

**ILLINOIS WORKERS' COMPENSATION COMMISSION**

**DECISION SIGNATURE PAGE**

Case Number	19WC020271
Case Name	INSURANCE COMPLIANCE v. G&S REFRIGERATED TRANSPORT
Consolidated Cases	
Proceeding Type	
Decision Type	Corrected Decision
Commission Decision Number	25IWCC0272
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Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	
Respondent Attorney	Brett Kolditz

DATE FILED: 6/25/2025

/s/Amylee Simonovich, Commissioner

Signature

STATE OF ILLINOIS                     )  
    )  
 COUNTY OF CHAMPAIGN             )

**BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION**

**State of Illinois**  
**Department of Insurance,**  
**Insurance Compliance Department<sup>1</sup>,**  
 Petitioner,

Case # **19WC020271**

v.

**Gregory Miller, individually, and as President**  
**G&S Refrigerated Transport, Inc.,**  
 Employers/Respondents.

**CORRECTED DECISION AND OPINION REGARDING INSURANCE COMPLIANCE**

Petitioner, the State of Illinois Department of Insurance, Insurance Compliance Department, brings this action, by and through the Office of the Illinois Attorney General, against the above captioned Respondents alleging violation of section 4(a) of the Illinois Workers' Compensation Act for failure to procure mandatory workers' compensation insurance. Petitioner alleges that Respondents knowingly and willfully lacked workers' compensation insurance for 2079 days. On April 9, 2025, after timely notice to Respondents, a hearing was held before Commissioner Simonovich in Urbana, Illinois. Petitioner was represented by the Office of the Illinois Attorney General. Respondent did not appear in person or through counsel. A record was taken.

Petitioner seeks the maximum fine allowed under the Act, \$500.00 per day for 2079 days during the period of from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012, when Respondents did business and failed to provide coverage for its employees. In addition, Petitioner seeks reimbursement for the liability incurred by the Injured Workers' Benefit Fund in case no. 11 WC 008721 in the amount of \$101,991.60. Petitioner seeks a total award of \$1,145,679.80.

The Commission, after considering the record in its entirety, and being advised of the applicable law, finds that Respondents knowingly and willfully violated section 4 of the Act and section 9100.10 of the Rules Governing Practice before the Illinois Workers' Compensation Commission (Rules) during the claimed periods in question. As a result, Respondent shall be held liable for non-compliance with the Act and shall pay a penalty in accordance with section 4(d) of the Act. For the following reasons, the Commission assesses a civil penalty against the Respondents under section 4 of the Act in the sum of \$519,750.00, representing \$250.00 per day for each of the 2079 days during the period from July 20, 2005, through August 21, 2008, and August 23, 2009, through March 29, 2012, and orders Respondent to reimburse the Injured Workers' Benefit Fund in the amount of \$101,991.60, for a total of \$621,741.60.

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<sup>1</sup> Formerly the Illinois Workers' Compensation Commission, Insurance Compliance Department

## **I. Findings of Fact**

The State of Illinois, Department of Insurance, Insurance Compliance Department, initiated an insurance compliance investigation after the Injured Workers' Benefit Fund (IWBF) had been named as an additional party in the matter of *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721. The claimant in that case alleged a work-related accident arising out of and in the course of employment on January 22, 2011. The department's investigation determined that Respondents' business was subject to the Worker's Compensation Act by virtue of section 3 of the Act and had failed to provide insurance coverage for its employees. The department further determined Respondents' business was not self-insured.

Investigator Matthew Haslam personally served Respondent Gregory Miller with a Notice of Non-Compliance Hearing on March 3, 2025. (R.1).

Michael Cummins, an Investigator for Insurance Compliance for the Illinois Department of Insurance, testified at the hearing.

Mr. Cummins testified that Respondent Gregory Miller contacted him and confirmed that he had received notice of the April 9, 2025, hearing. Mr. Miller declined to attend as he lacked transportation.

Mr. Cummins testified that Respondent G&S Refrigerated Transport, Inc., was engaged in the business of refrigerated trucking. This is corroborated by the testimony of Todd Beatty in his claim against the Respondent.

Mr. Cummins further testified that he researched G&S Refrigerated Transport, Inc., and found that they did not have workers' compensation insurance for the periods stated in the notice of non-compliance. Petitioner introduced a certified statement from the National Council of Compliance Insurance (NCCI) in Boca Raton, Florida. (R.3). The NCCI certified that it is the agent designated by the Commission for the purpose of collecting proof of insurance coverage information on Illinois employers. The certificate indicates that said records do not show policy information was filed showing proof of workers' compensation insurance for G&S Refrigerated Transport, Inc. for the periods from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012.

