BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

JORDAN ROWE,

Complainant,

v. Administrative Proceeding No. 25-IC-179594

THE TRAVELERS INDEMNITY COMPANY,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER DENYING REQUEST FOR A HEARING

This matter came before the Insurance Commissioner of West Virginia (hereinafter, "Commissioner"), on Jordan Rowe's (hereinafter, "Complainant") request for a hearing on his third-party administrative complaint filed against The Travelers Indemnity Company, (hereinafter, "Respondent"). After consideration of the Complainant's hearing request, the undersigned Commissioner proceeded to make the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. On July 4, 2024, the Complainant was arrested in Princeton, West Virginia, by Lieutenant Ronald M. Combs ("Lt. Combs") of the Princeton Police Department ("PPD"). The Complainant is a resident of Virginia.

2. On December 11, 2024, the Complainant sent a notice of intent to file a lawsuit to Lt. Combs and the PPD. In his notice, the Complainant alleged that he was unlawfully detained and placed under arrest without probable cause; he was falsely imprisoned for a period of thirty to sixty minutes; that Lt. Combs had retaliated against him for the Complainant's lawful exercise of free speech; that Lt. Combs provided false testimony during court proceedings; that the PPD and Lt. Combs attempted to cover-up the unlawful nature of his arrest; and finally that PPD failed to

properly supervise and train Lt. Combs. The Complainant included a settlement demand of $100,000,000.00 dollars.[1]

3. The Respondent insured the City of Princeton and, by extension, the PPD.

4. The Respondent received notice of the Complainant's notice of intent to sue on December 11, 2024.

5. On December 19, 2024, the Respondent sent a notice to the Complainant that it had received his third-party claim and was investigating the matter. The Respondent's adjuster was not located in West Virginia.

6. The Respondent investigated the claim and obtained information from several sources, including from the Complainant. The Respondent offered the Complainant a means to upload files for consideration. The Complainant provided documentation from his related-criminal case, photographs, videos, and some appellate court decisions related to free speech and police retaliation.

7. During the investigation, the Complainant contacted the Respondent on three occasions to complain about the delay in investigating the claim and to threaten to file a lawsuit against the Respondent. In response, the Respondent advised the Complainant that it had not exceeded its lawful time limit to investigate the claim.

8. It appears from the claim file that the Respondent concluded its investigation on January 7, 2025.

9. On January 10, 2025, the Respondent indicated to the Complainant that a nominal settlement offer would be forthcoming.

[1]There is a note in the claim file that states Complainant clarified this was a typo and should have been one million dollars.

10. In total, thirty days elapsed from the time the Respondent received the claim to when the Respondent agreed to compensate the Complainant.

11. On January 13, 2025, the Respondent made the Complainant a settlement offer of $7,500.00 by an email drafted by the adjuster.

12. The adjuster noted that she was in mediation that day and could not discuss the settlement by phone but nevertheless wanted to send the offer to the Complainant.

13. The Complainant denied the offer, and counter offered at $300,000.00, again via email, dated January 13.

14. In a second follow-up email, dated January 13, the Complainant requested that he be included in the mediation and suggested he had additional evidence to support his counteroffer.

15. In a third follow-up email, the Complainant issued a second counteroffer in response to the previous offer of $7,500.00. The Complainant stated that he would be willing to settle the matter for $100,000. The Complainant further explained that he believed this amount covered the emotional distress suffered from the arrest, his time spent on court proceedings, his legal costs, the reputational harm of the arrest, the officer's perjury, and Lt. Comb's alleged misuse of a criminal complaint that contributed to the Complainant's wrongful arrest.

16. On January 13, the Respondent responded that it would offer $10,000.00 as the final settlement offer and indicated that the settlement would be subject to a signed release.

17. Responding on January 13, the Complainant replied that he was "willing to accept" the $10,000.00 offer but again asserted that the amount was not reflective of the full extent of the harm that he suffered; he counter offered for the amount of $30,000.00.

18. The Respondent reiterated that $10,000.00 was its final offer.

19. Writing on January 13, 2025 the Complainant accepted the $10,000.00 settlement offer. He wrote that he understood the settlement would resolve all claims related to the matter and requested the final release agreement and any additional documentation required to complete the settlement.

20. The Complainant signed the release agreement on January 13, 2025, and had the document notarized by a Virginia notary in Tazewell County, Virginia.

