

1 **Workers' Compensation Full Board Meeting Minutes**

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3
4 **Date:** Tuesday, April 16, 2024
5 **Location:** 328 State Street, Schenectady, NY
6 Room 324
7 Webcast Live

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11 **Time:** 10:00 a.m.

12 **MEMBERS OF THE BOARD**

13 Clarissa M. Rodriguez, Chair
14 Freida Foster, Vice Chair
15 Mark Higgins (appeared remotely per Public Officers Law §
16 103-a[2][c])
17 Loren Lobban, Esq.
18 Samuel Williams
19 Linda Hull
20 Mark Stasko
21 Steven A. Crain, Esq.
22 Pamela Caggianelli
23 Martin M. Dilan
24 Arelis Tavares
Renee Delgado, Esq.
Gloribelle Perez, Esq.

SECRETARY TO THE BOARD

Laura Inglis

GENERAL COUNSEL

Heather MacMaster, Esq.

ASSOCIATE ATTORNEY

Heather Justice, Esq.

ALSO PRESENT

Lucy Lang, New York State Inspector General
Bryan Richmond, Attorney-in-Charge
Lisa Lingenfelter, Investigator
Amy McMullen, Investigator
Jaclyn Desautel, Investigator
Jack Wild, Director of External Affairs
Jeff Haber, Confidential Investigator

1 CLARISSA RODRIGUEZ: Good morning, everyone,
2 and welcome. Thank you for joining us this morning.
3 I am Clarissa Rodriguez, Chair of the New York State
4 Workers' Compensation Board. Today's Full Board
5 meeting is being webcast live for members of the
6 public, so welcome, public. It is also facilitated by
7 an American Sign Language interpreter. Thank you for
8 being here. Welcome.

9 And I now have the honor of calling the 1,031st
10 meeting of the Full Board to order. Madam Secretary,
11 will you please call attendance?

12 LAURA INGLIS: Vice Chair Foster.

13 FREIDA FOSTER: Here.

14 LAURA INGLIS: Board Member Higgins.

15 MARK HIGGINS: Here.

16 LAURA INGLIS: Board Member Lobban.

17 LOREN LOBBAN: Here.

18 LAURA INGLIS: Board Member Williams.

19 SAMUEL WILLIAMS: Here.

20 LAURA INGLIS: Board Member Hull.

21 LINDA HULL: Here.

22 LAURA INGLIS: Board Member Crain.

23 STEVEN CRAIN: Here.

24 LAURA INGLIS: Board Member Stasko.

1 MARK STASKO: Here.

2 LAURA INGLIS: Board -- Board Member
3 Tavares.

4 ARELIS TAVARES: Here.

5 LAURA INGLIS: Board Member Caggianelli.

6 PAMELA CAGGIANELLI: Here.

7 LAURA INGLIS: Board Member Dilan.

8 MARTIN DILAN: Here.

9 LAURA INGLIS: Board Member Delgado.

10 RENEE DELGADO: Here.

11 LAURA INGLIS: And Board Member Perez.

12 GLORIBELLE PEREZ: Here.

13 LAURA INGLIS: Everyone's present.

14 CLARISSA RODRIGUEZ: Thank -- thank you.

15 Please note that Board Member Higgins is joining us
16 remotely today pursuant to Public Officers Law 103-a.

17 All right. Agenda Item 1, approval of the
18 March 19th, 2024 meeting minutes. Board Members, you
19 have all received a copy of the March 19th, 2024
20 meeting minutes for your review. Are there any
21 questions or need for discussion? Okay. Hearing
22 none, may I please have a motion to approve the
23 minutes?

24 MARTIN DILAN: Board Member Dilan, and I

1 make a motion to approve the minutes as presented.

2 CLARISSA RODRIGUEZ: Thank you, Board Member
3 Dilan. Is there a second?

4 LINDA HULL: Board Member Hull. I second
5 the motion.

6 CLARISSA RODRIGUEZ: Okay. Thank you, Board
7 Member Hull. Are there -- is there any opposition to
8 the motion? Okay. Hearing no opposition, Board
9 Members all in favor, please say aye.

10 ALL: Aye.

11 CLARISSA RODRIGUEZ: Okay. Thank you. All
12 opposed? All right. Hearing no opposition, I am also
13 a yes. That motion is passed. Thank you, Board
14 Members.

15 Agenda Item 2, Office of General Counsel's
16 Departmental Report. General Counsel,
17 Heather MacMaster, will now present the Office of
18 General Counsel's Departmental Report for the month of
19 March.

