

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE	*	REVIEW OF A RECOMMENDED
ADMINISTRATION	*	DECISION ISSUED BY
<i>EX REL.</i> T.D. ¹ ,	*	JEFFREY T. BROWN
Complainant	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
STATE FARM MUTUAL AUTO	*	ADMINISTRATIVE HEARINGS
INSURANCE,	*	OAH No.: MIA-CC-33-22-19318
Licensee	*	MIA No.: MIA 2022-07-023
* * * * *		

FINAL ORDER

As a consequence of the Complainant’s failure to file a response to the Proposed Default Order in the above-captioned case, it is hereby, ORDERED that the attached Proposed Default Order by Administrative Law Judge (ALJ) Brown is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

ORDERED that the Proposed Default Order of ALJ Brown be adopted as the Commissioner’s Final Order, and it is further

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

¹ The MIA uses initials to protect the identity of the Parties.

It is so **ORDERED** this 25th day of July 2023.

KATHLEEN A. BIRRANE
Commissioner

signature on original

ERICA J. BAILEY
Chief Hearing Officer/Associate Commissioner

T.D.,

COMPLAINANT

v.

STATE FARM MUTUAL AUTO

INSURANCE,

LICENSEE

* BEFORE JEFFREY T. BROWN,

* AN ADMINISTRATIVE LAW JUDGE

* OF THE MARYLAND OFFICE

* OF ADMINISTRATIVE HEARINGS

* OAH No.: MIA-CC-33-22-19318

* MIA No.: 2022-07-023

* * * * *

PROPOSED DEFAULT ORDER

On March 17, 2022, the Complainant filed a complaint with the Maryland Insurance Administration (MIA) against State Farm Mutual Auto Insurance (Licensee). The Complainant alleged that the Licensee erred in its handling of his August 9, 2019 roof damage claim.¹ The MIA investigated the complaint but found no violations of Maryland insurance law. On July 20, 2022, the Complainant requested a hearing. On August 3, 2022, the MIA transmitted the matter to the Office of Administrative Hearings (OAH) for a contested case hearing. In its transmittal, the MIA delegated to the OAH authority to issue a proposed decision.²

On September 19, 2022, the OAH sent a Notice of Hearing (Notice) to the Complainant by United States Postal Service (USPS) mail, which was sent to the Complainant's address on record with the OAH.³ Code of Maryland Regulations (COMAR) 28.02.01.05C(1). The Notice stated that a hearing was scheduled for December 5, 2022, at 9:30 a.m., at the OAH in Hunt Valley, Maryland. I convened a hearing on that date. The Complainant appeared and represented himself. He was accompanied by Anthony McClanahan, a witness. Laura Basem

¹ These allegations were gathered from the MIA file; no evidence was presented.

² The Insurance Commissioner may delegate to the OAH the authority to conduct a contested case hearing and issue: (a) proposed or final findings of fact; (b) proposed or final conclusions of law; (c) proposed or final findings of fact and conclusions of law; or (d) a proposed or final order. Code of Maryland Regulations (COMAR) 31.02.01.04-1A.

³The Complainant's address on Waterside Place in Hughesville, Maryland, was provided by the MIA on the transmittal that accompanied the Complainant's request for a hearing.

Jacobs, Esq., represented the Licensee. Charles Casey appeared as the Licensee's representative. At the outset of the hearing, this Administrative Law Judge (ALJ) informed the Complainant that in the 1990's, he was employed for six years at the same law firm at which Ms. Jacobs works, and that he knew Ms. Jacobs as a colleague at that time for approximately one year. The Complainant was informed by this ALJ that he and Ms. Jacobs had no other association, and the fact of his past employment 22 years earlier did not prevent him from being impartial. The Complainant moved preliminarily for a postponement, as he had to unexpectedly use his wife's vehicle, and he left his hearing notes and materials in another car. After a brief opportunity for all parties to be heard, I found good cause to postpone the matter, and granted the request. COMAR 28.02.01.16C, E(1). The matter was then converted to a Prehearing Conference (Conference). At that time, a joint request to convert the in-person proceedings to remote was made and granted. COMAR 28.02.01.20B.

