

IN THE MATTER OF THE  
MARYLAND INSURANCE  
ADMINISTRATION

v.

JOHN DAUGHTRY  
1426 Sharon Acres Road  
Forest Hill, Maryland 21050

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BEFORE THE MARYLAND  
INSURANCE COMMISSIONER

CASE NO. MIA-2016-03-039  
Fraud Division File No. R-2016-0824A

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**ORDER**

This Order is entered by the Maryland Insurance Administration (“MIA”) against John Daughtry (“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 applied for a life insurance policy with The Northwestern Mutual Life Insurance Company (“Northwestern”), an authorized insurer.
2. On August 4, 2015, as part of the application process, Respondent was required to complete a medical history questionnaire. He answered, “No” to Question #4(c): “In the last 10 years, have you used marijuana, cocaine, heroin, methamphetamine, hallucinogens, or any other illegal drug or substance?”
3. On the same date, as part of the application process, Respondent submitted a sample of his saliva for analysis by a certified drug testing facility used by Northwestern.
4. On August 20, 2015, the laboratory which analyzed Respondent’s saliva notified Northwestern that Respondent’s specimen tested positive for cocaine metabolites.

5. Based on the foregoing, Northwestern's Underwriting Department referred the matter to its Special Investigations Unit (SIU) which determined Respondent did not provide truthful answers during the application process to questions regarding his cocaine use.

6. On August 28, 2015, Northwestern notified Respondent that it would not issue the life insurance policy due to saliva test findings for cocaine.

7. Section 27-802(a)(1) of the Maryland Insurance Article states, "An authorized insurer, its employees, fund producers, insurance producers, ... who in good faith has 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." Northwestern, having a good faith belief that Respondent committed insurance fraud, referred the matter to the Maryland Insurance Administration, Fraud Division.

8. During the course of its investigation, MIA contacted Northwestern and confirmed its handling of Respondent's insurance application.

9. MIA's investigator interviewed the Northwestern representative who collected a sample of Respondent's saliva. The witness confirmed that on August 4, 2015, he asked Respondent the questions on Respondent's medical history questionnaire. Respondent provided responses to each question and signed the form upon completion. The Northwestern representative also signed the questionnaire as a witness. The Northwestern representative confirmed that Respondent provided a saliva sample for analysis and that all guidelines set forth by Northwestern were followed.

10. The Northwestern representative told MIA's investigator that he explained to Respondent both the purpose of the saliva test and the illegal substances the test was designed to detect.

## II. Violations

11. The Administration relies on the following pertinent sections in finding that Respondent violated Maryland's insurance laws:

12. § 27-406(1)

It is a fraudulent insurance act for a person:

(1) to knowingly or willfully to make a false or fraudulent statement or representation in or with reference to an application for insurance.

13. § 27-408(c)

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

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(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.

14. By the conduct described herein, Respondent violated §27-406 when he applied for a life insurance policy and reported that he had not used cocaine. Laboratory results of Respondent's saliva confirmed he had used cocaine. Therefore, Respondent is subject to the imposition of an administrative penalty under §27-408(c) of the Insurance Article.

### III. Sanctions

15. Insurance fraud is a serious violation which harms consumers in that the losses suffered by insurance companies are passed on to consumers in the form of higher premiums.

16. Having considered the factors set forth in §27-408(c)(2) and COMAR 31.02.04.02, MIA has determined that \$1,500.00 is an appropriate penalty.

17. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2015-0768A) and name (John Daughtry). Unpaid penalties will be referred to the Central Collections Unit. Payment of the administrative penalty shall be sent to the attention of: Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

18. This Order does not preclude any potential or pending action by any other person, entity or government authority, regarding any conduct by Respondent including the conduct that is the subject of this Order.

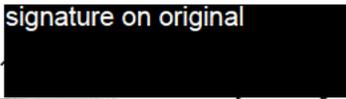
**WHEREFORE**, for the reasons set forth above, and subject to the right to request a hearing, it is this 23<sup>rd</sup> day of March 2016, **ORDERED** that:

John Daughtry shall pay an administrative penalty of Fifteen Hundred Dollars (\$1,500.00) within 30 days of the date of this Order.

ALFRED W. REDMER, JR  
Insurance Commissioner

signature on original

BY:

  
VICTORIA AUGUST  
Acting Associate Commissioner  
Insurance Fraud Division

## **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: Appeals Clerk. 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.