20 HEATHER MACMASTER: Good morning, Madam
21 Chair, Madam Vice Chair, members of the Board. In
22 March 2024, the Office of General Counsel's
23 Adjudication Division held 16,355 hearings, 10,612
24 cases were resolved at hearing and they issued 314

1 Reserve Decisions; 1,798 Waiver Agreements were also
2 finalized in the Adjudication Division.

3 In the Admin -- Administrative Review Division,
4 974 applications were received, 810 were processed and
5 there are currently 7,054 applications pending. In
6 Legal Affairs Division, 74 Full Board Review
7 applications were received, 86 were processed and
8 there are currently 206 pending. Thank you.

9 CLARISSA RODRIGUEZ: Thank you, Heather.
10 Board Members, are there any questions or need for
11 discussion? Hearing none, may I please have a motion
12 to accept the Office of General Counsel's Departmental
13 Report?

14 PAMELA CAGGIANELLI: Yes, Madam Chair. This
15 is Board Member Caggianelli and I move to accept the
16 report as noted, as presented.

17 CLARISSA RODRIGUEZ: Thank you, Board Member
18 Caggianelli. Is there a second?

19 MARK STASKO: Yes, Madam Chair. This is
20 Board Member Mark Stasko and I second that motion.

21 CLARISSA RODRIGUEZ: Thank you, Board Member
22 Stasko. Is there any opposition to the motion?
23 Hearing none, Board Members all in favor, please say
24 aye.

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ALL: Aye.

CLARISSA RODRIGUEZ: Thank you. All opposed? Hearing no opposition, I am also a yes, that motion is passed. Thank you, Board Members.

Agenda Item 3, License Applications. Associate Attorney, Heather Justice, will now present the Licensing Applications for the month of March. Thank you.

HEATHER JUSTICE: Good morning, Madam Chair, Madam Vice Chair, Board Members and colleagues. I have before you the recommendations from the Assigned Board Panel regarding the Licensing Applications listed in Part 3 of today's agenda. First, according to Section 24-a, we're recommending three years for Olubunmi -- Olubunmi Ojugbele. And under Section 50(3-d), we're recommending three years for the qualifying officer, Timothy Bocek, from ACS Claim Service, LLC; one year for the new qualifying officer Matthew Mead for American Claims Management, Inc.; and three years for Lisa Tortor -- Tortora from Retail Business Services, LLC. And I present these recommendations to the Board for your consideration. Thank you.

CLARISSA RODRIGUEZ: Thank you, Heather.

1 Board Members, are there any questions or need for
2 discussion? Okay. Hearing none, may I please have a
3 motion to accept the recommendations of the Board
4 Panels as presented?

5 ARELIS TAVARES: Yes, Madam Chair. Board
6 Member Tavares. I move to accept the Licensing
7 Applications.

8 CLARISSA RODRIGUEZ: Thank you, Board
9 Member -- oh, my God, I'm having a brain fart,
10 Tavares. Sorry. Apologies. Is there a second?

11 GLORIBELLE PEREZ: I second that motion.
12 Board -- this is Board Member Perez.

13 CLARISSA RODRIGUEZ: Thank you, Board Member
14 Perez. Is there any opposition to the motion?

15 UNIDENTIFIED SPEAKER: No.

16 CLARISSA RODRIGUEZ: Okay. Hearing none,
17 Board members all in favor, please say aye.

18 ALL: Aye.

19 CLARISSA RODRIGUEZ: All opposed? I am also
20 a yes. That motion is passed. Thank you.

21 Agenda Item 4, Legal Appeals. Heather MacMaster
22 will now present the recommendations concerning
23 decisions by the Appellate Division.

24 HEATHER MACMASTER: Thank you, Madam Chair.

1 With respect to Items 4H, 4I, 4J and 4K, it is the
2 opinion of the Office of General Counsel that the
3 Board should request that the Office of the Attorney
4 General seek reargument and/or leave to appeal to the
5 Court of Appeals on behalf of the Board to correct
6 apparent legal errors in these decisions.

7 With respect to Items 4A through 4G and 4L and
8 4M, it is the recommendation of the Office of General
9 Counsel that the Board adopt the decisions of the
10 Court as the decisions of the Board.

11 CLARISSA RODRIGUEZ: Thank -- thank you,
12 Heather. Board Members, may I have a motion to accept
13 the recommendations of the Office of General Counsel?

14 STEVEN CRAIN: Yes, Madam Chair. This is
15 Board Member Crain. I move to adopt the
16 recommendations of the Office of General Counsel with
17 regard to the Legal Appeals.

