

Approved: 2/15/96 lan

Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:08 a.m. on February 7, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Gary Merritt - excused
Rep. Terry Presta - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bev Adams, Committee Secretary

Conferees appearing before the committee: Kathleen Sebelius, Commissioner of Insurance
Paula Greathouse, Staff Attorney, Workers Comp Fund

Others attending: See attached list

Chairman Lane called for a motion to approve the minutes handed out on 2/6/96. A motion was made by Rep. Beggs to approve the minutes of 1/30, 1/31, and 2/1/96, with a correction to the spelling of Standifer on February 1. Rep. Ballard seconded the motion. The minutes were approved as corrected.

Chairman Lane introduced Insurance Commissioner Kathleen Sebelius. She returned to the committee at the request of Rep. Packer to address in more detail about the Second Injury Fund Attorneys.

She started her presentation by giving some background information about the Workers Compensation Fund and how it is organized. This first part of the fund, the second injury coverage, was set up to encourage the employment of persons handicapped as a result of a specific impairment, such as war-related injuries among others. It served the purpose of not penalizing employers for hiring handicapped workers, by covering injuries that may be related to a pre-existing injury. The second part of the fund is the insolvent/uninsured employers, and the third is reimbursement to employers on an overpayment of benefits. Receipts for the fund come in from assessments on insurance companies and self-insured operations who write workers compensation coverage in Kansas and some smaller payments come in from non-dependent death receipts.

Pursuant to legislation enacted July 1, 1993, the Kansas Workers' Compensation Fund has no liability for any dates of accident after July 1, 1994, in the second injury category of coverage, but this area is currently under litigation. The fund would continue for the other two categories. The last claims against the second injury fund are estimated to be paid in the year 2014.

After Commissioner Sebelius took office, several changes were made to catch up on a backlog of cases. A review of all open files and updating of the master computer files was done and a current status was obtained on each file. Attorney fee audits were conducted of all attorneys handling fund cases and those which showed inconsistencies were and are being audited internally. Approximately five attorneys were fired for excessive billing practices or ethical considerations. Currently there is one case in litigation concerning one attorney. Another attorney has gone to the Special Claims Committee of the Legislature, but no legal action has been filed. (see Attachment 1)

Commissioner Sebelius concluded her presentation by answering questions from the committee. She deferred some questions to Paula Greathouse, Staff Attorney, Workers Comp Fund.

The committee adjourned at 9:55 a.m.

The next meeting is scheduled for February 8, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE February 7, 1996

NAME	REPRESENTING
John Hanna	Associated Press
Lynn Copp	KID
Tula S. Cheahouse	Ins. Insurance Dept.
Terry Leatherman	KCCI
Bob Sacca	mis sm Lumberman 188 &
JASON PITSENBERGER	BRAD SMOT
Chris Miller	Self
Wayne Mankus	K. AFL-CIO
Theresa M. Grabel	KTLA
Diana Schmitz	Governor's Office,
John Rainey	KPOA
William G. F. S.	Social Worker Student.
Janet Stubbli	KBIA
Pat Morris	KAIA
Peggy Lane	-
Melissa Wangemann	Hein, Ebert & Weir
Penny Atchison	-
Nancy Lindberg	Atty Gen.
Gill Greenfield	Intern

Kathleen G. Sebelius
Commissioner of Insurance

THE KANSAS WORKERS COMPENSATION FUND
K.S.A. 44-566(a)

Year End Report
1995

*House Business, Commerce
& Labor Committee*
2/7/96
Attachment 1

THE KANSAS WORKERS COMPENSATION FUND
K.S.A. 44-566(a)

Year End Report
1995

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THE KANSAS WORKERS' COMPENSATION FUND
K.S.A. 44-566(a)

I. The First Year

Kathleen G. Sebelius, the 23rd Insurance Commissioner of Kansas, took office January 9, 1995. In her role as the Administrator of the Kansas Workers' Compensation Fund, the Commissioner inherited a bureaucracy that had seen little change since it was transferred to the Department of Insurance in the 1970s. The Kansas Workers' Compensation Fund, which administered approximately \$48 million in 1995, had a working staff of one attorney, one paralegal, one secretary, one half-time secretary, three accountants, and one half-time law clerk.

In January 1995, at the time of transfer, the Fund was up to six months behind in payments to claimants and respondents. Much of this was caused by the lack of available personnel. The Fund attorney assigned to oversee the everyday activities of the Fund was on leave without pay from mid-September through mid-November, 1994, prior to her resignation in December 1994. Both the paralegal and the secretary terminated their positions in January, further adding to the difficult transition.

Immediately upon taking office, the Commissioner implemented several stop-gap measures. Brian Moline, the new General Counsel, took on the responsibility of oversight of the Fund while interviewing attorneys and handling his other numerous duties. Two temporary accountants were hired to catch up on the six month backlog of payments due the claimants and respondents. The Fund was brought current on payments in April of 1995.

Mr. Moline also requested status reports on all open cases, and asked the approximately 100 Fund attorneys to verify our computer records on cases referred to them. The review of all

open files (approximately 9,300) continued until December of 1995. The information was updated in the master computer files and a current status was obtained on each file. Changes were made in over ten percent of the files. Attorney fee audits were conducted on all attorneys, and those which showed inconsistencies were and are being audited internally. To date, five internal audits have been completed. Those audits which showed additional problems were and are being referred to an independent legal audit firm pursuant to a bid Request For Proposal process. Approximately five attorneys have been fired for excessive billing practices or ethical considerations. In addition, an external review of Fund procedures is being conducted pursuant to a second Request For Proposal bid process.

II. General Information

A. *Nature & Purpose*

The purpose of the workers' compensation fund is to encourage the employment of persons handicapped as a result of specific impairments by relieving employers, wholly or partially, of workers' compensation liability resulting from compensable accidents suffered by these employees. K.S.A. 44-567(a). *Morgan v. Inter-Collegiate Press*, 4 Kan.App.2d 319, 606 P.2d 479 (1980).

Responsibility for payments from and administration of the fund lies with the commissioner of insurance. K.S.A. 44-566a(b).

B. *Coverage*

There are three basic areas of coverage for employers and employees under the Kansas Workers' Compensation Fund. The first is second injury coverage, the second is insolvent/uninsured employers, and the third is reimbursement to employers on an overpayment of benefits.

1. Second Injury

In order for an employer to be relieved of liability by the Kansas Workers' Compensation Fund, either in whole or in part, the employer must establish that it hired or retained a handicapped employee after acquiring knowledge of the preexisting handicap or that the employee intentionally misrepresented the existence of the handicap.

Handicap is broadly construed by the statutes and case law. Second injury cases are broken down into "but for" and contribution cases.

a) "But For" Cases

K.S.A. 44-567(a)(1) provides:

Whenever a handicapped employee is injured or is disabled or dies as a result of an injury which occurs prior to July 1, 1994, and the administrative law judge awards compensation therefor and finds the injury, disability or the death resulting therefrom probably or most likely would not have occurred but for the preexisting physical or mental impairment of the handicapped employee, all compensation and benefits payable because of the injury, disability or death shall be paid from the workers compensation fund; and

Assuming the employer has the requisite knowledge of the employee's handicap, recovery from the workers' compensation fund is 100% pursuant to this section. This test is whether the injury or resulting disability, not the accident, probably or most likely would not have occurred "but for" the preexisting impairment. *Barke v. Archer Daniels Midland Co.*, 223 Kan. 313, 573 P.2d 1025 (1978). Medical evidence is not required to establish a "but for" case against the fund.

b) Contribution Cases

K.S.A. 44-567(a)(2) provides:

subject to the other provisions of the workers compensation act, whenever a handicapped employee is injured or is disabled or dies as a result of an injury and the administrative law judge finds the injury probably or most likely would have been sustained or suffered without regard to the employee's preexisting physical or mental impairment but the resulting disability or death was contributed to by the preexisting impairment, the administrative law judge shall determine in a manner

which is equitable and reasonable the amount of disability and proportion of the cost of award which is attributable to the employee's preexisting physical or mental impairment, and the amount so found shall be paid from the workers compensation fund.

If the handicapped employee's impairment contributes casually to the injury or disability, the workers' compensation fund may be liable for a portion of the compensation and benefits awarded to the claimant. The apportionment of the award is based on the amount of disability attributable solely to the second injury and the extent that the preexisting impairment contributed to the second injury.

2. Insolvent/Uninsured Employers

K.S.A. 44-532a states:

(a) If an employer has no insurance to secure the payment of compensation as provided in subsection (b)(1) of K.S.A. 44-532 and amendments thereto, and such employer is financially unable to pay compensation to an injured worker as required by the workmen's compensation act, or such employer cannot be located and required to pay such compensation, the injured worker may apply to the director for an award of the compensation benefits including medical compensation, to which such injured worker is entitled, to be paid from the workers' compensation fund. If the director is satisfied as to the existence of the conditions prescribed by this section, the director may make an award, or modify an existing award, and prescribe the payments to be made from the workers' compensation fund as provided in K.S.A. 44-569 and amendments thereto. The award shall be certified to the commissioner of insurance, and upon receipt thereof, the commissioner of insurance shall cause payments to be made to the employee in accordance therewith.

The workers' compensation fund may be required to pay benefits to injured workers where the employer has no insurance and is financially unable to pay compensation to the injured worker or in situations where the employer cannot be located to pay such compensation. The Fund currently has approximately 327 open insolvent employer cases. There have been 440 cases in this area since 1990.

3. Reimbursement

Reimbursement pursuant to K.S.A. 44-556(d), K.S.A. 44-534a(b), and K.S.A. 44-569(c) all encompass paying a respondent for monies expended during

a workers' compensation case that should not have been paid for a variety of reasons.

These amounts are certified to the Director of Workers' Compensation and then paid by the Fund with no litigation or involvement by the Workers' Compensation Fund before being ordered to pay.

C. Future Liability

Pursuant to legislation enacted July 1, 1993, the Kansas Workers' Compensation Fund has no liability for any dates of accident after July 1, 1994, in the second injury category of coverage, but this area is currently under litigation. Please refer to page six under Legislative Issues, Post-July 1, 1994 cases. The Fund remains liable for uninsured/insolvent employers and reimbursement cases. Please refer to page three.

III. Financial

A. Financial Overview

The workers' compensation fund was created and exists pursuant to K.S.A. 44-566a and receives its monies from essentially two sources: (1) assessments against insurance carriers and self-insurers, K.S.A. 44-566a(b); and (2) payments by employers where an employee is killed in an otherwise compensable accident, but in which there are no eligible dependents, K.S.A. 44-570 (non-dependent death).

Receipt Analysis

FY1996 thru 11/30/95	
Assessment Receipts	\$21,541,357.55
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	55,500.00
Misc. Reimbursements	<u>66,053.53</u>
TOTAL RECEIPTS	\$21,662,911.08
Previous Year Carryover	31,469,560.82
Canceled Checks	<u>239,422.15</u>
TOTAL FUNDS AVAILABLE	\$53,371,894.05
FY1995	
Assessment Receipts	\$42,352,785.43
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	0.00
Misc. Reimbursements	<u>154,600.63</u>
TOTAL RECEIPTS	\$42,507,386.06
Previous Year Carryover	37,515,761.63
Canceled Checks	<u>193,152.69</u>
TOTAL FUNDS AVAILABLE	\$80,216,300.38

Disbursement of Expenditures

FY1996 thru 11/30/95	
Administrative Costs	9.22%
Compensation Costs	64.71%
Vocational Rehabilitation	1.01%
Medical Costs	24.43%
Other Operating Expenses	<u>0.63%</u>
	100.00%
Outside Counsel	\$1,411,131.02
FY1995	
Administrative Costs	9.62%
Compensation Costs	62.93%
Vocational Rehabilitation	1.12%
Medical Costs	25.79%
Other Operating Expenses	<u>0.54%</u>
	100.00%
Outside Counsel	\$4,241,869.88

FY1994	
Assessment Receipts	\$63,951,643.95
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	92,500.00
Misc. Reimbursements	<u>207,845.97</u>
TOTAL RECEIPTS	\$64,251,989.92
Previous Year Carryover	16,716,488.98
Canceled Checks	<u>0.00</u>
TOTAL FUNDS AVAILABLE	\$80,968,478.90

FY1993	
Assessment Receipts	\$47,987,400.35
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	64,750.00
Misc. Reimbursements	<u>139,334.49</u>
TOTAL RECEIPTS	\$48,191,484.84
Previous Year Carryover	1,587,744.72
Canceled Checks	<u>42,541.31</u>
TOTAL FUNDS AVAILABLE	\$49,821,770.87

FY1992	
Assessment Receipts	\$35,961,471.11
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	166,500.00
Misc. Reimbursements	<u>162,906.20</u>
TOTAL RECEIPTS	\$36,290,877.31
Previous Year Carryover	14,390.64
Canceled Checks	<u>20,392.62</u>
TOTAL FUNDS AVAILABLE	\$36,325,660.57

FY1991	
Assessment Receipts	\$17,030,545.83
Gen. Fund Entitlement	3,930,000.00
Non-Dependent Death Receipts	129,500.00
Misc. Reimbursements	<u>94,490.41</u>
TOTAL RECEIPTS	\$21,184,536.24
Previous Year Carryover	3,758,996.78
Canceled Checks	<u>22,563.44</u>
TOTAL FUNDS AVAILABLE	\$24,966,096.46

FY1990	
Assessment Receipts	\$17,137,820.37
Gen. Fund Entitlement	4,000,000.00
Non-Dependent Death Receipts	55,500.00
Misc. Reimbursements	<u>177,766.44</u>
TOTAL RECEIPTS	\$21,371,086.81
Previous Year Carryover	3,767,063.29
Canceled Checks	<u>2,485.56</u>
TOTAL FUNDS AVAILABLE	\$25,140,635.66

FY1994	
Administrative Costs	11.01%
Compensation Costs	63.58%
Vocational Rehabilitation	1.28%
Medical Costs	23.51%
Other Operating Expenses	<u>0.62%</u>
	100.00%

Outside Counsel \$4,343,495.23

FY1993	
Administrative Costs	12.36%
Compensation Costs and	65.26%
Vocational Rehabilitation	
Medical Costs	21.62%
Other Operating Expenses	0.76%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$3,837,959.67

FY1992	
Administrative Costs	10.96%
Compensation Costs	68.36%
Medical Costs	19.98%
Other Operating Expenses	0.70%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$3,579,980.88

FY1991	
Administrative Costs	11.45%
Compensation Costs	69.49%
Medical Costs	18.10%
Other Operating Expenses	0.96%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$2,645,923.33

FY1990	
Administrative Costs	12.15%
Compensation Costs	66.93%
Medical Costs	19.91%
Other Operating Expenses	0.97%
Refunds	<u>0.04%</u>
	100.00%

Outside Counsel \$2,402,730.45

Included in Administrative Costs are attorneys fees, deposition costs, court costs, investigation fees, medical reports, funeral costs and Insurance Department administrative costs, including salaries.

IV. Tail Liability/Actuarial Report

A. *Estimate of Kansas Workers' Compensation Fund's Liability*

Because of the nature of workers' compensation cases, it is impossible to be certain as to the specific dollar amount of tail liability. For litigated cases that have left future medical open, liability on behalf of the Fund would continue until the claimant's death. In addition, liability for insolvent/uninsured employers remains active even after July 1, 1994. The reimbursement statutes also remain in effect.

Finally, we have had a significant number of impleadings (over 300) that are post-July 1, 1994. The issue of Fund liability after that date has not been settled and will continue to drain resources from the Fund until such time as it is decided. We are currently awaiting a decision from the Board of Appeals filed August 23, 1995 and argued on October 11, 1995.

B. *Actuarial Report of 6/30/94*

Commissioner Ron Todd requested that Casualty Actuaries, Inc., complete an estimate of the Kansas Workers' Compensation Fund unfunded liability last summer. The report was received in December of 1994.

The president of the actuarial company summarized the findings of the report in a 5/18/95 letter which is attached as exhibit 1. His findings were that over the remaining life of the Fund, the best estimate of liability was:

1. Implead Claims	\$174,808,000
2. Offset for Date Purge	50,787,000
3. Potential Claims	<u>64,304,000</u>
Total Unpaid Liability	\$289,899,000

This figure is a "best estimate" and is on the low end of a medium liability range from \$264,842,000 to \$313,258,000. Our liability for this upcoming year will be over \$40 million. Anticipated payout would be through the year 2014.

There were two problems with the information provided by the Insurance Department used by Casualty Actuaries, Inc., to come to these conclusions. The first was that there were

several purges of the computer information on Workers' Compensation without a hard copy being kept anywhere. This made it impossible to determine what the liability had been during those years, thus creating a gap in the information used to determine future liability. The second problem was that the company was provided incorrect information from the Insurance Department's database when the computer started adding columns instead of printing separately. This was discovered and was compensated for early in the process.

V. Legislative Issues

A. *Status of Post-July 1, 1994 Cases*

As of 1/1/96, the Kansas Workers' Compensation Fund has had over 300 post-July 1, 1994 impleadings. This is a rough estimate based on the impleadings which have included a date of accident. The general argument from those respondents still impleading the Fund centers on the language of K.S.A. 44-567.

a) An employer who operates within the provisions of the workers compensation act and who knowingly employs or retains a handicapped employee, as defined in K.S.A. 44-566 and amendments thereto shall be relieved of liability for compensation awarded or be entitled to an apportionment of the costs thereof as follows:

(1) Whenever a handicapped employee is injured or is disabled or dies as a result of an injury which occurs prior to July 1, 1994, and the administrative law judge awards compensation therefor and finds the injury, disability, or the death resulting therefrom probably or most likely would not have occurred but for the preexisting physical or mental impairment of the handicapped employee, all compensation and benefits payable because of the injury, disability, or death shall be paid from the workers compensation fund; and

(2) subject to the other provisions of the workers compensation act, whenever a handicapped employee is injured or is disabled or dies as a result of an injury and the administrative law judge finds the injury probably or most likely would have been sustained or suffered without regard to the employee's preexisting physical or mental impairment but the resulting disability or death was contributed to by the preexisting impairment, the administrative law judge shall determine in a manner which is equitable and reasonable the amount of disability and proportion of the cost of award which is attributable to the employee's preexisting physical or mental impairment, and the amount so found shall be paid from the workers compensation fund.

Respondents still impleading the Fund argue that because the date July 1, 1994 was left out of K.S.A. 44-567a(2), contribution cases are still open in terms of Fund liability.

The Workers' Compensation Fund's position has always been that the clear intent of the legislature was to limit Fund liability to accidents occurring prior to July 1, 1994.

The Fund's argument has been and will be, for accidents after July 1, 1994, the Fund is liable only in cases involving insolvent or absent employers, cases where the respondent has paid contribution in excess of that to which the claimant is entitled, or cases where the respondent is forced to pay compensation owed by the Fund during a period when the Fund is temporarily insolvent. The post-July 1, 1994 issue is currently being litigated. Arguments before the Board of Appeals were scheduled for September 21, 1995. After that decision is rendered, the case will be appealed to the Court of Appeals and then to the Supreme Court. This case could potentially take anywhere from a year on a fast track to two years on a more reasonable time schedule. The Insurance Department is currently litigating over 200 cases on this issue.

Legislative clarification on this issue would be helpful.

B. Fund Dismissal

There is currently no statutory authority to dismiss the Kansas Workers' Compensation Fund from a case in which they have been impled without the approval of the parties involved. There are four recognized ways to settle Fund liability in a case. The first is an award pursuant to K.S.A. 44-569. Second is a joint petition and stipulation pursuant to K.A.R. 51-3-16. Third is a settlement hearing. Finally is a blanket dismissal by the parties. The Fund would suggest implementing a time limit for prosecuting a case against the Fund. If no action has been taken against the Fund by the other parties within a given time period, the Administrative Law Judge would have the authority to dismiss the Fund with prejudice upon motion by the Fund. This would significantly improve the Fund's ability to close out some of the over 9,300 open cases.

VI. Conclusion

The Commissioner of Insurance is committed to improving the administration of the Kansas Workers' Compensation Fund as the policies implemented during the past year have demonstrated.

May 18, 1995

Honorable Kathleen Sebelius
 Commissioner of Insurance
 420 SW 9th Street
 Topeka, KS 66612-1678

Re: Workers Compensation Fund Actuarial Report - Summary

Dear Commissioner,

Paula Greathouse requested that I prepare and send to you a summary of the major points covered in the Casualty Actuaries, Inc. report of the unpaid liabilities of the Kansas Worker Compensation Fund, herein referred to as "the Fund."

For actuarial analysis purposes, it is convenient to consider the liabilities of the Fund in three segments, defined by the data available from state files. Together the three segments cover all of the Fund liabilities. The analysis indicates the following unpaid amounts:

Indicated Fund Unpaid Liability (in thousands of dollars)
 as of June 30, 1994

Implead claims	\$-174,808
Offset of data purges	— 50,787
Accidents for which the Fund has not yet been implead	64,304
Total Fund unpaid liability	\$ 289,899

CAI also recommends that:

- a) the Fund improve upon the data captured on computer files so that date of accident is added, in addition to implead date and dates of transactions, and
- b) the Fund establish procedures so that data purges do not lose valuable historical data. The procedures should specify that purges take place only on the Fund's fiscal anniversary, and that archive copies of the file be made both before and after the purge, and that no other transactions take place between the before and after archive copies are made.

Reserves are intended to cover the cost of future payments for claims that have already occurred, whether the Fund has yet been implead or not. As in all predictions of the future, the estimate of future payments comes with a range of estimate. We have calculated the most likely range of total unpaid liability as falling between \$264,842,000 and \$313,258,000. All figures in the report are given prior to discount to present value. That is, the estimates do not anticipate income from investment of Fund assets.

The first reserve figure is the estimate of the unpaid portion of "implead claims" currently on record in the Fund's computers. These estimates carry the least amount of uncertainty of any of the three reserve categories. The second reserve figure, "offset of data purges," is CAI's estimate of the amount by which our estimate of implead claims are understated because of the purges from the Fund's computer files. Because of the actuarial assumptions required to bridge the missing data, the estimate for this incremental portion has less statistical reliability than the reserve for cases remaining on the Fund's computers. The third figure is the estimate of the Fund's liability for accidents that have occurred prior to July 1, 1994 and for which the Fund has not yet been implead. This portion of the reserve is based on a 600 claim sample of past Fund cases.

The uncertainties underlying the estimates arise from, but are not limited to:

- ① fortuitous nature of the circumstances leading to impleading the Fund;
- ② statistical uncertainty in extrapolating past trends and emergence patterns;
- ③ incomplete information on Fund data files, such as accident dates; and
- ④ purges of closed claims from Fund data files.

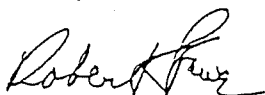
CAI found the data summaries to be consistent between valuation dates within two constraints:

1. the Fund reported that the data files were purged of some closed claims on two occasions. At both occasions, the Fund did not make a backup copy of the file prior to and immediately after the purge, thus making the amount and summaries of purged data impossible to obtain; and
2. the summary report as of June 30, 1994 contained large amounts of expenses paid, which remain unexplained, and which differ from the comparable summaries contained in the detailed claim report. This problem was overcome by using alternative data sources, and has no effect on the conclusions.

In addition, CAI found that date of accident was not recorded on Fund data files. With this data item missing, liabilities can only be determined for those claims for which the Fund has been implead. The liabilities accruing during the period between accident and implead date was derived from the patterns observed from a sample of 500 open and 100 closed claims.

The estimated ultimate costs and corresponding indicated reserves are summarized on Exhibit 1 for the different types of Fund payments: payments to claimants, expenses, and the offsetting reimbursements recovered from claimants or insurance companies.

Sincerely,



Robert F. Lowe

KANSAS WORKERS COMPENSATION FUND
SUMMARY OF INDICATED RESERVES
 Valued as of June 30, 1994

1-14

	(1)	(2)	(3)	(4)	(5)
	Paid thru June 1994 (Exh 2, cols 2,3,4)	<u>Estimated Ultimate Cost</u> Fund Pattern (Exh 2, cols 7, 8)	Smoothed (Exh 2, cols 15, 16)	<u>Indicated Reserves</u> Fund Pattern (Exh 2, cols 10, 11)	Smoothed (Exh 2, cols 18, 19)
Compensation	105,517,360	223,441,992	228,344,183	117,924,632	122,826,823
Medical	34,162,831	75,369,965	77,274,203	41,207,134	43,111,372
Other Compensation	21,654	21,654	21,654	0	0
Vocational Rehabilitation	1,640,154	3,469,322	3,540,679	1,829,168	1,900,525
Expenses	19,736,368	28,472,837	28,513,058	8,736,469	8,776,690
Subtotal Gross Reserves	161,078,367	330,775,770	337,693,777	169,697,403	176,615,410
Reimbursements	(1,653,606)	(3,390,099)	(3,460,649)	(1,736,493)	(1,807,043)
A. Net reserves	159,424,761	327,385,671	334,233,128	167,960,910	174,808,367
B. Reserves mis-estimated due to data purges					50,786,849
C. Reserves for accident-implead gap					64,303,733
D. Expected unpaid reserves (A) plus (B) plus (C)					289,898,949
<u>Probable Range</u>				<u>Lower Bound</u>	<u>Upper Bound</u>
A. Net reserves from above				166,680,290	174,808,367
D. Reserves mis-estimated due to data purges				33,857,900	67,715,799
E. Reserves for accident-implead gap ((B) plus 10%)				64,303,733	70,734,106
F. Expected Upper Range (Sum of (A), (D), and (E))				264,841,923	313,258,272

KANSAS WORKERS COMPENSATION FUND
Recap of Reserves by Case Type and Payment Type
June 30, 1994

1-15

Payment Type	Case Type (Section of Kansas Statute)							Total All Case Types
	Insolvent Insurance Companies	Non Dependent Death	Insolvent Employer	Regular Second Injury (Monthly)	Reimbmt to Insurance Company	Regular Second Injury Claims	Insolvent Employer (Monthly)	
	A	D	I	M	R	S	Y	
Comp Paid	1,211,875	127,356	1,597,732	25,555,530	2,160,010	168,487,706	4,553,512	203,693,722
Other Comp	0	0	0	0	0	0	0	0
Medical Paid	154,651	35,159	624,788	9,561,523	696,290	56,492,718	3,929,970	71,495,099
Voc'l Rehab	53,087	11,230	2,241	569,092	53,257	2,343,308	119,581	3,151,795
Expense	7,215	20,995	327,492	956,747	3,459	12,889,149	350,043	14,555,100
Subtotal	1,426,828	194,739	2,552,253	36,642,891	2,913,016	240,212,882	8,953,106	292,895,716
Reimbursmt	0	(1,825,025)	(171,380)	(18,840)	(52,249)	(489,815)	(339,457)	(2,996,767)
All Payment Types	1,426,828	(1,630,285)	2,380,873	36,524,051	2,860,767	239,723,067	8,613,648	289,898,949

CASUALTY ACTUARIES INC

CASE REPORT

Docket No. _____

Claimant

Respondent

Claimant's Attorney: _____

Respondent's Attorney: _____

Y N

Settlement between claimant and respondent? (If yes, attach Form 12.)

Y N

Award? (If yes, attach copy of award.)

TTD paid:	\$ _____
Medical paid:	\$ _____
PPD paid:	\$ _____
Other paid:	\$ _____
TOTAL PAID	\$ _____

If not settled, status of settlement discussions:

Synopsis/Status of Case:

Can file be closed: Y N

Estimated time to conclude case: _____

Estimated attorney fees to close case: _____

Estimate of Fund's Liability (if not already established): _____



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

February 7, 1995

Wichita, Kansas 67206

Dear

I am writing to all the attorneys appointed to represent the Worker's Compensation Fund through the Insurance Commissioner's Office to request information regarding the cases which have been referred. Enclosed is a form which you can use to provide information on the status of each open case you have. I would appreciate receiving these reports by the end of February. You may use your own form or format for these reports so long as they provide the information in a clear manner. Also enclosed is a print out of the cases which our records indicate are assigned to your office.

