

No. 2023-7874

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

Date: 3/28/2023

Subject Considered:

Transcontinental Oil & Gas, LLC
3033 Chimney Rock Road, Suite 601
Houston, Texas 77056-6248

Consent Order
DWC Enforcement File No. 31160

General remarks and official action taken:

This is a consent order with Transcontinental Oil & Gas, 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 [REDACTED] DWC received a first notice of injury demonstrating that the injured employee's first day of disability was [REDACTED]

3. On [REDACTED] and [REDACTED] an injured employee's workers compensation carrier requested a *DWC Form-003, Employer's Wage Statement* (DWC-003) from Respondent.
4. On [REDACTED] DWC requested a DWC-003 from Respondent via regular mail. The request is deemed received by Respondent on [REDACTED] pursuant to 28 Tex. Admin. Code §102.5(d).
5. On [REDACTED] DWC sent a letter via email to Respondent requesting the DWC-003 from Respondent, as well as other information related to an injured employee's claim.
6. Respondent was required to file a complete DWC-003 with the insurance carrier, the injured employee, and the injured employee's representative, if any, within seven days of receiving a request from DWC, which was by [REDACTED]
7. Respondent acknowledged DWC's document request letter via telephone call but failed to provide the requested DWC-003 and related information.

Assessment of Sanction

1. Compliance with DWC rules and form submissions is imperative to minimize disputes and resolve them promptly and fairly. In addition, failure to provide a record of wages in a timely and cost-effective manner 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 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; and other matters that justice may require.
 4. DWC considered the following mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): no history of administrative violations and corrective actions to prevent future violations.
 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 §§ 415.0035(e) and 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.
6. 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.
7. Pursuant to 28 Tex. Admin. Code § 102.5(d), unless the great weight of evidence indicates otherwise, DWC will deem any DWC request received on the earliest of: five days after the date mailed through United States Postal Service regular mail, the first working day after the date the written communication was placed in an insurance carrier's Austin representative's electronic box, or the date faxed or electronically transmitted.
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, or respond to DWC's official request.


Order

It is ordered that Transcontinental Oil & Gas LLC must pay an administrative penalty of \$3,000 within 30 days from the date of this order. Transcontinental Oil & Gas, LLC 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, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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

Unsworn Declaration

STATE OF TEXAS

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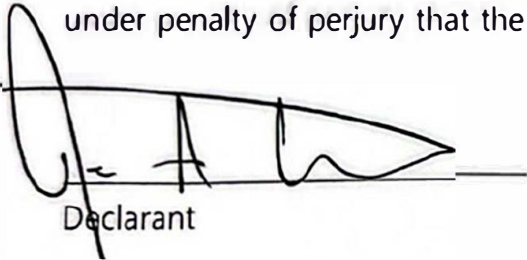
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COUNTY OF HARRIS

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Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Jay Worthington. I hold the position of Chief operators and am the authorized representative of Transcontinental Oil & Gas LLC. My business address is: 3033 Chimney Rock Rd Ste 601 Houston Tx 77056
(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 22 March, 2023.

Confidential Information Redacted Texas
Labor Code §§402.083 and 402.092