

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

DERRICK MITCHELL
1403 Gorsuch Avenue
Baltimore, Maryland 21218

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2015-11-020
Fraud Division File No.: R-2016-0674A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Derrick Mitchell (“Mitchell” or “Respondent”) pursuant to §§2-108, 2-201, 2-204 and 2-405 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.)(“the Insurance Article”).

I. Facts

1. Respondent purchased an automobile insurance policy from Allstate Insurance Company, (“Allstate”), an authorized insurer, for his 2001Volvo S80. The policy went into effect on July 23, 2015. The policy number was [REDACTED]. At that time, coverage was limited to liability only; however, on August 7, 2015, at 6:44 p.m., Respondent added comprehensive and collision coverage, which took effect on August 8, 2015.

2. On August 12, 2015, Respondent notified Allstate that on August 9, 2015, his Volvo caught fire, on Greenmount Avenue in Baltimore City, Maryland. Allstate assigned claim number [REDACTED].

3. On August 13, 2015, an Allstate claims agent interviewed Respondent who reaffirmed that his Volvo had caught fire on August 9, 2015; he further advised that the fire department came to the location of the car fire.

4. On August 19, 2015, Allstate forwarded Respondent's claim to its Special Investigations Unit ("SIU") as the policy was recently inceptioned and comprehensive coverage took effect on August 8, 2015, one day prior to the reported loss.

5. On August 24, 2015, an Allstate SIU investigator obtained a copy of a Baltimore City Computer Aided Dispatch ("CAD") call for service report. The CAD report reflected that on August 7, 2015, at 5:23 p.m., the Baltimore City Fire Department was notified of a vehicle fire at Greenmount Avenue and 31st Street.

6. On August 27, 2015, an SIU investigator interviewed Respondent. He again reported that his Volvo caught fire on August 9, 2015.

7. On August 28, 2015, Allstate sent Respondent a letter denying his claim for material misrepresentation, as its investigation revealed the fire occurred on August 7, 2015, prior to Respondent adding comprehensive coverage.

8. Section 27-802(a)(1) of the Maryland Insurance Article states, "An authorized insurer, its employees, or producers ... agents, who in good faith have cause to believe that insurance fraud has been or is being committed, shall report the suspected insurance fraud in writing to the Commissioner, the Fraud Division, or the appropriate federal, State or local law enforcement authorities." Allstate, having a good faith belief that Respondent committed insurance fraud, referred the matter to the Maryland Insurance Administration, Fraud Division.

9. In the course of its investigation, MIA contacted Allstate, and confirmed its handling of Respondent's insurance claim.

10. MIA interviewed a firefighter who was at the location of the Respondent's vehicle fire. He confirmed that the fire department was alerted to the fire on August 7, 2015, by a person who came to the firehouse. The firefighter advised that a fire incident report was authored.

11. MIA obtained a copy of the fire incident report which reflected that Respondent's vehicle fire occurred on August 7, 2015, at 5:23 p.m. The narrative stated, "Owner of vehicle knocked on firehouse door, reporting his vehicle on fire." The report identified the vehicle as a 2001 Volvo S80 owned by Respondent.

II. Violation(s)

12. In addition to all relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding that the Respondent violated Maryland's insurance laws:

13. **§27-403**

It is a fraudulent insurance act for a person:

(2) to present or cause to be presented to an insurer documentation or an oral or written statement made in support of a claim...with knowledge that the documentation or statement contains false or misleading information about a matter material to the claim.

14. **§27-408(c)**

(1) In addition to any criminal penalties that may be imposed under this section, on a showing by clear and convincing evidence that a violation of this subtitle has occurred, the Commissioner may:

(i) impose an administrative penalty not exceeding \$25,000 for each act of insurance fraud; and

(2) In determining the amount of an administrative penalty, the Commissioner shall consider:

(i) the nature, circumstances, extent, gravity, and number of violations;

(ii) the degree of culpability of the violator;

(iii) prior offenses and repeated violations of the violator; and

(iv) any other matter that the Commissioner considers appropriate and relevant.

15. By the conduct described herein, Respondent knowingly violated §27-403. Because the fraudulent insurance act of making a false statement in support of a claim is complete upon submission of the false statement and is not dependent on payment being made, Respondent committed a violation of the law when he made a false statement to Allstate. As such, Respondent is subject to an administrative penalty under the Insurance Article §27-408(c).

RIGHT TO REQUEST A HEARING

Pursuant to §2-210 of the Insurance Article and Code of Maryland Regulations (“COMAR”) 31.02.01.03, an aggrieved person may request a hearing on this Order. This request must be in writing and received by the Commissioner within thirty (30) days of the date of the letter accompanying this Order. However, pursuant to §2-212 of the Article, the Order shall be stayed pending a hearing only if a demand for hearing is received by the Commissioner within ten (10) days after the Order is issued. The written request for hearing must be addressed to the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, Attn: Hearings and Appeals Coordinator. The request shall include the following information: (1) the action or non-action of the Commissioner causing the person requesting the hearing to be aggrieved; (2) the facts related to the incident or incidents about which the person requests the Commissioner to act or not act; and (3) the ultimate relief requested. The failure to request a hearing timely or to appear at a scheduled hearing will result in a waiver of your rights to contest this Order and the Order shall be final on its effective date. Please note that if a hearing is requested on this initial Order, the Commissioner may affirm, modify, or nullify an action taken or impose any penalty or remedy authorized by the Insurance Article against the Respondent in a Final Order after hearing.