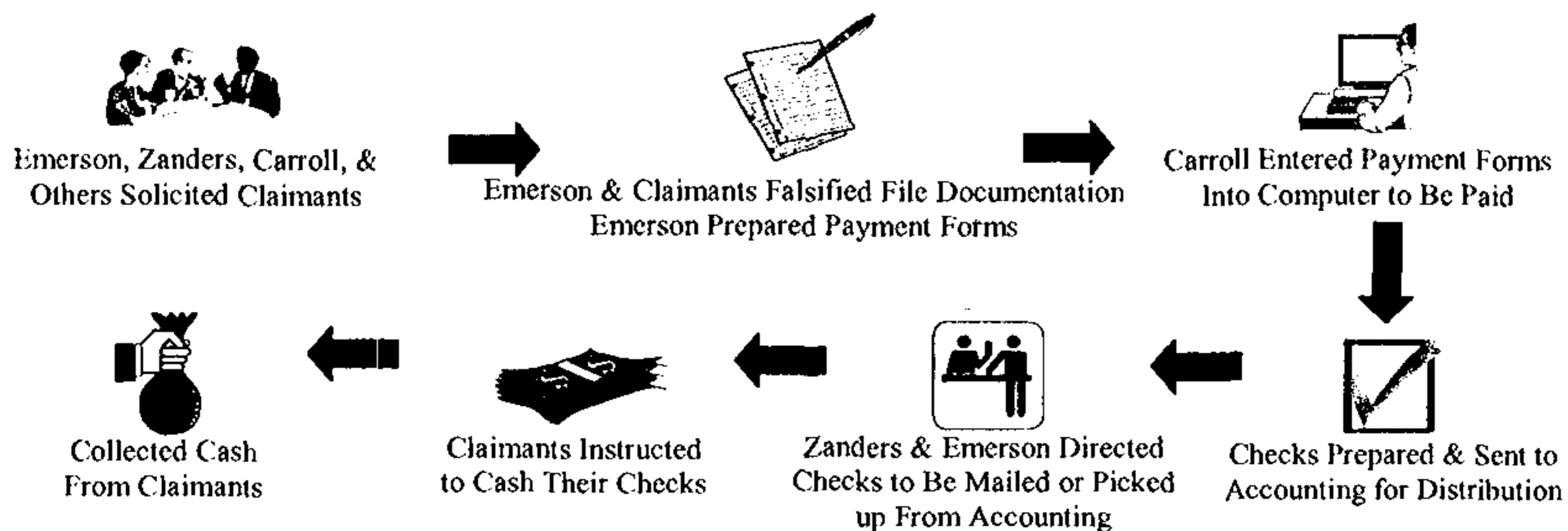
signature approval by a supervisor. Ultimately, supervisors are responsible for the final decision on all claims, regardless of dollar amount.

Ms. Carry Emerson held the position of Claims Examiner in the Road Hazards division from November 1997 to December 2000. Ms. Emerson dealt only with small claims that did not involve bodily injury or litigation. During Ms. Emerson's employment, the amount of road hazard small claims paid by ORM increased dramatically. In 1997, the first year of Ms. Emerson's employment, ORM paid \$101,048 in road hazard small claims. In 1999, ORM paid \$811,059, an increase of over 800%. Ms. Emerson processed and paid \$1,749,834 in small claims from November 1997 to December 2000.



In February of 1998, Ms. Emerson began to organize and execute a scheme whereby at least 349 fraudulent claims, totaling \$1,036,972, were processed and paid by ORM. Another 47 claims, totaling \$120,783, are suspected to be fraudulent. Ms. Emerson and others carried out this scheme by the following actions:

- Recruiting individuals to file false claims
- Recruiting individuals to solicit others into the scheme
- Assisting with preparation of claim documentation
- Preparing fraudulent repair estimates
- Improperly approving the false claims
- Circumventing controls
- Splitting the proceeds with recruiters and claimants
- Obtaining claimant checks from two individuals in the ORM accounting department



MS. CARRY EMERSON

Ms. Emerson filed and approved fraudulent claims in the name of family members and friends for damage to their vehicles on state highways. According to numerous people who admitted their involvement in the scheme, Ms. Emerson provided the claimants with a claim form and information necessary to complete the claim, such as accident location, description of the accident, and the extent of damage to the vehicle. According to these claimants, they then returned the claim form to her, along with a copy of their registration and insurance. In many cases, Ms. Emerson provided fraudulent damage estimates and invoices to complete the claimant's file. She also approved many files containing altered registrations and insurance cards.