21. The release agreement provided that the $10,000.00 payment constituted the "sole consideration for the final release and discharge of, all actions, claims, demands whatsoever, that now exist, or may hereafter accrue, against City of Princeton, City of Princeton Police Department, Lieutenant RM Combs and the Travelers Indemnity Company" related to the events that occurred on or about July 4, 2024.

22. The entire settlement negotiation occurred on January 13, 2025, and the Complainant signed the release and was paid the full settlement amount on January 14, 2025.

23. The Complainant called the Respondent on February 2, 2025, claiming that the amount of the settlement was insufficient and that he accepted the settlement while under duress.

24. On February 7, 2025, the Complainant filed a complaint with the Commissioner. The Complainant alleged that the Respondent utilized "coercive negotiation tactics" and exerted "undue pressure" during the settlement. He alleged that he was "repeatedly pressured to accept a settlement under duress and without adequate time or opportunity to seek proper legal advice." The Complainant argued that these tactics "resulted in a settlement offer that was unfair and not reflective of the facts and damages involved in the claim."

25. The Complainant alleged specific UTPA violations of W. Va. Code §§ 33-11-4(9)(f), (h), and (n).[2]

26. The Complainant requested that "the settlement release agreement be set aside and the claim reopened for fair renegotiation."

27. The Commissioner reviewed the complaint, obtained and reviewed the claim file from the Respondent, and interviewed the Complainant. The Commissioner conducted a thorough investigation of this matter.

28. The Complainant elaborated upon his complaint, stating that he did not have counsel during negotiations and did not understand the settlement release.

29. On April 30, 2025, the Commissioner sent a letter to the Complainant, advising him that the complaint would be closed. The Commissioner advised the Complainant that the Office did not have jurisdiction over the Unfair Trade Practices Act ("UTPA") violations because the Complainant was a resident of Virginia, and the allegedly tortious acts of the Respondent occurred in Virginia where the Complainant received the communications. The Commissioner also stated that the signed settlement release released the Respondent from "all actions, claims and demands whatsoever," which included an administrative complaint for UTPA violations, and the Complainant did not have standing to pursue the third-party claim against the Respondent. Finally, the Commissioner stated that the circumstances of the complaint were also investigated, and the Respondent did not commit any UTPA violations, but the matter involved a good faith dispute over the value of the claim which, under W.Va. Code § 33-11-4a(g), is not an unfair claims settlement practice.

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[2]Notably, the Complainant misquotes W. Va. Code §§ 33-11-4(9)(h) and (n) in his complaint. Further, W.Va. Code § 33-11-4(9)(h) only applies to first-party claimants, not third-party claimants like the Complainant.

30. The Complainant filed a demand for a hearing on April 30, 2025, by email, asserting five arguments in support of his demand.

31. The Complainant argued that the Commissioner had mischaracterized his complaint as a "third-party bad faith" claim or a private cause of action. The Complainant stated that his complaint involved the Respondent's regulatory violations while handling a claim for a West Virginia policy holder. The Complainant asserted that the Respondent's conduct was within the Commissioner's oversight, regardless of where the Complainant resided.

32. The Complainant stated that the claim involved a West Virginia policy holder, a West Virginia policy, and the insurer's settlement negotiations were related to the West Virginia based exposure. The Complainant argued that the Commissioner could exercise jurisdiction over insurance companies and policies operating under West Virginia law, and that jurisdiction was not solely based on the residence of the third-party claimant.

33. The Complainant further argued that the Commissioner is not barred from investigating claims practices of West Virginia regulated insurers, including how those companies handle third-party claims. He argued that basing jurisdiction on his state of residence ignores the broader public interest function of the Commissioner and regulatory purpose of the UTPA. According to the Complainant, jurisdiction does not vanish because communication between the parties occurred out of state.

34. The Complainant argued that the Commissioner's complaint specialist wrongfully escalated his complaint to the Commissioner's legal department without notifying the Complainant that the Commissioner did not have jurisdiction. According to the Complainant, this prevented the Complainant from addressing concerns before valuable time was spent processing and evaluating his claim.

35. Finally, the Complainant argued that, assuming the validity of the settlement agreement, the Commissioner was not barred from reviewing the claim due to the private contract. The Complainant argued that the Commissioner retained regulatory oversight over the Respondent and its claim handling procedures.

36. The Complainant did not cite to any authority in support of his arguments.

CONCLUSIONS OF LAW

1. W. Va. Code §33-2-13 states, in pertinent part, "the commissioner may call and hold hearings for any purpose deemed necessary by him for the performance of his duties."

