DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

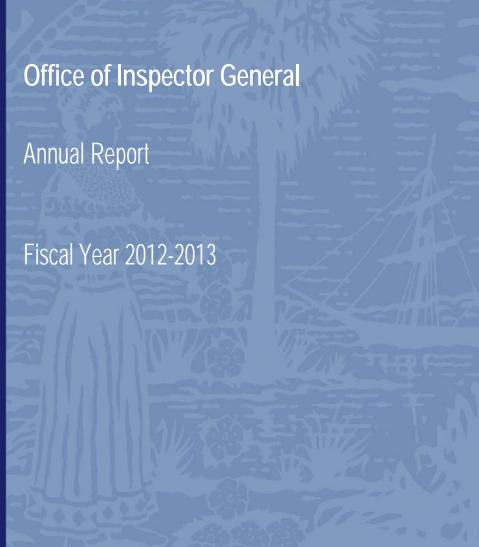




RICK SCOTT Governor

KEN LAWSON Secretary

STAN BRANHAM Inspector General





DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION Office of Inspector General

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September 30, 2013

Ken Lawson, Secretary Department of Business and Professional Regulation 1940 North Monroe Street Tallahassee, FL 32399-1000

Dear Secretary Lawson:

I am pleased to present the Office of Inspector General's *Annual Report* for Fiscal Year 2012-2013. This report was prepared in accordance with Section 20.055, Florida Statutes, which requires that I furnish to you an annual report that summarizes the activities of the Office of Inspector General no later than September 30 of each year. Accordingly, the enclosed report presents the accomplishments, findings, and recommendations of significant audit and investigative activities completed during Fiscal Year 2012-2013.

On behalf of the Office of Inspector General staff, I extend my appreciation to all of the Department of Business and Professional Regulation employees for their assistance and cooperation throughout the year.

We look forward to being a valuable partner in providing greater accountability, integrity, efficiency, and effectiveness in fulfilling the Department's vision, mission, and strategic goals in the upcoming fiscal year.

Sincerely

Stan Branham Inspector General

SB/tmc

Enclosure

cc: Melinda Miguel, Chief Inspector General

State of Florida Department of Business and Professional Regulation Office of Inspector General

2012-2013 ANNUAL REPORT

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

OFFICE OF INSPECTOR GENERAL

OVERVIEW

Section 20.055, Florida Statutes, establishes the Office of Inspector General to provide a central point for coordination of, and responsibility for activities that promote accountability, integrity, and efficiency within the Department of Business and Professional Regulation. The section defines the duties and responsibilities of agency inspectors general, and requires inspectors general to submit an annual report to their respective agency heads by September 30 of each year. The purpose of this report is to provide the Secretary of the Department of Business and Professional Regulation and other interested parties with a summary of the accountability activities of the Office of Inspector during the preceding fiscal year.

MISSION STATEMENT

The mission of the Office of Inspector General is to be a valuable partner in conducting independent, objective internal audits, reviews and investigations of department activities and programs. Our services add value to department management by assisting the department in providing greater accountability, integrity, efficiency and effectiveness in fulfilling the department's overall vision, mission and strategic goals.

EMPLOYEE CODE OF ETHICS

Office of Inspector General staff function as a team. We succeed by assisting each other to raise the level of our performance every day. Each of us has an obligation to make known our observations and suggestions for improving how we carry out our tasks and procedures. Our performance of duty, our dedication to our mission and our daily attitude reflect upon how we are perceived by the other members of our department.

Every day we represent the Secretary and our department in each and every task. We are guided in the ethical performance of our duty not only by Florida's ethics laws, but most especially by our adherence to the ethical standards enunciated by Governor Rick Scott. As such, we are held to a higher standard for moral behavior, faithful obedience to the law, and the principles of integrity, objectivity, and independence.

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Office of Inspector General internal audit staff are also governed by the *Code of Ethics* of The Institute of Internal Auditors, Inc. This code establishes the values and expectations governing the behavior of individuals and organizations in the conduct of internal auditing. The *Code of Ethics* requires internal auditors to apply and uphold the principles of integrity, objectivity, confidentiality, and competency.

