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

VINCENT KING,

Complainant,

v. **ADMINISTRATIVE PROCEEDING NO.: 24-IC-175988**

UNITED STATES FIRE 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 §§ 33-62-4, and West Virginia Code of State Rules §§ 114-14-5.1, 114-14-5.3, 114-14-6.6 and 114-14-6.10.

The Complainant proved that the Respondent violated West Virginia Code of State Rules §§ 114-14-4.1, 114-14-4.2, 114-14-6.1, 114-14-6.5, 114-14-4.5 and 114-14-6.7. Therefore, the Complainant's complaint should be dismissed in part and granted in part.

THEREFORE, it is **HEREBY ORDERED** that the Complaint by Vincent King is upheld in part and denied in part.

It is further **ORDERED** that Respondent review the Complainant's claim under the 2023 policy language and ensure that proper reimbursement has been made.

The Commissioner **HEREBY** refers the matter to the Legal Division of the Offices of the Insurance Commissioner to investigate the issues raised by the Hearing Examiner pertaining to the

selling of the travel insurance, including the role of the travel retailer, the licensing and appointment of producers, and Respondent's compliance with Article 62, Chapter 33 of the West Virginia Code. The Legal Division may refer the matter to the Market Conduct Unit to conduct a further investigation into the violations of West Virginia Code of State Rules §§ 114-14-4.1, 114-14-4.2, 114-14-6.1, 114-14-6.5, 114-14-4.5 and 114-14-6.7 to determine if the violations were committed with such frequency as to indicate a general business practice.

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

ENTERED this 10th day of June, 2025.

Allan L. McVey

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

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RECOMMENDED DECISION OF THE HEARING EXAMINER

On November 21, 2024, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, at the Office of the Insurance Commissioner, Charleston, West Virginia. Complainant, Vincent King, Esquire, appeared pro se. No one made an appearance on behalf of United States Fire Insurance Company. 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 November 20, 2023, Mr. King, (hereinafter "Complainant"), went to the offices of the American Automobile Association (hereinafter "AAA") to purchase a tour and travel insurance for an upcoming trip to Ireland.

2. The Complainant was purchasing airline tickets, a tour package and travel insurance to cover three couples and himself. He also purchased travel insurance for another

person for the tour portion only. The total cost, less his deposit, was $29,857.00. (Tr. P. 20) The Complainant paid the amount owed with his MasterCard. (Tr. P. 21; Ex.10)

3. While at AAA, the Complainant met with an employee named Kim Lancaster. While he was booking the trip, they discussed the travel insurance and what it would cover.

4. The cost for the insurance portion for the three couples was $325.00 per person and for the Complainant, who was traveling alone, the cost was $415.00. (Tr. P. 19)

5. The Complainant was concerned about coverage for any health problems that may occur while in Ireland. Several of the travelers were older and had preexisting conditions. (Tr. P. 20)

6. The Complainant made an appointment to pick up the paper documents at AAA on March 12, 2024. The Complainant does not like doing business transactions electronically and insisted that all his documents be printed. The Complainant went to his appointment fifteen minutes early to give him enough time to read the documents. (Tr. P. 22-23)

7. Complainant's trip began on March 28, 2024, and was scheduled to return on April 6, 2024. On April 6, 2024, the Complainant and his party found out that Aer Lingus had cancelled their return flight. (Tr. P. 24)

8. The Complainant contacted Aer Lingus to be booked on another flight. The Complainant was told by Aer Lingus that since his trip was booked through a tour, he would have to contact the tour company. Aer Lingus provided the Complainant and his party a hotel room and transit to the hotel. The hotel had a buffet, but the individuals had to pay for their drinks. (Tr. P. 24-25)

9. Since the scheduled return date was a weekend, the Complainant had difficulty contacting the tour company. In addition, the Complainant, and at least two other travelers, had

an international calling plans on their phones which expired on the scheduled date of their departure. (Tr. P. 24)

10. The Complainant's group was eventually scheduled on a return flight two days after their original scheduled departure date. A member of the Complainant's group had a suitcase that was damaged during transport. (Tr. P. 25)

