

IN THE MATTER OF THE

BEFORE THE MARYLAND

MARYLAND INSURANCE
ADMINISTRATION

INSURANCE COMMISSIONER

v.

RX Adjusting, LLC
201 International Circle, Suite 230
Hunt Valley, MD 21030

CASE NO. : MIA- 2014-08-056

Elias Trey Mannix
RX Adjusting, LLC
201 International Circle, Suite 230
Hunt Valley, MD 21030

Philip M. Masitto
RX Adjusting, LLC
201 International Circle, Suite 230
Hunt Valley, MD 21030

Fraud Division File No.: T-2016-0145

ORDER

This Order is entered by the Maryland Insurance Administration (“Administration”) against RX Adjusting, LLC, Elias Trey Mannix (“Mannix”), and Philip M. Masitto (“Masitto”), collectively, (“Respondents”), pursuant to §§ 2-108, 2-204, 2-405, and 10-403(a) of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.)(“the Insurance Article”).

I. Background & Facts

1. Thomas Scott (“Scott”) d/b/a RX Adjusting, Inc. was issued a public adjuster’s license by the Administration with the effective date of January 21, 2016. Scott’s public adjuster’s license was fraudulently used by Respondents.

2. Mannix, Masitto and RX Adjusting, LLC (“RX Adjusting”) were not, and are not, licensed in the State as public adjusters.

3. On January 21, 2016, the Administration issued Thomas Scott ("Scott") (d/b/a) RX Adjusting, Inc., a public adjuster's license (#2188714), and he is authorized to act as a public adjuster through June 30, 2017.

4. Exploring entering into a business arrangement, on January 20, 2016, Scott e-mailed Mannix draft document templates for RX Adjusting, Inc., consisting of a Public Adjuster Contract, Letter of Representation, and Disclosure forms, in anticipation of entering into a contract with Mannix.

5. On April 6, 2016, Scott's attorney sent an e-mail to Respondent Mannix seeking to negotiate a tentative business agreement in which Mannix would provide expert services on behalf of Scott with regard to storm damage claims within Maryland and the District of Columbia. The e-mail which contained the following proposed language for the agreement stated:

[M]annix and/or their associated employees or independent contractors associated therewith, further acknowledges that his expert consultation services are not deemed public insurance adjuster consultation and/or insurance adjuster/settlement/assessment of risk claims services as identified by the insurance laws of either and/or both the state of Maryland and the District of Columbia.

6. On April 22, 2016, Scott's attorney requested Mannix to provide the attorney with his official business name as registered/incorporated with the State of Maryland and a business address.

7. On April 25, 2016, Mannix replied to Scott's attorney via e-mail with his business address of 201 International Circle, Suite 230, Hunt Valley, MD 21030.

8. Despite ongoing negotiations, Mannix and Scott did not enter into any business agreement.

9. On May 3, 2016, Scott's attorney asserted that Mannix used Scott's public adjuster license [REDACTED], without his authorization. Scott's attorney mailed Mannix a letter demanding that he cease and desist business operations as RX Adjusting, Inc., regarding expert/independent contractor and/or public adjuster services and requested a response by May 13, 2016. The attorney stated, "[N]o prior binding contractual agreement neither presently nor previously exists between Offender [Mannix], and RX Adjusting, Inc., Tom Scott d/b/a RX Adjusting, Inc."

10. On May 17, 2016, Scott's attorney called the MIA's Fraud Division to report Mannix used Scott's public adjuster license [REDACTED], without authorization.

11. During the course of its investigation, the MIA contacted Scott who confirmed the complaint against Mannix. Scott provided the MIA with the contact information of a witness to the unauthorized use of his public adjuster license. The witness was a sales consultant for Patio Enclosures, Inc. ("Patio Enclosures").

