

**OFFICE OF THE INSURANCE COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION**

**MARYLAND INSURANCE
ADMINISTRATION
EX REL. E.W.¹**

Complainant,

v.

Case No. MIA 2022-08-005

**GOVERNMENT EMPLOYEES
INSURANCE COMPANY,
RLI INSURANCE COMPANY
GEICO INSURANCE AGENCY, LLC**

Licensee.

* * * * *

MEMORANDUM AND FINAL ORDER

Pursuant to §§ 2-204 and 2-214 of the Insurance Article of the Annotated Code of Maryland,² the Undersigned concludes that Government Employees Insurance Company (“GEICO”) did not violate Maryland insurance law in its non-renewal of Complainant’s umbrella policy. Further, the Undersigned concludes that RLI Insurance Company (“RLI”) and GEICO Insurance Agency, LLC (“GIA”) did not violate Maryland insurance law by considering a speed camera violation as an underwriting eligibility criterion concerning this umbrella policy. Lastly, the Undersigned concludes that GIA did not violate Maryland insurance law by refusing to submit an application for an umbrella insurance policy to RLI.

¹ The MIA uses initials to identify a Complainant and to protect the privacy of the Parties.

² Unless otherwise noted, all statutory citations are to the Insurance Article of the Annotated Code of Maryland.

STATEMENT OF THE CASE

This matter arose from an administrative complaint (“Complaint”) filed by Complainant with the Maryland Insurance Administration (“MIA”) on February 4, 2022. (MIA Exhibit (“Ex.”) 1.) In his Complaint to the MIA, Complainant alleged that he received a letter from GEICO dated January 19, 2022 notifying him that his umbrella policy would not be renewed due to two automobile accidents. Complainant further alleged that GEICO’s underwriting standards violated Maryland insurance laws, as the accidents occurred more than three years ago. (MIA Ex. 1.) Further, Complainant alleged that he was he was told that another policy through a subsidiary company, RLI, had looser standards. To determine whether Complainant qualified for a policy through RLI, he was asked whether he had any speeding tickets and he responded that he had citations from automated cameras. Complainant further alleged that he was denied the opportunity to obtain an umbrella policy through RLI, due to his response. In sum, Complainant questioned whether a records of citations based only on automated cameras is a valid reason for denial of coverage.

After investigating the Complaint, the MIA’s Property and Casualty Complaints Unit determined that Licensees GEICO, GEICO Insurance Agency, and RLI had not violated the Insurance Article, and notified the Parties of its findings by two separate letters dated July 12, 2022. (MIA Ex. 14.) Specifically, the MIA Property and Casualty Complaints Unit determined Maryland’s insurance regulatory laws had not been violated with respect to Government Employees Insurance Company’s (GEICO) nonrenewal of the Complainant’s umbrella Policy. With respect to the Complainant’s allegation that speeding camera violations were improperly considered as a basis to deny coverage for an umbrella policy, a second determination was issued setting forth a finding that Maryland’s insurance regulatory laws had not been violated by the

actions of RLI Insurance Company nor GEICO Insurance Agency, LLC. (*Id.*) The determination letters gave the Parties the right to request a hearing. (*Id.*) The Complainant disagreed with the MIA's determinations and timely requested a hearing, which was granted on August 4, 2022. (MIA Ex. 16.)

ISSUE

The issues presented in this case are whether GEICO violated the Insurance Article in its decision to non-renew Complainant's umbrella policy. Further, whether RLI and GIA violated the Insurance Article by improperly considering a speed camera violation as a criterion for underwriting eligibility. Lastly, whether GIA violated the Insurance Article by refusing to submit Complainant's application for an umbrella insurance policy to RLI.

SUMMARY OF THE EVIDENCE

A. Testimony

The virtual evidentiary hearing was initially scheduled for January 25, 2023. However, the virtual evidentiary hearing was postponed, as the attorneys on behalf of GEICO, RLI, and GIA had not received the MIA Exhibits prior to that date. The virtual evidentiary hearing was administratively postponed until February 13, 2023.

The virtual evidentiary hearing was held on February 13, 2023. Complainant provided sworn testimony on his own behalf. Greg Fanshaw Esquire, of Britton & Fanshaw, represented GEICO. Lauren A. Christmas, Corporate Counsel, represented RLI.

Daniel Husser, Administrator, and Jason Kemp, Underwriting Manager, testified on behalf of RLI. Anne Wood, Compliance Representative, provided sworn testimony on behalf of GEICO.

