

OFFICE OF THE INSURANCE COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE
ADMINISTRATION

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v.

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MELISSA K. BLAKE

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Case No. MIA-2016-03-047

OLIVE M. GRANT

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Case No. MIA-2016-03-048

Respondents

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FINAL ORDER ON THE
MOTION TO VACATE ORDER OF DEFAULT

1. The Insurance Commissioner issued two Orders finding that each Respondent had committed insurance fraud and assessing a civil fraud penalty of \$1,500 and \$3,000 on Respondents Blake and Grant, respectively. The Order set forth each Respondent's right to request a hearing within 30 days of the date of the letter accompanying the Order. The Respondents requested a hearing and the matters were consolidated.
2. The Maryland Insurance Administration ("Administration") filed a Request for Production of Documents ("Request for Production") propounded upon Respondents on June 1, 2016.
3. Respondents failed to produce any responsive documents by June 16, 2015.
4. On June 20, 2016, the Administration sent a letter to Respondents' Counsel advising that the responses were overdue, but also offered to extend the response deadline to July 8, 2016.
5. On July 6, Respondents' Counsel stated that he would file a response by July 13, 2016.
6. On August 2, 2016, counsel for the Administration wrote to Respondents' Counsel requesting the overdue discovery.
7. On October 11, 2016, the Administration filed a Motion for Sanctions requesting that this matter be dismissed due to the Respondent's failure to respond to the Request for Production.

8. Respondents' Counsel filed a Response to the Request for Production ("Response") on October 27, 2016. No documents were produced in response to the 12 requests.
9. Ten of the twelve individual responses offered in Respondent's Response state the following, "None in our possession" or None".
10. The other two individual responses also included the following statement, "Defense counsel has had difficulty communicating with the Respondent and is unable to produce this information."
11. Although Respondents' Counsel filed the Response, the answers stated demonstrate that Respondent has been substantively non-responsive to the Administration's Request for Production.
12. On October 30, 2016, Respondents' Counsel filed a Consent Motion for Continuance ("Consent Motion") stating that the Administration does not oppose a request to continue the hearing which is currently set for November 10, 2015.
13. In that same Consent Motion, Respondents' Counsel also filed a Motion to Withdraw as Counsel due to his inability to communicate effectively with his client. Respondents' Counsel states he has made many good faith efforts to communicate with Respondent, has been unable to effectively communicate with Respondent, and is therefore unable to competently represent Respondent in this matter.
14. On November 4, 2016, I held a conference call with counsel for both parties. During the call I stated that Respondent has failed to respond to the Request for Production. Respondents' Counsel requested that Respondents be given a short period of additional time to respond to the Request for Production and I am treating that as a Motion for Additional Time to Respond to the Request for Production ("Motion for Additional Time").
15. On November 7, 2016 I granted Respondents' Motion for Additional Time, providing 15 days from the date to respond to the Administration's Request for Production.
16. On December 1, 2016, the Administration filed a Motion for Order of Default based on the Respondents' repeated failure to respond to the Request for Production.
17. COMAR 31.02.01.05-1F(5) allows the hearing officer to sanction a party for failing to comply with a request for production on his/her or at the request of the party requesting production. Available sanctions include, "Dismissing the action or any part of it."
18. The Motion for Order of Default was granted.

19. By letter dated December 16, 2016 Respondents' counsel filed a Re-Entry of Appearance and a Motion to Vacate Order of Default. On December 1, 2016, the Maryland Insurance Administration filed an Opposition to Respondents' Motion. On December 23, 2016, the Respondents' filed a Response to the Request for Production.

Accordingly, upon consideration of the Motion to Vacate Order of Default, it is this 19th day of January, 2017, hereby **ORDERED** as follows:

1. Respondents' Motion to Vacate Order of Default is DENIED;
2. The Orders for each respondent dated March 29, 2016 is AFFIRMED; and
3. Respondent Blake is to pay the \$1,500 administrative penalty within 30 days of the date of this Order, and in accordance with the instructions contained in the Order dated March 29, 2016.
4. Respondent Grant is to pay the \$3,000 administrative penalty within 30 days of the date of this Order, and in accordance with the instructions contained in the Order dated March 29, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

ROBERT D. MORROW JR.
Associate Commissioner

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

MELISSA K. BLAKE
104 Chesapeake Centre Court
Glen Burnie, MD 21061

and

OLIVE M. GRANT
3702 Crossleigh Court
Randallstown, MD 21133

* BEFORE THE MARYLAND
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* INSURANCE COMMISSIONER
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CASE NO. : MIA-2016-03-047

CASE NO. : MIA-2016-03-48

Fraud Division File No.: R-2016-0018A
R-2016-0378A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Melissa K. Blake (“Blake”) and Olive M. Grant (“Grant”) (collectively, “Respondents”) 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. Grant owns a Toyota Camry, insured by Government Employees Insurance Company (“GEICO”), an authorized insurer. On March 27, 2015, Blake was operating Grant’s Toyota on the outer loop of Interstate 695, in Baltimore County, Maryland, when it was struck by a Volkswagen Jetta, insured by United Services Automobile Association (“USAA”), an authorized insurer.