2. Further, W.Va. Code R. § 114-13-3.3 states:

> 3.3 Hearing on written demand ~ When the commissioner is presented with a demand for a hearing as described in subsections 3.1 and 3.2 of this section, he or she shall conduct a hearing within forty-five (45) days of receipt by him or her of such written demand, unless postponed to a later date by mutual agreement. However, if the commissioner shall determine that the hearing demanded:
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> a. Would involve an exercise of authority in excess of that available to him or her under the law; or
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> b. Would serve no useful purpose, the commissioner shall, within forty-five (45) days of receipt of such demand, enter an order refusing to grant the hearing as requested, incorporating therein his or her reasons for such refusal. Appeal may be taken from such order as provided in W.Va. Code §33-2-14.

As will be expounded upon below, the Commissioner's denial of a hearing in this case is based primarily upon three factors: 1) jurisdiction; 2) the settlement agreement; and 3) a good faith dispute over value.

3. The Commissioner must first determine whether it is proper to exercise jurisdiction over this matter.

4. The Complainant has filed a third-party complaint against the Respondent alleging violations of the UTPA, pursuant to W. Va. Code § 33-11-4a.

5. It is well established that violations of the UTPA involve statutory bad faith conduct between insurers and first- or third-party claimants.

6. Accordingly, the Complainant's claims are not mischaracterized as third-party bad faith claims.

7. W. Va. Code § 33-11-4a provides that "[a] third-party claimant's sole remedy against a person for an unfair claims settlement practice or the bad faith settlement of a claim is the filing of an administrative complaint with the commissioner in accordance with subsection (b) of this section."

8. Although W. Va. Code § 33-11-4a eliminated the private cause of action of third-party bad faith claims, the case law related to common law and statutory bad faith claims are relevant for the purpose of considering whether the Complainant's UTPA claims are subject to the jurisdiction of *any* court in West Virginia, including that of an administrative hearing before the Commissioner.

9. Notably, "[a]dministrative agencies and their executive officers are creatures of statute and delegates of the Legislature. Their power is dependent upon statutes, so that they must find within the statute warrant for the exercise of any authority which they claim. They have no general or common-law powers but only such as have been conferred upon them by law expressly or by implication." *See* Syl. Pt. 3, *Mountaineer Disposal Serv. v. Dyer*, 156 W. Va. 766, 197 S.E.2d 111 (1973).

10. The Complainant's complaint directly cites to the UTPA, and, indeed, W. Va. Code § 33-11-4a, gives the Commissioner authority to hear third-party claims related to the unfair claims settlement practices of an insurance company.

11. The West Virginia Supreme Court has recognized that a ""violation of . . . [the UTPA] is tortious conduct." *Wilt v. State Auto Mut. Ins. Co.*, 203 W. Va. 165, 506 S.E.2d 608 (1998)(internal quotation omitted).

12. It is widely recognized in West Virginia tort cases that the Courts shall apply the law of the place where the wrong occurred. *See Vest v. St. Albans Psychiatric Hosp.*, 182 W. Va. 228,

230, 387 S.E.2d 282, 283 (1989) (explaining that "the substantive rights between the parties are determined by the law of the place of the injury").

13. In *Kenney v. Indep. Order of Foresters*, 744 F.3d 901 (4th Cir. 2014), the Fourth Circuit Court analyzed the alleged UTPA violations with emphasis upon where the harm of the UTPA violations were felt. In *Kenney*, Virginia residents, Mr. and Mrs. Kenney, purchased life insurance from a Canadian insurance company in 1984. The Kenney's moved to West Virginia in 2003, where Mr. Kenney died in 2011, and Mrs. Kenney filed a first-party claim under the policy in 2011. Although Mrs. Kenney ultimately received the full amount of the claim, she filed a separate action under the West Virginia UTPA, alleging bad faith conduct on the part of the insurer for its initial refusal to pay the full value of the policy. The company argued that West Virginia's UTPA did not apply because the policy was a Virginia based policy and therefore governed by Virginia law. The Fourth Circuit rejected the company's argument, stating that Mrs. Kenney was a resident of West Virginia at the time of the company's alleged bad faith acts and, thus, felt the harm of the company's alleged acts in West Virginia. *Kenney*, at 908. *See also Yost v. Travelers Ins. Co.*, 181 F.3d 95 (4th Cir. 1999) (unpublished table decision) (concluding that "the worry, annoyance, and economic hardship of the delay in receiving compensation" (i.e. the injury) in an unfair-settlement claim is suffered *in the state where the plaintiff resides*). Based on this reasoning, the Fourth Circuit found that Mrs. Kenney could proceed under the West Virginia UTPA.

