

No. _____

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: MAR 11 2019

2019 5894

Subject Considered:

TGE INDUSTRIAL SERVICES, LLC
2510 East Sam Houston Parkway South
Pasadena, Texas 77503-4010

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 17743

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against TGE Industrial Services, LLC (TGE).

WAIVER

TGE acknowledges that the Texas Labor Code and other applicable laws provide certain rights. TGE 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. TGE is an employer in the State of Texas and a participant in the Texas workers' compensation system.

**FAILURE TO TIMELY FILE AN EMPLOYER'S WAGE STATEMENT
PURSUANT TO A DWC REQUEST**

2. On [REDACTED] TGE received a request for a Employer's Wage Statement (DWC Form-003), from the Texas Department of Insurance, Division of Workers' Compensation (DWC).
3. TGE was required to timely file a complete wage statement with DWC within seven days of receiving the request from DWC, or by [REDACTED]
4. TGE submitted the requested DWC Form-003 on [REDACTED] which was 570 days late.

**FAILURE TO COMPLY WITH A DWC ORDER 2019 5894
TO PRODUCE DOCUMENTATION**

5. On [REDACTED] TGE received an order to produce requested documentation from DWC which required TGE to produce the requested documentation to DWC by [REDACTED]
6. TGE produced the requested documentation on [REDACTED] which was 564 days late.

ASSESSMENT OF SANCTION

7. Timely submission of information and documentation to DWC and compliance with DWC orders is imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
8. 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.
9. 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; and whether the administrative violation has negative impact on the delivery of benefits to an injured employee.
10. 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 history

history and extent of previous administrative violations; and the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act.

11. TGE 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).
12. TGE 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 §§ 415.0035(e) and 415.021(a), a person regulated by DWC under this title commits an administrative violation if the person violates the Texas Workers' Compensation Act, a DWC rule, or an order or decision of the commissioner.
5. Pursuant to 28 TEX. ADMIN. CODE § 120.4(a)(3), the employer is required to timely file a complete wage statement in the form and manner prescribed by DWC. The wage statement shall be filed with DWC within seven days of receiving a request from DWC.
6. TGE violated TEX. LAB. CODE §§ 415.0035(e) and 415.021(a), and 28 TEX. ADMIN. CODE § 120.4(a)(3) when it failed to timely file a wage statement with DWC after receiving a request from DWC.
7. Pursuant to 28 TEX. ADMIN. CODE § 102.9, DWC shall require those subject to the Texas Workers' Compensation Act to provide information at such times and in such manner as necessary, and a request for information may be followed up by the issuance of an order to produce information.
8. TGE 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 documentation.

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ORDER

TGE Industrial Services, LLC is ORDERED to pay an administrative penalty of \$1,000 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 *NCP*
Commissioner of Workers' Compensation

Approved as to Form and Content:



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

