

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

ANGELO HARPER
13933 Bishops Bequest Road
Upper Marlboro, Maryland 20772

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2016-11-034
Fraud Division File No.: R-16-4119A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Angelo Harper (“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. On May 5, 2016 at 3:35 p.m., Respondent contacted Progressive Select Insurance Company (“Progressive”), an authorized insurer, to obtain automobile insurance from for his 2011 BMW. During the application process, Respondent advised the Progressive representative that he had not had any accidents in the last five years. Progressive issued Respondent a policy which took effect May 5, 2016 at 4:04 p.m.

2. On May 5, 2016 at 5:56 p.m. Respondent notified Progressive that May 5, 2016 at about 4:20 p.m. he was operating his BMW when he struck a guardrail. Progressive assigned claim # 16-4022374.

3. On May 6, 2016, a Progressive claims adjuster interviewed the Respondent who reported he was involved in an accident at 4:20 p.m. on May 5, 2016 in the Crofton, Maryland. The police were called, and his BMW was towed.

4. On May 9, 2016, another Progressive claims adjuster interviewed Respondent and asked whether he had obtained his Progressive insurance policy after the May 5, 2016 accident; Respondent replied that he had obtained the policy before the accident.

5. On May 9, 2016 the claims adjuster contacted the Anne Arundel County Police Department and confirmed an accident report was written to document Respondent's accident, (report # 16-716368) and the time of the accident was recorded as 2:58 p.m. on May 5, 2016. The adjuster also confirmed that Respondent's progressive policy went into effect at 4:04 p.m. on May 5, 2016, concluding that the accident occurred prior to the policy going into effect.

6. On May 16, 2016, Progressive referred Respondent's claim to its Special Investigations Unit ("SIU") as records reflected that the policy was obtained after Respondent's accident.

7. On May 20, 2016, an SIU investigator interviewed two witnesses to Respondent's May 5, 2016 accident. One witness stated the accident occurred "around three in the afternoon," and the other witness advised the accident happened between "two thirty and three-ish."

8. On May 20, 2016, an SIU investigator obtained the police accident report involving Respondent's BMW. The report reflected that Respondent was operating his BMW on May 5, 2016 at 2:58 p.m. when he struck a guardrail. The report also stated that another vehicle struck the guardrail to avoid hitting Respondent's BMW.

9. On May 23, 2016, an SIU investigator interviewed Respondent who reported that he purchased his Progressive policy about one hour before the accident occurred.

10. On June 21, 2016, Progressive sent Respondent a letter denying his claim as the policy took effect after the accident occurred.

11. 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.

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

12. MIA contacted Progressive and confirmed its handling of Respondent's claim.

13. MIA reviewed a copy of Respondent's automobile insurance policy application and confirmed the policy took effect on May 5, 2016 at 4:04 p.m. Further, MIA confirmed with Progressive's accounting department that Respondent's policy was effective as of May 5, 2016 at 4:04 p.m.

14. MIA contacted the Anne Arundel County Police Department Dispatch Unit. A dispatcher examined the call log system and advised that a police officer was dispatched to Respondent's accident on May 5, 2016 at 2:47 p.m., arrived at 2:53 p.m. and left at 3:26 p.m.

15. On August 22, 2016, an MIA investigator interviewed the driver of the other vehicle involved in the May 5, 2016 accident who had also struck the guardrail. She also reported that the accident occurred just before 3:00 p.m.

16. On August 22, 2016, an MIA investigator interviewed a witness, identified in the police accident report. The witness reported that the accident involving Respondent's vehicle occurred "right at 3" on May 5, 2016.

II. Violation(s)

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

18. § 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.

19. § 27-406(1)

It is a fraudulent insurance act for a person:

(1) to knowingly or willfully to make a false or fraudulent statement or representation in or with reference to an application for insurance.

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

* * * * *

(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, Respondent violated §§ 27-406 and 27-403. Respondent applied for automobile insurance and reported that he had not been involved in any automobile accident within the last five years, when in fact he had an accident earlier the same day. Respondent also made false statements to Progressive about the time of the accident during

the claims process. As such, Respondent is subject to 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. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$3,500.00 is an appropriate penalty under the statute.

24. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-16-4119A) and name (Angelo Harper). 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.

25. 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 21st day of November 2016, **ORDERED** that:

Angelo Harper shall pay an administrative penalty of three thousand five-hundred Dollars (\$3,500.00) 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 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.