Our office is committed to bringing to bear the best management oversight possible to maximize the dollars spent by the fund. In addition to the case information, I am also interested in any comments or suggestions you might have about procedures or lines of communication which could help in the management of fund cases.

With over 100 attorneys or firms handling the over 9000 open fund cases, we have found there to be a considerable variation in how attorneys handle their cases. As we analyze the status of fund cases and determine appropriate procedures and standards for more consistent management of the fund cases we will be in further contact with you.

I appreciate your assistance with this request.

Sincerely,

A handwritten signature in black ink that reads "Brian Moline".

Brian Moline
Chief Counsel

420 SW 9th Street
Topeka, Kansas 66612-1678
913 296-3071
Fax 913 296-2283

Consumer Assistance
Toll Free
1 800 432-2484

KANSAS STATE FUND.

Cash Flow Analysis

Casualty Actuaries, Inc. was requested to estimate the cash payments during future fiscal years for the reserves recommended in our report dated December 13, 1994 to the Insurance Commissioner of the Kansas State Fund. The following schedule is based on the claims development patterns contained in the report. The estimates are made as if looking from June 30, 1994, and ignore the fact that as of this writing the entire fiscal year ending June 30, 1995, and part of the next fiscal year have passed.

Estimated Future Cash Payments on Claims Not Closed as of June 30, 1994

Paid During Fiscal Year Ending June 30:	"Formula" Cash Flow	Anticipated Reimburse- ments	Estimated to Replace Data Purges	Not Yet Implead Claims	Total Cash Flow
1995	35,833,843	(346,652)	10,304,242	0	45,791,433
1996	23,847,853	(252,585)	6,857,597	11,663,758	42,116,624
1997	16,501,193	(165,372)	4,745,020	9,145,322	30,226,163
1998	13,310,392	(141,997)	3,827,485	6,291,436	23,287,316
1999	10,914,993	(113,821)	3,138,673	4,969,312	18,909,157
2000	10,100,213	(113,320)	2,904,378	4,066,476	16,957,747
2001	8,969,150	(96,454)	2,579,134	3,708,822	15,160,652
2002	8,786,179	(92,170)	2,526,520	3,309,221	14,529,749
2003	8,426,472	(84,647)	2,423,084	3,206,013	13,970,922
2004	7,924,353	(81,826)	2,278,696	3,081,868	13,203,091
2005	7,260,037	(74,036)	2,087,668	2,904,548	12,178,217
2006	6,738,295	(68,896)	1,937,638	2,668,938	11,275,974
2007	6,188,955	(56,099)	1,779,672	2,473,475	10,386,003
2008	5,067,349	(47,677)	1,457,147	2,274,531	8,751,351
2009	3,716,318	(35,329)	1,068,650	1,888,253	6,637,892
2010	2,173,845	(26,639)	625,102	1,405,211	4,177,520
2011	573,518	(5,568)	164,919	851,002	1,583,872
2012	282,454	(3,955)	81,221	270,574	630,294
2013	-	-	-	114,072	114,072
2014	-	-	-	10,901	10,901
Totals	176,615,410	(1,807,043)	50,786,849	64,303,733	289,898,949

The term "claims not closed" refers to a) those claims in the files of the Kansas State Fund on which future claims are expected, and b) those accidents for which the Fund will be implead in the future, and are therefore not yet in the files of the Fund.

The term "formula cash flow" refers to unpaid amounts calculated from data in the files of the Fund as of June 30, 1994 which, as explained in the December 1994 report, is understated due to data purged from Fund files. The understatement is estimated and added to the total cash flow in the column titled "estimated to replace data purges."

The above numbers are presented without discounting for potential investment income. Any estimate of the effect of investments of funds must assume that the entire amount of the present value of the above anticipated payments is placed in high quality, reliable investments.

Kansas Insurance Department

News Release

Kathleen Sebelius
Insurance Commissioner

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Topeka, Kansas 66612-1678
(913)296-3071
Fax: (913)296-2283

For More Information
Please Contact:
Joe Scranton
(913) 296-7822

For Immediate Release
September 15, 1995

Insurance Commissioner Kathleen Sebelius Continues Fund Cleanup, Fires 2 Law Firms for Billing Questions

“Since taking office in January, I have made it a high priority to strengthen the management and oversight of the state’s Second Injury Fund. Over 9,000 cases are currently being handled by over 100 attorneys and firms throughout Kansas. Last fiscal year (‘95) these outside attorneys were paid \$4,241,869.88 for their work in representing the Fund.”

“In reviewing the status of all the Second Injury Fund cases, I have found for the most part, competent and effective representation of the Fund by outside counsel who represent the Fund. This is fortunate because I also found that the internal management controls over outside counsel to be practically non existent at the time I took office.”

“In such an environment there is opportunity for abuse; and unfortunately, abuse has occurred. Based on my review of the cases handled by outside counsel, I have determined that two attorneys who have been handling a large number of cases for the Fund over the past several years will no longer represent this Department due to their flagrant billing practices. These practices amount to a betrayal of public trust and deserve further scrutiny.”

“Robert Anderson, a sole practitioner and former Director of the State’s Workers’ Compensation Fund, has billed the Department for over 24 hours in a single day on numerous occasions. In fact, on his last billing statement to the Department, a preliminary audit showed that he billed 31 hours for his work on June 29, 1995. This was less time, however, than the 37 hours he billed on July 1, 1995. During the ten days after my office notified Mr. Anderson that we would be picking up his files, but before they were picked up, he billed the Fund an average 33 hours a day.”

“This is outrageous and there is no acceptable explanation for billing a client for more hours than there are in a day. The clearly excessive bills for 24 plus hours per day call into question the true amount of all the billings from this attorney over the years, and those billings have been substantial.”

“In Fiscal Year 1995 Mr. Anderson billed the fund \$221,263.71, more than all but 1 other firm working for the Fund. I have not paid the final invoice of \$36,675.00 from

this attorney, and I will not pay it until I have determined what amount, if any, is actually owed to him.”

“Another attorney, Chris Miller, whose firm has been paid far more over the past six years than any other attorney or firm representing the Fund, sent me his final billing this summer for over a quarter of a million dollars. Mr. Miller is a former employee of the Insurance Department. My initial review of the Fund’s records in January showed that Mr. Miller bills were more than twice the average fee for his cases than the average for the rest of the attorneys for the Fund (\$2,399 per case for Miller vs. \$1,187 per case for all others). By billing twice the average fee per case on a case load of over 200 open cases at a time, Mr. Miller’s firm billed nearly \$1.6 million in fees from the Fund in Fiscal Years 1990-95. That is far and away the most billed by any firm during that period, nearly \$700,000 more than fees paid to the firm with the next highest billings over that period.”

“In the last billing from Mr. Miller for approximately \$275,000 it appears he has included over \$44,000 of charges which have already been paid. Our internal review indicates that he may have been double-paid for some previous billings to the Fund. Because of his double bills and his extremely high average billing per case, I do not intend to pay the most recent bill from this attorney until I determine whether or not the state owes any more money to him.”

“I am in the process of hiring an outside legal auditing firm which specializes in forensic legal audits to review the entire billings of these two lawyers and any others which I determine need auditing attention. Based on the outside auditor’s review and recommendations, I will take appropriate action.”

“We are continuing our internal management and financial audits of all cases assigned to all attorneys. Increased oversight and fiscal controls are in place, and I fully anticipate more case adjustments and financial reviews before the task is completed.”

“I am committed to assuring the employers of Kansas that their interests are professionally represented by Fund attorneys, and that their resources are appropriately managed. We have made major progress toward that goal and will continue the effort until the job is finished.”

Facts About the Workers' Compensation Fund

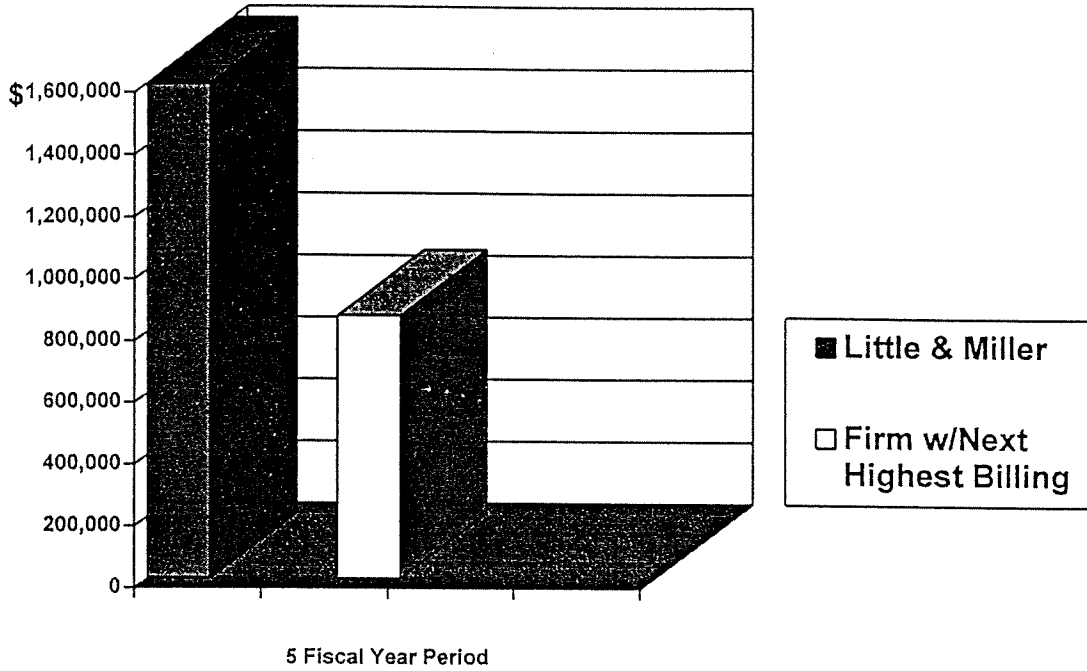
109 attorneys currently representing the fund.

9,490 closed cases, 9,317 open cases (FY '90 to January FY'95).

Fund Expenditures

<u>Fund Payments to Attorneys</u>	<u>Total Fund Expenditures</u>
1990 \$ 2,402,730.45	\$21,381,373.09
1991..... \$ 2,645,923.33	\$24,951,676.42
1992 \$ 3,579,980.88	\$34,737,915.85
1993 \$3,837,959.67	\$33,105,281.89
1994 \$4,343,495.23	\$43,452,717.27
1995 \$4,241,869.88	\$48,553,486.26
<hr/>	
Total \$21,051,959.44	\$206,182,450.78

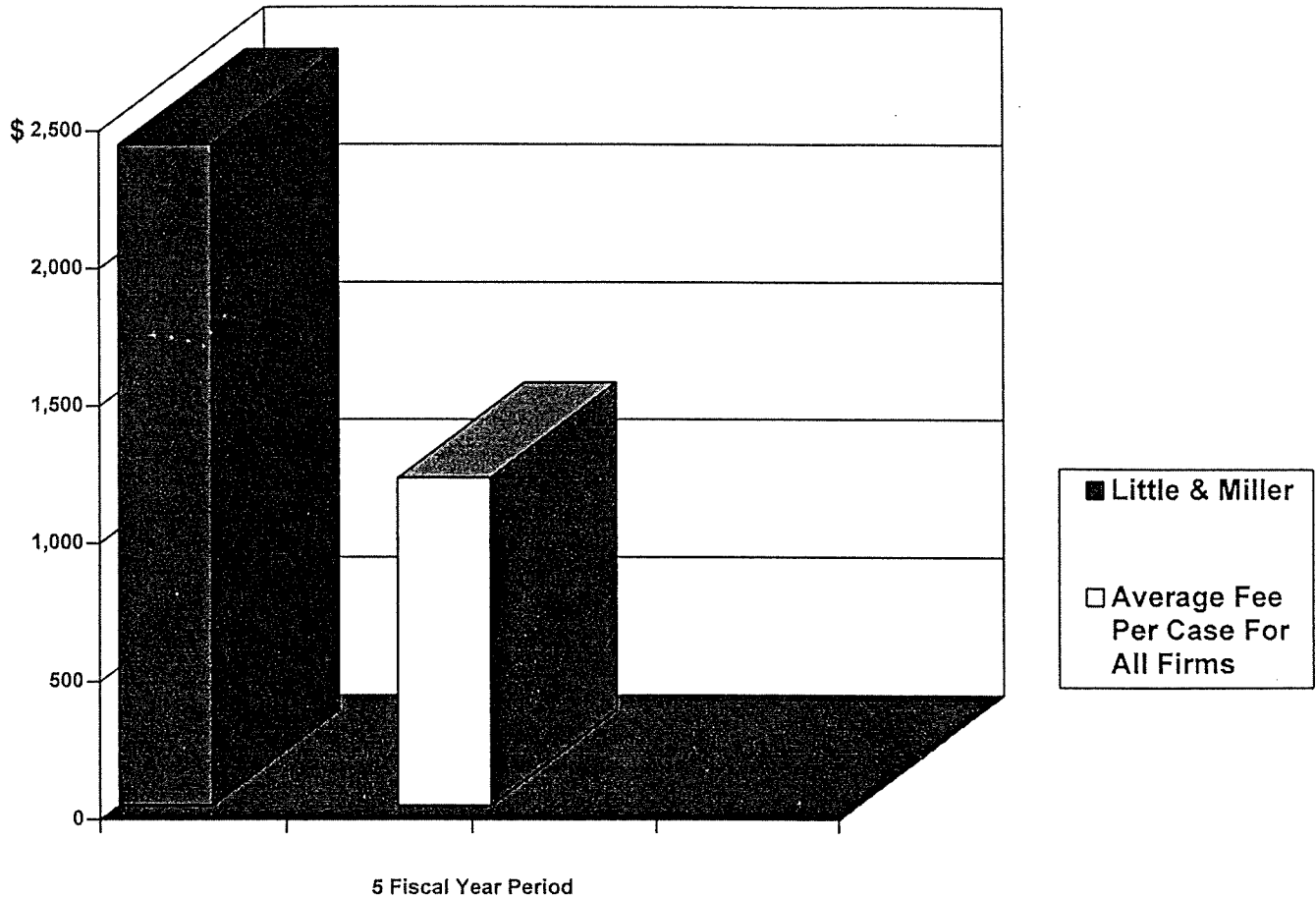
Total Billings to the Fund



Little & Miller

\$1,595,789.21

Average Fee Per Case (Firms Handling 5+ Cases)



