

MARYLAND INSURANCE
ADMINISTRATION

v.

BRENT GUSTATUS
800 Corktree Road
Middle River, Maryland 21220

* BEFORE THE MARYLAND
* INSURANCE COMMISSIONER
* CASE NO. MIA-2016-09-010
* Fraud Division File No. R-2016-3182A
*

* * * * *

CONSENT ORDER

The Maryland Insurance Commissioner (“Commissioner”) enters into this Consent Order (“Order”), with the consent of Brent Gustatus (“Respondent”), pursuant to §§ 2-108, 2-204 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.) (“Insurance Article”), to resolve the matter before the Insurance Administration (“Administration”).

EXPLANATORY STATEMENT AND FINDINGS OF FACT

1. The Administration issued an Order against Respondent on September 7, 2016. In the Order, Respondent was found to have violated § 27-403 of the Insurance Article. An administrative penalty in the amount of \$1,500.00 was assessed in accordance with § 27-408(c).
2. Respondent does not contest the allegations in the Order.
3. Before the Order became final, Respondent contacted the Administration to enter into a payment plan on September 23, 2016.
4. The facts and violations stated in the Order are incorporated herein by reference.
5. The parties agree to this Consent Order to fully and finally resolve all issues stated in the Initial Order and to avoid further litigation.

WHEREFORE, for the reasons set forth above, it is this 29th day of November, 2016,

ORDERED by the Commissioner and consented to by Respondent that:

A. Respondent shall pay an administrative penalty in the amount of \$1,500.00 as follows:

- i. \$500.00 by October 31, 2016;
- ii. \$500.00 by November 30, 2016;
- iii. \$500.00 by December 30, 2016; and
- iv. Payments must be received by these dates.

B. Failure to pay as outlined in paragraph A, above constitutes a default. Notice of default is hereby waived by Respondent. Respondent agrees to pay the balance within 30 days of default, the balance will be sent to the Central Collection Unit of the Department of Budget and Management for collection.

C. The executed Consent Order and penalties shall be sent to the Maryland Insurance Administration to the attention of Steve Wright, Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Baltimore, MD 21202 and shall identify the case by number (R-2016-3182A) and name (Brent Gustatus).

D. Respondent waives any and all rights to any hearing or judicial review of this Consent Order to which he would otherwise be entitled under the Maryland Annotated Code.

E. Respondent has reviewed this Consent Order and has had the opportunity to have it reviewed by legal counsel of his choice. Respondent is aware of the benefits gained and obligations incurred by the execution of the Consent Order. After careful consideration, Respondent executes this Consent Order knowingly and voluntarily.

F. For the purposes of the Administration and for any subsequent administrative or civil proceedings concerning Respondent, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information about Respondent made under the

Maryland Public Information Act, or properly made by governmental agencies, this Consent Order will be kept and maintained in the regular course of business by the Administration. For the purposes of the business of the Administration, the records and publications of the Administration will reflect this Consent Order.

G. This Consent Order shall be effective upon signing by the Commissioner or his designee.

H. This Consent Order does not preclude any potential action by the Administration, any other person, entity, or governmental authority regarding any conduct by Respondent, including the conduct that is the subject of this Consent Order.

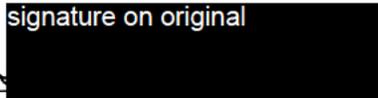
I. This Consent Order shall be effective upon signing by the Commissioner or his designee, and is a Final Order of the Commissioner under § 2-204 of the Insurance Article.

J. Failure to comply with the terms of this Consent Order may subject Respondent to further legal and/or administrative action. This Consent Order contains the **ENTIRE AGREEMENT** between the parties relating to the administrative actions addressed herein. This Consent Order does not supersede the Order dated September 7, 2016, except as to the payment of the penalty amount, and any prior agreements or negotiations, whether oral or written. All time frames set forth in this Order may herein be amended or modified only by subsequent written agreement of the parties.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

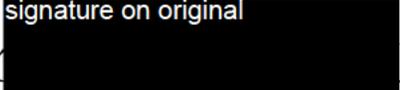
BY:


STEVE WRIGHT
Associate Commissioner
Insurance Fraud Division

BRENT GUSTATUS' CONSENT

BRENT GUSTATUS hereby CONSENTS to the representations made in, and terms of,
this Consent Order.

