

# What is the Process Employed When Agents Go Bad?

By Pat Kramer

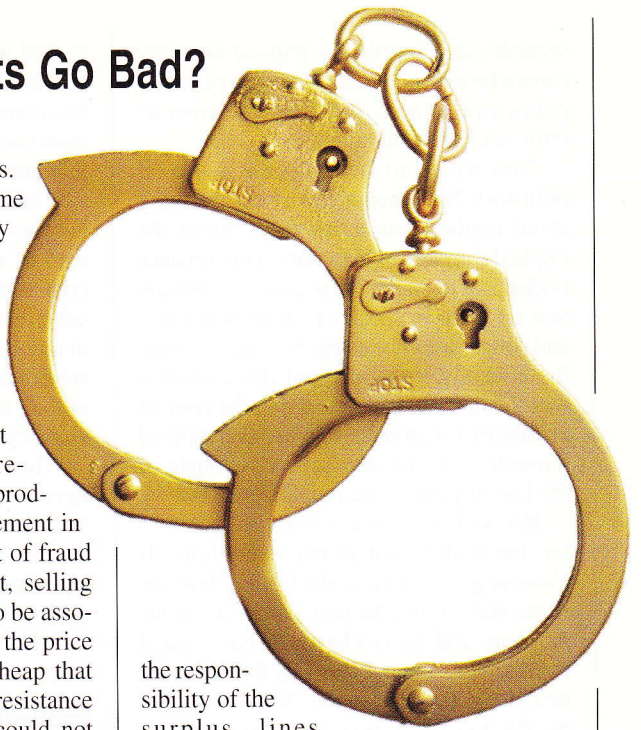
Since the mid 1930s, when the California Department of Insurance (CDI) started investigating insurance fraud, millions of dollars have been lost to unscrupulous producers and insurance companies through a variety of fraud schemes.

"In terms of our [criminal investigative] activity, our historical benchmark is that about 90 percent of our time is spent investigating insurance producers and 10 percent of that time investigating insurance companies," said CDI Chief Investigator James Harrington. "My sense is that it's now a little higher on the insurance company side, maybe 20 percent, because we had quite an outbreak of problems with offshore insurers in the late '80s and early '90s, and we're still dealing with that problem. Once people see it being done, you see more attempting to do that thing."

In the early days, the CDI's investigations focused on agent misconduct at the point of sale: misrepresenting the product, stealing premiums and issuing phony insurance coverage. However, Harrington said insurance fraud has become much more

sophisticated over the last 20 years. "The first large-scale operations came into being in California in the early '80s when several fraudulent operators tried selling fictitious health care insurance to small business people," he explained. "They were operating under a federal preemption, Employees Retirement Income Security Act (ERISA), which essentially preempted state regulation of those products. At that time, federal enforcement in that area was very weak and a lot of fraud operators took advantage of that, selling phony insurance while claiming to be associations of employers. Generally, the price of the health insurance was so cheap that they would overcome any sales resistance and prey on those people who could not qualify for regular health insurance."

By the late 1980s another insurance scheme was at work in California, this time preying on low income motorists in inner city areas who did not qualify for and could not afford high-priced liability insurance. In addition, Harrington said the surplus lines law was very weak, essentially making it



the responsibility of the surplus lines broker to qualify unlicensed carriers for specific niche markets that the conservative companies wouldn't insure. When those niche markets grew to be a mass market of motorists, fraud became rampant in this area with an ensuing loss of more than \$1 million.

