

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. E809285 & F201964

RICHARD HOPPIS, EMPLOYEE	CLAIMANT
MILLBROOK DISTRIBUTION SERVICES, EMPLOYER	RESPONDENT NO. 1
CROCKETT ADJUSTMENT, CARRIER	RESPONDENT NO. 1
RAB HOLDINGS, INC., EMPLOYER	RESPONDENT NO. 2
AMERICAN PROTECTION INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT NO. 2

OPINION FILED DECEMBER 8, 2003

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

Claimant represented by HONORABLE FREDERICK SPENCER,
Attorney at Law, Mountain Home, Arkansas.

Respondent No. 1 represented by HONORABLE JOHN D. DAVIS,
Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by HONORABLE ERIC NEWKIRK,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed February 12, 2003.

The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. That the Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. That the stipulations agreed to by the parties at the pre-hearing conference conducted on October 17, 2002, and contained in a pre-hearing order filed October 17, 2002, as well as those at the hearing herein, are hereby accepted as fact.
3. That Respondent #2 has proven by a preponderance of the evidence that the Statute of Limitations bars the Claimant's claim for additional benefits relating to his 1998 compensable injury (WCC File E809285); specifically, no claim for additional benefits was filed within one year of the last payment of compensation, or two years from the date of injury, and claimant's claim filed in February 2002 did not constitute a claim for additional benefits against Respondent #2 but a claim for new benefits against Respondent #1; and that Claimant's claim for any such benefits is barred.
4. That the Claimant has not proven by a preponderance of the credible evidence in the record that he sustained a compensable specific incident injury to his low back at L4-5, or L5-S1, or any aggravation of a pre-existing low back condition at said levels, on or about October 13, 2001; specifically, the Claimant has failed to prove by either objective medical evidence, expert medical opinion, or a preponderance of the credible non-medical evidence in the record, that there was any

causal relationship between any alleged October 13, 2001 incident and his low back condition at L4-L5 or L5-S1; and, Claimant has failed to prove that he sustained any low back injury or aggravation of a pre-existing low back condition at L4-L5, or L5-S1 with medical evidence supported by objective findings establishing the injury or aggravation, and that said arose out of and in the course of his employment, and was caused by a specific incident and is identified by time and place of occurrence; and there are no objective findings of any new or acute low back injury or trauma having been sustained by Claimant on September 29, 1999 or October 1, 1999.

5. That Claimant's low back condition and pain in the L4-5, and L5-S1 area is a recurrence of his 1998 compensable back injury; specifically, given the nature of Claimant's condition when he presented to Dr. Blankenship on October 30, 2001, as well as the observations and opinions of Dr. Blankenship, when compared to the medical evidence in the record of Claimant's 1998 injury. Claimant's low back condition was a direct, natural and predictable recurrence of his compensable back injury sustained in 1998; and having previously found that the Statute of Limitations has run on any claim for additional benefits relating to the 1998 injury, I find that Claimant's claim for any such benefits is barred.
6. That the Claimant's claim is hereby respectfully denied and dismissed in its entirety.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.