U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON L. HOLLINGSWORTH and FEDERAL JUDICIARY, ADMINISTRATIVE OFFICE OF COURTS, Washington, DC

Docket No. 01-797; Submitted on the Record;
Issued July 3, 2002

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant had any residuals on or after December 16, 1999 causally related to her October 22, 1993 accepted respiratory allergic reaction.

On May 16, 1994 appellant, then a 47-year-old computer programmer, filed a claim alleging that she sustained chest tightness, upper respiratory discomfort, burning, itchy eyes, dizziness, nausea and a metallic taste in her mouth, while working in her workplace. The Office of Workers' Compensation Programs accepted that appellant sustained a respiratory allergic reaction.

Compensation for wage loss commenced February 13, 1995 and was paid until April 1996 when appellant began working. Medical benefits for injury-related residuals continued. Appellant's claim had been accepted based on a September 19, 1994 report from Dr. Linwood W. Custalow, a Board-certified otolaryngologist, who diagnosed appellant as having work-related multiple chemical sensitivities due to "sick building syndrome." In November 1993 the employing establishment had Boston Properties conduct extensive air handling system testing in the building which resulted in a determination that maintenance was good, adequate fresh air was available and the indices of system functioning were within normal limits with particle counts well below the suggested range, with no toxic levels of chemicals or microbes present and with no serious pathogenic bacteria or fungi identified in significant numbers. On February 12, 1996 the Office determined that Dr. Custalow had based his opinion on an inaccurate history of exposure, supposing that appellant was exposed to improper ventilation, chemicals from new building materials, lack of fresh air and inappropriate fresh air, which the environmental study did not support. The Office, therefore, determined that acceptance of appellant's claim was in error and it prepared a February 12, 1996 notice of proposed termination of compensation. By decision dated March 26, 1996, the Office rescinded acceptance of appellant's claim and terminated appellant's wage-loss compensation benefits, but by decision dated July 10, 1996, an Office hearing representative reversed the termination finding that the Office had failed to meet its burden of proof to rescind acceptance; compensation

was reinstated retroactive to April 1, 1996. The hearing representative directed that the Office further develop the case.

Thereafter the Office prepared a new statement of accepted facts, which included the fact that appellant was exposed to 0.028 parts per million (ppm) of formaldehyde,[1] and minimal levels of microbes. The Office referred appellant, together with the statement of accepted facts, specific questions to be addressed and the relevant case record to Dr. Michael R. Kletz, a Board-certified immunologist, for a second opinion.

In a report dated April 11, 1996, Dr. Custalow opined that appellant had experienced an allergic reaction to her work environment and noted that, after testing, she had a "hypersensitivity reaction." He stated that appellant's office had moved into a new building in October 1992, that she had acute chemical exposure (formaldehyde),[2] airborne contaminant exposure (microbes),[3] and inadequate and/or no ventilation (poor air quality).[4] Upon intracutaneous allergen testing it was determined that she was allergic to formaldehyde. Dr. Custalow opined that appellant's immune system and central nervous system were suppressed, resulting in a state of autoimmunity. He further noted that upon testing it was determined that appellant had myasthenia gravis, an autoimmune/neurologic disease.

By report dated December 12, 1996, Dr. Kletz reviewed appellant's history of symptom onset in the Fall of 1993, noted that her symptoms improved over weekends, indicated that appellant was bothered by cosmetics, inks, industrial solvents and glues, and noted that, although she began working from home in April 1996, she had continuing symptoms. He noted that appellant continued with symptoms of nasal congestion, postnasal drip, sinus headaches, shortness of breath, chest congestion, fatigue, red blurry eyes, dizziness and itchy skin, but indicated that the symptoms were better than they had been. Dr. Kletz also indicated that appellant had hypothyroidism, myasthenia gravis and an abnormal (positive) antinuclear antibody titer, and he diagnosed myasthenia gravis, questionable sick building syndrome and vasomotor rhinitis. He answered the Office's questions noting appellant's employment-related diagnosis as "possible sick building syndrome as well as allergic rhinitis," and indicated that the objective findings were her history. Dr. Kletz opined that appellant's exposure to 0.028 ppm of formaldehyde and minimal levels of microbes would not cause a permanent condition, that she did not have residual impairment or work exposure-related continued symptoms and that her vasomotor rhinitis was bothered by strong scents, industrial solvents and "glues, inks, perfumes, paint fumes, cigarette smoke, changes in barometric pressure, etc."

