CASE NO. 6017 CRB-4-15-5 CLAIM NO. 400075119	: COMPENSATION REVIEW BOARD
ANTHONY CASSELLA CLAIMANT-APPELLANT	: WORKERS' COMPENSATION COMMISSION
v.	: JUNE 27, 2018
O & G INDUSTRIES EMPLOYER	
and	
TRAVELERS PROPERTY & CASUALTY INSURER RESPONDENTS-APPELLEES	

APPEARANCES:

The claimant was represented by Dennis W. Gillooly, Esq., D'Elia, Gillooly, DePalma, L.L.C., Granite Square, 700 State Street, New Haven, CT 06511.

The respondents were represented by Thomas M. McKeon, Esq., Bai, Pollock, Blueweiss & Mulcahey, P.C., Two Corporate Drive, Shelton, CT 06484.

This Petition for Review from the May 8, 2015 Findings and Orders of Randy L. Cohen, the Commissioner acting for the Seventh District, was heard November 17, 2017 before a Compensation Review Board panel consisting of the Commission Chairman John A. Mastropietro and Commissioners Christine L. Engel and Daniel E. Dilzer. [1]

[1] We note that two motions for extension of time and four motions for postponement were granted during the pendency of this appeal.

OPINION

JOHN A. MASTROPIETRO, CHAIRMAN: The claimant has appealed from the May 8, 2015 Findings and Orders issued by Randy L. Cohen, the Commissioner acting for the Seventh District. The trial commissioner concluded that the claimant did not sustain a compensable injury to his left hip or back in the course of his employment on February 28, 2008. She also determined that the claimant's compensable right-hip injury reached maximum medical improvement in October 2012 and the claimant was not totally disabled under an Osterlund standard.[2] The claimant has appealed, arguing that the trial commissioner erred by not crediting treating physicians who had opined in favor of his bid for benefits. He also argues that it was error for the trial commissioner not to explain in her Findings and Orders why she did not rely on the treating physicians' opinions. The respondents argue that because the trial commissioner did not find the claimant credible, she was under no obligation to find credible any of the medical witnesses who offered an opinion derivative of the claimant's narrative. Moreover, the trier was not obligated to explain why she chose not to rely on certain witnesses. We find the respondents' contentions more accurately reflect the proper legal analysis. Therefore, we affirm the Findings and Orders.

The trial commissioner reached the following factual findings in her decision. The claimant, while employed by the respondent-employer, was operating an excavator at a construction site on February 28, 2008. While climbing down from the machine, he missed a step, felt "a pull and a pop" on his right side, and fell to the ground. Findings, ¶ 2. He then "felt pain in his groin area, to the front of his leg, side to his back." Id. He

[2] See Osterlund v. State, 135 Conn. 498, 506-507 (1949).

immediately filed a First Report of Injury and eventually sought treatment at Concentra on March 3, 2008. At Concentra, the claimant provided a history of "climbing down from excavator felt pop and pull right side into front groin area." Findings, ¶ 4; Claimant's Exhibit C. The claimant "complained of pain in the right lower abdomen and groin along the right side radiating to the scrotal area. He was diagnosed with an abdominal wall strain and an inguinal trunk strain." Id.

On February 29, 2008, the claimant commenced treatment with Dr. Robert M. Denes, a chiropractor, which treatment continued until December 27, 2009. Dr. Denes' initial notes indicate that the claimant sustained injuries to his right hip and right groin. He diagnosed the claimant with "Post-Traumatic Acute Right Hip Tendonitis" and "Myalgia to the Right Lower Extremity Significant to the Inguinal Region of the Right Groin." Findings, ¶ 5; Claimant's Exhibit D. The respondents' examiner, Vincent J. Williams, M.D., evaluated the claimant on November 4, 2009. The claimant related the circumstances of the injury and his complaints at that time. Dr. Williams noted tenderness and pain in the claimant's groin, medial thigh, and hip abductors, but "[p]alpation of the lumbar spine was unremarkable." Findings, ¶ 6; Respondents' Exhibit 2, p. 3. He recommended additional evaluations to obtain a more definitive diagnosis.

