

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

MICHAEL BATCHELDER
911 Saint Claire Court
Annapolis, Md. 21409

* BEFORE THE MARYLAND
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* INSURANCE COMMISSIONER
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* CASE NO. : MIA-2014-08-069
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* Fraud Division File No.: R-14-0166A
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ORDER

This Order (“Order”) is entered by the Maryland Insurance Administration (“MIA”) against Michael Batchelder (“Respondent”) pursuant to §§2-108, 2-204 and 2-405 of the Insurance Article, Maryland Annotated Code.

I. Facts

1. Respondent had a homeowner’s insurance policy number [REDACTED] with Allstate Insurance Company (“Allstate”), an authorized insurer, for his residence at 911 Saint Claire Court, Annapolis, Maryland 21409.

2. On October 29, 2012, Storm Sandy struck the Maryland region. As a result, Respondent filed a homeowner’s claim with Allstate, alleging storm-related home and property damages, including felled trees.

3. On December 7, 2012, during Allstate’s on-site inspection of the damages, Respondent presented to the Allstate representative a Bay Area Tree Care (“Bay Area”) document as evidence that he had trees and resulting debris removed by Bay Area for which he paid \$8,800.00 (“Invoice”).

4. Despite the fact that Storm Sandy occurred in Maryland on October 29, 2012, the document presented to Allstate was marked “paid” on October 16, 2012.

5. After Allstate pointed out to Respondent that the invoice he submitted pre-dated Storm Sandy, Respondent submitted a second document, marked "REVISED," which reflected a different, post-Sandy date and was marked "paid" on November 16, 2012. The revised document stated, "Customer was give [*sic*] original invoice with a typo on it. This is a correct paid invoice..." The document noted that Respondent had paid \$8,800.00 to Bay Area for tree removal services.

6. After Allstate pointed out that the second document failed to itemize the components of tree removal, (e.g. stump grinding and debris removal), Respondent submitted a third document marked "REVISED" which itemized the component services and indicated that Respondent had paid \$8,800.00 to Bay Area for said services.

7. To verify the legitimacy of the tree removal invoices Respondent had submitted, Allstate faxed Respondent's invoices to the Office Manager for Bay Area. She responded by stating that they never did the work nor did they receive any payments from Respondent. Consequently, the claim was referred to Allstate's Special Investigations Unit (SIU) for further investigation.

8. On May 22, 2013, an Allstate investigator obtained a recorded statement from the Bay Area Office Manager who advised that their company did not do the work reflected on the documents submitted nor were they paid by Respondent. She stated that the 2012 invoice was "doctored." She reported that in 2011 Bay Area provided a proposal for tree removal to Respondent, but he later cancelled the work. She stated further that Respondent never paid them for any such work.

9. On July 11, 2013, in a recorded statement, Respondent orally reported to Allstate's investigator that he had paid \$8,800.00 to Bay Area for the tree removal services.

10. On July 15, 2013, Allstate sent Respondent a letter denying his October 29, 2012 claim for misrepresentation of material facts.

11. Section 27-802(a)(1) states, "An authorized insurer, its employees, producers...or 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, therefore, having a good faith belief that insurance fraud had been committed, referred the file to the MIA Fraud Division.

12. MIA interviewed the Allstate representative who inspected Respondent's property following his October 29, 2012 loss claim. She confirmed that during the inspection, Respondent handed her the "paid" invoice for the tree removal services referred to in paragraph 3 above. However, because the date on the document pre-dated Storm Sandy, she rejected the claim.

13. MIA examined the Bay Area documents which were submitted to Allstate by Respondent in support of his claim. The first document was marked "PAID 10/16/12." The second Bay Area document was marked "PAID 11/16/12" and had the word "REVISED" printed on it. The third Bay Area document also was marked "PAID 11/16/12," but itemized the various tree removal services as requested by Allstate.

14. MIA interviewed the Office Manager of Bay Area. She confirmed that they did not perform tree removal work in 2012 for Respondent following Storm Sandy. She advised that in 2011, at Respondent's request, Bay Area prepared a proposal to perform tree removal work; however, the work order was cancelled by Respondent. The work was never performed by Bay Area nor did Respondent ever pay them for it. The Office Manager further advised that the 2012 documents submitted by Respondent to Allstate were not Bay Area documents. In August of

2012 Bay Area changed their system and thereafter their invoices had a different header design than the documents submitted by Respondent. Additionally, she reported that Bay Area never writes or stamps "Paid" on a proposal or invoice.

15. On September 18, 2013, MIA called Respondent at the number provided by his wife and left a voice message requesting Respondent to contact MIA regarding the investigation. Additionally, on April 14, 2014, MIA sent a letter to the Respondent's home address, requesting his cooperation and that he contact the investigator within 10 days if he wished to provide a statement. The certified mail was returned unsigned, however the regular mail was not returned. Respondent has not answered MIA's letter or phone message.

II. Violation(s)

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

17. Section §27-403(2)

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.

18. Section §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

(ii) order restitution to an insurer or self-insured employer of any insurance proceeds paid relating to a fraudulent insurance claim.

(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.

III. Sanctions

19. By the facts and violations stated above, Respondent is subject to imposition of an administrative penalty.

20. 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. Section 2-201(d) authorizes the Commissioner to investigate any complaint that alleges that a fraudulent claim has been submitted to an insurer.

21. Respondent submitted false documents and made a false statement to Allstate for financial gain, in violation of 27-403(2). He fabricated a document to make it appear that tree removal was completed and paid for. Later, he verbally confirmed that falsity to Allstate in a recorded statement. Therefore, having considered the factors set forth in §27-408(c)(2) and COMAR 31.02.04.02, MIA has determined that an administrative penalty in the amount of \$2,000.00 is appropriate.

22. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-14-0166A) and name (Michael Batchelder). Unpaid penalties will be referred to the Central Collections Unit for collection. 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.

23. 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 27th day of August 2014, **ORDERED** that:

A. Michael Batchelder pay an administrative penalty of \$2,000.00 within 30 days of the date of this Order.

THERESE M. GOLDSMITH
Insurance Commissioner

BY: 
CAROLYN HENNEMAN
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.