BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN LUNSTRUM, Claimant, v. THE HOME DEPOT, INC., Employer, and NEW HAMPSHIRE INSURANCE COMPANY, Surety, Defendants.	**IC 2008-014140** **IC 2009-022198** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** **FILED AUG 16 2013**

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Industrial Commission assigned the above-entitled matter to Referee Douglas A. Donohue who conducted a hearing in Boise on December 19, 2012. Claimant was represented by Richard Kim Dredge. Defendants Employer and Surety were represented by W. Scott Wigle. Other defendants, TCG International, Inc. and Liberty Mutual Insurance Company, a prior employer and surety, settled a claim about an earlier accident and injury which occurred in 2005 and they had been removed from the caption before hearing.

The parties presented oral and documentary evidence. They took a post-hearing deposition and submitted briefs. The case came under advisement on May 1, 2013. This matter is now ready for decision.

ISSUES

The issues to be decided according to the Notice of Hearing and as agreed to by the parties at hearing are:

1. Whether the condition for which Claimant seeks benefits was caused by the alleged industrial accidents;

2. Whether and to what extent Claimant is entitled to PPI and permanent disability in excess of PPI;

3. Whether apportionment of permanent disability for a pre-existing condition pursuant to Idaho Code § 72-406 is appropriate; and

4. Whether Claimant's entitlement to benefits should be affected by the application of Idaho Code § 72-229.

Issue 4 was waived by the parties at hearing.

CONTENTIONS OF THE PARTIES

Claimant contends that he suffered an injury to his low back as a result of two work accidents, one in 2008 and one in 2009. Claimant suffered PPI, rated at 1%, and permanent disability from these accidents in addition to the PPI and permanent disability related to the 2005 accident. As a result of the 2008 and 2009 accidents, Claimant suffered about 20% permanent disability over all prior PPI and disability.

Defendants contend that Claimant's injuries resulted in a PPI of 1% which has been paid. Claimant suffered a low back injury in 2005 while working for another employer. The 2005 injury resulted in 12% PPI. Claimant's vocational expert opined the 2005 injury resulted in 26% permanent disability, inclusive. Lifting restrictions caused by the 2005 accident were not increased following the 2008 and 2009 accidents. Claimant's disability is entirely related to the 2005 accident.

EVIDENCE CONSIDERED

The record in the instant case included the following:

1. Oral testimony at hearing of Claimant and his wife Carmen Lunstrum;

2. Claimant's exhibits A-C, admitted at hearing;

3. Defendants' exhibits A-H, admitted at hearing; and

4. Post-hearing deposition of vocational expert Barbara Nelson.

Objections in Ms. Nelson's deposition are OVERRULED.

The Referee submits the following findings of fact and conclusions of law for the approval of the Commission and recommends it approve and adopt the same.

FINDINGS OF FACT

1. Claimant worked for Home Depot as a supervisor in the millworks department.

2. On April 13, 2008, Claimant felt a sudden sharp pain in his low back while lifting a customer's shopping cart. He reported the incident to a supervisor immediately. Claimant did not finish his shift but went home as instructed by the supervisor. Claimant did not immediately seek medical attention because he had experienced occasional back pain following a 2005 accident and subsequent back surgery. The 2005 accident was the subject of the claim which settled prior to hearing.

3. Claimant first sought medical attention on April 16, 2008. Mark Turner, M.D., examined Claimant, prescribed medications in addition to those which Claimant was already taking for his preexisting low back pain, and took him off work for an anticipated three weeks. Dr. Turner's April 24 note relates the increased back pain to his work. At a follow-up visit near the end of the three weeks, Dr. Turner extended Claimant's restriction from work.

4. On May 6, 2008, physiatrist Barbara Quattrone, M.D., examined Claimant. She found consistent subjective indications of low pack pain with right leg radiculopathy. She recommended a steroid injection and EMG. The L5-S1 injection was performed May 20, 2008. An EMG was performed May 28, 2008; It showed no abnormality and Dr. Quattrone extended Claimant's off-work status. A second injection was administered on July 1, 2008.