Ms. Emerson's home computer was used to create fraudulent invoices and estimates. According to relatives of Ms. Emerson, once she realized that her scheme had been uncovered, she attempted to destroy all information contained on the computer and dispose of it. Baton Rouge City Police recovered the computer, and subsequently, fraudulent invoices were retrieved from the computer's hard drive.

Once Ms. Emerson approved the fraudulent claim, the accounting department received the approved claim form and held custody of the check. The check was then mailed, picked up by the claimant, or removed from ORM by Ms. Emerson or Ms. Cassandra Zanders, a supervisor in the accounting department. Several people who admitted their involvement in the scheme stated that when they acquired the check from the office, Ms. Emerson accompanied them to cash the check at a local bank. She then instructed the claimant to return portions of the cash to her. These portions ranged from one-third to one-half of the claim payments.

Claimants were recruited to file fraudulent claims by Ms. Emerson, other claimants, and in some cases, other ORM employees. During interviews of people who admit to being involved in the scheme, we were informed that these claimants split their check three ways in most cases: one-third to their recruiter, one-third to themselves, and one-third to Ms. Emerson. According to these individuals, Ms. Emerson generally received at least one-third of the fraudulent claims. Therefore, she may have received at least \$345,657 from these fraudulent claims.

ORM EMPLOYEES

As the scheme progressed, other ORM employees became involved. According to claimants that admitted their involvement in the scheme, these employees included Ms. Annette Carroll, a clerk in the claims department, Ms. Cassandra Zanders, a supervisor in the accounting department, and Ms. Mamie Johnson and Ms. Bernadine Collins, both clerks in the accounting department. According to several claimants that were recruited by these employees, when they received a check, the claimant split the money three ways: one-third to Ms. Emerson, one-third to the recruiting employee, and one-third to themselves. These employees involvement in the scheme is as follows:

- **Annette Carroll** - Ms. Carroll was a clerk in the claims department. Her job duties included entering claims into the computer system for payment. Based on interviews with Ms. Carroll and others, she was involved in at least 26 fraudulent claims from which she received one-third the money. These claims totaled \$67,233; therefore, Ms. Carroll personally received \$22,411 from fraudulent claims.
- **Cassandra Zanders** - Ms. Zanders was a supervisor in the accounting department. According to two accounting clerks, Ms. Johnson and Ms. Collins, Ms. Zanders instructed them to mark checks that were held for pick up by the claimant as mailed. She also personally picked up several checks and delivered them to claimants. Several people who admitted their involvement in this scheme implicated Ms. Zanders. According to these claimants, Ms. Zanders received one-third of the proceeds from at least 20 fraudulent claims totaling \$38,955. Ms. Zanders, therefore, may have received at least \$12,985 from fraudulent claims.
- **Bernadine Collins and Mamie Johnson** - Ms. Collins and Ms. Johnson were clerks in the accounting department responsible for distribution of claim checks. Ms. Collins and Ms. Johnson stated that Ms. Zanders and Ms. Emerson instructed them on occasion to mark checks as having been mailed when the checks were actually taken by either Ms. Emerson or Ms. Zanders. We were unable to determine whether or not Ms. Collins and Ms. Johnson received any money for their involvement in the scheme. Both Ms. Collins and Ms. Johnson maintain that they did not receive any of the proceeds.

OTHER RECRUITERS

There were many other "recruiters" that did not work at ORM. These recruiters also solicited people to file false claims. According to many claimants who admitted their involvement in the scheme, they split the cash from their claim checks three ways: one-third to the recruiter, one-third to Ms. Emerson, and one-third to themselves. The following is a partial list of non-ORM employee recruiters:

- **Dan Anderson, Sr.** - Mr. Anderson is Carry Emerson's brother. According to individuals who admitted that their claims were fraudulent, Mr. Anderson either recruited or was otherwise involved in at least 18 claims, totaling \$60,031. He therefore may have received at least \$21,162 from fraudulent claims.
- **Dan Anderson, Jr.** - Mr. Anderson is Carry Emerson's nephew. According to individuals who admitted that their claims were fraudulent, Mr. Anderson either recruited or was otherwise involved in at least six claims, totaling \$20,556. He therefore may have received at least \$7,536 from fraudulent claims.
- **Clara Joseph** - Ms. Joseph is a former co-worker of Ms. Emerson at Southern University. During an interview, she admitted to recruiting at least 13 people to file fraudulent claims. According to Ms. Joseph and others who implicated her

involvement in their claims, she was involved in 16 claims, totaling \$45,574. Therefore, Ms. Joseph personally received at least \$15,965 from these claims.

