

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G906265

MAHLON RICHARDSON, CLAIMANT
EMPLOYEE

FIRST EMPLOYMENT STAFFING LLC, RESPONDENT
EMPLOYER

GALLAGHER BASSETT SERVICES, INC., RESPONDENT
INSURANCE CARRIER/TPA

OPINION FILED FEBRUARY 25, 2021

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE AARON L. MARTIN, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE CURTIS L. NEBBEN, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed May 28, 2020. The administrative law judge found that the claimant proved he sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he sustained a compensable injury.

I. HISTORY

Mahlon Lee Richardson, now age 72, testified that he had been diagnosed with Type 2 diabetes in 1995. The claimant testified that he suffered from pre-existing neuropathy in his upper and lower extremities as

well as numbness in his feet. The claimant testified that he was employed with the respondents, 1st Employment Staffing, for approximately one year.

The parties stipulated that the employee-employer-carrier relationship existed on September 6, 2019. The claimant testified on direct examination:

Q. Now, on September 6, 2019, the date of the accident, you were working for 1st Employment, but you were at Mid-America Cabinets. Is that right?

A. Yes, sir.

Q. And how long had you been working at Mid-America Cabinets?

A. Probably about six weeks....

Q. What did you do for them?

A. Well, I took doors off of the pallet, stacked them on my table, puttied the holes in the plywood across the doors, and then I would stack them back on the pallets.

Q. Okay. What did you do with them after they were stacked on the pallets?

A. They usually came with a forklift and picked them up and moved them to a certain area....

Q. And Mr. Mahlon, you are alleging an injury to your left foot on September 6, 2019, while working at Mid-America Cabinets. Tell the Judge what happened.

A. Well, I had a pallet braced at my waist and pushing it on the floor and it slipped out of my hand and fell and hit my feet, my foot.

Q. Okay. So your foot. Is that your left foot or your right foot?

A. Left foot.

Q. Did it hit the top, side, Where did it land?

A. It landed on the top side of my foot kind of on – right back at the base of the toes.

Q. Okay. Now, how much would you estimate that pallet to weigh?

A. That particular pallet, it was somewhere between 20- and 30-pound....

Q. And when it fell on your foot, did you feel anything?

A. No, I didn't. Pressure.

Q. And did you believe you were injured at that point?

A. No.

Q. Did you have any problems with your foot after this pallet fell on it?

A. No, sir....

Q. Did you report this incident to somebody at work?

A. No, I didn't.

The claimant testified that the alleged incident occurred at approximately 1:00 p.m., after lunch break. The claimant testified that he finished his shift and drove home that afternoon. The claimant testified that he watched television at home, ate dinner, and showered. The claimant further testified on direct examination:

Q. And did you notice anything in the shower?

A. Yes. That is when I noticed blood flowing from my foot.

Q. Which foot?

A. Left foot.

Q. Okay. Where was the blood coming from?

A. Out of the bottom of my foot....

Q. What did you do?

A. Well, I dried off and went out and had my wife to look at the bottom of my foot to see what had happened.

The claimant's wife, Marsha Lee Richardson, testified that she observed a hole in the claimant's foot, near the claimant's toes. The respondents' attorney cross-examined Ms. Richardson:

Q. The night that he took his shower, when your husband, Mr. Richardson, got out of the shower, isn't it true that he said, "There is something wrong with my foot. I don't know if I stepped on glass or what for it to bleed."?

A. No. He just said, "I was in the shower and I put my foot up on the step and there is blood that gushed out of it." He said, "Could you look at it?"

Q. Okay. And what did he say to you after you looked at it?

A. I don't think he said anything. I told him he better go to the doctor....I don't think he said glass or anything. I just looked at it and there was a hole....

Q. My question is, though, isn't that what you told me in deposition back on January 3?

A. I don't remember.

MR. NEBBEN. Okay. Judge, if you want me to read this into the record.

THE COURT: Go ahead, if you want to, unless Mr. Martin has an objection.

MR. MARTIN: No objection....

MR. NEBBEN: I am starting at Page 8, last word of line 2.

"He said, 'There is something wrong with my foot. I don't know if I stepped on glass or what for it to bleed.' I looked at it and that was the only time."

THE COURT: Okay.

Q. [BY MR. NEBBEN]: Now, he didn't know what happened when he got out of the shower as to what caused his foot to bleed, did he, ma'am?

A. No, he didn't.

The claimant testified that he did not seek medical treatment on September 6, 2019, because "I just didn't think it was as serious as it was."

The claimant testified that he contacted his employer and left a voice message.