5. Claimant underwent physical therapy beginning June 11, 2008.

6. On July 15, 2008, Dr. Quattrone recommended Claimant attend the LifeFit program. On February 25, 2009, Dr. Quattrone reversed her recommendation for the LifeFit program, believing the spinal cord stimulator trial proved permanent implantation

to be the better option.

7. On August 13, 2008, neurosurgeon Kenneth Little, M.D., viewed the April 2008 MRI and observed no nerve root compression. He reported that he suspected that scar tissue was affecting the L5 and S1 nerve roots. He did not consider the condition to be surgically correctable. He recommended a spinal cord stimulator. Dr. Little had performed Claimant's 2005 back surgery.

8. On September 30, 2008, psychologist Michael McClay, Ph.D., evaluated Claimant to assess psychological appropriateness of installing a spinal cord stimulator. He found some depression and anxiety and recommended a trial of a functional restoration program before a stimulator placement, but did not find contraindications to its use.

9. On October 28, 2008, and again on January 26, 2009, Dr. Quattrone extended Claimant's off-work status.

10. On December 8, 2008, physiatrist Monte Moore, M.D., installed electrodes for a spinal cord stimulator.

11. On March 24, 2009, Dr. Little performed a laminectomy for placement of a spinal cord stimulator. At surgery, he diagnosed epidural fibrosis to be the cause of Claimant's radicular symptoms.

12. On April 15, 2009, psychologist Robert Calhoun, Ph.D., evaluated Claimant. He diagnosed depression, anxiety, and an inability to emotionally deal with pain and function in spite of pain. He recommended Claimant attend pain management sessions. Dr. Calhoun provided these sessions. By July 28, 2009, Dr. Calhoun opined Claimant had made some gains and needed no further sessions related to his industrial injury.

13. Claimant returned to part-time, light-duty work about April 29, 2009. By early July Claimant had increased to full-time work.

14. Claimant felt a sudden increase in back pain while sliding a toilet out to be purchased by a customer on August 21, 2009. He sought medical treatment on August 24; Dr. Quattrone's PA found no unequivocally new symptoms on examination, but noted a complaint of increased pain; He increased Claimant's work restrictions to four-hour days.

15. An August 25, 2009 CT scan showed increases from the April 2008 MRI in disc bulges at L4-5 and L5-S1. On August 26, Claimant was taken off work again.

16. On September 10, 2009, Claimant visited Dr. Little. He reviewed the CT scan. He opined an L5-S1 herniated disk was likely caused by the August 21, 2009 accident. Surgery was recommended.

17. On Surety's demand, a repeat injection was performed on October 27 before surgery was approved.

18. On November 14, 2009, Dr. Little removed free fragments of L5-S1 disc.

19. Claimant's postsurgical recovery was slow. It was further complicated by a November 27, 2009 incident in which he tripped over his walker. Claimant developed a constipation problem probably related to a side effect of his medications.

20. Claimant was hospitalized following a pulmonary embolism on December 4, 2009. After an extensive cardiopulmonary workup, Sam Battaglia, M.D., attributed the embolism to Claimant having been immobilized following back surgery.

21. On December 8, 2009, Dr. Little's PA opined Claimant "neurologically stable." However, for other aspects of his condition, Claimant was not at MMI because he was still recovering from the surgery.

22. Claimant fell on Christmas 2009. He began using a wheelchair for a period of time afterward. A December 30, 2009 ER visit for back pain included a consultation by Jozef Ottowicz, M.D. Dr. Ottowicz's examination was compromised by Claimant's complaints

of back pain. Pinprick tests failed to demonstrate a dermatomal pattern. A CT scan showed the prior surgeries plus a possible right L5-S1 "slightly impinging" disc. Dr. Ottowicz's differential diagnosis raised the consideration of a "functional component" to Claimant's reports of leg weakness. In her discharge summary, Laura McGeorge, M.D., summarized, "PRINCIPAL DIAGNOSES: 1) Low back pain with inability to ambulate. Etiology of low back pain is multifactorial but includes degenerative disk disease. Etiology of weakness was undetermined. There was no anatomical neurologic explanation for patient's findings of weakness." Her summary further included diagnoses of "Depression" and "Chronic back pain on chronic narcotics." Dr. McGeorge sent Claimant to Elks' for rehabilitation, which eventually included its LifeFit program.