11. After reviewing the insurance policy, the Complainant determined that they had coverage for trip delay. On April 29, 2024, the Complainant followed the instructions on the insurance policy and sent a claim to the address on the form. The claim letter was returned to the sender. (Tr. P. 25; Ex 11)

12. On May 16, 2024, the Complainant resubmitted the claim to another address for Trip Mate[1], the insurance company listed on his insurance agreement. (Tr. P. 27)

13. The Respondent answered the claim letter on June 4, 2024. The letter was signed by a person named L. Fowler. Fowler works for General Global Assistance and Insurance Services. The response did not contain any payment. The letter asked for any written report he had sent to Aer Lingus, the original receipt for the purchase of the damaged suitcase and the receipts for the out-of-pocket expenses. (Tr. P. 27 Ex 13)

14. The Complainant testified that the suitcase had been a gift so there was not a purchase receipt. The Complainant pointed out that in the policy if you did not have the original receipt, the coverage would be 75% of the cost. The Complainant also stated that he had submitted copies of the out-of-pocket expenses with his original claim. (Tr. P. 28-29)

[1] Trip Mate and United States Fire Insurance Company appear to have a business relationship. Whenever the word Respondent appears in this decision, it will be referring to both Trip Mate and United States Fire Insurance Company.

15. On the same day that the Complainant received the response to his claim, he answered the Respondent's letter. In his response, he expressed dismay concerning the luggage claim and again submitted the information concerning the additional costs for the phone International Plan and transportation from the hotel back to the airport in Dublin. He did this because the Respondent's letter did not address the Complainant's claim for the additional international calling plan's costs. (Tr. P. 29-30; Ex. 14)

16. On June 24, 2024, the Complainant received five envelopes each containing a check but no EOB (Explanation of Benefits). The Complainant could not reconcile amounts on the checks with the amount of the claims. (Tr. P. 30; Ex.16)

17. That same day, the Complainant contacted the Respondent and spoke to a woman named Nadia. The Complainant asked for a copy of the EOBs. Nadia contacted her supervisor to get permission to send the EOBs to the Complainant. (Tr. P. 30-31)

18. When the Respondent sent the EOBs to the Complainant, the Complainant determined that the checks were for the total of out-of-pocket expenses and the transportation costs divided by five. There were seven people on the trip. When the Complainant asked why the total was divided by five people since the Complainant paid for the majority of the meals and transportation. Nadia informed the Complainant that it is the policy of the Respondent to issue a check to each of the insureds. She then when on to say that the amount was divided by five because there were two others insured whose claim was still being reviewed. The checks did not reflect any payment for the damaged luggage, or the expense associated with the International calling plan. (Tr. 32-33; Ex. 16, 16A)

19. When Nadia was asked about the international calling plan costs, she stated that the plan extension was not covered under the policy.

20. After the conversation on June 24, 2024, there was no response from the Respondent. On July 24, 2024, the Complainant filed a complaint with the West Virginia Offices of the Insurance Commissioner. (Tr. P. 35; Ex. 17)

21. On August 6, 2024, the Respondent contacted the Complainant by letter. The letter stated that the claim was covered under the section of the policy called post-departure benefits. The letter does deny the claim for the costs associated with the international calling plan, (Tr. P. 37, Ex.18)

22. The letter goes on to state that the policy that the Complainant purchased, was a named perils policy and the International calling plan is not a named peril. (Tr. P. 39; Ex. 18)

23. Based on a letter sent to the West Virginia Offices of the Insurance Commissioner on August 21, 2024, the Respondent denied the international calling plan claim because it was not listed as a named peril under the policy in effect in January 2024. This policy limits claims to the items listed in the policy. The Respondent, in the letter, stated that the trip insurance was purchased on January 5, 2024. The credit card statement entered in evidence shows that the trip insurance was purchased on November 28, 2023. The Complainant argues that the relevant plan would be the one issued in 2019 not 2024. (Tr. P. 43-44; Ex. 19)