On December 10, 2009, at approximately the same time that Dr. Denes was noting continued pain and swelling in the claimant's right-hip region along with continued difficulties walking, the claimant commenced treating with John D. McCallum, M.D., an orthopedist. Dr. McCallum reported that the claimant had presented with complaints of "pain through his hip bilaterally, right worse than left." Findings, ¶ 8;

Claimant's Exhibit F. An MRI revealed a labral tear. The respondents accepted compensability of the claimant's February 28, 2008 right-hip labral tear injury.

On March 16, 2010, Dr. McCallum performed a partial labral debridement arthroscopic surgery on the claimant's right hip, which procedure was authorized by the respondents. On June 18, 2010, the claimant reported that he had sustained back and neck strain in a work-hardening program, but on July 1, 2010, Dr. McCallum indicated the condition was transient. On October 14, 2010, Dr. McCallum reported that the claimant's hips continued to be problematic and the claimant continued to complain about back pain. He recommended an MRI of the lumbar spine, after which he referred the claimant to Kenneth M. Kramer, M.D., for an evaluation. Deeming the March 16, 2010 hip surgery unsuccessful, Dr. McCallum also referred the claimant to Christopher B. Lynch, M.D., an orthopedic surgeon specializing in treatment of the hips. On October 12, 2011, Dr. Lynch performed a total right-hip replacement surgery.

In addition, Dr. McCallum had the claimant examined by John M. Beiner, M.D., on April 4, 2011. Dr. Beiner diagnosed work-related hip and lower back pain, and suspected that the claimant's back was primarily affected by his altered gait. Later in 2011, Dr. Lynch referred the claimant to Shirvinda A. Wijesekera, M.D., for an orthopedic consultation. On January 23, 2012, Dr. Wijesekera opined that the claimant's complaints were not spinal in nature and proposed that a neurology or rheumatology consult could be of some value. He diagnosed the claimant with lumbar degenerative disc disease. On July 13, 2012, Dr. Beiner indicated that he did not believe there was a surgical cure for the claimant's back pain and he could not comment with any medical

certainty as to whether the cause was due to a work injury.[3] Dr. Beiner did opine that based solely on the claimant's lower back condition, he was capable of working full time. However, on August 30, 2012, Dr. McCallum offered a different opinion, stating that both the claimant's left-hip condition and his back injury were related to his work injury.

Dr. Kramer evaluated the claimant on September 7, 2012. The claimant provided a narrative of his injury and Dr. Kramer recommended that the claimant undergo a discogram. Following that test, Dr. Kramer opined that the claimant was not a surgical candidate and, on November 29, 2012, opined that the 2008 work injury was a substantial factor in the claimant's current back problem. The claimant also followed up with further examinations with Dr. Lynch. On February 16, 2012 and March 22, 2012, Dr. Lynch reported that the claimant was not doing well but that this was not necessarily related to his right-hip joint. He opined that the claimant was totally disabled from work due to his disabilities but the claimant's pain was not coming from the right-hip joint. He suggested that the claimant's S-1 joint might be the source of his pain and recommended evaluation and treatment of that issue. He also opined that the claimant's hip joint was not the reason the claimant could not return to work.

The claimant presented to Dr. Lynch on May 17, 2012, with left-hip complaints, but in correspondence dated June 15, 2012, Dr. Lynch ascribed these complaints to a new injury which he was unable to link with any medical certainty to the 2008 work injury. On October 23, 2012, Dr. Lynch opined the claimant's right hip was at maximum medical improvement but the claimant was still completely disabled due to issues unrelated to the right hip. Following this report, on November 13, 2012, the respondents

[3] In Findings, ¶ 17, the trial commissioner identified the date of this report as July 30, 2012. We deem this harmless scrivener's error. See D'Amico v. Dept. of Correction, 73 Conn. App. 718, 729 (2002), *cert. denied*, 262 Conn. 933 (2003).

filed a Form 36 based on Dr. Lynch's opinion indicating that the claimant's right hip had reached maximum medical improvement and was not the cause of his disability. The claimant objected to the Form 36.

After the issuance of the Form 36, the claimant presented himself to James K. Sabshin, M.D., F.A.C.S., for treatment of his low-back complaints on January 2, 2013, January 30, 2013 and May 9, 2013. Dr. Sabshin diagnosed the claimant as suffering from a severe lumbosacral sprain/strain with a musculo-ligamentous injury. He reported that the back injury of February 28, 2008 had caused the claimant significant pain and range-of-motion limitations. He recommended that the claimant treat with a pain management specialist. He further opined that the claimant's hip conditions were complicating the pain syndrome. After the May 9, 2013 examination, Dr. Sabshin opined that the claimant was totally disabled.