23. On January 22, 2010, ICRD assisted Claimant. ICRD had provided assistance after the 2005 accident as well. On February 14, 2011, ICRD closed the file after Claimant returned to work for Employer in the plumbing department.

24. On February 18, 2010, Dr. Little examined Claimant for persistent right leg pain. He opined a facet fracture noted on a CT scan was not likely contributing to any pain complaints. He opined Claimant's complaints of weakness were related to loss of muscle tone and reflexes but not to any neurologic condition. He counseled Claimant about "emotional and psychological aspects of pain and neurologic function."

25. On February 19, 2010, Dr. Quattrone recommended Claimant attend a LifeFit program for pain management and narcotic weaning.

26. On March 9, 2010, Dr. McClay evaluated Claimant at the start of his LifeFit program. He found Claimant an appropriate candidate for LifeFit and for detoxification from narcotic pain killers. He opined Claimant's profile suggested a conversion pattern with over-reporting of pain. Dr. McClay participated during Claimant's LifeFit program.

27. On April 1, 2010, Robert Friedman, M.D., examined Claimant following his completion of the LifeFit program. He noted Claimant suffered opiate withdrawal during the program. He opined Claimant was medically stable. He recommended Claimant gradually increase activity over a 10-week period to the restrictions imposed after the 2005 injury—no lifting over 50 pounds occasionally, 25 pounds frequently. He rated Claimant's PPI at 13%, inclusive of 12% from the 2005 injury. On May 5, 2010, Dr. Friedman explained his reasoning for recommending graduated lifting increases despite finding Claimant medically stable.

28. On April 7, 2010, Dr. Quattrone's PA recommended a graduated return to work starting at four hours per day increasing every two weeks to full time, with initial lifting restrictions at 15-20 pounds occasionally, 5-10 pounds frequently, and 5 pounds continuously.

29. On April 23, 2010, Claimant visited the ER and was hospitalized for abdominal pain. After extensive workup, the diagnosis was chest wall pain. This was one of several ER visits not otherwise specifically recounted herein.

30. On June 9, 2010, Dr. Quattrone administered trigger point injections following a temporary aggravation of pain at work.

31. On June 15, 2010, a cautious Dr. Battaglia noted Claimant's continuation of Coumadin following the pulmonary embolism was not likely therapeutic, but Dr. Battaglia elected to continue it for another six weeks, expecting to discontinue it then.

32. On June 30, 2010, Dr. Quattrone treated another temporary aggravation when Claimant fell in a backyard pond. She took him off work again briefly and limited him to 4-6 hour days for one week. On July 6 she extended this restriction another two weeks. She continued to extend these restrictions on follow-up visits largely because Claimant reported he could not tolerate standing on concrete floors at work for more than four hours per day.

33. In late summer 2010, Claimant developed a urinary complication. Prescribed self-catheterization resulted in infections. Ultimately, a ureteral stone was discovered. It passed.

34. On September 14, 2010, Claimant was injured in a car accident. This caused neck pain and exacerbated his back pain. Dr. Little examined Claimant in the ER. X-rays of his C-spine, T-spine and L-spine all showed no acute changes. Claimant began chiropractic treatment which continued through October 5, 2011. Litigation ensued.

35. On November 20, 2010, Claimant visited an ER for chest pain. After extensive testing, the diagnosis was chest wall pain.

36. On December 1, 2010, Claimant was hospitalized to pass a kidney stone.

37. The record shows no visits to Dr. Quattrone between December 1, 2010 and May 26, 2011.

38. On May 1, 2011, Claimant visited the ER for chest pain. After an extensive cardiopulmonary workup, he was diagnosed with chest wall pain.

