

No. 2020-6522

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092

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

Date: 10-27-2020

Subject Considered:

Hartford Casualty Insurance Company
One Hartford Plaza T 17 81
Hartford, Connecticut 06155

Consent Order
DWC Enforcement File Nos. 21267 and 22718

General remarks and official action taken:

This is a consent order with Hartford Casualty Insurance Company (Hartford Casualty). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Hartford Casualty.

Waiver

Hartford Casualty acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Hartford Casualty 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. Hartford Casualty 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 in Texas, including workers' compensation/employers' liability insurance.
2. Hartford Casualty was classified as "poor" tier in the 2007 Performance Based Oversight (PBO) assessment. Hartford Casualty was classified as "average" tier in

the 2009, 2014, and 2016 PBO assessments. Hartford Casualty was classified as "high" tier in the 2010, 2012, and 2018 PBO assessments.

Failure to Timely Pay Attorney Fees Ordered by DWC

First Instance: File No. [REDACTED]

3. On [REDACTED], DWC ordered Hartford Casualty to pay attorney fees in connection with legal services provided to an injured employee. DWC ordered Hartford Casualty to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.
4. On [REDACTED], a balance of [REDACTED] in attorney fees was outstanding.
5. On [REDACTED], Hartford Casualty issued a payment to the injured employee for unpaid income benefits. Hartford Casualty was required to issue a payment for attorney fees to the injured employee's attorney the same day but did not issue payment and interest until [REDACTED], which was 38 days late.

Second Instance: File No. [REDACTED]

6. On [REDACTED], DWC ordered Hartford Casualty to pay attorney fees in connection with legal services provided to an injured employee. DWC ordered Hartford Casualty to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.
7. On [REDACTED], a balance of [REDACTED] in attorney fees was outstanding.
8. On [REDACTED], Hartford Casualty issued a payment to the injured employee for unpaid income benefits. Hartford Casualty was required to issue a payment for attorney fees to the injured employee's attorney the same day but did not issue payment and interest until [REDACTED], which was 25 days late.

Assessment of Sanction

1. 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.
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, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the history and extent of previous administrative violations; and the penalty necessary to deter future violations.
4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions taken to rectify the consequences of the prohibited act, as there was confusion in one instance caused when the law firm changed their name and

were delayed in submitting a W9 to facilitate payment under their new identity. In the other instance, additional training was instituted for the adjuster at fault to ensure the mistake does not reoccur.

5. Hartford Casualty 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. Hartford Casualty 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, and 414.002.
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. Hartford Casualty 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.

7. 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.
8. 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 have been completely paid or income benefits cease.
9. Hartford Casualty violated TEX. LAB. CODE §§ 415.002(a)(20), 415.002(a)(22), 415.021(a), and 415.0035(e) each time it failed to timely comply with a DWC order to pay attorney fees.

Order

It is ordered that Hartford Casualty Insurance Company must pay an administrative penalty of \$3,500 within 30 days from the date of this order. Hartford Casualty Insurance Company must pay the administrative penalty by 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



Amy Norman
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

Affidavit

STATE OF CONNECTICUT §
§
COUNTY OF TOLLAND §

Before me, the undersigned authority, personally appeared Stephanie W. Raymond, who being by me duly sworn, deposed as follows:

"My name is Stephanie W. Raymond. 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 Assistant Vice President and am the authorized representative of Hartford Casualty Insurance Company. I am duly authorized by the organization to execute this statement.

Hartford Casualty Insurance Company has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."

Stephanie W. Raymond

Affiant

SWORN TO AND SUBSCRIBED before me on October 6, 2020.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration