

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

NICOLE WALLACE
4 Valles Court
Parkville, Maryland 21234

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA- 2018-02-025

Fraud Division File No.: R-2018-1489A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Nicole Wallace (“Respondent”) pursuant to §§ 2-108, 2-201, 2-204 and 2-405 of the Insurance Article, Md. Code Ann. (2017 Repl. Vol. & Supp.)(“the Insurance Article”).

I. Facts

1. Respondent had automobile insurance for her 2004 Lexus through United Services Automobile Association, (“USAA”), an authorized insurer. The policy was in effect from August 18, 2017 through January 27, 2018.

2. On August 21, 2017, Respondent notified USAA that on August 20, 2017, her insured vehicle was parked and unoccupied in a parking lot in Towson, Maryland. When she returned to her vehicle, the right front fender was damaged. On the same date, Respondent completed a USAA vehicle accident and loss report (“loss report”) stating she had been shopping at a strip mall. After returning to her vehicle, she discovered damage to the passenger side front panel. Respondent signed the loss report immediately after the following fraud warning:

“Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit of who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.”

3. On August 24, 2017, a USAA claims agent reviewed Respondents claim history through the Insurance Service Office (“ISO”) database and identified two previous USAA claim with loss dates of July 11, 2015 and March 22, 2016. The claims agent noted that the damage to Respondent’s vehicle in the July claim was to the same location of the vehicle as in the August 20, 2017, claim. The claims agent requested file photographs for the two prior claims for review.

4. On September 5, 2017, the USAA claims agent conducted a recorded interview of Respondent. The claims agent asked Respondent whether she had any “prior, existing” damage, or “any prior damage that was not repaired.” Respondent replied, “no.”

5. On September 11, 2017, the USAA claims agent compared the damage from photographs taken subsequent to the July 11, 2015 loss with photographs of the August 20, 2017 loss, and concluded the damage was identical. The claim was referred to USAA’s Special Investigations Unit (“SIU”) for further investigation.

6. On October 4, 2017, at about 11:00 a.m., a USAA SIU investigator conducted a recorded interview of Respondent. She reported that the July 11, 2015, damage to the right front fender was repaired by a body shop located in Baltimore. Later that day, at about 12:12 p.m., Respondent left a voicemail for the USAA claims agent requesting to withdraw her claim.

7. On November 3, 2017, a USAA SIU investigator contacted the body shop identified by Respondent as repairing the July 11, 2015, damage to the right front fender; a representative for the body shop denied making those repairs.

8. On November 29, 2017, a USAA SIU representative sent Respondent a denial letter, which stated, “Upon review of your prior claims, USAA CIC learned that the passenger side fender on your 2004 Lexus was damaged in a 7/11/2015 loss. A payment of \$980.57 was paid to you for the vehicle damage. Upon review of the photographs in the prior claims, the

damage claimed in this loss [August 20, 2017] match the exact damage claimed in your prior loss.”

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

10. An MIA investigator contacted USAA and confirmed its handling of the Respondent’s claim.

11. On January 29, 2018, an MIA investigator contacted a USAA SIU manager who confirmed that Respondent had prior claims on July 11, 2015 and March 22, 2016. Respondent’s vehicle was photographed in both prior claims. The SIU manager contacted the body shop Respondent identified as having completed the repairs; a representative for the body shop advised the right front fender of the Respondent’s vehicle had not been repaired there.

12. On January 31, 2018, an MIA investigator interviewed Respondent who admitted that she never repaired the damages following the July 11, 2015 claim.

II. Violation(s)

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

14. **§ 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.

15. § 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.

16. By the conduct described herein, Respondent knowingly violated § 27-403, because the fraudulent insurance act of making a false statement in support of a claim is complete upon making the false statement and is not dependent on payment being made. Respondent committed a violation of the Insurance Article when she made a false statement to USAA in support of her claim. As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

17. 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.

18. Having considered the factors set forth in §27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$1,000.00 is an appropriate penalty.

19. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2018-0986A) and name (Nicole Wallace). 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.

20. This Order does not preclude any potential or pending action by any other person, entity, or government authority, regarding any conduct by the 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 28th day of February 2018, **ORDERED** that:

Nicole Wallace shall pay an administrative penalty of one-thousand dollars (\$1,000.00) 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 served. 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.