

2019 5995  
No. \_\_\_\_\_

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: **JUN 26 2019**

**Subject Considered:**

**BRADFORD HOLDING COMPANY, INC.**  
P.O. Box 7640  
Beaumont, Texas 77726-7640

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 18107

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Bradford Holding Company, Inc. (Bradford).

**WAIVER**

Bradford acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Bradford 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. Bradford 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 and employers' liability insurance in Texas.
2. Bradford was not selected to be tiered in the 2007, 2009, 2010, 2012, 2014, 2016, or 2018 Performance Based Oversight (PBO) assessments.

**DWC AUDIT IBA-19-101**

3. On [REDACTED], the Texas Department of Insurance, Division of Workers' Compensation (DWC) initiated Audit No. IBA-19-101 to determine whether Bradford was accurately paying death benefits (DBs) as well as the timeliness of claim data submitted to DWC.
4. The audit covered DB claims with dates of injury between [REDACTED] and [REDACTED]. [REDACTED] DWC identified four claims for audit. One claim failed to meet selection criteria

and was dropped from the audit sample. The remaining three claims were reviewed to determine Bradford's compliance.

#### **Failure to Accurately Pay Death Benefits**

5. Bradford failed to accurately pay 33% of the DB claims reviewed (1 out of 3).
6. All outstanding inaccurate DB payments identified in the audit were paid by Bradford, with interest, on or before [REDACTED]. Bradford issued DB payments totaling \$ [REDACTED].

#### **ASSESSMENT OF SANCTION**

7. Failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
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; the penalty necessary to deter future violations; 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 promptness and earnestness of actions to prevent future violations.
11. Bradford 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. Bradford 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, 414.004, and 415.021; 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE §§ 2001.051–2001.178.
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 § 415.002(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.
5. Pursuant to TEX. LAB. CODE § 408.081(a), an employee is entitled to timely and accurate income benefits.
6. Pursuant to TEX. LAB. CODE § 408.181(a) and (b), an insurance carrier shall pay DBs to the legal beneficiary if a compensable injury to the employee results in death. Subject to TEX. LAB. CODE § 408.061, the amount of a DB is equal to 75 percent of the employee's average weekly wage.
7. Bradford violated TEX. LAB. CODE § 415.002(a)(22) when it failed to accurately pay DBs to legal beneficiaries.

**ORDER**

Bradford Holding Company, Inc. is ORDERED to pay an administrative penalty of \$11,000 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 *NCID*  
Commissioner of Workers' Compensation

Approved as to Form and Content:

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

