IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appellate Case No. 2025-001932

ON APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 2202565

Melody L. James, *Commissioner*
Gabe Coggiola, *Commissioner*
R. Michael Campbell, II, *Commissioner*

RUSTY YOUNG,

Appellant,

v.

CONFLUENCE OUTDOOR, INC.,
and **GREAT AMERICAN ALLIANCE INSURANCE CO.,**

Respondents.

INITIAL BRIEF ON BEHALF OF RESPONDENTS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATUTORY AUTHORITY

CASE LAW

STATEMENT OF ISSUES ON APPEAL

1. Whether the Full Commission's Appellate Panel erred as a matter of fact by affirming the Single Commissioner's finding that the Appellant's significant lack of credibility was a substantial issue supported by sufficient substance as to provide a reasonable basis for the Single Commissioner's determinations concerning the weight of the evidence.
2. Whether the Full Commission's Appellate Panel erred as a matter of fact by affirming the Single Commissioner's conclusion that the substantial weight of the evidence did not support finding the Appellant met his burden of proof for a compensable injury under S.C. Code Ann. § 42-1-160.

STATEMENT OF THE CASE

This matter was initially heard before the Single Commissioner, T. Scott Beck, on June 19, 2024, in Columbia, South Carolina. The main issues for determination were as follows:

> (1) Whether the Appellant sustained compensable injuries to his right shoulder, right arm, and cervical spine while removing a kayak from its mold while performing services arising out of and in the course of his employment with the Respondents on March 8, 2022;
> (2) Whether the Appellant was entitled to temporary total disability benefits as a result of the alleged injuries;
> (3) Whether the Appellant was entitled to permanent partial disability benefits as a result of the alleged injuries; and
> (4) Whether the Appellant was entitled past, present, and/or future medical treatment as a result of the alleged injury.

The Appellant asserted he demonstrated, by a preponderance of the evidence, his entitlement to a finding of compensability for his alleged work-related injuries to his right shoulder, right arm, and cervical spine. The Appellant further asserted his entitlement to past and future medical treatment related to these body parts, as well as a permanent partial disability award of at least 8% to his right shoulder, 5% to his right upper extremity, and 51% to his cervical spine.

In turn, the Respondents denied that the alleged work-related accident itself even occurred.

Respondents further denied that the Appellant sustained compensable injuries, that the Appellant's condition was causally related to his employment, and that the Appellant could meet his burden of proof as to compensability or any other issues presented. Finally, the Respondents raised significant concerns regarding the Appellant's credibility and pled the McDevitt & Street affirmative defense for Fraud in the Appellant's employment Application with Respondents, among other things.

On February 27, 2025, Commissioner Beck issued his Decision and Order, finding the substantial weight of the evidence demonstrated the Appellant failed to carry his burden of proving his conditions were causally related to an alleged work-related accident on March 8, 2022. While Commissioner Beck found the Appellant's claim was not barred by the McDevitt & Street defense, he did give less weight to doctors' opinions presented due to the substantial issue of Appellant's credibility and based upon finding the Appellant was untruthful in self-reporting symptoms and/or presentation to the doctors he chose to treat his condition. Commissioner Beck ultimately determined the greater weight of the evidence revealed the Appellant's claim was not compensable under the provisions of the South Carolina Workers' Compensation Act, ruling the Appellant was not entitled to medical benefits, temporary disability compensation, permanent disability compensation, or any other ancillary cost associated with his workers' compensation claim. The Appellant subsequently filed a Form 30, Request for Commission Review, appealing Commissioner Beck's Decision and Order.

On June 16, 2025, the matter was heard on appeal to the Full Commission before Commissioners Melody L. James, R. Michael Campbell II, and John Gabriel "Gabe" Coggiola in Columbia, South Carolina. The Appellant maintained the same position as he did previously, and additionally asserted the Single Commissioner erred by giving less weight to doctors' opinions as a result of finding the Appellant's credibility was a substantial issue.

On August 26, 2025, the Full Commission issued its Decision and Order affirming the

Single Commissioner's decision, which contained more than 150 factual findings and legal conclusions. The Appellant subsequently filed a Designation of Matter and Initial Brief appealing the Full Commission's Decision and Order to the South Carolina Court of Appeals on November 13, 2025.

STANDARD OF REVIEW

Appellate review of decisions made by the Workers' Compensation Commission (hereinafter, the "Commission") are governed by the South Carolina Administrative Procedures Act. Hutson v. S.C. Ports Auth., 399 S.C. 381, 387, 732 S.E.2d 500, 502-03 (2012). As to questions of fact, an appellate court "may not substitute its judgment for the judgment of the agency as to the weight of the evidence." S.C. Code Ann. § 1-23-380(5). An appellate court's review of factual findings is therefore limited: the court may reverse or modify the Commission's decision only "if substantial rights of the appellant have been prejudiced because the [] findings . . . are . . . clearly erroneous in view of the reliable, probative, and *substantial evidence* on the whole record." Id. (emphasis supplied); See Lark v. Bi-Lo, Inc., 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) (explaining substantial evidence "is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action."); Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984) (explaining the "possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence.").

Alternatively, the appellate court reviews questions of law *de novo*, having the absolute power to reverse or modify the Commission's decision where "substantial rights of the appellant have been prejudiced because the . . . conclusions . . . are . . . affected by [] error of law." S.C. Code Ann. § 1-23-380(5). The question of whether an accident is compensable is only a question

of law where there are no disputed facts. Nicholson v. S.C. Dep't of Soc. Servs., 411 S.C. 381, 384-85, 769 S.E2d 1, 2-3 (2015).

ARGUMENT

I. The Full Commission's Appellate Panel did not err by affirming the Single Commissioner's finding that the Appellant's significant lack of credibility was a substantial issue justifying the Single Commissioner giving less weight to the medical evidence presented.

The Appellate Panel did not err in affirming the Single Commissioner's determination of credibility and distribution of weight as it concerns medical evidence, as their determination was supported by substantial evidence providing a reasonable basis for their conclusions. It is undisputed the Appellate Panel is required to resolve any questions of credibility in its role as the sole factfinder in workers' compensation cases. Smith v. S.C. Dep't of Mental Health, 329 S.C. 485, 501, 494 S.E.2d 630, 638 (Ct. App. 1997). Indeed, "[t]he final determination of witness credibility and the weight to be accorded evidence is reserved for the Appellate Panel." Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 86, 681 S.E.2d 595, 600 (Ct. App. 2009) (citing Bass v. Kenco Group, 366 S.C. 450, 458, 622 S.E.2d 577, 581 (Ct. App. 2005); Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 64, 156 S.E.2d 318, 321 (1967) ("It is logical for the [Appellate Panel], which did not have the benefit of observing the witnesses, to give weight to the Hearing Commissioner's opinion.").

"The [Appellate Panel] is [] given discretion to weigh and consider all the evidence, including both lay and expert testimony." Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 87, 681 S.E.2d 595, 600 (Ct. App. 2009) (citation omitted). The Appellate Panel, therefore, "determines the weight and credit to be given to expert testimony," and "is not bound by the opinion of medical experts." Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 340, 513 S.E.2d 843, 846 (1999); Sanders v. MeadWestvaco Corp., 371 S.C. 284, 292, 638 S.E.2d 66, 70 (Ct. App. 2006) (explaining "[e]xpert medical testimony is merely intended to aid the Appellate Panel in coming to the correct

conclusion." (citation omitted)). "[W]hile medical testimony is entitled to great respect, the fact finder may disregard it if other competent evidence is presented." Potter v. Spartanburg Sch. Dist. 7, 395 S.C. 17, 23, 716 S.E.2d 123, 126 (Ct. App. 2011); see Ballenger v. Southern Worsted Corp., 209 S.C. 463, 467, 40 S.E.2d 681, 682-83 (1946) (explaining "medical testimony should not be held conclusive irrespective of other evidence.").

To be bound by the Commission's factual findings based on credibility determinations, the Appellate Court must find, either by way of context or the Commission's order, "the basis for [the Commission's] credibility finding" and "how the credibility determination is important [in] making the particular factual finding." Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647, 842 S.E.2d 349, 354 (2020). Where the Commission's factual findings based on credibility determinations are "founded on evidence of sufficient substance [] afford[ing] a reasonable basis" for the commission's decision, the appellate court is bound by the decision. Hutson v. S.C. Ports Auth., 399 S.C. 381, 387, 732 S.E.2d 500, 502-03 (2012) (quoting Wynn v. Peoples Nat. Gas Co. of S.C., 238 S.C. 1, 12, 118 S.E.2d 812, 818 (1961)).

