

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

JUSTIN MICHAEL BROCKMEYER
7631 Alpine Beach Road
Pasadena, Maryland 21122

BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2018-06-024
Fraud Division File No.: R-2018-2493A

ORDER

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

I. Facts

1. On December 4, 2017, Respondent applied for a \$300,000.00 life insurance policy with Northwestern Mutual Life Insurance Company (“Northwestern”), an authorized insurer.

2. Respondent signed the application immediately after the following attestation:

Any person who knowingly presents a false statement in an application for insurance may be guilty of a criminal offense and subject to penalties under state law.

3. On December 13, 2017, as part of the application process, Respondent was required to complete a medical history questionnaire. He answered, “No” to question 4(c), which states, “In the last 10 years, have you used marijuana, cocaine, heroin, methamphetamine, hallucinogens, or any other illegal drug or substance?” Respondent signed the medical history questionnaire immediately after the following attestation:

I have reviewed my answers and statements in this application and declare that they are correctly recorded, complete, and true to the best of my knowledge and belief. Statements in this application are representations and not warranties.

4. On the same date, Respondent submitted to a requisite paramedical examination to determine his insurability. As part of the examination, Respondent submitted a urine specimen for analysis by a certified drug testing facility used by Northwestern.

5. On December 27, 2017, the Clinical Reference Laboratory (“CRL”) notified Northwestern that Respondent’s urine specimen tested positive for cocaine metabolites.

6. Prior to reporting the test results to Northwestern, CRL verified the following:

1. The Notice/Consent and Chain of Custody on Consent Form was signed by the applicant.
2. The Chain of Custody Form was signed by the examiner.
3. The Security Seal was intact.
4. The information on the urine specimen matched that on the consent form.
5. The Security Seal was signed by the applicant.

7. In his December 27, 2017, letter the Vice President of Laboratory Operations for CRL stated,

“The testing protocol included initial screening of the sample using an approved immunoassay and confirmation by Liquid Chromatography-Mass Spectroscopy-Mass Spectroscopy (LC/MS/MS).”

8. On January 5, 2018, Northwestern declined to issue Respondent a policy because of cocaine findings in his urine test.

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.”

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

10. In the course of its investigation, MIA contacted Northwestern and confirmed its handling of the Respondent's insurance application as set forth above.

11. On April 19, 2018, an MIA investigator spoke to the paramedical examiner employed by APPS Paramedical Services who conducted an in-person interview of Respondent during the application process. She asked Respondent each question on the medical history questionnaire and recorded his answer. Respondent answered, "No" to the question, regarding his cocaine use; he reviewed his responses and signed the questionnaire. She collected, packaged, and mailed Respondent's urine specimen to CRL for analysis.

12. On April 20, 2018, an MIA investigator contacted a representative for CRL. She confirmed the information contained in its report was accurate and the analysis was compliant with industry standards.

13. On May 15, 2018, an MIA investigator interviewed the Northwestern agent who processed Respondent's life insurance application. He confirmed that after his in-person meeting with Respondent on November 28, 2017, Respondent did not contact him to amend or change any of the information on his application.

II. Violation(s)

14. 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:

15. **§ 27-406**

It is a fraudulent insurance act for a person:

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

16. § 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.

17. By the conduct described herein, Respondent knowingly violated § 27-406(1). As such, Respondent is subject to administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

18. 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 application has been submitted to an insurer. Insurance Article §§ 2-201(d)(1) and 2-405.

19. 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.

20. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2018-2493A) and name (Justin Michael Brockmeyer). 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.

21. 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 14th day of June 2018, **ORDERED** that:

Justin Michael Brockmeyer 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

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 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.