2. A Maryland State Police Trooper responded to the scene and authored accident report, No. 15MSP010819.

3. On March 27, 2015, Blake and Grant notified GEICO of the accident. Blake and Grant reported a minor child was in the Toyota at the time of the accident, and they were injured. GEICO assigned claim number 0363191810101079.

4. On March 27, 2015, USAA was notified of the accident by its insured. USAA assigned claim number 018739451002.

5. On March 30, 2015, USAA obtained a recorded statement from its insured. He reported on March 27, 2015, he was driving his Volkswagen on the outer loop of 695, when he struck the rear of a Toyota operated by a female. He advised there were no passengers in the Toyota.

6. On April 1, 2015, an attorney sent letters to GEICO and USAA advising he represented Blake, Grant and the child involved in the March 27, 2015 accident. In the letter to GEICO, the attorney made an application for Personal Injury Protection (“PIP”) benefits.

7. GEICO received treatment records and medical bills from a medical provider which treated Grant and the child for injuries purportedly sustained in the March 27, 2015 automobile accident.

8. On May 22, 2015, USAA referred the matter to its Special Investigations Unit (“SIU”) as its insured reported there were no passengers in the Toyota, and no passengers were listed in the police report.

9. On May 26, 2015, USAA-SIU obtained a recorded statement from the independent witness identified in the police report. She reported there was one occupant in Respondent’s vehicle, whom she assisted out of the vehicle, after the accident. The witness is “100 percent” sure there were no passengers in Respondent’s car.

10. USAA notified GEICO its insured reported there were no passengers in the GEICO insured vehicle and the police report did not list any passengers. On May 27, 2015, GEICO referred the claim to its SIU.

11. On July 13, 2015, USAA denied injury claims for Grant and the child, as its investigation determined they were not in the vehicle at the time of the March 27, 2015 accident.

12. On September 30, 2015, GEICO notified Respondents' attorney that the PIP claim for Grant and the child was denied as its investigation determined Grant and the child were not in the GEICO insured vehicle at the time of the accident.

13. 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." USAA and GEICO, having a good faith belief Respondents committed insurance fraud, referred the matter to the Maryland Insurance Administration, Fraud Division.

14. During its investigation, MIA contacted USAA and confirmed its handling of Respondents' insurance claims. MIA contacted GEICO and confirmed its handling of the claim.

15. MIA contacted the Maryland State Police Trooper who investigated the March 27, 2015 motor vehicle accident which involved Respondent Grant's Toyota. The trooper confirmed the accident report accurately reflected his investigation, which concluded the Grant's vehicle was operated by Respondent Blake, when it was struck by a USAA insured vehicle. There were no passengers in Grant's Toyota.

16. MIA contacted the operator of the GEICO insured Volkswagen. He reported there were no passengers in Respondent's Toyota.

17. MIA contacted the independent witness identified in the police report. She stated Respondent was the sole occupant of the vehicle at the time of the accident.

II. Violation(s)

18. In addition to all relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding Respondents violated Maryland’s insurance laws:

19. § 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.

20. § 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

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(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.

21. By the conduct described herein, Respondents violated § 27-403. As such, Respondents are subject to the imposition of an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

22. 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.

23. Blake and Grant reported to GEICO that Grant and a child were passengers in the Toyota at the time of the March 27, 2015 accident, and were injured. Through her attorney, Grant made a claim of injury to USAA for herself and a child. Investigation revealed Grant and the minor were not in the vehicle at the time of the accident. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, MIA determined \$1,500.00 is an appropriate penalty for Blake and \$3,000.00 is an appropriate penalty for Grant.

24. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2016-0018A & R-2016-0378A) as well as by name, (Melissa Blake) and (Olive M. Grant). Unpaid penalties will be referred to the Central Collections Unit (CCU) for collection. Payment of the administrative penalties shall be sent to the attention of: Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

25. This Order does not preclude any potential or pending action by any other person, entity or government authority, regarding any conduct by Respondents 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 29th day of March 2016, **ORDERED** that:

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

(2) Olive M. Grant pay an administrative penalty of \$3,000.00 within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

BY:  signature on original
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 Respondents in a Final Order after hearing.