18 CLARISSA RODRIGUEZ: Thank you, Board Member
19 Crain. Is there a second?

20 UNIDENTIFIED SPEAKER: Yes --

21 MARK STASKO: Yes -- go -- yes, Madam Chair.
22 This is Board Member Mark Stasko. I second that
23 motion.

24 CLARISSA RODRIGUEZ: Okay. Thank you, Board

1 Member Stasko. Is there any opposition to the motion?
2 Okay. Hearing no opposition, Board Members all in
3 favor, please say aye.

4 ALL: Aye.

5 CLARISSA RODRIGUEZ: All opposed? Okay.
6 Hearing none, I am also a yes. That motion is passed.
7 Thank you. Agenda Item 5, Mandatory Full Board
8 Review. We start with the Case 5A, King Ed Taxi,
9 Incorporated, Case Number G2719303. Is there a motion
10 with respect to 5A on the agenda?

11 LOREN LOBBAN: Yes, Madam Chair. This is
12 Board Member Loren Lobban, and I move to have the
13 dissenting opinion be accepted as the opinion of the
14 Board.

15 CLARISSA RODRIGUEZ: Thank you, Board Member
16 Lobban. Is there a second?

17 SAMUEL WILLIAMS: Yes, Madam Chair. This is
18 Board Member Sam Williams and I second that motion.

19 CLARISSA RODRIGUEZ: Thank you, Board Mem --
20 Board Member Williams. Are there any recusals from
21 this matter? Is there any opposition to the motion?

22 LINDA HULL: Yes, Madam Chair. This is
23 Linda Hull and there's opposition.

24 CLARISSA RODRIGUEZ: Thank you, Board Member

1 Hull. In light of the opp -- opposition, I call upon
2 the secretary for a roll call vote.

3 LAURA INGLIS: Board Member Caggianelli.

4 PAMELA CAGGIANELLI: No.

5 LAURA INGLIS: Board Member Crain.

6 STEVEN CRAIN: Yes.

7 LAURA INGLIS: Board Member Delgado.

8 RENEE DELGADO: Yes.

9 LAURA INGLIS: Board Member Dilan.

10 MARTIN DILAN: Yes.

11 LAURA INGLIS: Board Member Higgins.

12 MARK HIGGINS: Yes.

13 LAURA INGLIS: Board Member Hull.

14 LINDA HULL: No.

15 LAURA INGLIS: Board Member Lobban.

16 LOREN LOBBAN: Yes.

17 LAURA INGLIS: Board Member Perez.

18 GLORIBELLE PEREZ: Yes.

19 LAURA INGLIS: Board Member Stasko.

20 MARK STASKO: No.

21 LAURA INGLIS: Board Member Tavares.

22 ARELIS TAVARES: Yes.

23 LAURA INGLIS: Board Member Williams.

24 SAMUEL WILLIAMS: Yes.

1 LAURA INGLIS: Vice Chair Foster.

2 FREIDA FOSTER: Yes.

3 LAURA INGLIS: And, Madam Chair.

4 CLARISSA RODRIGUEZ: No.

5 LAURA INGLIS: The motion is passed.

6 CLARISSA RODRIGUEZ: Okay. Thank you. We

7 move on to 5B, Irving Consumer Products, Inc., Case

8 Number G3046039. Is there a motion with respect to 5B

9 on the agenda?

10 STEVEN CRAIN: Yes, Madam Chair. This is

11 Board Member Crain. I move that the dissenting

12 opinion be adopted as the opinion of the Full Board.

13 CLARISSA RODRIGUEZ: Thank you, Board Member

14 Crain. Is there a second?

15 RENEE DELGADO: Yes, Madam Chair. Board

16 Member Delgado. I second the motion.

17 CLARISSA RODRIGUEZ: Okay. Thank you, Board

18 Member Delgado. Are there any recusals from this

19 matter? Is there any opposition to the motion?

20 MARK STASKO: Yes.

21 CLARISSA RODRIGUEZ: Okay. Thank you, Board

22 Member Stasko. In light of the opposition, I call

23 upon the secretary for a roll call vote.

24 LAURA INGLIS: Board Member Caggianelli.

1 PAMELA CAGGIANELLI: No.
2 LAURA INGLIS: Board Member Crain.
3 STEVEN CRAIN: Yes.
4 LAURA INGLIS: Board Member Delgado.
5 RENEE DELGADO: Yes.
6 LAURA INGLIS: Board Member Dilan.
7 MARTIN DILAN: Yes.
8 LAURA INGLIS: Board Member Higgins.
9 MARK HIGGINS: Yes.
10 LAURA INGLIS: Board Member Hull.
11 LINDA HULL: No.
12 LAURA INGLIS: Board Member Lobban.
13 LOREN LOBBAN: Yes.
14 LAURA INGLIS: Board Member Perez.
15 GLORIBELLE PEREZ: Yes.
16 LAURA INGLIS: Board Member Stasko.
17 MARK STASKO: No.
18 LAURA INGLIS: Board Member Tavares.
19 ARELIS TAVARES: Yes.
20 LAURA INGLIS: Board Member Williams.
21 SAMUEL WILLIAMS: Yes.
22 LAURA INGLIS: Vice Chair Foster.
23 FREIDA FOSTER: Yes.
24 LAURA INGLIS: And, Madam Chair.