Little & Miller	\$2,399.88
Average Fee Per Case For All Firms	\$1,187.26

KANSAS WORKERS' COMPENSATION FUND
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* Hired by Kathleen G. Sebelius after January 1995

LAW FIRMS LISTED BY AVERAGE FEES/CASE, HIGH TO LOW

ATTY/FIRM NAME	OPEN CASES 10/31/94	# OF CLOSED CASES*	AVG. FEE/CLOSED CASES*	AVG. AWARD/ CLOSED CASES*	TOTAL # CASES*
MCPHERSON, BROCK R.	25	4	5017.56	15378.03	29
VALERIUS, SETH	1	1	4529.63	7600.19	2
FOCHT, HUGHEY & HUND	0	1	3297.23	50280.00	1
WRIGHT, JAMES C.	0	3	3189.56	6425.26	3
BEYE, BRUCE W.	0	2	2452.26	41953.00	2
LITTLE & MILLER	258	277	2399.88	9815.26	535
PARRISH, JAMES	24	42	2309.20	9767.84	66
PERRY, HAMILL & FILLMORE	88	245	2027.65	10711.11	333
PHALEN, WILLIAM L.	100	104	2015.19	7257.62	204
MARSHALL, DAVIS, HENDRIX, SCHENK & WRIGHT	21	3	1930.72	20655.60	24
HELBERT, BELL & SMITH, CHTD.	1	3	1887.84	9078.67	4
DOERING, GRISELL & MCFARLAND	195	121	1814.96	7896.77	316
JORDAN, GARY L.	138	170	1808.91	8270.21	308
MAYFIELD, BRUCE D.	84	11	1807.69	19991.95	95
WEST WYANDOTTE LAW OFFICE P.A.	75	55	1787.64	6354.09	130
SLOAN, LISTROM, EISENBARTH, SLOAN & GLASSMAN	69	34	1735.50	9522.36	103
COOPER, JEFF K.	187	210	1685.79	9599.06	397
TRASTER, DAVID M.	0	1	1681.50	18401.11	1
DAVIS, UNREIN, HUMMER, MCCALLISTER AND BUCK	208	176	1672.84	9296.70	384
PORTER, FAIRCHILD, WACHTER & HANEY, P.A.	58	31	1652.31	11316.59	89
BIDEAU LAW OFFICES	116	79	1611.59	10424.93	195
CLOTFELTER, CORTLAND Q.	0	69	1524.56	6537.72	69
BROEMMEL, MIKE	12	3	1472.00	25065.56	15
BUSCH, ANDREW E.	213	274	1453.86	9263.47	487
BARGER, DIANE F.	38	42	1446.76	7166.73	80
WRIGHT & SHAFER	178	218	1446.43	8819.02	396
WORKS, MARK	91	77	1415.47	14902.43	168
KING, ADRIAN, KING & BROWN	0	7	1406.68	11454.84	7
LOY & LOY, P.A.	0	33	1377.59	5801.71	33
HARRIS YOST & CUNNINGHAM	360	134	1368.28	12187.51	494
HOLBROOK, HEAVEN & FAY, P.A.	179	335	1353.37	8207.65	514
ANDERSON, ROBERT A.	193	157	1336.97	8035.62	350
FELDT & ROTH, P.A.	49	70	1331.58	10131.30	119
HUDSON & MULLIES	103	94	1330.10	10313.74	197
GEHRT & ROBERTS, CHARTERED	141	150	1280.65	12416.88	291
BOGART, VINCENT	138	210	1274.08	4666.57	348
WATKINS, CALCARA, RONDEAU & FRIEDEMANN, P.A.	112	115	1263.82	9275.13	227
WALLACE, SAUNDERS, AUSTIN, BROWN & ENOCHS, CHTD.	253	129	1237.57	8054.69	382
LATHROP & NORQUIST	98	140	1231.70	11040.02	238
POLSINELLI, WHITE, VARDEMAN & SHALTON	85	145	1225.18	10756.04	230
DOCKING, KENT	13	17	1221.35	17229.81	30
BODDINGTON & BROWN, CHARTERED	62	66	1219.79	8960.40	128
JETER & MORAN	69	164	1219.65	9965.22	233
TRIPLETT, WOOLF & GARRETSON	0	23	1198.52	8804.97	23
MCANANY, VAN CLEAVE & PHILLIPS	9	37	1168.38	10388.89	46

* 7/01/90 through 10/31/94

1-33

LAW FIRMS LISTED BY AVERAGE FEES/CASE, HIGH TO LOW

ATTY/FIRM NAME	OPEN CASES 10/31/94	# OF CLOSED CASES*	AVG. FEE/CLOSED CASES*	AVG. AWARD/ CLOSED CASES*	TOTAL # CASES*
ARN, MULLINS, UNRUH, KUHN & WILSON	232	302	1142.73	6790.32	534
MISC.		24	1142.71	961.68	24
DEHON, JEFFREY A.	72	109	1132.50	12570.23	181
COGSWELL & STOREY	89	122	1122.13	10760.86	211
IRELAND, LAWRENCE P.	2	1	1110.00	0.00	3
WOODARD, BLAYLOCK, HERNANDEZ, PILGREEN & ROTH	381	254	1102.89	10181.46	635
NORTON, WASSERMAN, JONES & KELLY	123	116	1094.68	8686.99	239
FOULSTON, STEVEN L.	338	316	1078.47	8627.05	654
TALKINGTON & CHASE	61	41	1056.68	8863.67	102
VINCENT, CHARLES D.	111	147	1045.51	11053.16	258
ALDERSON, ALDERSON & MONTGOMERY	80	55	1040.12	15861.56	135
BENNETT, LYTLE, WETZLER, WINN & MARTIN	59	40	1025.11	17851.13	99
GILLILAND & HAYES, P.A.	262	329	1008.46	6299.67	591
KASSEBAUM & JOHNSON	208	135	1005.96	7007.31	343
COWGER, CHRIS	8	195	1005.02	9214.90	203
MARK & BURKHEAD	44	21	1004.20	13931.22	65
HATHAWAY, KIMBALL & CAMPBELL	80	50	996.87	10258.53	130
RADFORD, RAYMOND W.	60	87	957.34	11177.95	147
LOGAN & LOGAN	120	241	954.95	11430.71	361
ROCK, SMITH AND MASON	142	100	945.17	7939.04	242
MAURIN, III, J. PAUL	204	197	926.96	12046.57	401
HERSHBERGER, PATTERSON, JONES	0	386	915.89	5714.94	386
ELLIOTT, STEPHANIE, A.	58	24	884.94	11422.80	82
HAMPTON, ROYCE, ENGLEMAN & NELSON	150	118	873.94	7808.20	268
BLACKWELL, SANDERS, MATHENY	63	28	866.42	11117.91	91
SHRIVER, DAVID G.	153	200	833.96	9494.97	353
PETERSON, GARY M.	1	63	833.28	9435.01	64
MITCHELL & HENRY	195	117	800.64	10153.15	312
LUGAR, HARRIS, KUNCE & SHEELEY	69	47	792.77	10581.71	116
ERICKSON, DEBERA A.	20	7	769.71	8902.64	27
GATES & CLYDE, CHARTERED	105	83	744.07	14180.26	188
RILING, BURKHEAD, FAIRCHILD & NITCHER	123	115	725.51	8859.90	238
HEATH, JR., EDWARD D.	271	178	721.91	12751.15	449
HAMILTON, PETERSON, TIPTON & KEESHAN	65	47	713.24	7795.45	112
PHELAN, JAMES E.	112	55	690.75	8312.04	167
STEVENS, BRAND, GOLDEN, WINTER & SKEPNEK	100	139	687.55	11239.12	239
ARMSTRONG, TEASDALE, SCLAFLF & DAVIS	0	3	682.97	11574.91	3
PATTON, DAVIS & PUTNAM	37	9	666.85	3734.69	46
GLENN, CORNISH, HANSON & KARNs	82	48	629.88	10888.98	130
HEIN, EBERT & WEIR	0	5	619.32	4683.92	5
AUSTENFELD & AUSTENFELD	61	20	594.62	8751.32	81
TRIGG & GOULD	10	2	590.21	0.00	12
APPLING, MARVIN R.	153	77	546.07	9931.50	230

* 7/01/90 through 10/31/94

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LAW FIRMS LISTED BY AVERAGE FEES/CASE, HIGH TO LOW

ATTY/FIRM NAME	OPEN CASES 10/31/94	# OF CLOSED CASES*	AVG. FEE/CLOSED CASES*	AVG. AWARD/ CLOSED CASES*	TOTAL # CASES*
LINDNER, BOLT & MARQUEZ	169	95	543.88	5411.67	264
BENIEN AND KAPLAN, CHTD.	83	49	476.03	13045.70	132
ZIMMERMAN, W. FRED	80	63	474.09	12528.26	143
SHAW, HERGENRETER, QUARNSTROM & KOCHER	0	3	472.78	0.00	
GOODELL, STRATTON, EDWARDS & PALMER	39	27	406.24	6573.18	66
CARD, FRANK A.	27	7	399.86	6327.97	34
STITES, HILL, WILSON & KNOPP	0	4	364.89	758.00	4
BENNETT, DILLON CALLAHAN	0	8	314.31	11693.84	8
BRUNSON & LOW, P.C.	0	7	295.54	7199.37	7
HELSEL, JANET S.	39	8	261.44	20802.26	47
KANSAS INSURANCE DEPARTMENT	327	252	153.07	7454.21	579
HENSHALL, PENNINGTON & BRAKE	3	32	55.00	8853.77	35
HILL, CHARLES E.	1				1
HOLLIDAY, ROY	0				0
STUBBS & MANN, P.C.	0				0

* 7/01/90 through 10/31/94

LAW FIRMS LISTED BY TOTAL FEES, HIGH TO LOW

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ATTY/FIRM NAME	FEES PAID IN FY:						TOTAL FEES	CURRENT # OPEN CASES
	1990	1991	1992	1993	1994	1995		
LITTLE & MILLER*	157971.01	204149.70	168029.69	184606.06	329501.29	278179.67	1322437.42	0
PERRY, HAMILL & FILLMORE	134367.56	129493.63	196110.97	147966.08	196831.91	108374.11	913144.26	90
BUSCH, ANDREW E.	77861.02	87911.22	117086.91	117245.29	194196.56	152065.46	746366.46	197
COOPER, JEFF K.	123944.91	114144.19	133636.50	96747.29	106725.17	103636.40	678834.46	177
HOLBROOK, HEAVEN & FAY, P.A.	125866.67	146503.31	167023.18	113855.83	75080.83	45883.96	674213.78	173
ARN, MULLINS, UNRUH, KUHN & WILSON	35548.06	76751.65	126076.78	128500.01	153098.64	131354.97	651330.11	200
WOODARD, BLAYLOCK, HERNANDEZ, PILGREEN & ROTH	101923.99	117435.29	119211.97	104596.17	83071.26	90090.03	616328.71	378
GILLILAND & HAYES, P.A.	93480.44	75912.28	107679.49	118384.13	97396.79	120393.36	613246.49	240
FOULSTON, STEVEN L.	131631.56	126357.00	111827.06	94431.72	73470.25	73005.10	610722.69	333
DAVIS, UNREIN, HUMMER, MCCALLISTER AND BUCK	117556.89	102262.49	108671.42	99185.12	90308.11	77884.94	595868.97	187
WRIGHT & SHAFER	110813.95	143779.30	91434.25	83211.14	70305.20	63410.54	562954.38	160
WALLACE, SAUNDERS, AUSTIN, BROWN & ENOCHS, CHTD.			63861.30	125123.11	148930.95	207247.57	545162.93	229
JORDAN, GARY L.	64990.89	41092.91	100324.75	70003.63	137083.25	98752.23	512247.66	151
ANDERSON, ROBERT A.**			4863.80	107366.79	157480.00	184588.71	454299.30	0
HERSHBERGER, PATTERSON, JONES		139530.89	99922.93	143526.76	68324.73		451305.31	0
BOGART, VINCENT	54290.24	47936.35	124479.35	70320.50	58796.10	39388.26	395210.80	123
COWGER, CHRIS	55885.24	125478.84	119107.68	82535.93	2437.21		385444.90	8
GEHRT & ROBERTS, CHARTERED	48139.20	35032.91	83200.83	74073.73	64391.36	67965.07	372803.10	116
HARRIS YOST & CUNNINGHAM / STEPHAN, HARRIS, YOST					142661.65	215628.71	358290.36	305
LOGAN & LOGAN	54882.96	62175.98	64581.94	64151.66	46957.82	42088.32	334838.68	109
LATHROP & NORQUIST		13475.38	67403.02	86703.32	73443.82	89341.53	330367.07	81
WATKINS, CALCARA, RONDEAU & FRIEDEMANN, P.A.	38902.48	33476.61	70112.92	66216.71	59876.67	56915.79	325501.18	87
THRIVER, DAVID G.	43562.20	33265.47	48894.20	46841.15	65417.03	71933.80	309913.85	132
PHALEN, WILLIAM L.			96135.42	78565.03	66524.30	62951.10	304175.85	97
NORTON, WASSERMAN, JONES & KELLY	18798.90	34569.58	54671.79	54774.93	63597.76	69801.60	296214.56	123
MAURIN, III, J. PAUL	30160.25	75050.12	49461.19	47246.98	43648.53	45814.96	291382.03	242
POLSINELLI, WHITE, VARDEMAN & SHALTON	30279.06	29838.76	50784.72	89066.33	41606.49	45112.21	286687.57	78
JETER & MORAN	35780.90	30857.55	64744.92	58109.27	48627.23	43585.36	281705.23	64
BIDEAU LAW OFFICES	17808.19	33462.31	48458.69	66501.17	51317.97	58300.34	275848.67	113
KASSEBAUM & JOHNSON / KENNEDY & JOHNSON				46848.84	98726.45	113772.56	259347.85	200

Unaudited

* Does not include invoice of \$273,351.94

** Does not include invoice of \$36,675.00

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LAW FIRMS LISTED BY TOTAL FEES, HIGH TO LOW

ATTY/FIRM NAME	FEES PAID IN FY:						TOTAL FEES	CURRENT # OPEN CASES
	1990	1991	1992	1993	1994	1995		
WORKS, MARK	14135.17	12645.00	25362.00	66561.00	60087.00	67099.80	245889.97	87
VINCENT, CHARLES D.	12938.99	22216.06	44387.86	50901.18	54022.20	60227.90	244694.19	104
HUDSON & MULLIES	39549.86	19427.87	39657.98	53381.78	56143.11	31398.15	239558.75	95
DEHON, JEFFREY A.	12330.00	17415.00	42121.40	46575.00	45450.00	60515.41	224406.81	72
MITCHELL & HENRY	8357.42	7132.99	32246.18	31783.67	59965.70	83447.69	222933.65	163
ROCK, SMITH AND MASON / ORVEL MASON, P.A.	4872.80	21273.44	42266.05	57190.60	47769.28	44662.05	218034.22	135
COGSWELL & STOREY	26915.68	40558.01	40975.03	40055.77	27686.87	31048.12	207239.48	75
HAMPTON, ROYCE, ENGLEMAN & NELSON	2333.61	8545.44	37332.15	47388.34	60080.73	49972.58	205652.85	140
DOERING, GRISELL & MCFARLAND		8853.28	24260.82	33458.27	53896.08	61367.82	181836.27	238
CLOTFELTER, CORTLAND Q.	42321.87	34786.05	81320.31	22850.04			181278.27	0
STEVENS, BRAND, GOLDEN, WINTER & SKEPNEK	17568.13	23700.30	31047.50	31716.67	38296.42	34690.93	177019.95	87
MAYFIELD, BRUCE D.				6693.58	70934.47	76874.89	154502.94	89
SLOAN, LISTROM, EISENBARTH, SLOAN & GLASSMAN		2340.00	17068.35	34188.10	44112.78	55160.08	152869.31	64
HEATH, JR., EDWARD D.			69222.11	19786.72	27503.14	34801.52	151313.49	261
PORTER, FAIRCHILD, WACHTER & HANEY, P.A.	2650.00	888.00	15737.09	26407.89	39507.28	61492.39	146682.65	36
PARRISH, JAMES	32159.37	49912.63	24961.32	9593.15	11891.97	14453.00	142971.44	31
BODDINGTON & BROWN, CHARTERED	13139.48	7275.30	23218.64	28893.46	38486.49	30745.83	141759.20	55
RILING, BURKHEAD, FAIRCHILD & NITCHER	18995.34	16861.87	22825.48	22799.53	39989.44	19577.49	141049.15	113
RADFORD, RAYMOND W.	21972.53	19339.17	20455.05	20312.41	27172.20	30520.87	139772.23	0
FELDT & ROTH, P.A.	21001.41	15197.50	21829.87	29188.03	26347.80	26190.76	139755.37	44
WEST WYANDOTTE LAW OFFICE P.A.	20118.00	8061.24	9038.24	37047.38	31397.61	29134.78	134797.25	0
JARGER, DIANE F.	14762.62	16915.00	27107.78	30411.76	20618.03	22229.62	132044.81	36
TRIPLETT, WOOLF & GARRETSON			25910.25	51917.99	52736.23		130564.47	1
HATHAWAY, KIMBALL & CAMPBELL	5027.96	3819.14	6123.40	30064.17	48309.14	32000.18	125343.99	85
GATES & CLYDE, CHARTERED	15335.08	13646.97	17176.25	23000.26	24979.23	26421.42	120559.21	241
ALDERSON, ALDERSON & MONTGOMERY	13176.66	5222.97	15176.50	27861.45	17945.27	31938.40	111321.25	77
APPLING, MARVIN R.	8425.69		15561.30	19217.18	24347.29	42132.95	109684.41	158
LOY & LOY, P.A.	15453.66	90950.87	453.39	874.00	462.00		108193.92	0
TALKINGTON & CHASE	11143.80	12301.45	5600.33	17402.45	29311.60	24556.14	100315.77	59
BENNETT, LYTLE, WETZLER, WINN & MARTIN	9688.29	9320.35	16520.38	18617.79	25543.85	9720.40	89411.06	51

Unaudited

* Does not include invoice of \$273,351.94

** Does not include invoice of \$36,675.00

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LAW FIRMS LISTED BY TOTAL FEES, HIGH TO LOW

ATTY/FIRM NAME	FEES PAID IN FY:						TOTAL FEES	CURRENT # OPEN CASES
	1990	1991	1992	1993	1994	1995		
LINDNER, BOLT & MARQUEZ	7841.60	3126.63	6006.10	21082.42	15723.72	32550.65	86331.12	172
PETERSON, GARY M.	7150.70	4776.40	24320.51	30746.65	14680.14		81674.40	0
LUGAR, HARRIS, KUNCE & SHEELEY	2391.00		3277.00	15009.00	26256.00	33816.00	80749.00	68
HENSHALL, PENNINGTON & BRAKE	30242.77	26399.10	13645.13	6534.42	605.99	321.35	77748.76	3
BLACKWELL, SANDERS, MATHENY				11525.68	26872.26	36715.81	75113.75	81
GLENN, CORNISH, HANSON & KARNS	7054.33	3139.99	18489.71	9115.37	17895.54	18853.19	74548.13	88
MCANANY, VAN CLEAVE & PHILLIPS			13779.29	30733.31	20167.30	8444.16	73124.06	8
PHELAN, JAMES E.				27423.10	20013.00	21032.30	68468.40	104
HAMILTON, PETERSON, TIPTON & KEESHAN	1755.00	2228.80	7223.40	14080.30	16118.76	24587.26	65993.52	64
ELLIOTT, STEPHANIE, A.					27992.43	34559.41	62551.84	52
AUSTENFELD & AUSTENFELD				9362.53	20582.80	27671.64	57616.97	133
MARK & BURKHEAD				4618.81	30076.24	19718.00	54413.05	33
PATTON, DAVIS & PUTNAM			990.35	7610.10	23109.32	15562.22	47271.99	39
ZIMMERMAN, W. FRED				11924.75	16461.00	14640.00	43025.75	79
ERICKSON, DEBERA A.			705.00	420.00	14505.00	21495.00	37125.00	19
BENIEN AND KAPLAN, CHTD.				13638.88	12137.21	11193.02	36969.11	112
GOODELL, STRATTON, EDWARDS & PALMER			421.15	6132.72	12329.69	15931.09	34814.65	31
CARD, FRANK A.					7071.57	25648.95	32720.52	29
HEIN, EBERT & WEIR	29674.00	1338.60					31012.60	0
DOCKING, KENT	17946.00	2280.00	4560.00				24786.00	12
KING, ADRIAN, KING & BROWN	14445.84	7427.08					21872.92	0
MCPHERSON, BROCK R.	6480.00	2723.50	199.87	3241.25	135.50		12780.12	25
TRIGG & GOULD	5869.47	1319.78	1449.91	1883.00	140.00		10662.16	10
BROEMMEL, MIKE					3015.00	4182.00	7197.00	11
HELBERT, BELL & SMITH, CHTD.	3243.31	1128.29	656.15	1255.50			6283.25	0
BENNETT, DILLON CALLAHAN	1642.50	3585.65		330.00			5558.15	0
BEYE, BRUCE W.			2265.00	2490.00			4755.00	0
VALERIUS, SETH	1275.00	2475.00					3750.00	0
WALLACE, MIKE						3621.28	3621.28	113
BRUNSON & LOW, P.C.	2808.00						2808.00	0
MARSHALL, DAVIS, HENDRIX, SCHENK & WRIGHT	922.25	525.00	882.50	387.50			2717.25	21
CARPENTER, JOHN & GAIL						2691.75	2691.75	79
SLAPE & HOWARD						2660.01	2660.01	25
BERKOWITZ, DAVID						2638.09	2638.09	57

Unaudited

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** Does not include invoice of \$36,675.00

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LAW FIRMS LISTED BY TOTAL FEES, HIGH TO LOW

1-39

ATTY/FIRM NAME	FEES PAID IN FY:						TOTAL FEES	CURRENT # OPEN CASES
	1990	1991	1992	1993	1994	1995		
SHAW, HERGENRETER, QUARNSTROM & KOCHER	2036.29	432.12					2468.41	0
BELL, DALE						2272.86	2272.86	7
IRELAND, LAWRENCE P.	540.00		594.00		90.00	696.00	1920.00	0
CORMAC JOHNSTON						1891.74	1891.74	19
GREGORY, GIL						1728.40	1728.40	56
SHELOR, JERRY						1632.00	1632.00	18
TRASTER, DAVID M.	1549.50						1549.50	0
STUBBS & MANN, P.C.			930.75	375.00			1305.75	0
HELPS, DENNIS						1266.00	1266.00	20
KINCH, LEE						1248.70	1248.70	28
STITES, HILL, WILSON & KNOPP	1216.55						1216.55	0
DUGAN, JR., PAUL						1192.60	1192.60	21
MENGHINI, HENRY						1018.10	1018.10	11
FOX, STRETZ & QUINN						346.73	346.73	0
TRIGG, LINDA						195.80	195.80	12
LENTZ, STANLEY		195.00					195.00	0
FOCHT, HUGHEY & HUND	30.00	45.60	54.20	19.60			149.40	0
ARMSTRONG, TEASDALE, SCLAFLF & DAVIS			30.00				30.00	0
ARNHOLD, THOMAS							0.00	2
BOMWELL, FOSTER, BORNIGER							0.00	3
COOLEY, NORM							0.00	18
CROTTY, REBECCA							0.00	54
HELSEL, JANET S.							0.00	0
HORNBAKER, STEVEN							0.00	2
HORNER & DUCKERS							0.00	13
KANSAS INSURANCE DEPARTMENT							0.00	337
MISC.							0.00	0
NICHOLS, PAT							0.00	1
PAUZASKIE, WILLIAM J.							0.00	12
TILTON & HOFFMAN							0.00	5
WILSON, LEE & GURNEY							0.00	13
WRIGHT, JAMES C.							0.00	0

Unaudited

1-39

* Does not include invoice of \$273,351.94

** Does not include invoice of \$36,675.00

Kansas Insurance Department

News Release

Kathleen Sebelius
Insurance Commissioner

420 S.W. 9th Street
Topeka, Kansas 66612-1678
(913)296-3071
Fax: (913)296-2283

For More Information
Please Contact:
Joe Scranton
(913) 296-7822

For Immediate Release
November 3, 1995

Lawyer Audit Confirms Questionable Billing Practices

Insurance Commissioner Kathleen Sebelius today has released the audit just completed by Stuart, Maue, Mitchell and James, Ltd. of St. Louis, an independent legal forensic auditing firm.

"The findings of an independent professional audit of the billings of attorney Robert Anderson to the Workers' Compensation Fund confirm our preliminary findings that Mr. Anderson's billings were excessive. 88% of the bill that Mr. Anderson submitted, \$33,306.15 out of \$37,794.60, has been put in serious question by this audit."

"As administrator of the Workers' Compensation Fund, I have the responsibility to the people of Kansas to make sure the employers' legal resources are not wasted. I am satisfied that the audit confirms that my firing of Mr. Anderson was appropriate."

"I have asked Mr. Anderson to respond to the audit's findings, and informed him that I am willing to resolve his final bill by paying the portion of his bill the audit finds not in dispute," said Sebelius.

Key findings in the audit include:

- Most of the Mr. Anderson's billings are in question: \$33,306.15 worth of billings out of \$37,794.60 that Mr. Anderson submitted are questionable.
- Mr. Anderson, as a sole practitioner, billed "impossibly long billing days." He billed the Department for more than 24 hours in a day for 11 consecutive days. The total bill for this period is 381.75 hours at a cost of \$21,540.00.
- Mr. Anderson billed for clerical work even though it was against written Department policy(the total for clerical work was \$4,875.00 for photocopying, filing, typing letters etc).
- 97% of the Mr. Anderson's bills was for writing letters, speaking on the telephone, and reviewed files and medical records; 3% of the time was for attendance at hearings or depositions.

"I intend to comply with the request I have received from the Disciplinary Administrator's office for copies of this audit. While these findings raise serious questions about the entire \$492,092.90 of Mr. Anderson's prior 5 years of billings to the Workers' Compensation Fund, my focus has been to resolve this final outstanding bill with Mr. Anderson who I dismissed as a Fund attorney," said Sebelius.

Stuart, Maue, Mitchell & James, Ltd.

Legal Auditors and Consultants

3840 McKelvey Road • Saint Louis, Missouri 63044

Telex 02557570 • Telephone 314-291-3030 • Teletype 314-291-0540

October 26, 1995

The Honorable Kathleen Sebelius
Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612-1678

Re: Review and Analysis of Anderson Invoices

Dear Ms. Sebelius:

At the request of the Kansas Department of Insurance (Department), the legal auditing firm of Stuart, Maue, Mitchell & James examined certain invoices submitted to the Department by Robert A. Anderson (Anderson), attorney at law, for services rendered in connection with the defense of the second injury fund in workers' compensation matters. The auditors examined invoices dated July 11, 1995, and July 31, 1995. These invoices totaled \$36,570.00 and covered services for 326 matters. EXHIBIT A is a schedule of hours and fees billed by matter. The auditors created matter numbers beginning with "00000" for matters that were undocketed. EXHIBIT B is a calendar displaying daily hours billed to all matters combined.

The auditors examined the entries appearing on the invoices and classified the entries in various categories, as discussed below. The auditors identified certain categories of questionable entries (those entries that may require further clarification prior to a determination of compensability by the Department).