RESPONSIBILITIES OF THE INSPECTOR GENERAL

Section 20.055, Florida Statutes, directs the Inspector General to accomplish the following duties and responsibilities:

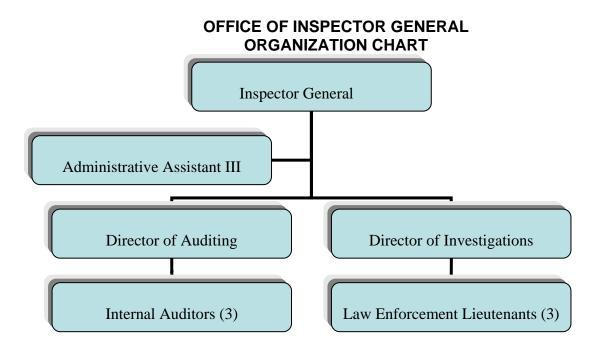
- Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the agency's programs and operations.
- Conduct, supervise, or coordinate other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in agency programs and operations.
- Keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the agency; recommend corrective action concerning fraud, abuses, and deficiencies; and report on the progress made in implementing corrective action.
- Review the actions taken by the state agency to improve program performance and meet program standards, and make recommendations for improvement, if necessary.
- Advise in the development of performance measures, standards, and procedures for the evaluation of agency programs; assess the reliability and validity of the information provided by the agency on performance measures and standards, and make recommendations for improvement, if necessary.
- Ensure effective coordination and cooperation between the Office of the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.
- Maintain an appropriate balance between audit, investigative, and other accountability activities.
- Comply with the *General Principles and Standards for Offices of Inspectors General* as published and revised by the Association of Inspectors General.

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- Initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.
- Receive complaints and coordinate all activities of the Department as required by the Whistle-blowers Act pursuant to Sections 112.3187 - 112.31895, Florida Statutes.
- Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blowers Act and conduct such inquiries, investigations, or reviews as the Inspector General deems appropriate.
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

ORGANIZATION, STAFFING, AND TRAINING

The Inspector General is appointed by, and reports directly to the department Secretary. The Office of Inspector General (OIG) is organized as shown in the following chart:



Office of Inspector General

Professional Designations

Collectively, OIG staff maintains the following professional designations and/or qualifications: one Certified Inspector General, three Certified Inspector General Investigators, one Certified Internal Auditor, two Certified Government Auditing Professional, one Certified Information Systems Auditor, one Project Management Professional, four Certified Law Enforcement Officers, three Florida Crime Information Center/National Crime Information Center certified staff members, and four employees who provide Notary Public services. In addition, members of the Office hold degrees in criminology, criminal justice, business administration, accounting, political science, finance, sociology and one juris doctorate.

Professional Affiliations

OIG staff belongs to a variety of professional associations to maintain professional competence, establish and advance professional networks, and participate in professional community activities. Staff are affiliated with the following professional associations: Association of Inspectors General (AIG), The Institute of Internal Auditors (IIA), the Association of Government Accountants (AGA), Information Systems Audit and Control Association (ISACA) and the Project Management Institute (PMI).

Continuing Professional Education and Staff Development

Each OIG staff member has a personal responsibility to achieve and maintain the level of competence required to perform their respective duties and responsibilities. The OIG encourages staff members to remain informed about improvements and current developments in internal auditing and investigations.

As required by statute, the OIG performs internal audits in accordance with the *International Standards for the Professional Practice of Internal Auditing* published by The Institute of Internal Auditors, Inc. or government auditing standards, as appropriate. These standards require internal audit staff to maintain proficiency through continuing professional education and training. Pursuant to these standards, each internal auditor must receive at least 80 hours of continuing professional education every two years.

In Fiscal Year 2012-13 OIG staff participated in training sponsored by the Association of Inspectors General, Institute of Internal Auditors, Association of Government Accountants, Florida Department of Law Enforcement, The Institute of Police Technology and Management, the Pat Thomas Law Enforcement Academy, and the Florida Governmental Technology Conference.

During Fiscal Year 2012-2013, staff from this Office provided training nine times at the New Employee Orientation Training. This training outlines the Office's role in audits and investigations.

INTERNAL AUDIT SECTION

The Internal Audit Section performs independent, objective audit and consulting engagements that provide information on the adequacy and effectiveness of the department's internal controls and on the economy, efficiency and effectiveness of department programs, activities, and functions. The OIG also provides management advisory services to assist management with issues that do not require extensive audit or consulting services.