1 CLARISSA RODRIGUEZ: No.

2 LAURA INGLIS: The motion passes.

3 CLARISSA RODRIGUEZ: Thank you. Okay.

4 Agenda Item 6, there are no items for Discretionary
5 Full Board Review. So, Board Members, is there any
6 other business to discuss? Okay. Before we move on
7 to our guest speaker.

8 We are joined today by the Office of the New York
9 State Inspector General. Inspector General,
10 Lucy Lang, is actually here with us today. I'm going
11 to go ahead and read her intro, but thank you so much
12 for being here.

13 New York State Inspector General, Lucy Lang, is
14 an attorney, educator and lifelong New Yorker. As a
15 New -- as New York State's 11th Inspector General,
16 Lucy Lang brings her long-standing commitment to
17 justice to overseeing the office's investigations into
18 corruption, fraud, abuse and misconduct in state
19 government, as well as deep experience designing and
20 implementing practices that promote institutional
21 integrity, transparency and accountability.

22 Inspector General Lang's leadership has included
23 the implementation of novel transparency initiatives,
24 extensive public educational outreach and the agency's

1 complete technological overhaul. By appointing
2 Attorneys-in-Charge for Department of Corrections and
3 Community Supervision, DOCCS oversight,
4 workers' compensation fraud and welfare fraud,
5 Inspector General Lang has empowered her statewide
6 interdisciplinary staff to prioritize partnership with
7 and protection of the most vulnerable New Yorkers.

8 Inspector General Lang has reinforced the
9 agency's commitment to diversity, equity and inclusion
10 while expanding its workforce, instituted numerous
11 policies dedicated to enhance sustainability practices
12 and prioritizing the mental and physical health of her
13 staff.

14 Under Inspector General Lang's leadership, OIG
15 has concluded and publicly published the findings of
16 major investigations, including two detailing defects
17 in both the manufacturing and administration of drug
18 tests used by DOCCS to detect the presence of
19 contraband in -- contraband in correctional facilities
20 in a -- a -- and -- and analysis of the glaring racial
21 disparities that persists in the administration of
22 discipline in New York prisons and a review of the
23 policies for supporting supervisors -- survivors of
24 domestic violence in the state workforce.

1 During her first year in office, Inspector Lang
2 visited all 44 correctional facilities in New York
3 State. Prior to her appointment as Inspector General,
4 Lang served as director of the Institute for
5 Innovation in Prosecution, a national criminal justice
6 organization. She also served as an assistant
7 district attorney in Manhattan where she investigated
8 and prosecuted violent crimes, including homicides,
9 gun violence and domestic abuse and served as Special
10 Counsel for policy and projects.

11 While at the Manhattan District Attorney's office
12 and in collaboration with Columbia University Center
13 for Justice, Inspector Lang created Inside Criminal
14 Justice, a first-of-its-kind college class for
15 incarcerated students and prosecutors to study
16 criminal justice and develop policy together.

17 Inspector Lang is a member of the Council on
18 Criminal Justice and a term member of the Council on
19 Foreign Relations and has served as vice chair of the
20 American Bar Association's criminal justice section.
21 She was appointed to and served on the New York State
22 Bar Association task forces on racial injustice and
23 police reform and on racism, social equity and the
24 law.

1 She has been published in the New York Times, The
2 Atlantic, the New York Daily News and many others.
3 Inspector General Lang is the author of March On!, a
4 children's book about the 1915 Women's March for
5 Suffrage in New York City, which encourages the next
6 generation of courageous and thoughtful leaders.

7 Inspector Lang is a graduate of Swarthmore
8 College and Columbia Law School -- and Columbia Law
9 School where she was Editor in Chief of the Journal of
10 Gender and Law and has served as a lecturer in law.
11 Again, thank you so much for being here, Inspector
12 Lang.