12. An MIA investigator interviewed the Patio Enclosures sales consultant on June 16, 2016. He advised he was contacted by Respondent Philip Masitto, and requested a damage estimate for a homeowner's sunroom in Baltimore County, Maryland ("homeowner #1"). On April 15, 2016, the sales consultant subsequently met Masitto at the home to inspect the damage. Masitto provided the sales consultant with a business card identifying "Phil Masitto," "RX Adjusting," Maryland License # [REDACTED], and 201 International Circle, Suite 230, Hunt Valley, Maryland 21030. On the back of the card was a handwritten e-mail address, contact.rxadjusting@gmail.com.

13. Following his inspection, the sales consultant e-mailed Masitto a price quote to the e-mail address on the business card, which was Scott's business e-mail address. Masitto did not reply, but Scott replied, "There has been an unauthorized use of my license."

14. An MIA investigator contacted homeowner #1 who filed a claim with Erie Insurance ("Erie"), an authorized insurer, on March 10, 2016, for hail damage from a storm on June 23, 2015. Erie assigned claim #010220305122.

15. Homeowner #1 reported that on March 11, 2016, she and her husband signed a public adjuster contract with Masitto and Mannix. Masitto told them that Mannix was his boss. The contract displayed a company logo, RX Adjusting, Maryland License # [REDACTED], and a business address of 201 International Circle, Suite 230, Hunt Valley, MD 21030. Handwritten on the contract was, "No money out of pocket."

16. Erie paid homeowner #1 \$10,098.55 (after a \$500.00 deductible), for roof repairs performed by MG Roofing. The check from Erie was endorsed by homeowner #1 and given to Masitto.

17. MIA notified Erie Insurance Special Investigations Unit ("SIU") of the fraud allegation. SIU conducted a records search and found additional storm related claims involving RX Adjusting. SIU provided the claim information to the MIA.

18. On June 14, 2016, an MIA investigator interviewed the Erie insured for claim #010220301550 ("homeowner #2"). The homeowner filed a claim with Erie on December 19, 2015, for hail damage as a result of the June 23, 2015, storm. Homeowner #2 obtained the services of RX Adjusting after a solicitation at his home, and signed a letter of representation ("LOR") with RX Adjusting. Homeowner #2 gave the Letter of Representation to Mannix.

19. On February 8, 2016, Mannix faxed the LOR to Erie for claim #010220301550. The letterhead read, "RX Adjusting," and Maryland license # 2188714. The business address was listed as 201 International Circle, Suite 230, Hunt Valley, MD 21030. Under the Comments and Authorizations section of the LOR, the following is handwritten in: MG Roofing.

20. MIA reviewed Erie claim #010220296093 ("homeowner #3"). The homeowner filed a claim with Erie on August 22, 2015, for hail damage as a result of the June 23, 2015, storm. Homeowner #3 was solicited at his home by Mannix who had requested to repair roof damage caused by a recent hail storm. On February 6, 2016, Mannix advised homeowner #3 he was now acting as a public adjuster and the homeowner signed a LOR with RX Adjusting. On February 8, 2016, Mannix faxed the LOR to Erie. The letterhead read, "RX Adjusting," and Maryland License # 2188714. The business address was listed as 201 International Circle, Suite 230, Hunt Valley, MD 21030. Under the Comments and Authorizations section of the LOR, the following names are handwritten in: MG Roofing and Phil Masitto.

21. On March 29, 2016, Mannix notified Erie that he disagreed with the findings of Erie's engineer concerning roof damage to homeowner #3's residence. Mannix advised Erie's engineer that he was a representative of RX Adjusting and was working on behalf of homeowner #3.

22. An MIA investigator performed an Internet search and discovered www.RXAdjustingLLC.com, which displayed Maryland license # [REDACTED], at the top of their webpage. The website represents itself to the public as an adjuster of insurance claims and stated, "Our qualified public insurance adjusters are here to handle every aspect of your residential loss." RX Adjusting, LLC's business address is listed as Hunt Valley, Maryland.

23. An MIA investigator contacted Scott and he confirmed he had not worked with homeowner #1, #2, or #3, and has not performed any work in Maryland. His business website is www.RXAdjusting.com, not www.RXAdjustingLLC.com, and he does not have a Maryland office.

