

# Best Practices in pursuing fraud and Criminal Prosecution in UI

Presented by



## Why is DOL-OIG at the UI Integrity Conference?

- To collaborate and share information with partner agencies
- To maintain and improve important relationships established between state and federal agencies overseeing the program
- To provide better insight on the recognition of UI fraud trends and schemes the program is currently encountering.
- To provide insight on how to seek and obtain criminal prosecutions when fraud is encountered.
- To demonstrate how collaborative efforts between State UI Departments and the U.S. Government have had positive results in the prosecution and determent of UI fraud occurring throughout the nation.

# U.S. Dept. of Labor Office of Inspector General

## Office of Labor Racketeering & Fraud Investigations

- **Criminal Investigators (sworn law enforcement officers with arrest and search & seizure authority)**
- **Divided into 7 Regions throughout the U.S.**
  - Approximately 150 agents nationwide
- **Jurisdiction & Statutory Authority**
  - Programs Fraud, Waste, & Abuse
    - Visa fraud – foreign workers
    - DOL employee misconduct
    - Federal Workers Compensation fraud
    - Job training fraud (WIA and Job Corps)
    - Davis Bacon & Related Act fraud (contracts receiving federal funds)
    - Unemployment Insurance Program Fraud
  - Labor Racketeering
    - Pension, Health & Welfare fraud/crimes
    - OC/Union corruption fraud based crimes
    - Human Trafficking/Labor Trafficking

# KDOL Areas of Responsibility

- **Administer:** UI system, Workers Compensation, Industrial Safety & Health, Employment Standards
- **Maintain and Inspect employment records** (UI and Work Comp)
- **Conduct criminal investigations**
- **Conduct inspections** of public facilities and private businesses
- **Human Trafficking:** The Secretary of Labor, in consultation with the Attorney General, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking and about resources that may be available to employers, employees, and potential victims of human trafficking.

# Law Enforcement Powers

- 2013 Senate Substitute for HB 2105 (Amended K.S.A. 75-5702 and K.S.A.74-5602)
- **KDOL Special investigators** designated by Secretary are commissioned law enforcement officers with authority to: make arrests; serve subpoenas and all other process; conduct searches and seizures; investigate violations of the employment security law and to generally enforce all the criminal laws of the state as violations of those laws are encountered by such special investigators.
- K.S.A. 44-714 – Conduct investigations deemed necessary to properly administer the employment security law;
- K.S.A. 75-5702 – Conduct public or private investigations within or outside this state concerning violations of employment security law;
- K.S.A. 44-322 – Conduct investigations into violations of the wage payment act.

# UI Fraud Investigative Teams



DOL



PIS



IRS CI



USDA



SSA



DOE



HUD

## IDENTITY THEFT TASK FORCES



# UI Fraud Investigations include:

- Issuance of subpoenas for financial and banking records, for business and employment records.
- Search warrants, Surveillance, UC operations, Intelligence research of law enforcement and other electronic databases/repositories.
- Thorough analysis and review of records and any electronically stored media or captured type data.
- Information (UI confidential Info.) sharing between state, local, and federal government agencies.

20 CFR § 603.5 (see also UIPL 34-97)

*Public official.* Disclosure of confidential UC information to a public official for use in the performance of his or her official duties is permissible. “Performance of official duties” means administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

## UI Fraud Investigations include: --continued--

- Audits or Inspections when appropriate or authorized.
- Interviewing (custodial & non-custodial) of:
  - Known or suspected targets or co-conspirators of interest
  - Businesses, Employers and their employees
  - Financial and banking institution officials/personnel
  - Family members and friends of suspected targets
- ❖ Try to make all interviews non-custodial in nature with a witness.
- ❖ In-person interviews are best for identification and rapport.
- ❖ Audio or video record interviews (DOJ mandated when custodial in nature)
- ❖ When not recorded, take thorough notes with one designated note taker.
- ❖ Obtain written and sworn statements signed by the suspect and a witness.



