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## Disaster Fraud (June 2017)

Disaster Fraud is defined as an illicit activity the purpose of which is to defraud individuals, private organizations or the government after a natural or man-made catastrophe<sup>1</sup> and can manifest in itself in a variety of forms. Common examples include unscrupulous individuals persuading disaster fraud victims to claim excessive damages in order to increase the fraudster's earnings, contractors collecting money to repair damaged property without completing the project and homeowners increasing damage estimates for personal gain. "Fraud is an unfortunate reality in post-disaster environments," said National Insurance Crime Bureau (NICB) President and CEO, Joe Wehrle."<sup>2</sup>

## How It Happens

A flood, hurricane, tornado, earthquake, fire or terrorist attack may affect multitudes of people. These victims may have lost a home, property, or friends and family. In the disaster's aftermath, there are agencies and organizations such as the Red Cross, United Way and community foundations that serve to assist victims regain normalcy to the extent possible. Unfortunately, there are also criminally minded individuals that utilize disasters as an opportunity to steal from desperate disaster victims, establish phony relief agencies, take advantage of legitimate relief agencies and/or file false insurance claims.

Though variations can exist, there are five primary strategies to commit disaster fraud: fraudulent charitable solicitations; price gouging; contractor and vendor fraud; property insurance fraud; and forgery.<sup>3</sup>

- Fraudulent Charitable Solicitations: This fraud involves people posing as both legitimate (e.g., Red Cross) and non-existent organizations with workers collecting money to assist with disaster relief. Generous people, who often search the Internet for well-known charities in order to donate funds after disasters, can be deceived by fake websites. In the aftermath of Hurricane Katrina, the American Red Cross asked the Federal Bureau of Investigations (FBI) to investigate at least 15 fake websites that were designed to impersonate their website.<sup>4</sup> Even before Katrina's landfall, internet fraud experts saw scammers registering dozens of websites with Katrina in their names.<sup>5</sup>
- Price Gouging: During times of crisis, some businesses increase the prices of vital goods in demand or in limited supply, thereby increasing profit at the expense of the victims of the disaster. There are 35 states with legislation making it a crime

to increase prices during disasters; the remaining states view it as capitalism, the law of supply and demand in action.<sup>6</sup> The Colorado Assistant Attorney General, Jan Zavislan, recently said, "The price of a product or service alone is not a scam if it's fully disclosed... If the consumer has the information and has the right to shop around, but the sources in an emergency aren't there, it might be an outrage to people, but there's no specific law on the price itself."<sup>7</sup>

- Contractor and Vendor Fraud: This fraud happens when an individual poses as a contractor or repairman with no intention of actually repairing damages. Following a natural disaster, victims are often in search of a contractor to rebuild or repair their homes as quickly as possible. Licensed home repair companies are usually quickly scheduled for jobs after a disaster. Homeowners, who are desperate for immediate repairs, can fall prey to unscrupulous contractors. The homeowner may neglect normal precautions to hire contractors after checking references and work history, and fail to wait for a reputable service. Often working door to door, scam artists present themselves as legitimate contractors, provide estimates for repairs and demand a down payment to cover materials purchase. If the repairs are made, substandard materials may be used, work may not adhere to building codes and the contractor often disappears.
- Property Insurance Fraud: This type of fraud takes place when, in the wake of a disaster, someone knowingly submits an inflated claim on their homeowners or renters policy for more than the actual value of the loss or damage. This may involve claiming damage that was not actually a result of the disaster, claiming loss of personal belongings, valuables, furnishings etc. that never existed. It may also involve claiming damage to a property as a residence that is actually a rental property or being used as a business, which would not normally be covered under their policy. Submitting a false or misleading claim to receive undeserved compensation is also considered homeowners fraud. Yet another example of this type of fraud could involve collecting damages for losses through both an insurance policy and FEMA for the same damage.
- Forgery: Commonly forged documents include insurance checks, reimbursement checks stolen from mailboxes, federal emergency assistance checks, and building permits and receipts for claims submitted to insurance companies.