In the instant matter, credibility was the crux of the Single Commissioner's and Appellate Panel's decisions. The Single Commissioner's credibility determinations, and ultimate determination that the greater weight of the evidence revealed the Appellant's claim was not compensable under the provisions of the South Carolina Workers' Compensation Act, were founded on the following:

> [T]he medical records; the providers' testimony; [Appellant's] untruthful, evasive and inconsistent testimony; no footage of the incident from the available video surveillance or eye witnesses testimony; [Appellant's] MVA [Motor Vehicle Accident] where he sustained a neck injury less than a year before his work-related accident on March 8, 2022, which allegedly caused or aggravated an injury to the same body part; [Appellant's] prior workers' compensation accidents where he sustained injuries to and received treatment for his back; and [Appellant's] less than stellar work history where he was terminated from a spate of employment for cause (ex. hostility), or separated from employment under less than ideal circumstances.

See Decision and Order, Aug. 26, 2025, 21.

The aforementioned evidence is "of sufficient substance afford[ing] a reasonable basis" justifying the Single Commissioner's decision, which was upheld by the Appellate Panel. Hutson, 399 S.C. at 387, 732 S.E.2d at 503 (quoting Wynn v. Peoples Nat. Gas Co. of S.C., 238 S.C. 1, 12, 118 S.E.2d 812, 818 (1961)). As such, the appellate court is bound by this decision. Appellant's Counsel cites to various findings of fact within the Appellate Panel's Decision and Order which he contends are erroneous and supportive of his argument. Respondents will address each allegation in turn below.

A. Appellant's Untruthful, Evasive, and Inconsistent Testimony to Providers and the Commission Concerning His Medical History Provides a Reasonable Basis for the Appellate Panel's Decision.

The Appellant purposefully withheld vital information from medical providers concerning previous injuries, providing a reasonable basis for the Appellate Panel to afford less weight to these providers' causation opinions. The Appellant testified on his own behalf before the Single Commissioner on June 19, 2024. The Single Commissioner found the Appellant knowingly omitted critical information regarding pre-existing injuries to his cervical spine, right arm, and right shoulder when self-reporting to his medical providers. See Decision and Order, Aug. 26, 2025, 13. Appellant's Counsel asserts the Appellant "never lied or attempted to hide any" information regarding his two (2) previous workers' compensation claims and prior motor vehicle accident from which he received settlements. See Appellant's Br., 23. This is simply false.

Appellant's Counsel further asserts "there is no medical evidence anywhere in the record that provides any nexus between [Appellant's] prior motor vehicle accident and his need for a cervical fusion." See Appellant's Br., 26. Appellant's counsel argues this demonstrates the Appellant Panel erred in denying compensability. On the contrary, this more accurately reflects the Appellant's lack of credibility, which led to the Appellate Panel's denial of compensability.

The Appellant testified during his [date] deposition to sustaining a neck injury resulting from the April 2021 motor vehicle accident. See Decision and Order, Aug. 26, 2025, 5. Further, medical records demonstrate the Appellant was diagnosed with an acute cervical strain, sprain of ligaments of the cervical spine, segmental somatic dysfunction of the cervical region, and cervicalgia. See Decision and Order, Aug. 26, 2025, 5. As such, the objective medical evidence and the Appellant's testimony confirm he previously injured his cervical spine in the April 2021 motor vehicle accident.

The Appellant's cervical fusion was performed by his treating physician, Dr. Christopher Van Pelt. The Appellant employed Dr. Walter Grady to perform an independent medical examination (IME) and provide an opinion as to causation. Both Dr. Van Pelt and Dr. Grady testified they did not have records of the Appellant's prior cervical injuries and were unaware of the Appellant's April 2021 motor vehicle accident. See Decision and Order, Aug. 26, 2025, 16-19. The Appellant testified he did not tell Dr. Walter Grady about his prior neck injury sustained in the motor vehicle accident because the doctor did not ask. See Decision and Order, Aug. 26, 2025, 13; Hr'g Tr., June 19, 2024, 84. Yet, Dr. Grady testified he asked the Appellant if he had received "any prior treatment relative to the same problems which we[] [are] evaluating today? The answer is no." See Decision and Order, Aug. 26, 2025, 13; Grady Dep. 38:3-6.

Dr. Grady also testified he did not have any information regarding or awareness of the Appellant's April 2021 motor vehicle accident, nor of the Appellant's diagnosis of an acute cervical strain. See Grady Dep. 20:2-18; 34:24 – 35:4. Dr. Grady further testified it was impossible to "give an opinion to a reasonable degree of medical certainty as to whether any of the[] [Appellant's] problems were the result of trauma versus just the wear and tear of life." See Grady Dep. 28:8-24. Finally, Dr. Grady testified he could not "say to a reasonable degree of medical certainty that any condition has been aggravated by a work injury on March 8, 2022, because [he]

[did not] know what [Appellant's] baseline was before that." See Grady Dep. 40:23 -41:5.