13 LUCY LANG: Thank you so much for having me,
14 Chair Rodriguez. And I'm sorry that now you all know
15 more about me than anyone possibly needs to know. But
16 thank you for that warm introduction. Thank you to
17 the Chairwoman and to members of the Board for having
18 us here today. And thank you for your partnership in
19 the important work that we share. Thank you to
20 members of the public who are tuning in while we
21 deliver our 2023 annual report. And tremendous thanks
22 to my remarkable team who handles the workers'
23 compensation area of our work. That includes
24 Attorney-In-Charge of Workers' Compensation, Bryan

1 Richmond, from whom you'll hear shortly. And he is
2 truly the expert. And his expertise is really only
3 augmented and improved by the remarkable expertise of
4 our team, some of whom are here today. So thank you
5 to Lisa Lingenfelter, Amy McMullen and Jackie Desautel
6 for all they do to advance this important work. Thank
7 you to -- to our Director of External Affairs, Jack
8 Wild, for his hard work to produce the report that's
9 now before you.

10 I'm going to ask that we put up our annual report
11 so I can share some broad strokes information through
12 PowerPoint.

13 LAURA INGLIS: Okay. Should be --

14 LUCY LANG: Perfect.

15 LAURA INGLIS: -- catching up with us soon.

16 There we go.

17 LUCY LANG: Excellent. Thank you. So as
18 you can see, we have -- we have just published our
19 statutorily mandated 2023 annual report, which
20 includes information about what we have done, some of
21 it -- much of it, together over the course of the past
22 year and under Bryan's leadership.

23 You may recall from our time together last year
24 that the Offices of the Inspector General includes not

1 just the Office of the Workers' Compensation Inspector
2 General, but also the Welfare Inspector General and
3 the New York State Inspector General. And we have
4 worked very hard over the past two and a half years
5 that I've had the honor of serving as the IG of all
6 three of those offices to really integrate our staff
7 to enable everyone to be able to work on a broad range
8 of matters in hopes that we can bring more resources
9 to bear on the investigations in this area and in
10 others.

11 We have a statewide interdisciplinary workforce,
12 and that includes investigators, auditors, attorneys,
13 forensic accountants, investigative aides and others.
14 We have really taken the practice of staffing all of
15 our matters with lawyers, investigators and auditors
16 so that there is a -- there's a multifaceted approach
17 to every investigation that we undertake.

18 We have offices throughout the state. Some of
19 this may seem like nothing yet to the Workers'
20 Compensation Board, but we do have seven offices and
21 we work hard to work together and communicate
22 effectively across the state. Our jurisdiction, as
23 you know, gives us broad authority to investigate any
24 violations of laws and regulations pertaining to the

1 Workers' Compensation system. And you'll hear more
2 about this from Attorney-in-Charge Richmond.

3 But an interesting way in which our various
4 different mandates have interplayed and our
5 interdisciplinary work has come to bear is through the
6 visits that the Chairwoman described that I made to
7 New York State prisons. And it was during those
8 visits that I was pulled aside by a young man in a
9 prison classroom who said, Miss, can you help us get
10 more staff? And I said, well, probably not, but
11 what's happening?

12 And I started to look into it and along with
13 Confidential Investigator, Jeff Haber, who joins us
14 here today, we began a kind of cross-disciplinary
15 analysis of the use and abuse of workers' compensation
16 in the New York State prison system. And
17 Attorney-in-Charge Richmond will tell you more about
18 it.

19 But in fact, there are, in some prisons in
20 New York State, up to 40 percent of people who are out
21 on workers' compensation resulting in -- in really
22 difficult circumstances for incarcerated New Yorkers
23 in that there are -- there are limitations placed on
24 programming and movement inside those facilities and a

1 tremendous burden on the hardworking corrections
2 officers who would not abuse the Workers' Compensation
3 system who are often forced to work double shifts.
4 And I -- I know I don't have to impress upon all of
5 you how detrimental it is to these critical public
6 services when people take advantage of the workers'
7 compensation's program.

8 However, in addition to that large-scale
9 presentation, rather analysis, we also undertook many
10 individual cases resulting in upwards of 1.3 million
11 dollars of restitution. We have seen a steadily,
12 steadily increasing number of complaints coming in
13 related to workers' compensation. We had upwards of
14 1,700 complaints that we analyzed this year, some of
15 which resulted in -- in criminal outcomes, some of
16 which resulted in recommendations and a variety of
17 other outcomes. And ultimately, there were \$768,000
18 worth of fraud recovered just over the course of the
19 past year. So I don't have to tell you how important
20 the work that we do together is, how much it matters
21 to workers across New York State and why integrity
22 should be top of mind in the implementation of -- of
23 the workers' compensation program.

24 Thank you for your partnership. And I'm so

1 pleased now to turn this over to Attorney-in-Charge
2 for workers' compensation fraud, Mr. Bryan Richmond.