- **Octavia Johnson** - Ms. Johnson is also a former co-worker of Ms. Emerson at Southern University. She admitted to filing two fraudulent claims for herself. According to Ms. Joseph, Ms. Johnson recruited people to file fraudulent claims. As of the date of this report, we have been unable to determine the number of claimants recruited by Ms. Johnson. However, we have identified \$2,632 received by Ms. Johnson from fraudulent claims.
- **Ernest P. Emerson** - Mr. Emerson is Carry Emerson's son. He admitted to being involved in four claims, totaling \$8,585, and would have personally received \$4,063 for these claims.
- **Lydell Emerson** - Mr. Emerson is Carry Emerson's son. He was involved in filing one claim, totaling \$844. In addition, Mr. Emerson, by his own admission, assisted his mother in attempting to destroy information on her personal computer.
- **Alvin Janice** - Mr. Janice admitted to filing two claims in his own name and recruiting 14 people. Mr. Janice stated that he was recruited by and worked directly with Ms. Cassandra Zanders. He received at least \$3,876 from his claims and the claims of people he recruited.
- **Eric Pogue** - Mr. Pogue admitted to filing two claims in his name, one claim in his wife's name, and recruiting at least six other people to file claims, totaling \$25,012. Mr. Pogue stated that he received one-half of his and his wife's claims and one-third of the other claims, or approximately \$9,446.
- **Felicia Davis Smith** - Ms. Smith admitted to filing a fraudulent claim in her name and recruiting at least six other people. Ms. Smith stated that she received one-half of the claim in her name and one-third of the others. These claims totaled \$21,619, of which Ms. Smith received approximately \$7,685.
- **Carl Davis** - According to Mr. Davis, his mother, Felicia Smith, recruited him to file a claim. He then recruited at least five other people who filed claims, totaling \$16,955, and received at least \$5,652 of this amount.
- **Ausbin Martin** - Mr. Martin is a friend of Ms. Felicia Smith. According to Mr. Martin and others, he filed a claim in his name and recruited at least five people to file claims. These claims totaled \$16,740, of which he received at least \$5,580.
- **Junious Henderson** - Mr. Henderson filed a claim in his name and recruited several other claimants. According to individuals he recruited that admitted their involvement in the scheme, he generally put them in touch with Dan Anderson, Sr., and received a small "finder's fee" for his efforts. He was involved in at least

eight fraudulent claims, totaling \$25,308, and may have received at least \$2,052 from these claims.

Ms. Emerson and approximately 335 others participated in the scheme. Several of these participants filed more than one fraudulent claim, bringing the total number of fraudulent claims to 349. Of these participants, 104 have admitted to their involvement in the scheme. Another 47 claims totaling \$120,783 are suspected to be fraudulent. Ms. Emerson continued this scheme until management of ORM was made aware of the fraud in December 2000.

Based on these actions by Ms. Carry Emerson, Ms. Annette Carroll, Ms. Cassandra Zanders, Ms. Mamie Johnson, Ms. Bernadine Collins, and the other recruiters, the following state laws may have been violated:

- R.S. 14:26, "Criminal Conspiracy"
- R.S. 14:67, "Theft"
- R.S. 14:133, "Filing False Public Records"
- R.S. 14:134, "Malfeasance"
- R.S. 14:230, "Money Laundering"

Though the actions of the parties listed in this report appear to be within the scope of the laws listed above, the actual determination as to whether individuals are subject to formal charge is at the discretion of the district attorney.

We recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

BREAKDOWN OF INTERNAL CONTROLS ALLOWED FRAUDULENT INSURANCE CLAIMS TO BE PAID

Though the Office of Risk Management had a system of internal controls in place, management's oversight and adherence to these controls was not sufficient to ensure that *improper payment of road hazard claims would be detected in the normal course of business and in a timely manner.* Management was negligent in its duties in ensuring that the controls were actually followed, rendering the system ineffective as follows:

1. Though road hazard small claims increased from \$101,048 in 1997 to \$811,059 in 1999 (an increase of 800%), management took no definitive action to determine the cause of such increase.
2. All road hazard claims were not approved by the claims supervisor as required by policy.

3. **Reviews conducted by the claims supervisor were not adequate and failed to discover that required documentation was missing and fraudulent documents were used to support many of the claims.**
4. **The claims supervisor admittedly approved blank payment authorization forms at the request of the claims examiner.**
5. **Though control reports were generated by the office's accounting system listing all claims paid by individual claims examiners, the claims supervisor accepted handwritten reports from the road hazard claims examiner. These reports did not include all of the claims actually paid.**
6. **Though claims required approval of the claims supervisor, claims were entered into the claims payment system and checks were generated and disbursed without proper approval.**
7. **Accounting records were falsified showing that claim checks were mailed to the claimant when, in fact, the checks were picked up at ORM or given to an ORM employee.**

As stated previously, ORM is the agency charged with administering the state's self-insurance program. ORM divides the state's risk, and therefore insurance, into seven areas, one of which is "Road Hazards." The Road Hazard Section of ORM is responsible for investigating, adjusting, and managing claims against the state for negligence and/or defects in roadway design, construction, and/or maintenance.

ORM investigated, adjusted, and managed road hazard claims through a system of procedures and controls as follows:

1. **Road hazard claims filed with the ORM are routed to the road hazard supervisor. Mr. Richard LeJeune and Mr. Kerry Dubea served ORM as supervisors of the Road Hazard Section during the period covered by this report. In their capacity as supervisors, Mr. LeJeune and/or Mr. Dubea assigned road hazard small claims to an examiner for review and determination of the claim's validity. Ms. Carry Emerson held the only position of claims examiner in the Road Hazards division from November 1997 to December 2000.**
2. **The claims examiner was to ensure that the claimant submitted the proper claim form and request, in writing, a copy of the damaged vehicle's registration, evidence of insurance, and two estimates for repair of the vehicle or the itemized repair invoice.**
3. **Once the claimant submitted the proper documentation, the claims examiner was required to determine through communication with the Louisiana Department of Transportation and Development that an actual hazard existed on a state owned road and that the state had either actual notice or constructive notice of the existence of the hazard.**

4. After verifying that a loss had occurred for which the state was liable, the claims examiner was required to determine the equitable value of the loss through the information and estimates submitted by the claimant.
5. Upon completion of the review, the claims examiner was required to make a recommendation as to the validity of the claim and the amount that should be paid to the claimant for his/her loss.
6. ORM's procedures called for a multi-level approval process, once by the claims examiner and second by the claims supervisor. The road hazard claims examiner had the authority to approve claim payments up to \$1,250. However, according to ORM's policy, the examiner was to submit all claim files to the supervisor for a final decision. Therefore, this policy required approval of the supervisor without regard to dollar amount.
7. Once authorized for payment, the claims clerk entered the claim into the payment system, which generated a check payable to the claimant, and forwarded the approved payment form to ORM's accounting department.
8. The accounting department disbursed the claim check according to instructions listed on the payment form.
9. Periodically, the claims supervisor was provided a detailed report of claims paid by their subordinates for review purposes.

**CLAIMS INCREASED DRAMATICALLY -
NO ACTION BY MANAGEMENT**

A proper system of internal control would require that management analytically review losses to determine any unusual trends or irregularities. Though road hazard small claims increased from \$101,048 in 1997 to \$811,059 in 1999, an 800% increase, management took no definitive action to determine the cause of such an increase.

Mr. Dubea informed us that at some point he noticed road hazard small claims increasing and brought it to Mr. LeJeune's attention. According to Mr. LeJeune, he met with Ms. Emerson to discuss the increase in claims. Ms. Emerson explained that the increase in road hazard claims may have been related to the unusually dry weather and the impact this condition may be having on the state's roadways. Mr. LeJeune did not give us any indication that he took further action to determine the cause of the increase in road hazard claims filed.

**ALL ROAD HAZARD CLAIMS WERE NOT
APPROVED BY THE CLAIMS SUPERVISOR**

The system of control required that the claims supervisor make the final decision on all claims. According to Mr. LeJeune and despite ORM's policy, he made no decisions on claims under \$1,250. Of the 396 claim files examined during this investigative audit, only 23 files were within Ms. Emerson's authority. Of the remaining files, 208 were paid without the approval of the claims supervisor.

**REVIEWS CONDUCTED BY CLAIMS
SUPERVISOR WERE INADEQUATE**

A review of ORM's records indicates that of the 349 fraudulent and 47 suspected fraudulent claims mentioned in the previous finding, at least 165 were claims approved by Mr. LeJeune that were either lacking required documentation or were supported by fraudulent documentation. This indicates that little attention was given to the claims that Mr. LeJeune did review.

**CLAIMS SUPERVISOR APPROVED BLANK
PAYMENT DOCUMENTS**

Payment authorization documents were used to authorize the entry of the claim into the payment system, generate the claim check, and direct the disbursement of the claimant's check. However, Mr. LeJeune stated that on one occasion he signed blank payment forms at Ms. Emerson's request.