The claimant testified that he treated with his family physician, Dr. Poemoceah, on September 9, 2019. There is no record of treatment with Dr. Poemoceah on September 9, 2019. According to the record, the claimant treated at Ozarks Community Hospital, Gravette Clinic, on September 10, 2019: "Patient is here today for sore throat, fever, chills, refills, and foot pain....**Work Relatedness:** Not Work Related....Pt. is in

clinic today due to complaints of pain and swelling in his left foot after puncture wound that occurred several days ago.” Physical examination showed “puncture left foot.”

A Diagnostic Imaging Consultation on September 10, 2019 showed the following findings:

Three views of the left foot without comparison show no acute fracture, dislocation, or soft tissue abnormality. There are mild degenerative changes of the forefoot. No osseous erosions or evidence for inflammatory arthropathy is seen. Dorsal and planter calcaneal enthesophytes are seen. Scattered atherosclerotic calcification is seen.
IMPRESSION. 1. No acute fracture or dislocation is seen.
2. Dorsal and planter calcaneal enthesophytes are seen.

The claimant followed up at Gravette Clinic on September 13, 2019 at which time it was again noted, “**Work Relatedness:** Not Work Related....Pt. is in clinic today due to complaints of puncture wound of left foot....Pt. will be admitted to OCH Gravette Hospital for further treatment.” Physical examination showed “large area of inflammation on left foot. Skin is sluffing and this was debrided and cultured.” The claimant was diagnosed with “Cellulitis.”

Dr. Kenneth Poemoceah reported on September 13, 2019:

The patient was seen on September 10 in the office with a presumed puncture wound to the left foot. He does not remember anything happening to cause it. We did x-rays at this point and did not find anything radiopaque in the x-ray. The patient was given some Rocephin and T-dap and started on Augmentin and told to follow up today. Again the area was markedly more inflamed with skin slough present on the

dorsum of the foot with a central area of necrosis which was debrided in the office and culture taken. Had Wound Care come over to evaluate the patient. They also recommended admission....

Extremities: Show the marked necrotic area with inflammation on the dorsum of his left foot.

PLAN: The patient will be admitted and started on IV antibiotics, wound care, contacted Surgery. They will not be able to see him until Monday.

The claimant testified that Dr. Poemoceah advised him to stay off his left foot, and the claimant testified that he notified the employer of same.

The claimant testified, however, that he did not inform the employer that the alleged injury was job-related: “I didn’t realize that it happened on the job at that time.”

Dr. Poemoceah noted on September 17, 2019, “The patient is a 70-year-old white male who presented to the clinic on September 10 with a presumed puncture wound to the left foot. He does not have feeling in his foot. He did not remember anything happening to cause it. He does work around screws and nails in his job. X-rays at the clinic did not show any radiopaque finding on the x-ray....He is discharged from acute care and admitted to swing bed for ongoing care.”

Dr. Poemoceah provided a Discharge Summary on September 17, 2019:

The patient was previously seen in the clinic with a presumed puncture wound to the left foot. He has no feeling in his foot and did not recall what happened to it. X-rays were obtained which did not show a foreign body at that time. He received

IM injection of antibiotics and a Tdap and was started on Augmentin. He was instructed to follow up the next day. He followed up and was noted to have markedly more inflamed skin slough present on the dorsum of his foot with a central area of necrosis, which was debrided in the office. Culture was obtained. Wound Care was consulted who recommended hospitalization. He was admitted for further antibiotic therapy and wound therapy. The wound was debrided once again. He was admitted for treatment.... Patient is slowly making progress. His cellulitis is slowly improving....He is stable medically and will be discharged from acute care and admitted to swing bed for ongoing IV antibiotic therapy, wound therapy, and other care as indicated....

DISCHARGE DIAGNOSES:

1. Severe cellulitis to the left foot with a diabetic foot ulcer.
2. Peripheral neuropathy.
3. Hypothyroidism.
4. Diabetes mellitus, insulin-dependent.
5. Chronic obstructive pulmonary disease.
6. Peripheral vascular disease.
7. Coronary artery disease.
8. Osteoarthritis and degenerative joint disease with chronic pain.

Dr. Poemoceah provided another Discharge Summary on

September 27, 2019:

The patient is a 70-year-old white male who presented to the clinic initially on September 10 with a presumed puncture wound to his left foot. He does not have feeling in his left foot. He did not remember what had happened to it. He does work around screws and nails in his job. It did appear that he had possibly a nail puncture wound on the dorsum of his left foot above his 4th toe. X-rays did not show any radio-opaque finding on x-ray....

The patient was admitted to swing bed for ongoing wound therapy. A surgical consultation, IV antibiotic therapy, and other care as indicated....His cellulitis has resolved. His wound is improving....He is stable for discharge to home and

will be discharged home on his regular medications with the addition of another week of Levaquin....

DISCHARGE DIAGNOSES:

1. Cellulitis of the left foot with puncture wound, diabetic foot ulcer – slowly improving.
2. Diabetes mellitus type 2.
3. Hypothyroidism.
4. Neuropathy.
5. Hypertension.

The claimant testified on direct examination:

Q. Did you ever look at your shoes after this incident?

A. When I got home from the hospital.

Q. Okay. What did you see?

A. I seen a hole on the top of my shoe....

Q. Mr. Richardson, I am going to show you a picture. This is Claimant's Exhibit 1, Page 1. Can you identify what that picture is?

A. That is my left shoe...

Q. And what does that show us again?

A. It shows a hole at the top of the shoe....

Q. Does that represent what you had seen when you examined your shoe after being released from the hospital?

A. It does.

Q. So after you saw that hole, what did you think happened?

A. The hole in my shoe?

Q. Yes, sir.

A. Well, I got to thinking back and the only thing I could think of was when the pallet dropped on my foot. There must have been something in the pallet that went through my shoe and into my foot.

Q. Do you think you might have stepped on something?

A. No, because there was nothing – no hole in the bottom of the shoe.

Q. Okay. Do you recall any other instances where something had fallen on top of your foot, your left foot?

A. No, sir.

Q. Okay. Did you tell your employer that you believed this injury happened at work?

A. I did at a certain point, yes....

Q. What did you tell them? Do you remember?

A. I told them I was pretty sure that the injury happened at work, that I dropped a pallet on my foot and that was the only thing that I could come up with that would cause it....

Q. So other than this pallet falling on your foot at work on September 6th, do you have any other explanation for how this injury could have occurred?

A. No. That is the only way it could have happened.

Marsha Richardson testified and corroborated the claimant's testimony with regard to the hole in the claimant's shoe.

John David Warren, the claimant's supervisor at Mid-America Cabinets, testified for the respondents. The respondents' attorney examined Mr. Warren:

Q. Now, on September 6, 2019, Mr. Richardson said he had a job that he was putting doors before they got sanded. Is there such a job at the plant?

A. Yes....

Q. Once Mr. Richardson put putty on the doors, what did he do with them then?

A. He would have to stack them on a pallet or a cart, an empty pallet or an empty cart....

Q. Once a pallet would be filled that Mr. Richardson had puttied the doors, how were they taken from his work area?

A. We move them with a forklift, typically.

Q. Okay. Was that part of Mr. Richardson's job to move them from his work area?

A. Loaded pallets?

Q. Yes.

A. No.

Q. Okay. Once a loaded pallet was taken away, how did a new pallet get to Mr. Richardson's work station?

A. Well, we brought them by forklift to the stations to be puttied....

Q. Was there any way to try to determine which pallet may have fallen on Mr. Richardson's foot in September?

A. No. I have no idea.

Q. When did you find out that there may be an issue with Mr. Richardson and his foot?

A. I didn't know until sometime later somebody mentioned it. I don't remember.

Q. That time was too late to try to figure out what pallet may have –

A. Yeah, they are long gone....

Q. Have you ever seen any nails sticking out of – any of the sharp ends of the nails sticking out of the pallets in all the time you have worked at Mid-America?

A. No, not sharp ends.

A pre-hearing order was filed on December 17, 2019. The claimant contended that he “sustained a compensable injury to his left foot on or around September 6, 2019. The claimant received medical treatment that he contends was reasonable, necessary and in connection with his compensable left foot injury. The claimant has remained off work since the date of accident. The claimant contends that he remains in his healing period and, therefore, contends that he is entitled to temporary total disability benefits from September 6, 2019 through a date to be determined. The claimant further reserves his rights to any additional temporary and permanent disability benefits. The respondents have denied this claim in its entirety and the claimant contends that he is entitled to the appropriate attorney fee for all indemnity benefits awarded and all future indemnity benefits awarded. The claimant reserves all other claims at this time.”

The parties stipulated that the respondents “have controverted this claim in its entirety.” The respondents contended that the claimant “did not

sustain an injury arising out of and in the course of his employment as defined by the Arkansas Workers' Compensation Act.”

The parties agreed to litigate the following issues:

1. Whether the claimant sustained a compensable injury to his left foot on September 6, 2019.
2. Whether the claimant is entitled to medical treatment.
3. Compensation rates.
4. Whether the claimant is entitled to temporary total disability benefits from September 6, 2019 to a date yet to be determined.
5. Fees for legal services.

After a hearing, an administrative law judge filed an opinion on May 28, 2020. The administrative law judge found that the claimant proved he sustained a compensable injury to his left foot. The administrative law judge awarded medical treatment and temporary total disability benefits. The respondents appeal to the Full Commission.

II. ADJUDICATION

Ark. Code Ann. §11-9-102(4)(Repl. 2012) provides, in pertinent part:

- (A) “Compensable injury” means:
- (i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). “Objective findings” are those findings which cannot come under the

voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Rep. 2012).

The employee has the burden of proving by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

An administrative law judge found in the present matter, “3. The claimant has proven by a preponderance of the evidence that he suffered a compensable injury on September 6, 2019 to his left foot.” In workers’ compensation cases, the Commission functions as the trier of fact. *Blevins v. Safeway Stores*, 25 Ark. App. 297, 757 S.W.2d 569 (1988). The determination of the credibility and weight to be given a witness’s testimony is within the sole province of the Commission. *Murphy v. Forsgren, Inc.*, 99 Ark. App. 223, 258 S.W.3d 794 (2007). The Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Farmers Co-op v. Biles*, 77 Ark. App. 1, 69 S.W.3d 899 (2002). An administrative law judge’s findings with regard to credibility are not binding on the Full Commission. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission has the duty

to decide the case *de novo* and we are not bound by the characterization of evidence adopted by the administrative law judge. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990).

With regard to the contention that he sustained a compensable injury to his left foot, the Full Commission finds in the present matter that the claimant was not a credible witness. The claimant was employed with the respondents and was working at Mid-America Cabinets on September 6, 2019. The claimant contended that he sustained a work-related injury to his left foot on September 6, 2019. The claimant testified, “I had a pallet braced at my waist and pushing it on the floor and it slipped out of my hand and fell and hit my feet, my foot.” The claimant testified that he did not feel any pain in his foot because of his pre-existing diabetic condition which caused numbness in his feet. The claimant testified that he did not report the alleged accident on the premises. The claimant testified that later on September 6, 2019 while showering he noticed “blood flowing from my foot.” The claimant’s wife testified that she noticed the bleeding but also stated in a deposition that the claimant was unsure of the origin of his bleeding. Ms. Richardson testified at deposition that the claimant informed her, “I don’t know if I stepped on glass or what for it to bleed.”

The record indicates that the claimant began seeking medical treatment on September 10, 2019. There is no medical evidence

corroborating the claimant's contention that he sustained a work-related injury on September 6, 2019. It was noted at Ozarks Community Hospital that the claimant was suffering from a puncture wound in his left foot which was "Not Work Related." It was again noted at Gravette Clinic on September 13, 2019 that the claimant's condition was "Not Work Related." Dr. Poemoceah reported on September 13, 2019, "The patient was seen on September 10 in the office with a presumed puncture wound to the left foot. *He does not remember anything happening to cause it* [emphasis supplied]." Dr. Poemoceah again reported on September 17, 2019 with regard to the puncture wound, "*He did not remember anything happening to cause it* [emphasis supplied]. He does work around screws and nails in his job." Dr. Poemoceah's note that the claimant "works around screws and nails in his job" does not corroborate the claimant's contention that he sustained an accidental injury resulting from a falling pallet. Dr. Poemoceah further noted on September 17, 2019, "*The patient was previously seen in the clinic with a presumed puncture wound to the left foot. He has no feeling in his foot and did not recall what happened to it* [emphasis supplied]."

Dr. Poemoceah reported in a September 27, 2019 Discharge Summary, "The patient is a 70-year-old white male who presented to the clinic initially on September 10 with a presumed puncture wound to his left

foot. He does not have any feeling in his left foot. *He did not remember what happened to it* [emphasis supplied]. He does work around screws and nails in his job.” It is within the Commission’s province to weigh all of the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). In the present matter, the Full Commission finds that Dr. Poemoceah’s medical reports were credible and accurately reflected the evidence of record. There was no portion of Dr. Poemoceah’s treatment notes which corroborated the claimant’s testimony that a pallet struck his foot at work.

The Full Commission recognizes that we may not arbitrarily disregard medical evidence or the testimony of any witness. *Stevens v. Mid-South Mixers, Inc.*, 2010 Ark. App. 519. However, the Commission as fact-finder is not permitted to infer that an alleged injury was caused by the claimant’s employment. *Weaver v. Nabors Drilling USA*, 98 Ark. App. 161, 253 S.W.3d 30 (2007). The Full Commission in the present matter would have to rely on unsubstantiated speculation in order to find that the claimant proved he sustained a compensable injury. Speculation and conjecture, even if plausible, cannot supply the place of proof. *Kimble v. Labor Force, Inc.*, 2013 Ark. App. 601, 430 S.W.3d 156. The probative evidence does not demonstrate that the puncture wound in the claimant’s left foot was caused by a falling pallet at work on September 6, 2019.

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury. The claimant did not prove that he sustained an accidental injury which caused internal or external physical harm to the body. The claimant did not prove that he sustained an injury which arose out of and in the course of employment, required medical services, or resulted in disability. The claimant did not prove that he sustained an accidental injury which was caused by a specific incident or was identifiable by time and place of occurrence on September 6, 2019.

Therefore, after reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he sustained a compensable injury. We reverse the administrative law judge's opinion, and this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

Commissioner Willhite dissents.

DISSENTING OPINION

After my *de novo* review of the entire record, I dissent from the majority opinion finding that the claimant did not prove he sustained a compensable injury.

For the claimant to establish a compensable injury as a result of a specific incident, the following requirements of Ark. Code Ann. §11-9-102(4)(A)(i)(Repl. 2012), must be established: (1) proof by a preponderance of the evidence of an injury arising out of and in the course of employment; (2) proof by a preponderance of the evidence that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in Ark. Code Ann. §11-9-102 (4)(D), establishing the injury; and (4) proof by a preponderance of the evidence that the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App 309, 37 S.W.3d 649 (2001). When there are contradictions in the evidence, it is within the Commission's province to reconcile conflicting evidence and to determine the true facts. *Id.* The Commission is not required to believe the testimony

of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

The claimant injured his left foot on September 6, 2019 when he dropped a pallet on the top of the foot at the base of his toes. There were objective findings of the claimant's injury in the form of a puncture wound to the left foot that developed marked cellulitis as observed by Drs. Kenneth Poemoceah and Stephen Morrison and noted throughout the medical records. The claimant received treatment for the cellulitis in the form of prescription medication, IV antibiotics, and skin debridement. The issue in this case is whether there was a causal connection between the claimant's work-related accident and his injury.

A claimant is not required in every case to establish the causal connection between a work-related incident and an injury by either expert medical opinion or by objective medical evidence. *See Wal-mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). The Arkansas courts have long recognized that a causal relationship may be established between an employment-related incident and a subsequent physical injury based on evidence that the injury manifested itself within a reasonable period of time following the incident so that the injury is logically attributable to the incident, where there is no other reasonable explanation

for the injury. *Hall v. Pittman Construction Co.*, 235 Ark. 104, 357 S.W.2d 263 (1962).

Because the claimant suffered from neuropathy, he did not feel pain in his left foot; however, once home while showering he discovered that his foot was bleeding. The manifestation of the claimant's symptoms on the same day as his accident is a reasonable period of time. Additionally, there was no evidence presented that the claimant injured his left foot in any other manner. Also, I note that the location of the claimant's injury was the dorsum of his foot, which is the area where the claimant testified that he dropped the pallet. In addition, it is worth noting that Dr. Morrison indicated in his September 16, 2019 medical record that the claimant's injury did not appear to be a pressure ulcer commonly experienced by individuals with diabetes.

John Warren, a witness for the respondents, testified that the pallets that the claimant was working on are made from wood pieces that are nailed together. According to Warren, the pallets would occasionally break and be put back together with screws. Although it was not typical for the pointed end of the screw to project from the pallet, Warren testified that the pallets would splinter. Warren estimated that the splinters measured one and one-half inches in length and could sometimes be very thick.

The claimant's wife testified that she observed a hole in the claimant's left foot on the night of the claimant's work accident. Further, the claimant offered a picture of his left shoe as an exhibit that shows a hole on the top of the shoe.

Based on the aforementioned factors, I find that the claimant's left foot injury is logically attributable to the work-related accident. Therefore, I find that the claimant has established by a preponderance of the evidence that he sustained a compensable left foot injury.

The majority did not find the claimant to be a credible witness; however, I disagree with this assessment. The claimant gave credible testimony that he did not feel the pain of his injury at the time of his accident, explaining that he suffered from neuropathy due to diabetes. This diagnosis is supported by the claimant's medical records. I find that this is a logical and credible explanation for the claimant's initial statements that he was unsure of how he injured his left foot.

For the foregoing reasons, I dissent from the majority opinion.

M. SCOTT WILLHITE, Commissioner