3 CLARISSA RODRIGUEZ: And while Bryan takes
4 the stage, if you will, I will go ahead and read his
5 bio. So Attorney-in-Charge, Bryan Richmond, serves as
6 the Attorney-in-Charge for workers' compensation fraud
7 in the Offices of the New York State Inspector General
8 under Inspector Lang. In his role, he is dedicated to
9 ensuring that the Inspector General's office is the
10 leader in the fight against and prevention of
11 corruption, fraud and abuse in New York State Workers'
12 Compensation system and state government.

13 Mr. Richmond directs and supervises all workers'
14 compensation fraud investigations conducted by the
15 Inspector General throughout New York State and
16 assists in the criminal prosecution of all -- all
17 aspects of suspected fraud in the New York State
18 Workers' Compensation system. Mr. Richmond also
19 participates in numerous other cooperative interagency
20 antifraud initiatives throughout the state
21 coordinating efforts with multiple agencies and
22 prosecutors on matters investigated both independently
23 and cooperatively.

24 Mr. Richmond has nearly over 20 years of legal

1 experience, including more than a decade in private
2 practice prior to joining the Offices of the Inspector
3 General representing employers, municipalities,
4 insurers and their insureds in workers' compensation
5 matters and other areas of civil defense litigation.

6 Prior to practicing law, Mr. Richmond was a tax
7 accountant with a Big Four accounting firm.

8 Mr. Richmond has represented -- has presented numerous
9 specialized training courses to both public and
10 private organizations throughout the State of New York
11 in the areas of identifying, investigating and
12 prosecuting workers' compensation fraud and other
13 revenue crimes.

14 Mr. Richmond has a history of service with his
15 local library serving for eleven years on the Board of
16 Trustees, including two years as its president. A
17 devoted father, Mr. Richmond is raising twin boys with
18 his wife in Upstate New York. Welcome. Thank you
19 again for being here.

20 BRYAN RICHMOND: Thank you, thank you, and
21 good morning. Thank you for the opportunity to
22 present this year's annual report. Just getting right
23 into it. As noted by the Inspector General, our
24 office has a very broad authority to conduct

1 investigations into fraud involving the Workers'
2 Compensation system. The office's jurisdiction and
3 mandate is set forth in Workers' Compensation Law
4 Section 136. It grants the IG the power to take
5 testimony, subpoena witnesses and compel the
6 production of documents to investigate all aspects of
7 isolated or systemic fraud related to workers'
8 compensation. We partner with county, state, federal
9 prosecutors and other law enforcement agencies to
10 assist in the prosecution of violations, and we also
11 recommend legislative and regulatory changes.

12 Our sources of referrals are wide and varied.
13 They come from individuals, from state employees and
14 agencies, from partnerships with law enforcement
15 agencies and prosecutors. Certainly, from all
16 stakeholders, including insurance carriers and
17 third-party administrators, municipalities. We do
18 review all Section 114-a decisions that are made by
19 law judges. We review key Section 50 decisions and we
20 receive routinely referrals from multiple partners
21 within the Workers' Compensation Board, including
22 counsel's office and Office of Provider Discipline and
23 your Office of Compliance.

24 So in 2018 our office created a -- recognizing

1 the growing number of workers' compensation fraud
2 complaints, a specialized triage unit within the
3 Office of the Inspector General. Several members are
4 here today, which the Inspector General pointed out,
5 Amy, Lisa and -- and Jackie comprise three of our --
6 our several members of the triage team. It's a
7 specialized group which reviews every workers'
8 compensation complaint that comes into this office,
9 conducts a preliminary investigation in order to
10 triage whether that matter should be open for full
11 investigation or referred to another partner, such as
12 back to the Board or to an insurance company or to an
13 agency. I do head that unit together with the
14 managing investigator for workers' compensation fraud.
15 And it says in this past year we grew to eight
16 members. The eighth member was actually just the end
17 of the year before, which is Amy McMullen, so.

18 So our workers' compensation fraud complaints and
19 investigations are largely contained in one or more,
20 sometimes they -- they exude to multiple buckets, but
21 they can largely be separated into three buckets of
22 fraud. There are employer fraud, which can be
23 comprised of Section 50 or Section 52 violations for
24 failing to provide comp, or for -- for premium fraud

1 issues related to either the underreporting of payroll
2 or the misclassification of employees in an
3 application or renewal application. Claimant fraud,
4 which is any -- any number of potential fraudulent
5 schemes, but bottom line is they're -- they're
6 engaging in some fraudulent conduct in order to obtain
7 or receive benefits to which they would not be
8 entitled. And provider or professional fraud.
9 This -- this is largely physicians, physician's
10 assistants, but we also include in that potential
11 fraud by durable medical equipment providers,
12 caretakers, billing coordinators. And this could
13 include judges, attorneys, court reporters. We have
14 had cases with stenographers, those kinds of cases.
15 So we kind of include all of those in that -- that
16 third category.