# UI Fraud Schemes

- Fictitious Employer
  - Fake companies registered using mostly stolen identities and mail drop box locations
  - Tens of Millions in losses.
    - U.S. v. Jacqueline Kennedy, et al (IL)
    - U.S. v. Calvin Sanders (WI) (repeat offender)
    - Multiple other states (MI, CA, LA, FL, etc.)
- Recruiter
  - Person with knowledge of UI system exploits unemployment workers
  - Typically seen in Hispanic communities (*i.e.* illegal aliens/workers)
    - 2006 – 2009: multiple Chicago cases, hundreds of claims, hundreds of thousands in losses.
    - May '14: Texas-based “Notary” Magdalena Villalobos plead guilty to conspiracy (26 states & millions in losses)
- Identity Theft (Top OIG and U.S. Dept. of Justice Priority)
  - Most recent UI fraud scheme – an increasingly difficult scheme to investigate
  - Stolen identities, thousands of claims, millions in losses.
    - April '15: Miami-area gang members arrested for UI fraud
    - April '15: Chicago area man sentenced to 3 years in prison for identity theft/UI-related crimes in Chicago and Waukesha (WI) County using city/county/state stolen profiles.
- Single Claimant
  - Claimants not reporting earnings while collecting UI benefits
  - Legitimate UI claim turns into fraud
    - October '12: 14 claimants in MO - \$351K
    - January '13: 32 claimants in IL - \$873K
    - December '13: 7-8 claimants in IN - \$200K+

# Keebler Company / Employer Based Contagious Fraud

- ▣ 26 claimants indicted with Theft/Govt. Funds and Bank Fraud charges.
- ▣ All claimants convicted through guilty pleas
- ▣ Total loss, based on 26 defendants = \$368,192
- ▣ There were an additional 67 claimants, whom were not indicted (\$335,234)
- ▣ Prior overpayments for charged and uncharged claimants totaled \$152,995
- ▣ Total UI fraud loss amount = \$856,421

# Fictitious Employers

- ▣ What to look for?
  - Retroactive wage reports (*i.e.* employer registers today and reports quarterly wages for several previous quarters)
  - The wages being reported are:
    - ▣ Generally within the same range for all employees (*e.g.* \$9k - \$11k)
    - ▣ The exact same amount for each employee from quarter to quarter
    - ▣ Consistently round, even numbers for each employee
    - ▣ Just enough wages in order to qualify for the maximum WBA
    - ▣ Outside of the normal range for a specific industry (*e.g.* landscaping, construction, etc.)
    - ▣ Initially reported in round, even numbers, and then later reported in odd numbers (Does this coincide with any inquiry by auditors?)
  - No payment (or small payment – *e.g.* \$200) towards UI taxes
  - Payment(s) made in the form of a money order
  - UI claims filed almost immediately after the employer registered
  - Multiple claims being submitted for same address
  - UI Claims being filed from same IP address or from out of state IP addresses
  - A UI claimant reported under employer A is listed as the owner of employer B

# Fictitious Employers Continued

- What to look for?
  - ❖ A claimant reported under employer A shares an address with a claimants reported under employers B, C, etc.

<u>First name</u>	<u>Last Name</u>	<u>Employer</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Debit Card Mailed</u>
Atterol	Riley	Therapy For U	15545 Loomis Ave	Harvey	IL	06/15/10
Kyndrick	Lindsay	Therapy For U	15545 S. Loomis Ave.	Harvey	IL	06/15/10
Mary	Russell	Jr Document Services	15545 S. Loomis Ave.	Harvey	IL	06/18/10
Jemal	Simmons	Therapy For U	15545 Loomis Ave	Harvey	IL	07/12/10
William	Love	Simmons Financial	15545 S. Loomis Ave.	Harvey	IL	07/12/10
Tracey	Vaughn	Simmons Financial	15545 Loomis Ave	Harvey	IL	07/27/10
Antwon	Van	Therapy For U	15545 S. Loomis Ave.	Harvey	IL	07/27/10
Larry	Brown	Therapy For U	15545 S. Loomis Ave.	Harvey	IL	07/28/10

- ❖ A claimant/company owner has wages reported in another state
  - Alleged Indiana business owner Tremaine House (Therapy For U) had wages and a claim for UI benefits under a business owned by Julius Thomas dba JTK Investment in Minnesota.