**CLAIMS SUPERVISOR ACCEPTED HANDWRITTEN
CONTROL REPORTS**

Periodically, supervisors were provided control reports showing the activity of their subordinates. Mr. LeJeune and Mr. Dubea stated that they received computer-generated reports from the ORM claims system that indicated claims approved for payment by all claim adjusters and examiners. However, Ms. Emerson would provide them with a handwritten report, which reported a much lower dollar amount and number of claims paid as compared to the computer report. Mr. LeJeune and Mr. Dubea accepted Ms. Emerson's handwritten reports without conducting a comparison to the computer-generated reports.

Example of Computer Generated Report - September 1999

CLAIMS ADMINISTRATION SYSTEM SUP/ADJ PERFORMANCE REPORTING
 ACCOUNT 00076 STATE OF LOUISIANA, O.R.M. PAGE 5
 DATE 03/21/01

Road Hazard Small Claims

REPORT NAME: LEJEU 013 CROSS SEPTEMBER 1999 REPORT
 SEL ADJUSTER: CROSS
 ACCOUNT: 901
 COVERAGE: 901
 SELECTED PERIOD: 09/01/99 - 09/30/99

	Number of Claims	Dollars Paid
# Entered	55	\$41,372.00 Total Reserve at Close
# Reopened	5	\$75,631.71 Total Paid
# Closed	51	\$97,931 Total Increased
# Payments	60	\$8 Total Decreased
# Reserve Increases	63	
# Reserve Decreases	0	

All Claims Regardless Of Selected Period
 # Currently Open 257

\$61,714.88 Outstanding
 \$116,037.12 Paid to Date
 \$177,752.00 Total Incurred

Example of Handwritten Report - September 1999

ROAD HAZARD SMALL CLAIMS
 DENIALS AND SETTLEMENTS
 FOR THE MONTH OF September, 1999

CLAIMS DENIED	CLAIMS PAID
DEMAND	DEMAND PAID
1. 149.49	1. 149.49
2. 555.76	2. 555.76
3. 305.09	3. 305.09
4. 1938.83	4. 1938.83
5. 58.27	5. 58.27
6. 211.40	6. 171.69
7. 11.68	7. 11.68
8. 681.80	8. 681.80
9. 372.58	9. 486.29
10. 284.72	10. 284.72
11. 15,000.00	11. 6,000.00
12. 53.70	12. 53.70
13. 1,021.64	13. 1,021.64
14. 151.97	14. 151.97
15. 278.49	15. 278.49
16. 732.71	16. 732.71
17. 298.96	17. 298.96
18. 285.72	18. 285.72
19. 502.89	19. 502.89
20. 1,025.17	20. 1,025.17
21. 2,107.76	21. 900.00
22. 4,121.00	22. 3,000.00
23. 39.95	23. 39.99
24. 3,946.20	24. 3,946.20
25. 11,399.01	25. 5,000.00
26. 2,696.26	26. 2,696.26
27. 1,443.07	27. 1,443.07
28.	28.
29.	29.
30.	30.
TOTAL: 25,127.75	TOTAL: 50,035.26 23,450.00

CLAIMS WERE PAID WITHOUT PROPER AUTHORIZATION

Though the system required that claims over \$1,250 have the claims supervisor sign the claim payment form before this information is entered into the payment system, 208 claims were paid without proper authorization. This indicates that (1) the claims supervisor failed to properly review the claim file; (2) the claims clerk, the individual responsible for entering the data into the payment system, did not ensure that proper authorization had been obtained; and (3) the accounting department did not verify proper authorization before releasing the claim check.

In addition, the system also requires that payment forms be routed back to the claims supervisor from the accounting department once the payment check is released. According to Ms. Lorraine LeBlanc, State Risk Claims Officer, the claims supervisor is the last checkpoint to ensure that all payment forms are properly signed and approved. As mentioned previously, 208 claims were paid without supervisory signature approval.

ACCOUNTING DOCUMENTS WERE FALSIFIED

Once prepared, employees of the accounting department should either mail the claim checks or hold the checks until the claimants pick up the checks from the accounting department. The accounting department had two employees, Ms. Mamie Johnson and Ms. Bernadine Collins, that would receive claim checks and prepare them to be mailed or picked up by the claimants. According to Mr. LeJeune, claimants rarely pick up checks, maybe three or four a month. However, Ms. Johnson and Ms. Collins stated that their supervisor, Ms. Cassandra Zanders (a recruiter for Ms. Emerson), instructed them to record and certify certain claim checks as being mailed when in fact the claimants picked up the check or Ms. Zanders and Ms. Emerson removed the checks from ORM.

