



**FLORIDA DEPARTMENT OF FINANCIAL
SERVICES
FRAUD DIVISION
FORT MYERS REGIONAL OFFICE**

REPORT OF INVESTIGATION

**PC ARREST
July 16, 2014**

**CASE NUMBER: 13-1905
CASE NAME: Fruit Dynamics LLC et. al.
DATE OF REPORT: JULY 22, 2014**

DETECTIVES: LT. MARK FRITZ



FLORIDA DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF INSURANCE FRAUD

MEMORANDUM

DATE: July 22, 2014 **DFS Case Number: 13-1905**
TO: Stephen B. Russell, State Attorney
20th Judicial Circuit
FROM: Lt. Mark Fritz
SUBJECT: Investigative Costs – Restitution

Attached is the Department of Financial Services - Fraud Division Investigative Costs Summary Report concerning the above captioned subject and/or criminal investigation.

At such time as this defendant is convicted or in the event your office decides to negotiate a plea, in addition to full restitution to all victims, we respectfully request the defendant be required to pay our investigative costs pursuant to the provisions of F.S.S. 938.27, as itemized below:

Detective Time:	
106 hours @ \$28.32 per hour	\$3,001.92
Lieutenant Time:	
38.16 hr @ \$38.32 per hour	\$1,462.44
Secretarial Time:	
22 hours @ \$15.27 per hour	\$335.94
Analyst Time:	
13 hours @ \$21.22 per hour	\$275.86
Additional Costs:	
(Bank records, transcriptions, etc.)	\$585.90
Total Estimated Investigative Cost:	\$5,662.06

TABLE OF CONTENTS

I. PREDICATION4

II. SYNOPSIS OF FACTS5

III. LIST OF WITNESSES.....16

IV. DESCRIPTION OF SUBJECT18

V. LIST OF EXHIBITS24

PREDICATION

This investigation stemmed from a complaint made by Defense Attorney Michael S. Elstein. Defense Attorney Elstein reported there are numerous unauthorized workers (from another country) who are employed at Fruit Dynamics LLC, (dba: Incredible Fresh) and Collier County Produce Inc. located at 4206 Mercantile Ave., in Naples, Collier County, Florida. Defense Attorney Elstein also reported that the employer knows the workers are unauthorized. Defense Attorney Elstein advised that he has represented clients who were injured while working at this facility. Defense Attorney Elstein reported that when an employee became injured, he/she was terminated most of the time and/or harassed. The insurance carriers in turn would then attempt to suspend his/her benefits and claim he/she committed fraud by using a false social security number in connection with their worker's compensation claims.

This investigation is based on employees and/or employers that are allegedly using fraudulent identification to seek, maintain, or facilitate the use of fraudulent identification to obtain employment or employ an individual using fraudulent identification in violation of Florida State Statute **(1)** - 817.568(2)(a) titled Criminal Use of Personal Identification Information and **(2)** 440.105(4)(b)9 titled Workers' Compensation – Prohibited Activities

817.568(2)(a) - Criminal Use of Personal Identification Information

Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual's consent, commits the offense of fraudulent use of personal identification information, which is a felony of the third degree.

F.S. 440.105(4)(b)9 - Workers' Compensation

It shall be unlawful for any employer:

To knowingly participate in the creation of the employment relationship in which the employee has used any false, fraudulent, or misleading oral or written statement as evidence of identity.

It shall be unlawful for any person:

To knowingly present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of identity for the purpose of obtaining employment or filing or supporting a claim for workers' compensation benefits.

SYNOPSIS OF FACTS

This investigation stemmed from a complaint made by Defense Attorney Michael S. Elstein. Defense Attorney Elstein reported there are numerous unauthorized workers (from another country) who are employed at Fruit Dynamics LLC, (dba: Incredible Fresh) and Collier County Produce Inc. located at 4206 Mercantile Ave., in Naples, Collier County, Florida. Defense Attorney Elstein also reported that the employer knows the workers are unauthorized. Defense Attorney Elstein advised that he has represented clients who were injured while working at this facility. Defense Attorney Elstein reported that when an employee became injured, he/she was terminated most of the time and/or harassed. The insurance carriers in turn would then attempt to suspend his/her benefits and claim he/she committed fraud by using a false social security number in connection with their worker's compensation claims. **(exhibit #1)**

On 9/17/13, Lt. Mark Fritz and Det. William Hill met with Fruit Dynamics' Plant Manager, Mark Hansen. The following is a summary of a recorded sworn statement. This summary is not verbatim. **(exhibit #2)**

Mark Hansen advised that there were 165 employees at Fruit Dynamics and it is a year-round business. Mark Hansen believes the company's worker's comp carrier is Guarantee Insurance Company. Either the bookkeeper/accountant Heather Ebanks or Al Oakes deals with obtaining the insurance coverage. The type of work 90% of the employees perform are slicing and dicing fresh fruit and vegetables. The remaining staff members are in a support group, driving forklifts and bringing the produce to the processing portion of this facility. Fruit Dynamics employs 2 forklift drivers. Those employees work the night shift loading the products on delivery trucks. There are 8 supervisors that work on the plant floor. Fruit Dynamics does not employ any truck drivers. The produce is delivered by Oakes Farm's truck drivers. There are four clerical staff members. Most of the processing of the produce is done by a cutting apparatus or cutting machines. Only mangoes are cut using a hand-held knife. This company works on a "to order" basis. The employees work an average of 50 hours a week. There are generally 165 employees working per day, five days a week.

