

IN THE MATTER OF THE  
MARYLAND INSURANCE  
ADMINISTRATION

v.

ANNETTE WHETSTONE MITCHEL  
872 Carroll Street  
Baltimore, MD 21230

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BEFORE THE MARYLAND  
INSURANCE COMMISSIONER

CASE NO. : MIA-2016-06-004  
Fraud Division File No.: R-2016-2892A

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**ORDER**

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

**I. Facts**

1. Respondent had an automobile insurance policy for her 2006 Acura with Government Employees Insurance Company (“GEICO”), an authorized insurer. The policy was in effect from February 12, 2016 through September 8, 2016.

2. On February 26, 2016, Respondent notified GEICO that her Acura had been struck by a truck while parked in the 800 block of Carroll Street, Baltimore, Maryland. Respondent advised she was seated in the Acura and had been injured. GEICO assigned claim number 0419902110101203.

3. On March 3, 2016, GEICO obtained a recorded statement from the operator of the truck who struck Respondent’s Acura on February 26, 2016. He advised that Respondent’s car was parked and unoccupied when the accident occurred.

4. On March 7, 2016, GEICO referred the claim to its Special Investigation Unit (“SIU”), as the operator of the truck advised the Acura was not occupied at the time of the accident.

5. On March 7, 2016, SIU interviewed the operator of the truck who struck Respondent’s Acura on February 26, 2016. He reported after the accident, he exited his truck and observed that the Acura was unoccupied. Therefore, he knocked on the doors of several residents attempting to locate the owner. Respondent exited one of the houses, identified herself as the owner, and she called the police. A Baltimore City police officer came to the location.

6. On March 8, 2016, an SIU investigator interviewed the police officer who went to the 800 block of Carroll Street on February 26, 2016, to investigate the accident. Respondent advised him she was not in the Acura at the time of the accident.

7. Section 27-802(a)(1) of the 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.

GEICO, having a good faith belief that Respondent committed insurance fraud, referred the matter to the MIA, Fraud Division.

8. In the course of its investigation, MIA contacted GEICO and confirmed its handling of the Respondent’s insurance claim.

9. On April 20, 2016, MIA obtained the Baltimore City Police Department’s Computer Aided Dispatch (“CAD”) report for the February 26, 2016 accident. The CAD report identified Respondent as the person who called for police assistance.

10. On April 28, 2016, an MIA investigator interviewed the operator of the truck who had struck Respondent's Acura. He stated that on February 26, 2016, he was backing his truck down the 800 block of Carroll Street when he struck an Acura, which was parked and unoccupied. He attempted to locate the owner of the Acura, when Respondent approached, and identified herself as the owner.

11. On May 9, 2016, MIA obtained the February 26, 2016 audio recording of Respondent's 911 call to the Baltimore City Police Department. Respondent provided her name to the 911 operator as well as her location, 827 Carroll Street. Respondent told the 911 dispatcher, "I don't know what happened, I wasn't out here. Somebody hit my car, I don't even know what happened."

12. On May 19, 2016, an MIA investigator interviewed the police officer who conducted the accident investigation involving the Respondent's Acura. Respondent told the officer she was not in the vehicle at the time of the accident.

## **II. Violation(s)**

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

14. **§ 27-403 (2)**

It is a fraudulent insurance act for a person:

(2) to present or cause to be presented to 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.

15. **§ 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.

16. By the conduct described herein, Respondent knowingly violated § 27-403. Because the fraudulent insurance act of providing 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 she provided false statements to GEICO. As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

### **III. Sanctions**

17. 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. The Commissioner may investigate any complaint that alleges a fraudulent claim has been submitted to an insurer. Insurance Article §§ 2-201(d) (1) and 2-405.

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

19. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2016-2892A) and name (Annette Whetstone Mitchel). Unpaid penalties will be referred to the Central Collections Unit for collection. Payment of the administrative penalty shall be sent to the attention of: Deputy Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

20. 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 2nd day of June 2016, **ORDERED** that:

(1) Annette Whetstone Mitchel shall pay an administrative penalty of one-thousand five hundred dollars (\$1,500.00) within 30 days of the date of this Order.

ALFRED W. REDMER, JR.  
Insurance Commissioner

signature on original

BY:

NANCY GRODIN  
Deputy Commissioner

### **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.