The Appellant testified he did not tell Dr. Van Pelt about his prior neck injury sustained in the April 2021 motor vehicle accident because he did not know he "was supposed to." See Decision and Order, Aug. 26, 2025, 13; Hr'g Tr., June 19, 2024, 81. Dr. Van Pelt testified he did not have any information regarding or awareness of the Appellant's April 2021 motor vehicle accident, nor of the Appellant's neck injury resulting therefrom. See Van Pelt Dep. 8:18-22; 9:2-8. While it is true Dr. Van Pelt testified he did not think this information "would[] [have] affected my opinion or the treatment recommendations[,]" the Single Commissioner has the discretion to lower the weight afforded to Dr. Van Pelt's causation opinion due to the Appellant's failure to disclose pertinent information which would have bearing on the cause of the Appellant's present condition. Rummage v. BGF Indus., 434 S.C. 441, 459, 865 S.E.2d 380, 390 (Ct. App. 2021) (citing Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 340, 513 S.E.2d 843, 846 (1999)).

The Appellant purposefully withheld vital information from Dr. Van Pelt and Dr. Grady. While Appellant's Counsel contends that "[h]aving a prior claim (or claims) that is/are admitted and compensable is not evidence to support denying a subsequent claim[,]" see Appellant's Br., 23, purposefully withholding a history of previous injuries from treating providers employed to determine causation does, in fact, form a basis for finding the Appellant is not credible. Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 87, 681 S.E.2d 595, 600 (Ct. App. 2009) (finding it was proper for the single commissioner to give less weight to a physician's opinion based upon the objective evidence and finding the claimant was not credible).

Medical records of these pre-existing injuries are undoubtedly imperative in determining the causal connection between the alleged work-accident and present condition of the Appellant's cervical spine, right arm, and right shoulder. Without said information, physicians would be unable to accurately determine causation. Sanders v. MeadWestvaco Corp., 371 S.C. 284, 292, 638 S.E.2d

66, 70 (Ct. App. 2006) (explaining "[e]xpert medical testimony is merely intended to aid the Appellate Panel in coming to the correct conclusion." (citation omitted)). Since this critical information was purposefully withheld by the Appellant and limited the physicians' ability to determine the cause of the Appellant's alleged injuries to a reasonable degree of medical certainty, the credibility of both the Appellant and the physicians' opinions were substantial issues. Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647, 842 S.E.2d 349, 354 (2020).

Furthermore, because the Appellant purposefully withheld vital information regarding the motor vehicle accident and accompanying cervical injuries from Dr. Van Pelt, there could be no medical evidence to provide a nexus between the prior motor vehicle accident and the present need for a cervical fusion. As such, this provider was unable to accurately determine what caused the Appellant's need for a cervical fusion. Sanders v. MeadWestvaco Corp., 371 S.C. 284, 292, 638 S.E.2d 66, 70 (Ct. App. 2006).

Appellant's Counsel further asserts the Appellate Panel "made no attempt to . . . explain how [Appellant's] testimony [regarding his headaches being related to his March 8, 2022, work accident] was inconsistent" with the Appellant's deposition testimony from January 11, 2024. See Appellant's Br., 26. Context provides the explanation of this factual finding. During the Single Commissioner hearing on June 19, 2024, the Appellant testified that he did have headaches prior to his work accident, despite previously testifying that he never had headaches before the alleged work-accident during his deposition on January 11, 2024. See Decision and Order, Aug. 26, 2025, 12. Therefore, the Appellant's testimony on June 19, 2024, was inconsistent with his testimony on January 11, 2024.

Appellant's Counsel raises two (2) other arguments concerning the Appellate Panel's Decision and Order which are irrelevant. Appellant's Counsel asserts Finding of Fact 7 was erroneous for "not clarifying or specifying [the Appellant's] annular bulge testimony was only

about [Appellant's] low back." See Appellant's Br., 24. Appellant's Counsel further asserts Finding of Fact 13 "conveniently leaves out that this . . . accident was about his low back . . . which [is] [not] at issue in the present claim." See Appellant's Br., 24-25. The Appellate Panel is not required to satisfy the Appellant's linguistic desires, especially where any contended lack of clarification does not prejudice the substantial rights of the Appellant. S.C. Code Ann. § 1-23-380(5). Rather, the Appellate Panel's findings of fact "must be sufficiently detailed to enable the reviewing court to determine (1) whether the law has been properly applied to those findings and (2) whether the findings are supported by the evidence." Sanders v. Wal-Mart Stores, Inc., 379 S.C. 554, 559-60, 666 S.E.2d 297, 300 (Ct. App. 2008).

