

3. On January 2, 2020, Schlaile, Swope's daughter, notified Erie that she was a passenger in Swope's insured vehicle when Swope struck a guardrail, on December 17, 2019. Schlaile reported injuries for which she received treatment.

4. On January 6, 2020, an Erie representative obtained a copy of the Maryland State Police accident report wherein, Schlaile was identified as the driver and sole occupant of Swope's insured vehicle. A Maryland State Trooper issued citations to Schlaile for violating state motor vehicle laws.

5. An Erie representative performed a Maryland Judiciary case search and discovered that on December 17, 2019, Swope was issued a citation for knowingly permitting a motor vehicle to be driven on highway by unauthorized person, (Schlaile). Erie referred Respondents' claim to its Special Investigations Unit ("SIU") for further investigation.

6. On January 10, 2020, an Erie representative conducted separate telephonic recorded interviews with Swope and Schlaile. Swope reported that she picked Schlaile up from work; while in route home, she had an accident and Schlaile was injured. Swope confirmed that a Maryland State Trooper came to the accident location, but denied that the Trooper issued citations for motor vehicle violations. Schlaile reported that she was Swope's passenger when the accident occurred. Schlaile also reported that traffic citations were not issued.

7. Later, the same day, an Erie investigator conducted separate recorded interviews with Schlaile and Swope. Schlaile again reported to Erie that traffic citations were not issued and that she was a passenger. The Erie investigator confronted Swope with the content of the accident report, which stated that Schlaile was driving. He advised Swope that he was aware that she and Schlaile were issued citations. Swope subsequently confessed that Schlaile was driving at the time of the accident, and that she was not in the vehicle.

8. On February 28, 2020, Erie sent a denial letter to Swope, which stated in part,

...[Y]ou and your daughter [Schlaile]... repeatedly stated to representatives of ERIE that you were the driver of the vehicle and she was the passenger. These statements, however, intentionally misrepresented the material facts and circumstances.

9. On March 25, 2020, Erie assigned Respondents' claim to its collection's unit to seek repayment of the \$695.54 it paid for rental car benefits. Erie authorized payment to Swope in reliance on her statements, which were later determined to be false. 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.

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

11. In the course of its investigation, the MIA contacted Erie and confirmed its handling of Respondents' claim.

12. On August 21, 2020, an MIA investigator contacted the Maryland State Police. A Trooper confirmed the authenticity of the accident report, specifically, Swope was the owner of the vehicle involved in the accident and that Schlaile operated the vehicle at the time of the December 17, 2019 accident.

13. An MIA investigator examined the Maryland Judiciary website and confirmed that on December 17, 2019, Swope was issued a traffic citation for "Owner knowingly permitting motor vehicle to be driven on hwy. by unauthorized person." Schlaile was issued five citations for violating Maryland motor vehicle laws on December 17, 2019, to include "negligent driving..."

II. Violation(s)

14. Based on the foregoing and considering all relevant sections of the Insurance Article, the Administration finds that Respondents violated the Maryland Insurance Article as follows:

15. § 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[.]

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, Respondents 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. Respondents violated of the Insurance Article when they provided false statements to Erie. As such, Respondents are 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 that 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 for each Respondent is an appropriate penalty.

20. Additionally, Swope is ordered to reimburse Erie in the amount of \$695.54 for rental vehicle benefits she received when Erie relied on her false statements.

21. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2020-2420A) and name (Cheryl Leigh Swope and Carolyn Shaye Schlaile). Payment of the administrative penalty shall each 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.

22. Notification of reimbursement to Erie shall be made in writing to the Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. Such notification shall include a copy of the money order or cancelled check issued to Erie as proof of reimbursement and identify the case by number (R-2020-2420A) and name (Cheryl Leigh Swope).

23. This Order does not preclude any potential or pending action by any other person, entity, or government authority regarding any conduct by Respondents, 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 24th day of September 2020, ORDERED that:

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

(2) Cheryl Leigh Swope shall pay restitution to Erie in the amount of six hundred ninety five dollars and fifty four cents (\$695.54) within 30 days of the date of this Order.

(3) Carolyn Shaye Schlaile 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 Respondents in a Final Order after hearing.