The types of injuries employees generally suffered are: cuts made with a knife, slip-falls, and repetitive motion injuries. Injured employees are sent to Advanced Medical Center located at 1250 Pine Ridge Road in Naples, FL. Advanced Medical Center is an urgent care center offering a variety of medical services.

Mark Hansen explained the hiring process. The employees are found via, "word of mouth". The turnover rate of employees is low. Eighty percent of the employees are long-time employees.

An employee's file would contain their application, W-2, I-9 form and copy of their identification cards.

Mark Hansen provided a guided tour of the facility. Lt. Fritz noticed that a majority of the workers were in processing rooms. The employees were observed freely walking in and out of the shipping and storage warehouse. While there, Lt. Fritz noticed semi trucks parked at the loading dock.

On 9/17/13, Lt. Fritz received a copy of the insurance policy from Fruit Dynamics' employee Heather Ebanks. The policy only accounted for 102 employees. Heather Ebanks advised their insurance agent is Stephen Benza employed with Lutgert Insurance located at 1395 Panther Lane, Naples, Fl. **(exhibit #3)**

A review of the policy revealed:

On December 12, 2012, a worker's compensation policy was written by Lutgert Insurance Agency insuring Fruit Dynamics LLC located at 4206 Mercantile Ave. in Naples. The policy was issued from "Guarantee Insurance". This policy listed one hundred (100) employees under rating code 8018 titled "Store Wholesale NOC" and two (2) employees under rating code 8810 titled "Clerical".

During the course of this investigation, Lt. Fritz communicated with Contego Services Group, LLC Special Investigations Unit Manager Trish Donaven and learned the following: **(exhibit #4)**

On October 16, 2013, Guarantee Insurance Company conducted an audit of this facility and discovered that there were one hundred and seventy (170) employees under rating code 8018 titled "Store Wholesale NOC" and four (4) employees under rating code 8810 titled "Clerical". As a result of this audit it was discovered that Fruit Dynamics dba: Incredible Fresh had under reported their employee payroll and the number of employees employed. During this audit an employee master list was obtained listing all the employees for the period ending September 28, 2013.

During the period September 16, 2013 through June 12, 2014, Florida Division of Insurance Fraud CIA Supervisor Kathy Morris and Florida Division of Insurance Fraud Crime Intelligence Analyst Lisa Gonzalez conducted a research on **212** employees to verify whether anyone used fictitious identification numbers to seek and maintain employment. As a result of their research, **171** employees were identified as fictitiously using another person's identity to seek and maintain employment or used a fictitious/invalid Social Security Number. This was accomplished by submitting the employee's name and his/her associated United States Social Security Number to the United States Social Security Administration asking the Administration to determine if the purported United States Social Security Numbers matched.

As a result of this request it was determined that 171 employees used another person's United States Social Security Number or an invalid number to obtain employment at the above-listed business. Kathy Morris and Crime Intelligence Analyst Lisa Gonzalez conducted further research utilizing computerized databases and were able to identify the names of the true owners of those fraudulently used Social Security Numbers. Kathy Morris then submitted the names of the true owners of the Social Security Numbers to the United States Social Security Administration and confirmed that the true owners' names matched their Social Security Numbers. Kathy Morris subsequently received proof of the true owners' names and Social Security Numbers for 77 victims of identity theft. **(exhibit #5)**

During the past several months Lt. Fritz sent out victim identity theft affidavits to law enforcement agencies in twenty-five (25) different States: Alabama, Arizona, California, Colorado, Florida, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Minnesota, Montana, Nevada, New York, Pennsylvania, North Dakota, Oklahoma, Oregon, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin; plus Puerto Rico and Washington D.C. Lt. Fritz subsequently received affidavits or certified death certificates on (27) identity theft victims confirming the information collected by Supervisor Kathy Morris and Crime Intelligence Analyst Lisa Gonzalez. These affidavits will be found in the respective defendant exhibits.

On April 7, 2014, Lt. Fritz and Fire Marshal Detective Raul Vallejo interviewed a former employee (further referred to as a Cooperating Witness). Cooperating Witness identified Robert Eddy as a Supervisor, Maria Eddy as the Human Resource person and Mark Hansen as the manager. Cooperating Witness advised that no one associated with the company assisted him in obtaining his fraudulent identification. Cooperating Witness stated that many of the employees have fake identities which they have used to seek and maintain employment at this business. Cooperating Witness advised that everybody working there knows who has obtained employment illegally. **(exhibit #6)**

On April 7, 2014, Lt. Fritz then traveled to Fruit Dynamics and met with Robert Eddy and Maria Eddy. Lt. Fritz asked to speak with somebody in Human Resources. Robert Eddy advised Lt. Fritz that he would have to speak with Manager Mark Hansen. Lt. Fritz later met with Mark Hansen. Mark Hansen introduced Lt. Fritz to Maria Eddy as the Human Resource Manager. Lt. Fritz advised that he wanted to view the Cooperating Witness' personnel file. Another office staff worker brought the Cooperating Witness' personnel file to be viewed. Lt. Fritz noted that this file was obtained from a rear office behind Mark Hansen's office. This unknown employee is known as Teresa (later determined to be Maria Teresa Pacheco). Maria Eddy and Mark Hansen advised that Heather Ebanks is the person that maintains the I-9 forms and that she works on Wednesdays. Lt. Fritz subsequently received the "First Report of Injury or Illness" form prepared for the Cooperating Witness' injury. The company name on this report was "Collier County Produce Inc." located at 4206 Mercantile Ave.

The Federal Identification Tax number was listed as 65-0114172. Florida Department of State – Division of Corporations database show that 65-0114172 is assigned to Collier County Produce, Inc. During this visit, Lt. Fritz observed computers in the Mark Hansen's and Maria Eddy's offices. **(exhibit #7)**

On April 9, 2014, Lt. Fritz met with Heather Ebanks at her office. Heather Ebanks advised Lt. Fritz that she had retrieved Cooperating Witness' I-9 form and gave it to Manager Mark Hansen. Heather Ebanks explained that she does not interview the new applicants or obtain their identities. Maria Eddy is the person who interviews the new applicants and obtains their identifications. Maria Eddy is the person that provides the new employees' applications to Heather Ebanks for forwarding to their payroll company. Heather Ebanks advised that she has never observed a problem in the past related to employees having fake identifications. Heather Ebanks stated that she works part-time in this position and that for several years she worked for the owners at "Oakes Farms". (NOTE: Oakes Farms is affiliated with Fruit Dynamics LLC and Collier County Produce, Inc.) **(exhibit #8)**

On April 9, 2014, Lt. Fritz met with Plant Manager Mark Hansen. Mark Hansen provided Lt. Fritz with a copy of the I-9 signed by Cooperating Witness. Mark Hansen confirmed that he received the document from Heather Ebanks proving that employee personnel files are stored in her office. **(exhibit #10)**

On April 9, 2014, Lt. Fritz obtained a recorded sworn statement from Human Resource Manager Maria Eddy confirming that she was the person that completed Cooperating Witness' I-9 form. While there, Lt. Fritz observed employees freely moving from the processing rooms, warehouse area, and the shipping department. **(exhibit #11)**

On June 17, 2014, Lt. Fritz conducted a computerized inquiry into the National Insurance Crime Bureau (NICB) database researching employees at Fruit Dynamics LLC and Collier County Produce located at 4206 Mercantile Ave. Lt. Fritz discovered that during the period 2004 thru 2012, numerous worker's compensation claims were filed by employees using a policy issued to Collier County Produce. Twenty-nine of those employees were the same individuals using fake identity numbers to seek and maintain employment at this location. Lt. Fritz further researched the NICB database and discovered that between 2004 and 2014 there was only one workers compensation claim filed in 2014 on a policy issued to Fruit Dynamics LLC. **(exhibit #12)**

On July 15, 2014, DIF CIA Supervisor Kathy Morris provided a sworn affidavit confirming that she sent Social Security verifications checks to U.S. Social Security Administrations and received proof that the above listed defendants used another person's social security number. **(exhibit #190)**

On July 16, 2014, A search warrant was executed at the above listed business. The items seized were employee's employment records for the below listed employees that were discovered using social security numbers not issued to them from the United States Social Security Administration. The records included: **(1)** photo copies of all identifications used to obtain employment, **(2)** employment application, **(3)** Employment Eligibility Verification Form I-9, **(4)** Any workers compensation claim documents related to the employees listed below. **(exhibit #13)**

CCSO and DIF separated the employees in two groups; male and females. Spanish interviewers then began the process of interviewing employees to determine if they used a fictitious identification to gain employment. During the interview process, several employees were found using legitimate identifications to gain employment. Once these employees were identified they were release. There were many other employees known to have used fictitious identification to gain employment, however, since there were no supporting documents in the employee personnel file, they were also released pending further investigation.

On July 16, 2014, DIF and CCSO investigators interviewed many of the employees. Det. Ralph Guarniero worked with worked closely with U.S. Immigrations Customs Enforcement (ICE) and obtained proof that many of the below listed employees used fake Alien Resident Cards to seek and maintain employment. The following is a list of the known identity theft employees. This list indicates whether an employee was arrested or released pending further investigation. This list also identifies the related exhibit number associated with each defendant. The exhibits will contain all document associated to the respective defendant. The arrests were based on the following: **(1)** Affidavits from Lt. Fritz detailing his investigation up to July 16, 2014, **(2)** Affidavits from Det. Guarniero related to proof from ICE that a defendant used a false Alien Registration Number, and **(3)** affidavits from Detectives that interviewed the defendants. These signed documents were submitted with the CCSO Booking reports.