17 So this past year, this is something that varies
18 greatly year to year, but this past year about
19 two-thirds of our arrests came from -- excuse me, came
20 from employer fraud and about a third came from
21 claimant fraud. We did not have arrests concerning --
22 which are usually longer-term investigations,
23 concerning medical providers. We do have a number of
24 investigations that are ongoing concerning both

1 professionals and -- and durable medical equipment
2 providers and -- and medical providers.

3 So to go through a few examples of some cases
4 that I wanted to highlight of cases that were both
5 arrested and completed prosecutions in 2023. The
6 first -- the first is an employer case in which this
7 office partnered with multiple federal agencies to
8 conduct a joint investigation into an owner of
9 multiple demolition companies downstate. In addition
10 to significant tax evasion uncovered by the IRS, our
11 investigation revealed a sensitive premium fraud
12 resulting from, largely, the misclassification of
13 employees as clerical, as reported to its insurance
14 carriers, as opposed to what they were actually doing,
15 which is much more risky and a higher premium rate,
16 demolition.

17 Indeed, one of the employees actually loss his
18 life, lost his life, I should say, during the period
19 of time that they were underreporting or
20 misclassificating -- misclassifying their employees
21 resulting in, as you could guess, a significant outlay
22 for the insurance company, which remained liable,
23 according to the Board rules.

24 Following a federal prosecution, the owner was

1 ordered to pay two-thirds of a million dollars in
2 restitution to the various insurers that they
3 misclassified their employees with, and this is in
4 addition to payments for the underpayment of -- of
5 taxes to the IRS.

6 An example of a claimant matter. A investigation
7 into western New York, an investigation in western
8 New York, we were not investigating western New York,
9 found that a licensed practical nurse, while receiving
10 workers' comp wage indemnity benefits and reporting
11 that she was not engaged in any work activity, was in
12 fact working as a home health aide for multiple
13 private insurers at the time. Following a prosecution
14 in this case, the claimant was ordered to pay back
15 more than \$24,000 through probation to the State
16 Insurance Fund. That was State money.

17 In another State case involving a claimant, a
18 State employee working for the Offices of People With
19 Developmental Disabilities was found in an
20 investigation to be working on the side as a bus
21 driver while -- while claiming his inability to work
22 and treating to -- both treating and to independent
23 medical examiners.

24 Again, a prosecution resulted in a plea of guilty

1 with restitution ordered to the State Insurance Fund
2 through -- through probation. Again, we -- we do have
3 ongoing cases involving fraud by medical providers.
4 In calendar year 2023 we did not have arrests
5 associated with this -- with this category of fraud.

6 In the summer of 2023, as the Inspector General
7 noted in -- in her remarks, this office released a
8 significant report with recommendations following a
9 long-term investigation into fraud associated with the
10 extensive workers' comp benefits afforded to DOCCS
11 employees through the NYSCOPBA contract, which was
12 being renegotiated at the time. Through analysis,
13 which showed a substantial overrepresentation of
14 claims, something like 44 percent of all claims of
15 state employees came from the DOCCS office, and
16 certainly they do not represent 44 percent of the
17 state workforce.

18 So there's overrepresentation of -- of DOCCS
19 employees, despite the fact that the vast majority,
20 more than two-thirds of these claims, were not from
21 inmate-related contact but from more ordinary office
22 issues, trips and falls, things like that. Our office
23 found a potential fraud incentivized by the generous
24 full-salary benefits that are afforded to DOCCS

1 employees that are not afforded under the ordinary
2 Workers' Compensation system, and we made
3 recommendations concerning that.

4 So this year in an effort to increase this
5 office's effectiveness in fulfilling its mission
6 through visibility, accessibility and through
7 transparency, this past year the Inspector General
8 created two new roles, the roles of the Director of
9 Training, who's fulfilled by Katie McCutcheon, and the
10 role of Director of External Affairs, who's filled by
11 Jack Wild, who's with us today. These key
12 appointments aid in the office's continuing training
13 and outreach efforts, as well as its partnerships with
14 outside agencies and visibility throughout the state.

15 Speaking of training and outreach, this year the
16 Inspector General continued to support extensive
17 training and outreach with a number of key
18 stakeholders throughout the -- throughout the state.
19 This includes the spring conference of the New York
20 State Association of Self-Insured Counties in May
21 2023. I'll be speaking there again in a couple of
22 weeks.