# Fictitious Employers Continued

- What to look for?
  - ❖ Employer A shares an address with other employers

<u>Employer</u>	<u>Address</u>
Simmons Financial	2904 Joyce Drive, Kokomo, IN
Happy Home Helpers	2904 Joyce Drive, Kokomo, IN
McNeal Therapy	1704 S. Union St., Kokomo, IN
Brs Financial Services	1704 S. Union St., Kokomo, IN
Ajs Transport	1704 S. Union St., Kokomo, IN
Y2K Home Improvement	1704 S. Union St., Kokomo, IN
Martin Transort	1108 Emma Ct., Valparasio, IN
A to Z Movers	1108 Emma Ct., Valparasio, IN
Jhk Financial	718 W. Monroe St., Kokomo, IN
Essex Remodelers	718 W. Monroe St., Kokomo, IN

- ❖ Use of a P.O. Boxes and of a “Suite #s “ at a mail drop business entity locations or business service centers.
- ❖ Does the name of the company sound suspicious?
  - Uniquely Special Enterprises, Uniquely U Personal Services, Distinctly U Graphics, Golla Rolla Enterprises, Limitless Funding, WeBe Painting Services, Uniquely U Graphics, Candy Apple Cleaners, Best Document Services, Limitless It Enterprises, Kuttin Edge Enterprises

# Jacqueline Kennedy & Tara Cox Investigation

- Two separate, yet intertwined schemes
  - Fraudulent tax returns - Earned Income Credit (added enough wages to get it)
  - Fraudulent UI claims - Fictitious employers (same names above)
- Scheme last from January '08 to December '12
- Kennedy was a tax preparer & Cox was an associate/friend who worked for Kennedy for a period of time
- In total, 97 fictitious employers were registered in six states (IL, IN, MN, KS, MS, OK), which resulted in an actual loss of \$9.1 million stemming from approximately 900 fraudulent UI claims
- IL defrauded of \$5.8 million & IN defrauded of \$2.8 million
- Federal investigation started in February '10 when IL discovered 5 employers that appeared to be fictitious
- More and more employers where discovered each week and the loss amount climbed into the millions
- Kennedy, Cox, and others were identified as targets
- As the investigation progressed, IN and MN were identified as victims in the scheme (MN 289k, OK 135k, KS4k,MS \$882.00)

## Kennedy & Cox Continued

- During the course of the investigation, over 225 interviews were conducted and 250 subpoenas were served
- Agents reviewed and analyzed voluminous bank, internet, phone, ATM, and other records
- Agents executed 3 search warrants and 1 arrest warrant
- Agents conducted multiple surveillances and covert/undercover recordings (phone & in-person) with cooperators.
- April 17, 2012 – federal grand jury returned a 60-count indictment charging 15 individuals with multiple counts of mail & wire fraud, aggravated identity theft, false claims, and false tax returns.
- August 2012 – Agents learned that while out on bond, Kennedy continued committing UI fraud in Indiana by using two more fictitious employers. Her bond was revoked and a warrant issued for her detention pending trial. Kennedy failed to show and became a fugitive and continue her fraud scheme.
- 2013 – two more individuals were indicted on charges of mail fraud and theft of government funds

## Kennedy & Cox Continued

- ❑ Agents tracked Kennedy's whereabouts using information (*i.e.* IP addresses) about the weekly online certification of fraudulent UI claims associated with a newly registered fictitious employer in IN which appeared to be associated with her prior fraudulent UI activity years before in IL
- ❑ Initially, the IP addresses were linked to physical locations, such as different hotels where Kennedy had been hiding
- ❑ However, a more recent IP address was linked to a mobile broadband device that permitted Kennedy to access the Internet from virtually anywhere (Wi-Fi hot spot)
- ❑ Through investigative technology, investigators were able to trace the signal from a device located in an apartment in Chicago where Kennedy was located and arrested.
- ❑ All 17 defendants in this investigation pleaded guilty.



## Closing Thoughts

- ▣ State UI Departments are the first line of defense against UI fraud
- ▣ States must remain vigilant and constantly adapt to fraud fighting measures
- ▣ Success is only possible through federal, state, local, and corporate collaboration
- ▣ Federal and state prosecutors critical to success for investigations.
- ▣ Educating and providing prosecutors with the relevant UI program laws, regulations, and the investigative techniques used by investigators

# Questions???

If we don't know the answer, we will try to get you an answer.

Our answers are based on our collective professional experiences and may not represent the broader experiences of others.