

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

MEGAN SHANAE SMITH
76 South Center Street
Westminster, Maryland 21157

BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2018-07-024
Fraud Division File No.: R-2018-3356A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Megan Shanae Smith (“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 automobile insurance with Erie Insurance Exchange (“Erie”) an authorized insurer, for her 2006 Honda. The insurance application stated, “The Applicant [Respondent] applies for insurance and represents the following to be true.” Respondent answered “No,” to Question D of the application, which asked:

Has any driver or member of the household had an accident, claim, loss, moving violation or driver license suspension/revocation in the last 5 years?*

2. The insurance application stated:

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

3. Respondent electronically signed the insurance application after the following statement:

I certify that I have given true and complete answers to the questions in this application.

4. Relying on information provided by Respondent during the application process, Erie issued Respondent an automobile insurance policy effective December 4, 2017 through December 4, 2018.

5. On February 21, 2018, Respondent notified Erie that on January 10, 2018, her insured vehicle was struck by a hit and run driver. Erie opened a claim.

6. On February 23, 2018, an Erie claims adjuster, inspected and photographed Respondent's insured vehicle.

7. On March 5, 2018, an Erie representative examined an Insurance Services Office ("ISO") report and discovered Respondent had numerous prior insurance claims, including a claim to State Farm Insurance Company, ("State Farm"), an authorized insurer, for an accident on June 11, 2017, in which Respondent was operating the 2006 Honda. Further, a Maryland Judiciary case search revealed Respondent had been issued a motor vehicle citations for violating Maryland motor vehicle laws, including, failure to attach vehicle registration plates at the front and rear of her vehicle as well as a license suspension for failure to pay fines in district court. Consequently, Erie referred Respondent's claim to its Special Investigations Unit ("SIU") for further investigation.

8. On March 5, 2018, an Erie representative conducted a recorded interview of Respondent, who reported that she left her insured vehicle in the Wal-Mart parking lot, in Westminster, Maryland. Another vehicle, which fled, struck her vehicle. Respondent did not notify the police, and did not immediately notify Erie, as she was afraid her insurance rates would increase. Respondent advised Erie that the front of her vehicle had been pushed in because of the collision.

9. On March 9, 2018, an Erie investigator contacted State Farm and confirmed the June 11, 2017, accident occurred when Respondent was operating the 2006 Honda and she collided with another vehicle. State Farm advised photographs of the Honda taken subsequent to the June, 2017, accident were available.

10. On April 5, 2018, an Erie investigator received the photographs taken by State Farm, subsequent to its June, 2017, claim. A comparison of the photographs revealed the damage reported to Erie on January 10, 2018, was the same damages reported to State Farm in June, 2017.

11. On April 9, 2018, an Erie Investigator conducted a recorded interview with Respondent who reported she purchased the Honda from an ex-boyfriend in December, 2017; the vehicle had no damage at that time. The investigator showed Respondent photographs taken following the June, 2017 claim made to State Farm, but did not disclose they were photographs from the earlier claim. The investigator asked whether the damages depicted in those photographs occurred on January 10, 2018, which Respondent confirmed. The investigator then produced photographs taken by Erie following the January 10, 2018, claim. The investigator pointed out the damage was the same. Respondent admitted the damage was pre-existing although following the January 10, 2018, collision she was unable to open the hood of her vehicle.

12. On May 2, 2018, Erie cancelled Respondent's policy for the following reasons;

"Your 12/2017 application failed to list all claims you were involved with. During the investigation of the 1/10/2018 loss, were [sic] able to verify you had been the vehicle operator in a claim on 9/14/16, as well as a claim from 6/11/2017. Your application failed to mention these claims and we will be cancelling your auto policy."

Our underwriting standards provide that we will not insure anyone who makes a material misrepresentation in connection with an application for auto insurance, therefore, we are cancelling your automobile policy.”

13. Section 27-802(a)(1) of the Maryland 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.

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

14. During the course of its investigation, the MIA contacted Erie and confirmed its handling of the Respondent's claim.

15. On June 19, 2018, an MIA investigator examined Respondent's ISO records and discovered the following claims, contrary to statements made by Respondent in her Erie insurance application that she had no accidents, claims or loses in the last five years:

- 07/25/2013 - Claimant, Liberty Mutual
- 08/01/2015 - Claimant, State Farm
- 09/12/2015 - Insured Passenger, State Farm
- 09/14/2016 - Claimant, Nationwide Mutual
- 11/13/2016 - Claimant Passenger, State Farm
- 06/11/2017 - Insured Driver, State Farm
- 07/18/2017 - Claimant Driver, GEICO

16. On June 20, 2018, an MIA investigator compared photographs of Respondent's 2006 Honda taken in the June, 2017, claim to State Farm with photographs taken by Erie following the January 10, 2018, claim. The MIA investigator concluded the damage in both claims was the same.

17. On June 21, 2018, an MIA investigator conducted a Maryland Judiciary Case Search and Maryland Department of Transportation records check of Respondent and discovered

the following violations, contrary to statements Respondent made to Erie in her insurance application that she had no moving violation or driver license suspension/revocation in the last five years:

- 05/18/2015 - License suspended for failure to pay fine in District Court
- 02/11/2016 - Failure to attach vehicle registration plates at front and rear

II. Violations

18. 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:

19. § 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[.]

20. § 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[.]

21. § 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.

22. By the conduct described herein, Respondent knowingly violated §§ 27-403 and 27-406(1). As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

23. 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 that a fraudulent claim has been submitted to an insurer. Insurance Article §§ 2-201(d) (1) and 2-405.

24. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$3,000.00 is an appropriate penalty.

25. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2018-3356A) and name (Megan Shanae Smith). 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.

26. 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 18th day of July 2018, **ORDERED** that:

Megan Shanae Smith shall pay an administrative penalty of three thousand dollars (\$3,000.00) 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.