### **Case Examples:**

Recently the New Jersey State Attorney's Office charged five individuals with filing fraudulent applications for relief funds that totaled more than \$500,000.<sup>8</sup> The individuals submitted Federal Emergency Management Agency FEMA relief applications to receive funds and grants from the Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) program, the Homeowner Resettlement Program (RSP), rental assistance, property loss and other groups.<sup>9</sup>

During 2016, flooding in Houston, Texas, caused an estimated \$14 billion in damage.<sup>10</sup> Last year, the NICB reported that nearly 10,000 insured vehicles were damaged by flooding in the state<sup>11</sup> Flood related disasters tend to present a new twist on disaster

fraud may affect parts of the country not even impacted by the disaster itself. These vehicles are often purchased as salvage and then restored and transported to locations far from the disaster, resold after concealing problems such as water damage to electronics and computers systems in the vehicle that may not be visible on inspection or that may cause problems long after the sale due to ongoing corrosion from rust on connections.

Not typically included in the five major forms of disaster fraud but an example none-the-less of a fraud that takes place as a result of a natural disaster, there is also a scam operated by farmers that happen to be in the vicinity of a natural disaster called crop insurance fraud. Crop insurance is a type of insurance that producers may purchase to help protect them against unanticipated and unavoidable disasters or other occurrences to help protect them against declines in anticipated revenues. Crop insurance divided into two categories: the federally subsidized multiple-peril crop insurance (MPCI) and the state regulated crop/hail insurance. While one might expect a disaster such as a hurricane, multiple tornadoes or a wild fire to generate a legitimate claim, in agriculture it apparently takes much less to cause considerable damage to crop production. Following a particularly bad drought in 2012, the U.S. Department of Agriculture's (USDA) Risk Management Agency reported "Indemnities totaled \$10.7 billion at the start of this week, up \$670 million from the preceding week and just shy of the record \$10.8 billion paid on 2011 losses."<sup>12</sup>

### **Tips:**

The Federal Bureau of Investigation offers the following tips to avoid falling victim to several of the multiple forms of disaster fraud:<sup>13</sup>

- Deal only with licensed and insured contractors;
- Get recommendations and check with the Better Business Bureau (BBB) and the Home Builders Association to see if complaints exist against a potential contractor;
- Review the contract thoroughly. Get written estimates. Ask someone (friend, family, and attorney) to review the contract before signing. Get a second opinion;
- Avoid dealing with contractors that request money up front before a job is completed;
- Be skeptical of a contractor that has you spend a lot of money for temporary repairs;
- Never pay a home contractor or any other vendor in cash. Do not sign over your insurance settlement check. Only pay by credit card or personal check. Be sure not to pay in full up front; and
- Don't be pressured. Don't fall for hiring someone who is offering a "one-day-only" special or a discount for hiring him on the spot. Disreputable contractors often solicit door to door offering rebuilding of cleaning services after a natural disaster.

## Costs and Statistics

It is difficult to determine the yearly total costs for disaster fraud victims. The Insurance industry estimates fraud at about 10 percent of the property/casualty insurance industry's incurred losses and loss adjustment expenses each year. A substantial part of the damage claimed by victims of disasters is quite often covered by insurance carriers. The act of disaster fraud in most of the major categories discussed above, involve lying to insurance companies, or attempting to recover damages from insurance companies as well as FEMA. For these reasons, we feel that the 10% estimate can be used to get a general idea of the amount of disaster fraud that actually takes place. This figure can fluctuate based on the line of business, economic conditions and other factors. Using this measure, over the five-year period from 2011 to 2015, property/casualty fraud amounted to about \$34 billion each year<sup>14</sup> According to the FEMA Disaster Relief Fund Report; the year end 2017 total expenditures exceeded \$73 Billion.<sup>15</sup> Applying the insurance industry's fraud estimate of 10 percent, it appears that the losses to disaster fraud for 2016 could easily be in the neighborhood of \$7.3 Billion dollars.

With aid being solicited and given at increasingly rapid paces, the potential for fraud is devastating. Between 1990 and 1999, there was an average of 46 major disaster declarations each year. The following decade, that average number jumped to 56. In 2011 alone, there were 99 major disaster declarations.<sup>16</sup>

The total number of disaster declarations for calendar year 2016, stands at 106 which included wildfires in Tennessee, severe storms, tornadoes and flooding in PA, MN, IO, WI, KS, HA, MD, KY, LA, OK, WV, MT, TX, MS, DE, NJ, AK, WA and MO. Hurricane Matthew resulted in disaster declarations in VA, SC, NC, GA and FL. Severe winter storms resulted in disaster declarations in VA, DC, OR, AK, OK, TX and ID.<sup>17</sup>

Following a disaster, most agencies' goal is to provide relief to victims. The necessity of providing quick relief results in an unknown figure for dollar loss due to scams and fraud. Providing rapid assistance to victims is of great importance; however, proactively identifying fraud is also imperative.

