

No. 2019 5844

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: ~~JAN 11 2019~~

Subject Considered:

ILLINOIS NATIONAL INSURANCE COMPANY
175 Water Street Floor 18
New York City, New York 10038-4976

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16674

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Illinois National Insurance Company (Illinois National).

WAIVER

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

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Illinois National 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, including workers' compensation/employers' liability.
2. Illinois National was classified as "average" tier in the 2007, 2009, 2010, 2012, and 2014 Performance Based Oversight (PBO) assessments. Illinois National was not classified in the 2016 PBO assessments.

FAILURE TO TIMELY COMPLY WITH AN ORDER TO PAY ATTORNEY'S FEES

3. On [REDACTED] Illinois National received an order for attorney's fees in the amount of \$ [REDACTED]. Illinois National was ordered to pay attorney's fees in the amount of 25% of each income benefit payment made to the injured employee.
4. On [REDACTED] Illinois National issued a check to the injured employee. Illinois National was required to issue an attorney's fee payment in the amount of 25% of the check issued to the injured employee.

5. Illinois National issued a check to the attorney on [REDACTED] [REDACTED] which was 32 days late.

ASSESSMENT OF PENALTY

6. Failure to issue Texas Department of Insurance, Division of Workers' Compensation (DWC) ordered attorney's fees in a manner that is timely and cost-effective is harmful to injured employees and to the workers' compensation system of the state.
7. Illinois National acknowledges harm to the system and agrees that the penalty assessed is reasonable.
8. In assessing the penalty for this case, the commissioner appropriately and fully considered the following factors set forth 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
 - the penalty necessary to deter future violations;
 - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
 - the history of compliance with electronic data interchange requirements;
 - other matters that justice may require, including but not limited to:
 - PBO assessments;
 - the promptness and earnestness of 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; and
 - to the extent reasonable, the economic benefit resulting from the prohibited act.
9. Illinois National acknowledges that in assessing the penalty, the commissioner appropriately and fully considered the relevant applicable factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
10. Illinois National acknowledges that this consent order sufficiently communicates information about the penalty, including the relevant statutes or rules violated, the conduct giving rise to the violations, and the factors considered in determining the penalty.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

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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, 414.003, 415.002, and 415.021.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. 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.
5. Pursuant to 28 TEX. ADMIN. CODE § 152.1(c), insurance carriers are required to mail a check to the attorney within seven days of receiving the order and thereafter whenever income benefits are paid until the fee has been paid or income benefits cease.
6. Illinois National violated TEX. LAB. CODE §§ 415.002(a)(20) and 28 TEX. ADMIN. CODE § 152.1(c) when it failed to timely pay attorney's fees.

ORDER

Illinois National Insurance Company is ORDERED to pay an administrative penalty of \$1,000 within 30 days from the date of this consent order.

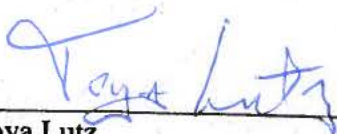
The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Cassie Brown *NCTW*
Commissioner of Workers' Compensation

2019 5844

Approved as to Form and Content:



Toya Lutz
Staff Attorney
DWC Enforcement
Compliance and Investigations
Texas Department of Insurance
Division of Workers' Compensation