B. Exhibits

*MIA Exhibits*³ (In Record)

1. Complaint from Complainant to MIA, received February 4, 2022
2. Correspondence from MIA to GEICO, dated February 9, 2022
3. Correspondence from GEICO, received on March 2, 2022
4. Correspondence from MIA to Licensee GEICO, dated March 4, 2022
5. Correspondence from MIA to Licensee RLI, including Complaint, dated March 4, 2022
6. Correspondence from GEICO, received on March 10, 2022
7. Correspondence from RLI, received on March 25, 2022
8. Correspondence from MIA to GIA, dated March 29, 2022
9. Correspondence from GIA, received on April 7, 2022
10. Correspondence from MIA to GIA, dated April 25, 2022
11. Correspondence from GIA, received on April 28, 2022
12. Correspondence from MIA to GIA, dated June 2, 2022
13. Correspondence from GIA, received on June 2, 2022
14. Determination Letter from MIA to parties, dated July 12, 2021
15. Hearing Request from Complainant to MIA, received on August 1, 2022
16. Letter to Parties Granting Complainant's Hearing Request, dated August 4, 2022

RLI's Exhibits

1. Blank Personal Umbrella Liability Insurance Application
2. *Stickley v. State Farm Fire and Cas. Co.*, 2.1-2.11, 431 Md. 347 (2013)
3. MD Code, Transportation, § 21-809, (West 2022)
4. MIA Determination Letter
5. Response to RLI Motion for Summary Decision
6. RLI Response to Complaint

Complainant's Exhibits

1. On November 23, 2022, Complainant submitted a 14-page document to the Office of Hearings, including Complainant's Complaint; Notice of Non-renewal dated January 19, 2021; GEICO underwriting rules for umbrella policies; Copy of § 21-809, MD Insurance Article; copy of GEICO umbrella policy coverage; copy of letter from attorney representing RLI; March 25, 2022 letter from RLI to Complainant; Copy of § 21-809, Transportation Code; Sample of speed monitoring violation

³ At the start of the Hearing, the Parties stipulated to the admission of all of the MIA exhibits.

2. On February 2, 2022, Complainant submitted a 26-page document to the Office of Hearings, including Complainant's Complaint, Notice of Non-renewal dated January 19, 2021; August 4, 2022 letter from MIA ordering that GEICO continue coverage, Notice of non-renewal dated January 17, 2023; § 27-501(d)(i), Insurance Article; Copy of GEICO umbrella policy coverage; Copy of March 25, 2022 letter from RLI; Excerpts from GEICO correspondence concerning their decision to decline coverage partly due to speed camera violations; Copy of § 21-809, Transportation Code; Sample of speed monitoring violation; RLI Motion for Summary Decision; Complainant's response to Motion for Summary Decision; Order denying RLI's Motion for Summary Decision

FINDINGS OF FACT

The findings of fact contained herein are based upon a complete and thorough review of the entire record in this case. The record includes the above referenced exhibits and the transcript of the February 13, 2023 virtual evidentiary hearing. To the extent that there are any facts in dispute, the following facts are found to be true by a preponderance of the evidence. Citations to particular parts of the record are for ease of reference and are not intended to exclude, and do not exclude, reliance on the entire record.

1. At all relevant times, GEICO held, and currently holds, a Certificate of Authority from the State of Maryland to act as a property and casualty insurer.
2. At all relevant times, RLI held, and currently holds, a Certificate of Authority from the State of Maryland to act as a property and casualty insurer.
3. At all relevant times, GIA held, and currently holds, a License to act as a Property & Casualty Producer in the state of Maryland.
4. GEICO issued an umbrella/excess liability policy, Policy # P70**134, ("Policy") to Complainant with an effective date of March 28, 2021 to March 28, 2022. (MIA Ex. 3.) In relevant part, the Policy states,

9. Termination

(b) Non-Renewal

If **we** choose not to renew this policy, **we** will mail written notice to **you** at least 45 days before the end of the policy period.

(c) **Our** notice may be delivered or mailed to **you** at the last known address **you** indicated to **us**.

(d) Proof of mailing is sufficient proof of notice.

* * * *

(MIA Ex. 3.)

5. On January 19, 2022, GEICO sent a Notice of Nonrenewal of Insurance to Complainant stating that it would not renew the Policy. (MIA Ex. 1, 3; Complainant Exhibit (“Compl. Ex.”) 1.)

6. In relevant part, the January 19, 2022 letter from GEICO stated, “Date of Expiration: 3/28/2022; 12:01 A.M. Local Time at the mailing address of the Named Insured.” (Id.) Further, the letter stated, “We will not renew this policy when it expires. Your insurance will cease on the Expiration Date shown above.” (Id.)

