

No. **2023-8175**

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

Date: 8/31/2023

Subject Considered:

Indemnity Insurance Company of North America
115 Wild Basin Road, Suite 207
West Lake Hills, Texas 78746

Consent Order

DWC Enforcement File Nos. 30952, 31382, 31462, 31463, 31465, 31504, 31505, 31506,
31554, 31568, 31584, 31586, 31621, 31727, and 31848

General remarks and official action taken:

This is a consent order with Indemnity Insurance Company of North America (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 workers' compensation/employers' liability insurance in Texas.
2. Respondent was classified as "average" tier in the 2007, 2009, 2010, 2012, 2014, 2016, 2018, 2020, and 2022 Performance Based Oversight (PBO) assessments.

Failure to Timely Initiate and Pay Accrued Temporary Income Benefits (TIBs)

File No. 30952

3. On [REDACTED] Respondent received an injured employee's first notice of injury.
4. The injured employee's first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED]
5. Respondent was required to initiate or dispute TIBs the later of 15 days after receiving written notice of the injury or seven days after the accrual date. In this case, the later date was on [REDACTED]
6. Respondent initiated TIBs payments in the amount of [REDACTED] on [REDACTED] which was 12 days late.
7. Respondent was required to pay TIBs to the 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 [REDACTED] in TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	5
b.	[REDACTED]	[REDACTED]	[REDACTED]	6

8. On [REDACTED] Respondent paid interest 29 days late from the [REDACTED] payment, and seven days late from the [REDACTED] payment.

File No. 31504

9. On [REDACTED] Respondent received an injured employee's first notice of injury.
10. The injured employee's first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED]

11.e Respondent was required to initiate or dispute TIBs the later of 15 days after receiving written notice of the injury or seven days after the accrual date. In this case, the later date was on [REDACTED]

12. Respondent initiated TIBs payments in the amount of [REDACTED] on [REDACTED] which was 79 days late.e

13.e Respondent was required to pay TIBs to the 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 [REDACTED] in TIBs as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	58
b.	[REDACTED]	[REDACTED]	[REDACTED]	51
c.	[REDACTED]	[REDACTED]	[REDACTED]	44

File No. 31505

14. On [REDACTED] Respondent received an injured employee's first notice of injury.

15. The injured employee's first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED]

16.e Respondent was required to initiate or dispute TIBs the later of 15 days after receiving written notice of the injury or seven days after the accrual date. In this case, the later date was on [REDACTED]

17. On [REDACTED] Respondent filed a notice of denial with DWC disputing TIBs 20 days late.

18. Due to the untimely denial, Respondent owed TIBs from [REDACTED] through [REDACTED]

19. On [REDACTED] Respondent paid TIBs in the amount of [REDACTED]

20. On [REDACTED] Respondent paid interest 17 days late.

File No. 31554

21. On [REDACTED] Respondent received an injured employee's first notice of injury.
22. The injured employee's first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED].
23. On [REDACTED] Respondent received a wage statement from the employer and miscalculated the average weekly wage (AWW) as [REDACTED] with a TIBs rate of [REDACTED]. The actual AWW was [REDACTED] 5, with a TIBs rate of [REDACTED].
24. On the same day, Respondent reduced the TIBs rate to [REDACTED] citing partial earnings.
25. For the benefit periods beginning [REDACTED] through [REDACTED] Respondent was required to pay [REDACTED] in TIBs. Respondent paid [REDACTED] in TIBs, resulting in an underpayment of \$ [REDACTED] in TIBs for these benefit periods.
26. For the benefit periods beginning [REDACTED] through [REDACTED] Respondent was required to pay [REDACTED] in TIBs. Respondent paid [REDACTED] in TIBs, resulting in an underpayment of [REDACTED] in TIBs for these benefit periods.
27. For the benefit periods beginning [REDACTED] through [REDACTED] Respondent was required to pay [REDACTED] in TIBs. Respondent paid [REDACTED] in TIBs, resulting in an underpayment of [REDACTED] in TIBs. Respondent underpaid [REDACTED] in TIBs for all benefit periods.
28. On [REDACTED] Respondent paid [REDACTED] in TIBs, resulting in an underpayment of [REDACTED].
29. On [REDACTED] Respondent paid [REDACTED] in TIBs, leaving an underpayment of [REDACTED].
30. On [REDACTED] Respondent paid the remaining balance of TIBs, including interest.

