

The Regulators: Season 4: Episode 4 - A Regulator Discussion on Insurance Fraud with Delaware Commissioner Trinidad Navarro

(Preview) Commissioner Navarro: Really, we all pay. It's not a victimless crime. We all pay significantly higher premiums to offset the losses from fraud cases. I was really involved in community policing. But in insurance regulation, we police the industry. What we are seeing in the last few years specifically is how creative people can be with these fraud scams.

NAIC President Mike Consedine: Welcome to *The Regulators*, a podcast where we break down important issues facing consumers, regulators, and the industry. I'm your host, Mike Consedine, CEO of the NAIC. And thank you for joining us. Today, I am really excited to have Delaware Insurance Commissioner and NAIC's Anti-Fraud Task Force Chair Trinidad Navarro joining us on *The Regulators* podcast. We're going to be talking about an issue we haven't talked about before on *The Regulators*, that of insurance fraud. And Commissioner Navarro is really [an] excellent person to be having this discussion with, given his background that we'll be getting into here shortly. But first, welcome, Trinidad.

Commissioner Navarro: Thank you, Michael. It's a pleasure to be here. You know, when I first started at the NAIC, it was mentioned to me that, "Hey, you'd be really great in anti-fraud." And, you know, they use that expression when you first start as a commissioner or director or superintendent, this is, "it's like drinking water from a fire hose." You know, you have so much information thrown at you. Well, that is 100% accurate. And when some folks said to me I would be great in anti-fraud, of course, I know what that means, but I didn't know in what context it would be used within the NAIC. So, it really is a natural fit for me, and it's something that, you know, I speak the language. So, once I was approached by John Franchini, former superintendent for New Mexico, and he asked because he was the chair, I was honored to become a part. And now I'm really honored to be the chair of the Anti-Fraud Task Force.

NAIC President Mike Consedine: Well, I suspect when they made that invitation, Trinidad, they had a little bit of a sense about your background. And I remember when you joined us, because you had sort of a unique profile compared to a lot of our members, many of whom have been around the insurance industry for most of their careers. Your path to the NAIC and to the Delaware commissioner office was a little bit different. You spent 20-plus years as a police officer, a sheriff, and that gave you, again, a very unique background and profile that I know our membership took immediate note of, particularly as it relates to something like insurance fraud that we'll talk about here in a little bit. But maybe talk first, you know, give us a little bit of sense of your 20-plus years as a police officer and sheriff and really sort of what that experience did in terms of really forming the basis for your role as insurance commissioner.

Commissioner Navarro: Well, like I mentioned, it really was, you know, in law enforcement, you police your community, right? You're part of the community. I was really involved in community policing. But in insurance regulation, we police the industry. And I'm pretty good at seeing and hearing and detecting the BS and minutia that the industry will try to justify some of the things that they do when they, whether it's intentional or unintentionally, harm consumers. So, when it comes to the market conduct side of what we do here in Delaware, it's a natural fit for me. So, I remember when I spoke with John Franchini when we were in one of our first Anti-Fraud meetings, he's like, "You know what? You go ahead and handle this meeting. You speak the language." And, you know, after my

first year with him, you know, he kind of taught me about, you know, how the Anti-Fraud Task Force works. I just took over it, and it worked out really well for me. Now, I have 20 years as a police officer and 6 years as the elected New Castle County Sheriff. But during my time, I wasn't just an investigator. You know. I was a recruiter. Believe it or not, I was a sketch artist. I was instrumental in solving probably about 75 crimes that we would not have otherwise had a starting point because it was considered a "whodunit," meaning that the perpetrator or suspect was not known to the victim. And because of the sketches that I was able to do, we solved not every case I was involved in but probably 60%, which was a really good number. So, that's something I was really proud of. And, you know, as a police officer, I was also the media coordinator. So, I spoke to the press when we had crimes of interest. And, you know, I was the guy that the local media misquoted for about 12 years. So, you know, I wrote a history book. And, so, I have a really, I trained with the FBI. I have a pretty diverse background in law enforcement. And then, you know, I was a licensed insurance agent for a couple of years, not very long. But what it did for me, it didn't prepare me to be a commissioner, but it has me speaking the language, and my experience in law enforcement, really, I think, I know Commissioner King was a former police officer, too, I think, in Georgia. And this background that I have, really, perhaps wouldn't prepare me to be a brain surgeon, but it prepares me to work in almost any industry because of the training and the experience and the discipline that's instilled in law enforcement.

NAIC President Mike Consedine: Well, I think we could probably have an entire podcast just dedicated to your experience as a police officer and sheriff. And I actually remember Delaware has had its fair share of significant true-crime-type cases. I was in the Philadelphia area during the Thomas Capano case, which I'm sure you were very aware of, maybe if not even involved in. And that kind of stuff is absolutely fascinating to me.

Commissioner Navarro: Yeah. He was a very prominent lawyer here in Delaware, very prominent family. I mean, they are contractors, builders, business owners. And that one was not just local news; it was international. And I wasn't directly involved in that. But we have had our share, whether it was, there's a guy named Cohen, Jeff Cohen, who was involved with a captive insurance company, that was a complete fraud. And once we uncovered it, you know, one of the things we're going to do later in the fall is have an Anti-Fraud Task Force training here in the Northeast Zone. And the second day of that training, where I talk all about Mr. Cohen and how he put together his scam, you know, how he had it set up, how we uncovered it, and how we prosecuted him. And what's really interesting, in that case, it's unlike any other that, you know, I've seen here in Delaware, is that he threatened to kill the prosecutor, the attorney general, the insurance commissioner, the receivers. I mean, he had not only a hit list, but he had purchased weapons. He had maps. He had night-vision-type goggle devices. And he had a plan. And he was recently, I don't know if it's how you would, it was on *American Greed*. So, I wouldn't say it was a highlight. It was probably a lowlight. But he was on *American Greed*, the TV show, and that all generated from a Delaware captive. And so, we're going to do a whole four-hour block on that with investigators across the Northeast Zone. And sort of show them how the investigation evolved and then how to protect yourself as investigators with respect to, really, people who, this person specifically was incredibly dangerous, and had had a plan, and we were able to foil it successfully without anyone being actually harmed besides the victims in the captive insurance company that were connected to him.

NAIC President Mike Consedine: Yeah. And I think you just touched on why this discussion is so fascinating to me and others, because insurance fraud, you know, is not just sort of the, you know, the run of the mill, kind of, you know, fake claim or hit-and-run kinds of issues, which, you know, we can talk about because those are some of the things

that some consumers will run into. But they get into very sophisticated schemes. I know the FBI, you know, has calculated that non-health-insurance-related fraud totals over \$40 billion a year. And, again, it is on a spectrum from sort of, you know, run-of-the-mill stuff to these highly sophisticated examples that you just mentioned. But maybe talk a little bit more about sort of the types of insurance fraud that consumers should be aware of and sort of your experience with those during both your tenure as commissioner but maybe even prior to that.

Commissioner Navarro: You know, one of the things that is sort of new to me, and you think after 26 years in law enforcement, you've seen it all. But I'd never experienced "jump-ins." And, so, when I first heard "jump-ins," I was like, "Well, what is that? And how does that, you know, how's that something that should be on our radar?" And what we're seeing across the country is this sort of new scam that the people will drive around either in parking lots or in cities or communities, and they'll intentionally collide with another car. And then there'll be people who weren't even in the car who will jump in, and they'll claim that, you know, they've somehow sprained their esophagus or their liver, or you know what I mean? Of course, there's a law enforcement investigation, but it's hard to, unless there's video and that, of course, oftentimes there is, but it's hard to determine whether or not people were actually in the car. Or even after the collision occurs, and it's investigated, people come forward and say, "Well, they ran because they were afraid. Maybe they had had a warrant or something for their arrest, or they weren't supposed to be there because their significant other didn't know they were there." They come up with all kinds of reasons. And then they'll claim to be injured. And then they're working in concert with local doctors and chiropractors. So, they'll continue to bill for services that never occurred. And this is, the jump-ins are very sophisticated. I had never experienced the phenomenon of folks jumping into a car claiming to be injured. And what's, look, people, when they're desperate, they do desperate things. And it's really unfortunate because they think it's a victimless crime. Right? They think that, you know, "Well, the insurance companies, they can afford it. This is something that, you know, I'm not robbing someone or not, you know, putting a knife to someone's throat or, you know, breaking into a bank or something like that." But, really, we all pay. It's not a victimless crime, and we all pay significantly higher premiums to offset the losses for fraud cases. So, you know, like I said, I feel terrible for people who are in terrible situations. But what we are seeing in the last few years specifically is how creative people can be with these fraud scams. I think there's good in everyone, but, unfortunately, like I mentioned, when people are desperate, they do things that they normally wouldn't do. And I'm not just talking about, you know, the folks who do these types of fraud for a living. I mean, the individual who, perhaps, has to drive, right? They have to go to work. But maybe they're trying to figure whether they're going to pay for groceries or insurance, and then they have an accident and, you know, immediately try to purchase a policy post-accident. And it's pretty easy for us to determine when that happens. And with the technology in the cars and just with the way our fraud investigators are trained here, and also within the industry, those are pretty easy to determine. But that's probably the most common fraud scheme we see is with respect to private auto.

