

No. 2024-9044

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

Date: 12/20/2024

Subject Considered:

Brock Services, LLC
10343 Sam Houston Park Drive, Suite 200
Houston, Texas 77064-4656

Consent Order
DWC Enforcement File No. 34633

General remarks and official action taken:

This is a consent order with Brock Services LLC, (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

Failure to Timely Submit an Employer's Wage Statement

1. Respondent is a private employer operating in the State of Texas and participating in the Texas workers' compensation system.
2. On or about [REDACTED], Respondent received a first notice of an injured employee's injury, which occurred on [REDACTED].

3. On [REDACTED], [REDACTED], and [REDACTED], the workers' compensation carrier requested a wage statement for the injured employee from Respondent. However, Respondent failed to provide a wage statement.
4. On [REDACTED] DWC requested an *Employer's Wage Statement*, form DWC-003 (DWC-003) from Respondent via e-mail. The request was deemed received by Respondent on [REDACTED], pursuant to 28 Tex. Admin. Code §102.5(d).
5. Respondent was required to file the DWC-003 with DWC within seven days of receiving the request, or by [REDACTED].
6. On [REDACTED], Respondent provided a completed DWC-003 to DWC.

Assessment of Sanction

1. Failure to provide a timely and complete wage statement hinders prompt resolution of disputes and may negatively impact the delivery of benefits to an injured employee. This is harmful to the injured employee and 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:
 - a. the seriousness of the violation, including Respondent's continued non-compliance;
 - b. whether the administrative violation had a negative impact on the delivery of benefits to the injured employee;
 - c. evidence of Respondent's heightened awareness of the duty to comply with the Act and DWC rules, which was communicated to Respondent by DWC staff by email and phone;
 - d. the penalty necessary to deter future violations; and
 - e. other matters that justice may require, such as Respondent's continued non-compliance despite multiple attempts by the claimant, insurance carrier and DWC to obtain the wage statement.
 4. DWC considered Respondent's lack of prior similar violations as a mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
 5. Respondent acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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, and 402.00128.
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 § 401.011(18), "Employer" means, unless otherwise specified, a person who makes a contract of hire, employs one or more employees, and has workers' compensation insurance coverage. The term includes a governmental entity that self-insures, either individually or collectively.
5. Pursuant to Tex. Lab. Code § 408.063(b) and (c), not later than the 30th day after the date the employer receives notice of an injury to the employee, the employer must file a wage statement showing the amount of all wages paid to the employee. An employer who fails to file a wage statement commits an administrative violation.
6. Pursuant to Tex. Lab. Code § 415.021(a), a person regulated by DWC under this title commits an administrative violation if they violate the Texas Workers' Compensation Act, a DWC rule, or a commissioner's order or decision.
7. Pursuant to Tex. Lab. Code § 415.0035(e), a person regulated by DWC under the Workers' Compensation Act commits an administrative violation if they violate this subtitle or a rule, order, or decision of the commissioner.
8. Pursuant to 28 Tex. Admin. Code § 120.4(a)(1) and (2), the employer is required to timely file a complete wage statement in the form and manner prescribed by DWC.
9. Pursuant to 28 Tex. Admin. Code § 120.4(a)(3), the wage statement must be filed with DWC within seven days of receiving a request from DWC.
10. Respondent violated Tex. Lab. Code §§ 408.063(c), 415.0035(e), 415.021, and 28 Tex. Admin. Code § 120.4(a)(1)-(3) by failing to timely file a DWC-003 in the form and manner prescribed by DWC.

Order

It is ordered that Brock Services LLC must pay an administrative penalty of \$5,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Brock Services LLC 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Austin Southerland
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