14. In this case, the Complainant is admittedly a resident of Virginia.

15. The relevant case law directs that the third-party bad faith claims, if any, would have occurred where the Complainant resides. All negotiations between the Complainant and the Respondent happened outside of the State of West Virginia.

16. The Commissioner is a creature of statute authorized to enforce Chapter 33, Chapter 23, and portions of Chapter 58. The Commissioner is not authorized to apply the law of another state and cannot justify doing so.

17. Therefore, the Commissioner concludes that exercising jurisdiction over this complaint would involve an exercise of authority in excess of what is available to him under the law.

18. Nevertheless, assuming that the Commissioner may exercise jurisdiction over this matter, the Complainant is barred from filing a claim because of the settlement release he executed.

19. The Complainant signed a release on January 13, 2025, wherein, in exchange for a check of $10,000.00, he "accepted in full compromise settlement and satisfaction of, and as sole consideration for the final release and discharge of, *all actions, claims and demands whatsoever*, that now exist, or may hereafter accrue, against **City of Princeton, City of Princeton Police Department, Lieutenant RM Combs *and The Travelers Indemnity Company***."

20. West Virginia Courts have held that a settlement release prohibited subsequently filed UTPA claims against an insurer when the executed release named the insurer as a party and the insurer did not have reason to anticipate a future UTPA claim. *See Mills v. Watkins*, 213 W. Va. 430, 582 S.E.2d 877 (2003).

21. The Complainant released the Respondent from all future claims related to the events occurring on July 4th, 2024.

22. There is no evidence that the Respondent could have anticipated a UTPA claim.

23. Therefore, the settlement release would not only release the PPD and Lt. Combs from further actions or claims, but also the Respondent, as the Respondent was a named party to the release.

24. To the extent that the Complainant has requested the Commissioner set aside his signed release, the Commissioner does not have the statutory authority to order that a private agreement be voided. Such an action is best suited for a court of general jurisdiction.

25. Therefore, the Commissioner concludes that a hearing on this matter would serve no useful purpose and would exceed the Commissioner's authority because the Complainant has released the Respondent from any further action on this matter.

26. Finally, assuming that the Commissioner has jurisdiction and the settlement release does not release the Respondent from administrative UTPA claims, and to the extent that the Complainant alleges that the Commissioner has regulatory authority and obligation to investigate his claim despite the previously discussed limitations, the Commissioner has reviewed all relevant materials and found no UTPA violations.

27. The Complainant raised three specific UTPA violations.

28. First, W. Va. Code § 33-11-4(9)(f): "Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear."

29. Based on the claim file of the Respondent, it appeared that the investigation was concluded on January 7, 2025. The investigation took twenty-seven days which is within the time allowed by the State Rules.

30. The Respondent presented the first settlement offer to the Complainant on January 13, 2025.

31. W. Va. Code R. § 114-14-6.3 requires the insurer to deny a claim or issue a settlement offer within ten working days of the completion of the investigation.

32. The Respondent provided a settlement offer within four working days.

33. In terms of a fair and equitable settlement, there is a definite challenge in evaluating this claim.

34. At multiple junctures, the Complainant offered multiple reasons for his demands of a higher settlement. However, he did not quantify these reasons into real costs.

35. For instance, the Respondent reviewed photographs of "abrasions" that the Complainant suffered as a result of the arrest; but these photographs were not accompanied by medical bills or treatment invoices.

36. Similarly, the Complainant asserts he suffered legal costs, wasted time and travel to legal proceedings, reputational harm, and perjury by the officer, but, again, did not fix any value to these claims.[3]

37. The Respondent evaluated all the information that the Complainant provided, but the parties differed on the value of the claim overall.

38. Pursuant to W. Va. Code § 33-11-4a(g), "[a] good faith disagreement over the value of an action or claim or the liability of any party to any action or claim is not an unfair claims settlement practice."

39. The Respondent's offer was not unreasonably low based upon the information presented and available to the Respondent, including the information provided from the Complainant.

40. Accordingly, the Commissioner finds that the settlement was fair and equitable and, to the extent that the parties disagreed over the value of the claim, that disagreement was not in bad faith.

41. The Complainant also raised § 33-11-4(9)(h): "Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

42. In this case, there is no written or printed advertising material accompanying or making part of an application. An application would be submitted by an insured, not a third-party claimant, like the Complainant. Further, the West Virginia Supreme Court has found that this statutory provision does not apply to third-party claimants. *Jenkins v. J.C. Penney Casualty Ins., Co.* 167 W. Va 597 (1981). This subsection is inapplicable to the facts of the Complainant's case.

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[3]The Complainant was represented by an attorney from the Public Defender Corporation for the 9th Judicial Circuit and his criminal charges were dismissed. Accordingly, it is not clear what legal costs the Complainant asserts that he incurred.

43. Finally, the Complainant cites to W. Va. Code § 33-11-4(9)(n) but states a different claim. He states the Respondent "[c]ompell[ed] me to accept the settlement by creating unnecessary delays and undue pressure, leaving me with little choice but to agree to unfavorable terms."[4] The Complainant goes on to assert that the Respondent used coercive tactics and that he was under duress when he settled the claim. Complainant requested that the Commissioner set aside the settlement agreement and reopen the negotiations.

44. Although the Complainant's final assertion is not a specifically listed claim under the UTPA, the Commissioner can consider the claim under W. Va. Code § 33-11-7, which permits the Commissioner to consider unfair methods of competition that are not specifically mentioned in W. Va. Code § 33-11-4.

45. In West Virginia, duress is defined as

> that degree of constraint or danger, either actually inflicted or threatened and impending, which is sufficient in severity or in apprehension to overcome the mind and will of a person of ordinary firmness. . . . The requirements of common-law '**duress**' have been enlarged to include any wrongful acts that compel a person . . . to manifest apparent assent to a transaction without volition or cause such fear as to preclude him from exercising free will and judgment in entering into a transaction.
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> *Warner v. Warner*, 183 W. Va. 90, 94, 394 S.E.2d 78 (1990).

46. "The modern approach to resolving the issue of duress focuses on the issue of whether an individual has been 'preclude[d] . . . from exercising free will and judgment in entering into a transaction.'" *Id.* "The individual claiming duress has the burden of demonstrating such allegations of duress by clear and convincing evidence." *Id.*

47. In this case, the Complainant claimed that he was "repeatedly pressured to accept a settlement under duress and without adequate time or opportunity to seek proper legal advice."

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[4]W. Va. Code § 33-11-4(9)(n) reads "[f]ailing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement."

48. The entirety of the settlement process was recorded by email between the parties.

49. There is no evidence that the Respondent pressured the Complainant to accept a settlement offer.

50. There is no evidence that the Respondent prevented or advised the Complainant not to seek legal advice.

51. The Complainant suggested to the Commissioner that the Respondent should have had hired an attorney to explain the settlement release to him, but there is no such requirement under Chapter 33.

52. There is no evidence that the Respondent advised the Complainant that rejecting the offer would result in negative consequences.

53. The Respondent did not place a time limit upon settlement negotiations. The Complainant did not communicate to the Respondent that he was obliged to any time limit.

54. The Complainant was not under the influence of a legal time limit, such as a statute of limitations, that influenced his decision making.

55. The Commissioner cannot find any support for the Complainant's claim that the Respondent placed him under duress or repeatedly pressured him to settle the claim. Further, the Commissioner does not have the authority to set aside the settlement agreement.

56. Therefore, the Commissioner concludes that a hearing on this matter would serve no useful purpose. Further, any violation of W.Va. Code § 33-11-7 would result in an action taken by the Commissioner against Respondent, not an action taken by the Complainant because pursuant to W. Va. Code §33-11-4a, Complainant's complaint is limited to violations of W.Va. Code §33-11-4(9). Because the allegation of duress by Complainant is not within W.Va. Code § 33-11-4(9), it exceeds the scope of the third-party process under W.Va. Code §33-11-4a. Any action under W.Va. Code § 33-11-7 would need to be brought by the Commissioner and, if the Commissioner prevailed at a hearing, the Commissioner could issue a cease and desist order. However, the investigation revealed that no such action is required.

ORDER

Wherefore, since a hearing in this matter would serve no useful purpose and would involve an exercise of authority in excess of that available to the Commissioner under the law, it is **ORDERED** that the Complainant's request for a hearing is **DENIED**. Inasmuch as orders entered by the Commissioner are subject to judicial review in the Intermediate Court of Appeals as set forth in W.Va. Code §51-11-4(b)(4), any person aggrieved by this Order may, within 30 days after the entry of the judgment being appealed, file an appeal as set forth in W.Va. Code §33-2-14 and W.Va. R.A.P., Rule 5(b).

ENTERED this the 10th day of June, 2025.

Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner