

No. **2023-8092**

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date: 7/21/2023**

**Subject Considered:**

Old Republic Insurance Company  
445 S. Moorland Road  
Brookfield, Wisconsin 53005-4254

Consent Order  
DWC Enforcement File Nos. 31301, 31363, and 31850

**General remarks and official action taken:**

This is a consent order with Old Republic Insurance Company (Respondent). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Respondent.

**Waiver**

Respondent acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Respondent waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

**Findings of Fact**

1. Respondent holds a certificate of authority issued by the Texas Department of Insurance to transact the business of insurance pursuant to Tex. Ins. Code §§ 801.051-801.053 and is licensed to write multiple lines of insurance in Texas, including workers' compensation/employers' liability insurance.
2. Respondent was classified as "average" tier in the Performance Based Oversight (PBO) assessments between the years of 2007 and 2022.

Failure to Timely Pay Accurate Death Benefits

*E-case 31363*

3. Respondent was required to pay death benefits to the beneficiary of an injured employee from [REDACTED] through [REDACTED]. The death benefit payments were due seven days after the first day of the pay period. Respondent failed to timely pay death benefits, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	85
b.	[REDACTED]	[REDACTED]	[REDACTED]	78
c.	[REDACTED]	[REDACTED]	[REDACTED]	71
d.	[REDACTED]	[REDACTED]	[REDACTED]	64
e.	[REDACTED]	[REDACTED]	[REDACTED]	57
f.	[REDACTED]	[REDACTED]	[REDACTED]	50
g.	[REDACTED]	[REDACTED]	[REDACTED]	43
h.	[REDACTED]	[REDACTED]	[REDACTED]	36
i.	[REDACTED]	[REDACTED]	[REDACTED]	28
j.	[REDACTED]	[REDACTED]	[REDACTED]	22
k.	[REDACTED]	[REDACTED]	[REDACTED]	15
l.	[REDACTED]	[REDACTED]	[REDACTED]	8

4. On [REDACTED] Respondent paid [REDACTED] in death benefits by lump sum. On [REDACTED] Respondent fully complied when it paid interest on the unpaid amount.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits (TIBs)

*E-case 31301*

5. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	31
b.	[REDACTED]	[REDACTED]	[REDACTED]	24

c.				17
d.				10
e.				3

6. Respondent paid [REDACTED] in late TIBs and interest.

*E-case 31850*

7. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	68
b.	[REDACTED]	[REDACTED]	[REDACTED]	61
c.	[REDACTED]	[REDACTED]	[REDACTED]	54
d.	[REDACTED]	[REDACTED]	[REDACTED]	47
e.	[REDACTED]	[REDACTED]	[REDACTED]	40
f.	[REDACTED]	[REDACTED]	[REDACTED]	33
g.	[REDACTED]	[REDACTED]	[REDACTED]	26
h.	[REDACTED]	[REDACTED]	[REDACTED]	19
i.	[REDACTED]	[REDACTED]	[REDACTED]	12
j.	[REDACTED]	[REDACTED]	[REDACTED]	5

8. Respondent paid [REDACTED] in late TIBs and interest.

**Assessment of Sanction**

- 1.i Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.i
- 2.i In assessing the sanction for this case, DWC fully considered the following factorsi in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e):i
  - i the seriousness of the violation, including the nature, circumstances,i consequences, extent, and gravity of the prohibited act;i
  - i the history and extent of previous administrative violations;i
  - i the violator's demonstration of good faith, including actions it took to rectifyi the consequences of the prohibited act;i

- the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and
  - other matters that justice may require, including, but not limited to:
    - PBO assessments;
    - prompt and earnest actions to prevent future violations;
    - self-report of the violation;
    - the size of the company or practice;
    - the effect of a sanction on the availability of health care; and
    - evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
3. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the penalty necessary to deter future violations; the history and extent of previous administrative violations and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act, specifically Respondent remedied the untimely payments of Death Benefits prior to DWC Enforcement's involvement.
5. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that the proposed sanction is appropriate, including the factors DWC considered under Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. Respondent acknowledges that, in assessing the sanction, DWC considered the factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

**Conclusions of Law**

1. The commissioner has jurisdiction over this matter pursuant to Tex. Lab. Code §§ 402.001, 402.00114, 402.00116, 402.00128, 414.002, and 414.003.
2. The commissioner has the authority to dispose of this case informally pursuant to Tex. Gov't Code § 2001.056, Tex. Lab. Code §§ 401.021 and 402.00128(b)(6)-(7), and 28 Tex. Admin. Code § 180.26(h) and (i).
3. Respondent has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.
4. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.

Failure to Timely Pay Accurate Death Benefits


5. Pursuant to Tex. Lab. Code §§ 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
6. Pursuant to Tex. Lab. Code §§ 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a DWC rule
7. Pursuant to Tex. Lab. Code § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.
8. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), and (22); each time Respondent failed to timely issue payment of death benefits.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits


9. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
10. Pursuant to Tex. Lab. Code §§ 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a DWC rule.
11. Pursuant to Tex. Lab. Code § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.
12. Respondent violated Tex. Lab. Code §§ 408.081, 409.023, 415.002(a)(16), and (22) each time Respondent failed to timely initiate payment of TIBs.

**Order**

It is ordered that Old Republic Insurance Company must pay an administrative penalty of \$19,500 within 30 days from the date of this order. Old Republic Insurance Company must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, company check, cashier's check, or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
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Daniel Garcia  
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