## Examples/Case Studies

- Angela Pratt Avery pleaded guilty in federal court to fraudulently obtaining FEMA assistance funds intended for the victims of Hurricane Ike. According to United States Attorney Sally Quinlan Yates, the charges and other information presented in court: Avery, 45, of Lawrenceville, Ga., and two co-defendants, John A. Wheeler, 57, and Melody Lockett Carter, 49, both of Wilmerding, Pa., worked together to file three fraudulent FEMA claims for Hurricane Ike disaster relief funds. The defendants filed the claims in September 2008 and January 2009, falsely claiming that Avery and Carter lived at a West Ventura Drive address in Galveston, Texas, at the time of Hurricane Ike and that their personal property had been damaged by the storm. In fact, all three defendants lived in Norcross, Ga., at the time of Hurricane Ike and were not victims of the storm. The defendants received over \$50,000 in disaster assistance from FEMA based on their fraud.<sup>18</sup>

- Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the May 20, 2013, tornado affecting Cleveland County, Oklahoma was declared a major disaster and the payment of disaster benefits was authorized. BLAKE LYNN SELF, 19, of Moore, Oklahoma, was sentenced to serve three months in prison, 60 days in a halfway house, and 90 days home confinement for committing disaster benefits fraud in connection with the May 2013 tornados in Moore. In addition, Self was ordered to pay \$12,885 in restitution to FEMA and serve five years of supervised release at the conclusion of his confinement term. Self was indicted in November of 2013 and charged with submitting a false claim for monetary benefits to be paid by the Federal Emergency Management Agency (FEMA) on June 14, 2013. Specifically, it was alleged that Self claimed to a FEMA inspector that his primary residence at the time of the May 20, 2013, tornado, was 916 S.W. 14th Street, in Moore, when in fact it was not his residence at that time.<sup>19</sup>
- Brian K. Lee, 40, of Gulfport, Mississippi pled guilty on June 24, 2014 to one count of mail fraud in connection with the Deepwater Horizon oil spill, U.S. Attorney Gregory K. Davis announced. Lee submitted a fraudulent claim to BP's Gulf Coast Claims Facility for lost earnings and profits which he claimed were incurred as a result of the oil spill for loss of employment as a customer service representative at Gulf South Seafood in Biloxi and Long Beach, Mississippi. An investigation revealed that the documents and claims submitted by Brian Lee were fraudulent, the named businesses did not exist, and Lee never worked at any such company. As a result of Lee's fraudulent scheme, a check was mailed to him in the amount of \$23,541.<sup>20</sup>

## The Response/Current Efforts

On September 8, 2005, the Disaster Fraud Task Force was established to deter, detect, and prosecute instances of fraud related to the Hurricane Katrina disaster. As multiple disasters occurred in subsequent years, the Task Force expanded its mandate to all types of disaster fraud. The Task Force includes the Criminal Division, United States Attorneys' Offices, the FBI, the Postal Inspection Service, the U.S. Secret Service, the Federal Trade Commission, the Securities and Exchange Commission, federal Inspectors General, and various representatives of state and local law enforcement. The Task Force is coordinating on the federal, state, and local levels with law enforcement and with other entities involved in the relief and reconstruction effort.<sup>21</sup> Recognizing the prevalence of fraudulent claims in disaster related incidents and the disproportional impact disaster fraud may have on low income residents in an affected area, FEMA recently created Disaster Legal Services. Members of the American Bar Association Young Lawyers Division (ABA YLA) counsel advise and provide legal representation in cases that don't generate a fee. Survivors should be aware that there are some limitations on disaster legal services.<sup>22</sup>

Making false statements to FEMA through any type of application process is a prosecutable offense under Title 18 of the United States Code. Potential cases of fraud or misuse are referred to the U.S. Department of Justice for prosecution. Penalties for fraud may include fines of up to \$250,000 and prison sentences.<sup>23</sup>

