

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

KIMBERLY KRUK
5709 Williams Road
Hydes, Maryland 21082

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2015-04-036
Fraud Division File No.: R-2015-1800A

ORDER

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

I. Facts

1. Respondent had a Travel Guard travel insurance policy (# [REDACTED]) with American International Group (“AIG”), an authorized insurer. The policy was purchased on September 5, 2013, for travel dates of February 22, 2014 through March 1, 2014. The policy covered lost baggage up to \$2,000.00 and delayed baggage up to \$500.00 per person.

2. The AIG policy contained an “Excess Insurance Limitation” clause which stipulated, “If at the time of the occurrence of any Loss payable under the Policy there is other valid and collectible insurance or indemnity in place, the Insurer shall be liable only for the excess of the amount of Loss...”

3. On February 22, 2014, Respondent and her family departed Baltimore via Southwest Airlines (“Southwest”), to Orlando, Florida. On February 25, 2014, Respondent filed a claim with Southwest, stating the airline lost one of her bags. Southwest opened a claim (#

L1005756431), which it settled when it issued Respondent a check (#902521) dated May 1, 2014 for \$1,368.52.

4. On May 14, 2014, Respondent completed a baggage claim form which she later submitted to AIG stating that Southwest lost one of her bags. She confirmed having filed a claim with Southwest, which was settled. Respondent wrote "We are hoping to recoup some of the cost of the items lost in our bag during our Disney trip." Respondent declared the amount of her lost property claim to be \$5,536.45. AIG assigned claim number 1810778.

5. On August 28, 2014, AIG sent Respondent a letter requesting further explanation of the loss, and "A copy of the settlement check from the airline."

6. In response, Respondent provided AIG with a description of the loss and explained, "Southwest did reimburse us for a small portion of the contents of the bag..." She provided a copy of the check (#902521) purportedly issued to her by Southwest on May 1, 2014, but it was in the amount of \$368.52.

7. On November 24, 2014, AIG contacted Southwest which confirmed processing Respondent's lost baggage claim, but reported that its settlement check (#902521) had been in the amount of \$1,368.52, not \$368.52.

8. On November 25, 2014, AIG sent Respondent a letter denying her claim citing, "Through the course of our investigation, we have determined that the reimbursement check issued from Southwest Airlines was altered..." and "Based on this material misrepresentation, your claim is denied."

9. Section 27-802(a)(1) of the Maryland Insurance Article 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.” On February 2, 2015, AIG, having a good faith belief that Kimberly Kruk committed insurance fraud, referred the matter to the Maryland Insurance Administration, Fraud Division.

10. MIA confirmed AIG’s handling of the claim as set forth above.

11. On March 12, 2015, an MIA investigator contacted a Southwest agent who confirmed Southwest’s handling of Respondent’s claim. Additionally, the agent provided MIA with a copy of the check issued by Southwest to Respondent. The check number was confirmed to be 902521 and the amount was \$1,368.52. In comparison, the check provided to AIG by Respondent, while reflecting the correct check number, reflected the altered amount of \$368.52. The Southwest agent confirmed it never issued a \$368.52 check to 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 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 \$25,000.00 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 violated §27-403 and is subject to the imposition of an administrative penalty under §27-408(c)

III. Sanctions

16. 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.

17. 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 for Kruk.

18. Administrative penalties shall be made payable to: Maryland Insurance Administration, and shall identify the case by number (R-2015-1800A) and name (Kimberly Kruk). 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.

19. This Order does not preclude any potential or pending action by any other person, entity or government authority, regarding any conduct by the 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 April 2015, **ORDERED** that:

(1) Kimberly Kruk pay an administrative penalty of \$1,500.00 within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

BY:  *Signature on original*
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: 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.