But in 1991, things began to change

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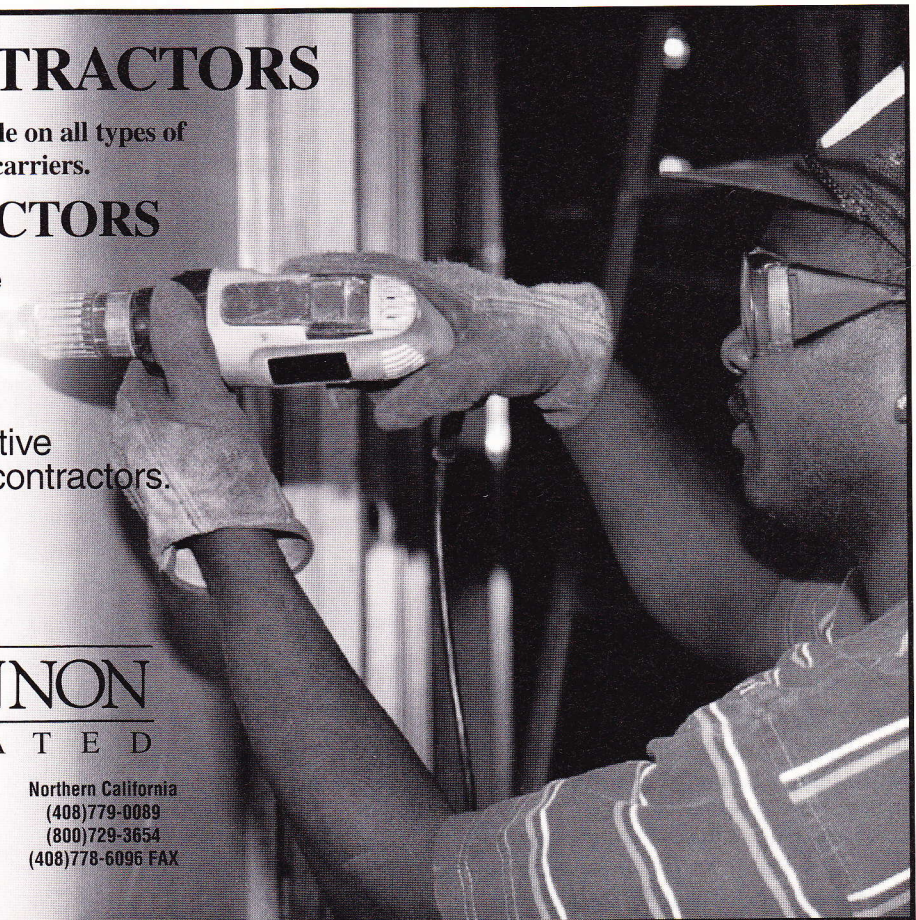
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For anyone curious about what actions CDI has taken over the last three months, it's public record, available via CDI's web site: [www.insurance.ca.gov/Consumer.Alert/Producer.htm](http://www.insurance.ca.gov/Consumer.Alert/Producer.htm) or by calling the general licensing office in Sacramento, (916) 492-3555.

### Listing the crimes

Every month, the web site is updated with the names of producers who have been

denied a license, ordered to pay monetary penalties for criminal actions, had a restricted license revoked, or been asked to surrender their license. Their fines and penalties are listed along with the crimes committed. After three months, that information is stored in CDI's licensing database and denials archives.

Through modern technology, it seems we have returned to the age-old tactic of public humiliation. While those convicted

are no longer locked in stocks in the town square, the implications of appearing on the infamous CDI "list" have similar consequences.

However, the good that comes out of this is far more measurable in that it allows everyone the opportunity to be more careful

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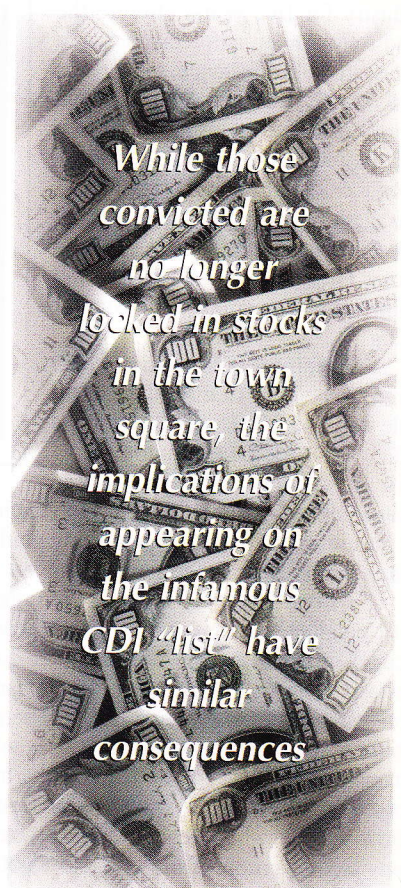
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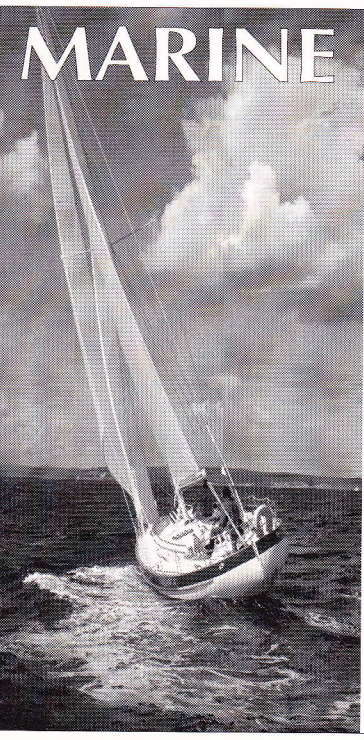
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about those with whom they do business. "It is not unheard of for someone whose license has been revoked to secretly try to do business on the sly," Harrington said. "Insurance companies have been known to hire someone who has been revoked or issued a Bad Actor Order to work for or with them, just because they did not check their history and were not aware. When they are selling, the bad guys look just like the good guys."

To help the CDI take a bite out of crime, Harrington suggests that anyone who has reason to suspect illegal action is taking place in the insurance industry contact his office and immediately report it. "[In today's day and age] it is everyone's responsibility to be aware of the party with whom you transact business," he said. "I think everybody in the industry—customers, insurance companies and producers—has some responsibility to participate in the policing of the business." [7]