The reason for nonrenewal is the accidents and/or convictions for the listed driver (or drivers) exceed our underwriting guidelines,

[Complainant], 06-25-2018, Accident with parked vehicle At-Fault
[Complainant], 03-22-2021, Accident with parked vehicle At-Fault

* * * *

(MIA Ex. 1; Compl. Ex. 1)

7. Complainant filed a Complaint with the MIA’s Property & Casualty Complaints Unit on February 4, 2022. (MIA Ex. 1.) Complainant alleged that GEICO’s underwriting standards violated Maryland insurance laws, as the accidents occurred more than three years ago. (Id.) Further, Complainant alleged that he was told that another policy through a subsidiary company, RLI, had looser standards. To determine whether Complainant qualified for a policy through RLI, he was asked whether he had any speeding tickets and he responded that he had

citations from automated cameras. Complainant further alleged that he was denied the opportunity to obtain an umbrella policy through RLI, due to his response. Complainant questioned whether records of citations based only on automated cameras is a valid reason for denial of coverage. (*Id.*)

8. The MIA's Property & Casualty Complaints Unit notified GEICO of the complaint, and on March 1, 2022, GEICO submitted its initial response stating, in relevant part,

Our non-renewal action was taken because the following driving record does not meet our underwriting standard as cited above. The listed accidents were based on information provided by GEICO claim reports. The information provided by this source is as follows:

[Complainant], 06-25-2018, Accident with parked vehicle At-Fault
[Complainant], 03-22-2021, Accident with parked vehicle At-Fault

* * * *

(MIA Ex. 3.)

9. In GEICO's March 1, 2022 response to the MIA's Property & Casualty Complaints Unit, GEICO also provided its underwriting guidelines for the Policy. (MIA Ex. 3.)

The underwriting guidelines state,

Overall Accident History

We will take adverse action on any of the following within the last 5 years:

- 2 or more at-fault accidents by a single driver, or
- 3 or more at-fault accidents per household.

* * * *

(MIA Ex. 3.)

10. GEICO also produced a certificate of mailing showing that the Notice of Non-Renewal was mailed to Complainant by USPS mail and postmarked on January 19, 2022. (MIA Ex. 3.)

11. Anne Wood, an employee with GEICO's compliance department, testified at the virtual evidentiary hearing that, "Our underwriting standards are how we set our eligibility for how policies would be eligible to be renewed or if we could offer a policy to a customer." (Transcript (Tr.) at 39.) Ms. Wood further testified that each year, policies are reviewed to ensure that insureds are still complying with underwriting standards." (*Id.*) For the Complainant's Policy, Ms. Wood testified that the Policy was not renewed because Complainant had two at-fault accidents with a five-year period. (Tr. at 40.)

12. In its response to the MIA, GEICO also submitted the claim log notes for the Complainant's June 25, 2018 and March 22, 2021 accidents. (MIA Ex. 3.) For both accidents, Ms. Wood testified that GEICO determined the Complainant was the at-fault driver. (Tr. at 45.)

13. With respect to the underwriting standards relevant to the non-renewal of Complainant's Policy, Ms. Wood testified that, "For overall accident history, we will take adverse action on any of the following within the five years, two or more at-fault accidents by a single driver." (Tr. at 42.)

14. With respect to the records of Complainant's at-fault accidents, Ms. Wood testified that she reviewed GEICO claim log notes and determined that Complainant was at-fault for the June 25, 2018 and March 22, 2021 accidents. (Tr. at 45.)

15. Ms. Wood testified that GEICO's underwriting standards are for a legitimate business purpose, specifically, to sell insurance at a reasonable rate and to make a reasonable profit. (Tr. at 46.)

16. Specifically, Ms. Wood testified that, "[w]e use actuarial evidence and information based on statistics to take action for specific amounts of activity. In this case, we had the two at-faults." (*Id.*)

17. Further, Ms. Wood testified that the two actions listed in the non-renewal notice were the only basis for GEICO's non-renewal decision. (Tr. at 50.)

18. At the virtual evidentiary hearing, Ms. Christmas stipulated that RLI did, in fact, make an eligibility determination regarding Complainant. (Tr. at 6.)

19. Mr. Daniel Husser testified that he has been employed with RLI for eleven years and works with program administrators to solicit and sell personal umbrella products. (Tr. at 17.) In this capacity, Mr. Husser testified that he is familiar with the processes and systems that RLI uses to quote, bind, and issue personal umbrella policies. (*Id.*)

20. At the virtual evidentiary hearing, Mr. Husser testified that in order to complete an application for a personal umbrella policy, GIA would be responsible for completing an online application on behalf of Complainant. (Tr. at 18.)

21. Mr. Husser testified that GIA inputted data for Complainant to RLI's personal umbrella policy administration system ("RLI's System") to obtain a "Quick Quote." (Tr. at 22.)