The Appellate Panel's Decision and Order indicates evidence of Appellant's "prior workers' compensation accidents where he sustained injuries to and received treatment for his back" was considered in determining the Appellant had failed to demonstrate a causal connection between his condition and the alleged work-related accident. See Decision and Order, Aug. 26, 2025, 21. A pertinent portion of the evidence which the Appellate Panel relied upon are the causation opinions of Dr. Grady, Dr. Van Pelt, and Dr. Hodge.

Dr. Grady opined annular fissures were not solely acute problems resulting from trauma but could also be degenerative in nature and present for many years. See Decision and Order, Aug. 26, 2025, 108. Similarly, Dr. Hodge independently formed the same opinion regarding annular fissures: **they can be either acute or chronic.** Id. at 124. Dr. Grady further testified could not opine to a reasonable degree of medical certainty that any of Claimant's conditions were aggravated by a work-related injury on March 8, 2022, because it was impossible "to look at this MRI report, or anything, and tell or give an opinion to a reasonable degree of medical certainty as to whether any of these problems were the result of trauma [or] just the wear and tear of life." Id. at 118, 112; Grady Dep. 40:23 -41:5; 28:8-24.

In contrast, Dr. Van Pelt opined the appearance of annular fissures on Appellant's injury was acute and thus most likely caused by Claimant's most recent at-work accident, not by something more remote in time. See Decision and Order, Aug. 26, 2025, 123. The Appellate Panel found Dr. Van Pelt's opinion lacked credibility because his foremost basis for assigning causation to Appellant's alleged work-related accident on March 8, 2022, was unilaterally contradicted by Dr. Grady and Dr. Hodge. Id. at 152-153. The Appellate Panel further found Dr. Grady's deferral to Dr. Van Pelt's causation opinion despite testifying to findings significantly different from those found by Dr. Van Pelt undermined the credibility of Dr. Grady's opinion as to causation. Id. at 154.

The Single Commissioner ultimately found the physician employed by the Respondents to perform an examination of the Appellant, Dr. Philip J. Hodge, to be credible as his opinion "aligns with the preponderance of the medical evidence that the cause of [Appellant's] present symptoms are idiopathic in nature, as he suffered a series of accidents from 2018 to 2021 that affected his back to varying degrees." See Decision and Order, Aug. 26, 2025, 20-21. After reviewing Appellant's medical records, Dr. Hodge also called Appellant's credibility into question, opining the following:

> You must depend on the patient's subjective report of symptoms and timing to determine causality. Given the information I have reviewed, there are reasons to believe that he may not have reported the injury/condition accurately.

See Dr. Hodge's Report, Respondents' Updated APA Submissions, June 18, 2024, 1221.

Again, there could be no medical evidence to provide a nexus between the Appellant's previous back injuries and his condition because the Appellant purposefully withheld any information regarding these previous back injuries from Dr. Van Pelt and Dr. Grady. Therefore, the Appellant Panel's findings of fact were sufficiently detailed, enabling this Court to properly review and make determinations on. Sanders, 379 S.C. at 559-60, 666 S.E.2d at 300. To the extent

that Appellant's Counsel seems to assert injuries to the lower back could not contribute to injuries to the upper back, Respondents assert this is both medically and logically inaccurate.

In sum, the Single Commissioner and Appellate Panel properly gave less weight to these physicians' opinions based upon finding the Appellant was untruthful in self-reporting symptoms and/or presentation. Rummage v. BGF Indus., 434 S.C. 441, 459, 865 S.E.2d 380, 390 (Ct. App. 2021) (citing Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 340, 513 S.E.2d 843, 846 (1999)); Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 87, 681 S.E.2d 595, 600 (Ct. App. 2009). This decision was supported by evidence "of sufficient substance afford[ing] a reasonable basis" which justified the Single Commissioner's decision upheld by the Appellate Panel. Hutson, 399 S.C. at 387, 732 S.E.2d at 503 (quoting Wynn v. Peoples Nat. Gas Co. of S.C., 238 S.C. 1, 12, 118 S.E.2d 812, 818 (1961); Shealy v. Aiken Co., 341 S.C. 448, 455-56, 535 S.E.2d 438, 442 (2000). Therefore, Respondents respectfully submit the Appellate Court is bound by this decision.

B. Appellant's Inconsistent Testimony Concerning His Less Than Stellar Work History Further Provides a Reasonable Basis for the Appellate Panel's Credibility Determinations.

The Appellant's inconsistent and contradictory testimony concerning his employment history further displays his lack of credibility. Appellant's Counsel argues the Appellant "never denied having an altercation with a coworker or why he was fired." See Appellant's Br., 22. The Appellate Panel's Decision and Order does not assert the Appellant was untruthful concerning the reason behind his termination – rather, the Single Commissioner found the Appellant's hearing testimony regarding the surrounding circumstances of his termination to be inconsistent with his previous deposition testimony. See Decision and Order, Aug. 26, 2025, 12. The Appellant's Counsel also asserts "there is no evidence in the record to support" the Appellate Panel's finding that Appellant's hearing testimony did not align with his previous deposition testimony on August 23, 2022, in which he indirectly asserted he was consistently harassed by an unnamed employee.

See Appellant's Br., 26. Context provides the explanation of this factual finding. Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647, 842 S.E.2d 349, 354 (2020).

On August 23, 2022, when asked why he was fired from Confluence on March 11, 2022, the Appellant testified: "My mom's ex-boyfriend worked there, now, and [the man that I got into an altercation with] told [my mom's ex-boyfriend] that he **used to mess with me all the time** . . . Lord. What was his name?" See Appellant's Dep., Aug. 23, 2022, 35:8-36:19 (emphasis added); Decision and Order, Aug. 26, 2025, 8. During the Single Commissioner hearing on June 19, 2024, the Appellant testified he had never had a problem with "anybody at Confluence" prior to getting hurt on March 8, 2022. See Decision and Order, Aug. 26, 2025, 12. Therefore, the Appellant's testimony on June 19, 2024, was inconsistent with his testimony on August 22, 2022. While "a prior termination from a job does not suddenly render a claim non-compensable[,]" see Appellant's Br., 24, inconsistent testimony does indicate credibility concerns to be consider by the Commission.

Moreover, Appellant's Counsel argues the Appellant also testified truthfully concerning his past polysubstance abuse, which "does not" render him incapable of having "a compensable workers' compensation claim." See Appellant's Br., 23. There is no indication the Appellate Panel considered this as evidence to support their finding of the claim was not compensable. Instead, this finding was directly related to Respondent's McDevitt & Street defense. The Appellant was previously diagnosed with cocaine and alcohol abuse, yet he denied having ever treated for drug addiction or alcoholism when answering the post-job-offer medical questionnaire included within the Appellant's employment application. See Decision and Order, Aug. 26, 2025, 7-8. While the Appellate Panel did not consider this as evidence in support of their credibility findings, it does demonstrate the Appellant's history of untruthfulness and indicates credibility concerns to be considered by the Commission.

Finally, Appellant's Counsel asserts Finding of Fact 48 was erroneous because the Appellant started work with Cintas after being fired by the Respondents. See Appellant's Br., 25. Respondents concede the Appellant was hired by Cintas after, not prior to, his employment with the Respondents. This error, however, does not prejudice the substantial rights of the Appellant. S.C. Code Ann. § 1-23-380(5). Indeed, the Appellant's Counsel admits to speculating that the finding bears any significance on the Appellate Panel's Decision and Order. See Appellant's Br., 25.

In sum, the Single Commissioner and Appellate Panel properly found the credibility of the Appellant was a substantial issue. Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647, 842 S.E.2d 349, 354 (2020). This decision was supported by evidence "of sufficient substance afford[ing] a reasonable basis" which justified the Single Commissioner's decision upheld by the Appellate Panel. Hutson, 399 S.C. at 387, 732 S.E.2d at 503 (quoting Wynn v. Peoples Nat. Gas Co. of S.C., 238 S.C. 1, 12, 118 S.E.2d 812, 818 (1961). Accordingly, Respondents respectfully submit the Appellate Court is bound by this decision.

II. The Full Commission's Appellate Panel did not err by affirming the Single Commissioner's finding that the substantial weight of the evidence did not support finding the Appellant met his burden of proof for a compensable injury under S.C. Code Ann. § 42-1-160.