24. The Complainant claims that when he picked up his documents on March 12, 2024, he was given forms from 2019 and not 2024. He testified that he relied on the forms provided to him, and either the person at AAA or a person at the insurance company made a mistake and gave him the wrong form. (Tr. P. 46)

25. The Complainant testified that neither the 2019 form nor the 2024 form were ever submitted or approved by the West Virginia Offices of the Insurance Commissioner. (Tr. P. 46-47; ex. 5)

26. At some point the Complainant received a check for $123.00 for damage to the suitcase. On the day the claim was filed, the Complainant obtained a price for the suitcase on Amazon.com. The suitcase was on sale on that date. The value of the suitcase listed on Amazon was $164.00. The check paid to the owner of the suitcase was not 75% of the original cost of the suitcase. (Tr. P. 49-50; Ex. 23)

27. On November 8, 2024, the Complainant received an email from the Respondent. The email contained a document styled Confidential Settlement and Release. The document stated that the parties negotiated the release. The Complainant testified that there were no conversations between the parties concerning the release. (Tr. P. 51; Ex. 24)

28. Other clauses contained in the Release were that it was governed by the laws of Hawaii, it asked to release parties that are not involved in the claim, a confidentiality agreement, and non-disparagement agreement. (Tr. P. 51-52; Ex. 24)

29. In the November 8, 2024, letter the Respondent offered to pay the international call plan expenses and to make up the difference to 75% for the suitcase. The letter was not signed making it difficult for the Complainant to respond. (Tr. P. 51; Ex. 24)

30. On November 15, 2024, the Complainant received a call from a representative of the Respondent, Jen Glicher, who was calling to inquire whether the Complainant was going to sign and return the Release. When he told Ms. Glicher that he was not going to return the Release, she stated that she was going to inform her complaint department and the Respondent. (Tr. P. 53-54)

31. The Complainant then asked Ms. Glicher whether she would be the person appearing at the hearing. Ms. Glicher stated that she would not be the person appearing at the hearing, but it will be someone from the complaints department. (Tr. P. 54)

32. When the Complainant initially purchased the travel insurance he had gone to AAA and met with Kim Lancaster, an employee of AAA. He discussed the policy with Ms. Lancaster and told her about his concerns with traveling with elderly individuals who need health insurance coverage. The Complainant testified that Ms. Lancaster sold him the policy. The Complainant, by referring to the NAIC database, determined that Ms. Lancaster is not a licensed producer in West Virginia. (Tr. P. 8; Ex. 1)

33. While meeting with Ms. Lancaster, the Complainant noticed that Ms. Lancaster was talking and emailing a person named Wendy Hager at CIE Tours. Again, by searching the NAIC database, the Complainant determined that Ms. Hager is not a licensed producer in West Virginia. (Tr. P. 8-9; Ex. 2)

34. The certificate of insurance, given to the Complainant, was issued by United States Fire Insurance Company which is licensed in West Virginia. While the United States Insurance Company is licensed in the state and its license is active, there are no producers appointed in West Virginia. (Ex. 3,4)

35. The hearing was adjourned at 11:28 a.m., no one made an appearance on behalf of the Responent. (Tr. P. 59)

Issue

Whether the Respondent violated West Virginia Code § 33-62-4, West Virginia Code of State Rules §§ 114-4-1, 114-14-4.2, 114-14-5.1, 114-14-5.3, 114-14-6.1, 114-14-6.5, 114-14-4.5, 114-14-6.6, 114-14-6.7, 114-14-6.10 and 114-14-6.17. 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 § 33-62-24.

Analysis

The Complainant raised several issues in his complaint and during the hearing. I will attempt to address each of the issues raised.

The first issue to be addressed are the alleged violations of West Virginia Code of State Rules § 114-14-4.1 and 114-14-4.2 which state as follows.

> 4.1. Failure to disclose pertinent policy provisions. -- No person may knowingly fail to fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of an policy or insurance contract under which a claim is presented.
> 4.2. Concealment of pertinent policy provisions. -- No person may knowingly conceal from first-party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

The Respondent's alleged violations of these sections are based on the Respondent's reliance on the policy language of the 2024, revisions while the Complainant was given the 2019 policy language.

