

No. **2022-7402**

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

Date: 7/25/2022

Subject Considered:

Chadwick D. Lee
1000 Heritage Center Circle
Round Rock, Texas 78664-4463

Consent Order
DWC Enforcement File Nos. 27002 and 27003

General remarks and official action taken:

This is a consent order with Chadwick Lee (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. Lee Law Firm 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 is an attorney operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2007, 2009, 2010, 2012, 2014, 2016, or 2018 Performance Based Oversight (PBO) assessments.

Taking or Billing an Amount in Excess of Approved Attorney Fees

3. On or about [REDACTED] an injured employee retained Respondent's services in connection to a workers' compensation claim.
4. In [REDACTED] DWC issued approved attorney fee orders #7, #8, #9, #10, #13, and #14 ordering the injured employee's insurance carrier to pay Respondent [REDACTED] for his representation of the injured employee.
5. On [REDACTED] the insurance carrier issued a lump sum payment to Respondent for [REDACTED]
6. On or about [REDACTED] Respondent called the injured employee and claimed that the insurance carrier had underpaid Respondent. Respondent informed the injured employee that he must send a cashier's check to Respondent for [REDACTED] to make up the difference.
7. On [REDACTED] the injured employee sent a check for [REDACTED] to Respondent.
8. On August 22, 2014, Respondent accepted a check from the injured employee in the amount of [REDACTED]

Failure to Timely Comply with a DWC Order to Produce Documents

9. On [REDACTED] DWC ordered Respondent to produce information including, but not limited to, an explanation of the purpose of the payment by check to Chadwick Lee from the injured employee dated [REDACTED] the amount of [REDACTED]
10. Respondent has not produced a copy of the requested documentation.

Assessment of Sanction

1. Timely submitting information to DWC and complying with DWC orders is imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.

2. 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):
 - the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
 - the history and extent of previous administrative violations;
 - the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
 - 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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; the penalty necessary to deter future violations; and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC found the following factors in Tex. Lab. Code § 415.021 (c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: Respondent acted to rectify the consequences of accepting a fee which exceeded the amount approved by the DWC and issued a cashier's check to the injured employee in the amount of \$16,596.26 which represents the amount of money received by Respondent from the injured employee with 5% compounded interest.
5. Respondent acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred;

and 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)(7), and 28 Tex. Admin. Code § 180.26(h).
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 §§ 415.0035(e) and 415.021(a), a person regulated by DWC under this title commits an administrative violation if they violate the Texas Workers' Compensation Act, a DWC rule, or a commissioner's order or decision.

Taking or Billing an Amount in Excess of Approved Attorney Fees

6. Pursuant to Tex. Lab. Code §§ 415.001(6), (10) and (11), a representative of an employee or legal beneficiary commits an administrative violation if the person takes a fee or withholds expenses in excess of the amounts authorized by the division; violates a commissioner rule; or fails to comply with the Texas Workers' Compensation Act.
7. Pursuant to Tex. Lab. Code § 408.0221, provides that, except as provided by subsection (c) or Section 408.147(c), an attorney's fee, including a contingency fee,

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092

for representing an injured employee before DWC or the court must be approved by the commissioner and paid for from the injured employee's recovery.

8. Pursuant to 28 Tex. Admin. Code § 152.2(d), the total amount that the commissioner approves for the attorney's time and expenses constitutes the fee and shall not exceed 25% of the injured employee's recovery.
9. Respondent violated Tex. Lab. Code §§ 415.001(6), (10) and (11) when it took a fee or billed the injured employee amounts in excess of approved attorney fees and in excess of 25% of the injured employee's recovery.

Failure to Timely Comply with a DWC Order to Produce Documents

10. Pursuant to 28 Tex. Admin. Code § 102.9, DWC requires those subject to the Texas Workers' Compensation Act to provide information as necessary. DWC may follow up on a request for information by issuing an order to produce information.
11. Respondent violated Tex. Lab. Code §§ 415.0035(e) and 415.021(a) and 28 Tex. Admin. Code § 102.9 when it failed to comply with a DWC order to produce documents.

Order

It is ordered that Chadwick Lee must pay an administrative penalty of \$5,400 within 30 days from the date of this order. Chadwick Lee must pay the administrative penalty by 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.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



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