The auditors note that in 15 instances, the invoices indicated that a single claimant had more than one matter number assigned by Anderson. The auditors recognize that a workers' compensation claimant may have more than one claim for benefits at any given time, but Anderson included invoices labeled "docketed" and "not docketed" for matters that appeared identical to the auditors. In some instances, the matter numbers assigned to apparently

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identical cases suggested number transposition. See, for example, the invoices for *Esther Carrillo v. Excel Corporation*. This claim was associated with two matter numbers and two sets of invoices, one numbered 184484 and the other 184448. The auditors note that when a single claimant was assigned two matter numbers, apparent double billings frequently occurred. See Section C, below, for a discussion of apparent double billings on the Anderson invoices. EXHIBIT C is a summary of matters that appeared to be identical yet had two or more matter numbers assigned.

The auditors recomputed the fees billed on each invoice and found two invoices with discrepancies. These discrepancies offset each other.

The auditors note that Mr. Anderson was the only individual who billed, even though the invoices contain entries reflecting photocopying. See Section B, below, for a discussion of apparently clerical activities.

The auditors did not review the files associated with Anderson's invoices, nor did the auditors interview Mr. Anderson. Review of the files and interviews of Mr. Anderson could clarify entries that the auditors classified as questionable.

A. Activities Performed by Mr. Anderson

The task descriptions contained on the invoices indicate that Mr. Anderson recorded relatively few activities. He occasionally attended a deposition and/or a hearing, but for the most part his task descriptions showed that he read and wrote letters, spoke by telephone to others, and reviewed files. The following table summarizes the number of entries, the hours and fees billed, and the number of matters to which Mr. Anderson billed time for various activities:

Activity	Number of Entries	% of Total Entries	Hours	% of Total Hours	Fees	% of Total Fees	Number of Matters
Review Correspondence	171	11%	43.50	7%	\$2,610.00	7%	76
Draft Correspondence	469	29%	226.25	37%	\$13,575.00	37%	114
Telephone Conferences	197	12%	50.75	8%	\$3,045.00	8%	46
Review File	127	8%	35.75	6%	\$2,145.00	6%	78

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Activity	Number of Entries	% of Total Entries	Hours	% of Total Hours	Fees	% of Total Fees	Number of Matters
Draft Memo to File	105	6%	29.75	5%	\$1,785.00	5%	99
Draft Pleading	41	3%	38.25	6%	\$2,295.00	6%	40
Attend Deposition	4	"	7.50	1%	\$450.00	1%	3
Attend Hearing	6	"	11.00	2%	\$660.00	2%	6
Review Medical Records	8	"	7.00	1%	\$420.00	1%	5
Photocopy File	316	19%	81.25	13%	\$4,875.00	13%	314

" Less than 1%.

B. Entries Violating the Kansas Department of Insurance Billing Requirements

The Department provided the auditors with its billing requirements for Second Injury Fund representatives. The auditors quantified the hours and fees associated with Anderson billing entries that appeared to violate the Department's billing requirements.

Part B of the billing requirements states:

The legal fee rate quoted above is expected to include all overhead and internal charges associated with your practice. Unless otherwise agreed upon in advance and in writing, the Fund will not pay for overhead or normal firm operating costs outside the legal fee rate, such as:

1. Administrative or clerical services, including secretarial, docket, word processing, accounting, library, or other clerical staff time.

The Anderson invoices contain numerous fee charges for photocopying file materials. In many instances, the invoices contained task descriptions for apparently substantive legal work and for photocopying activities on the same date. See, for example, the

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entries on EXHIBIT D, which includes the entries billed by Anderson to various matters on July 8, 1995.

The auditors classify as clerical activities those tasks that do not require legal acumen and that can effectively performed by nonprofessional staff. The auditors include manually assembling or collating documents, making photocopies, filing or retrieving documents from files, and mailing or delivering documents typical clerical activities. EXHIBIT E contains the entries that the auditors classified as reflecting the performance of clerical activities. The auditors classified these entries as questionable. The following table summarizes the hours and fees billed in violation of the billing requirement precluding billing for clerical activities:

Clerical Activities	
Hours	Fees
81.25	\$4,875.00

Part E of the billing requirements states:

Each statement for reimbursement of fees and expenses should be submitted in a format that includes, at a minimum, the following information:

3. A brief, specific description of the services rendered. For example, "legal research" or "argument of motion" is not an acceptable description of services; the subject matter of a motion or the research performed and the purpose must be specified.

Nearly all of the Anderson task descriptions violate this billing requirement. The task descriptions are uniformly vague and provide little information regarding the actual tasks performed on behalf of the Fund. For example, Mr. Anderson routinely billed for "draft pleading." It is impossible to tell what pleading was drafted. He never mentioned the subject matter of telephone calls or correspondence, although his invoices are replete with billing entries reflecting these activities. The auditors believe that billing entries should at least be specific enough for the reader to determine the

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nature of the professional service performed. EXHIBIT F contains the entries that the auditors classified as vague and, therefore, in violation of the Department's billing requirements. The following table summarizes the hours and fees billed for vague billing entries:

Vague Billing Entries	
Hours	Fees
358.00	\$21,480.00

Part E. further states:

The time charged for the performance of the services shall be expressed to the closest fraction of an hour, which is normally used by the attorney in billings.

The auditors do not know the normal hourly billing increment used by Anderson. For Fund defense, Anderson billed in 0.25-hour increments. The difference between 0.25-hour increments and 0.10-hour increments is likely to be substantial, particularly where, as here, many of the tasks that appear on the billing statements appear to be routine. Mr. Anderson billed 0.25 hour to review checks and postal receipts.

EXHIBIT G contains examples of entries that the auditors believe suggest that the time billed for the activity performed was excessive. Because the auditors reviewed no documents or work product associated with the files, they were unable to determine whether or not other entries indicated that excessive time was billed for certain activities. The auditors know, however, that Paula Greathouse is employed by the Department. Consequently, the auditors isolated entries that reflected drafting correspondence to Ms. Greathouse, or reviewing correspondence from her. It is possible that Ms. Greathouse's records contain copies of this correspondence and that she can independently determine whether or not the time billed for entries associated with this correspondence appears to be excessive. EXHIBIT H contains entries reflecting correspondence with Ms. Greathouse, and EXHIBIT I contains entries reflecting review of Ms. Greathouse's correspondence.

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The auditors determined that Anderson billed 258.75 hours, with associated fees of \$15,525.00, for entries with associated time increments of 0.25. Had those entries been billed at 0.10 hour rather than 0.25 hour, the hours billed would have totaled 103.50, with associated fees of \$6,210.00. Had those entries associated with a 0.25-hour increment been billed at 0.20 hour, the hours would total 207.00, with associated fees of \$12,420.00. The auditors did not classify any entries as questionable solely due to the use of the 0.25 hourly increment because the billing requirements apparently allow any increment "normally" used by the attorney.

C. Duplicate Billing Entries

The auditors define duplicate billing entries as those billed more than once on the law firm's billing statements and substantially identical as to date, person, hours, fees, and task description. In the absence of evidence that identical tasks were performed more than once, or that time associated with a single task was apportioned between files, the auditors classify the second of apparently duplicate entries as questionable. EXHIBIT J displays duplicate billing entries. The auditors marked the questionable entries with an ampersand symbol [&]. The following table summarizes the hours and fees classified as questionable in this category:

Duplicate Billing Entries	
Hours	Fees
12.00	\$720.00

D. Long Billing Days

The invoices contain billing entries reflecting impossibly long billing days. These entries began on June 26, 1995, and continued through July 7, 1995. On only one day during this period did Anderson bill less than 24.00 hours. The following table displays the hours billed on those days:

Date	Hours	Fees
06/26/95	22.75	\$1,365.00
06/27/95	26.00	\$1,560.00

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Date	Hours	Fees
06/28/95	27.25	\$1,635.00
06/29/95	31.75	\$1,905.00
06/30/95	34.75	\$2,085.00
07/01/95	39.25	\$2,355.00
07/02/95	32.75	\$1,965.00
07/03/95	37.00	\$2,220.00
07/04/95	30.25	\$1,815.00
07/05/95	37.50	\$2,250.00
07/06/95	36.25	\$2,175.00
07/07/95	26.25	\$1,575.00

The auditors classified the entries reflecting these extraordinary billing days as questionable. The following table summarizes the hours and fees so classified:

Long Billing Days	
Hours	Fees
381.75	\$22,905.00

See EXHIBIT K, which contains the billing entries reflecting long billing days.

E. Unit Billing

The auditors believe that time records should be an accurate and contemporaneous record of the time actually expended on the described activity and prepared, or dictated, by the individual who actually performed the activity. The auditors describe the practice of assigning a standard time increment to an activity (e.g., review of incoming correspondence and pleadings, telephone calls, drafting of pleadings) without regard to the time actually spent on the activity as "unit billing." The auditors believe that attorneys should bill only the amount of time directly related to the client's legal representation.

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The auditors believe that Anderson engaged in the practice of unit billing. For example, Anderson billed 29.75 hours with associated fees of \$1,785.00 for the task "dictate memo to file." The auditors identified only 14 entries that did not indicate 0.25 hour for this task. For the task described as "review file," the auditors identified only 16 entries that did not reflect 0.25 hour, although the invoices contain 127 entries reflecting this task. Anderson tended to bill 1.00 hour for preparation of a notice of withdrawal as counsel. The auditors believe that this pleading is routine and similar from case to case. The auditors did not classify any hours and fees as questionable solely due to unit billing, but the auditors note that it is possible that the hours and fees billed are disproportionate to the amount of time actually spent performing the task.

F. Expenses

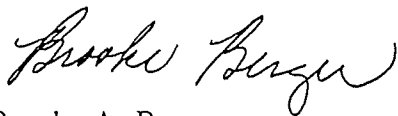
The law firm billed \$1,224.60 for expenses on the invoices examined by the auditors. All of the charges were for internal photocopying. The firm charged for 6,123 copies at \$0.20 per page.

The auditors believe that the actual cost of supplying the machinery, electricity, paper, supplies, and maintenance generally ranges from \$0.04 to \$0.15 per page, depending on the supplier and machine usage. The auditors believe commercial copy centers typically charge between \$0.025 and \$0.15 per page.

The auditors classified the charges in excess of \$0.15 per page, \$306.15, as questionable.

Respectfully,

STUART, MAUE, MITCHELL & JAMES, LTD.



by: Brooke A. Berger
Senior Staff Attorney

BAB/cp

Enclosures

SUMMARY OF AUDIT FINDINGS - Robert A. Anderson

A. Reconciliation of Fees and Expenses Billed and Computed

Fees Billed	\$36,570.00	
Expenses Billed	<u>1,224.60</u>	
TOTAL FEES AND EXPENSES BILLED		<u>\$37,794.60</u>
Fees Computed	\$36,570.00	
Expenses Computed	<u>1,224.60</u>	
TOTAL FEES AND EXPENSES COMPUTED		<u>\$37,794.60</u>

B. Summary of Questionable Fee Categories

	<u>Exhibit</u>	<u>Fees</u>
Clerical Activities	E	\$ 4,875.00
Vague Billing Entries	F	21,480.00
Questionable Duplicate Billing Entries	J	720.00
Long Billing Days	K	<u>22,905.00</u>
TOTAL FEES FOR ALL ENTRIES APPEARING IN EACH QUESTIONABLE CATEGORY		\$49,980.00
Adjustment for Overlap Between Entries		<u>(16,980.00)</u>
TOTAL QUESTIONABLE FEES AFTER ADJUSTMENT		<u>\$33,000.00</u>

C. Summary of Questionable Expense Categories

	<u>Amount</u>
Internal Photocopying in Excess of 15¢ Per Page	<u>\$306.15</u>

Kansas Insurance Department

News Release

Kathleen Sebelius
Insurance Commissioner

420 S.W. 9th Street
Topeka, Kansas 66612-1678
(913)296-3071
Fax: (913)296-2283

For More Information
Please Contact Joe Scranton (913) 296-7822

For Immediate Release
December 18, 1995

Insurance Commissioner Kathleen Sebelius Releases Audit of Fired Attorney's Bills

"Today I am releasing the desk audit, by Stuart, Maue, Mitchell, and James, Ltd. on the final bills submitted by Chris Miller to the Workers' Compensation Fund. I fired Mr. Miller because of his high fees and questionable billing practices. The audit supports my belief that employers in this state were not well served by the continued employment of Mr. Miller. After reviewing only the fee billings of over \$273,000, the auditors question over \$100,000 of the entries including:

- Duplicate or previously paid bills totaling approximately \$50,000.
- Excessive billing days totaling more than \$6,500.
- 65% of the time billed, (\$128,000), was for reviewing papers, and only 2% of the time was billed for legal pleadings or pleadings' preparation.
- The Fund was billed over \$5,700 for hourly attorney rates when Mr. Miller hand-delivered documents to Topeka, instead of using FAX or mail."

"This preliminary review by the outside audit supports my decision to remove Chris Miller as a Fund attorney."

"Mr. Miller's (reaction to my questioning his bills) was to file a suit in Douglas County court. The original suit for \$8,448.39 in unpaid fees was amended on November 30 to demand payment of \$610,213.08, plus interest, from the Workers' Compensation Fund. This sum includes full payment of the final bill, plus a new claim for \$375,900 for fees Mr. Miller alleges he would have been paid for future work if I had not fired him as a Fund attorney. A copy of the amended petition is attached."

"While I do not like expending additional time and money on further documentation of excessive billing practices, I intend to do what is necessary to manage carefully the Fund resources, and I do not intend to pay more for legal services than is absolutely fair and necessary."

Stuart, Maue, Mitchell & James, Ltd.

Legal Auditors and Consultants

3340 McKelvey Road • Saint Louis, Missouri 63044

Telex 62387576 • Telephone 314-291-3030 • Teletype 314-291-6546

Via Facsimile and Regular Mail

December 8, 1995

Ms. Kathleen Sebelius
Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka KS 66612-1678

Re: Review and Analysis of Miller Invoices

Dear Ms. Sebelius:

At the request of the request of the Kansas Insurance Department, the legal auditing firm of Stuart, Maue, Mitchell & James examined invoices submitted to the Department by the Law Offices of Chris Miller for legal services rendered in connection with the defense of the second injury fund in workers' compensation matters. The following is a summary of the auditors' findings regarding Miller's invoices. Additional detail regarding the auditors' findings may be found in our report dated October 27, 1995.

The auditors examined invoices for 346¹ matters, which covered services from June 1989 through May 19, 1995. The auditors were provided with a Department schedule which indicated that the outstanding invoices totaled \$273,351.94. Based upon the information provided to the auditors, it appears that some of this amount was previously paid to Miller. The auditors calculated an outstanding balance of fees and expenses of \$251,350.14. The Miller invoices provided to the auditors contain supporting detail for fees and expenses totaling only \$224,793.37. The difference of \$26,556.77 is due to unidentified previous balances appearing on the invoices. The discrepancy of \$22,001.80 between the \$273,351.94 appearing on the Department's schedule and the \$251,350.14 calculated by the auditors appears to be the result of three factors:

- duplicate invoices;
- the auditors' lack of information regarding payment of apparently duplicate invoices; and
- the auditors' lack of information regarding the unidentified previous balances.

¹ Fourteen of these matters have only previous balances which are either unsupported by billing entries or appear to be paid in full.

Ms. Kathleen Sebelius

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The auditors believe that reconciling the unidentified previous balances and apparently duplicative billings can be accomplished only by obtaining additional information from Mr. Miller. This material should include current accounts receivable (by matter) specifying which invoices are included within the unidentified previous balances. If any invoices are partially paid, Mr. Miller should provide information as to which charges remain outstanding.

The auditors classified certain entries on the Miller invoices as questionable.

- The Miller invoices contained instances of long billing days (billable hours totaling 12.00 or more). On November 16, 1994, Mr. Miller billed 17.40 hours, which included 5.20 hours for travel. "Review," accounted for the remaining 12.20 hours. On December 2, 1994, Mr. Miller billed 16.60 hours: 2.40 hours for travel related tasks and the remaining hours primarily for "review." On February 21, 1995, he billed 16.80 hours. On February 22, 1995, he billed 19.90 hours. On February 23, 1995, he billed 16.00 hours. On each of these dates his primary task was "review." On February 27, 1995, Mr. Miller billed 22.70 hours, to review and prepare a case report.
- The auditors classified as questionable daily billed hours in excess of 12.00, which resulted in fees of \$6,585.00 placed in a questionable category.
- The Miller invoices contain numerous remarkably similar task descriptions, although many persons at the firm apparently billed for second injury fund defense. Entries indicating "review" (of files, notes, documents, etc.) accounted for 65% of the tasks and 59% of the fees for which the firm billed. By contrast, the task of pleadings preparation accounted for only 1% of the total tasks, and 2% of the total fees.
- The Miller firm billed hourly rates for the task of hand delivering correspondence in Topeka. The billing entries did not establish the necessity for the hand delivery, which resulted in hourly rates billed for round trip travel from Lawrence to Topeka. The auditors classified fees of \$5,761.12 as questionable because of lack of information regarding the necessity of hand delivery of correspondence and documents.
- Although the billing requirements established by the Department clearly preclude vaguely described tasks on attorney invoices, many of the Miller task descriptions did not provide sufficient information to determine precisely what task was performed. The auditors classified fees of \$31,558.45 as questionable due to vague billing entries.

Stuart, Maue, Mitchell & James, Ltd.

Ms. Kathleen Sebelius
Page Three
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- The auditors classified a total of \$52,654.91 in fees as questionable for various reasons which are set out in detail in our report dated October 27, 1995.

Very truly yours,

STUART, MAUE, MITCHELL & JAMES, LTD.



by: Brooke A. Berger
Senior Staff Attorney

BAB/cp

Stuart, Maue, Mitchell & James, Ltd.

Legal Auditors and Consultants

3840 McKelvey Road • Saint Louis, Missouri 63044

Telex 62387576 • Telephone 314-291-3030 • Telecopy 314-291-6546

Via Federal Express

October 27, 1995

The Honorable Kathleen Sebelius
Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612-1678

Re: Review and Analysis of Miller Invoices

Dear Ms. Sebelius:

At the request of the Kansas Department of Insurance (Department), the legal auditing firm of Stuart, Maue, Mitchell & James examined certain invoices submitted to the Department by the Law Offices of Chris Miller (Miller) for legal services rendered in connection with the defense of the second injury fund in workers' compensation matters. The auditors examined invoices for 346¹ matters, which covered services beginning in June 1989 and ending May 19, 1995. These invoices totaled \$224,793.37. EXHIBIT A is a schedule of fees and expenses billed by matter. EXHIBIT B is a reconciliation of fees and expenses audited and fees and expenses billed and computed by the state of Kansas. EXHIBIT C is a calendar displaying daily and total hours billed by individual to all matters combined.

The auditors examined the entries appearing on the invoices and classified the entries in various categories, as discussed below. The auditors identified certain categories of questionable entries (those entries that may require further clarification prior to a determination of compensability by the Department).

The law firms' billing procedures complicated the examination, categorization of entries, and quantification of hours and fees billed because the Miller timekeepers often recorded litigation activities on a daily basis, rather than on a task basis. When a timekeeper performed several litigation tasks on the same day, he or she combined these tasks as one entry, and the bill reflects only the total time. The auditors define "blocked" billing entries as those entries that associate two or more task descriptions with a single time increment. The auditors define "isolated" billing entries as those entries that assign a time increment to each task description.

¹ Fourteen of these matters have only previous balances which are either unsupported by billing entries or appear to be paid in full.

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For example, Mr. Miller's December 27, 1994, entry billed to the *Abbott, Edna v. Bendix/King* matter, "Travel to Fund; confer MC, PG; deliver corr., file materials, pleadings; return," contains four task descriptions. Contrast that billing entry with DCC's December 29, 1994, entry billed to the same matter, which states "Prepared medical chronology." The auditors group the billing entries for particular activities or projects into categories. These categories, and the hours and fees associated with them, are shown in the exhibits to this letter. When an activity is described in an isolated billing entry, the auditors attribute all the hours and fees associated with that billing entry to the applicable category. When a blocked billing entry includes more than one activity, the auditors must allocate the hours and fees associated with the blocked entry among the applicable categories.

The auditors used two methods to deal with the uncertainty of blocked billing entries. The first method involves identifying the total isolated hours and the total blocked hours, then computing the minimum hours and corresponding fees and the maximum hours and corresponding fees. This method provides the range of hours and fees attributable to particular projects. For example, if the law firm billed 20.00 isolated hours and 10.00 blocked hours for a particular project, the range would be 20.00 to 30.00 hours. (The total isolated hours [20.00] is the minimum, and the sum of the isolated hours plus blocked hours [30.00] is the maximum.) The auditors compute the range of fees using the hourly rate for each staff member who bills for the project. The Department should note that the maximum hours and fees appearing at the end of each exhibit are not an exact reflection of the hours and fees associated with the category. The actual amount falls somewhere between the minimum and maximum hours and fees.

The auditors also use an apportioning method to deal with the uncertainty of blocked entries. The auditors attribute an equal amount of time to each task described in a blocked billing entry. For example, each task in an entry with two tasks is assigned a time value of 50% of the total time for the blocked entry; each task in a three-task billing entry is assigned 33.33%, etc. This method allows the auditors to assign hour and fee values to each individual task within a blocked billing entry. The auditors call such assigned hour and fee values "proportional hours and fees."

On the summary of findings the auditors make adjustments for overlap to account for entries that appear in more than one questionable category. Each questionable task is counted only once in the auditors' calculations of total questionable fees. The tables contained within this letter display only proportional hours and fees.

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The exhibits to this letter present both the range of hours and fees and the total proportional hours and fees associated with each category without adjustment for overlap. The summary of findings displays the range and the total proportional fees, both before and after adjustment for overlap.

The billing entries are presented in full on the exhibits. On the exhibits, the auditors underline the portion of the billing entry that describes the activity pertaining to the category. When an entry includes a task description that has been classified by the auditors as questionable in another category, the corresponding exhibit letter appears in the "Other Exhibits" column.

The auditor's calculation of the amount of time allocated to each category and the classifications of legal activity are subject to the degree of accuracy and the clarity of the task descriptions on the law firms' billing statements.

The auditors note that in ten instances, the invoices indicated that a single claimant had more than one matter number assigned by Miller. The auditors recognize that a workers' compensation claimant may have more than one claim for benefits at any given time. EXHIBIT D is a summary of matters that appeared to be identical yet had two matter numbers assigned. The auditors combined into a single matter the invoices for matter numbers which differed only by the prefix of "CM" or "DONE."

The auditors did not review the files associated with Miller's invoices, nor did the auditors interview Mr. Miller or anyone at his firm. Review of the files and interviews of firm personnel could clarify entries that the auditors classified as questionable.

A. Law Firm Staffing

The invoices indicate that 19 timekeepers at Miller billed for activities relating to second injury fund defense. None of the timekeepers were identified by name. Instead, the invoices listed initials and/or a combination of numerals and initials to identify law firm personnel. The auditors assumed that "1CM" meant Chris Miller, attorney at law, but they were unable to identify the remaining timekeepers whose entries appeared on the invoices. The auditors also assumed that timekeepers whose hourly rate was \$60.00 were attorneys, and that those who billed at \$30.00 were support staff. See Section D, below, for further discussion of this problem.

B. Law Firm Activities

The task descriptions contained on the invoices are remarkably similar, even though numerous people billed for second injury fund defense. The following table

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summarizes the number of persons who billed for specific activities, the number of tasks, the hours and fees billed, and the number of matters to which Miller timekeepers billed for specific activities:

Activity	Timekeepers	Number of Tasks	% of Total Tasks	Proportional Hours	% of Total Hours	Proportional Fees	% of Total Fees	Number of Matters
Review, Generally	17	12,114	65%	2,401.57	61%	\$128,044.21	59%	329
Review File	11	1,818	10%	596.55	15%	\$34,645.77	16%	250
Review Notes	7	1,144	6%	193.91	5%	\$11,617.16	5%	196
Review Documents	14	3,139	17%	400.88	10%	\$13,530.62	6%	272
Review Medical Records	9	636	3%	370.01	10%	\$21,458.71	10%	136
Review Correspondence	12	4,769	26%	772.46	20%	\$43,003.65	20%	312
Draft Correspondence	11	2,382	13%	437.70	11%	\$25,742.62	12%	248
Telephone Conferences	6	490	3%	130.88	3%	\$7,824.96	4%	106
Deposition Preparation	7	155	1%	59.83	2%	\$3,398.65	2%	27
Attend Deposition	4	28	"	26.78	1%	\$1,600.61	1%	19
Review Deposition Transcripts	6	48	"	20.40	1%	\$1,072.60	"	26
Summarize Deposition Transcripts	8	23	"	16.22	"	\$740.50	"	13
Draft Pleadings	5	115	1%	62.52	2%	\$3,748.27	2%	66
Hearing Preparation	9	267	1%	83.73	2%	\$4,933.10	2%	76
Attend Hearing	3	85	"	68.18	2%	\$4,090.61	2%	64

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Activity	Timekeepers	Number of Tasks	% of Total Tasks	Proportional Hours	% of Total Hours	Proportional Fees	% of Total Fees	Number of Matters
Photocopy File	7	71	-	15.64	-	\$836.07	-	48
Conferences	7	669	4%	144.39	4%	\$8,607.45	4%	183
Activities Related to Settlement	7	147	1%	78.65	2%	\$4,640.42	2%	51

*Less than 1%.

C. Spread Billing

The Miller invoices indicate that the law firm engaged in "spread" billing. When a timekeeper performed a particular task that applied to more than one matter, the time devoted to that task was divided among several cases. See, for example, the entries on EXHIBIT E, which contains MW's entries on April 29, 1992. He/she billed a total of 2.20 hours, spread over ten cases, in increments ranging from 0.10 to 0.30 hour for "Review of printout; prepare authorization letter to Bill Dempsey." He/she added the task "Review of documents," to the billing entries for two matters. On Saturday, May 9, 1992, Mr. Miller and 5JJ billed "Review of correspondence," to 20 cases. Each timekeeper billed 0.10 hour to each case, so each file was charged 0.20 hour for the correspondence review. See EXHIBIT F. This pattern of spread billing continued throughout the audit period. Because the auditors did not examine the law firm's litigation files or interview law firm timekeepers, they could draw no conclusions regarding the pattern of spread billing.

D. Entries Violating the Kansas Department of Insurance Billing Requirements

The Department provided the auditors with its billing requirements for Second Injury Fund representatives. The auditors quantified the hours and fees associated with Miller billing entries that appeared to violate the Department's billing requirements.

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Part B of the billing requirements states:

The legal fee rate quoted above is expected to include all overhead and internal charges associated with your practice. Unless otherwise agreed upon in advance and in writing, the Fund will not pay for overhead or normal firm operating costs outside the legal fee rate, such as:

1. Administrative or clerical services, including secretarial, docket, word processing, accounting, library, or other clerical staff time.

The Miller invoices contain numerous entries reflecting billing for clerical services. The invoices are replete with entries reflecting calendaring, and a person identified only as MW billed for photocopying and typing. EXHIBIT G contains the entries that the auditors classified as reflecting clerical tasks.

The Miller invoices contain task descriptions reflecting clerical task performance by attorneys as well as support staff. Mr. Miller, for example, billed to deliver documents to the Fund. EXHIBIT H contains the entries reflecting the task of document delivery. According to the invoices, Mr. Miller billed for travel to and from Topeka to deliver documents. The invoices containing tasks performed from 1989 through mid-1994 show relatively few billings for document delivery, and relatively infrequent billings for travel to and from Topeka for such delivery. The auditors note, however, that most of the invoices provided to the auditors for examination related to late 1994 and 1995 services.