[1] Occupational Safety & Health Administration standards allow 0.75 ppm for the permissible exposure limit. The Boston Properties air study findings regarding formaldehyde in appellant's workplace were below minimum detection levels in two locations and were at 0.025 ppm and 0.028 ppm in two other locations. The study concluded that "the very low formaldehyde levels detected in the areas tested indicate that either the amounts being emitted are now low or the excellent ventilation policies in place are effectively diluting these gases and any other indoor air pollutants."

[2] Noted to be from off-gassing of new building materials, office furnishings, new carpet, particle board, upholstery, paint, ceiling tiles and wood products.

[3] Microbes associated with heating, ventilation and air conditioning systems.

[4] Noted to be from having no windows and a shut down ventilation system.

On July 28, 1997 the Office determined that a conflict in medical opinion evidence existed between Drs. Kletz and Custalow, and referred appellant, together with the statement of accepted facts, specific questions to be addressed and the relevant case record to Dr. Arnaldo A. Garro, a Board-certified otolaryngologist, for an impartial medical examination.

By report dated September 3, 1997, Dr. Garro reviewed appellant's factual and medical history, noted upon examination that she had mild edema of the nasal mucous membranes and opined that she had probable sick building syndrome.

On November 13, 1997 the Office requested that Dr. Garro clarify and supplement his earlier opinion.

In a December 4, 1997 response, Dr. Garro referred the Office to his September 3, 1997 report, stating that appellant's physical examination was unremarkable except for mild edema of the nasal mucous membranes and noted that his diagnosis of probable sick building syndrome was based on the evaluation done by other consultants.

The Office determined that Dr. Garro's reports were unresponsive to its questions, and it referred appellant to a new impartial medical specialist, Dr. Laura S. Welch, Board-certified in occupational and environmental medicine.

In a letter to appellant dated February 8, 1999, Dr. Welch stated that she had reviewed appellant's medical records and opined that her severe episode of fatigue and hair loss in 1994 was related to her hypothyroidism and eventually to myasthenia gravis. She stated: "I do n[o]t think the building caused or contributed to those particular symptoms. I do think you had some headache and respiratory irritation related to the building, but that has resolved." Dr. Welch recommended further evaluation by an endocrinologist and a neurologist for her ongoing fatigue.

By report to the Office dated February 9, 1999, Dr. Welch addressed the Office's questions and she diagnosed appellant as having hypothyroidism, myasthenia gravis and vasomotor rhinitis. She reviewed the results of the building air handling studies and opined:

> "I do not feel the exposure to a 0.028 ppm of formaldehyde or exposure to the microbial agents found in the building caused, aggravated or accelerated any medical condition. I do think she had some upper respiratory irritation and headache while in the building, based on her clinical symptomatology. This irritation was relieved when she left the building and returned when she reentered the building. There were no specific objective findings noted in her medical record, but is more probable enough (sic) that she had some mild vasomotor rhinitis related to some small level of contaminants in the building (but not specifically to formaldehyde or microbes)."

Dr. Welch opined that appellant's upper respiratory irritation and aggravation of vasomotor rhinitis would resolve when she left the building, and she indicated that appellant had no permanent injury or residual impairment as a result of working at the employing establishment. She discussed appellant's history of hypothyroidism and myasthenia gravis, noted that she had had a diagnosis of rheumatoid arthritis since age 18, noted that she had a positive ANA titer and a 1994 episode of hair loss and significant fatigue, and opined that that