39. On June 29, 2011, Dr. Quattrone expressly confirmed the permanent work restrictions which Dr. Friedman had imposed on April 1, 2010 and which mirrored Claimant's 2005 lifting restrictions.

40. An August 1, 2011 ER visit for chest pain was determined to be chest wall pain also. Another extensive cardiopulmonary workup was performed.

41. On November 11, 2011, Claimant was injured in a car accident unrelated to his work. Litigation ensued. While he recovered after this accident Claimant again began using a wheelchair and a cane.

The 2005 Claim

42. Claimant felt a sudden increase in low back pain while handling a windshield for installation.

43. On August 3, 2005, Scott Fletcher, D.C., provided a chiropractic examination. He recommended Claimant for light-duty work for one week but expected no restrictions thereafter.

44. On August 8, 2005, an MRI showed a significant disc herniation with an extruded fragment at L3-4 and an intra-annular tear at L4-5. Larry Sladich, M.D., restricted Claimant from work.

45. On August 11, 2005, Kenneth Little, M.D., performed a hemilaminectomy and microdiskectomy at L3-4. He observed a right-sided herniated nucleus pulposus. The large free fragment was impinging the L4 and L5 nerve roots. Leakage of cerebrospinal fluid was noted outside the dura but no hole could be found. Dr. Little opined that the L4-5 "acute injury to the disk" could cause back and leg pain, but was not causing "significant neural compression at this time."

46. On September 23, 2005, psychologist Michael Johnston, Ph.D., evaluated Claimant.

47. On October 28, 2005, ICRD began providing services to Claimant. ICRD closed its file on April 1, 2006 after Claimant began working for Home Depot.

48. James Morland, M.D., provided some post-surgical follow-up care regarding pain management. On November 21, 2005, Dr. Morland cautioned against heavy lifting involving awkward potion or positions—precisely the kind of work required at Claimant's auto glass job. Dr. Morland restricted Claimant to lifting no more than 50 pounds occasionally and 25 pounds frequently. He included position and motion restrictions. He found Claimant to be medically stable on that date and opined Claimant suffered PPI rated "in the middle, between 11 and 12%."

Medical Care Before 2005

49. Claimant filed workers compensation claims for low back injuries in 1998, 2001,

2003, and 2004.

50. Claimant visited a chiropractor in 2001. He was taken off work because of back pain. After about three months, he returned to unrestricted full-duty work.

51. Claimant visited a chiropractor in 2003. He was temporarily restricted to light-duty work because of back pain. After about one month, he returned to unrestricted full-duty work.

52. In 2004 a chiropractor referred Claimant to a medical doctor because of the "chronicity" of Claimant's low back complaints. Samuel Jorgenson, M.D., diagnosed a low back strain. He did not recommend diagnostic imaging but did recommend physical therapy to teach home exercises. Dr. Jorgenson stated, "if he continues to have recurrent symptoms of this magnitude he may require some permanent restrictions."

53. All of these pre-2005 chiropractic visits involved the same Dr. Fletcher who failed to recognize the severity of the 2005 injury.

Vocational Factors

54. Born June 15, 1977, Claimant was 35 years of age on the date of hearing.

55. Claimant is a high school graduate. He was certified as an auto glass installer.

56. Claimant worked most of his adult life installing and repairing windshields and other automobile glass. He has worked as an auto glass shop manager. He worked installing glass—flat glass—for residential and commercial construction.

57. On October 2, 2012, vocational expert Barbara Nelson, in a written report to Claimant's attorney, evaluated the vocational effects of Claimant's 2005, 2008 and 2009 work accidents and opined as follows: Claimant suffered low back injuries at work in 1998, 2000, 2003, and 2004, none of which resulted in permanent restrictions or limitations; the restrictions imposed after the 2005 accident resulted in a 26% reduction of labor market access.