Drs. Lynch and McCallum offered deposition testimony. Dr. Lynch reiterated that he would not offer a causation opinion relative to the source of the claimant's pain, and testified that the claimant's right hip, which was injured in 2008, was not keeping him out of work and the claimant's current complaints did not relate to that body part. Respondents' Exhibit 1, pp. 49, 51-52. Dr. Lynch said that based on the claimant's right-hip condition, the claimant had a work capacity with restrictions. Id., 65-66, 68-69.

At his deposition, Dr. McCallum indicated that because he was a hip specialist, he would defer to Drs. Beiner and Wijesekera. His opinion that the claimant's back and left-hip problems were causally related to the February 28, 2008 accident was based upon two factual assumptions: (1) the claimant suffered a fall to the ground during the February 28, 2008 accident which provided the mechanism of injury to the back and the

left hip, Respondents' Exhibit 3A, pp. 8-10; and (2) the claimant's continuous back and left-hip complaints began with the fall on February 28, 2008 and continued until he first saw the claimant in December of 2009. Id., 36-37. He believed that the claimant's fall to the ground was a necessary factual predicate for his opinion because the fall generated the axial loading and twisting which could have caused the injury. Id., 8-10.

Dr. McCallum also noted that the claimant's left-hip joint suffered from a progressive arthritic process which was not caused by the February 28, 2008 accident. Id., 40. The doctor opined that the type of degenerative findings he observed on the claimant's June 4, 2012 MRI could have been caused by average wear and tear or age and it was just as likely that the claimant's problems were the result of a degenerative condition in his lower back. Id., 68. Dr. McCallum indicated that the claimant's back problem was keeping him out of work but he did have a sedentary work capacity. Id., 72.

The claimant and two vocational experts offered live testimony at the formal hearing. The claimant testified regarding the circumstances of his injury and his condition at that time. He testified that he has not worked since June 2011 due to pain. On a regular day, he may get a cup of coffee with friends. Thereafter, he returns home and sits in a reclining chair to take the weight off his body because his body does not hold up. He does not feel capable of working due to his pain and the medications he takes for the pain. He will drive only short distances. He cannot perform any household activities or chores, and any time he leaves the house, he needs to use a cane.

The claimant's vocational expert, Albert J. Sabella, M.S., Q.R.C., L.R.C., testified that after examining the claimant, he determined that he is unemployable on a vocational basis due to the following factors: his age; education; below-average intelligence, as

based upon testing results; work history as a heavy-equipment operator; medical records documenting him as either disabled or having significant restrictions; lack of transferable skills; prolonged absence from the work force; and his use of narcotic pain medication prescribed for his work-related injuries.

The respondents' vocational expert, Kerry A. Skillin, C.R.C./L.P.C., A.B.V.E., also examined the claimant and presented testimony. Following her vocational assessment, she opined that the claimant was, with the exercise of reasonable diligence, capable of obtaining and performing gainful employment within the state of Connecticut as an assembler, inspector, packer, grinder/polisher, security guard, information clerk, parking lot attendant, or cashier.

Based on these subordinate facts, the trial commissioner concluded that the claimant was not credible and had failed to prove he sustained a compensable injury to his back or left hip arising out of or in the course of his employment on February 28, 2008. She found the opinion of Dr. Lynch credible and persuasive relative to his findings that: (1) the claimant had a work capacity with restrictions; (2) the left-hip injury appeared to be a new injury which he was unable to relate to the injury of February 28, 2008, with a reasonable degree of medical certainty; (3) none of the claimant's complaints were related to the right-hip joint which was injured on February 28, 2008; and (4) Dr. Lynch would defer to Dr. Wijesekera on issues related to the claimant's spine.

The trial commissioner also found credible and persuasive Dr. Wijesekera's opinion that the claimant's complaints were not spinal in nature. In addition, the commissioner found credible and persuasive Dr. Beiner's opinion that the claimant's back complaints could not, to a reasonable degree of medical probability, be causally

related to his work injury and, with specific regard to the claimant's lower back condition, there was no medical reason why he would not be able to return to full duty.

