

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

DERRICK LAMAR WHITING
1954 Rochelle Avenue, Apt. 622
District Heights, Maryland 20747

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2019-09-028
Fraud Division File No.: R-2019-2697A

ORDER

This Order is entered by the Maryland Insurance Administration (the "MIA") against Derrick Lamar Whiting ("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. On January 24, 2019, a claimant, hereinafter D.P.,¹ notified Progressive that earlier that day, while operating his vehicle, he was stopped for a red signal light at the intersection of Suitland Parkway and Naylor Road, in Maryland, when Respondent, who was operating a 2004 Ford, failed to stop, and struck the rear of D.P.'s vehicle. Respondent provided D.P. with a Progressive automobile insurance identification card, which named Respondent as the policy holder for a 2004 Ford, vehicle identification number ("VIN") ending in 0168. The insurance policy number ended in 5416, the policy became effective on October 4, 2018, and expired on February 10, 2019. D.P. photographed the insurance identification card, the Virginia registration plate attached to the rear of the Ford driven by Respondent, which ended in 6360, as well as Respondent's driver's license. Progressive opened a claim.

2. On January 24, 2019, a Progressive representative searched databases for the Progressive policy number ending in 5416; however, no policy was located. Consequently, the

¹ Initials are used to protect the identity of the witness.

claim was forwarded to Progressive's Special Investigations Unit ("SIU") for further investigation.

3. On January 25, 2019, Progressive's Policy Services Division located a Progressive insurance policy, previously issued to Respondent, but it was cancelled in March, 2016, for nonpayment.

4. On January 28, 2019, Progressive determined that the insurance card Respondent presented to D.P. on January 24, 2019, was counterfeit and no policy existed. Therefore, Progressive denied the claim.

5. 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.

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

6. During the course of its investigation, the MIA investigator contacted Progressive and confirmed the facts regarding its handling of the aforementioned claim.

7. On August 21, 2019, an MIA investigator went to a Prince George's County, Maryland address identified as a residence for Respondent. A female occupant of the location advised that Respondent was working, but contacted him by phone. At that time, the MIA investigator spoke with Respondent who denied having an accident on January 24, 2019, at Suitland Parkway and Naylor Road.

8. On August 22, 2019, an MIA investigator interviewed D.P. who provided photographs he took of Respondent's driver's license, which Respondent presented to him at the

accident scene. The photograph of Respondent was identical to a photograph the MIA independently obtained during its preliminary investigation.

9. On September 6, 2019, an MIA investigator went to Respondent's Rochelle Avenue address and observed Respondent exit the building and drive from the location in a Chrysler van bearing the same Virginia registration plate number, ending in 6360 as was displayed on the 2004 Ford, on January 24, 2019, when he struck D.P.'s vehicle.

II. Violation(s)

10. 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:

11. § 27-406

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 affair of an insurer [.]

12. § 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.

13. By the conduct described herein, Respondent knowingly violated § 27-406(5). As such, Respondent is subject to administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

14. 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.

15. By the conduct described herein, Respondent violated § 27-406 and is subject to the imposition of an administrative penalty under the Insurance Article.

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

17. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2019-2697A) and name (Derrick Lamar Whiting). 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.

18. 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 17th day of September 2019, ORDERED that:

Derrick Lamar Whiting 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.