APPEAL NO. 990215

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On December 21, 1998, a contested case hearing was held. The two issues reported from the benefit review conference were:

1. Did [Carrier R] or [Carrier E] provide workers' compensation insurance for [LJM] on or about _____?

2. Did the Claimant [respondent] have disability resulting from the injury sustained on _____, and if so, for what periods?

At the CCH, the parties agreed, on the record, that respondent (claimant) had disability beginning on January 20, 1998, and ending on September 14, 1998. That left only the issue of which carrier provided workers' compensation insurance to LJM on _____. The hearing officer determined that Carrier R provided workers' compensation coverage to LJM on that date.

Carrier R appealed, essentially presenting the same arguments presented in a companion case, Texas Workers' Compensation Commission Appeal No. 990224, decided March 8, 1999, and requested we reverse the hearing officer's decision and render a decision in its favor. Carrier E responded with the same arguments made in Appeal No. 990224, and urged affirmance. The file does not contain a response from the claimant.

DECISION

Affirmed.

As we have previously noted, in Appeal No. 990224 and Texas Workers' Compensation Commission Appeal No. 990209, decided March 10, 1999, this case is one of four cases, each of which have different claimants, different dates of injury and different injuries, but all having as a common theme the issue of whether Carrier R or Carrier E provided workers' compensation coverage at the time the injuries occurred. The hearing officer provided a detailed Statement of the Evidence which the parties appear to have accepted as generally factually accurate. ("[Carrier R] agrees with the evidence presented as outlined by the Contested Case Hearing Officer in the Decision and Order.") The hearing officer summarizes the evidence in some detail in her Statement of the Evidence, parts of which we also summarize and recite in Appeal No. 990224, *supra*. Claimant's attorney concisely gives his view of the questions to be resolved in the disputed issue as: (1) whether certification of insurance, issued by a "soliciting agent," can "bind an insurance company to pay for the liability that he [sic, she] incurred"; (2) the authority of the soliciting agent, Ms. PS; and (3) "does waiver come into effect."

Basically, LJM was a staff leasing company, 60% of which was purchased in December 1997 by (SS), another staff leasing company, in order to obtain "a discount of 79%" on its workers' compensation premium. Ms. PS was a soliciting agent for Carrier E, which carried insurance coverage on SS. Ms. PS requested an endorsement of SS's policy, adding LJM as an added insured. It is undisputed that for one reason or another neither Carrier E nor their general agent, WorkCare, ever granted the request adding LJM as an additional insured. Nonetheless, Ms. PS began issuing certificates of insurance (over 500 in a period of a few months) indicating LJM was an added insured. In the meantime, LJM attempted to cancel its insurance with Carrier R, thinking it had insurance with Carrier E through SS. Eventually, when Carrier E realized that it had not insured LJM and was getting claims from LJM, Carrier E canceled its policy with SS.

The hearing officer found that the certificates of insurance do not constitute a contract and, the certificate, on its face, in capital letters, states that it is for information only and "confers no rights upon the certificate holder," and "does not amend, extend or alter the coverage afforded by the policies below," which do not include LJM. The hearing officer found the certificates of insurance did not work to expand coverage to LJM and the Appeals Panel affirmed that finding.

Although the hearing officer makes no specific findings regarding whether Ms. PS had actual or apparent authority to bind Carrier E, we addressed that point in Appeal No. 990224, *supra*, noting that none of the witnesses or documentary evidence supported the contention that a soliciting agent, or salesperson, has the authority, actual or apparent, to bind an insurance carrier, and that only the insurance carrier or its authorized general agent could bind the carrier.

Our affirmance of the hearing officer's decision in this case, and the companion cases, is grounded on recent case law, set out in the hearing officer's decision and Appeal No. 990224, that the doctrines of waiver and estoppel cannot be used to create insurance coverage where none exists under the terms of the policy and the application of Sections 406.007 and 406.008, and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 110.1(f) (Rule 110.1(f)), that LJM's efforts to cancel its coverage with Carrier R were incomplete and inadequate to cancel that coverage and that Carrier R's efforts to cancel the coverage were also ineffective to secure the cancellation. *See* Appeal No. 990224, *supra*, and Appeal No. 990209, *supra*, for a decision of that holding.

Accordingly, the hearing officer's decision and order in this case is affirmed.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge