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

JASON AND HANNAH LILLY,

Complainant,

v. **ADMINISTRATIVE PROCEEDING NO.: 25-IC-183828**

MUNICIPAL MUTUAL INSURANCE COMPANY,

Respondent.

FINAL ORDER

The undersigned, Insurance Commissioner of the State of West Virginia, does hereby adopts and approves the Recommended Decision of the Hearing Examiner, appended hereto, as well as the findings of fact and conclusions of law therein contained. The Complainant failed to prove that the Respondent violated West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4.

Therefore, the Complainant's complaint is denied.

THEREFORE, it is **HEREBY ORDERED** that the Complaint by Jason and Hannah Lilly is dismissed.

The objections of any party aggrieved by this Order and to the Recommended Decision herein adopted are preserved.

The Commissioner's final orders 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 of the entry of the judgment being appealed**, file an appeal as set forth in W.Va. Code § 33-2-14 and Rule 5(b) of the West Virginia Rules of Appellate Procedure.

ENTERED this 11th day of February, 2026.

ALLAN L. MCVEY, CPCU, ARM, AAI, AAM, AIS.
INSURANCE COMMISSIONER

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

JASON AND HANNAH LILLY,

Complainant,

v. **ADMINISTRATIVE PROCEEDING NO.: 25-IC-183828**

MUNICIPAL MUTUAL INSURANCE COMPANY,

Respondent.

RECOMMENDED DECISION OF THE HEARING EXAMINER

On January 15, 2026, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, at the West Virginia Offices of the Insurance Commissioner, Charleston, West Virginia. Hannah Lilly (hereinafter "Complainant") appeared pro se along with Billy Roush. On behalf of Municipal Mutual Insurance Company (hereinafter "Respondent") John Polak, Esquire, Mike Call of Call Adjusting and Brian Taylor, CEO of the Respondent, made appearances. Following the hearing, the matter was deemed submitted for recommended decision.

Based upon a thorough review of the entire record in this case, the undersigned now makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. On June 7, 2025, while at her home, the Complainant hear a "kaboom". She believed that the noise she heard was thunder since there was a storm going on during the night. When the Complainant got up the next morning she saw that a tree limb had crashed into her roof

above her kitchen/dining room. A tree limb had come through the room's ceiling. There was also damage to her daughter's bedroom. (Tr. P. 10)

2. After attending church, the Complainant took pictures of the damage, removed some of the tree limbs and put a tarp over the roof. A family friend, who is a contractor, came up to the house and told the Complainant that it would take $25,000.00 to repair the damage. The family friend did not submit a detailed estimate. (Tr. P. 10-11, 32)

3. The Complainant then contacted her insurance agent, Chris Walters. Mr. Walters was unable to file the claim with the Respondent on that day since it was Sunday. (Tr. P. 16-17)

4. Mr. Walters did have J & K Remodeling come up to the Complainant's home that Sunday afternoon. J & K prepared an estimate to repair the damage. The estimate was for $14,850.00. The estimate was submitted along with the claim to the Respondent on Monday June 9, 2025. (Tr. P. 17-18; Ex. 1)

5. Mr. Roush, the Complainant's uncle, testified that he advised the Complainant not to hire J & K remodeling since the Complainant had yet to talk to the Respondent to see what they would be willing to pay to fix the home. The Complainant decided not to hire J & K Remodeling. (Tr. P. 22)

6. The claim was received and opened by the Respondent on June 9, 2025. On that same day, the Respondent sent a letter to the Complainant acknowledging the claim. The Complainant stated that she did not receive the letter of acknowledgement. The letter was sent to P.O. Box 73, Clendenin, West Virginia The Complainant stated that she had not used that address in years and received her mail at her physical address of 81 Almene Lane, Clendenin, West Virginia. The Declaration page of her insurance policy has the P.O Box as her address. (Tr. P. 16, 20-22; Ex 2, 3)

7. The Respondent retained Call Adjusting Services to provide an estimate of the repairs. Mr. Mike Call went to the Complainant's home on June 10, 2025, the day after the claim was filed. Mr. Call was met there by Mr. Roush since both Complainants were working that day. (Tr. P. 36-37)

8. Mr. Roush stated that he and Mr. Call went up on the roof but did not remove the tarp. Mr. Call said that he did not need to remove the tarp to determine the damage. (Tr. P. 39)

9. Mr. Roush testified that the day he met Mr. Call at the house, Mr. Call told him that they did not necessarily need to replace the entire roof. Mr. Roush went on to say that he disagreed with that conclusion since he believed that trusses would have to be replaced and it was impossible, with a twenty-year-old roof, to just replace a few shingles. (Tr. P. 33)

10. Mr. Call testified that when he conducted the first inspection he noted that there was damage to the kitchen/dining room and that the roof needed to be replaced. He determined that the roof needed to be replaced without removing the tarp. (Tr. P. 38-39)