22. The record includes a screen shot from RLI's System. (Tr. at 18; Lic. Ex. 7, 8)

23. Mr. Husser testified that RLI was not involved in the process of inputting data in RLI's system for Complainant. (Tr. at 18.) Further, Mr. Husser testified that RLI does not see any details about the potential insured. (Tr. at 19.)

24. With respect to the information made available to RLI concerning an eligibility determination, Mr. Husser testified that, "we ask simple questions about overall exposures for a particular household; answers are provided in the form of numbers; and that's it." (Tr. at 19.) Further, Mr. Husser testified that at the quote stage, RLI would not pull a motor vehicle report or request any additional information. (Tr. at 19.)

25. Mr. Husser testified that RLI's System includes a notes feature and that any agency notes from GIA can be entered and inputted in the notes section. (*Id.*)

26. The record includes data entered on January 21, 2022 by s****e@geico.com of GIA, on behalf of the Complainant, and is labeled "Policy Detail 13777914". (Lic. Ex. 7) For the record labeled, "Policy Detail 13777914", the record reflects that there were no notes entered by GIA in RLI's System. (Lic. Ex. 8.)

27. However, on GIA's April 7, 2022 response to the MIA's Property & Casualty Complainant's Unit, GIA prepared the following response to the investigator,

The quotes for RLI product are completed in the RLI Online system, the application is the same as provided in the RLI company response. The GEICO Insurance Agency notes are below. The risk was declined due to the driving activity. If you need anything additional, please let me know.

Sincerely,
Jeff Browne
GEICO Insurance Agency LLC

Dodge, Stephen Braxton (CY5500) 01/21/2022 4:32:09 PM:

Sale Id#:81812729

rli ref #13777914 decline due to: activity including 3 camera speeding violations within 3 years and 1 af accident for [Complainant]. Uknown (*sic*) if speeding tickets belong to [Complainant] or [Complainant's Wife].PH adv of 4th camera speeding ticket in 2018

* * * *

(MIA Ex. 9.)

28. Mr. Husser further testified that RLI made an eligibility determination for Complainant based on the information entered in the RLI System by GIA. (Tr. at 22.) Based on the information provided by GIA, Mr. Husser testified that Complainant was not eligible for insurance coverage with RLI due to the total number of moving violations and at-fault accidents in the household. (Tr. at 22.)

29. Mr. Husser further testified that age is a standard factor and the applicant's age is requested for all RLI umbrella policy applications. (Tr. at 27; Lic. Ex. 7.)

30. Mr. Jason Kemp, Underwriting Manager, Personal Lines Department of RLI, also testified at the hearing. (Tr. at 29.) Mr. Kemp oversees the underwriting of personal umbrella and home business insurance programs for RLI. (*Id.*)

31. Mr. Kemp testified that upon review of RLI's System, he found a quote that was started by an agent, with no further information, other than the numbers on the quote. (Tr. at 30.)

32. Mr. Kemp further testified that RLI only had access to the information submitted by GIA, on behalf of Complainant, in RLI's System. (Tr. at 31.) Mr. Kemp did not see any notes in RLI's System. (*Id.*)

33. With respect to Complainant's application, Mr. Kemp testified that he observed numbers in RLI's System corresponding to each of the questions on the application, but there were no underlying details. (Tr. at 31.) Further, Mr. Kemp testified that the information in RLI's System was entered by GIA, and that RLI was not involved with entering the information in the RLI System. (*Id.*) Finally, Mr. Kemp testified that RLI relied on Complainant, as well as other potential insureds, to provide accurate responses to the questions in order to receive a quote. (Tr. at 35.)

34. Mr. Kemp testified that RLI did not have a motor vehicle or consumer report for Complainant. (Tr. at 32.)

35. In Licensee RLI's March 25, 2022 response to the MIA, Licensee RLI stated,

In [Complainant's] case, the limited information received from his GEICO agent showed that at least one Driver was age 80 or over and that at least three moving violations and one at-fault accident had been attributed to a Driver(s). Accordingly, if the information within [Complainant's] application caused there to be a "Standard II" designation for Question 8 or 9, then the risk would have been ineligible. However, without having all information relating to Mr.

[Complainant's] application, we cannot state with certainty why the risk was ultimately ineligible for coverage. Because we do not have all pertinent information, we also cannot provide a copy of a quote.

* * * *

(MIA Ex. 8.)

36. In response to the MIA's request for documents, Licensee RLI provided its standard Personal Umbrella Liability Insurance Application. (MIA Ex. 8) Question 8 of the application requests, "How many moving violations have all drivers had within the last 3 years?..." (*Id.*) Question 9 of the application requests, "How many at-fault accidents have all drivers had in the last 3 years?" (*Id.*)

37. With respect to the responses to questions 8 and 9, the application states,

* If there are drivers age 70 or over AND an answer to questions 8 or 9 falls under the Standard II (not applicable in Hawaii) or the "PUP Special" column, the risk is not eligible.

**If an answer to questions 1 and/or 2 ONLY is in the "PUP Special" column, up to a \$5 million limit is available. A \$1 million limit is available if any other question response is in the "PUP Special" column. (This statement is not applicable in New Mexico.)

* * * *

(MIA Ex. 8.)

38. RLI's March 25, 2022 response to the MIA, Licensee RLI stated,

In [Complainant's] case, the limited information received from his GEICO agent showed that at least one Driver was age 80 or over and that at least three moving violations and one at-fault accident had been attributed to a Driver(s).

Accordingly, if the information within [Complainant's] application caused there to be a "Standard II" designation for Question 8 or 9, then the risk would have been ineligible. However, without having all information relating to Mr. [Complainant's] application, we cannot state with certainty why the risk was ultimately ineligible for coverage. Because we do not have all pertinent information, we also cannot provide a copy of a quote.

* * * *

(MIA Ex. 8.)

DISCUSSION

A. Positions of the Parties.

As an initial matter, RLI asserts that the cited sections of the Insurance Article from the July 12, 2022 determination letter do not pertain to umbrella policies. Accordingly, RLI asserts that the sections of the Insurance Article addressed in the MIA's July 12, 2022 determination letter are not applicable to the facts in this case. Further, RLI made a stipulation at the virtual evidentiary hearing that it did, in fact, make an eligibility determination regarding the Complainant. However, it did not take any improper action with respect to its determination that Complainant was ineligible for coverage for an umbrella policy with RLI. Specifically, RLI asserts that while Complainant may have discussed his speeding violations with GIA, RLI had no knowledge of whether the moving violations were from automated speeding cameras.

GEICO also asserts that the sections of the Insurance Article addressed in the MIA's July 12, 2022 determination letter are not applicable to the facts in this case. Further, GEICO asserts that its non-renewal of Complainant's umbrella policy was pursuant to proper underwriting standards. Lastly, GEICO asserts that it complied with all notice requirements.

Complainant asserts that GEICO's underwriting standards violated Maryland insurance laws, as the accidents occurred more than three years ago. Further, Complainant alleged that he was told that another policy through a subsidiary company, RLI, had looser underwriting standards. To determine whether Complainant qualified for a policy through RLI, Complainant maintains that he was asked whether he had any speeding tickets and that he responded that he had citations from automated cameras. Complainant further alleges that he was denied the opportunity to obtain an umbrella policy through RLI, due to his response. Complainant further asserts that

Maryland Transportation law prohibits citations based on speed monitoring systems to be considered in the provisions of motor vehicle insurance, and should not have been considered by GIA or RLI, as a basis for denial of coverage.

B. Statutory Framework

The Parties were notified in the Notice of Virtual Hearing that specific attention at the Hearing would be directed to Sections 27-501, 27-602, and 27-604 of the Insurance Article, as cited in the MIA Property and Casualty Units July 12, 2023 determination letters as to Licensees GEICO, RLI, and GIA.

Section 27-501 provides in relevant part the following:

Discrimination in underwriting

(a) In general --

(1) An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk for a reason based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

* * * *

Pursuant to § 27-501 (g), the insurer bears the burden of proof:

(g) At a hearing to determine whether this section has been violated, the burden of persuasion is on the insurer to show that the cancellation or refusal to underwrite or renew is justified under the underwriting standards demonstrated.

§ 27-501(g). To satisfy its burden of proof in this case by a preponderance of the evidence, Licensee must “prove that something is more likely so than not so” when all of the evidence is

considered. *Coleman v. Anne Arundel County Police Dep't*, 369 Md. 108, 125 n. 16 (2002) (quoting the Maryland Pattern Jury Instructions) (*internal citations omitted*).

(Westlaw, 2023)

Section 27-602 provides in relevant part the following:

(a)(1) This section applies only to policies of: (i) personal insurance; and (ii) homeowner's insurance under which a onetime guaranteed fully refundable deposit is required for a stated amount of coverage.

* * *

(c)(1) Subject to paragraph (5) of this subsection, at least 45 days before the date of the proposed cancellation or expiration of the policy, the insurer shall send to the named insured at the named insured's last known address, by a first-class mail tracking method, a written notice of intention to cancel for a reason other than nonpayment of premium or notice of intention not to renew a policy issued in the State.

* * * *

(Westlaw, 2023)

Section 27-604 provides in relevant part the following:

(a)(1) This section applies only to policies of personal insurance and insurance issued under the Maryland Property Insurance Availability Act¹ or any similar act instituted to ensure the availability of insurance.