The Appellate Panel properly concluded the Claimant could not meet his burden of proving his present condition was caused by the alleged work-related accident after reviewing the record as a whole. It is well-established "the Workers' Compensation Act is liberally construed" in favor of providing coverage. Shealy v. Aiken Co., 341 S.C. 448, 455-56, 535 S.E.2d 438, 442 (2000). A workers' compensation award, however, must still be founded on "evidence of sufficient substance to afford a reasonable basis for it," and must not "rest on surmise, conjecture, or speculation." Hutson v. S.C. Ports Auth., 399 S.C. 381, 387, 732 S.E.2d 500, 502 (2012) (internal citations

omitted).

"[C]laimants who assert their right to compensation must establish by the preponderance of the evidence the facts which will entitle them to an award." Herndon v. Morgan Mills, Inc., 246 S.C. 201, 209, 143 S.E.2d 376, 380 (1965) (citing Glover v. Columbia Hosp. of Richland Cnty., 236 S.C. 410, 414, 114 S.E.2d 565, 567 (1960)). A claimant may establish causation "by circumstantial and direct evidence where circumstances lead an unprejudiced mind to reasonably infer the injury was caused by the accident." Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 341, 513 S.E.2d 843, 846-47 (1999) (citations omitted). "When evidence conflicts, either in testimony given by different witnesses or the same witness, the Commission's factual findings are conclusive." Brailey v. Michelin N. Am. Inc., 438 S.C. 77, 86, 882 S.E.2d 172, 177 (Ct. App. 2005).

Appellant's Counsel asserts the Court of Appeals dealt with "almost the exact same scenario as the current case" in deciding Brailey v. Michelin N. Am. Inc., 438 S.C. 77, 882 S.E.2d 172 (Ct. App. 2005). See Appellant's Br., 13. Analysis of the Court's opinion, however, reveals this is not so. The Court of Appeals held the Appellant's "credibility as to his prior workers' compensation claim and prior back injury" some twenty (20) years prior to his accident and injury in 2017 was "not a reasonable and meaningful basis for the Commission's determination that he did not suffer an accidental injury arising out of his employment." Brailey, 438 S.C. at 90, 882 S.E.2d at 180. The Court of Appeals further explained "the medical evidence pertaining to his 2017 injury, which consists of an MRI and the expert medical opinion of a neurosurgeon, is not contradicted and constitutes substantial evidence that supports [] reversal." Id.

In contrast to the Brailey Appellant, the Appellant in this matter received settlements from two (2) previous workers' compensation claims in 2018 and 2020, respectively, as well as from a prior motor vehicle accident in 2021. This is a far-cry from the twenty (20) year difference

displayed in Brailey. 438 S.C. at 90, 882 S.E.2d at 180. Moreover, the Appellant was seen by three (3) separate doctors, who each issued their own opinions concerning causation. The Brailey Appellant, on the other hand, saw only one neurosurgeon. 438 S.C. at 90, 882 S.E.2d at 180. Finally, unlike the Brailey Appellant, there is contradicting medical evidence in the case at hand, including contradicting expert medical opinions. Id.

Appellant's Counsel further errs in asserting the Appellate Panel should have extended Michau v. Georgetown County, 396 S.C. 589, 723 S.E.2d. 805 (2012), to the present matter. In Michau, the South Carolina Supreme Court clarified the statutory term "medical evidence" as used in S.C. Code Ann. § 42-1-172. Michau, 396 S.C. at 594-596, 723 S.E.2d. at 807-09. Section 42-1-172 governs the admissibility of evidence in repetitive trauma injury claims. See S.C. Code Ann. § 42-1-172. The present Appellant did not claim to have suffered a repetitive trauma injury under S.C. Code Ann. § 42-1-172, but rather claimed to have suffered aggravation of a pre-existing injury under S.C. Code Ann. § 42-9-35.

Nevertheless, the Appellant's Counsel asserts "it stands to reason the courts would apply the definition of 'medical evidence' the same in every case[,]" including those brought under S.C. Code Ann. § 42-9-35. Appellant's Counsel, however, makes this assertion with blatant disregard to the Supreme Court's instructions: "We stress, however, that our opinion is a narrow one limited to medical evidence given by expert opinion or testimony as provided for in section 42-1-172 and the facts of this case." Michau, 396 S.C. at 594-596, 723 S.E.2d. at 807-09.

The Appellant Counsel's reliance on Clemmons v. Lowe's, 420 S.C. 282, 803 S.E.2d 268 (2017), is further misplaced because the present matter is distinguishable. The Clemmons Appellant presented to four (4) separate doctors who each issued their own respective impairment ratings indicating Mr. Clemmons lost more than fifty percent (50%) of the use of his spine. Clemmons, 420 S.C. at 288, 803 S.E.2d at 271. The South Carolina Supreme Court reversed the

Commission's factual finding that the Appellant suffered less than a fifty percent (50%) loss of use of his spine on the overwhelming medical evidence which left "*no* evidence . . . that Clemmons suffered anything less than a fifty percent impairment to his back." Id.

The factual discrepancies are quite clear: the present matter calls into question the compensability of the alleged work-accident, as opposed to questioning the validity of impairment ratings in a compensable claim. Clemmons, 420 S.C. at 288, 803 S.E.2d at 271. Moreover, there is contradicting medical evidence and expert opinions in the case at hand, where the Supreme Court found no evidence to the contrary in Clemmons. Id. To the extent that the Appellant's Counsel seeks to rely solely on medical opinions, the Supreme Court has made clear their decision in Clemmons did not "hold that medical evidence is conclusive . . . [but] that the record must be considered as a whole." Paulino v. Diversified Coatings, Inc., 443 S.C. 150, 158-159, 903 S.E.2d 503, 507 (2024).

Appellant's Counsel asserts the Appellate Panel should have solely focused on Dr. Van Pelt's and Dr. Grady's causation opinions in exclusion of Dr. Hodge's causation opinion and the myriad of credibility issues presented by the Appellant. The South Carolina Supreme Court, however, has instructed "medical testimony should not be held conclusive irrespective of other evidence." Ballenger v. Southern Worsted Corp., 209 S.C. 463, 467, 40 S.E.2d 681, 682-83 (1946). The other evidence in this matter demonstrates the Appellant was untruthful, evasive, and inconsistent with his testimony, and he purposefully withheld integral information from treating medical providers which would undoubtedly impact their opinions on causation. Rummage v. BGF Indus., 434 S.C. 441, 459, 865 S.E.2d 380, 390 (Ct. App. 2021) (citing Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 340, 513 S.E.2d 843, 846 (1999)); Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 87, 681 S.E.2d 595, 600 (Ct. App. 2009). Furthermore, there is a lack of evidence in the form of video footage, photographs, or eye-witness testimony corroborating the alleged work-

accident occurred. Hutson v. S.C. Ports Auth., 399 S.C. 381, 387, 732 S.E.2d 500, 502 (2012) (internal citations omitted) (explaining an award must not "rest on surmise, conjecture, or speculation.").

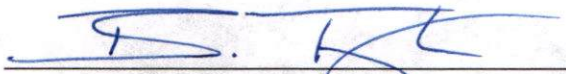
As such, in considering the record as a whole, the Single Commissioner and Appellate Panel appropriately concluded the Claimant could not meet his burden of proving his present condition was caused by the alleged work-related accident on March 8, 2022. Herndon v. Morgan Mills, Inc., 246 S.C. 201, 209, 143 S.E.2d 376, 380 (1965) (citing Glover v. Columbia Hosp. of Richland Cnty., 236 S.C. 410, 414, 114 S.E.2d 565, 567 (1960)); Paulino v. Diversified Coatings, Inc., 443 S.C. 150, 158-159, 903 S.E.2d 503, 507 (2024). Because there is conflicting evidence in this matter, "the Commission's factual findings are conclusive." Brailey v. Michelin N. Am. Inc., 438 S.C. 77, 86, 882 S.E.2d 172, 177 (Ct. App. 2005). Moreover, the decision to deny compensability was justified through evidentiary support "of sufficient substance afford[ing] a reasonable basis" for the Single Commissioner's decision upheld by the Appellate Panel. Hutson, 399 S.C. at 387, 732 S.E.2d at 503 (quoting Wynn v. Peoples Nat. Gas Co. of S.C., 238 S.C. 1, 12, 118 S.E.2d 812, 818 (1961). Accordingly, Respondents respectfully submit the Appellate Court is bound by this decision.

CONCLUSION

For the reasons set forth above, the Respondents respectfully request this Court affirm the Appellate Panel's and Single Commissioner's determination of credibility and distribution of weight as it concerns medical evidence was not legally or factually erroneous. Respondents respectfully request this Court also affirm the Appellate Panel's and Single Commissioner conclusion that the Claimant could not meet his burden of proving his present condition was compensable under the South Carolina Workers' Compensation Act was not legally or factually erroneous.

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.



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