The OIG performs audit and consulting engagements in accordance with the *International Standards for the Professional Practice of Internal Auditing* as published by The Institute of Internal Auditors, Inc.

Quality Assessment Review of the Internal Audit Activity

In Fiscal Year 2012-13, the Auditor General performed a quality assessment review of the Office of Inspector General. The results of this review were reported in Auditor General Report Number 2013-057, Department of Business and Professional Regulation Office of Inspector General's Internal Audit Activity Quality Assessment Review for the Review Period July 2011 Through June 2012 (December 2012).

As stated in the report, the Auditor General found that during the review period, the quality assurance program related to the Department of Business and Professional Regulation, Office of Inspector General's internal audit activity was adequately designed and complied with to provide reasonable assurance of conformance with applicable professional auditing standards. Also, the Office of Inspector General generally complied with those provisions of Section 20.055, Florida Statutes, governing the operation of State agencies' offices of inspectors general internal audit activities.

Risk-based Audit Planning

Section 20.055, F.S., requires the Inspector General to develop annual and long-term audit plans based on findings of period risk assessments. The OIG's 2013 Annual Risk Assessment Survey was completed by 47 of the department's 50 auditable entities. Responses were analyzed for various risk factors, such as opportunity for fraudulent activity within entity operations; operational complexity; recent changes in the regulatory environment; appropriate segregation of duties; etc. To obtain additional management input, we then conducted follow-up risk assessment interviews with the director of each division/office, with each member of executive management and with our department's

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Secretary. The Secretary approved the OIG's *Annual Audit Plan for Fiscal Year 2013-14 and Long-Term Audit Plans for Fiscal Years 2014-2016* on June 20, 2013.

During the course of the fiscal year the Internal Audit Section also carries out on-going risk assessment activities to identify and assess areas of emergent risk. The Inspector General revises the approved *Audit Plan* as necessary to address exigent circumstances.

Summary of Internal Audits Completed in Fiscal Year 2012-13

Audit of the Florida Mobile Home Relocation Program Report No. A-1112BPR-032 October 4, 2012

The audit of the Florida Mobile Home Relocation Program found that the Florida Mobile Home Relocation Corporation (FMHRC) lacked the staffing necessary to ensure adequate segregation of duties. The audit also found that funds available for corporate use far exceeded current needs. The report recommended the department amend the Memorandum of Understanding with the FMHRC to address the transfer of trust funds, provide for submission of additional financial reporting, and require periodic review of the Memorandum. The report recommended that department staff review and analyze FMHRC financial information to help mitigate the risks associated with inadequate segregation of duties. The audit also recommended the department consider policy and operational changes to better align the Corporation's operations with current needs.

Audit of the Florida State Boxing Commission, Process Review Report No. A-1213BPR-009 November 29, 2012

This audit evaluated the activities of the Florida State Boxing Commission (Commission). Audit results showed that Commission revenue was under-reported by promoters and not appropriately reconciled by Commission staff, contributing to the Commission's current budget deficit. The Commission also had inadequate controls over the licensure of officials, resulting in unlicensed activity. The audit also found the Commission was not fully complying with state regulations regarding the protection of personal and confidential information. Further, Commission procedures were not properly designed or effectively implemented, yielding improper oversight of Commission activities.

The audit recommended the Commission ensure that all live-event permit fees are submitted and deposited in accordance with statutory and rule provisions and that the Commission ensure all post-event tax reports and resulting revenues due are accurately collected, reported and reconciled. The report further recommended the Commission

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ensure that all officials are properly licensed prior to working Commission-sanctioned events. Regarding the protection of personal and confidential data and information, the report recommended the Commission take steps to ensure the security of such information. The audit also recommended the Commission amend its policies, procedures and oversight practices such that Commission objectives are achieved and oversight of Commission activities is accomplished.

Audit of Internal Controls for the DAVE Data Exchange Report No. A-1213BPR-024 April 1, 2013

The purpose of this audit was to evaluate whether the department's internal controls over the personal data accessed through the data exchange were adequate to protect the data from unauthorized access, distribution, use, modification or disclosure. The audit also assessed the department's compliance with provisions related to database access and use and the safeguarding and use of DAVE data and information as provided in the Memorandum of Understanding (MOU) with the Department of Highway Safety and Motor Vehicles for use of the DAVE database. In response to audit inquiry, management took appropriate action to enhance the department's internal controls related to the security and integrity of the personal data obtained through the electronic data exchange. Management also established and implemented policies and procedures to help ensure compliance with MOU provisions. All recommended actions were completed during the course of the review.

Summary of Follow-up Reviews Completed in Fiscal Year 2012-13

The Office of Inspector General actively monitors the actions management takes to correct deficiencies cited in internal audit reports and in reports issued by external review entities. In accordance with state law and internal auditing standards, the OIG provides the department Secretary with a written report on the status of corrective action taken in response to each audit. In Fiscal Year 2012-13, the OIG performed six follow-up reviews, including review of outstanding corrective actions from prior annual reports. The results of these reviews are summarized below.

Audit of the Division of Condominiums, Timeshares and Mobile Homes Bureau of Compliance Report No. A-1011BPR-010 Six-Month Follow-up Review (October 18, 2012)

Our review found that management had taken appropriate action to correct all issues cited in the audit report. Actions included improving procedures for processing and investigating complaints and for ensuring the integrity of complaint data. The OIG therefore closed all audit findings and recommendations.

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Audit of Secondary Employment
Report No. A-1011BPR-006
Twelve-Month Follow-up Review (December 12, 2012)

As of the twelve-month follow-up review, all findings and recommendations remained open. Our review determined the Division of Administration and Financial Management was in the process of revising its Administrative Policy on Additional/Outside Employment as recommended in the audit. The Division also requested a six-month extension to complete recommendations regarding procedures for maintaining information on outside employment and review and analysis of such data. Management of the Division of Alcoholic Beverages and Tobacco had revised its policies regarding extra-duty employment of sworn law enforcement officers but requested additional time to implement procedures for monitoring approved extra-duty employment, as recommended in the audit. The OIG determined to administratively close all findings and recommendations and to conduct a Follow-up Audit of Secondary Employment. The follow-up audit, published in August 2013, found that although some progress had been made, the divisions had still not fully implemented the corrective action necessary to mitigate identified internal control issues. The OIG will monitor and report on corrective action taken in response to the follow-up audit in Fiscal Year 2013-14.

Evaluation of the Department's Policy Process Report No. A-1011BPR-028 Fifteen-Month Follow-up Review (February 15, 2013)

Our follow-up review determined the Division of Administration and Financial Management had taken significant steps to strengthen the department's policy management process, as was recommended in the audit report. However, the Division also acknowledged that additional work was needed to fully implement its planned corrective action. The OIG will therefore continue to monitor management's implementation of the finding and recommendation.

Audit of Usage of State Cell Phones and Blackberries Report Number A-15-0809-011 Follow-up Review (March 1, 2013)

The OIG has continued to monitor corrective action taken in response to the findings and recommendations contained in the *Audit of Department Policies and Procedures for Usage of State Cellular Telephones and Blackberries* (published April 30, 2010). Our follow-up review of March 1, 2013 found the department had rescinded its policy on mobile communication devices and lacked any formal written policy regarding the assignment and use of mobile communication devices. We also found the department was not providing supervisors and employees with electronic notification of the need to review their phone usage reports and that supervisors were not reviewing the

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assignment of cellular telephones and smartphones as recommended in the original audit. Given the length of time that had elapsed since publication of the audit, we submitted an Assumption of Risk Memorandum to the Secretary. Since issuing the memorandum, department management has published an administrative policy on the use of mobile communication devices. The OIG will continue to provide advisory/technical assistance services to management regarding the issues identified in the original audit.

Enterprise Ethics Audit
Report No. A-1011EOG-006
Eighteen-month Follow-up Review (released March 6, 2013)

As of the eighteen-month review, the department had one open finding and recommendation related to adoption of a values-based Code of Ethics. We determined that in lieu of adopting a Code of Ethics document, the department had included its values statements as performance expectations for each department employee. The employee must acknowledge these values at the beginning of the annual evaluation period. At the end of the evaluation period, each employee's supervisor rates the employee on their achievement of these values. The OIG concluded that management had taken sufficient corrective action to close the issue and no further monitoring was required.