A review of 328 cancelled checks relating to the fraudulent claims indicates that 33 were negotiated within 24 hours of the issue date despite being recorded as mailed to the claimants. This would indicate that the checks were not mailed. In addition to these 33 checks, we interviewed 13 claimants whose files indicate the checks were mailed, though the claimants actually received their checks directly from Ms. Emerson, Ms. Zanders, or their recruiters. In addition, as mentioned in the previous finding, both Ms. Johnson and Ms. Collins admitted to falsifying numerous accounting records.

MANAGEMENT'S APPRECIATION OF INTERNAL CONTROLS, POLICIES, AND PROCEDURES

Because of the lack of management oversight and adherence to internal control during the claim process, approximately \$1,036,972 in fraudulent claims and \$120,783 in suspected fraudulent claims were paid by ORM. In addition, internal correspondence between two members of ORM's management causes us to question management's appreciation of internal controls, policies, and procedures. This correspondence suggests that ORM limit its policies and procedures to avoid "additional overview by the Leg. Auditors if possible."

AUD2

-----Original Message-----

From: Kerry Dubea
Sent: Tuesday, October 31, 2000 11:01 AM
To: Lorraine LeBlanc
Subject: RE: Policy and Procedures Revisions
Importance: High

OK, I have the Road Hazard Excess Notification Completed. See attachment. Is there anything missing?

PS - We need to limit what we put in the policy and procedures and eliminate anything that could bring additional overview by the Leg. Auditors if possible. We may want to consider cutting policy and procedure to the bone and then creating a handbook of some kind for each unit to use for training purposes. Keep this in mind when you are making a decision on what to add and delete from the P&P Manual.

KMD

From: Lorraine LeBlanc
Sent: Tuesday, October 31, 2000 12:06 PM
To: Kerry Dubea
Subject: RE: Policy and Procedures Revisions

Good point. We need to look at the finished product as managers to determine what to cut, if anything.

RECOMMENDATION

We recommend that management review its internal control over its claims review and payment processes and implement such controls that will ensure that only valid, properly documented, and properly authorized claims against the state are paid. In addition, management should implement a system of review to ensure that all employees, in every situation and circumstance, adhere to these accounting controls.

Attachment I

Management's Response



State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF RISK MANAGEMENT

M. J. "MIKE" FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

March 29, 2000

Dr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
P.O. Box 94397
Baton Rouge, La. 70804-9397

Dear Dr. Kyle:

Attached is my response to the recent audit conducted by Dan Daigle of the Investigative Audit Division.

Sincerely,

A handwritten signature in cursive script that reads "Seth E. Keener, Jr." with a large flourish at the end.

Seth E. Keener, Jr.
State Risk Director

SEK/ELW/kg

Finding: Employees Receive Cash By Paying Fraudulent Insurance Claims

Response:

The management of the Office of Risk Management concurs with this finding.

Management would like to add:

Although it is extremely unfortunate that this event took place, it is important to note that everything that is possible to prevent a similar occurrence taking place in the future will be done. However, it should also be noted that the cut that the Office of Risk Management has sustained in its Table of Organization will exacerbate the problem of supervisors, adjusters, and examiners being able to adequately handle their caseloads, oversight and review. Because of the cut in the Table of Organization and because of the need for claims adjusters, ORM has not been able to hire an internal auditor. The critical need for an internal auditor is recognized but the overwhelming need for positions to process claims cannot be ignored.

Finding: Breakdown of Internal Controls allowed Fraudulent Insurance Claims to be Paid

Response:

The management of the Office of Risk Management concurs with this finding.

Although controls were in place, some of the controls were being by passed or were not being properly followed.

The procedures have already been revised to tighten the controls in the area of computer input of claims and releasing of checks. Copies of these revisions are attached.

A project is underway agency wide to revise the policies and procedures. It is estimated that this project will not be completed until year end.


On page 16 of this finding, a copy of an Email is shown along with the audit recommendation. The Claims Officer, Ms. Lorraine LeBlanc has been asked to respond to this and her response is attached.

Again, Management of the Office of Risk Management would like it to be noted that the cuts to TO and dollars in all of its programs has greatly affected the operations of the agency.

