

No. 2024-8716

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

**Date: 7/3/2024**

**Subject Considered:**

National Specialty Insurance Company  
1900 L Don Dodson Drive  
Bedford, Texas 76021

Consent Order  
DWC Enforcement File No. 34531

**General remarks and official action taken:**

This is a consent order with National Specialty Insurance Company (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 multiple lines of insurance in Texas, including workers' compensation/employers' liability insurance.
2. Respondent was not tiered in any Performance Based Oversight (PBO) assessment.

Failure to Timely Initiate or Dispute Death Benefits

4. On [REDACTED], Respondent received notification of a death resulting from a workplace injury.
5. Respondent was required to initiate or dispute payment of death benefits to the Subsequent Injury Fund (SIF) no later than the seventh day after the one-year anniversary of the employee's death, or by [REDACTED].
6. On [REDACTED], Respondent paid \$ [REDACTED] in death benefits to the SIF 271 days late.

**Assessment of Sanction**

1. Failure to provide timely and accurate death benefits in a timely and cost-effective manner 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; and the penalty necessary to deter future violations.
4. Pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e), DWC considered as mitigating Respondent's lack of prior discipline on death benefit violations and the fact that the death benefits were due to the SIF rather than a beneficiary.
5. 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).
6. 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**

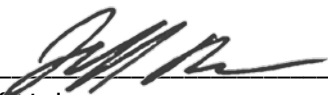
1. The commissioner has jurisdiction over this matter pursuant to Tex. Lab. Code §§ 402.001, 402.00114, 402.00116, 402.00128, and 414.002.
2. The commissioner has the authority to dispose of this case informally pursuant to Tex. Gov't Code § 2001.056, Tex. Lab. Code §§ 401.021 and 402.00128(b)(6)-(7), 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 § 408.182(e), if an employee is not survived by legal beneficiaries or eligible parents, the death benefits shall be paid to the SIF.
6. 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.
7. 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.
8. Pursuant to 28 Tex. Admin Code § 132.17(b)-(c), an insurance carrier shall pay death benefits to the SIF no later than the seventh day after the first anniversary of the employee's death if no claim for death benefits is filed with the Commission on or before the first anniversary of the death of the employee and the carrier's investigation confirmed that the deceased had no legal beneficiaries.
9. Respondent violated Tex. Lab. Code §§ 408.182(e); 415.002(a)(20), and (22); and 28 Tex. Admin. Code § 132.17(b)-(c) by failing to timely initiate or dispute death benefits.

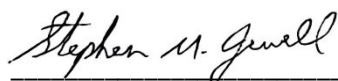
**Order**

It is ordered that National Specialty Insurance Company must pay an administrative penalty of \$20,000 within 30 days from the date of this order.

National Specialty Insurance Company must pay the administrative penalty by 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.

  
\_\_\_\_\_  
Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Stephen Jewell  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

Commissioner's Order  
National Specialty Insurance Company  
DWC Enforcement File No. 34531  
Page 6 of 6

**Unsworn Declaration**

**STATE OF TEXAS** §  
§  
**COUNTY OF TARRANT** §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is KELLY BROWN. I hold the position of VICE PRESIDENT OF COMPLIANCE and am the authorized representative of National Specialty Insurance Company. My business address is:

1900 L. DON DODSON DRIVE, BEDFORD, TEXAS 76021.

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.

DocuSigned by:  
*Kelly Brown*  
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Declarant

Executed on June 18, 2024.