File No. 31584

31. On [REDACTED] DWC approved an advance of income benefits and ordered Respondent to advance [REDACTED] in income benefits and reduce the income benefits by [REDACTED] for eight payments.
32. On [REDACTED] Respondent paid the advance of income benefits.
33. Respondent then reduced the next nine TIBs payments by [REDACTED]. This reduction led to an underpayment of [REDACTED] for the benefit period of [REDACTED] through [REDACTED].
34. On [REDACTED] Respondent paid the underpaid TIBs.
35. On [REDACTED] Respondent paid interest 44 days late.

Failure to Pay Initial and Subsequent Quarters of Supplemental Income Benefits (SIBs)*File No. 31382*

36. On [REDACTED] Respondent received a DWC Form-052, *Application for Supplemental Income Benefits* (DWC Form-52) from an injured employee for the ninth quarter of SIBs. The ninth quarter of SIBs began on [REDACTED].
37. Respondent's payment for the first month of the ninth quarter was due by the 10th day after Respondent received the application for SIBs or the seventh day of the ninth quarter, whichever is later. In this case, the latest date was [REDACTED].
38. Respondent paid SIBs for the first month of the ninth quarter on [REDACTED] which was three days late.
39. Respondent's payment for the third month of the ninth quarter was due by the 67th day of the ninth quarter. In this case, the due date was [REDACTED].
40. Respondent paid SIBs for the third month of the ninth quarter on [REDACTED] which was four days late.

File No. 31465

41. On Ju [REDACTED] Respondent received a DWC Form-52 from an injured employee for the fourth quarter of SIBs. The fourth quarter of SIBs began on [REDACTED]
42. Respondent's payment for the second month of the fourth quarter was due by the 37th day of the fourth quarter. In this case, the due date was [REDACTED]
43. Respondent paid SIBs for the second month of the fourth quarter on [REDACTED] which was two days late.

File No. 31621

44. On [REDACTED] Respondent received a *Notice of Entitlement to Supplemental Income Benefits (SIBs) for Quarter #1* from DWC. The first quarter of SIBs began on [REDACTED]
45. Respondent's payment for the first month of the first quarter was due by the 10th day after Respondent received DWC's determination of entitlement or the seventh day of the first quarter, whichever is later. In this case, the latest date was [REDACTED]
46. Respondent paid SIBs for the first month of the first quarter on [REDACTED] which was five days late.
47. Respondent's payment for the second month of the first quarter was due by the 37th day of the first quarter. In this case, the due date was [REDACTED]
48. Respondent paid SIBs for the second month of the first quarter on [REDACTED] which was 21 days late.
49. On [REDACTED] Respondent received a DWC Form-52 from the injured employee for the second quarter of SIBs. The second quarter of SIBs began on [REDACTED]
50. Respondent's payment for the first month of the second quarter was due by the 10th day after Respondent received the application for SIBs or the seventh day of the second quarter, whichever is later. In this case, the latest date was [REDACTED]

51. Respondent paid SIBs for the first month of the second quarter on [REDACTED] which was nine days late.
52. Respondent's payment for the second month of the second quarter was due by the 37th day of the second quarter. In this case, the due date was [REDACTED]
53. Respondent paid SIBs for the second month of the second quarter on [REDACTED] which was one day late.

Failure to Timely or Accurately Pay Impairment Income Benefits (IIBs)

File No. 31462

54. On [REDACTED] an injured employee reached statutory maximum medical improvement (MMI). By [REDACTED] the injured employee had not yet undergone an exam assigning an impairment rating (IR). Respondent assigned an IR of [REDACTED] based on its review of the injured employee's medical records. Respondent revised the IR on [REDACTED] and assigned an IR of [REDACTED]
55. For 21 benefit periods between [REDACTED] and [REDACTED], Respondent was required to pay [REDACTED] in weekly IIBs to the injured employee, but Respondent incorrectly calculated IIBs at [REDACTED] per week.
56. For six benefits period between [REDACTED] and [REDACTED] Respondent was required to pay [REDACTED] in weekly IIBs to the injured employee, but Respondent incorrectly calculated IIBs at [REDACTED] per week.
57. Respondent's miscalculation resulted in a [REDACTED] underpayment.
58. On [REDACTED] Respondent received a DWC Form-69, Report of Medical Evaluation, from the injured employee's certifying doctor (CD) in connection with a CD examination.
59. The CD determined that the injured employee reached MMI on [REDACTED] with an IR of [REDACTED]