The False Claims Act is the government's primary civil remedy to redress false claims for government funds and property under government programs and contracts relating to such varied areas as health care, defense and national security, food safety and inspection, federally insured loans and mortgages, highway funds, small business contracts, agricultural subsidies, disaster assistance, and import tariffs. In 1986, Congress strengthened the Act by amending it to increase incentives for whistleblowers to file lawsuits alleging false claims on behalf of the government.<sup>24</sup>

In January 2008, the President Bush signed the Emergency and Disaster Assistance Fraud Penalty Enhancement Act into law. The law increases sentencing and penalties for any fraudulent activity related to national disasters.<sup>25</sup>

In the event that a disaster strikes for which a national emergency has been declared, affected individuals are directed to visit DisasterAssistance.gov to apply for assistance online. If internet service is not available or an applicant experiences difficulty applying online: call (800) 621-3362 / TTY (800) 462-7585 to apply during standard hours of operation (7 a.m. to 11 p.m. Eastern Time), 7 days a week. Applicants for emergency assistance can also check application status at DisasterAssistance.gov. Survivors have 60-days from the date of a Declaration for Individual Assistance to apply for assistance.<sup>26</sup>

### **"For More Information" Links**

- National White Collar Crime Center - <http://www.nw3c.org>
- Federal Emergency Management Agency - <http://www.fema.gov>
- Federal Trade Commission - <http://www.ftc.gov>
- Disaster Fraud Task Force - <https://www.justice.gov/criminal-disasters>
- Disaster Assistance.gov - <https://www.disasterassistance.gov/>

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## Endnotes

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<sup>1</sup> FBI Alerts Public to be Aware of Disaster Fraud in Aftermath of Recent Wildfires, FBI Public Service Announcement by FBI San Diego Special Agent Davene Butler, May 16, 2014, located at;

<https://www.fbi.gov/contact-us/field-offices/sandiego/news/press-releases/fbi-alerts-public-to-be-aware-of-disaster-fraud-in-aftermath-of-recent-wildfires>

<sup>2</sup> NICB Cautions North and South Carolina Hurricane Victims to Avoid Post Disaster Claims. National Insurance Crime Bureau, News Release, October 11, 2016 located at' [https://www.nicb.org/newsroom/news\\_archive/2016-archive](https://www.nicb.org/newsroom/news_archive/2016-archive)

<sup>3</sup> FBI Community Outreach circular, by S.A. Devane Butler, May 16, 2014 located at; <https://www.fbi.gov/contact-us/field-offices/sandiego/news/press-releases/fbi-alerts-public-to-be-aware-of-disaster-fraud-in-aftermath-of-recent-wildfires>

<sup>4</sup> Charity Scams put the 'Disaster' in Disaster Relief, by Ryan Scott, published in Forbes magazine, October 5, 2015, located at; <https://www.forbes.com/sites/causeintegration/2015/10/05/charity-scams-put-the-disaster-in-disaster-relief/#3f8f53a1c6fa>

<sup>5</sup> Ibid, Forbes article above

<sup>6</sup> Immoral But Not Always Illegal; Price Gouging After a Disaster, published at HG Legal Resources website located at; <https://www.hg.org/article.asp?id=31207>

<sup>7</sup> Ibid, HG.Org, above

<sup>8</sup> Five Charged with Sandy Fraud, reported on the Newsworks website, September 22, 2015, located at; <http://www.newsworks.org/index.php/local/down-the-shore/86435-5-charged-with-sandy-fraud>

<sup>9</sup> Disaster Fraud: Criminals Capitalizing on Catastrophe, by Brooke Satti Charles, published 10/13/15 on Security Intelligence, located at; <https://securityintelligence.com/disaster-fraud-criminals-capitalizing-on-catastrophes/>

<sup>10</sup> Disaster Fraud Rampant After Floods and Hurricanes, by Denise Johnson, , published in the Insurance Journal, 5/24/16, located at; <http://www.insurancejournal.com/news/southcentral/2016/05/24/409669.htm>