Enterprise Audit of the Department's Contract Monitoring Process Report No. A-1112EOG-010 Twelve-month Follow-up Review (released March 13, 2013)

In this follow-up review we determined the Division of Administration and Financial Management had made significant progress in implementing the audit report findings and recommendations. However, the Division had not completed corrective action related to two of the three findings. The Division is continuing to implement recommendations regarding the revision of policies, forms, and implementing guidance for contract monitoring. The OIG will therefore continue to monitor management's corrective action.

<u>Summary of Consulting/Management Advisory Services Completed in Fiscal Year</u> 2012-13

Florida State Boxing Commission Data Compilation Consulting Project C-1213BPR-027 November 20, 2012

At the Commission's request the OIG prepared a compilation and analysis of revenues and costs for selected Commission-regulated events in Fiscal Years 2010-11 through

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2012-13. The OIG also provided the Commission with an analysis of trends in number of events and bouts held during these years.

Chief Inspector General's Enterprise Background Screening Project Report No. A-1213BPR-025 June 7, 2013

The OIG participated in the Enterprise Background Screening Project conducted under the direction of the Chief Inspector General (CIG) and a project team comprised of representatives from executive agency Offices of Inspectors General. Project objectives were to review applicable laws, rules and regulations regarding the background screening process; and to identify opportunities to improve efficiencies and economies related to the background screening process and use of Livescan devices. The OIG provided detailed information to the project team on our department's background screening policies, procedures, and practices, including information on the number of positions of special trust within the department, procedures for conducting Level 2 background investigations, and use of Livescan devices.

Background Screening Procedures
Project B-1213BPR-045
June 18, 2013

In conducting the Enterprise Background Screening Project we identified certain internal control issues which we brought to management's attention. These issues centered on department policies and procedures for designating positions of special trust; variances across divisions in procedures for conducting Level 2 background investigations; the appropriate use of Criminal Justice Information Services for employment screening purposes; and security of criminal justice information. We facilitated a meeting between management and a representative of the Florida Department of Law Enforcement to discuss related issues. As a result of these discussions, we recommended the department form a Criminal Justice Information Workgroup staffed by representatives from various divisions. The OIG will serve in an advisory capacity to this workgroup.

Miscellaneous Management Advisory Services

During Fiscal Year 2012-13, the OIG provided advisory/technical assistance services to management on a variety of issues, including compliance with provisions of the Memorandum of Understanding with the Department of Highway Safety and Motor Vehicles for use of the Driver and Vehicle Information Database (DAVID); development of remote deposit capture procedures; and development of procedures for receiving payment for public records requests made by media representatives. The OIG also issued an advisory memorandum to the Secretary concerning use of Florida Mobile Home Relocation trust funds.

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The OIG continued to coordinate Florida Single Audit Act (FSAA) activities for the department and to advise management on compliance with FSAA requirements. At the request of the department's Chief Performance Officer, the OIG provided division management with guidance concerning performance measure validity and reliability. The OIG then assisted management with revising existing performance measures, as appropriate. The OIG also coordinated the department's response to requests for information related to the Auditor General's Statewide Financial Statement audit.

INVESTIGATIONS SECTION

The primary function of the Office of Inspector General's investigative staff is to conduct internal investigations based on allegations or evidence of mismanagement or employee misconduct. This is accomplished through both proactive and reactive investigative efforts. These investigations are authorized in accordance with Section 20.055(6), Florida Statutes, which in part states, "...each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government."

Internal investigations may identify deficiencies in policies and procedures, other internal controls, or business processes that caused or contributed to the situation requiring investigation. By reporting these deficiencies to management, the Department has the opportunity to address the deficiency and thereby reduce the likelihood of future occurrences of the fraud, waste, mismanagement, misconduct or other abuses. Our findings are reported to the department's Secretary, the Bureau of Human Resources, and as appropriate, to the respective division directors, the immediate supervisors, and the Office of the General Counsel. Recommendations for improved processes, policies, or procedures are made when warranted by the findings.

Additionally, the OIG continues to educate the department's management team regarding complaint handling. We also continue to utilize the 360 degree complaint resolution approach, which is a process that ensures proper documentation and tracking of every complaint received by the OIG. The independent approach this office uses in complaint resolution ensures that the appropriate attention and response is provided in each case.

Types of Cases in Fiscal Year 2012-2013

The Office of Inspector General received the following types of cases during Fiscal Year 2012-2013:

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Backgrounds - Investigations and criminal history reviews of individuals who are being considered to fill positions designated as sensitive. This includes Career Service, Senior Management, Select Exempt Service and Other Personal Service positions.

Information – Information cases are completed in order to document information and/or actions that otherwise do not meet the criteria for inquiries or investigations.

Inquiries - Informal investigations conducted to determine the validity of a complaint prior to the initiation of an Internal Affairs Investigation. The determination as to whether the allegation remains an Inquiry Case is dependant on the sufficiency of evidence obtained during the course of the informal investigation.

Internal Investigations - Investigations conducted by the Office of Inspector General in response to a complaint received by the Office, and from the evidence obtained during an inquiry that warrants a full investigation into the facts surrounding the allegation. Complaints alleging employee misconduct, fraud, waste, abuse, or mismanagement may be made orally or in writing by an employee or non-employee.

Referrals - Evaluation of complaints, typically of minor misconduct, to determine whether the complaint should be addressed by the appropriate division within the Agency or sent to the applicable external Agency.

Reviews – Reviews are conducted in order to examine the actions of the Agency and/or its members, and to ensure that the actions were adequate, accurate, or correct.

Use of Force - Investigations into the circumstances that involve a law enforcement officer's use of force when performing his or her duties.

Whistle-Blower – Receive complaints, by a State employee, former State employee, or Applicant for State employment, of serious allegations of wrongdoing on the part of a public employer or independent contractor and coordinate all activities of the Agency as required by the Whistle-Blower's Act pursuant to Sections 112.3187-112.31895, Florida Statutes.

Get Lean Hotline – Suggestions to improve the efficiency and effectiveness of Departmental operations offered by citizens via the Hotline.

Case Totals for Fiscal Year 2012-2013:	260	
Accidents Backgrounds Information	24 23 31	
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Inquiries	28
Internal Investigations	3
Referrals	147
Reviews	0
Use of Force	3
Whistleblower	0
Get Lean	1

Investigative Conclusions for Fiscal Year 2012-2013

Upon conclusion of an investigation, a finding is made as to the validity of the allegation and is reported under the *Conclusion(s)* segment of the case report.

The 2 internal investigations resulted in 9 findings. These findings consisted of 9 sustained. The definitions of the types of finding are as follows:

Sustained - The allegation(s) were supported by the preponderance of the evidence to justify a realistic conclusion that the actions did occur and were a violation of law, rule or policy.

Not Sustained - The allegation(s) were not supported by fact and insufficient evidence was acquired during the investigation to prove or disprove the allegations.

Unfounded - Allegation(s) of the complaint were not supported by facts and were shown not to have occurred.

Exonerated – The alleged conduct occurred, but was lawful and proper.

Policy Failure – The alleged conduct occurred and caused harm; however, the conduct was consistent with policy (i.e., a policy change may be needed).

Investigation Summaries for Fiscal Year 2012-2013

Case Number 2013-050-IA

This case was received on March 1, 2013 when our office was requested to review allegations of conduct unbecoming a public employee. This case concerned the Division of Alcoholic Beverages and Tobacco. As a result of the investigation, the allegation of conduct unbecoming a public employee were SUSTAINED.

Case Number 2013-062-IA

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This case was received on March 21, 2013 when our office was requested to review allegations of conduct unbecoming a public employee and violation of law or agency rules. This case concerned the Division of Pari-Mutuel Wagering. As a result of the investigation, the allegations of conduct unbecoming a public employee and violation of law or agency rules were SUSTAINED.

Case Number 2013-071-IA

This case was received on March 26, 2013 when our office was requested to review allegations of conduct unbecoming a public employee and violation of law or agency rules. This case concerned the Division of Alcoholic Beverages and Tobacco. As a result of the investigation, the allegations of conduct unbecoming a public employee and violation of law or agency rules were SUSTAINED.

Investigation Plan of Supplementary Activities for Fiscal Year 2013-2014

Training/Outreach Initiative – Continue the program to familiarize new employees with the role and responsibilities of the Office of Inspector General. Additionally, this program will continue to familiarize department supervisors and managers with the role and responsibilities of the Office of Inspector General, as well as the importance of their positions relating to prompt and appropriate supervisory intervention regarding employee performance issues and customer complaints.

Policy Review – Conduct periodic reviews and training sessions, in regard to internal affairs investigations, with division directors to ensure that all laws, rules, policies and procedures are followed and that the rights of employees are not violated.