60.e On [redacted] Respondent paid [redacted] an underpayment of [redacted]

61.e Respondent was required to pay IIBs to the injured employee for the periode between [redacted] through [redacted]. The IIBs payments were due sevene days after the first day of the pay period. Respondent failed to timely paye [redacted] in IIBs as follows:e

	Payment Period	Date Due	Date Paid	Days Late
a.	[redacted]	[redacted]	[redacted]	21
b.	[redacted]	[redacted]	[redacted]	14
c.	[redacted]	[redacted]	[redacted]	7

62. On [redacted] Respondent paid [redacted] in IIBs and interest.

Failure to Pay Accrued Income Benefits Based on a Designated Doctor (DD) Report

File No. 31568

63.e On [redacted] Respondent received a DD report of a DD examination performed on [redacted]

64.e The DD determined that the injured employee reached MMI on [redacted] with an IR of [redacted]

65.e Respondent was required to pay accrued IIBs no later than five days after receivinge the DD report. The deadline to pay benefits was [redacted]

66.e Respondent paid [redacted] in IIBs on [redacted] which was 29 days late.

File No. 31727

67. On [redacted] Respondent received a DD report of a DD examination performed one [redacted]

68.e The DD determined that the injured employee had not reached MMI, but was expected to reach MMI one [redacted]

69. Unless otherwise ordered by DWC, Respondent was required to pay TIBs no later than five days after receiving the DD report, including during any pending dispute. The deadline to pay TIBs was [REDACTED]
70. Respondent failed to timely pay TIBs pursuant to the DD report.
71. Respondent disputed whether the IE had a disability, although there was no evidence Respondent properly filed a plain language notice of dispute.
72. On [REDACTED] an ALJ found in a CCH D&O that the injured employee did not have a disability from [REDACTED] through [REDACTED] the injured employee reached MMI on [REDACTED] and assigned an IR of [REDACTED] to the injured employee.

Failure to Pay Accrued IIBs Based on a CD Report

File No. 31586

73. On [REDACTED], Respondent received a DWC Form-69, *Report of Medical Evaluation*, from the injured employee's CD in connection with a CD examination.
74. The CD determined that the injured employee reached MMI on [REDACTED] with an IR of [REDACTED]
75. Respondent was required to pay accrued IIBs no later than five days after receiving the CD report. The deadline to pay benefits was [REDACTED]
76. Respondent paid [REDACTED] in IIBs on [REDACTED] which was 58 days late.
77. On [REDACTED] Respondent paid interest 23 days late.

Failure to Timely Pay Death Benefits to the Subsequent Injury Fund (SIF)

File No. 31463

78. On [REDACTED] an employee died due to a workplace injury. Respondent's investigation determined that the injured employee had no legal beneficiaries.

79. When there are no beneficiaries, Respondent is required to pay death benefits to the SIF no later than the seventh day after the one-year anniversary of the employee's death. The payment to SIF was due by [REDACTED]
80. Respondent paid [REDACTED] to the SIF on [REDACTED] which was 242 days late.

Failure to Timely Comply with a Final or Binding Contested Case Hearing Decision and Order (CCH D&O)

File No. 31506

81. On [REDACTED] DWC issued a CCH D&O requiring Respondent to pay benefits and interest in accordance with the decision.
82. Respondent received the CCH D&O on [REDACTED]
83. The CCH D&O became final on [REDACTED]. Respondent was required to comply with the CCH D&O within 20 days, or by [REDACTED]
84. On [REDACTED] Respondent paid [REDACTED] to the injured employee.
85. On [REDACTED] Respondent fully complied with the CCH D&O 42 days late by paying [REDACTED] in interest to the injured employee.

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 31848

86. On [REDACTED] DWC ordered Respondent to pay attorney fees in connection with legal services provided to an injured employee. DWC ordered Respondent to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.
87. Between [REDACTED] and [REDACTED] Respondent issued multiple payments to the injured employee for unpaid income benefits. Respondent failed to timely pay attorney fees in an amount equal to 25 percent of the income benefits paid to the injured employee as follows:

	Benefits Paid to IE	Attorney Fee Owed	Date Due	Date Paid	Days Late
a.					133
b.					126
c.					125
d.					119
e.					112
f.					105
g.					98

88. In total, Respondent paid [REDACTED] in attorney fees late.

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 Compliance with DWC orders is imperative to minimize disputes and resolve them promptly and fairly. In addition, failure to provide income benefits in a timely and cost effective manner is harmful to injured employees and the Texas workers' compensation system.i
- 3.i Failure to provide appropriate death benefits in a timely and cost effective manner is harmful to injured employees and the Texas workers' compensation system.i
- 4.i Failure to timely pay attorney fees ordered by DWC makes it more difficult for attorneys to provide adequate legal services to injured employees and is harmful to the Texas workers' compensation system.i
- 5.i In assessing the sanction for this case, DWC fully considered the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e):
 - i the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
 - i the history and extent of previous administrative violations;
 - i the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;

Confidential Information Redacted Texas Labor Code §§402.083 and 402.092

- 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.
6. 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 violations, including the nature, circumstances, consequences, extent, and gravity of the prohibited acts; the history and extent of previous administrative violations; the penalty necessary to deter future violations; whether the administrative violation had a negative impact on the delivery of benefits to injured employees; to the extent reasonable, the economic benefit resulting from the prohibited acts; and other matters that justice may require, including, but not limited to the size of the company or practice and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
7. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
8. 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).
9. 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, 402.00111, 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.
5. Pursuant to Tex. Lab. Code § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
6. 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.

Failure to Timely Initiate Payment of TIBs

File Nos. 30952, 31504, and 31505

7. Pursuant to Tex. Lab. Code § 409.021(e) and 28 Tex. Admin. Code § 124.3, an insurance carrier or its representative commits an administrative violation by failing to pay benefits, file a Notice of Denial on the compensability of a claim, or file a Notice of Continuing Investigation within 15 days after receiving written notice of the injury.

8. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 124.3 each time Respondent failed to timely initiate TIBs.

Failure to Timely Pay Accrued TIBs

File Nos. 30952, 31504, and 31505

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 §§ 408.081, 408.082, and 409.021 and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.
11. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay accrued TIBs.

Failure to Accurately Pay TIBs

File Nos. 31554 and 31584

12. Pursuant to Tex. Lab. Code § 408.103 and 28 Tex. Admin. Code § 129.3, the insurance carrier is required to pay the correct amount of TIBs.
13. Respondent violated Tex. Lab. Code §§ 408.103; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 129.3 each time Respondent failed to accurately pay TIBs.

Failure to Pay Initial and Subsequent Quarters of SIBs

File Nos. 31382, 31465, and 31621

14. Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.

15. Pursuant to Tex. Lab. Code § 408.145, an insurance carrier must pay SIBs no later than the seventh day after the employee's impairment income benefit period expires and must continue to pay the benefits in a timely manner.
16. Pursuant to Tex. Lab. Code § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
17. Pursuant to 28 Tex. Admin. Code § 130.107, an insurance carrier must make the first payment of SIBs for a subsequent quarter by the 10th day after receiving a DWC determination of entitlement or the seventh day of the quarter. An insurance carrier must make the second payment by the 37th day of the quarter and the third payment by the 67th day of the quarter.
18. Respondent violated Tex. Lab. Code §§ 408.145; 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 each time Respondent untimely paid SIBs.

Failure to Accurately Pay IIBs

File No. 31462

19. Tex. Lab. Code § 408.081(a) an injured employee is entitled to timely and accurate income benefits.
20. Pursuant to Tex. Lab. Code § 408.126, IIBs are equal to 70% of the injured employee's average weekly wage.
21. Respondent violated Tex. Lab. Code §§ 408.081(a) and 415.002(a)(22) each time Respondent failed to accurately pay IIBs.

