

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

Donita Elizabeth Newman
3051 Victory Lane, Apt. 102
Suitland, Maryland 20746

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2020-07-007

Fraud Division File No.: R-2020-0788A

ORDER

This Order is entered by the Maryland Insurance Administration (the "MIA") against Donita E. Newman ("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. Respondent was a named insured on a homeowner's insurance policy with State Auto Mutual Insurance Company ("State Auto"), an authorized insurer, for her residence in Suitland, Maryland. The policy was in effect from December 26, 2018 through December 26, 2019.

2. On May 20, 2019, Respondent notified State Auto that on May 18, 2019, her personal items were stolen. State Auto opened a claim.

3. On May 21, 2019, a State Auto representative conducted a recorded interview with Respondent who reported that on May 18, 2019, she left her vehicle unattended while unloading groceries. When she returned, she discovered that an unknown person stole, among other things, her Chanel purse. Respondent stated that all of the items stolen were gifts from her cousin and that she notified the Prince George's County Police Department ("PGPD") of the

theft. The claims representative advised Respondent to submit to State Auto, a description of the property stolen as well as proof of its value.

4. On May 22, 2019, the State Auto representative again spoke to Respondent who stated that she had given the wrong information during her recorded statement, and that the purse was not a gift, it was an item she had owned. The other items were gifts from her nephew Michael, not her cousin.

5. On May 24, 2019, a State Auto representative spoke to the insurance producer who sold Respondent her homeowner's insurance policy. The insurance producer reported that the Respondent was behind on her premium payments, and two days prior to Respondent making her claim, she contacted him and asked about her coverage limits. The agent believed something was amiss and that the claim should be investigated.

6. On May 29, 2019, Respondent emailed State Auto, a notice of loss, wherein she estimated the value of the items stolen at \$15,000.00. Respondent provided an inventory of the stolen items, wherein she listed a Chanel purse, valued at \$6,360.00, for which she attached a receipt ostensibly issued by Neiman Marcus. Respondent signed the notice of loss report and inventory form, wherein the following fraud warning was cited:

Any person who knowingly and or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly and 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.

7. On June 7, 2019, a State Auto investigator conducted a recorded interview with Respondent who reported that she purchased the purse from Neiman Marcus, online, and went to the store to pick it up. Respondent stated she's had the purse for a while.

8. On June 12, 2019, in an effort to authenticate the Neiman Marcus receipt, a State Auto representative contacted Neiman Marcus and was advised that the receipt was not

legitimate; among other things, it did not display store hours, the register number on the receipt was for a register that was not operational on the alleged purchase date.

9. On June 24, 2019, a State Auto representative sent Respondent a request to complete a sworn proof of loss, as well as a reservation of rights (“ROR”) letter, which stated:

We are writing to inform you State Auto is specifically reserving all rights relative to this claim, and will be undertaking a thorough investigation of this claim.

10. On August 1, 2019, a State Auto representative advised Respondent that the receipts she provided were not valid.

11. On August 9, 2019, Respondent notified State Auto that she was withdrawing her claim.

12. 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.

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

13. In the course of its investigation, the MIA contacted State Auto and confirmed the facts surrounding its handling of Respondent’s claim.

14. On May 11, 2020, an MIA investigator contacted the office of the insurance producer who sold Respondent her State Auto homeowner’s insurance policy and confirmed that the policy was in force at the time Respondent made her May 18, 2019 theft claim.

15. On May 11, 2020, a Niemen Marcus representative advised the MIA investigator by email that the \$6,360.00 Neiman Marcus receipt Respondent submitted to State Auto was false.

16. An MIA investigator examined the PGPD police report, which reflected that on May 18, 2019, Respondent made a theft report. Among the items list as stolen was a purse valued at \$50.00, not \$6,360.00, as Respondent reported to State Auto.

II. Violation(s)

17. By engaging in the conduct described above, the MIA finds that Respondent violated Section 27-403 of the Maryland Insurance Article, which states:

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[.]

18. **§ 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.

19. By engaging in the conduct described herein, Respondent violated § 27-403. Respondent is therefore subject to an administrative penalty pursuant to § 27-408(c) of the Insurance Article.

III. Sanctions

20. 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.

21. Having considered the factors stated in § 27-408(c)(2) of the Insurance Article, the Administration has determined that \$1,500.00 is an appropriate penalty amount.

22. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2020-0788A) and name (Donita E. Newman). 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.

23. This Order does not preclude any potential or pending action by any other person, entity, or government authority regarding any conduct by Donita Newman, 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 9th day of July 2020, **ORDERED** that:

Donita E. Newman shall pay an administrative penalty of one thousand five hundred dollars (\$1,500.00) within 30 days of the date of this Order.

KATHLEEN A. BIRrane
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: 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.