* * *

Statement of actual reason for cancellation or refusal to renew policy

(b)(1) Whenever an insurer cancels or refuses to renew a policy subject to this section, the insurer must provide to the named insured a statement of the actual reason for the cancellation or refusal to renew.

* * * *

(Westlaw, 2023)

Section 10-126 provides in relevant part the following:

(a) The Commissioner may deny a license to an applicant under §§ 2-210 through 2-214 of this article, or suspend, revoke, or refuse to renew or reinstate a license after

notice and opportunity for hearing under §§ 2-210 through 2-214 of this article if the applicant or holder of the license:

* * *

(13) has otherwise shown a lack of trustworthiness or competence to act as an insurance producer;

* * * *

(Westlaw, 2023)

In *Berkshire Life Insurance Co. v. Maryland Insurance Administration*, the Court of Special Appeals adopted the Insurance Commissioner's interpretation of the "arbitrary and capricious" standard as articulated in an earlier case. *See* 142 Md. App. 628 (2002). As the Court explained:

The Commissioner has previously construed [Section] 27-303(2) as requiring a licensee insurer to show that it refused to pay the claim at issue based on: (1) an otherwise lawful principle or standard which the insurer applies across the board to all claimants; and (2) reasonable consideration of "all available information."

Id. at 671. (*internal citations omitted*).

C. Licensee RLI has satisfied its burden of demonstrating that its underwriting standards were justified and not in violation of Section 27-501(a)(1).

After investigating the Complainant's Complaint, the MIA determined that Licensee RLI had not violated the Insurance Article. For the reasons set forth below, I affirm.

Licensee RLI stipulated that it made an eligibility determination as to Complainant's umbrella policy application. In doing so, the evidence demonstrates that Licensee RLI relied in the data inputted into RLI's System by GIA, and that its decision not issue an umbrella policy to Complainant was consistent with Licensee RLI's standard business practices, and was not arbitrary, capricious, or unfairly discriminatory. Specifically, the record reflects that GIA entered data concerning the speed camera violations into the RLI System, which was then used by Licensee RLI to deny coverage for the umbrella policy. The record includes data entered on January 21,

2022 by s****e@geico.com of GIA, on behalf of the Complainant, and is labeled “Policy Detail 13777914.” (Lic. Ex. 7) For the record labeled, “Policy Detail 13777914”, the record reflects that no notes were entered by GIA in RLI’s System pertaining to the “Quick Quote” application. (Lic. Ex. 8.)

While the record reflects that no notes were available to Licensee RLI regarding the nature of the moving violations, based on GIA’s April 7, 2022 response to the MIA’s investigator, the record also includes the following note prepared and maintained in GIA’s internal system concerning the Complainant’s driving record:

Dodge, Stephen Braxton (CY5500) 01/21/2022 4:32:09 PM:
Sale Id#:81812729
rli ref #13777914 decline due to: activity including 3 camera speeding violations within 3 years and 1 af accident for [Complainant]. Unknown (*sic*) if speeding tickets belong to [Complainant] or [Complainant’s Wife].PH adv of 4th camera speeding ticket in 2018.

* * * *

(MIA Ex. 9.)

Again, the record reflects that the above note prepared by GIA was not available to Licensee RLI at the time it denied coverage for the umbrella policy. Instead, as Mr. Husser explained at the virtual evidentiary hearing, GIA inputted data for Complainant into RLI’s System to obtain a “Quick Quote.” (Tr. at 22.) The evidence further demonstrates that RLI was not directly involved in the process of inputting data in RLI’s system for Complainant and that RLI does not see any details about the potential insured. (Tr. at 19.) Further, with respect to the information that was made available to Licensee RLI concerning an eligibility determination, Mr. Husser testified that, “we ask simple questions about overall exposures for a particular household; answers are provided in the form of numbers; and that's it.” (Tr. at 19.) Additionally, Mr. Husser testified that

at the quote stage, RLI would not pull a motor vehicle report or request any additional information. (Tr. at 19.)

Further, Mr. Kemp also testified at the virtual evidentiary hearing that RLI only had access to the information submitted by GIA, on behalf of Complainant, in RLI's System. (Tr. at 31.) Further, Mr. Kemp also testified that he did not see any notes in RLI's System pertaining to the Quick Quote obtained for the Complainant. (*Id.*)

Notwithstanding the fact that GIA entered the speed camera citations in response to Question 8 of the application, Licensee RLI maintains that personal liability umbrella insurance policies are distinguishable from private passenger motor vehicle liability insurance policies. Therefore, use of speed camera violations to make an eligibility determination for a personal liability umbrella insurance policy is not prohibited under Section 21-809 of the Maryland Motor Vehicle Code. Specifically, Licensee RLI relies on *Stickley v. State Farm Fire and Casualty Company*, 431 Md. 347 (2013) as precedent distinguishing a personal liability umbrella insurance policy from a private passenger motor vehicle liability insurance policy. Further, as provided in Section 21-809 of the Maryland Transportation Code, citations from speed monitoring systems may not be considered in the provision of motor vehicle insurance coverage.

