

No. 2024-8632

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

Date: 4/29/2024

Subject Considered:

Old Republic Insurance Company
307 North Michigan Avenue, 17th Floor
Chicago, Illinois 60601

Consent Order
DWC Enforcement File Nos. 31626 and 32061

General remarks and official action taken:

This is a consent order with Old Republic 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 classified as "average" tier in the Performance Based Oversight (PBO) assessments between the years of 2007 and 2022.

3. On [REDACTED], DWC docketed e-cases 31626 and 32061 for a final contested case at the State Office of Administrative Hearing in SOAH Docket No. 454-24-00840.C.1.
4. Prior to the final hearing, the parties conferred, and Respondent agrees to the entry of this Consent Order and to comply with its terms and conditions.

Failure to Timely Comply with a Benefit Dispute Agreement

File No. 31626

5. On [REDACTED], the parties agreed on a Benefit Dispute Agreement (BDA) for impairment income benefits (IIBs).
6. The BDA required Respondent to pay benefits accrued between [REDACTED] through [REDACTED], within five days of executing the BDA, or by [REDACTED].
7. Respondent paid \$ [REDACTED] in IIBs on [REDACTED], which was 24 days late.
8. On [REDACTED], Respondent fully complied by paying interest 59 days late.

File No. 32061

9. On [REDACTED], the parties agreed to a BDA for the reimbursement of travel expenses. Respondent received the DWC approved copy of the agreement on [REDACTED].
10. The BDA required Respondent to reimburse the injured employee \$ [REDACTED] for travel expenses within five days of executing the BDA, or on [REDACTED].
11. Respondent paid for the travel on [REDACTED], which was 24 days late.

Assessment of Sanction

1. Failure to timely comply with a BDA is not cost-effective and is harmful to injured employees and 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; the penalty necessary to deter future violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
4. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).


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, 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)(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 § 415.010, a person commits a violation if they breach a provision of an agreement that DWC approved.
7. Respondent violated Tex. Lab. Code §§ 415.002(a)(22) and 415.010 each time Respondent failed to timely comply with a BDA.


Order

It is ordered that Old Republic Insurance Company must pay an administrative penalty of \$2,000 within 30 days from the date of this order. Old Republic Insurance Company 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, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Daniel Garcia
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Illinois §
§
COUNTY OF Cook §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Deborah J. Matthews. I hold the position of Asst. VP - Compliance and am the authorized representative of Old Republic Insurance Company. My business address is: 307 N. Michigan Ave., Chicago, Cook, IL, 60301.
(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.



Declarant

Executed on April 2, 2024.