was suggestive of a nonspecific collagen vascular disease. Dr. Welch opined that the four months of sick leave appellant had in the Spring of 1994 was related to her other medical conditions and not to a building-related exposure. She indicated that there was no documented problem in the building other than the potential of some very local underventilation in her office corridor that could cause upper respiratory irritation and headache. Dr. Welch opined that appellant's thyroid disease, her neurologic disease and her nonspecific collagen vascular disease were not aggravated or caused by exposures at work. She opined that the diagnosis of multiple chemical sensitivities was inappropriate as appellant had several significant medical conditions which could explain the majority of her symptoms and she indicated that what was not explained were appellant's headache, chest tightness and nasal congestion that was precipitated by low level odors or irritants in the environment. Dr. Welch indicated that these symptoms were not disabling, and that appellant's current work limitation was based on fatigue which was related to her myasthenia gravis and not to any work-related condition. She further noted that individuals with hypothyroidism and myasthenia gravis had a significant risk of developing adrenal insufficiency, which would also cause fatigue.

By decision dated April 23, 1999, the Office terminated appellant's entitlement to compensation and medical benefits, finding that Dr. Welch's report constituted the weight of the medical evidence and established that appellant had no further injury-related residuals which required medical treatment.

In a May 19, 1999 letter, appellant requested review of the written record and she contended that the employing establishment admitted that there was weak airflow into some of the offices. She claimed that her work-related condition had not resolved, that she had possible sick building syndrome and that the formaldehyde and/or microbes combined with lack of adequate ventilation could either cause, precipitate, accelerate or aggravate her health problems.

In support of her request, appellant submitted multiple medical notes, laboratory records of various blood tests and copies of emails.

By decision dated September 16, 1999, an Office hearing representative reversed the April 23, 1999 termination decision finding that appellant was not given adequate pretermination notice and a chance to submit evidence if she disagreed with the proposed action.[5]

On November 15, 1999 the Office issued appellant a notice of proposed termination of medical benefits on the grounds that the weight of the medical evidence established that she had no injury-related residuals which required further medical treatment.

On December 16, 1999 the Office finalized the termination of medical benefits finding that the weight of the evidence established that she had no injury-related residuals which required further medical treatment.

[5] On November 12, 1999 appellant requested an appeal before the Board in Docket No. 00-902. On March 21, 2000 the director submitted a motion to dismiss arguing that the case was in interlocutory posture. The appeal was dismissed by order dated May 30, 2000.

By letter dated August 17, 2000, appellant requested reconsideration of the December 16, 1999 decision.

In support, appellant submitted a February 8, 2000 report from Dr. Custalow noting appellant's history of symptoms and which stated that acute formaldehyde in her work environment was one of the factors that caused her illness. He noted:

> "The others were airborne contaminant exposure (microbes) and inadequate and/or no ventilation (poor air quality). The formaldehyde exposure was caused by off-gasing of the brand new building materials and office furnishings such as new carpet, particle board furniture, upholstery, paint, ceiling tiles, adhesives and manufactured wood products. These products emit their chemical contents by vaporizing at room temperature and pressure and were in her work area. As time passed, in addition to the above symptoms, she experienced other symptoms like swelling, fatigue, weakness, joint and muscle pain, difficulty concentrating, and skin discoloration; all classic symptoms of chemical poisoning."

Dr. Custalow discussed how appellant's health continued to decline as her exposure at work continued and he claimed that her hypothyroidism was not the cause of her problems. He further stated that appellant became sensitized to her environment which resulted in sick building syndrome, multiple chemical sensitivity and chronic sinusitis. Dr. Custalow opined that appellant's immune system became impaired due to constant exposure and then she was diagnosed with myasthenia gravis, which was a "nervous system dysfunction [that] occurre[d] after prolonged exposure to formaldehyde and other chemicals because the human nervous system is particularly vulnerable to toxic-chemical exposure. He opined that appellant's hypersensitivity, myasthenia gravis and chronic sinusitis were all as a result of her sick building exposure, that the intradermal testing he did revealed that she was highly sensitive to formaldehyde and that her sensitivity continued after her employment at the employing establishment ceased resulting in permanent impairment of her upper respiratory area and her immune and central nervous systems (myasthenia gravis). Dr. Custalow opined that appellant needed further treatment for her neurologic disease.

An August 4, 2000 report from Dr. Grace E.B. Ziem, an occupational medicine physician, noted that appellant underwent diagnostic testing and that she claimed her illness began when she moved into a new building in October 1992 and was exposed to new carpets and numerous renovation items accompanied by a pungent smell. Dr. Ziem reported a multitude of physical examination and testing results, and opined that appellant had toxic encephalopathy, toxic-induced reactive airway disease with heightened intolerance to irritants and pollutants, toxic-induced adrenal disturbance, toxic-induced/excerbated food intolerances, toxic-induced disturbances of fatty acids, minerals and protein depletion, toxic-induced impairment of detoxification and some toxic-induced disturbance of energy metabolism. He recommended that appellant limit her computer usage to two hours per day with no more than one hour at a time and the use of charcoal filtration in her work area.

A November 2, 2000 supplemental report from Dr. Welch indicated that she had reviewed the submitted medical evidence, noted that neither decreased air flow to appellant's work area, nor irritants due to renovation activity were documented by the Boston Properties

studies and noted that there was no evidence that appellant had any excessive exposure to formaldehyde in her workplace. Dr. Welch opined that appellant did not, at that time, suffer from any sick-building-related illnesses, that the medical evidence of record indicated that her reaction to the sick-building syndrome ceased when she left the building and that there was not any support in the medical literature that established any link between poor air quality and the development of chronic fatigue syndrome, multiple chemical sensitivity, fibromyalgia, immune dysfunction or myasthenia gravis. She further noted that appellant's conditions of food intolerance, adrenal disturbance, impairment of detoxification, high levels of lipid peroxidases, lack of secretory IgA, H. pylori and pancreatic disease as manifested by decreased chymotrypsin were not established as being related to any of appellant's accepted exposures. Dr. Welch noted that appellant's 1993-1994 clinical hypothyroidism accounted for her symptoms of fatigue, headache and hair loss at that time as confirmed by testing at Kaiser.

Dr. Welch further noted Dr. Ziem's findings on physical examination of an impaired Romberg and heel-to-toe testing with a mild decrease in vibratory sense, were explained by appellant's myasthenia gravis. She stated that there was no support in the medical literature for any link between myasthenia gravis and appellant's exposures in her building. Dr. Welch opined that neither appellant's adrenal insufficiency nor her hypothyroidism was known to be caused by poor air quality in a building. She further noted that the nasal polyps diagnosed by Dr. Custalow in 1996 had no relationship to any building-related exposure.

By decision dated November 13, 2000, the Office denied modification of the December 16, 1999 decision.

The Board finds that appellant had no residuals of her October 22, 1993 accepted respiratory allergic reaction after December 16, 1999.

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss.[6] To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.[7] In this case, the Office met its burden of proof with the well-rationalized reports of Dr. Welch.

In the instant case, appellant's treating physician, Dr. Custalow, opined on September 19, 1994 that appellant had work-related multiple chemical sensitivity due to "sick building syndrome." On April 11, 1996 he opined that she had an allergic reaction to her work environment due to acute chemical exposures to formaldehyde, airborne contaminant exposures to microbes and inadequate ventilation resulting in poor air quality. Dr. Custalow opined that, as a result of her work exposures, particularly to formaldehyde, appellant had a suppressed central nervous system and immune system which resulted in a state of autoimmunity and ultimately myasthenis gravis. He opined that she was still suffering from ill effects of her injury.

[6] *Marlene G. Owens*, 39 ECAB 1320 (1988).

[7] *See Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

However, the Office referral physician, Dr. Kletz reviewed appellant's history, examined her and concluded that she was bothered by cosmetics, perfumes, cigarette smoke, inks, industrial solvents and glues, and changes in the barometric pressure. He noted that when she began working at home in April 1996 her symptoms of nasal congestion, post-nasal drip, sinus headaches, shortness of breath, chest congestion, fatigue, red blurry eyes, dizziness and itchy skin, continued. Dr. Kletz indicated that appellant had hypothyroidism, myasthenia gravis, questionable sick building syndrome and allergic rhinitis, and he opined that her exposure to 0.028 ppm of formaldehyde and minimal levels of microbes would not cause a permanent condition. He opined that appellant did not have any residual impairment or work exposure-related continued symptoms.

The Federal Employees' Compensation Act, at 5 U.S.C. § 8123(a), in pertinent part, provides: "If there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."

In this case, the Office properly determined that there was a conflict in medical opinion evidence between Drs. Custalow and Kletz on the issue of whether appellant had work injury-related residuals which required further medical treatment. The Office initially referred appellant to Dr. Garro, for an impartial medical examination to resolve the identified conflict.

Dr. Garro replied on September 3, 1997 that, upon objective examination, appellant had only mild edema of the nasal mucous membranes and he concluded that she probably had sick building syndrome. As this report did not address all of the questions posed by the Office, did not provide any medical rationale for his opinion, and couched his response in speculative terms of what appellant "probably" had, the Office requested further clarification of his opinion regarding appellant's ongoing need for medical treatment. In a December 4, 1997 clarification, Dr. Garro merely referred the Office to his previous report, repeated his findings of edematous nasal mucosa and repeated his diagnosis of "probably sick building syndrome."

The Board has held that when the designated impartial specialist has been requested to clarify his opinion and his statement of clarification or elaboration is not forthcoming to the Office, or if the physician is unable to clarify or elaborate on his or her original report, or if the physician's supplemental report is also vague, speculative or lacks rationale, the Office must submit the case record, together with a detailed statement of accepted facts, to a second impartial specialist, not previously associated with the claim, for a rationalized medical opinion on the issue in question.[8] Unless this procedure is carried out by the Office, the intent of section 8123(a) of the Act[9] will be circumvented when the impartial specialist's report is not sufficient to resolve the conflict of the medical evidence.[10]

[8] *Margaret Ann Connor*, 40 ECAB 214 (1988).

[9] 5 U.S.C. § 8123(a). *See generally* 5 U.S.C. §§ 8101-8193.

[10] *See Thomas Graves*, 38 ECAB 409 (1987).

The Office determined that Dr. Garro's reports were unresponsive to the Office's questions, and properly referred appellant to Dr. Welch, Board-certified in occupational and environmental medicine, for an impartial medical opinion.

Dr. Welch provided a February 8, 1999 letter and a February 9, 1999 report regarding appellant's condition and indicated that they were based on a complete review of the medical records and of the statement of accepted facts. After examining appellant, Dr. Welch opined that her severe episode of fatigue and hair loss in 1994 was related to her hypothyroidism and eventually to myasthenia gravis. She opined that she did not think the building caused or contributed to those particular conditions, and noted that her headache and respiratory irritation related to the building ceased when she left the building. Dr. Welch opined that exposure to a 0.028 ppm airborne concentration of formaldehyde did not cause, aggravate or accelerate any medical condition, that appellant's upper respiratory irritation and headache was relieved when she left the building and that appellant had no permanent injury or residual impairment as a result of working at the employing establishment. Dr. Welch opined that appellant's four months of sick leave in the Spring of 1994 was not related to her building exposure but to her other medical conditions, and that her thyroid disease, neurologic disease and nonspecific collagen-vascular disease were not aggravated by or caused by exposures at work. She further indicated that appellant's symptoms could easily be explained by appellant's other medical conditions. Dr. Welch indicated that appellant's current work limitation was based on her fatigue due to her myasthenia gravis and not due to any work-related condition. Dr. Welch also noted that appellant's headache, chest tightness and nasal congestion, which seemed to be precipitated by exposures in her work environment, ceased when she left work were not disabling.

When there exist opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[11]

As Dr. Welch's reports are well rationalized and were based on a complete and proper factual and medical background, the Office properly found that her opinion was entitled to that special weight.

After the termination decision appellant requested reconsideration, claiming that her work-related condition had not ceased, that her office had weak air flow and that the formaldehyde and microbes and lack of adequate ventilation there would either cause, precipitate, accelerate or aggravate her health problems. In support of her request, appellant submitted various blood test and other clinical testing results, and copies of emails. She also submitted a February 8, 2000 report from Dr. Custalow, who noted as history that appellant had an acute formaldehyde exposure in her work due to off-gassing from building materials, carpet and furniture. He opined that as appellant was continuously exposed, her health continued to decline to the point that she became sensitized to her environment. Dr. Custalow reiterated his opinion that appellant's impaired immune system resulted in sick building syndrome, multiple chemical sensitivity, chronic sinusitis and myasthenia gravis, and he noted that her skin test for

[11] *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).

allergy to formaldehyde was positive. He further opined that these conditions remained with appellant after she left her employing establishment and resulted in permanent impairment.

