

IN THE MATTER OF THE

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MARYLAND INSURANCE
ADMINISTRATION

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v.

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CASE NO.: MIA-2023-10-022

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ANDRE SPELLEN

*

A.K.A. Rodney Andre Alan Spellen

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6405 Quiet Night Ride

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Fraud Division File No.: R-2023-3050A

Columbia, Maryland 21044

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ORDER

This Order is issued by the Maryland Insurance Administration (the “MIA”) against Andre Spellen (“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. On February 12, 2023, Respondent applied for automobile insurance with Progressive Casualty Insurance Company ("Progressive"), an authorized insurer, for his 2019 BMW (hereinafter, the “insured vehicle”).

2. Respondent signed the application, which contained the following fraud warning:

Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

3. On March 1, 2023, eighteen days after his Progressive insurance policy took effect, Respondent notified Progressive that earlier the same day, his insured vehicle was parked and unoccupied when it was struck by another vehicle, which fled. Respondent reported

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

that the vehicle's airbags deployed, and it sustained damage to the front bumper, rear bumper and front wheel. Progressive opened a claim.

4. A Progressive representative examined Respondent's Insurance Services Office ("ISO") claim history and identified a February 9, 2022 motor vehicle accident involving Respondent's insured vehicle, [three days before Respondent's Progressive policy went into effect]. Progressive referred Respondent's claim to its Special Investigations Unit ("SIU") for further investigation.

5. A Progressive investigator confirmed that Respondent, while operating his insured vehicle, was involved in a motor vehicle accident on February 9, 2023, in Montgomery County, Maryland. A police officer with the Montgomery County Police Department ("MCPD") authored a State of Maryland Motor Vehicle Crash Report ("MVCR"), which reflected that Respondent's insured vehicle was not drivable and the airbags deployed in that accident.

6. On March 14, 2023, a Progressive investigator interviewed Respondent, who reported that on March 1, 2023, an unknown vehicle struck his insured vehicle, which was parked and unoccupied. Respondent reported that prior to March 1, 2023, his insured vehicle looked "brand new." Respondent reported that neither he nor anyone in his household have been in an accident resulting in airbag deployment. Respondent reported that his insured vehicle had not been towed prior to the March 1, 2023 accident, and his insured vehicle had not been involved in any incidents requiring police assistance in the last three months. The investigator confronted Respondent with evidence of the February 9, 2023 accident, involving his insured vehicle. Respondent replied, "I gotta [*sic*] go now, its 2:45; so um thank you." Respondent then disconnected the call.

7. On March 22, 2023, Progressive sent a letter to Respondent denying his claim, which stated, in pertinent part:

A non-renewal notice has been sent due to misrepresentation. Your policy cannot and will not be renewed for any reason, nor will we provide a new policy under a new contract.

8. 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.

Progressive, 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

9. On August 23, 2023, a MIA investigator obtained a copy of the MCPD MVCR involving Respondent's insured vehicle. The report confirmed Respondent was involved in an accident on February 9, 2023, in Montgomery County, Maryland, while operating his insured vehicle. The report identified Respondent as Rodney Andre Alan Spellen, not Andre Spellen as Respondent provided on his Progressive insurance application. The report confirmed that Respondent's insured vehicle was towed by AAV Towing. The MVCR described the damage to Respondent's insured vehicle as "Disabling," and indicated that the airbag "Deployed."

10. On September 1, 2023, an MIA investigator interviewed the other driver who was involved in the February 9, 2023 accident with Respondent. The other driver reported that both vehicles were disabled, and had to be towed from the scene.

11. On September 8, 2023, an MIA investigator spoke with the owner of AAV Towing who confirmed that AAV did tow Respondent's insured vehicle on February 9, 2023 to AAV's lot in Beltsville, Maryland. Due to the heavy front-end damage to the insured vehicle, a roll-back tow

truck was required. On or about February 13, 2023, Respondent took possession of the insured vehicle, which was not drivable at that time.

II. VIOLATION(S):

12. In addition to all relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding that Respondent violated Maryland’s insurance laws:

§ 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 \$1,500 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.

13. By the conduct described herein, Respondent knowingly violated § 27-403(2). 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. Respondent violated the Insurance Article when he falsely reported to Progressive that his vehicle was struck on March 1,

2023, while it was parked and unoccupied. As such, Respondent is subject to an administrative penalty under § 27-408(c).

III. SANCTIONS

15. 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. Insurance Article §§ 2-201(d) (1) and 2-405.

16. Having considered the factors set forth in § 27-408(c)(2), the MIA has determined that a fine of \$1,500.00 is an appropriate penalty.

17. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2023-3050A) and name (Andre Spellen AKA Rodney Andre Alan Spellen). 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.

18. This Order does not preclude any potential or pending action by any other person, entity or government authority, regarding any conduct by the Respondent including the conduct that is the subject of this Order.

WHEREFORE, for the reasons set forth above, and subject to your right to request a hearing, it is this 23rd day of October 2023, **ORDERED** that:

Andre Spellen (AKA Rodney Andre Alan Spellen) 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** _____
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, Attn: Clerk – Office of Hearings. 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.