



Fraud Squad. Are You Ready for Your Close Up?

By Matthew J. Smith, Esq.

If we historically compare the world of special investigation units (SIUs) to Hollywood, the genre of “film noir” comes to mind as an analogy for our industry. For decades, claims investigations were conducted in the shadows. Even today, when many people think of the SIU, it is usually depicted through a grainy, black-and-white lens on a foggy, rainy night, complete with a trench-coated investigator. In many ways, we even pride ourselves on this rather cinematic approach to our profession.

We now are more than a half-century removed from the 1940s and '50s when “film noir” populated theatre houses across the country. If, however, we are still operating our special investigation units in the same way, then we are in deep trouble. SIUs in the new millennium must move from the shadows and into the projector light of vivid color, surround sound, and even 3D. It is time for SIUs to take a place on the insurance stage.

We should no longer try to hide or minimize the importance of investigating insurance fraud in all its aspects. Rather than acting apologetically or being fearful of conveying the wrong “impression” by acknowledging that a file is under investigation, we should explain fully why we investigate claims and the absolute duty and responsibility of insurance carriers to do so.

The Coalition Against Insurance Fraud estimates insurance fraud steals at least \$80 billion every year from honest American consumers. Forty-nine states now mandate insurance carriers to investigate insurance fraud. Statistics such as these are ones that we should speak of loudly and often to educate judges, jurors, and consumers about the need to investigate and battle the epidemic of insurance fraud in America.

We must be cautious in making certain that we never pre-judge a claim or imply a referral for investigation automatically means that the claim has been determined to be fraudulent. The best mantra for any SIU is to view itself as the department within the insurance company charged with the responsibility of protecting innocent policyholders. Through proper investigation, we must identify those claims that should be

paid pursuant to the policy from those that are fraudulent and should not.

Instead of trying to hide or minimize the role of the SIU, insurance carriers today should be promoting the SIU as a service that protects innocent policyholders, holds down the high cost of insurance, and provides an extremely valuable service not only to the company, but also to consumers nationwide. When an insured asks if his claim has been referred for investigation, we should answer truthfully and completely while also making certain

that they understand the importance of a thorough and complete investigation in determining proper coverage.

Many of us in the business of investigating insurance fraud await the day when even a small fraction of the hundreds of millions of dollars spent annually by insurers on television commercials finally focuses not only the importance of paying claims, but also on the duty and responsibility of the insurance carrier not to pay fraudulent claims. There is certainly a strong argument to be made that honest American consumers looking for high-quality insurance at a fair price would give serious consideration to a company that advertises its commitment to holding down premiums by battling insurance fraud.

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of us to act at all times with the utmost of integrity, honesty, and forthrightness. These are the basic traits that should define our profession regardless, but we must never lose sight of the importance of the role we play in determining whether a loss is paid or coverage denied. As an insurance defense attorney of 30 years, my greatest fear is advising a carrier to deny coverage for a loss in which the insured was truly innocent of any intentional act or misrepresentation. We must always begin with the premise that every loss, if covered under the insurance contract, should be paid to the harmed party unless there is sufficient reason to disclaim coverage. The proper role of the SIU is never to deny coverage, but rather to seek all reasonable basis to determine coverage is due and owing. We should make the recommendation otherwise only when sufficient evidence exists for a denial to be the fair, logical, and correct decision.

While the insurance industry and SIUs may be slow to change, we must do so and understand that we are now investigating claims in a new and modern world. The advent of social media,



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computer and cellular technologies, and even the impact of television shows all put the world of forensic investigations in a new light. American consumers to-

day not only understand the importance of investigating insurance fraud, but also expect forensics and investigations to be a key part in the determination of insurable losses. If we try to hide what we are doing, we make it appear as if the insurance carrier is not confident in its own ability to investigate these matters, or that we are somehow not truly engaged in simply seeking the truth.

Fifteen years into the new millennium, it is time for us to embrace instead of battling change. Our SIUs today can be a great marketing tool and should be a showcase for the insurance carrier to demonstrate to policyholders and shareholders alike that we are truly committed to the battle against insurance fraud and are vigilantly making certain the policy premiums entrusted to our care are paid appropriately and not to support fraud. **CM**

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