I find, however, that the relevant issue here is whether Licensee applied a uniform standard when making its eligibility determination with respect to the Complainant's application for an umbrella policy. Or, was the eligibility determination otherwise made in an arbitrary or capricious manner and in violation of Section 27-501(a)(1). The terms arbitrary and capricious were defined in *Berkshire, supra*, as follows: "The word 'arbitrary' means... subject to individual judgment or discretion, and made without adequate determination of principle. The word 'capricious'

[means]... based on an unpredictable whim.” *Berkshire Life Ins. Co. v. Maryland Ins. Admin.*, 142 Md. App. 628, 671 (2002).

Under this standard, the record demonstrates that the denial was not made based on an arbitrary or capricious standard. Rather, Licensee RLI treated Complainant’s application the same as others. Specifically, based on the information available to Licensee RLI, at least one driver was age 80 or over and at least three moving violations and one at-fault accident had been attributed to the driver. As a result, based on the information available to Licensee RLI at the time it made its eligibility determination, the information entered by GIA caused there to be a “Standard II” designation for Question 8 or 9 of the umbrella application, and the risk was therefore determined to be ineligible. (MIA Ex. 8.)

Accordingly, I therefore find that Licensee RLI did not violate § 27-501(a)(1).

D. Licensee GEICO has satisfied its burden of demonstrating that its underwriting standards were justified and not in violation of Section 27-501(a)(1).

After investigating the Complainant’s Complaint, the MIA determined that Licensee GEICO had not violated the Insurance Article in its cancellation of the Complainant’s umbrella policy. For the reasons set forth below, I affirm.

The record reflects that Licensee Geico issued an umbrella policy to Complainant containing the following provision concerning termination of the policy,

9. Termination

(b) Non-Renewal

If **we** choose not to renew this policy, **we** will mail written notice to **you** at least 45 days before the end of the policy period.

(c) **Our** notice may be delivered or mailed to **you** at the last known address **you** indicated to **us**.

(d) Proof of mailing is sufficient proof of notice.

* * * *

(MIA Ex. 3.)

The record further reflects that on January 19, 2022, GEICO sent a letter to Complainant stating that it would not renew the Policy. (MIA Ex. 1; Compl. Ex. 1.) As the reason for the nonrenewal of the umbrella policy, GEICO stated,

The reason for nonrenewal is the accidents and/or convictions for the listed driver (or drivers) exceed our underwriting guidelines,

[Complainant], 06-25-2018, Accident with parked vehicle At-Fault
[Complainant], 03-22-2021, Accident with parked vehicle At-Fault

* * * *

(MIA Ex. 1; Compl. Ex. 1)

In its response to the MIA's investigation, on March 1, 2022, GEICO stated,

Our non-renewal action was taken because the following driving record does not meet our underwriting standard as cited above. The listed accidents were based on information provided by GEICO claim reports. The information provided by this source is as follows:

[Complainant], 06-25-2018, Accident with parked vehicle At-Fault
[Complainant], 03-22-2021, Accident with parked vehicle At-Fault

* * * *

(MIA Ex. 3.)

Specifically, GEICO's underwriting guidelines state,

Overall Accident History

We will take adverse action on any of the following within the last 5 years:

- 2 or more at-fault accidents by a single driver, or
- 3 or more at-fault accidents per household.

* * * *

(MIA Ex. 3.)

I find that Ms. Anne Wood testified credibly at the virtual evidentiary hearing as to GEICO's underwriting standards. Specifically, Ms. Wood testified that, "[o]ur underwriting standards are how we set our eligibility for how policies would be eligible to be renewed or if we could offer a policy to a customer." (Transcript (Tr.) at 39.) Ms. Wood further testified that each year, policies are reviewed to ensure that insureds are still complying with underwriting standards." (*Id.*)

For the Complainant's Policy, Ms. Wood testified that the Policy was not renewed because Complainant had two at-fault accidents with a five-year period. (Tr. at 40.) I find that the evidence in this case demonstrates that Complainant had two at-fault accidents on June 25, 2018 and March 22, 2021 accidents and that the accidents occurred within five years prior to the non-renewal of the Complainant's umbrella policy. (MIA Ex. 3; Tr. at 45.) With respect to the underwriting standards relevant to the non-renewal of Complainant's Policy, Ms. Wood testified that, "For overall accident history, we will take adverse action on any of the following within the five years, two or more at-fault accidents by a single driver." (Tr. at 42.) Ms. Wood testified that GEICO's underwriting standards are for a legitimate business purpose, specifically, to sell insurance at a reasonable rate and to make a reasonable profit. (Tr. at 46.) Further, Ms. Wood testified that GEICO uses actuarial evidence and information based on statistics to take action for specific amounts of activity. (*Id.*) Lastly, Ms. Wood testified that the two actions listed in the January 19, 2022 non-renewal notice were the only basis for GEICO's non-renewal decision. (Tr. at 50.)

While the Complainant has alleged that GEICO improperly used age as a factor to cancel his umbrella policy, I find that Complainant has not produced any documents supporting this contention. Mere conjecture on the part of the Complainant that age "could also conceivably be used as a limiting factor as a decision to not provide insurance," is insufficient to overcome the

evidence in this case demonstrating that License GEICO followed its underwriting standards when it denied Complainant's umbrella application. (Tr. at 21 – 22.)

The terms arbitrary and capricious were defined in *Berkshire, supra*, as follows: “The word ‘arbitrary’ means... subject to individual judgment or discretion, and made without adequate determination of principle. The word ‘capricious’ [means]... based on an unpredictable whim.” *Berkshire Life Ins. Co. v. Maryland Ins. Admin.*, 142 Md. App. 628, 671 (2002). Under this standard, I find that the record reflects that Licensee GEICO did not act arbitrarily or capriciously in its cancellation of the Complainant's umbrella policy.

For the foregoing reasons, I therefore find that Licensee did not violate § 27-501(a)(1) .

E. Licensee GEICO has satisfied its burden of demonstrating its notice cancelling the Complainant's umbrella policy was not in violation of Sections 27-602(c)(1), 27-604(b)(1) or 27-604(d)(1).

After investigating the Complainant's Complaint, the MIA determined that Licensee GEICO had not violated the Insurance Article with respect to its notice cancelling the Complainant's umbrella policy. For the reasons set forth below, I affirm.

Licensee GEICO issued an umbrella/excess liability policy, Policy # P70**134, (“Policy”) to Complainant with an effective date of March 28, 2021 to March 28, 2022. (MIA Ex. 3.) On January 19 2022, Licensee GEICO sent a Notice of Nonrenewal of Insurance. (MIA Exs. 1, 3.) The January 19, 2022 letter stated, “Date of Expiration: 3/28/2022; 12:01 A.M. Local Time at the mailing address of the Named Insured.” (*Id.*) Further, the letter stated, “We will not renew this policy when it expires. Your insurance will cease on the Expiration Date shown above.” (*Id.*) Further, the January 19, 2022 letter stated,

The reason for nonrenewal is the accidents and/or convictions for a listed driver (or drivers) exceed our underwriting guidelines.

Eugene Paul Wesley, 06-25-2018, Accident with parked vehicle At-Fault

Eugene Paul Wesley, 03-22-2021, Accident with parked vehicle At-Fault

* * * *

(MIA Ex. 3.)

In response to the MIA's investigation, Licensee GEICO produced a certificate of mailing showing that the Notice of Non-Renewal was mailed to Complainant by USPS mail and postmarked on January 19, 2022. (MIA Ex. 3.)

I find that Licensee did not violate 27-602(c)(1), 27-604(b)(1) or 27-604(d)(1), in that it timely sent a written notice to Complainant of the cancellation of his umbrella policy, at his last known address, by first-class mail tracking method, and at least 45 days before the date of the expiration of the umbrella policy. Further, the January 19, 2022 Notice of Nonrenewal of Insurance provided the actual reason for the cancellation of the Complainant's umbrella policy.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, it is found as a matter of law that Licensee GEICO is not in violation of §§ 27-501, 27-602, or 27-604, and has not otherwise violated the Insurance Article.

Further, based upon the foregoing Findings of Fact and Discussion, it is found as a matter of law that Licensee RLI is not in violation of § 27-501, and has not otherwise violated the Insurance Article.

Finally, based upon the foregoing Findings of Fact and Discussion, it is found as a matter of law that Licensee GIA is not in violation of § 27-501, and has not otherwise violated the Insurance Article.

FINAL ORDER

IT IS HEREBY ORDERED that the July 12, 2022 determination issued by the Maryland Insurance Administration as to GEICO is AFFIRMED; and it is further

IT IS HEREBY ORDERED that the July 12, 2022 determination issued by the Maryland Insurance Administration as to RLI and GIA is AFFIRMED; and it is further

ORDERED that the records and publications of the Maryland Insurance Administration reflect this decision.

It is so **ORDERED** this 5th day of October, 2023.

KATHLEEN A. BIRRANE
Insurance Commissioner

signature on original _____

ERICA J. BAILEY
Chief Hearing Officer/Associate Commissioner
Office of Hearings