The Respondent initially tried to tell the Complainant that his claim was governed by the 2024 policy which was a named perils policy. That policy did not mention that international calling plans were a covered peril. He was not informed of this until the Respondent sent a response to the West Virginia Offices of the Insurance Commissioner.

It turned out that the Complainant had paid for the insurance coverage in 2023, prior to the

time that the 2024 policy language was issued. The language of the 2019 policy was more general and could easily be interpreted to include coverage for the international calling plans.

The failure of the Respondent to inform the Complainant that they were applying the wrong policy language and then denying the Complainant's claim for the international calling plans portion of the claim proved that the Respondent violated West Virginia Code of State Rules §§ 114-14-4.1 and 114-14-4.2.

The next allegation to consider is whether the Complainant proved that the Respondent violated West Virginia Code of State Rules §§ 114-14-5.1 and 114-14-5.3 which state as follows.

> 5.1. Acknowledgment of notices of claims. -- Every insurer, upon receiving notification of a claim shall, within fifteen (15) working days, acknowledge the receipt of such notice unless full payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.
>
> 5.3. Replies to other pertinent communications. -- A reply shall be made within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant which reasonably suggest that a response is expected.

The Complainant initially filed his claim on April 29, 2024; however, it was sent to the wrong address and was returned to the sender. On May 16, 2024, the Complainant sent another claim to the correct address. The second letter was not returned.

The Respondent sent an acknowledgement of the claim on June 4, 2024, which is within fifteen business days from the date the claim was sent. Therefore, the Complainant did not prove that the Respondent violated West Virginia Code of State Rules § 114-14-5.1.

On June 4, 2024, which was withing fifteen working days, the Complainant sent a response to the Respondent and enclosed the information requested by the Respondent, even though that information had already been submitted in the initial claim. Also in that response, the Complainant raised the issue about his claim for the damaged luggage.

On June 24, 2024, the Complainant received five envelopes, each containing a check. The Complainant was not able to reconcile the amount of the checks with the amount of his claim. There was no explanation for what the checks covered in the mailing, in addition, there was no response to his question about the claim for damaged luggage.

He then contacted the Respondent and asked for a copy of the EOB. The person he was talking to had to ask her supervisor for permission to send the EOBs. The EOBs were eventually sent but there was no information concerning the damaged luggage or the international calling plans. However, during the June 24, 2024, conversation, the Respondent's representative stated that the extensions of the international calling plans were not covered by the policy.

The Complainant did not hear from the Respondent about his damaged luggage, so he filed a complaint with the West Virginia Offices of the Insurance Commissioner on July 24, 2024.

The violation of West Virginia Code of State Rules § 114-14-5.3, only arguably occurred for the Respondent's failure to timely respond to the Complainant's question about the damaged luggage. It was not exactly clear at the hearing whether the parties discussed the damaged luggage during the phone conversation on June 24, 2024. Therefore, since there was no proof that the Respondent responded to the Complainant's issue about the damaged luggage, that in and of itself, if proven, would be a minor violation of West Virginia Code of State Rules § 114-14-5.3.

The next issue raised by the Complainant is an alleged violation of West Virginia Code of State Rules § 114-14-6.1 which is as follows.

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.

It appears that the Complainant alleges that the request of the Respondent for the Complainant to supply information, that he had already provided to the Respondent in his initial filing, is a violation of § 114-14-6.1. He alleges that the request for the same information that had been provided was an attempt by the Respondent to unreasonably delay the payment of the claim. This argument by the Complainant is well founded and appears to be an attempt to delay the payment of the claim or the incompetence of the Respondent. The only thing that was proven at the hearing is that the same information was requested a second time Since no one made an appearance on behalf of the Respondent, the only conclusion that can be reached is that the Respondent was unreasonably delaying the resolution of the claim. Therefore, the Complainant proved that the Respondent violated of West Virginia Code of State Rules § 114-14-6.1.

The next issue to discuss is whether the Respondent violated of West Virginia Code of State Rules § 114-14-6.5.

