

No. **2025-9279**

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

**Date: 4/25/2025**

**Subject Considered:**

Indemnity Insurance Company of North America  
115 Wild Basin Road, Suite 207  
West Lake Hills, Texas 78746

Consent Order  
DWC Enforcement File Nos. 35443, 35504, 35665, 35667, 35860, & 35929

**General remarks and official action taken:**

This is a consent order with Indemnity Insurance Company of North America (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. Respondent 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 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. Respondent was classified as "average" tier in the 2020, 2022, and 2024 Performance Based Oversight (PBO) assessments.

Failure to Timely Pay or Dispute Temporary Income Benefits (TIBs)

File No. 35443

3. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ [REDACTED] in TIBs as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	13
b.	[REDACTED]	[REDACTED]	[REDACTED]	6

File No. 35665

4. Respondent was required to pay TIBs to an injured employee from [REDACTED], through [REDACTED]. The TIBs payment was due seven days after the first day of the pay period. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs, which was six days late.
5. On [REDACTED], Respondent paid \$ [REDACTED] in interest 226 days late.

Failure to Timely Pay Accrued Impairment Income Benefits (IIBs)

File No. 35929

6. Respondent was required to pay IIBs to an injured employee for the period between [REDACTED], through [REDACTED]. The IIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ [REDACTED] in IIBs as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	21
b.	[REDACTED]	[REDACTED]	[REDACTED]	14
c.	[REDACTED]	[REDACTED]	[REDACTED]	7

Failure to Timely Pay Attorney Fees Ordered by DWC and Accurately Pay TIBs.

File No. 35667

- 7. Between [REDACTED], and [REDACTED], DWC approved \$ [REDACTED] in attorney fees in connection with an attorney's representation of an injured employee. DWC ordered Respondent to pay the attorney fees at a rate of 25% of each income benefit paid to the injured employee.
- 8. Between [REDACTED], and [REDACTED], Respondent paid benefits to the injured employee on multiple dates. However, Respondent failed to timely pay \$ [REDACTED] in attorney fees at a rate of 25% of the income benefits paid to the injured employee (IE) as follows:

	Benefits Paid to IE	Attorney Fee Owed	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	28
b.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	21
c.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	7
d.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	35
f.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	29
g.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	21
h.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	14
i.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32
j.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	22
k.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15

- 9. Between [REDACTED], and [REDACTED], Respondent paid \$ [REDACTED] in TIBs after deducting for attorney fees when it should have paid \$ [REDACTED] in TIBs, leaving a balance of \$ [REDACTED] in TIBs owed to the injured employee.
- 10. On [REDACTED], Respondent paid [REDACTED] in TIBs and paid the remaining \$ [REDACTED] in TIBs on [REDACTED].

<sup>1</sup> On [REDACTED], Respondent paid \$ [REDACTED] in attorney fees, leaving a balance of [REDACTED].  
<sup>2</sup> On [REDACTED], Respondent paid \$ [REDACTED] in attorney fees, leaving a balance of \$ [REDACTED].

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 35504

- 11. Between [REDACTED], and [REDACTED], DWC approved [REDACTED] in attorney fees in connection with an attorney's representation of an injured employee. DWC ordered Respondent to pay the attorney fees at a rate of 25% of each income benefit paid to the injured employee.
- 12. Between [REDACTED], and [REDACTED], Respondent paid benefits to the injured employee on multiple dates. However, Respondent failed to timely pay \$[REDACTED] in attorney fees at a rate of 25% of the income benefits paid to the injured employee as follows:

	Benefits Paid to IE	Attorney Fee Owed	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	38
b.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	31
c.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24
d.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	21
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	17
f.	\$[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	73

Failure to Timely Pay Interest with Indemnity Benefits

File No. 35860

- 13. On [REDACTED], Respondent paid indemnity benefits for the benefit period of [REDACTED] to [REDACTED], in accordance with a benefit dispute agreement. Interest for the accrued, but unpaid indemnity benefits was due the same day.
- 14. On [REDACTED], Respondent paid \$[REDACTED] in interest 61 days late.

**Assessment of Sanction**

- 1. Failure to provide income benefits and interest in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.

2. Failure to timely pay attorney fees ordered by DWC hinders the division's goal of providing a fair and accessible dispute resolution process and is harmful to the Texas workers' compensation system.
3. 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).
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating:
  - a. The seriousness of the violations—Respondent failed to timely pay six weeks of benefits and comply with DWC attorney fees orders for 16 weeks;
  - b. Respondent's disciplinary history, including 91 prior administrative violations for the violation types in this consent order;
  - c. The penalty necessary to deter future violations;
  - d. The negative impact on the delivery of nearly \$ [REDACTED] in income benefits and interest to several injured employees;
  - e. Respondent received an economic benefit from the prohibited acts including \$ [REDACTED] in income benefits and interest and \$ [REDACTED] in late attorney fee payments; and
  - f. Other matters that justice may require, including Respondent's size as the 17th largest workers' compensation insurance carrier in Texas and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that 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).
7. 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)(6)-(7), and 28 Tex. Admin. Code § 180.26(h) and (i).
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 § 415.002(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.

#### Failure to Timely Pay Accrued TIBs

*File Nos. 35443, and 35665*

7. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement (MMI).
8. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
9. Pursuant Tex. Lab. Code §§ 408.081; 408.082; 409.021; and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later

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than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.

10. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay or dispute TIBs.

#### Failure to Timely Pay Accrued IIBs

*File No. 35929*

11. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
12. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches MMI and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
13. Respondent violated Tex. Lab. Code §§ 408.121; 415.002(a)(16), (20) and (22); and 28 Tex. Admin. Code § 130.8 each time Respondent failed to timely pay IIBs.

#### Inaccurate Payment of TIBS

*File No. 35667*

14. Pursuant to Tex. Lab. Code § 408.103 and 28 Tex. Admin. Code § 129.3, the insurance carrier is required to pay the correct amount of TIBs.
15. Respondent violated Tex. Lab. Code §§ 408.103; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 129.3 each time Respondent failed to accurately pay TIBs.

Failure to Timely Pay Interest with Indemnity Benefits

*File Nos. 35860 and 35665*

16. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
17. Respondent violated Tex. Lab. Code §§ 408.064 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time Respondent failed to timely pay interest with accrued but unpaid income benefits.

Failure to Timely Pay Attorney Fees Ordered by DWC

*File Nos. 35504 and 35667*

18. 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.
19. 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 are completely paid or income benefits cease.
20. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a); 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) each time Respondent failed to timely comply with a DWC order to pay attorney fees.

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**Order**

It is ordered that Indemnity Insurance Company of North America must pay an administrative penalty of \$11,200 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Indemnity Insurance Company of North America must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, 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, PO Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

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**Unsworn Declaration**

**STATE OF** Delaware §  
§  
**COUNTY OF** New Castle §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Daniel S. Hawthorne. I hold the position of VP, Claims and am the authorized representative of Indemnity Insurance Company of North America. My business address is:

1 Beaver Valley Road, Wilmington, New Castle, DE, 19803.  
(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

*Daniel S. Hawthorne*  
Declarant

Executed on April 1, 2025.