

The fraud was shocking, widespread and well hidden. The stakes were so high, one source was afraid for his safety.

An obscure state workers' compensation fund had become a gold mine for a few insiders. An exclusive club of lawyers and doctors had learned how to milk a system known as Missouri's Second Injury Fund.

Their trails led to the doorstep of the state attorney general, William L. Webster, the Republican candidate for governor.

That was the situation that developed in Missouri between 1988 and 1992, when the fund scandal began to unfold. Now a year and a half after the first stories appeared, eight men—six lawyers and two doctors—have pleaded guilty to various federal charges. One other lawyer is facing trial.

This report deals with how the St. Louis Post-Dispatch exposed Missouri's fund scandal and how the Missouri experience may be applied in other parts of the country. There are indications that variations of what happened in Missouri may be going on in other states.

Forty-nine states (Wyoming is the exception), the District of Columbia, American Samoa, Guam, Puerto Rico and the Virgin Islands have some form of second injury funds, according to the U.S. Chamber of Commerce. Their mechanics--such as financing, coverage and who handles the money--vary from state to state.

In Missouri, the Second Injury Fund existed in the seldom-covered backwaters of state government. It was a system that distributed \$30 million in one year via a method cloaked in secrecy. Politics played a role. Webster appointed private lawyers as special assistant state attorneys general responsible for defending the fund.

OPEN ►

The Second Injury Fund is supposed to supplement workers' compensation benefits for on-the-job injuries. If a person has a job injury, the employer's insurance company pays a benefit for that disability. But if the disability created by the job-related injury is aggravated or compounded by a prior injury or disability, the state's Second Injury Fund pays a supplemental benefit.

These programs were set up during and after World War II to encourage employers to hire wounded veterans. But in Missouri over the decades, the philosophy broadened to include all kinds of previous disabilities and injuries. Before the scandal unfolded, some claims were being paid simply because the injured claimant had been overweight.

In Missouri, businesses finance the Second Injury Fund with a special three percent surcharge on the premiums they pay for workers' compensation coverage.

Lawyers specializing in workers' compensation cases filed claims against the fund on behalf of injured workers. Defending the fund against these claims were the special assistant state attorneys general appointed by Webster. Because thousands of claims were filed each year and because the expense of litigation often exceeded the value of the claims, 95 percent of the claims were settled by the lawyers involved.

The Post-Dispatch first looked at the fund in September 1988. The reason: unusually large contributions were flowing to Attorney General Webster's campaign for reelection from a small group of St. Louis lawyers filling claims against the fund.

Soliciting the contributions was William E. Roussin Jr., one of Webster's appointees assigned to defend the fund. This first story only matched campaign contributions with the names of lawyers filing claims against the fund.

A more extensive, computer-aided inquiry began in January 1992. Payments from the fund had grown dramatically, from \$3.5 million in 1984 when Webster took office, to more than \$30.7 million in 1991. There were rumors that attorneys fared better filing claims against the fund if they gave campaign contributions to Webster, who was a candidate for governor.

To investigate, the Post-Dispatch requested Second Injury Fund settlement documents from the state Division of Workers' Compensation. After some resistance by the state attorney general's office, a computer tape containing 11,647 cases was made available.

OPEN >

The information on the tape included the name of the lawyer representing the claimant, the name of the lawyer defending the fund, the date of the injury claim, the date of the settlement and the amount of the settlement. For privacy reasons, the name of the injured claimant was deleted. George Landau of the Post-Dispatch staff analyzed the information and compared it with another database assembled by the newspaper from Webster's campaign finance disclosure reports.

The analysis showed:

* Lawyers who contributed to Webster obtained substantially larger settlements from the fund for their clients than those lawyers who did not contribute. Larger settlements meant larger fees, since the lawyers' compensation was always 25 percent of the settlement amount.

* Lawyers appointed by Webster to defend the fund and who also filed claims against the fund did even better. The state paid Roussin's law firm \$708,778 to defend the fund against claims over a two-year-period. The same firm filed 171 cases against the fund between 1988 and 1992, obtaining awards of \$2.6 million and receiving legal fees of \$660,927.

It might have ended there except that the data-analysis story, published in April 1992, touched a raw nerve among a group of lawyers in St. Louis. They had observed unusual fund settlements and favoritism to certain lawyers. They also had information about how some fund defense lawyers signed other lawyers' names to settlement documents. They knew about specific claims with problems. They knew about bills. Requesting anonymity (one said he feared for his safety because of the amounts of money involved) they told their stories.

Their tips led a reporter to specific insiders' claims filed with the state Division of Workers' Compensation. The stories that developed from these tips included:

* How workers' comp attorney Morris B. Kessler, Webster's largest individual campaign contributor, obtained \$65,000 in settlements for himself for a fall in his office and for hurting his shoulder while closing a file cabinet drawer. At the time the story was published, May 1992, Kessler had a third claim pending for overexertion while carrying a briefcase.

* How the wife of Administrative Law Judge Erio Comici got \$30,000 for her "panic attacks."

* How Alex Shreim, a doctor who rated workers' compensation cases for Kessler, filed a claim of his own for falling on his buttocks while hanging curtains in his doctor's office.

Developing the stories on cases of specific injuries was impeded at first by the Division of Workers' Compensation's position that its records were closed by law. We persuaded the division to modify its approach, opening records as long as an individual claimant could not be identified by name. If a reporter could identify a case in any other way than by name--such as the date when the case was filed--a copy of the file was made available with the claimant's name and other identifying data removed. Thus, if a source could supply a date that the case was filed, a reporter could assemble almost all the facts involved with that claim.

Confirming the name of the claimant involved another agency of government. In each closed case file there was a record of the state payment of the settlement amount, accompanied by a check number. By going to the state treasurer's office and supplying the check number, a reporter discovered copies of the state checks to Kessler and the other insiders.

The stories about the specific claims abuses prompted other people to come forward with information about other problems. One source directed a reporter to the bills lawyers filed with the state to defend the fund. A reporter took three months' worth of bills filed by fund defense lawyer Forris D. Elliott. After the reporter entered the bills into a computer database, Landau used the FoxPro program to separate the billings by day of the month and type of work performed.

His analysis showed how Elliott sometimes claimed to work more hours than existed in a day. A federal grand jury later indicted Elliott on one count of conspiracy and seven counts of defrauding the fund by submitting inflated bills. Elliott is awaiting trial.

Others are on their way to prison. Roussin, Kessler, Shreim and three others have pleaded guilty to federal charges of defrauding the fund. Roussin and Kessler both pleaded guilty to federal charges that they conspired to use the fund to raise campaign contributions for Webster. They testified against Webster, who lost the race for governor, the Second Injury Fund being a major issue against him in his campaign.

Webster was sentenced to two years imprisonment after pleading guilty to other federal charges of conspiracy and misappropriation of state funds.

COPYRIGHT 1994 SJR St. Louis Journalism Review
No portion of this article can be reproduced without the express written permission from the copyright holder.
Copyright 1994 Gale, Cengage Learning. All rights reserved.

Please bookmark with social media, your votes are noticed and appreciated:

Like 0 Share

Advertisement. Bad banner? Please [let us know](#)