23 Also, in May 2023, the Inspector General and her
24 staff spoke at -- presented at the Conference That

1 Count, an annual meeting of the Institute of Internal
2 Officer -- excuse me, Internal Auditors. It's a very
3 large conference, a multi-day conference. In June
4 2023, the Annual Joint Insurance Crime Bureau and the
5 New York Anti-Car Theft Association, NYACT, Workers'
6 Compensation Fraud Training in Plainview, we spoke at
7 that. We'll be speaking at that and presenting at
8 that again this year to a number of -- of insurance
9 companies and other -- other key stakeholders.

10 In October '23, excuse me, 2023, the National
11 Association of Inspector Generals' annual training
12 conference was held this year in New York City, and
13 the Inspector General gave the keynote address to that
14 conference as well, once again connecting with our
15 prosecution partners and -- and sharing information on
16 a -- on a -- a nationwide basis.

17 The Inspector General has also continued and
18 increased its initiatives and task forces. These
19 include proactive initiatives, partnerships and
20 collaborative efforts with a number of agencies,
21 including the Workers' Compensation Board, the
22 Department of Labor and other -- other key state and
23 federal agencies. These task forces include a
24 Workers' Compensation Task Force, the Joint Continuing

1 Legal Education Consortium, which was created this
2 year between the New York State Insurance Fund, the
3 Workers' Compensation Board and our office, the Joint
4 Task Force on Employee Misclassification and Worker
5 Exploitation, JETF. I -- I don't usually say it quite
6 that way, so it's JETF. Certainly, that is an agency
7 or excuse me, a -- a -- a task force that was created
8 a number of years ago that ceased operations for a
9 couple of years during COVID. They rebooted in 2022
10 and it's really redoubled its efforts in 2023 starting
11 to show some continued results.

12 One of our investigators, Jackie Desautel, heads
13 that -- that program and on a monthly basis partners
14 with groups within the Workers' Compensation Board and
15 multiple groups within the Department of Labor to
16 jointly look kind of hol -- holistically at a number
17 of potential employer cases.

18 Our office has also, largely through the efforts
19 of -- of Jack Wild and his appointment, increased our
20 media presence. And this is ever increasing,
21 including television interviews, (audio fades), radio,
22 including 28 interviews in 2023 by the Inspector
23 General. She's been very busy. And you can see
24 the -- the picture at the right with -- it's my

1 favorite caption, the Workers' Compensation
2 Investigation, that's the Inspector General being
3 interviewed in regard to the DOCCS initiative and the
4 DOCCS report that we -- that we published this year.

5 So through our -- our efforts and our continuing
6 dedication to visibility, accessibility and
7 accountability, and -- and our resource outreach
8 and -- and training endeavors, that led to the 1,732
9 complaint number that you saw there. What's
10 significant about that is -- is that this is a number
11 that is up 18 percent compared to year-over-year last
12 year. And it's up 55 percent compared to just two
13 years ago when the Inspector General -- Inspector
14 General Lang was appointed as the Inspector General.

15 This is obviously a significant increase in just
16 two years time and we -- you know, it's early this
17 year, but we see that number increasing largely as a
18 direct result of -- of -- of the efforts. And where
19 that number goes up, there's more fraud found, more
20 money uncovered and -- and frankly, the system gets
21 better, at least that's our goal.

22 I am the Attorney-in-Charge for workers'
23 compensation fraud. You can always contact me. I do
24 receive, you know, referrals directly. We refer --

1 receive referrals from everyone. Certainly, get in
2 touch with me if you have a fraud concern, a systemic
3 issue, anything that you believe would be appropriate
4 for our office to be looked at. So thank you.

5 CLARISSA RODRIGUEZ: Thank you.

6 ALL: Thank you.

7 CLARISSA RODRIGUEZ: Thank you, Bryan.
8 Thank you so much for the work that you do and all
9 that great information. Now, Board Members, may I
10 please have a motion to adjourn today's meeting?

11 UNIDENTIFIED SPEAKER: Yes, (audio fades).

12 STEVEN CRAIN: Board Member Crain. I move
13 to adjourn.

14 CLARISSA RODRIGUEZ: Okay. Thank you, Board
15 Member Crain. Is there a second to that motion?

16 PAMELA CAGGIANELLI: Board Member
17 Caggianelli, and I second that motion.

18 CLARISSA RODRIGUEZ: Thank you, Board Member
19 Caggianelli. Board Members all in favor, please say
20 aye.

21 ALL: Aye.

22 CLARISSA RODRIGUEZ: All opposed? I am also
23 a yes. That motion is passed. Thank you. Meeting
24 adjourned, everyone. Thank you.

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WHEREUPON, THE MEETING WAS ADJOURNED.