6.5. Denial of claims. -- No insurer may deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing or as otherwise provided in subsection 6.6. of these rules.

The Complainant did not learn that the initial denial of his claims concerning the damaged luggage, and the international calling plans had to do with the language in the 2024 policy language until after his complaint had been filed with the West Virginia Offices of the Insurance Commissioner.

The Complainant was unaware of the policy language from the 2024 version of the policy, and the denial did not refer to the provision of the policy language which the denial was based upon. Therefore, the Complainant proved that the Respondent violated of West Virginia Code of State Rules § 114-14-6.5.

The Complainant also complains that the Respondent sent him a settlement and release agreement which had not been negotiated by the parties. He also claims that the Respondent was asking him to release any claim by the other individuals in his party. Finally, the settlement and release agreement required confidentiality and a non-disparagement agreement. The applicable rule to this alleged violation is West Virginia Code of State Rules § 114-14-4.5.

4.5. Releases. a. No person may ask a first-party claimant to sign a release that extends beyond the subject matter which gave rise to the claim payment.
b. No insurer may issue any check or draft, in partial settlement of a loss or claim under a specific coverage, that contains language which releases the insurer or its insured from its total liability.

In this matter, the release sent to the Complainant was comprehensive and required the Complainant to release any claims from the other members of his party. The first issue is that this release and settlement document indicates that the parties negotiated the settlement. There was no evidence entered to indicate that there were any negotiations between the Complainant and the Respondent. Even assuming that the demand by the Complainant was fully satisfied, there is nothing that indicates that the other members of the Complainant's party were part of the negotiations.

The release indicated that the Complainant would be committing the other members of the party to hold the settlement confidential and not disparage the Respondent is beyond the power of the Complainant.

Therefore, at least to the other members of his party, the Complainant proved that the Respondent violated West Virginia Code of State Rules § 114-14-4.5.

The next issue raised by the Complainant is an alleged violation of West Virginia Code of State Rules § 114-14-6.17.

6.17. Required information for claim denial notices. -- Any notice rejecting any element of a claim shall contain the identity and the claims processing address of the insurer and the claim number. The notice must state that the claimant has the option of contacting the Commissioner.

The notice must provide the Commissioner's mailing address, telephone number and web site address.

During the June 24, 2024, call, the Complainant was told that his claim for an extension of the international calling plans were being denied. Under West Virginia Code of State Rules § 114-14-6.5 (stated above), requires that the denial be in writing, however West Virginia Code of State Rules § 114-14-6.6. does allow for a verbal denial if a note is made in the insurer's claim file.

6.6. Records of denial of claims. -- If a denial of a claim is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer.

The Respondent did not make an appearance at the hearing, so it is unknown whether it was noted in the file that the claim had been denied. Therefore, there is no proof that West Virginia Code of State Rules § 114-14-6.6 was complied with as required by law.

While it is unknown whether the Respondent made a notation on its file when it denied the Complainant's claim, the Respondent did not provide the identity and claims processing address and the claim number. In addition, the Respondent did not inform the Complainant that he had the option of contacting the West Virginia Offices of the Insurance Commissioner and did not provide the Commissioner's address, telephone number or the website location.

Based upon the above discussion the Complainant proved that the Respondent violated West Virginia Code of State Rules § 114-14-6.17 and West Virginia Code of State Rules § 114-14-6.5.

The Complainant also alleges that the Respondent violated West Virginia Code of State Rules § 114-14-6.7, which states as follows;

6.7. Notice of necessary delay in investigating claims. -- If the insurer needs more than thirty (30) calendar days from the date that a proof of loss from a first-party claimant or notice of claim from a third-party claimant is received to determine whether a claim should be accepted or denied, it shall so notify the claimant in writing within fifteen (15) working days after the thirty day period expires. If the investigation remains incomplete, the insurer shall provide written

notification of the delay to the claimant every forty-five (45) calendar days thereafter until the investigation is complete. All such notifications must set forth the reason(s) additional time is needed for investigation. Where there is a reasonable basis supported by specific information available for review by the Commissioner that a claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subsection: Provided, That the insurer shall notify the claimant of the acceptance or denial of the claim within a reasonable time allowing for full investigation. Nothing contained in this subsection requires an insurer to disclose any information that could reasonably be expected to alert a claimant to the fact that the subject claim is being investigated as a suspected fraudulent claim.

