

CAPITOL WATCHDOG

Scrutiny for safety net

SACRAMENTO • The California Insurance Guarantee Association may be the most important bureaucracy you've never heard of.

Founded under legislation in 1969, the association acts as a sort of insurance for insurance companies. If your provider goes broke, CIGA picks up your claim.



BRIAN JOSEPH
REGISTER
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"Without CIGA, we would have been in an absolute financial disaster when the workers' comp crisis hit," said Michael Mattoch, an executive with the financial services firm USAA. He describes CIGA as a crucial piece of California's infrastructure.

So would it worry you that the association is \$1.6 billion in the red and plagued by infighting and potentially gross mismanagement?

CIGA says it ran into trouble when the workers' comp crisis forced it to pick up thousands of claims, but a recent audit suggests another culprit: misconduct.

In November, accountant John F. Williams made a PowerPoint presentation to the CIGA board that described an organization in disarray. He found contracts awarded without bidding, claims paid without review and a vendor the association should terminate "ASAP."

Williams concluded that of \$66 million spent on bill review fees, the association had overpaid \$55 million.

"My jaw was on the table," said Dan Jacobson, an Orange County attorney who was appointed to the CIGA board by then-Insurance Commissioner John Garamendi in June 2006. "Before Mr. Williams' presentation, I had a sense there were some things that needed to be fixed at CIGA. I had no idea it was this horrible."

Williams, who was hired by CIGA management to conduct the audit, declined to speak with me, but I obtained a copy of his slide show.

Marked "Confidential," the presentation states "contract negotiations [are] ad hoc, personal, and informal" and adds, "Some relationships have no contracts." It recommends that CIGA implement the most basic of procurement policies, such as bidding for services.

Williams' presentation also focuses on independent companies, or so-called third-party administrators, employed by CIGA. Third-party administrators handle claims for the association, and the slide show suggests that not only did CIGA enter into bad agreements with them but also that some may have business relationships that could allow them to bleed the association.

The presentation states CIGA's "bill review fees are very high" because administrators, instead of being paid a flat fee, are paid a percentage of the savings they uncover. That practice is so questionable that a bill is being introduced to outlaw it.

The presentation adds that a couple of the third-party administrators are affiliated with the very vendors billing CIGA. That means, effectively, that the same companies billing the association are also ensuring that the bills are accurate.

"It seemed to validate my concerns raised at my first Investment and Au-



WATCHDOG: Orange County attorney Dan Jacobson is a member of the California Insurance Guarantee Association board. "I had a sense there were some things that needed to be fixed at CIGA," he said. "I had no idea it was this horrible."

dit Committee meeting when I discovered that they were not auditing the billing and substantive case handling of their compensation defense firms," said Steve Testan, a founder of a national workers' comp defense firm who was appointed to the CIGA board by Assembly Speaker Fabian Núñez in June.

"As to the entirety of Williams' presentation, I was shocked. The association is dealing with public assessment monies."

Testan and Jacobson, two of the newest members of the 13-member board, were obviously troubled by Williams' report, but say the board's chair and vice chair and association management have blocked them from doing anything about it.

In letters to numerous state officials - including Núñez, Insurance Commissioner Steve Poizner and state Sen. Lou Correa - Testan and Jacobson allude to "Herculean efforts ... undertaken by the powers that be" to prevent them from speaking with Williams and add that CIGA may have paid more than \$200 million in unaudited legal fees.

One letter concludes that the actions of CIGA leadership suggest "waste and mismanagement" if not "something more sinister."

"When I've tried to access simple information that I need to perform my job - like Mr. Williams' phone number - I've been met with a management brick wall," Jacobson said.

I can understand their frustration.



TAKING A LOOK: State Sen. Lou Correa, D-Santa Ana, has taken an interest in CIGA. Last week, he asked the Joint Legislative Audit Committee to launch an investigation. "This is scary stuff," he said.

I tried to attend a CIGA meeting last week at the Bankers Club of San Francisco, but I was thrown out almost as soon as I arrived.

I had barely removed my coat and sat down when the executive director, Wayne Wilson, glared at me from across the room. Who are you? he demanded as he loomed over my chair.