After these matters were addressed, the Complainant stated that he wished to confer with an attorney before a merits hearing was scheduled, and intended to file a motion to disqualify this ALJ (Motion) based on his past connection to the firm representing the Licensee. After a brief discussion of this issue, the Complainant was given leave to file any such motion by December 20, 2022. At the Conference, this ALJ proposed a follow-up Prehearing Conference to be held in February 2023 after allowing sufficient time to rule upon the proposed Motion. The parties provided their email addresses to this ALJ and consented to electronic delivery of the Prehearing Conference Report and Scheduling Order (PCR).

On December 14, 2022, an email was sent to the parties, at the email addresses provided at the Conference, inquiring of their availability to conduct a hearing on the merits in February 2023, rather than a prehearing conference, and offered five dates in early February 2023.

COMAR 28.02.01.11A(2). Neither email resulted in an “undeliverable” message. Only Ms. Jacobs replied, stating that she was available on February 3, 2023. When the Complainant failed to respond, February 3, 2023 was selected for a merits hearing.

On December 15, 2022, I issued the PCR, informing the parties that a remote hearing on the merits would be conducted on February 3, 2023. The Complainant did not file a motion to disqualify by December 20, 2022. Had he done so, and had it been necessary, a different ALJ would have heard this matter on February 3, 2023. On December 27, 2022, a Notice of Remote Prehearing Conference (Notice), rather than a Notice of Remote Hearing, was issued to the Complainant at his address on record. It specified that this matter would proceed remotely, via Webex, on February 3, 2023 at 9:30 a.m., and included Webex log-in information and instructions. The Notice warned that failure to appear or give timely notice of an inability to appear “may result in a decision against you.”

On February 3, 2023, I convened the Remote Hearing at 9:45 a.m., after waiting for fifteen minutes for the Complainant to appear in the Webex virtual lobby. Ms. Jacobs appeared on behalf of the Licensee at 9:30 a.m. and was ready to proceed. Mr. Casey appeared once again as the Licensee’s representative. The Complainant did not appear. I confirmed that the Notice was mailed to the Complainant at the same address to which prior notice was sent.⁴ At 9:44 a.m., I confirmed with an OAH clerk that the Notice by regular mail had not been returned, that no request for a postponement had been received from the Complainant, and that no contact had been received from the Complainant stating why he was not present at 9:30 a.m. for the proceeding. I confirmed with Ms. Jacobs that the contact information in her possession matched what the OAH had been provided, both as to the Complainant’s mailing address and email

⁴ The Notice was mailed to the Complainant’s address on Waterside Place in Hughesville, Maryland.

address. I observed the Webex virtual lobby from 9:00 a.m. until 9:50 a.m., and the Complainant did not appear. At that time, Ms. Jacobs moved for a default.

I conclude that the Complainant received proper notice of the remote proceeding on February 3, 2023 at 9:30 a.m. COMAR 28.02.01.05C. Such notice was provided in the PCR sent to the Complainant by electronic mail on December 15, 2022, and in the Notice mailed to the Complainant's address of record on December 27, 2022. The electronic mail did not generate an "undeliverable" response, and the Notice sent by regular mail was not returned. The Complainant did not contact the OAH to request a postponement prior to the date of the hearing, or on the morning of the hearing. COMAR 28.02.01.16. The Complainant did not contact the OAH to provide any reason why he was unable to attend the hearing.

THEREFORE, I **PROPOSE** the following:

1. The Complainant is in **DEFAULT**;
2. All further proceedings in this matter are **TERMINATED**, and a disposition of **DISMISSAL** is entered against the Complainant;
3. The Complainant or the Complainant's representative may file, within fifteen (15) days with the Hearing and Appeals Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, a written motion to modify or vacate this Proposed Default Order, stating the grounds for the request. COMAR 28.02.01.23D; COMAR 31.02.01.09-1B(4); COMAR 31.02.01.10G. If good cause is not shown to excuse the default, the Proposed Default Order will be affirmed as the final order, and the denial of the Complainant's complaint against the Licensee will stand. COMAR 31.02.01.10H(2); and
4. Any motion requesting that the Proposed Default Order be vacated or modified must include a certificate of service indicating that a copy of the written motion was mailed,

postage prepaid, to the attorney for the Licensee, Laura Basem Jacobs, Esquire, Budow & Noble,
P.C., Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 540, Rockville, Maryland
20852.

February 15, 2023
Date Order Issued

signature on original

Jeffrey T. Brown
Administrative Law Judge

JTB/ds
#203317

Copies Mailed To:

Complainant

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