Nov 1st 2016
Date

signature on original

Brent Gustatus

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

BRENT GUSTATUS
800 Corktree Road
Middle River, Maryland 21220

* BEFORE THE MARYLAND
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* INSURANCE COMMISSIONER
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* CASE NO. : MIA-2016-09-010
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* Fraud Division File No.: R-2016-3182A
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ORDER

This Order is entered by the Maryland Insurance Administration (“MIA” or “Administration”) against Brent Gustatus (“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 resides at 800 Corktree Road, Middle River, Maryland 21220, a property owned by his father. Respondent’s father had a homeowner’s insurance policy for the property with Allstate Insurance Company (“Allstate”), an authorized insurer.

2. On December 22, 2015, Respondent advised Allstate that the insured property sustained water damage as a result of a broken water pipe, which he discovered earlier the same day. Respondent reported damages to the drywall, furniture, carpet, laptop computer, and a television. Allstate assigned claim number 0395813777.

3. During the claims handling process, an adjuster noted that Allstate had previously processed a similar water damage claim under the same homeowner’s policy for a loss which occurred on January 8, 2014, in which Allstate paid its insured (Respondent’s father) \$1,855.21 to repair damages.

4. On January 5, 2016, an Allstate adjuster inspected and photographed the damages reported to have occurred as a result of the December 22, 2015, broken water pipe.

5. An Allstate adjuster compared the 2014 claim file photographs with the photographs taken of the 2015 damages and concluded that the damages depicted in the photographs were identical.

6. On January 6, 2016, Allstate sent a letter to Respondent requesting that he submit invoices by January 18, 2016, to verify that the 2014 water damage repairs had been made.

7. On January 19, 2016, Allstate referred Respondent's claim to its Special Investigations Unit ("SIU") as the damages reported in the 2015 loss were identical to the damages reported in 2014, and Respondent failed to submit proof that the 2014 repairs were made.

8. On February 10, 2016, an Allstate investigator compared the 2014 water damage photographs with the photographs taken of the 2015 damages and concluded, "The drywall was cut out from the prior loss and matched exactly to the current loss. The height and width of the removal is identical... The outline of the cut out drywall is exactly the same on both losses. There does not appear to have been any work done to the drywall from the prior loss."

9. On March 10, 2016, Respondent provided Allstate with an invoice reflecting he paid Boulevard Contractors Corporation ("Boulevard") \$3,200.00 for repairs it made to the 2014 water damage.

10. On March 10, 2016, an Allstate investigator contacted Boulevard to verify the invoice for the 2014 repairs. A Boulevard representative advised the invoice was false, and Boulevard never performed work for Respondent. The representative reported that the person

identified as the job manager on the invoice was not employed by Boulevard in 2014, and the Small Business Reserve number listed on the invoice was not used in 2014.

11. On March 31, 2016, Allstate sent Respondent a denial letter based on "Concealment of Fraud" as outlined in his father's homeowner's policy due to the submission of a false invoice and for claiming the exact same damage as the 2014 loss.

12. Section 27-802(a)(1) of the Insurance Article states:

An authorized insurer, its employees, fund producers, or 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.

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

13. MIA contacted Allstate and confirmed its handling of Respondent's claim.

14. On June 17, 2016, an MIA investigator interviewed a representative of Boulevard; he confirmed that Boulevard never performed any work for Respondent, and the person listed as the job manager on the invoice was not an employee with Boulevard in 2014.

II. Violation(s)

15. 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:

16. **§ 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.

17. § 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.

18. By the conduct described herein, Respondent violated § 27-403. Because the fraudulent insurance 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, Respondent committed a violation of the Insurance Article when he submitted a false invoice to Allstate. As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

19. 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.

20. By the conduct described herein, Respondent violated § 27-403 and is subject to the imposition of an administrative penalty under the Insurance Article.

21. 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.

22. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2016-3182A) and name (Brent

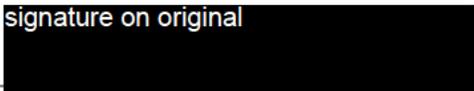
Gustatus). Unpaid penalties will be referred to the Central Collections Unit for collection. Payment of the administrative penalty shall be sent to the attention of: Steve Wright, Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

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 17th day of September 2016, **ORDERED** that:

Brent Gustatus shall pay an administrative penalty of Fifteen Hundred Dollars (\$1,500.00) within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

BY:  signature on original
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 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.