She further opined that chronic pain, anxiety and depression following the 2008 and 2009 accidents resulted in an additional 25% reduction of labor market access; because his earnings as a car salesman are speculative and his success at that job is unlikely, Claimant suffered a 23% wage loss following the 2008 and 2009 accidents. Ultimately, she opined, the 2005 accident resulted in 20.5% whole person disability, inclusive of PPI and the 2008 and 2009 accidents resulted in an additional 24% whole person disability, inclusive of PPI. Ms. Nelson expressed concerns about Dr. Friedman's inclusion of projected restrictions.

Surveillance

58. In July and August of 2010, Defendants conducted video surveillance of Claimant. Claimant is seen preparing a boat for an outing. He lifts equipment, supplies and his daughter into the boat. He climbs into and out of the boat without apparent difficulty. On another occasion he is seen talking to neighbors apparently about a football game. He is seen tailgating at the stadium.

59. Claimant's speed of movement and absence of pain behaviors on the videos are inconsistent with those which he exhibited at hearing. However, what he actually does on the videos is not in sufficient quantity to unequivocally exceed his restrictions. It does not impact any permanent disability analysis.

DISCUSSION AND FURTHER FINDINGS OF FACT

60. The provisions of the Idaho Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996).

Causation

61. A claimant has the burden of proving the condition for which compensation is

sought is causally related to an industrial accident. *Callantine v Blue Ribbon Supply*, 103 Idaho 734, 653 P.2d 455 (1982). Further, there must be evidence of medical opinion—by way of physician's testimony or written medical record—supporting the claim for compensation to a reasonable degree of medical probability. No special formula is necessary when medical opinion evidence plainly and unequivocally conveys a doctor's conviction that the events of an industrial accident and injury are causally related. *Paulson v. Idaho Forest Industries, Inc.*, 99 Idaho 896, 591 P.2d 143 (1979); *Roberts v. Kit Manufacturing Company, Inc.*, 124 Idaho 946, 866 P.2d 969 (1993). A claimant is required to establish a probable, not merely a possible, connection between cause and effect to support his or her contention. *Dean v. Dravo Corporation*, 95 Idaho 558, 560-61, 511 P.2d 1334, 1336-37 (1973).

62. Claimant showed he suffered low back injuries resulting from compensable accidents in 2005, 2008 and 2009.

PPI and Permanent Disability

63. Permanent impairment is defined and evaluated by statute. Idaho Code § 72-422 and 72-424. When determining impairment, the opinions of physicians are advisory only. The Commission is the ultimate evaluator of impairment. *Urry v. Walker & Fox Masonry*, 115 Idaho 750, 769 P.2d 1122 (1989); *Thom v. Callahan*, 97 Idaho 151, 540 P.2d 1330 (1975).

64. The weight of evidence establishes that Claimant incurred PPI as a result of the 2005 accident rated at 12% of the whole person. He suffered PPI as a result of the combination of the 2008 and 2009 accidents rated at and additional 1%.

65. **"**Permanent disability" or "under a permanent disability" results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected. Idaho Code § 72-423. "Evaluation (rating) of permanent disability" is an appraisal of the

injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of permanent impairment and by pertinent nonmedical factors provided in Idaho Code § 72-430.

66. The test for determining whether a claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction with nonmedical factors, has reduced the claimant's capacity for gainful employment." *Graybill v. Swift & Company*, 115 Idaho 293, 766 P.2d 763 (1988). In sum, the focus of a determination of permanent disability is on the claimant's ability to engage in gainful activity. *Sund v. Gambrel*, 127 Idaho 3, 896 P.2d 329 (1995).

67. Permanent disability is defined and evaluated by statute. Idaho Code § 72-423 and 72-425 *et. seq*. Permanent disability is a question of fact, in which the Commission considers all relevant medical and non-medical factors and evaluates the purely advisory opinions of vocational experts. See, *Eacret v. Clearwater Forest Indus.*, 136 Idaho 733, 40 P.3d 91 (2002); *Boley v. State, Industrial Special Indem. Fund*, 130 Idaho 278, 939 P.2d 854 (1997). The burden of establishing permanent disability is upon a claimant. *Seese v. Idaho of Idaho, Inc.*, 110 Idaho 32, 714 P.2d 1 (1986).