24. An MIA investigator checked Maryland Department of Assessments & Taxation (“MDAT”) records and determined RX Adjusting, LLC, has a date of formation of February 8, 2016, and a principal office of 201 International Circle, Suite 230, Hunt Valley, MD 21030.

25. MIA checked MDAT’s records and determined MG Roofing & Exteriors, LLC; (“MG Roofing”) has a date of formation of September 16, 2015, and a principal office of 201 International Circle, Suite 230, Hunt Valley, MD 21030. MIA checked with the Maryland Home Improvement Commission and confirmed MG Roofing is not a Maryland licensed home improvement contractor.

26. MIA checked with the Producer Compliance and Enforcement Unit and confirmed RX Adjusting, LLC, Mannix, and Masitto are not licensed public adjusters in Maryland.

II. Violation(s)

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

28. § 10-403

(a) Except as otherwise provided in this subtitle, a person must obtain a license before the person acts as a public adjuster in the State.

(b) A person that violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding six months or both for each violation.

29. § 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.

30. § 27-405

It is a fraudulent insurance act for a person to act as or represent to the public that the person is:

(1) an insurance producer or a public adjuster in the State if the person has not received the appropriate license.

31. § 27-407.2

It is a fraudulent insurance act for a contractor offering home repair or remodeling services for damages to a private residence caused by weather, to directly or indirectly pay or otherwise compensate an insured, or offer or promise to pay or compensate an insured, with the intent to defraud an insurer, for any part of the insured's deductible under the insured's property or casualty insurance policy, if payment for the services will be made from the proceeds of the policy.

32. § 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. for a violation of any provisions of § 27-404, § 27-405, § 27-406, § 27-406.1, § 27-407, § 27-407.1, or § 27-407.2 of this subtitle a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(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.

33. By the conduct described herein, Respondents knowingly violated §§ 27-403 as the fraudulent act of submitting a false document in support of a claim is complete upon submission of the false document and is not dependent on payment being made. Further, Respondents violated § 27-405 when they acted as and represented themselves to the public as licensed public adjusters, when they were not licensed under Title 10, subtitle 4 of the Insurance Article. Respondents also violated § 27-407.2 by waiving the policyholder's deductible as evidenced by the handwritten note inserted on the contract, "No money out of pocket." As such, Respondents are subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

34. 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.

35. Respondents conducted business as though they were licensed public adjusters for insureds who suffered storm related property damage. Respondents are not licensed and inserted a handwritten note on the contract, "No money out of pocket" in violation of § 27-407.2. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$25,000.00 is an appropriate penalty under the statute for each of the Respondents.

36. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (T-2016-0145) and names (RX Adjusting, LLC, Elias Trey Mannix, and Philip M. Masitto). Unpaid penalties will be referred to the Central Collections Unit for collection. Payment of the administrative penalty shall be sent to

the attention of: Steve Wright, Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

37. Effective the date of this Order, Respondents shall not engage in any public adjuster business activity within the State of Maryland and shall remove MD License #2188714, from www.rxadjustingllc.com. Respondents shall remove www.rxadjustingllc.com, all references to Scott, and references to Scott's public adjuster license numbers or use the term "public adjuster license." Respondents shall discontinue the use of any and all documents, which imply RX Adjusting, LLC, is licensed in the State of Maryland to perform public adjuster services.

38. 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 20th day of August 2016, **ORDERED** that:

- (1) RX Adjusting, LLC, shall pay an administrative penalty of \$25,000.00 within 30 days of the date of this Order.
- (2) Elias Trey Mannix shall pay an administrative penalty of \$25,000.00 within 30 days of the date of this Order.
- (3) Philip M. Masitto shall pay an administrative penalty of \$25,000.00 within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

BY:

STEVE WRIGHT
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 request for hearing must be made in writing and must state the facts and grounds for the relief to be demanded. *See* § 2-210(b)(1) and COMAR 31.02.01.03D(2). The 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 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.