NAIC President Mike Consedine: Yeah, no, and, again, the whole sort of "jump in" is just fascinating to hear how that plays out. And, you know, I've actually seen videos of it. And it's, you know, it is very well orchestrated, if not on one level, almost comical. All of these people rush to the car or the city bus or whatever is involved in the accident. And as you said, it's not a victimless crime. I mean, every consumer, all consumers end up paying those bills, that \$40 billion a year. Let's, you know, let's switch to maybe again in your role as commissioner, how you help educate consumers about insurance fraud or when they think they're potentially being scammed or victimized. You've touched on the auto, and

maybe we can talk some more about that or other examples. And I know I've experienced a little bit of that. And you've heard in Colorado we have these just horrific hailstorms, and we had one last year. And within a day our neighborhood was being canvassed by roofers and window replacement folks and some, you know, potentially very legit, but some who, you know, their entire sales pitch was, "Hey, you may have a few dings, but we can get you an entirely new roof at no cost to you." And that's a very attractive proposition to your average consumer. And they don't maybe understand that, you know, that's, what they're being propositioned is a kind of fraud, almost. So, how do you go about educating consumers about the types of fraud that's out there and what they should do when they think they're experiencing that?

Commissioner Navarro: You know, that's something I had written down in my notes as far as what I want to talk about with either storm chasers, or, you know, what we've seen is that the scammers always follow the disaster. And, you know, we had here locally in Delaware a couple tornadoes that were spawn from tropical storms that came up from the Gulf. And that's really unusual for Delaware. We're, you know, our climate is not really conducive to those types of storms, you know, and I'm knocking on wood here. I don't know if you can hear this.

NAIC President Mike Consedine: I can!

Commissioner Navarro: We haven't had earthquakes, or fires like you have in Colorado. We were impacted by Superstorm Sandy years ago. But that was probably one of the biggest challenges that we have. But when you mentioned that, what happened in Delaware with our tornadoes... roofers and contractors, I don't know how they get there so fast. We had a community that was leveled by a tornado, and I was able to get in a couple hours afterwards. When I say get in, it's because law enforcement had it blocked off. And by the time I was able to get in and talk to people in the community, there were already dozens of yard signs for, we'll just call it "ABC Roofing." And if that's a Delaware company, that's not intentional. But, you know, we'll call it "Triple X Roofing," whatever. And they were all over. And what they were doing was they were telling people that, "Hey, you know what, you may have some siding damage there, but we can replace your window. If there's any damage inside, you know, we might be able to get a whole kitchen out of that." And people hear this, and they don't think fraud, and they don't know or understand that if they agree to this, they're committing a felony. So, you know, one of our biggest challenges is to educate the community about these types of scams and what you should do if you believe your, you know, your contractor is working as an adjuster, or your contractor is promising you things that, you know, that they shouldn't be. You know, what should you do? You know, for Delaware, sadly, people think the Delaware Department of Insurance sells insurance. You know, they think that, you know, that's what we do. And, so, it's hard for us to get the message out. We do commercials both on the radio and on TV, and we do community events and civic association meetings and state fairs. You name it. We're at all these events, and we help a ton of people, because when they see us and they hear what we do, then, you know, it resonates with them. But until then, until we have that interaction, it really is tough to get that word out. But we have the same challenges, although maybe not at the same level as you have in Colorado or they have in Florida, where you'll have these storm chasers. And I saw firsthand for the first time about two years ago when we had our tornadoes. And, you know, it's, you know, I was actually knocking on doors for people who, you know, they had already had the county out. They had marked the doors as either habitable or inhabitable. And, so, we were helping people with their insurance. And, you know, as you can imagine, when you have something like that, you go from no claims to 1,000, you know, in an hour. And, so, it can overwhelm, you know, both the

industry, the adjusters, and all the other folks associated with these types of issues. And that's when the scammers, you know, it's the most opportune time. You know, they prey on people who are in that disaster mode, and it's really unfortunate. And that's why it's important for regulators to be out when they can in the community to explain to people what their rights are and what they should do.

NAIC President Mike Consedine: Yeah. And I know often our members are right there out there in the aftermath of these disasters in an effort to educate and protect. And, you know, that really is a critical frontline duty they perform. But I guess it comes down to that, you know, sort of old adage of "If it sounds too good to be true, it probably is." And I think folks just need to use, you know, a little bit of common sense and do a little bit of due diligence, you know, when they hear these promises. And I think often when you do that quickly, the issues become apparent. And put a plug in for the NAIC and for our state insurance departments as resources when they start to get questions like that as to, you know, what exactly is happening here in terms of a consumer experience when it comes to fraud. But, Commissioner, let's switch gears to another area and maybe it's not fraud as much as it is an opportunity for some consumer education on the health care side. And, last year, the NAIC announced a new working group, in the NAIC's Anti-Fraud Task Force that you chair, that's going to be focused on the improper marketing of health plans. And I'd like to have you talk a little bit about how this working group came to be and why it's so important for consumers to have a heightened awareness of what they're buying when it comes to health insurance these days.

Commissioner Navarro: Well, you know, this is probably one of the most popular working groups that we have. And I can't speak for the entirety of the NAIC, but we have had so many interested parties and regulators on our calls for the improper marketing of health plans that, in the beginning, we were limited to only 300 folks on that call. That's, you know, and that was part of the pandemic with Zoom that we had had issues. Because there were so many folks interested that, you know, people were calling and then listening in because of how significant this problem is. And people don't necessarily even realize it. The B Committee, you know, which is health insurance, they were doing, sort of working in a silo. D Committee, which is market conduct, they were doing their part. And we weren't really talking as or communicating as well as we should be. And I'll give you an example. I know the NAIC is penning a letter now to Congress to address these Medicare Advantage plans that you'll see, whether it's J.J. Walker or William Shatner or Joe Namath. You know, they're all selling these plans, and they're perhaps not necessarily fraudulent, but they don't explain to people that their plan might, that there is no network in some cases. That the plan that's sold in Philadelphia, because in Delaware, we're in the Philadelphia TV market, it's not available in Delaware, or that there's nothing to support it. Or, in some cases, believe it or not, people are signing up for these plans, and it's unenrolling them in Medicare. So, I know the NAIC has penned a letter, I just saw it a few days ago, to Congress to take the regulatory, I guess, take it away from CMS and give it back to state-based regulators, because CMS doesn't have the bandwidth, the staff, you know, likely the money it would take to actually pursue these bad actors. And we think it's best [that] in-state-based regulators, you know, have the authority to do that. Right now, we do not. And, you know, we had, in Delaware, a lady who purchased one of the Joe Namath plans. She had to have a procedure. And she filed a claim, and there was nothing there to support it. So, she was on the hook for like \$200,000. And although we can help with respect to having these companies fulfill their obligations, we cannot get involved with the advertising of these plans, and, specifically, Medicare Advantage, we don't have regulatory authority over. So, this is a much bigger problem than people think. You see, what happens is they'll prey upon our most vulnerable, our seniors, and they'll say things like,

“Well, we can get more money in your Social Security check.” Well, who, like, who wouldn't want that? Right? And the only way that they can actually achieve that is if the plan that they're selling is less expensive than the plan that the person currently has. Therefore, there's more money left over in your Social Security check. And, you know, they don't tell you that. And they don't tell you about the network adequacy issues. They don't tell you that, you know, that it's very limited. And, you know, I'm really proud of the efforts of the NAIC to reach out to Congress about these issues. I spoke to our congressman, I'm sorry, Senator Chris Coons about it just a few days ago. And Senator Carper, who's also on the, involved in some health committees, is a party that we talk to all the time. So, we are doing great work. We have identified a number of bad actors that are working here in Delaware but also all over the country. We've had prosecutions in Florida, Texas, and Pennsylvania that are ongoing right now, that we're working with the FBI and the Department of Labor to prosecute these short-term duration plans that are, you know, being marketed as an alternative to the ACA. And, you know, so, they're really, they're slick about how they word it. Sure, it's an alternative, but it's not comparable, and it doesn't cover essential health benefits. But when they have you on the line, and they have you, you know, on the phone or online, they make all these promises that they really can't keep. So, the task force is more of a collaboration now than it ever was. And we have a database now that we're capturing these individuals who are tied to company, we'll call it "A," in Delaware, but they're also tied to, you know, the same corporate governance of just a different name of a company in Florida. And now that we have the names of these individuals, it's much easier to investigate and then to get multistate investigations involved through the sharing of this information that we didn't necessarily do on the same level that we're doing now.