68. Considering all medical and non-medical factors, especially including Ms. Nelson's evaluation and Claimant's post-2005 vocational history to the date of hearing, Claimant incurred permanent disability as a result of the 2005 accident which resulted in medical restrictions against lifting more than 50 pounds occasionally and 25 pounds frequently as well as restrictions against excessive positions and motions such as bending, kneeling, squatting, etc. Ms. Nelson's opinions about the vocational effects of Claimant's 2005 accident are well articulated and persuasive. Claimant suffered a 26% permanent disability, inclusive of 12% PPI, as a result of the 2005 accident.

69. Claimant's medical care involved a long and tortuous path after the 2008 and 2009 accidents. Nevertheless, upon reaching MMI, his permanent restrictions were no greater than they had been after the 2005 accident.

70. Ms. Nelson's evaluation suggested additional permanent disability related to factors irrespective of Claimant's restrictions. The intellectual, emotional, and psychological conditions which Ms. Nelson described were first diagnosed by Dr. Johnston in 2005. Thus, the added permanent disability which she attributed to these factors, which she opined to be related to the 2008 and 2009 accidents, was entirely preexisting. Moreover, to the extent she considered Claimant's job as a car salesman to potentially result in increased permanent disability, that portion of the evaluation was too speculative to assign weight. Claimant's earning potential as a car salesman cannot be predicted to any degree of likelihood. He may earn less, he may earn much more than he did at Home Depot.

71. Still, the weight of evidence supports a finding that there is likely some, albeit small, additional permanent disability as a result of the 2008 and 2009 accidents and the subsequent surgeries and medical care arising from them. This disability is not well quantified by the record, but is likely slightly more than a *de minimus* amount. Claimant's permanent disability resulting from the 2008 and 2009 accidents is rated at 5% of the whole person, inclusive of 1% PPI.

72. The record does not establish a likely basis for apportionment of PPI or disability to any other accidents or conditions.

CONCLUSIONS

1. Claimant sustained a compensable low back injury caused by the 2005 accident, for which PPI and permanent disability ratings are moot because of settlement prior to hearing;

2. Claimant sustained compensable low back injuries caused by the 2008 and 2009 accidents rated at 5% permanent disability, inclusive of 1% PPI, which amounts are not apportionable to any other cause or condition.

RECOMMENDATION

Based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 7TH day of August, 2013.

INDUSTRIAL COMMISSION

/S/_____
Douglas A. Donohue, Referee

ATTEST:

/S/_____
Assistant Commission Secretary dkb

CERTIFICATE OF SERVICE

I hereby certify that on the 16TH day of AUGUST , 2013, a true and correct copy of **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** were served by regular United States Mail upon each of the following:

RICHARD K. DREDGE
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dkb

/S/_____

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BENJAMIN LUNSTRUM, Claimant, v. THE HOME DEPOT, INC., Employer, and NEW HAMPSHIRE INSURANCE COMPANY, Surety, Defendants.	**IC 2008-014140** **IC 2009-022198** **ORDER** **FILED AUG 16 2013**

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant sustained a compensable low back injury caused by the 2005 accident, for which PPI and permanent disability ratings are moot because of settlement prior to hearing;

2. Claimant sustained compensable low back injuries caused by the 2008 and 2009 accidents rated at 5% permanent disability, inclusive of 1% PPI, which amounts are not apportionable to any other cause or condition.

3. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 16TH day of AUGUST, 2013.

INDUSTRIAL COMMISSION

/S/_____
Thomas P. Baskin, Chairman

PARTICIPATED BUT DID NOT SIGN.

_____
R. D. Maynard, Commissioner

/S/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 16TH day of AUGUST, 2013, a true and correct copy of **FINDINGS, CONCLUSIONS, AND ORDER** were served by regular United States Mail upon each of the following:

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