

IN THE MATTER OF THE  
MARYLAND INSURANCE  
ADMINISTRATION

v.

UBEN SERVELIO LEIVA ENAMORADO  
17740 Larchmont Terrace  
Gaithersburg, MD 20877

BEFORE THE MARYLAND  
INSURANCE COMMISSIONER

CASE NO. : MIA-2019-10-042  
Fraud Division File No.: R-2019-3512A

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**ORDER**

This Order is entered by the Maryland Insurance Administration (the "MIA") against Uben Servelio Leiva Enamorado ("Respondent") pursuant to §§ 2-108, 2-201, 2-204 and 2-405 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.)("Insurance Article").

**I. Facts**

1. Respondent was the named insured on an automobile insurance policy issued by Progressive Group of Insurance Companies ("Progressive"), an authorized insurer, for his 2012 GMC. The policy was in effect from December 24, 2018 until on March 15, 2019, when it was cancelled by Progressive because Respondent failed to pay his insurance premium.

2. On March 4, 2019, Progressive sent Respondent a letter, advising that it had not received his premium payment; as a result, "your policy will be canceled at 12:01 a.m. on March 15, 2019."

3. On March 17, 2019, at 2:32 p.m., Respondent submitted to Progressive a statement of no loss ("SNOL"), which stated, "To be eligible to reinstate your policy you must verify the following conditions..."

(a) I, Uben S Leiva Enamorado, verify no household member has been involved in any motor vehicle accidents for the time period between 12:01 a.m. on March 15, 2019 and the time I signed this document.

- (b) I, Uben S Leiva Enamorado, verify no one operating a vehicle listed on my policy has been involved in an accident for the time period between 12:01 a.m. on March 15, 2019 and the time I signed this document.
- (c) I, Uben S Leiva Enamorado, verify there has been no damage to or theft of any of the vehicles listed on my policy during the time period between 12:01 a.m. on March 15, 2019 and the time I signed this document.

Based upon the above attestations made by Respondent, and in consideration for his premium payment, Progressive reinstated Respondent's insurance policy.

4. On March 18 and 19, 2019, a person, hereinafter "B.F." spoke to a Progressive representative, and reported that at about 2:47 p.m. on March 17, 2019, he was operating his Chevrolet, stopped at a traffic light, in Rockville, Maryland, when Respondent, who was operating a GMC, struck the rear of the Chevrolet. B.F. advised that he notified his automobile insurer, the Government Employers Insurance Company ("GEICO"), while at the scene of the accident.

5. On March 19, 2019, a Progressive representative contacted GEICO and learned that the accident time was reported as 2:30 p.m., two minutes before Respondent renewed his Progressive policy.

6. On March 28, 2019, a Progressive representative advised B.F. that Progressive needed to verify the time of the accident. B.F. examined the first photograph, which he took at the scene, following the accident. He reported the accident occurred at 2:29 p.m.

7. On March 28, 2019, B.F. submitted to Progressive photographs he took following the accident, as well as metadata from one of the photographs, which reflected that the photograph was taken at 2:29 p.m. Consequently, Progressive concluded, that all evidence provided by B.F. confirmed the accident occurred before Respondent completed the SNOL. The claim was denied.

8. On April 10, 2019, Progressive sent Respondent a letter denying the claim because its investigation revealed that the policy had lapsed, was reinstated with a SONL, when in fact, a loss had occurred during the lapse.

9. On April 19, 2019, Respondent contacted Progressive and asked why it was not paying the claim. The representative advised that Progressive's investigation revealed that the accident occurred before the policy was reinstated.

10. 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 the Respondent committed insurance fraud referred the matter to the MIA, Fraud Division.

11. On September 25, 2019, an MIA investigator contacted Progressive and confirmed the facts regarding its handling of Respondent's claim and policy reinstatement application.

12. On October 17, 2019, an MIA investigator interviewed B.F. who stated that on March 17, 2019, his vehicle was struck in the rear by Respondent. Immediately after the accident, B.F. exited his vehicle, and took photographs of both vehicles, which he provided to the MIA. An MIA investigator examined the photographs. The metadata reflected that the photographs were taken between 2:29 p.m. and 2:33 p.m.

13. On October 17, 2019, an MIA investigator contacted GEICO to confirm the details of the accident Respondent had with B.F. According to GEICO's notes, B.F. called GEICO from the scene of the accident and, the accident occurred at about 2:30 p.m.

## 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 the 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, the Respondent knowingly violated § 27-406(1). Respondent is, therefore, subject to an administrative penalty pursuant to § 27-408(c) of the Insurance Article.

## 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 claim 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), 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-2019-3512A) and name (Uben Servelio Leiva Enamorado). 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.

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 24<sup>th</sup> day of October 2019, **ORDERED** that:

Uben Servelio Leiva Enamorado 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.