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State insurance guarantee association accused of mismanagement

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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.

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

So would it worry you that CIGA 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 by an Alhambra CPA 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, a vendor the association should terminate "ASAP."

Williams concluded that of \$66 million spent on bill review fees, CIGA 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 slideshow.

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 CIGA and the slideshow suggests that not only did CIGA enter into bad agreements with them but also that some may have business relationships which could allow them to bleed CIGA.

The presentation states CIGA's "bill review fees are very high" because instead of paying the administrators a flat fee, they are paid a percentage of the savings they uncover. That practice is so questionable that Joe Coto, chairman of the Assembly Insurance Committee, is introducing a bill 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 CIGA are also ensuring that the bills are accurate.

"It seemed to validate my concerns raised at my first Investment and Audit 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 2007.

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

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

In letters to numerous state officials, including Núñez, Insurance Commissioner Steve Poizner, Attorney General Jerry Brown and Orange County 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."

The infighting has become so fierce that the vice chairman, Jim Sevey, even asked Jacobson to resign after Jacobson raised concerns about a potential conflict of interest involving CIGA's legal counsel. Jacobson declined.

"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. I tried to attend a CIGA meeting last week at the high-rise 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 California insurance policies.

Wilson didn't care about my reasons and didn't care when I identified myself as a Register 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 CIGA 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. "That's one of the issues Mr. Williams never got a grip on."

Wilson dismissed allegations of overspending as one man's opinion and added that the claims of some CIGA 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 Chairwoman Linda R. Smith, but both referred me to Wilson.

Not everyone is silent, however. At the same meeting where I was tossed, Testan announced that 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 NÅ°Ã±ez. "Californians need a properly functioning CIGA."

Sen. 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, a Democrat who represents Santa Ana. "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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