An exhibit to the NCCI statement showed Respondent had purchased a workers' compensation insurance policy effective from August 22, 2008, and expiring August 22, 2009. (R.3 Ex 1)

Further investigation showed that they were not a self-insured entity during this period. A report from the Department of Self-Insurance states that G&S Refrigerated Transport, Inc. were not self-insured. The document indicates that no certificate of approval to self-insure was issued to G&S Refrigerated Transport, Inc. (R.6)

The Commission takes judicial notice of the Arbitration Decision in *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the*

*Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721. In that case, the Arbitrator concluded that petitioner Todd Beatty was a loaned employee of Michael Craft d/b/a C&M Express being borrowed by Greg Miller d/b/a G&S Refrigerated Transport under §1(a)(4) of the Act. The Arbitrator further concluded that all respondents were uninsured on the accident date of January 22, 2011. The Arbitrator awarded the petitioner medical expenses and permanent total disability benefits. (R.10).

Mr. Cummins testified that after Respondent in this matter failed to pay the award in 11 WC 008721, the Injured Workers' Benefit Fund ultimately paid out approximately \$101,991.60 in benefits to the injured claimant, Todd Beatty.

## **II. Conclusions of Law**

The Commission first considers whether Respondents are subject to the Act. Pursuant to section 3 of the Act, certain employers and their employees are automatically subject to the provisions of the Act if they engage in specific businesses, including: "Carriage by land, water or aerial service and loading or unloading in connection therewith, including the distribution of any commodity by horsedrawn or motor vehicle where the employer employs more than 2 employees in the enterprise or business." 820 ILCS 305/3(3).

The Commission finds that Respondents' business falls within section 3(3) of the Act. The Commission takes judicial notice of the findings by the Arbitrator in this regard as contained in the Decision rendered in *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721. The testimony therein established that the claimant was employed under §1(a)4 of the Act as a borrowed truck driver by Michael R. Craft d/b/a C&M Express, Inc., and Greg Miller d/b/a G&S Refrigerated Transport, and engaged in the business of the distribution of commodities by driving a truck. The testimony showed G&S had other borrowed employees also engaged in driving. Accordingly, the Commission finds that the work Respondents engaged in automatically subjected them to the provisions of the Illinois Workers' Compensation Act.

Pursuant to section 4(a) of the Act, all employers who come within the auspices of the Act are required to provide workers' compensation insurance. See 820 ILCS 305/4(a) (West 2004). Section 9100.90(a) of the Rules similarly provides that any employer subject to section 3 of the Act shall insure payment of compensation required by section 4(a) of the Act "by obtaining approval from the Commission to operate as a self-insurer or by insuring its entire liability to pay the compensation in some insurance carrier authorized, licensed or permitted to do such insurance business in Illinois." 50 Ill. Adm. Code 9100.90(a) (1986). Section 9100.90(d)(3)(E) of the Rules similarly provides that a certification from a Commission employee "that an employer has not been certified as a self-insurer shall be deemed prima facie evidence of that fact." 50 Ill. Adm. Code 9100.90(d)(3)(D) (1986). Section 9100.90(d)(3)(D) of the Rules provides that "[a] certification from an employee of the National Council on Compensation Insurance stating that no policy information page has been filed in accordance with section 9100.20 shall be deemed prima facie evidence of that fact." 50 Ill. Adm. Code 9100.90(d)(3)(D) (1986).

The Commission analyzes here the culpability of Respondents and the applicability of section 4(a). Section 4 of the Act requires that all employers of at least one employee who come

within the provisions of section 3 of the Act, and any other employer who shall elect coverage under section 2 of the Act, provide workers' compensation insurance for the protection of their employees. 820 ILCS 305/4.

In this case, Petitioner submitted a certified finding from the Department of Self-Insurance that no certificate of approval to self-insure was issued to G & S Refrigerated Transport, Inc. (R.6) At hearing, Petitioner sought a fine from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012. The NCCI certification provided by Petitioner shows there was no policy information showing proof of workers' compensation insurance for the period from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012. Furthermore, the Commission finds that Respondent was uninsured on the accident date of January 22, 2011, pursuant to the previous finding of no insurance by the Commission in *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721. The Commission now finds that there was no policy information showing proof of workers' compensation insurance for the claimed periods. Respondents did not attend the hearing and thus presented no evidence indicating that they provided workers' compensation insurance of any kind during the claimed periods. Accordingly, the Commission concludes that Petitioner has proved, by a preponderance of the evidence, that Respondents failed to comply with the legal obligations imposed by section 4(a) of the Act from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012.

Regarding the issue of penalties for failure to maintain workers' compensation insurance coverage, section 4(d) of the Act states:

“Upon a finding by the Commission, after reasonable notice and hearing, of the knowing and willful failure or refusal of an employer to comply with any of the provisions of paragraph (a) of this Section \*\*\*, the Commission may assess a civil penalty of up to \$500 per day for each day of such failure or refusal after the effective date of this amendatory Act of 1989. The minimum penalty under this Section shall be the sum of \$10,000. Each day of such failure or refusal shall constitute a separate offense. The Commission may assess the civil penalty personally and individually against the corporate officers and directors of a corporate employer, the partners of an employer partnership, and the members of an employer limited liability company, after a finding of a knowing and willful refusal or failure of each such named corporate officer, director, partner, or member to comply with this Section. The liability for the assessed penalty shall be against the named employer first, and if the named employer refuses to pay the penalty to the Commission within 30 days after the final order of the Commission, then the named corporate officers, directors, partners, or members who have been found to have knowingly and willfully refused or failed to comply with this Section shall be liable for the unpaid penalty or any unpaid portion of the penalty.” 820 ILCS 305/4(d) (West 2004).