This Rule requires that the Respondent respond to the Complainant's demand within thirty calendar days, it must inform the Complainant if the determination of the validity of the claim within fifteen working days that there is a delay.

In the instant matter the Complainant sent the demand to the correct address on May 16, 2024, and received a response on June 4, 2024. The response indicated that the Respondent needed additional information. The Complainant claims that he has already submitted the requested information in his demand letter. While this is true, the fact that they responded is enough to satisfy this Rule.

While the investigation is ongoing, this Rule requires that the Respondent advise the Complainant that the investigation is still active in writing within forty-five days. There was a telephone conversation between the Complainant and the Respondent on June 24, wherein the Respondent informed the Complainant about the denial of a portion of the claim and that it was still reviewing two of the claims. That conversation does not satisfy the requirement of West Virginia Code of State Rules § 114-14-6.7 since it was not in writing. The fact that the forty-five day notice was not in writing is a technical violation of West Virginia Code of State Rules § 114-14-6.7.

Even though the Respondent did not contact the Complainant after the June 24 conversation, that is not relevant since the Complainant filed his complaint with the West Virginia

Offices of the Insurance Commissioner thirty days later. There was not enough time between June 24, 2024, and July 25, 2024, to prove a violation.

The next issue is to review whether the Respondent violated West Virginia Code of State Rules § 114-14-6.10, which is as follows:

6.10. Separation of claims. -- In any case where there is no dispute as to one (1) or more elements of a claim, payment for such element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim where such payment can be made without prejudice to either party..

It does not appear that the Respondent failed to pay part of the claim while disputing the claim for the luggage and the International calling plans. On June 24, 2024, the Complainant received five separate checks, allegedly payment for everything other than the luggage and the international calling plans,

The fact that the checks were written separately for each of the insureds does not mean that the Respondent violated West Virginia Code of State Rules § 114-14-6.10. When the Respondent paid part of the claim that was not in dispute it complied with West Virginia Code of State Rules § 114-14-6.10.

The last issue raised by the Complainant was the status of the licensure of the persons that sold him his insurance policy. He testified that he had researched the NAIC database and could not find that either Ms. Lancaster or Ms. Hager were licensed producers in West Virginia. In addition, he could not find that Ms. Hager's employer, CIE Tours, had a producer license issued by the West Virginia Offices of the Insurance Commissioner. However, the Complainant did determine that the Respondent is licensed to do insurance business in West Virginia.

West Virginia Code § 33-62-4 outlines the requirements for a limited lines travel insurance producer.

(a)The commissioner may issue to an individual or business entity that has filed with the

commissioner an application for such limited license in a form and manner prescribed by the commissioner, a limited lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer. No person may act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively. The annual fee for a limited lines travel insurance producer license is $200.

This code section continues and distinguishes a limited lines travel insurance producer from a travel retailer, such as AAA. One can only assume that AAA is a travel retailer since Ms. Lancaster is not a licensed limited lines travel insurance producer. A travel retailer is limited to the following actions:

(b) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) A description of the material terms or the actual material terms of the insurance coverage;

(B) A description of the process for filing a claim;

(C) A description of the review or cancellation process for the travel insurance policy; and

(D) The identity and contact information of the insurer and limited lines travel insurance producer;

Assuming that AAA is a travel retailer, then this code section requires that AAA, in order to offer travel insurance, it must rely on a limited lines travel producer license, and it has been designated by that limited lines travel producer to act on its behalf.