The trial commissioner did not find persuasive the opinions, reports, or testimony of Drs. McCallum and Sabshin concluding that the February 28, 2008 incident was a substantial factor in causing the claimant's back problems and need for treatment. However, although the trier did not find persuasive Dr. McCallum's opinion that the February 28, 2008 incident was a substantial factor in causing the claimant's left-hip problems and need for treatment, she did find credible and persuasive his opinion that the claimant was capable of sedentary work. With regard to the vocational experts who testified, the trial commissioner did not find Sabella's opinion credible or persuasive but, rather, found credible and persuasive Skillin's testimony and reports opining that the claimant could find gainful employment. Therefore, she did not conclude that the claimant was totally disabled under the Osterlund standard. The trial commissioner granted the Form 36 and denied the claimant's bid for benefits for compensable injuries to his left hip and back.

The claimant did not file a motion to correct or any other post-judgment motion. Instead, he moved to appeal the Findings and Orders on the basis that the trial commissioner had ruled against the weight of the evidence. He argues that the commissioner erroneously failed to articulate why she did not find credible or persuasive the witnesses who were supportive of his claim. He also argues that is was error for the trial commissioner not to cite the opinion of Dr. Kramer in her conclusions. The respondents argue that this case implicated the claimant's credibility and the relative

weight of expert opinion, and it is impermissible for an appellate body to retry the case on appeal. We find the respondents' arguments more persuasive.

The standard of deference we are obliged to apply to a trial commissioner's findings and legal conclusions is well-settled. "The trial commissioner's factual findings and conclusions must stand unless they are without evidence, contrary to law or based on unreasonable or impermissible factual inferences." Russo v. Hartford, 4769 CRB-1-04-1 (December 15, 2004), *citing* Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). Moreover, "[a]s with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did." Burton v. Mottolese, 267 Conn. 1, 54 (2003), *quoting* Thalheim v. Greenwich, 256 Conn. 628, 656 (2001). "This presumption, however, can be challenged by the argument that the trial commissioner did not properly apply the law or has reached a finding of fact inconsistent with the evidence presented at the formal hearing." Christensen v. H & L Plastics Co., Inc., 5171 CRB-3-06-12 (November 19, 2007).

We note at the outset that many of the claimant's arguments are based on his interpretation of Bode v. Connecticut Mason Contractors, The Learning Corridor, 130 Conn. App. 672 (2011), *cert. denied*, 302 Conn. 942 (2011). In Bode, the Appellate Court overturned the trial commissioner's determination that the claimant was not vocationally disabled because the claimant had presented evidence that he was disabled, this evidence was uncontroverted, and the trial commissioner failed to opine on its merit. In the present case, the trial commissioner made thirty-five factual findings which

discussed the evidence and opinions from seven different medical providers and two vocational experts.

The commissioner also drew a number of conclusions regarding the relative merits of the various witness opinions on specific issues. For example, she found Dr. McCallum credible relative to the issue of the claimant's work capacity, Conclusion, ¶ J, but not credible on the issue of whether the claimant's work injury was a substantial factor in his left-hip ailments and back condition. Conclusion, ¶¶ H & I. Moreover, Drs. Lynch and McCallum were deposed in this matter and the trial commissioner had the opportunity to evaluate their responses in an adversarial forum.[4] Consequently, we find the factual scenario in Bode clearly distinguishable from the fact pattern in this matter. Unlike the situation in Bode, the trial commissioner in the present matter did not fail to consider the merits of an uncontroverted medical opinion; in fact, the claimant's evidence was extensively disputed by the respondents and the trial commissioner reached a reasoned determination after considering the totality of the evidence.[5]

The claimant also argues that the trial commissioner erroneously failed to reach a determination regarding the weight of the opinion offered by Dr. Kramer. At the outset, we note that the appropriate action to address this concern would have been a motion to

[4] Dr. Sabshin's deposition transcript of October 22, 2013 does not appear to have been entered into the record. However, Dr. Sabshin's reports of January 2, 2013, January 30, 2013, and May 9, 2013 were entered into the record.

[5] The claimant contends that Pietraroia v. Northeast Utilities, 254 Conn. 60 (2000), constitutes additional authority for reversing the Findings and Orders. However, this case is also factually distinguishable. In Pietraroia, the trial commissioner ignored uncontroverted medical reports stating that the claimant could not travel from Australia to Connecticut and then dismissed the claim because the claimant failed to attend a respondents' medical examination or formal hearing in Connecticut. The Supreme Court, citing due process concerns, set aside the dismissal, noting that the claimant could have been deposed and examined in Australia and such a course of action would have sufficed to allow the respondents to contest the claim on the merits. In contrast, the present case was fully and fairly litigated before a trial commissioner.

correct. As this board has previously remarked, "a Motion to Correct is the proper vehicle for a party to have the trial commissioner reconsider his ultimate conclusions in light of the factual evidence provided." Vitti v. Richards Conditioning Corp., 5247 CRB-7-07-7 (August 21, 2008), *appeal withdrawn*, A.C. 30306 (September 29, 2009). The claimant did not file such a motion. As a result, we must extend conclusive effect to the facts found by the trial commissioner. See Stevens v. Raymark Industries, Inc., 5215 CRB-4-07-4 (March 26, 2008), *appeal dismissed*, A.C. 29795 (June 26, 2008).

In any event, we do not believe the trial commissioner would have been obligated to grant either a motion to correct or a motion for articulation relative to the inclusion or omission of any of the conclusions drawn from the record presented in this matter. Although the claimant contends that the commissioner was obligated to offer a detailed explanation as to why she found the causation opinions of Drs. McCallum and Sabshin unpersuasive and appeared to disregard the opinion of Dr. Kramer, such an argument does not reflect the proper legal standard. In Anderson v. Target Capital Partners, 5615 CRB-6-10-12 (January 3, 2012), this board stated:

> In many ways this case is similar to Biehn v. Bridgeport, 5232 CRB-4-07-6 (September 11, 2008) where the claimant sought a detailed explanation as to why her claim was denied. As we held in Biehn, the decision's rationale was clear enough that an articulation was not necessary since the decision was unambiguous. In the present matter the trial commissioner clearly stated he did not find the claimant fully credible and did not find his treating physicians persuasive. We find that this sufficiently complies with Administrative Regulation § 31-301-3 where a commissioner's findings must detail the facts that he or she found and the conclusions based on those facts he or she reached. "Thus, by the express terms of § 31-301-3 of the regulations, the scope of the commissioner's finding and award is limited to the 'ultimate, relevant and material facts essential to the case.'" Cable v. Bic Corp., 270 Conn. 433, 440 (2004), *quoting* Luciana v. New Canaan Cemetery Assn., 3644 CRB-7-97-7 (August 12, 1998). Biehn,

> supra. The trial commissioner's findings are therefore consistent with the legal standard promulgated by the Supreme Court in Cable, supra, and must be sustained on appeal.[6]

Id.

In the present case, the trial commissioner concluded that the claimant was not a credible witness.[7] As we pointed out in Anderson, supra, when a claimant is deemed not credible, any medical evidence derivative of the claimant's narrative may be discounted by the trial commissioner.

> A claimant's credibility also bears heavily on whether medical testimony reliant on his or her narrative is to be given weight by the trial commissioner. When a trial commissioner does not find the claimant credible, the commissioner is entitled to conclude any medical evidence which relied on the claimant's statements was also unreliable. See Baker v. Hug Excavating, Inc., 5443 CRB-7-09-3 (March 5, 2010); Do v. Danaher Tool Group, 5029 CRB-6-05-12 (November 28, 2006), and Abbotts v. Pace Motor Lines, Inc., 4974 CRB-4-05-7 (July 28, 2006), *aff'd*, 106 Conn. App. 436 (2008), *cert. denied*, 287 Conn. 910 (2008). We may reasonably infer this would provide justification for the trial commissioner discounting the opinions of the claimant's treating physicians.

Id.

It is axiomatic that when it is acknowledged that a claimant has sustained a compensable injury, the claimant must prove that the injury was a substantial factor in the claimed disability. Vitti, supra; see also Weir v. Transportation North Haven, 5226 CRB-

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[6] The claimant argues that the trial commissioner failed to consider the opinions of Drs. McCallum and Sabshin, which failure constituted error similar to that identified in Bode v. Connecticut Mason Contractors, The Learning Corridor, 130 Conn. App. 672 (2011), *cert. denied*, 302 Conn. 942 (2011). However, we note that in fact, the trial commissioner adopted the opinion of Dr. McCallum relative to the claimant's work capacity in Conclusion, ¶ J. It may be reasonably inferred that the commissioner thoroughly reviewed all the expert opinions and adopted the opinions she found most persuasive. "We have held that it is within the discretion of the trial commissioner to accept some, but not all, of a physician's opinion." Williams v. Bantam Supply Co., 5132 CRB-5-06-9 (August 30, 2007); Lopez v. Lowe's Home Improvement Center, 4922 CRB-6-05-3 (March 29, 2006).

[7] In footnote 4 of their brief, the respondents discuss the alleged discrepancies between the claimant's testimony relative to the mechanism of injury described at the time of the February 28, 2008 incident and the narrative subsequently presented by the claimant to his healthcare providers during 2008 and 2009. The respondents point out that the narrative did not include references to back pain or a fall in which the claimant had landed on the ground on his buttocks.

1-07-5 (April 16, 2008); Lamontagne v. F & F Concrete Corporation, 5198 CRB-4-07-2 (February 25, 2008). It is also well-settled that when a trial commissioner finds a claimant's testimony less than credible, a trial commissioner is under no obligation to adopt medical opinions which are derivative of the claimant's narrative. Do, supra. The claimant bore the burden of proving that his left-hip and back condition were the sequelae of his 2008 compensable injury. In the present case, the trial commissioner found persuasive evidence in the record indicating that the claimant's disability was due to factors other than the compensable injury. We must ascertain if this conclusion is supported by this evidence. See Diaz v. State/Dept. of Social Services South Central Region, 6072 CRB-3-16-1 (December 22, 2016), *appeal pending*, A.C. 39993 (January 9, 2017); Olwell v. State/Dept. of Developmental Services, 5731 CRB-7-12-2 (February 14, 2013).

In her Findings and Orders, the trial commissioner specifically cited the opinion of Dr. Lynch with regard to the causation of the claimant's left-hip condition and the opinion of Dr. Beiner relative to the causation of the claimant's back condition. See Conclusion, ¶¶ D, G. In his June 15, 2012 correspondence, Dr. Lynch suggested that the claimant's left-hip injury was a new injury which was not attributable to the compensable incident in 2008. In addition, Dr. Beiner's July 13, 2012 office note specifically states that he could not opine relative to whether the claimant's back injury was a work-related injury. The trial commissioner's "findings of basic facts *and* his finding as to whether those facts support an inference that the plaintiff's injury arose from his employment are subject to a highly deferential standard of review." Blakeslee v. Platt Bros. & Co., 279 Conn. 239, 253-254 (2006). (Emphasis in the original.) As such, we must respect the

trial commissioner's determination regarding causation in this matter given that it is rooted in evidence in the record which she specifically found credible and persuasive.

We now turn to an analysis of whether the claimant's vocational evidence supported a claim for total disability under the Osterlund standard. We note that the claimant's vocational expert and the respondents' expert offered live testimony at the formal hearing. The respondents' expert, Kerry Skillin, opined that the claimant had a work capacity, and the trial commissioner found her opinion more persuasive. Under these circumstances, the commissioner's assessment of the persuasive value of a witness is essentially inviolate on appeal. See Burton, supra, 40; Tarantino v. Sears Roebuck & Co., 5939 CRB-4-14-5 (April 13, 2015). In a "dueling expert" case, this tribunal is obligated to affirm the trial commissioner's determination relative to the persuasiveness of the expert witnesses. Dellacamera v. Waterbury, 4966 CRB-5-05-6 (June 29, 2006), *appeal withdrawn*, A.C. 27853 (September 12, 2006).

As remarked previously herein, the claimant bore the burden of persuading the trial commissioner that the 2008 workplace injury to his right hip was a substantial contributing factor to his current left-hip and back conditions. In addition, the burden rested with the claimant to establish that he was entitled to temporary total disability benefits. See Vallier v. Cushman & Wakefield, 5822 CRB-1-13-2 (February 21, 2014). We believe that based on the record presented in this matter, a reasonable fact-finder could have been left unpersuaded.

There is no error; the May 8, 2015 Findings and Orders issued by Randy L. Cohen, the Commissioner acting for the Seventh District, are accordingly affirmed.

Commissioners Christine L. Engel and Daniel E. Dilzer concur in this opinion.

CERTIFICATION

THIS IS TO CERTIFY THAT a copy of the foregoing was mailed this 27th day of June 2018 to the following parties:

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