

investigator a text message conversation he had with his brother, which contained a photograph of the damage to the insured vehicle. The investigator noted that the text message conversation was dated August 13, 2018 at 3:51 p.m., a day before his GEICO insurance policy took effect. The investigator pointed out that Respondent obtained the GEICO insurance policy on August 13, 2018 at 4:55 p.m. (about an hour after receiving notice of the damage); the policy took effect on August 14, 2018, (one day after he received notice of the damage); but, Respondent reported that the accident occurred on August 16, 2018. In response, Respondent advised he wanted to cancel his claim, and signed a claim withdrawal form. The GEICO investigator obtained a copy of the aforementioned text message from Respondent.

5. 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.

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

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

7. An MIA investigator examined copies of the text message Respondent received regarding the damage to his vehicle, and concluded based upon the date on the text message, Respondent was notified of the damage on August 13, 2018, about one hour prior to obtaining the GEICO insurance policy, and one day prior to the policy going into effect.

II. Violation(s)

8. 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:

9. § 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[.]

10. § 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.

11. By the conduct described herein, Respondent knowingly violated § 27-403. 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 he made a false statement to GEICO. As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

12. 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.

13. By the conduct described herein, Respondent violated § 27-403 and is subject to the imposition of an administrative penalty under the Insurance Article.

14. Having considered the factors set forth in § 27-408(c)(2), the MIA has determined that \$1,500.00 is an appropriate penalty.

15. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2019-0657A) and name (Bernard Foster Jr.). 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. Unpaid penalties will be referred to the Central Collections Unit for collection.

16. 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 25th day of January 2019, ORDERED that:

Bernard Foster Jr. shall pay an administrative penalty of one thousand five 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: Melanie Gross, Executive Assistant to the Deputy Commissioner. 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.