

the business or individual named as the insured has the financial resources available to protect those who may come to harm through the insured's negligence.

3. On January 10, 2017, Hawk submitted an estimate via email, from hawkssheetmetalcontracting@gmail.com to RM Thornton Mechanical ("Thornton"), to perform sheet metal work. Along with the estimate, Hawk provided a COI. The COI reflected that Hawks Sheetmetal had current commercial liability, automobile, worker's compensation, and umbrella insurance policies set to expire on December 31, 2017. The carriers were identified as Valley Forge Insurance Company ("Valley Forge"), Continental Casualty Insurance Company ("Continental") and Chesapeake Employers' Insurance Company ("Chesapeake"). The insurance producer was identified as HMS Insurance Associates, Inc. ("HMS").

4. On January 13, 2017, Thornton contacted HMS to verify the COI submitted by Hawk on behalf of Hawks Sheetmetal. HMS determined the COI was forged and Hawks Sheetmetal was not one of its clients.

5. On January 18, 2017, HMS sent an email to Hawk, which advised that the certificate presented to Thornton on January 10, 2017, was "incorrect in all details; HMS does NOT [*sic*] have any client or prospect with the name of Hawks Sheetmetal Contracting, LLC and has never issued a certificate of insurance for this entity. This is a forged certificate of insurance..."

6. On January 18, 2017, HMS received a telephone call from Hawk, in response to the aforementioned email. Hawk advised it was a mistake and his wife is a student in a business class and the COI was homework, which she made up and "inadvertently" sent to Thornton. Hawk stated Erie Insurance Company ("Erie") insured him.

7. 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.

9. On January 18, 2017, HMS sent an email to the MIA that stated; it takes this matter very seriously and as such felt it important to notify the MIA of this fraudulent activity.

10. On February 15, 2017, an MIA investigator contacted Chesapeake. A representative advised that Hawk and Hawks Sheetmetal had no current or prior policies with Chesapeake although the policy number listed on the COI is for an active account for another client.

11. On February 16, 2017, a representative for Valley Forge and Continental advised the MIA that three of the policy numbers listed on the COI presented by Respondents to Thornton are legitimate policy numbers. However, those policies belong to another client and Respondents aren't insured under those policies. Further, those policies were not written through HMS.

12. On February 16, 2017, an MIA investigator sent Hawk an email and requested his cooperation. Hawk later called the MIA's investigator and confessed that he had created the COI using the website, "pdffiller," and he found the policy numbers by doing a google search. Hawk advised that his current insurer is Erie. Hawk provided MIA with documents, which showed that he had obtained insurance with Erie.

13. On February 21, 2017, an MIA investigator confirmed that Hawks Sheetmetal has a commercial insurance policy with Erie, which went into effect on January 13, 2017; three days after Hawk submitted the false COI to RM Thornton Mechanical.

14. An MIA investigator examined the Maryland Department of Assessment and Taxation Business Services website and found that Hawks Sheetmetal Contracting, LLC formed on May 10, 2016.

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 Respondents violated Maryland's insurance laws:

16. **§ 19-116(g)**

A person may not prepare or issue a certificate of insurance that the person knows contains false or misleading information or that purports to amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate.

17. **§ 27-406(5)**

It is a fraudulent insurance act for a person:

(5) with intent to deceive, knowingly to exhibit a false account, document, or advertisement about the affairs of an insurer.

18. **§ 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.

19. By the conduct described herein, Respondents knowingly violated § 19-116(g) and § 27-406(5). As such, Respondents are subject to administrative penalties under the Insurance Article § 27-408(c).

III. Sanctions

20. Hawk submitted a COI that reflected he had current commercial insurance through December 31, 2017, with various insurers, although he did not have commercial insurance. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA determined that \$2,500.00 is an appropriate penalty under the statute.

21. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2017-2227A) and name (Harley Hawk & Hawks Sheetmetal Contracting, LLC). 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.

22. 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 10th day of March 2017, **ORDERED** that:

Harley Hawk and Hawks Sheetmetal Contracting, LLC shall be jointly and severally liable for the payment of an administrative penalty in the amount of two-thousand five hundred dollars (\$2,500.00) 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 Respondents in a Final Order after hearing.