<sup>11</sup> Ibid, Insurance Journal, above

<sup>12</sup> USDA Declares Drought Disaster in Much of Wheat Belt, published January 9, 2013 by Thomson Reuters, located at; <http://www.reuters.com/article/us-usda-drought-idUSBRE90812X20130109>

<sup>13</sup> FBI Alerts Public to be Aware of Disaster Fraud in Aftermath of Recent Wildfires, FBI Public Service Announcement by FBI San Diego Special Agent Davene Butler, May 16, 2014, located at;

<https://www.fbi.gov/contact-us/field-offices/sandiego/news/press-releases/fbi-alerts-public-to-be-aware-of-disaster-fraud-in-aftermath-of-recent-wildfires>

<sup>14</sup> Insurance Fraud, published by the Insurance Information institute, August 2016, located at; [http://www.iii.org/issue-update/insurance-fraud#\\_ftn1](http://www.iii.org/issue-update/insurance-fraud#_ftn1)

<sup>15</sup> FEMA Disaster Relief Fund Monthly Report, Year and Year Report for Fiscal Year 2017, published January 5, 2017, located at; <https://www.fema.gov/media-library-data/1483717851796-f4ef5e37aee55e9216ef6a8d050f6f48/December2016DisasterReliefFundReport.pdf>

<sup>16</sup> "Conservatives: Slash FEMA Disaster Aid, Save Millions" by Natalie Baptiste, published 2/13/17 in Newsweek magazine, located at; <http://www.newsweek.com/conservatives-slash-fema-disaster-aid-save-trillions-556257>

<sup>17</sup> Disaster Declarations for 2016, posted on FEMA website, located at;

[https://www.fema.gov/disasters/grid/year/2016?field\\_disaster\\_type\\_term\\_tid\\_1=All](https://www.fema.gov/disasters/grid/year/2016?field_disaster_type_term_tid_1=All)

<sup>18</sup> Defendant Pleads Guilty to Hurricane Ike Fraud, posted at U.S. Department of Justice, U.S. Attorney's Office Northern District of Georgia, April 22, 2014, located at; <https://www.justice.gov/usao-ndga/pr/defendant-pleads-guilty-hurricane-ike-fraud>

<sup>19</sup> Moore Resident Convicted of Committing Disaster Benefits Fraud Following 2013 Tornados, posted on U.S. department of Justice, U.S. Attorney's Office Western District of Oklahoma, April 9, 2014, located at; <https://www.justice.gov/usao-wdok/pr/moore-resident-sentenced-committing-disaster-benefits-fraud-following-may-2013-tornado>

<sup>20</sup> Gulfport Man Pleads Guilty to Oil Spill Fraud. Posted at U.S. Department of Justice, U.S. Attorney's Office Southern District of Mississippi, June 25, 2014, located at; [https://www.justice.gov/sites/default/files/criminal-disasters/legacy/2014/07/01/lee\\_oil\\_spill\\_fraud\\_plea.pdf](https://www.justice.gov/sites/default/files/criminal-disasters/legacy/2014/07/01/lee_oil_spill_fraud_plea.pdf)

<sup>21</sup> Disaster Fraud Task Force, About the Task Force, Justice Department Website, located at; <https://www.justice.gov/criminal-disasters>

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<sup>22</sup> Free Legal Services for Declared-Disaster Related Fraud. Posted on FEMA website, located at; <https://www.fema.gov/news-release/2017/04/25/free-legal-service-declared-disaster-related-fraud> retrieved June 9, 2017.

<sup>23</sup> Disaster Application Fraud is Against the Law. News release 1546-047, October 22, 2004, FEMA website, located at; <https://www.fema.gov/news-release/2004/10/22/disaster-application-fraud-against-law>, retrieved June 9, 2017.

<sup>24</sup> Justice Department Recovers \$4.7 Billion Dollars from False Claims Act Cases in 2016, U.S. Justice Department News Release. December 14, 2016, located at; <https://www.justice.gov/opa/pr/justice-department-recovers-over-47-billion-false-claims-act-cases-fiscal-year-2016>

<sup>25</sup> S. 863 (110<sup>th</sup>) Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007, located at; <http://www.govtrack.us/congress/bill.xpd?tab=summary&bill=s110-863>

<sup>26</sup> Apply for Assistance FEMA website, located at; <https://www.fema.gov/apply-assistance>