

**2019 5906**  
No.           

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: **MAR 20 2019**

**Subject Considered:**

**TECHNOLOGY INSURANCE COMPANY, INC.**  
59 Maiden Lane, Floor 43  
New York, New York 10038-4639

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 17621

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Technology Insurance Company, Inc. (Technology).

**WAIVER**

Technology acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Technology 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. Technology 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. Technology was classified as "average" tier in the 2014 and 2018 Performance Based Oversight (PBO) assessments. Technology was classified as "poor" tier in the 2016 PBO assessment. Technology was not selected to be tiered in the 2007, 2009, 2010, or 2012 PBO assessments.

**FAILURE TO TIMELY COMPLY WITH A FINAL OR BINDING  
CONTESTED CASE HEARING DECISION AND ORDER**

3. On [REDACTED] the Texas Department of Insurance, Division of Workers' Compensation (DWC) issued a contested case hearing decision and order (CCH D&O) requiring Technology to pay income benefits to an injured employee. Technology received the CCH D&O on [REDACTED]

4. The CCH D&O became final on [REDACTED]. The CCH D&O required Technology to pay accrued but unpaid income benefits in a lump sum together with interest. Technology was required to comply with the CCH D&O within 20 days of its finality, which was [REDACTED].
5. Technology issued partial payments of income benefits to the injured employee on [REDACTED] and [REDACTED] but did not fully comply with the CCH D&O until it issued payment of interest on the accrued but unpaid income benefits on [REDACTED] which was 58 days late.

**FAILURE TO TIMELY INITIATE PAYMENT OF  
TEMPORARY INCOME BENEFITS**

6. On [REDACTED] Technology received notice of an injury to an injured employee.
7. The first day of disability for the injured employee was on [REDACTED] and the eighth day of disability accrued on [REDACTED].
8. Technology was required to initiate or dispute temporary income benefits (TIBs) the later of 15 days after Technology's written notice of the injury or seven days after the accrual date, which in this case was on [REDACTED].
9. Technology did not file a dispute of disability with DWC and issued the initial TIBs payment on [REDACTED] which was 22 days late.

**ASSESSMENT OF SANCTION**

10. Compliance with DWC orders is imperative to minimizing disputes and resolving them promptly and fairly. Additionally, failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
11. In assessing the sanction for this case, DWC 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.
12. In assessing the sanction for this case, DWC found the following factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be aggravating: the seriousness of the violation; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and whether the administrative violation has negative impact on the delivery of benefits to an injured employee.
13. In assessing the sanction for this case, DWC found the following factors set forth 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.
14. Technology acknowledges that it has communicated with DWC regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
15. Technology acknowledges that, in assessing the sanction, DWC considered the factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### CONCLUSIONS OF LAW

The commissioner makes the following 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, 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.

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5. 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.
6. 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.
7. Pursuant to TEX. LAB. CODE § 410.169 and 28 TEX. ADMIN. CODE § 142.16, a person is required to comply with a CCH D&O within 20 days of the order becoming final.
8. Technology violated TEX. LAB. CODE §§ 415.002(a)(20), 415.002(a)(22), 415.0035(e), and 415.021 when it failed to timely comply with a final CCH D&O regarding benefits.
9. Pursuant to TEX. LAB. CODE §§ 408.081, 408.082, and 409.021, and 28 TEX. ADMIN. CODE §§ 124.3 and 124.7, insurance carriers are required to initiate payment of TIBs not later than the 15th day after the date on which the insurance carrier receives written notice of the injury, or the seventh day after the accrual date, unless the insurance carrier has notified DWC and the injured employee in writing of its refusal to pay.
10. Technology violated TEX. LAB. CODE §§ 415.002(a)(20) and 415.002(a)(22) when it failed to timely initiate payment of TIBs.

**ORDER**

Technology Insurance Company, Inc. is ORDERED to pay an administrative penalty of \$8,500 within 30 days from the date of this 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 *NCTU*  
Commissioner of Workers' Compensation

Approved as to Form and Content:



Van B. Moreland  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

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**AFFIDAVIT**

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

“My name is Elizabeth Pharr. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Claims Manager, and am the authorized representative of Technology Insurance Company, Inc. I am duly authorized by said organization to execute this statement.

Technology Insurance Company, Inc. waives rights provided by the Texas Labor Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of workers' compensation.

Technology Insurance Company, Inc. is voluntarily entering into this consent order. Technology Insurance Company, Inc. consents to the issuance and service of this consent order.”

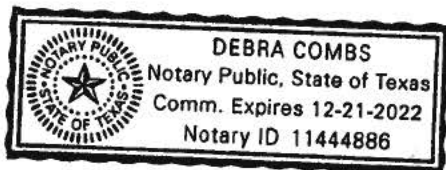
Elizabeth Pharr  
Affiant

SWORN TO AND SUBSCRIBED before me on Feb. 27<sup>th</sup>, 2019.

(NOTARY SEAL)

Debra Combs  
Signature of Notary Public

Debra Combs  
Printed Name of Notary Public



My Commission Expires: 12-21-2022

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092