Because of spread billing, the amount of time billed to a specific matter for document delivery was generally small, often 0.30 hour or less. The total daily time billed for travel to and from Topeka to deliver files and correspondence and to confer with Fund personnel was sometimes substantial. The following chart displays the total daily hours billed for travel to and from Topeka for document delivery in December 1994 and January 1995:

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Daily Billed Hours and Fees for Travel to Topeka and Document Delivery		
Date	Proportional Hours	Proportional Fees
12/02/94	2.20	\$132.00
12/09/94	2.40	\$144.00
12/13/94	3.00	\$180.00
12/20/94	6.81	\$409.69
12/27/94	4.14	\$248.40
01/04/95	5.28	\$316.80
01/05/95	3.50	\$210.00
01/09/95	1.50	\$90.00
01/11/95	1.10	\$66.00
01/17/95	0.51	\$31.00
01/19/95	2.44	\$146.58

The auditors classified the entries reflecting travel to and from Topeka, delivery of correspondence, and conferences with Fund personnel as questionable because the invoices did not provide a reason for the necessity of hand delivery of correspondence, or the need for a conference, as opposed to a telephone call. The auditors also classified as questionable those entries that established travel and delivery of documents to Overland Park and North Kansas City.

The following table summarizes the hours and fees billed in the questionable category of clerical activities:

Clerical Activities		
Activity	Hours	Fees
Clerical Tasks	123.58	\$6,689.15
Document Delivery	97.85	\$5,761.12

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Part E of the billing requirements provides the minimum requirements for the format of attorneys' invoices. Part E(3) states that the invoices must contain:

A brief, specific description of the services rendered. For example, "legal research" or "argument of motion" is not an acceptable description of services; the subject matter of a motion or the research performed and the purpose must be specified.

The Miller invoices contained few entries indicating research, but those few entries tended to be vague. See EXHIBIT I, which displays vague research entries. Virtually all the entries reflecting telephone conversations and conferences did not provide sufficient information to determine the subject matter of the conference and/or conversation. The following table summarizes the hours and fees that the auditors classified as questionable due to apparent violation of the billing requirement demanding specificity of task descriptions:

Vague Billing Entries	
Hours	Fees
707.00	\$31,558.45

See EXHIBIT J.

Part E further states:

The time charged for the performance of the services shall be expressed to the closest fraction of an hour, which is normally used by the attorney in billings.

The auditors note that nearly all the billing entries were expressed in increments of 0.10 hour. In three instances, however, the billing entries were expressed in other increments: 0.25, 0.45, and 0.67 hour. The auditors classified those entries as questionable, because they clearly were not expressed in the fractional hour usually employed by the law firm. See EXHIBIT K.

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Part E(6) of the billing requirements states:

Each bill will contain a recapitalization which provides name (sic) of the attorneys, law clerk or paralegal providing the services for which payment is requested, along with the total number of hours for such professional, the hourly rate, and the total amount being requested for reimbursement.

The auditors saw no invoices that identified the names of Miller personnel who billed for services. Consequently, all the fees (\$218,591.70) billed by the firm could be classified as questionable on the basis of violating the above quoted billing requirement.

E. Duplicate Billing Entries

The auditors define duplicate billing entries as those billed more than once on the law firm's billing statements and substantially identical as to date, person, hours, fees, and task description. Without evidence that identical tasks were performed more than once, or that time associated with a single task was apportioned between files, the auditors classify the second of apparently duplicate entries as questionable. EXHIBIT L displays duplicate billing entries. The auditors marked the questionable entries with an ampersand symbol (&). The following table summarizes the hours and fees classified as questionable in this category:

Duplicate Billing Entries	
Hours	Fees
6.40	\$231.00

F. Long Billing Days

The invoices contain billing entries reflecting long billing days. Although the auditors identified no billing days in excess of 24.00 hours, Mr. Miller billed 22.70 hours on February 27, 1995. Mr. Miller was the only timekeeper who recorded daily hours in excess of 12.00. Frequently, the long billing days appeared to be attributable to the law firm's practice of spread billing. The auditors identified no instances of daily billed hours exceeding 12.00 before November 1994, but beginning that month long billing days became relatively common. The auditors note that all the long billing days contain at least some identical task descriptions billed to more than

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one matter. EXHIBIT M contains the entries that reflect daily billing of 12.00 or more hours. The following table summarizes the billed hours and types of entries that resulted in long billing days:

Long Billing Days			
Date	Hours	Fees	Types of Entries
11/07/94	13.20	\$792.00	7.70 hours billed to two cases for prehearing settlement conference; remainder to miscellaneous tasks, primarily "review."
11/11/94	14.50	870.00	6.60 hours to one case; remaining hours spread among 14 other matters, primarily for "review."
11/15/94	13.55	813.00	8.70 hours for travel related entries (to Division, Fund, courthouse, etc.). Remainder primarily "review."
11/16/94	17.40	1,044.00	5.20 hours for hearing and related travel; remainder for "review."
11/17/94	14.90	894.00	8.50 hours billed for isolated entries reflecting review of correspondence; remainder includes miscellaneous tasks.
11/22/94	15.70	942.00	2.70 hours for travel related entries; remainder primarily "review."
11/23/94	12.40	744.00	2.80 hours for travel related entries; remainder primarily "review."
11/28/94	13.40	804.00	Increments of 0.10 to 1.10 billed to 40 matters, primarily for "review."
11/30/94	14.00	840.00	2.20 hours for travel related entries; remainder primarily "review."
12/01/94	14.80	888.00	Primarily "review."
12/02/94	16.60	996.00	2.40 hours for travel related entries; remainder primarily "review."
12/08/94	15.50	930.00	3.50 hours for travel related entries; remainder primarily "review."
12/09/94	18.30	1,098.00	6.60 hours travel and hearing related; remainder primarily "review."

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Long Billing Days			
Date	Hours	Fees	Types of Entries
12/10/94 (Saturday)	12.90	774.00	Primarily review and draft correspondence.
12/11/94 (Sunday)	15.20	912.00	Primarily review and draft correspondence.
12/19/94	12.10	726.00	Primarily review and draft correspondence.
12/20/94	14.50	870.00	7.60 hours for travel related entries; remainder primarily "review."
12/27/94	14.20	852.00	4.90 hours for travel related entries; remainder primarily "review."
12/29/94	12.20	732.00	Primarily review and draft correspondence.
12/30/94	12.20	732.00	4.10 hours for travel and hearing related entries; remainder primarily review and draft correspondence.
01/04/95	15.10	906.00	5.60 hours for travel related entries; remainder primarily "review."
01/05/95	14.60	876.00	3.60 hours for travel related entries; remainder primarily "review."
01/06/95	13.10	786.00	Primarily "review."
01/17/95	13.40	804.00	0.60 hour for travel and hearing; remainder primarily "review."
01/19/95	12.20	732.00	Primarily review and draft correspondence.
01/24/95	13.20	792.00	3.10 hours for travel and hearing; remainder primarily "review."
02/03/95	14.30	858.00	Primarily review and draft correspondence.
02/21/95	16.80	1,008.00	Primarily "review."
02/22/95	19.90	1,194.00	Primarily "review."
02/23/95	16.00	960.00	Primarily "review."
02/24/95	15.30	918.00	5.10 hours for travel and hearing; remainder primarily review and draft correspondence.

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Long Billing Days			
Date	Hours	Fees	Types of Entries
02/26/95 (Sunday)	14.00	840.00	Primarily "review" and prepare case report.
02/27/95	22.70	1,362.00	Review and prepare case report.
02/28/95	18.50	1,110.00	4.70 hours for travel and deposition attendance; remainder primarily for "review."
03/01/95	14.70	882.00	Primarily review and draft correspondence.
03/02/95	17.90	1,074.00	3.10 hours for travel and conference; remainder primarily "review."
03/10/95	13.40	804.00	Primarily "review."
03/16/95	12.50	750.00	Primarily "review."
04/04/95	12.60	756.00	3.90 hours for travel and hearing; remainder primarily "review."
TOTAL	577.75	\$34,665.00	

The auditors classified as questionable, daily billed hours in excess of 12.00. The following table summarizes the hours and fees billed in this questionable category:

Long Billing Days	
Hours	Fees
109.75	\$6,585.00

G. Possible Excessive Time

The auditors identified numerous instances of entries that suggested that Miller billed excessive time for the described task. For example, on May 5, 1995, 11KR billed 1.40 hours to one matter (*Love, Barnard v. Colgate-Palmolive*) to "Prepare motion for withdrawal, order." The following day, Mr. Miller billed 3.85 proportional hours, spread over 22 matters, for "Review of file, prepare motion to withdraw, order." He billed this task description in increments ranging from 0.30 hour (nine matters) to 0.60 hour (two matters). He billed 0.40 hour to 11 matters for this task. The following day, Sunday, May 7, 1995, he billed this task description

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to 10 matters, in 0.30- and 0.40-hour increments; on May 8, 1995, he billed this task description to 17 matters, in increments ranging from 0.20 hour to 0.40 hour; on May 9, 1995, he billed this task description to 10 matters, in increments ranging from 0.10 hour to 0.40 hour. The auditors believe it is likely that the motion to withdraw and order is similar, if not identical except for caption, in each case.

The auditors did not examine any of the above-described motions and orders. Because of the identical task descriptions, spread over numerous cases, and because the time billed appeared inconsistent with the task described, the auditors classified the billing entries reflecting the preparation of the motion to withdraw and order as questionable. The following table summarizes the hours and fees billed in this questionable category:

Motion to Withdraw and Order	
Hours	Fees
12.52	\$748.00

See EXHIBIT N.

H. Duplicative Activities

The invoices suggest that Miller personnel apparently billed for performing the identical task more than once to the same matter. When examining the invoices for evidence of duplicative task performance, the auditors did not include such tasks as "review correspondence" that could reasonably be performed daily. The auditors noted entries suggesting repetitive review of transcripts, however, and the billing entries provided no explanation for the necessity of the apparently duplicative activities. EXHIBIT O shows entries reflecting apparently duplicative activities. The tasks that the auditors classified as questionable are marked with an ampersand symbol (&). The following table summarizes the billed hours and fees in this questionable category:

Apparently Duplicative Activities	
Hours	Fees
79.63	\$4,276.92

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I. Expenses

The auditors did not have access to the underlying documentation supporting expenses billed by the law firm. As a result, the auditors were unable to reconcile any expense charges to underlying receipts.

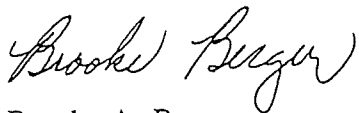
The law firm billed \$6,201.67 for expenses on the invoices examined by the auditors. The following table summarizes expenses billed by category for the audit period:

Expense Category	Amount Billed	Percent of Total
Medical Records	\$2,571.32	41%
Mileage	1,464.31	24%
Telephone Charges	1,233.39	20%
Court Reporting Fees	428.35	7%
In-House Photocopies	421.50	7%
Copy Bankruptcy Court Records	63.00	1%
Miscellaneous	19.80	-
TOTAL	\$6,201.67	100%

* Less than 1%.

Respectfully,

STUART, MAUE, MITCHELL & JAMES, LTD.



by: Brooke A. Berger
Senior Staff Attorney

BAB/tld

Enclosures

TABLE OF EXHIBITS

- A. Schedule of Hours and Fees, by Matter
- B. Summary of Amount Billed and Due to Law Firm
- C. Calendar Displaying Daily Billed Hours, by Individual
- D. Possibly Identical Matters
- E. MW's April 29, 1992, Entries Displaying Spread Billing
- F. Mr. Miller's and 5JJ's May 9, 1992, Entries
- G. Entries Reflecting Clerical Tasks
- H. Entries Reflecting Document Delivery
- I. Entries Reflecting Vaguely Described Research
- J. Entries Reflecting Vague Billing Entries
- K. Entries Not Expressed in 0.10-Hour Increments
- L. Duplicate Billing Entries
- M. Entries Reflecting Daily Time in Excess of 12.00 Hours
- N. Entries Reflecting the Motion to Withdraw and Order
- O. Entries Reflecting Apparently Duplicative Activities

SUMMARY OF AUDIT FINDINGS - Law Offices of Chris Miller

A. Reconciliation of Fees and Expenses Billed and Computed

Fees Billed	\$218,591.70	
Expenses Billed	<u>6,201.67</u>	
TOTAL FEES AND EXPENSES BILLED		<u>\$224,793.37</u>
Fees Computed	\$218,591.70	
Expenses Computed	<u>6,201.67</u>	
TOTAL FEES AND EXPENSES COMPUTED		<u>\$224,793.37</u>

B. Summary of Questionable Fee Categories

	<u>Exhibit</u>	<u>Isolated Fees</u>	<u>Blocked Fees</u>	<u>Isolated Plus Blocked Fees</u>	<u>Proportional Fees</u>
Entries Reflecting Clerical Tasks	G	\$ 1,497.00	\$16,552.00	\$18,049.00	\$ 6,689.15
Entries Reflecting Document Delivery	H	4,368.00	2,259.00	6,627.00	5,761.12
Entries Reflecting Vaguely Described Research	I	315.00	1,134.00	1,449.00	614.00
Entries Reflecting Vague Billing Entries	J	18,068.50	44,475.00	62,543.50	31,558.45
Entries Not Expressed in 0.10-Hour Increments	K	74.70	0.00	74.70	74.70
Questionable Duplicate Billing Entries	L	231.00	0.00	231.00	231.00
Fees Associated With Hours Billed in Excess of 12.00 Hours Per Day		6,585.00	0.00	6,585.00	6,585.00
Entries Reflecting the Motion to Withdraw and Order	N	84.00	1,410.00	1,494.00	748.00
Questionable Entries Reflecting Apparently Duplicative Activities	O	<u>2,575.00</u>	<u>4,515.00</u>	<u>7,090.00</u>	<u>4,276.92</u>
TOTAL FEES FOR ALL ENTRIES APPEARING IN EACH QUESTIONABLE CATEGORY		\$33,798.20	\$70,345.00	\$104,143.20	\$56,538.34
Adjustment for Overlap Between Entries and for Totally Questionable Blocked Entries		<u>555.50</u>	<u>(19,799.00)</u>	<u>(19,243.50)</u>	<u>(3,883.40)</u>
TOTAL RANGE OF FEES AND PROPORTIONAL TOTAL AFTER ADJUSTMENT		<u>\$34,353.70</u>	<u>\$50,546.00</u>	<u>\$84,899.70</u>	<u>\$52,654.94</u>