This is offered not as an excuse for the event that triggered this audit, but as a comment to establish that ORM will make every effort within the limits of its resources to function in a manner that protects the States assets which are under the responsibility of ORM.

March 27, 2001

MEMO TO: Seth E. Keener, Jr.
State Risk Director

FROM: Lorraine LeBlanc 
State Risk Claims Officer

RE: Response to Audit Finding

I have read the Legislative Auditor Finding "Breakdown of Internal Control Allowed Fraudulent Insurance Claims to be Paid" and, specifically, the Email shown in the finding, which detailed communication between Kerry Dubea and myself. The Email related to an ongoing project of major importance in Claims—the revision of the policies and procedures.

Upon rereading the Email from Kerry and my response, I admit that it sounds like our intention was "to put something over on Legislative Auditors". This response is being made to explain better what we really meant in the Email. What was meant was that if details are spelled out in the manual and we are not actually following those details, we would be subject to criticism by the Legislative Auditors. Therefore, what is put in the policy and procedures manual should be what we are actually doing.

The idea of a manual that is general in nature (bare bones) and relates to all claims units with tutorials directed to items specific to each unit is a viable idea and one that we are pursuing.

I hope this explains the true meaning of a badly worded Email. The management of ORM is seriously devoted to its work and appreciates all the assistance the Legislative Auditors can give us.

Chapter 1 Accounts Payable

Check Mailing Procedures

~~Revised 2/22/2001 12:45 PM~~

The following should be verified:

- the name and address on the check should match the name and address on the blue payment sheet
- every check should have a name and address
 - Exception: Workers' Comp checks being mailed to state agencies in mass
- the mailing instructions should not be different than the name and address on the check
 - Exception: Checks payable to a business going to the same business name at a corrected address (if there is any other difference, it should be brought to the attention of Pam Whiteside or Lynette Bayham).
 - Exception: Workers' Comp checks being mailed to state agencies in mass
- proper authorizations appear on the blue sheet in accordance with info below.

SETTLEMENT AUTHORITY - FIRST PARTY (Insured State Property)

Payment Amount		Signature Authority Required To Issue Payment
\$7,500 -	12,500	Supervisor
\$12,501 -	25,000	Supervisor and Claims Manager
\$25,001 -	150,000	Supervisor, Claims Manager and State Risk Claims Officer
\$150,001-	and over	Supervisor, Claims Manager, State Risk Claims Officer, State Risk Director

SETTLEMENT'S - THIRD PARTY

Payment Amount		Signature Authority Required To Issue Payment
\$0 -	\$7,500	Examiner/Adjuster and Supervisor
\$7,501 -	\$12,500	Adjuster and Supervisor or Manager
\$12,501-	\$25,000	Adjuster, Supervisor and Manager
\$25,001-	\$50,000	Adjuster, Supervisor, Claims Manager and Officer
\$50,001-	\$500,000	Adjuster, Supervisor, Claims Manager, State Risk Claims Officer and State Risk Director

- no one can pick up a check without the proper authorization, which can only be granted by Pam Whiteside, Evon Wise, or Seth E. Keener, Jr.
- when proper authorization is granted, checks can only be picked up at 2:00 in the afternoon and only in the presence of Pam Whiteside, Lynette Bayham, or Evon Wise.
- all checks to go to the Division of Risk Litigation will be placed in a messenger envelope and will be delivered to Gail Jones at 2:15 p.m. each day. A list of these checks will be prepared and Gail will be required to sign for their receipt.

Once all verifications are made, you will do the following:

- on the blue payment sheet, indicate that the check was mailed, your initials, and the date mailed
- if it is sent certified, enter the certification number on the blue sheet and in the certification log
- if it is sent UPS ground tracking, put the tracking label in the book in accounting and one in the book at the pickup site

Office of Risk Management
Accounting Procedures

- if the check has proper authorizations and is to be picked up, give the check and all documentation to Pam Whiteside, Lynette Bayham, or Evon Wise at 2:00 p.m. Documentation shall include, the blue sheet, the signed authorization for granting approval for the check to be picked up, and a copy of the check.

If you have any question whatsoever about anything on a check, always check with Pam or Lynette before proceeding.

I have read the above procedures and understand them fully.

Signature

Office of Risk Management

ADMINISTRATIVE PROCEDURES

Claims
Rev. 01/01/01

ADJUSTERS RESPONSIBILITY

The adjuster will be responsible for notifying the Office Manager monthly of any settlement or judgment in excess of \$200,000. The information to be provided will include the claim number, plaintiff and defendant name, JDC and Docket, the amount, and whether it is a consent or final judgment or negotiated settlement. This information will be maintained by the Office Manager on the computer and updated on a monthly basis or as needed.