The code section goes on to list what actions a travel retailer is authorized to perform while disseminating travel insurance.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

(1) Provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(3) Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing

follows:

(1) The insurer shall file, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed and shall pay a nonrefundable appointment processing fee in the amount of $25: *Provided*, That an insurer may elect to appoint a limited lines travel insurance producer to all or some insurers within the insurer's holding company system or group by filing a single notice of appointment;

(2) Upon receipt of a notice of appointment, the commissioner shall verify within a reasonable time, not to exceed 30 days, that the limited lines travel insurance producer is eligible for appointment: *Provided*, That the commissioner shall notify the insurer within five days of a determination that the limited lines travel insurance producer is ineligible for appointment;

(3) The insurer shall remit, no later than midnight on May 31 annually and in a manner prescribed by the commissioner, a renewal appointment fee for each appointed limited lines travel insurance producer in the amount of $25; and

(4) The insurer shall maintain a current list of limited lines travel insurance producers appointed to accept applications on behalf of the insurer, and shall make the list available to the commissioner upon reasonable request for purposes of conducting investigations and enforcing the provisions of this chapter.

There is no record of either Ms. Lancaster or Ms. Hager being appointed by the Respondent to be a limited lines travel producer. Also, there is no record that the Respondent has appointed anyone to conduct business in West Virginia. However, it is possible Ms. Hager was acting under the direction of a travel limited lines producer. Since the Respondent did not make an appearance at the hearing and there is no evidence who Ms. Hager is working with, there is not sufficient evidence to prove that the Respondent violated West Virginia Code § 33-62-4. It is my recommendation that the Insurance Commissioner investigate and determine whether the Respondent is following the rules for a limited line producer as required by law.

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. The Complainant has the burden of proof, by a preponderance of the evidence, to prove that the Respondent violated West Virginia Code § 33-62-4, West Virginia Code of State

Rules §§ 114-4-1, 114-4-4.2, 114-14-5.1, 114-14-5.3, 114-14-6.1, 114-14-6.5, 114-14-4.5, 114-14-6.6, 114-14-6.7, 114-14-6.10 and 114-14-6.17.

3. The Complainant proved that the Respondent violated West Virginia Code of State Rules §§ 114-4-1 and 114-4-4.2 when it failed to disclose to the Complainant that it was applying the 2024 policy language when the 2023 policy language was the one that should have been applied to the Complainant's claim.

4 The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules § 114-14-5.1. The Respondent did acknowledge the Complainant's claim within fifteen business days.

5. The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-5.3. The Respondent did reply to the Complainant's communication in a timely manner.

6. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-6.1. The Respondent unreasonably delayed the investigation by asking for information that had already been provided.

7. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-6.5. The Respondent failed to inform the Complainant that his denial was based on the language of the 2024 policy.

8. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-4.5. The Respondent attempted to have the Complainant to sign a release that exceeded the subject matter of the claim.

9. The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-6.6. There was no proof whether

the Respondent recorded its denial of a portion of the Complainant's claim in the Respondent's claim file.

10. The Complainant proved, by a preponderance of the evidence, that the Respondent violated 114-14-6.7, when he proved that the Respondent failed to notify him in writing of any delays in the investigation within the time frame identified in the Rule.

11. The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated 114-14-6.10. The Respondent paid the undisputed amount of the claim in accordance with the Rule.

12. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rules §114-14-6.17. When the Respondent denied a portion of the Complainant's claim, it did not provide the information mandated in West Virginia Code of State Rules §114-14-6.17.

13. The Complainant failed to prove, by a preponderance of the evidence, that the Respondent violated West Virginia Code §§ 33-62-4 by failing to prove that the Respondent did not comply with the rules governing the use of a limited-line travel insurance provider. However, there was enough evidence for the West Virginia Offices of the Insurance Commissioner to investigate this matter further.

RECOMMENDED DECISION

It is the recommendation of the Hearing Examiner that the Complainant failed to prove that the Respondent violated West Virginia Code §§ 33-62-4, and West Virginia Code of State Rules §§ 114-14-5.1, 114-14-5.3 and 114-14-6.6, and 114-14-6.10. The Complainant proved that the Respondent violated West Virginia Code of State Rules §§ 114-14-4.1, 114-14-4.2, 114-14-6.1, 114-14-6.5, 114-14-4.5 and 114-14-6.7. Therefore, the Complainant's complaint

should be dismissed in part and granted in part.

Respectfully recommended,

MARK W. CARBONE