



Legal Opinion (LO) No.:	2020 - 07
Date:	07 August 2020

MR. BRILLY V. BERNARDEZ
President
Dragon Construction, Inc.
315 Roosevelt Avenue, SFDM,
Quezon City 1105, Metro Manila

SUBJECT: Request for Legal Opinion on Accrual of Penalties

Dear **Mr. Bernardez**:

This refers to your letter dated 22 June 2020 requesting for a legal opinion “relative to the correct interpretation of Sections 241, 243 and 442 of the Insurance Code as Amended [sic], particularly on when the date or period of counting of penalties validly starts.” This query is in relation to the Decision dated 12 August 2011 rendered by the Insurance Commission in favor of Dragon Construction, Inc. (DCI) in IC Adm. Case No. RD 386. The dispositive portion of the said Decision reads as follows:

“WHEREFORE, the Commission finds respondent BF General Insurance Corporation liable for violating Sections 241, 243 and 415 of the Insurance Code and Insurance Memorandum Circular 4-93 for its unjustified and willful refusal to pay the claim of Complainants, and hereby imposes upon it the following penalties:

1. **A fine payable to the Insurance Commission of P500.00 per day** until satisfactory settlement of the claim is presented;
2. A stern warning to revoke the Respondents Certificate of Authority upon finding of a similar incidence of unfair claims settlement practice.

SO ORDERED.” (Emphasis supplied.)

Section 243 of Presidential Decree No. 612 or the Insurance Code provides for the payment of interest in case of refusal or failure of the insurer to pay the loss or damage within the time prescribed, to wit:

“Sec. 243. The amount of any loss or damage for which an insurer may be liable, under any policy other than life insurance policy, shall be paid within thirty days after proof loss is received by the insurer and ascertainment of the loss or damage is made either by agreement between the insured and the insurer or by arbitration; but if such ascertainment is not had or made within sixty days after such receipt by the insurer of the proof of loss, then the loss or damage shall be paid within ninety days after such receipt. **Refusal or failure to pay the loss or damage within the time prescribed herein will entitle the assured to collect interest on the proceeds of the policy for the duration of the delay at the rate of twice the ceiling prescribed by the Monetary Board, unless such failure or refusal to pay is based on the ground that the claim is fraudulent.**” (Emphasis supplied.)

Meanwhile, Section 415 of the Insurance Code provides that:

“Sec. 415. In addition to the administrative sanctions provided elsewhere in this Code, **the Insurance Commissioner is hereby authorized, at his discretion, to impose upon the insurance companies, their directors and/or officers and/or agents,** for any willful failure or refusal to comply with, or violation of any provision of this Code, or any order, instruction, regulation, or ruling of the Insurance Commissioner, or any commission or irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Insurance Commissioner, the following:

- (a) **finest not in excess of five hundred pesos a day;** and
- (b) suspension, or after due hearing, removal of directors and/or officers and/or agents.” (Emphasis supplied.)

Relative to your query, please note that **the fine imposed by the Insurance Commission against BF General Insurance Company, Inc. (now Bethel General Insurance and Surety Corporation) in the 12 August 2011 Decision is in relation to the administrative case filed against BF General and is payable to the Commission pursuant to Section 415 of the Insurance Code. This being the case, the terms of payment of the said fine, including the accrual thereof, is of no interest to DCI.**

Please note that the opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

For your information and guidance.

Very truly yours,


DENNIS B. FUNA
Insurance Commissioner