Section 9100.90(b) of the Rules similarly provides that penalties may be assessed for non-compliance after a reasonable notice and hearing. 50 Ill. Adm. Code 9100.90(b) (1986). Section 9100.90(c) of the Rules describes the proper notice of non-compliance to be served upon the employer and provides that the employer may request an informal conference to resolve the matter.

50 Ill. Adm. Code 9100.90(c) (1986). Section 9100.90(d) of the Rules describes the manner of notice and service for an insurance compliance hearing and the procedure for conducting the hearing. 50 Ill. Adm. Code 9100.90(d) (1986).

In this case, Petitioner submitted into evidence the Notice of Non-Compliance delivered to Gregory Miller, individually, in the form prescribed by the Rules. Moreover, Mr. Cummins testified that Mr. Miller contacted him and confirmed his awareness of the hearing date and his intention to not attend. The insurance compliance hearing allowed the Petitioner to introduce evidence and testimony, and afforded Respondents the opportunity to do the same, had they chosen to attend personally or through counsel. Accordingly, the Commission concludes that reasonable and proper notice and hearing was provided to Respondent.

On the merits, the Commission has considered the following factors in assessing penalties against an uninsured employer: (1) the length of time the employer had been violating the Act; (2) the number of workers' compensation claims brought against the employer; (3) whether the employer had been made aware of his conduct in the past; (4) the number of employees working for the employer; (5) the employer's ability to secure and pay for workers' compensation coverage; (6) whether the employer had alleged mitigating circumstances; and (7) the employer's ability to pay the assessed amount. See, e.g., *State of Illinois v. Murphy Container Service*, Ill. Workers 'Comp. Comm'n, No. 03 INC 00155, 7 IWCC 1037 (Aug. 2, 2007).

The Commission finds that the period of time during which the Respondents violated the Act by failing to obtain workers' compensation insurance was significant. The Respondents failed to have insurance for 2079 days, from July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012. In the *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721, Decision, the parties' testimony and exhibits established that Respondent had multiple employees who were contractually loaned out to other employers under §1(a)(4) of the Act. As Respondents failed to have workers' compensation insurance, the Injured Workers' Benefit Fund paid benefits to that claimant as a result of the injury. In mitigation, the Commission notes that testimony was elicited that Michael R. Craft d/b/a C&M Express, Inc., the §1(a)(4) loaning employer, had agreed pursuant to that section of the Act to provide workers compensation insurance for the borrowed employees. The Commission notes that §1(a)(4) provides joint liability regardless of the agreement of the employers, and this is only a mitigating circumstance. No evidence was introduced that the Respondent lacked the ability to pay the assessed amount.

The evidence established that Respondents maintained workers' compensation insurance from August 22, 2008, through August 22, 2009, and permitted the policy to be cancelled without procuring a new policy. The Commission concludes that Respondents knowingly and willfully failed to comply with the Act. Based on the significant period of time that Respondents failed to comply with the Act, the Commission assesses a penalty of \$519,750.00 against Respondents, that being \$250 per day for the period of 2079 days between July 20, 2005, through August 21, 2008, and August 23, 2009 through March 29, 2012. Pursuant to section 9100.85(a)(1) of the Rules, the Commission is also entitled to obtain reimbursement from Respondents in the amount of \$101,991.60, representing the compensation obligations paid by the Injured Workers' Benefit Fund in the claim of *Todd Beatty vs. Michael R. Craft/C&M Express, Inc., Greg Miller/G&S Refrigerated Transport, Inc., and the Illinois State Treasurer as ex officio Custodian of the Illinois Injured Workers Benefit Fund*, No. 11 WC 008721.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondents, Gregory Miller, individually, and as President of G&S Refrigerated Transport, Inc., pay to the Illinois Workers' Compensation Commission the sum of \$621,741.60 pursuant to section 4(d) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that payment shall be made according to the following procedure: (1) payment of the penalty shall be made by certified check or money order made payable to the Illinois Workers' Compensation Commission; and (2) payment shall be mailed or presented within thirty (30) days of the final order of the Commission or the order of the court of review after final adjudication to:

Illinois Department of Insurance  
Attn: Workers' Compensation Compliance  
115 S. LaSalle Street, 13th floor  
Chicago, Illinois 60603

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$75,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

**June 25, 2025**

H: 04/09/25

AHS/pcs

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/s/ *Amylee H. Simonovich*  
Amylee H. Simonovich

/s/ *Stephen J. Mathis*  
Stephen J. Mathis

/s/ *Kathryn A. Doerries*  
Kathryn A. Doerries