

**IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION**

v.

**WAYNE A. FERGUSON
2133 Pulaski St
Baltimore, Maryland 21217**

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CASE NO.: MIA- 2023-12-001

Fraud Div. File No.: R-2023-1066A

ORDER

This Order is issued by the Maryland Insurance Administration (the “MIA”) against Wayne Anthony Ferguson (“Respondent”) pursuant to Md. Code Ann., Ins. Art. §§ 2-108, 2-201, 2-204 and 2-405 (2017 Repl. Vol. & Supp.) for the violations of the Maryland Insurance Article identified and described.¹

I. RELEVANT MATERIAL FACTS

1. Respondent was a named insured on an automobile insurance policy issued by Erie Insurance Exchange (“Erie”), an authorized insurer, for his 2018 Honda. The policy was in effect from September 7, 2022 to September 7, 2023.

2. On September 16, 2022, Respondent notified Erie that on September 14, 2022, seven days after his policy took effect, he parked his insured Honda in the Target Store parking lot in Owings Mills, Maryland, and left it unattended. When he returned to his vehicle, he discovered that it had been struck by another vehicle, causing damage to the passenger-side rear door. Respondent reported that the striking vehicle fled, and “a guy” tried to get the tag number but could not. Respondent stated, “I could not even recognize the number.” Erie opened a claim.

¹ Unless otherwise indicated, all statutory references in this Order are to the Insurance Article of the Maryland Code.

3. On September 21, 2022, Respondent's claim was referred to Erie's Special Investigations Unit ("SIU"), because the loss occurred within seven days of the policy effective date. An Erie investigator examined Respondent's insurance claim history and discovered that Respondent made a claim to the Government Employees Insurance Company ("GEICO") for an August 9, 2022 loss for damages to his Honda.

4. An Erie investigator contacted GEICO. A GEICO representative advised that the damage Respondent reported to GEICO following the August 9, 2022 loss was to the same area of the Honda as Respondent reported to Erie as occurring on September 14, 2022. The GEICO representative further advised that Respondent was unable to pay his \$1,000.00 deductible, and therefore, withdrew his claim. GEICO then closed Respondent's claim without payment.

5. On September 22, 2022, an Erie representative inspected and photographed the damages to Respondent's Honda, and noted a medium-sized dent near the doorknob of the passenger side rear door.

6. On September 26, 2022, an Erie representative interviewed Respondent who reiterated how he discovered the damage. The representative explained to Respondent that the damage was not consistent with a car striking it, but vandalism. The representative explained that the damage was a "...soft type dent, higher on the panel. Not something that a car strike would do." The Erie representative asked whether the damage reported to Erie as having occurred on September 14, 2022 was the same damage that Respondent reported to GEICO in his August 9, 2022 claim. Respondent replied, "Yes."

7. On September 28, 2022, an Erie investigator conducted a recorded interview of Respondent. The investigator asked Respondent, "...when the claim was filed with GEICO

[August 9, 2022] that is when the damage to the door occurred, correct?” Respondent replied, “Yes.”

8. On October 4, 2022, Erie denied Respondent’s claim because it concluded that the damages Respondent reported as occurring on September 14, 2022, actually occurred before Respondent’s Erie policy went into effect, and was the same damage Respondent reported to GEICO as having occurred on August 9, 2022.

9. Section 27-802(a)(1) 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 Respondent committed insurance fraud, referred the matter to the MIA, Fraud and Enforcement Division, which opened an investigation.

The MIA's Investigation

10. On October 2, 2023, an MIA investigator interviewed Respondent who admitted that he filed a claim with Erie for damage that had already been reported to GEICO in August 2022. Respondent admitted that he misrepresented the date of loss when he reported to Erie that the loss occurred on September 14, 2022. Respondent said he just wanted to get his car fixed.

II. VIOLATION(S)

11. The following provisions of the Insurance Article apply to acts and omissions of Respondent in the State:²

² The failure to designate a particular provision in this proposed Order does not deprive the Commissioner of the right to rely on that provision. This Order also does not contain references to regulations contained in Title 31 (Maryland Insurance Administration) of the Code of Maryland Regulations (COMAR), which may be applicable.

§ 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.

§ 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.

12. By the conduct described herein, Respondent knowingly violated § 27-403. Respondent violated the Insurance Article when he made false statements to Erie in support of a claim when he reported that the damage to his Honda occurred after the Erie insurance policy took effect, when the damages actually occurred prior to the effective date of his policy. Respondent admitted to making the false statements to Erie.

13. Respondent's false statements were made in support of an insurance claim. As such, Respondent is subject to administrative penalties under § 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. §§ 2-201(d)(1) and 2-405.

15. Having considered the factors set forth in § 27-408(c)(2), the MIA has determined that a fine of \$1,000.00 is an appropriate penalty against Respondent.

16. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2023-1066A) and name (Wayne Anthony Ferguson). Payment of the administrative penalty shall be sent to the attention of: Joseph E. Smith, Acting Associate Commissioner, Insurance Fraud & Enforcement Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. Unpaid penalties will be referred to the Central Collections Unit for collection.

17. This Order does not preclude any potential or pending action by any other person, entity or government authority, regarding any conduct by 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 1st day of December 2023, **ORDERED** that:

Wayne Anthony Ferguson shall pay an administrative penalty of One-Thousand Dollars (\$1,000.00) within 30 days of the date of this Order.

KATHLEEN A. BIRRANE
Insurance Commissioner

BY: signature on original
JOSEPH E. SMITH
Acting Associate Commissioner
Insurance Fraud & Enforcement 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, to the 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