This meeting is private, he said.

I explained that I thought I should be allowed to stay because CIGA was established under statute, its members are appointed by elected officials and it's funded by assessments on insurance policies.

Wilson didn't care about my reasons and didn't care when I identified myself as a reporter. He wanted me gone.

My research had indicated there is some disagreement over whether open meetings laws apply to CIGA, so I asked Wilson to cite the authority for making me leave. He refused, then told me to get out.

I later spoke with Wilson after he returned to association headquarters in Glendale. He told me there are "substantial question marks surrounding" Williams' presentation and suggested that the auditor didn't fully understand CIGA.

For example, he said CIGA doesn't bid for services because when an insurer goes bankrupt it has to react quickly.

"You can't stop paying benefits to an injured worker," Wilson said.

Wilson dismissed allegations of overspending as one man's opinion and added that the claims of some critics may prove to be "over the top."

"There's nothing sinister ... going on," he said. "The board is actively and aggressively working on issues that have been identified."

I also tried to speak with Jim Sevey, the vice chairman, and with Chairwo-

Allegations against CIGA

- Of \$66 million spent on bill review fees, \$55 million was overspent.
- May have paid more than \$200 million in unaudited legal fees.
- Claims paid without adequate review.
- Does not bid for services.

man Linda R. Smith, but both referred me to Wilson.

Not everyone is silent, however: At the meeting I was asked to leave, Testan announced he had offered his resignation to Núñez because of "irreconcilable differences" with certain board members.

"Information uncovered during my tenure ... suggests that CIGA, to put it mildly, has some very serious issues to deal with," Testan wrote in a letter to Núñez.

Correa, meanwhile, has taken an interest in CIGA. Last week, he asked the Joint Legislative Audit Committee to launch an investigation.

"This is scary stuff," said Correa. "This thing makes its living off an assessment on businesses. I only hope that they're applying best business practices," he said.

I don't think we've heard the last of this. Stay tuned.

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Hearing called on state insurance agency

Panel will probe finances and meeting practices of the quasi-governmental entity that insures insurers.

BY BRIAN JOSEPH
THE ORANGE COUNTY REGISTER

SACRAMENTO • The Senate Banking, Finance and Insurance Committee will hold a hearing to examine the practices of the California Insurance Guarantee Association, a troubled, quasi-governmental entity featured in a Capitol Watchdog column this week.

Orange County Sen. Lou Correa, D-Santa Ana, called for the hearing after being notified by two board members who were concerned about the results of an independent audit. Among other things, the audit found that of \$66 million spent on bill reviews, \$55 million was overpaid.

Correa said Friday that the hearing has not yet been scheduled, but it will be held as soon as possible.

"It will give a public view of this quasi-public agency that appears to believe its meetings are private," Correa said.

The senator was referring to an incident this month in which a Register reporter tried to attend a CIGA board meeting in San Francisco but was asked to leave.

"I am extremely pleased ... that Sen. Correa has championed the cause of injured workers and employers of the state of California by holding hearings into the manner in which CIGA has spent assessments monies," said Steve Testan, a former board mem-

ber who, along with board member Dan Jacobson, wrote several state officials to express their concerns about the association.

CIGA was founded under legislation in 1969, but it considers itself a private entity.

It acts as insurance for insurance companies. If your insurance company goes broke, CIGA picks up your claim.

In November, independent auditor John Williams uncovered a series of problems with the organization, including that it awarded contracts without bidding and paid claims without prior review.

Jacobson and Testan also believe that buried in CIGA files are \$200 million in unaudited legal fees.

Correa said he assumes CIGA is a properly run organization, but he wants to have a hearing to be sure.

Executive Director Wayne Wilson said Friday he welcomes the legislative inquiry.

"I think that's fine," he said, adding it will give lawmakers a chance to ask whatever questions they have. He said he'd testify if asked.

Earlier this month, Correa asked the Joint Legislative Audit Committee to launch an investigation into CIGA. Because of the banking committee hearing, he has pulled back that request, but he has reserved his right to ask again if all of his questions are not answered.

Professor
Dan Jacobson