

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE	*	REVIEW OF A RECOMMENDED
ADMINISTRATION	*	DECISION ISSUED BY
<i>EX REL. A.S.</i> ¹	*	MARC NACHMAN
Complainant,	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
UNITED FINANCIAL	*	ADMINISTRATIVE HEARINGS,
CASUALTY COMPANY,	*	OAH No.: MIA-CC-33-23-01991
Licensee	*	MIA No.: MIA 2023-01-005

* * * * *

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) Nachman is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

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

ORDERED that the MIA’S determination letter dated November 22, 2022, stating that the Licensee did not violate Maryland insurance law is upheld; and it is further

¹In the interest of confidentiality, initials are used in place of the Complainant’s name.

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

It is so **ORDERED** this 31st day of July, 2023.

KATHLEEN A. BIRRANE

Commissioner

signature on original

ERICA J. BAILEY

Associate Commissioner for Hearings

A.S.,¹

COMPLAINANT

v.

UNITED FINANCIAL CASUALTY

COMPANY,

LICENSEE

* BEFORE MARC NACHMAN,
 * AN ADMINISTRATIVE LAW JUDGE
 * OF THE MARYLAND OFFICE
 * OF ADMINISTRATIVE HEARINGS
 * OAH No.: MIA-CC-33-23-01991
 * MIA No.: 2023-01-005

* * * * *

PROPOSED DEFAULT ORDER

On June 30, 2022, the Complainant filed a complaint against the United Financial Casualty Company (Licensee) with the Maryland Insurance Administration (MIA) alleging mishandling of an automobile collision damage claim. The MIA investigated the complaint but found no violations of Maryland insurance law. On December 26, 2022, the Complainant requested a hearing to contest that determination. On January 18, 2023, 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 January 26, 2023, the OAH sent a Notice of Hearing (Notice) to the Complainant by United States mail. COMAR 28.02.01.05C(1). The Notice stated that a hearing was scheduled for March 13, 2023, at 1:00 p.m., at the OAH, 11101 Gilroy Road, Hunt Valley, Maryland. The Notice further advised the Complainant that failure to attend the hearing might result in “a decision against you.”

¹ At the request of the MIA, initials are used in place of the Complainant’s name to protect the Complainant’s confidentiality.

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.

The United States Postal Service did not return the Notice to the OAH. The Complainant did not notify the OAH of any change of mailing address. COMAR 28.02.01.03E. The Complainant made no request for postponement prior to the date of the hearing. COMAR 28.02.01.16. I conclude that the Complainant received proper notice of the hearing. COMAR 28.02.01.05A, C.

On March 13, 2023, I convened a hearing at the OAH in Hunt Valley, Maryland, as scheduled, at which time neither the Complainant nor anyone authorized to represent the Complainant appeared. Additionally, no representatives appeared on behalf of the Licensee.³ I waited thirty minutes, during which time the Complainant failed to appear. I considered the Complainant's absence to be a default.

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

³ No representatives were present from the Licensee. However, as the Complainant had the burdens of presentation of evidence and proof, the absence of the Licensee's representatives was immaterial. "If after receiving proper notice as provided in Regulation .05C of this chapter, a party fails to attend or participate, either personally or through a representative, in a prehearing conference hearing, or other stage of proceeding, the ALJ may issue a default order against the party that bears the burden of proof." COMAR 28.02.01.23B.

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 Annie Davis, United Financial Casualty Company, 6300 Wilson Mills Road - N71C, Mayfield Village, OH 44143-2182.

March 21, 2023
Date Order Issued

signature on original

Marc Nachman
Administrative Law Judge

MN/sh
#204076

Copies Mailed To:

Complainant

Annie Davis
United Financial Casualty Company
6300 Wilson Mills Road-N71C
Mayfield Village, OH 44143-2182