NAIC President Mike Consedine: Yeah, Commissioner, I could not agree more just in terms of the concerns around some of these plans, particularly the marketing, because as you said, you know, what's so insidious about them is really they're targeting the desperate and the vulnerable. And I remember even trying to counsel my own mom, you know, on just basic Medicare Sup. plans. And those are complicated enough even for those of us who've been around insurance a long time. But then to have on top of these promises that, you know, “We can save you money and, you know, give you a better plan,” and then they can't deliver on those. And you've got these, you know, seniors and others who are left holding the bills. It is a real challenge and an opportunity for all of us to work together at a state and federal level to hopefully do more on this, but more to come. And certainly look forward to having you back to talk about the task force's work in this critical area. But, Commissioner, before I let you go, we do like to play a little game on this podcast, which we call “Regulator Risk Roulette,” which is just another opportunity for our listeners to get to know a different side of their state insurance regulators. There are six categories involved in this game: Risky Business, Keep it Professional, Childish Things, Very Interesting, Getting Personal, and That's Entertainment. So, if you're up for it, we're going to spin the wheel once. And the category it lands on will be the question that you get to answer. So, are you ready to play, Commissioner Navarro?

Commissioner Navarro: I'm ready to play. I'm anxious and unsure. But fire away.

NAIC President Mike Consedine: Oh, that's excellent. That makes this even more fun for me. So, let's go ahead and spin the wheel. [Wheel spins.] All right. So, we landed on Childish Things. And I get to pick the question here. And here's a good one. Especially given your background, what did you want to be when you were a 10 year old?

Commissioner Navarro: Well, I'll have to think about that one. I mean, you know, it certainly wasn't an insurance regulator. I can tell you that.

NAIC President Mike Consedine: You didn't lay in bed at night as a 10 year old looking up at the stars, dreaming of your time as an insurance regulator? I'm shocked.

Commissioner Navarro: I certainly did not. I would say a professional athlete. Probably a baseball player. You know, when I was growing up, it was in Delaware, where it's a Philadelphia market. So, Mike Schmidt, Pete Rose, Manny Trillo, Larry Bowa, they were all ... these were all my childhood heroes. Julius Erving, Dr. J from the Philadelphia 76ers. These were guys that when I was 10, when I was either, you know, hitting a baseball, in the bottom of the ninth, two outs, and bases loaded, and I go yard, and, you know, so I had my stance like Michael Jack Schmidt, and I had the waggle that he used to do before he swung. Or if it was taking the last shot and, you know, the Dr., Julius Erving. And that's, I wanted to be a professional athlete. It turns out that when I graduated from high school, I was five foot nine, 135 pounds. So, maybe a jockey. But beyond that, I didn't have the body for it.

NAIC President Mike Consedine: That's awesome. That's awesome. Well, again, that could be the topic of an entirely different podcast. You and I just geeking out a little bit about the great Philly sports teams of the seventies and eighties, and that was sort of the Golden Age of Philadelphia sports, which I'm equally a fan of. So, I know you and I shared a moment of triumph and celebration shortly after you started, when the Eagles won their Super Bowl. And that was a, I will remember that moment very fondly.

Commissioner Navarro: Yeah, I kind of made a fool of myself. People, they don't understand. My dad actually died a few months before the Super Bowl, and we were lifelong Eagles fans. And, you know, he was around in 1960 when they won the championship, but it wasn't the Super Bowl. And I'm, season ticket holder. I've been going to all these, I've been suffering for all these years. And when Carson Wentz went down a few weeks before the playoffs started, I thought it was over. And a bunch of my crew actually went to Minneapolis to see the Super Bowl. I'd never thought that, you know, we would have that opportunity. So, I agreed to go to the NAIC meeting in Orlando on February 4th, 2018, I think, and watched the Super Bowl with about 200 of my least-closest friends. But I'll never, ever forget where I was, you know. I thought about my dad, and it was remarkable. So, I never probably got a chance to apologize for acting so foolish. But it was right up there with, maybe not the birth of my children and my wedding and things like that, but it was one of the greatest nights of my life, watching my team actually win the Super Bowl.

NAIC President Mike Consedine: Well, no apologies necessary. And for all the reasons you just stated, I think that celebration was completely justified, and I was right there with you. So, well, thank you for sharing that memory, Commissioner, and thank you for joining me on *The Regulators* today. And thank you for all you do, not only in Delaware, but for us here at the NAIC. And thank you all for listening to *The Regulators*. We'd ask you to join us each month and subscribe to *The Regulators* wherever you get your podcasts. We'll see you next time.