The adjuster will be responsible for gathering all documentation required to satisfy any judgment against the State including court costs, expert fees, etc.

Interest, when payable, will be calculated by the adjuster (see attached form) through the program provided by EXCEL on the computer based on the provisions in the final judgment.

At the time a judgment is rendered, the judgment amount must be entered into legal tracking in the Trial Information screen. The information should include the trial type, verdict, verdict date, award and percentage of liability against the State.

Claims Payments (All Payments Other Than Settlements Of First Party Claims)

On the Claims Payments Form - DA2019, the only sign off required will be the adjuster or claims examiner for payments made within their authority which is as follows:

	<u>Authority</u>
Claims Examiners	\$0 - \$1,250
Adjuster I	\$0 - \$2,500
Adjuster II	\$0 - \$5,000
Adjuster III	\$0 - \$7,500

AUTHORITY OF SUPERVISOR

Sign off on any payment exceeding the payment authority of the handling adjuster or examiner up to \$12,500. The Unit Supervisor shall approve all payments of settlements.

Office of Risk Management

ADMINISTRATIVE PROCEDURES

Claims
Rev. 01/01/01

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Office of Risk Management

ADMINISTRATIVE PROCEDURES

CLAIMS
REVISED 01/01/200

SETTLEMENT'S - THIRD PARTY

Negotiating Authority

Examiner I,	\$ 1,250
Examiner II	\$ 1,500
Examiner III	\$ 2,000
Adjuster I	\$ 2,500
Adjuster II	\$ 5,000
Adjuster III	\$ 7,500
Supervisor	\$12,500
Manager	\$25,000
Claims Council	Above \$25,000

Settlement Authority

Signature Authority Required To Issue Payment

\$0 - \$7,500	Examiner/Adjuster and Supervisor
\$7,501 - \$12,500	Adjuster and Supervisor <u>or</u> Manager
\$12,501- \$25,000	Adjuster, Supervisor <u>and</u> Manager
\$25,001- \$50,000	Adjuster, Supervisor, Claims Manager and Officer
\$50,001- \$500,000	Adjuster, Supervisor, Claims Manager, State Risk Claims Officer and State Risk Director

NOTE: Date of authorization should be noted above the initials of the respective level of authority within ORM.

Each day, following the Unit Clerk's completion of entering of payments and giving the total to the Office Manager, the Unit Clerk is to then give the actual payment requests to the appropriate Unit Supervisor. The Unit Supervisor is to review the payment requests for proper signatures. Once the Unit Supervisor receives the daily forecast, the number of settlement checks should be counted and the total compared to the forecast. If all necessary signatures are in place and the total number of settlement payment requests corresponds with the total number of settlement payments made, both the payments and initialed forecast are to be turned into the Office Manager. These documents must be returned to the Office Manager no later than 4:00 p.m. each day.

Office of Risk Management
ADMINISTRATIVE PROCEDURES

CLAIMS
REVISED 01/01/2001

CLAIMS COUNCIL

All settlements in excess of \$25,000 must be presented to Claims Council
The Office of Risk Management Claims Section has established a Claims Council. The council will be comprised of three (3) individuals at the claims supervisor level and/or claims officer/claims manager. No claims supervisor may sit on a panel for a case being presented by his/her adjuster. All claims must have been reviewed and discussed with the adjuster's unit supervisor prior to presentation to the Claims Council.

All cases involving settlement, subrogation, denial of worker's compensation benefits or other situations deemed appropriate by the unit supervisor will be reviewed by the Claims Council. **Any and all** claims filed by an ORM employee, a relative of an ORM employee or an agent associated with ORM by contract shall be reviewed by the ORM Claims Council.

The adjuster must provide all necessary documentation and recommendations to substantiate his/her position at the Claims Council Review. For settlement requests in excess of \$50,000, the adjuster must sign the claims council list and complete a Claims Council Request form and place three copies in the claims council folder outside the Claims Officer's office.

The Claims Council shall meet weekly. Emergency Claims Council may be convened as necessary.

Claims Council decisions will be rendered by majority rule and documented on the Claims Council Decision form.

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:26 provides, in part, that criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

R.S. 14:67 provides, in part, that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 14:230 provides, in part, that money laundering is the supervision or facilitation of a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law. It is also the receiving or acquisition of proceeds derived from any violation of criminal activity, or knowingly or intentionally engaging in any transaction that the person knows involves proceeds from any such violation.