Failure to Pay Accrued IIBs

File No. 31462

22. 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.
23. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches MMI and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
24. Respondent violated Tex. Lab. Code §§ 408.121; 415.002(a)(16), (20) and (22); and 28 Tex. Admin. Code § 130.8 each time Respondent failed to timely initiate payment of IIBs.

Failure to Pay Accrued Income Benefits Based on a DD Report

File Nos. 31568 and 31727

25. 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.
26. Pursuant to Tex. Lab. Code § 408.0041(f), an insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.
27. Pursuant to 28 Tex. Admin. Code § 127.10(h), an insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
28. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(h) by failing to timely pay accrued income benefits in accordance with the DD report no later than five days after receiving the report.

Failure to Pay Accrued IIBs Based on a CD Report

File No. 31586

29. 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.
30. Pursuant to Tex. Lab. Code § 408.121(b), an insurance carrier must pay IIBs no later than five days after the insurance carrier receives the doctor's report certifying maximum medical improvement.
31. Pursuant to 28 Tex. Admin. Code § 130.8, an insurance carrier must pay benefits in accordance with the treating doctor's medical evaluation report no later than five days after receiving the treating doctor's medical evaluation report when maximum medical improvement is not disputed.
32. Respondent violated Tex. Lab. Code §§ 408.121(b); 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 130.8 by failing to timely pay accrued income benefits within five days of receiving the CD report.

Failure to Timely Pay Death Benefits to the SIF

File No. 31463

33. Pursuant to Tex. Lab. Code § 408.182(e), if an injured employee is not survived by legal beneficiaries, the insurance carrier must pay death benefits to the SIF.
34. Pursuant to Tex. Lab. Code § 415.002(a)(5), an insurance carrier or its representative commits an administrative violation if it fails to promptly pay death benefits.
35. Pursuant to 28 Tex. Admin. Code § 132.10(a), if a compensable death occurs and the deceased employee has no legal beneficiaries, the insurance carrier shall, without order from the Commission, pay to the administrator of the SIF an amount equal to 364 weeks of death benefits.

36. Pursuant to 28 Tex. Admin. Code § 132.10(c), payments to the SIF shall be made no later than the seventh day after the one-year anniversary of the employee's death.
37. Respondent violated Tex. Lab. Code §§ 408.182(e); 415.002(a)(5), (20), and (22); and 28 Tex. Admin. Code § 132.10(c) by failing to timely pay death benefits to the SIF.

Failure to Timely Comply with a Final or Binding CCH D&O

File No. 31506

38. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
39. Pursuant to Tex. Lab. Code § 410.169 and 28 Tex. Admin. Code § 142.16, a party is required to comply with a CCH D&O within 20 days of the order becoming final. However, if the CCH D&O involves benefits, a party must comply no later than the fifth day after filing a written request for appeal.
40. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.0035(e); 415.021; and 28 Tex. Admin. Code § 142.16 by failing to timely comply with a CCH D&O.

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 31848

41. Pursuant to Tex. Lab. Code §§ 415.021(a) and 415.0035(e), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
42. Pursuant to 28 Tex. Admin. Code § 152.1(c), insurance carriers are required to pay attorney fees ordered by DWC. The insurance carrier must begin payment out of the approved income benefits by mailing a check to the attorney within seven days after receiving the order. As the insurance carrier pays income benefits, it must pay attorney fees until the fees are completely paid or income benefits cease.

43. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a); 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) by failing to timely comply with a DWC order to pay attorney fees.

Failure to Timely Pay Interest


File Nos. 30952, 31462, 31505, 31554, 31584, and 31586

44. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
45. Respondent violated Tex. Lab. Code §§ 408.064; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 126.12(b) by failing to timely pay interest with accrued but unpaid income benefits.

Order


It is ordered that Indemnity Insurance Company of North America must pay an administrative penalty of \$90,950 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Indemnity Insurance Company of North America 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, PO Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Tyrus Housh
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Delaware §

§

COUNTY OF New Castle §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Daniel S. Hawthorne. I hold the position of AVP, NA Claims Compliance Manager and am the authorized representative of Indemnity Insurance Company of North America. My business address is:

1 Beaver Valley Road, Wilmington, New Castle, Delaware, 19803.

(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

Daniel S. Hawthorne

Declarant

Executed on August 16, 2023.