

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

KYLE FREY,

Complainant,

v.

ADMINISTRATIVE PROCEEDING NO.: 25-IC-185524

J. W. POTTS INSURANCE AGENCY,

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 proved that the Respondent violated West Virginia Code of State Rules § 114-14-5.3.


Therefore, the complaints should be upheld.

**THEREFORE**, it is **HEREBY ORDERED** that the Complaint by Kyle Frey is granted. Further, the Respondent is directed to Cease & Desist from conduct and shall pay a penalty in the amount of One Thousand Dollars (\$1,000.00).

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 4<sup>th</sup> day of March, 2026.

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

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**ADMINISTRATIVE PROCEEDING NO.: 25-IC-185524**

**J.W. POTTS INSURANCE AGENCY,**

**Respondent.**

**RECOMMENDED DECISION  
OF THE HEARING EXAMINER**

On February 4, 2026, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, at the West Virginia Offices of the Insurance Commissioner, Charleston, West Virginia. Kyle Frey (hereinafter “Complainant”), appeared pro se. No one made an appearance on behalf of J.W. Potts Insurance Agency (hereinafter “Respondent”). 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. The Complainant resides at [REDACTED]

[REDACTED] (Tr. P. 5)

2. Sometime in November 2024, the Complainant sold his 1997 Ford F-150. The next business day he contacted the Respondent and left a voice mail informing it that he had sold his vehicle and to take it off his insurance. Erie Insurance provided his insurance. At that point the Complainant believed that it would be removed from his insurance. (Tr. P. 5-6, 8)

3. A couple of months went by and the Complainant noticed that his insurance bill had not been reduced and that he was still being billed for his truck. (Tr. P. 7: Ex 3, 4)

4. He contacted the Respondent once a month for the next two months. There was no response. He then began calling weekly, again without any response. He then began to call daily. The Complainant continued to pay his bill. The Complainant believes that he is entitled to a refund. (Tr. P. 5, 7-8: Ex. 5)

5. The Complainant switched insurance to State Farm. The Complainant went down to the Respondent's office to inform them that he had switched to State Farm for his coverage. He was told that since the vehicle had been sold 90 to 120 days prior, the only way that he can get the Ford F-150 off his bill was to present a notarized bill of sale. The Respondent told him that Erie Insurance required the notarized bill of sale. He sold the vehicle for \$500.00 and did not get the bill of sale notarized. (Tr. P. 8-9)

6. After going to the Respondent's office, the Complainant's renter's insurance was removed from his bill but the bill for his vehicle remained. (Tr. P. 9)

7. At some point the Complainant quit paying his insurance bill. As of the date of the hearing the Complainant was still receiving a bill for insurance on a vehicle he has not owned since November 2024. (Tr. P. 9)

8. The Respondent did not make an appearance at the hearing, however the record indicated that it had proper notice by email. (Ex. 1, 2)

### **Issue**

Whether the Respondent violated West Virginia Code of State Rules § 114-14-5.3. 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's main complaint is that he attempted to cancel the insurance that he had on his Ford F-150 which he no longer owned and the Respondent failed to take any action or respond to his requests.

The Complainant testified that he sold his Ford F-150 in November of 2024. On the next business day, he contacted the Respondent and when he was unable to speak to a person, he left a voice message cancelling the insurance on the sold vehicle. At this point, the Complainant assumed that the vehicle's insurance would be cancelled immediately. Two months went by and the Complainant noticed that his insurance bill had not changed.

The Complainant again contacted the Respondent to inform it that he had sold his vehicle and that the Respondent needed to cancel the policy. The next month, when he noticed that his insurance bill was still the same, he again contacted the Respondent and left a message that it needed to cancel his policy. On neither occasion did the Respondent return the Complainant's call.

After the last call, the Complainant began calling the Respondent weekly without any response. Finally, the Complainant went to the Respondent's office and was told that since the vehicle had been sold more than one hundred and twenty days earlier, he would need a notarized bill of sale to cancel his insurance policy.

The testimony was that the Complainant made several phone calls to the Respondent without any response. One must look at West Virginia Code of State Rules § 114-14-5.3 which states as follows:

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 evidence was that the Complainant left several messages inquiring about the fact that he was still being billed for insurance on a vehicle he no longer owned. Under West Virginia Code of State Rules § 114-14-5.3, the Respondent has fifteen days to respond to the Complainant's communications, and it failed to do so. Therefore, there is a clear violation of West Virginia Code of State Rules § 114-14-5.3.

The fact that the Respondent and the Insurance Company refused to remove the vehicle from coverage after the Complainant had sold the vehicle is highly unusual. In addition, the failure of the Respondent and the Insurance Company to refund the Complainant for the payments he made when he no longer owned the vehicle is not a normal practice in the industry. Both actions by the Respondent and Erie Insurance should be investigated further.

#### **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 of State Rules §§ 114-14-5.3.

3. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code of State Rule § 114-4-5.3 when it proved that the Respondent failed to timely respond to communications that reasonably required a response.

**RECOMMENDED DECISION**

It is the recommendation of the Hearing Examiner that the Complainant proved that the Respondent violated West Virginia Code of State Rules § 114-14-5.3. Therefore, the Complainant's complaint should be granted.

Respectfully recommended,

A handwritten signature in blue ink that reads "Mark W. Carbone". The signature is written in a cursive style and is positioned above a horizontal line.

MARK W. CARBONE