11. On June 16, 2025, Mr. Call prepared an estimate to repair the damage. In the original estimate he stated that all shingles would have to be replaced, replace sheeting, framing, rafters and repair the kitchen/dining room and a bedroom. The Complainant refuse to accept the estimate because the repairs would not be up to code and there was not enough money to fix the roof. (Tr. P. 39, 11; Ex. 5)

12. Mr. Call's original estimate was for $14,869.77. This number was reduced by $3,131.50 for depreciation of the roof and $1,000.00 for the deductible. That would leave a net payment to the Complainant of $10,738.27. (Tr. 39-41; Ex. 5)

13. The Complainant stated that the original estimate prepared by Mr. Call was not the same estimate that she received. However, the Complainant did not produce the estimate that she

allegedly received. (Tr. P. 41)

14. The Complainant's engaged the services of Metro Public Adjustment on June 24, 2025. As part of the agreement with Metro, Metro was going to negotiate with the insurance company from that point forward. Metro does not actually do any of the repairs but would receive fifteen percent of the money recovered in the claim. Metro gave a repair estimate of $41,000.00. (Tr. 26-28,, 12-13; Ex. 4)

15. Mr. Smith of Metro contacted Mr. Call and the parties agreed to meet at the house. As a result of that meeting, Mr. Call created another estimate. In this estimate the total was $15,299.37. This number was reduced by $3,180.44 for depreciation of the roof and $1,000.00 for the deductible. That would leave a net payment to the Complainant of $11,118.93. (Tr. 44-45; Ex. 6)

16. On August 1, 2025, a check for $11,118.93 was sent to the Complainant's using the P.O.Box address. The Complainant did not receive the check; therefore, it was not cashed. (Tr. P. 46-47)

Issue

Whether the Respondent violated West Virginia Code of State Rules §§ 114-14-6.1 and/or 114-14-6.4. If so, what is the remedy?

Burden of Proof

The Complainant has the burden of proof to prove, by a preponderance of the evidence, that the Respondent violated the insurance laws of the State of West Virginia.

Jurisdiction

The West Virginia Offices of the Insurance Commissioner has jurisdiction over this matter under West Virginia Code § 33-2-3.

Analysis

The Complainant raised two key issues in her complaint and during the hearing, the quality of the investigation and the settlement offer.

When dealing with the quality of an investigation we must first look at West Virginia Code § 33-11-4(9)(d) which states as follows:

> (9) Unfair claim settlement practices. -- No person shall commit or perform with such frequency as to indicate a general business practice any of the following:
> (d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

West Virginia Code § 33-11-4(9)(d) is further defined in West Virginia Code of State Rules § 114-14-6.1 which states as follows.

> §114-14-6. Standards For Prompt Investigations And Fair And Equitable Settlements Applicable To All Insurers.
> 6.1. Investigation of claims. -- Every insurer shall promptly conduct and diligently pursue a thorough, fair and objective investigation and may not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of a claim dispute. This section is not intended to conflict with the statutory requirements of the Medical Professional Liability Act, W. Va. Code §§55-7B-1 to 11, as the same relate to the assertion and investigation of medical professional liability claims.

The fact that the Respondent sent in an adjuster, Mr. Call, on June 10, the day after the claim was filed indicates that the start of the investigation was timely. Also, the adjuster presented the Complainant the initial estimate for repairs on June 16, 2025. Again, this was timely, just a

week after the claim was filed. Therefore, the investigation was diligent.

The issue then becomes whether the investigation was thorough, fair, and objective. The Complainant alleges that the investigation was not thorough, fair, and objective because she believed that the first estimate did not include the replacement of the entire roof or repairs to her daughter's bedroom. However, the estimate entered into evidence at the hearing did include the replacement of the entire roof and repairs to her daughter's bedroom.

The Complainant testified that the estimate at the hearing was not the same estimate that Mr. Call gave her. While that may or may not be true, she had an opportunity to present the estimate she allegedly received but failed to do so. In fact, the Complainant failed to present any documentation during the hearing.

The initial estimate indicated complete shingle replacement, along with repairs to sheeting, framing, rafters, the kitchen/dining room, and a bedroom. The estimate covered the concerns expressed by the Complainant during the hearing, therefore, the investigation, based on the evidence at the hearing, was thorough, fair, and objective.

The next issue to review is the settlement offer by the Respondent. We reviewing settlement offers we must look at West Virginia Code § 33-11-4(9)(f) which states as follows:

> (9) Unfair claim settlement practices. -- No person shall commit or perform with such frequency as to indicate a general business practice any of the following:
> (f) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

West Virginia Code § 33-11-4(9)(f) is further defined in West Virginia Code of State Rules § 114-14-6.4(b) which states as follows.

> b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low. The Commissioner shall consider any evidence offered regarding the following factors in determining whether a settlement offer is unreasonably low:
> 1. The extent to which the insurer considered evidence submitted by the claimant to

support the value of the claim;
2. The extent to which the insurer considered legal authority or evidence made known to it or reasonably available;
3. The extent to which the insurer considered the advice of its claims adjuster as to the amount of damages;
4. The extent to which the insurer considered the opinions of independent experts; property damage;
5. The procedures used by the insurer in determining the dollar amount of property damage;
6. The extent to which the insurer considered the probable liability of the insured and the likely jury verdict or other final determination of the matter; and
7. Any other credible evidence presented to the Commissioner that demonstrates that the final amount offered in settlement of the claim by the insurer is or is not below the amount that a reasonable person would have offered in settlement of the claim after taking into consideration the relevant facts and circumstances at the time the offer was made

The issue here is whether the Respondent made an offer that was unreasonably low. The Rule provides guidance on how to determine whether the offer of settlement is unreasonably low.

The first issue to look at is whether the Respondent considered any evidence presented by the Complainant. The Complainant raised the issue that Mr. Call did not move the tarp on the roof. However, since the estimate included replacement of the entire roof, it is immaterial whether Mr. Call had removed the tarp. The Complainant also raised the issue that the original estimate did not include any repairs to the Complainant's daughter's bedroom. The fact is that the original estimate did include repairs to the Complainant's daughter's bedroom. Respondent did consider the information provided by the Complainant.

No legal authority was presented by either party, therefore that category is not relevant to determine whether the offer was unreasonably low.

The next issue is whether the Respondent took into consideration the information provided by Mr. Call. Since the Respondent initially issued a check based on the estimate provided by Mr. Call, the Respondent did consider the information provided by Mr. Call.

The next issue is the level that the Respondent took into consideration the opinions of

independent adjusters. This is a little trickier to analyze since the Complainant got several estimates. The first estimate, on the day of the damage, was from a family friend who stated that it would cost $25,000.00 to repair the damage.

Another estimate was from J & K Remodeling. J & K estimated that it would cost $14,500.00 to repair the damage. The Complainant submitted the J & K estimate when it filed her claim with the Respondent.

The final estimate was from Metro Public Adjustment. Metro's estimate was for 41,000.00. The Complainant retained metro to negotiate with the Respondent on behalf of the Complainant. Under the contract, Metro was to receive 15% of the money obtained from the Respondent to repair the damage.

The first estimate can be disregarded since the family friend did not submit an estimate but simply made a ballpark estimate. The estimate from J & K Remodeling was exactly the estimate made by Mr. Call.[1]

The estimate by Metro is the outlier in this situation. Their estimate is nearly two and half times the estimate of Mr. Call and J & K Remodeling. The estimate for Metro can be ignored simply because it is an outlier and since Metro is paid a percentage of the money recovered, there is great motivation to make the estimate as high as possible.

Therefore, the Respondent carefully considered the information provided by independent adjusters.

We must then look at the procedures used by the insurer in determining the dollar amount of property damage. The only issues to this, raised by the Complainant, was her assertion that the adjuster did not submit an estimate containing a replacement of the roof or the damage to her

---

[1] The first estimate by Mr. Call before deductions for depreciation and deductible, was $14,869.77. The second estimate was $15,299.37.

daughter's bedroom. As discussed above, the adjuster did consider the replacement of the roof and damage to her daughter's bedroom.

The next issue to analyze is the extent that the Respondent considered the liability of the Complainant or the potential jury verdict. The Respondent did not raise any issue concerning the liability of the Complainant. Neither party raised the issue of a jury verdict, so it is unknown whether any consideration was given to these issues.

The final item to look at under West Virginia Code of State Rules § 114-14-6.4 is if there is any other credible evidence that would indicate that offer of settlement was not reasonable. No other evidence, other than what was discussed above would indicate that the offer of settlement by the Respondent was not reasonable. The estimate prepared by Mr. Call was reasonable so there was no violation of West Virginia Code of State Rules § 114-14-6.4.

The Complainant failed to prove that the Respondent violated West Virginia Code § 33-11-4(9)(d), § 33-11-4(9)(f), West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4(b).

Conclusions of Law

1. The West Virginia Offices of the Insurance Commission have jurisdiction over this matter by virtue of West Virginia Code Chapter § 33-2-3.

2. The Complainant has the burden of proof, by a preponderance of the evidence, to prove that the Respondent violated West Virginia Code § 33-11-4(9)(d), § 33-11-4(9)(f) West Virginia Code of State Rules §§ 114-14-6.1 and West Virginia Code of State Rules §§ 114-14-6.4(b)

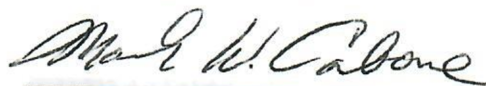
3. The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-11-4(9)(d) and West Virginia Code of State Rule § 114-4-6.1 when she failed to prove that the Respondent's investigation was not timely, thorough, fair, or objective.

4 The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-11-4(9)(f) and West Virginia Code of State Rules § 114-14-6.4(b) when it failed to prove that the Respondent's offer of settlement was below what a reasonable person would have offered.

RECOMMENDED DECISION

It is the recommendation of the Hearing Examiner that the Complainant failed to prove that the Respondent violated West Virginia Code § 33-11-4(9)(d), § 33-11-4(9)(f), West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4(b). Therefore, the complaint should be denied.

Respectfully recommended,



MARK W. CARBONE