The Board has held that an additional report from a treating physician who is on one side of a conflict that was resolved by an impartial medical specialist, is insufficient to overcome the weight accorded the impartial medical examiner's report or to create a new conflict.[12] In this case, Dr. Custalow's report merely restates his earlier opinion and is based on an inaccurate factual history of formaldehyde exposure, as documented by the Boston Properties study. It is insufficient to create a new conflict with the well-rationalized report of Dr. Welch.

Appellant also submitted an August 4, 2000 report from Dr. Ziem, a physician without Board certification, who based her opinion on a history as given by appellant, found that appellant manifested with a classic toxic injury presentation, and opined that she had "substantial disability but with reasonable accommodations may be able to continue to work." Dr. Ziem reported appellant's food and chemical intolerances, recommended various vitamin and/or enzyme supplements and courses of action, and diagnosed toxic encephalopathy, toxic-induced reactive airway disease with heightened intolerance to irritants and pollutants, toxic-induced adrenal disturbance, toxic-induced/excerbated food intolerances, toxic-induced disturbances of fatty acids, minerals and protein depletion, toxic-induced impairment of detoxification and some toxic-induced disturbance of energy metabolism. However, the toxic exposures Dr. Ziem opined about were not established by the factual case record as having occurred, and discussion of the pathophysiology involved between appellant's actual exposures, as documented by the Boston Properties study and the development of these conditions was not provided, such that Dr. Ziem failed to provide a rationalized medical opinion on causal relation. Dr. Ziem recommended further follow-up with a clinical nutritionist experienced in toxic injury.

The Office referred Dr. Ziem's report and testing results to Dr. Welch for additional comment. On November 2, 2000 Dr. Welch noted that Dr. Ziem's opinion was predicated on a history not supported by the factual record, that there was no evidence that appellant was excessively exposed to formaldehyde in the workplace and that appellant did not at that time continue to suffer from a "sick-building syndrome." Dr. Welch opined that there was no support in the medical literature or research to substantiate any connection between appellant's chronic fatigue syndrome, multiple chemical sensitivities, fibromyalgia, immune dysfunction or myasthenia gravis and the air quality in appellant's building, and she opined that appellant's food intolerance, adrenal disturbance, impairment of detoxification, high levels of lipid peroxidases, lack of secretory IgA, H. pylori and pancreatic disease as manifested by decreased chymotrypsin were not established as being related to any of appellant's documented employment-related airborne exposures. Dr. Welch further found that Dr. Ziem's positive physical findings were explained by appellant's myasthenia gravis, and that her myasthenia gravis, adrenal insufficiency, and hypothyroidism were not related to poor air quality in her building.

Dr. Ziem's report is insufficient to overcome Dr. Welch's impartial medical report or create a new conflict as it is based on a factual and medical history not supported by the record and lacks sufficient medical rationale. The Board notes that half of the formaldehyde levels

[12] *Virginia Davis-Banks*, 44 ECAB 389 (1993); *Dorothy Sidwell*, 41 ECAB 857 (1990).

sampled in appellant's workplace were so low as to be undetectable and the other half sampled were below one half of any threshold level. The studies concluded that "the very low formaldehyde levels detected in the areas tested" indicated that the amounts being emitted were low or the ventilation policies were excellent. Dr. Ziem based her opinion on a history as provided by appellant and not supported by the case record. Moreover the Board notes that Dr. Ziem failed to explain adequately her determination of multiple employment-related toxic syndromes, or relate them to any documented factor of appellant's employment. As Dr. Ziem provided a report based upon an incorrect factual and medical history her report is of diminished probative value and is insufficient to create a conflict with Dr. Welch's reports.

Accordingly, the decision of the Office of Workers' Compensation Programs dated November 13, 2000 is hereby affirmed.

Dated, Washington, DC
July 3, 2002

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member