STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Order No. 16-02409

vs.

Referee Decision No. 0028146983-03U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

The issue before the Commission is whether the claimant was paid sufficient wages for insured work during the base period to establish monetary qualification within the meaning of Section 443.091(1)(g), Florida Statutes.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary hearing record and decision of the appeals referee. *See* §443.151(4)(c), Fla. Stat. By law, the Commission's review is limited to those matters that were presented to the referee and are contained in the official record.

On appeal to the Commission, evidence was submitted that was not previously presented to the referee. The parties were advised prior to the hearing that the hearing was their only opportunity to present all of their evidence in support of their case. Florida Administrative Code Rule 73B-22.005 provides that the Commission can consider newly discovered evidence only upon a showing that it is material to the outcome of the case *and* could not have been discovered prior to the hearing by an exercise of due diligence. The Commission did not consider the additional evidence because it does not meet the requirements of the rule.

The appellant also alleges that the referee ignored the appellant's evidence and arguments in favor of evidence presented by the appellee. It is the responsibility of the appeals referee to judge the credibility of the witnesses and to resolve conflicts in evidence, including testimonial evidence. The Commission

cannot substitute its judgment for that of the referee in matters of conflict resolution. The appellant further argues that the Commission should reverse the referee's decision on the basis of findings of fact that were not made by the referee. The Commission cannot, however, reweigh the evidence and substitute its factual findings for those of the appeals referee.

The referee made the following findings of fact:

> The claimant worked with [the employer] from February of 2014 through June of 2015. The claimant was brought on as the "Sales Manager for the State of Florida," but was told that he would be an independent representative, being required to pay his own taxes. The claimant completed a W9 form at the time of the agreement. The claimant was paid a "draw against commission" of $4,000.00 per month. The claimant was not required to repay whatever draw did not exceed the amount of commissions he had earned. The claimant was given a 10% commission of the gross value of sales if it exceeded the draw, but the claimant's gross commissions in each month never exceeded the draw allotted. The claimant was given an additional $1,000.00 per month, beginning in November of 2014, to cover expenses. The claimant performed services by selling sports goods on behalf of the company, though he assisted in the development of a specific iteration of one of the sets of pads sold by the company. The claimant received training on the equipment available through the company and the computer system that the company utilized. The claimant was required to submit a "call report" by Tuesday of every week, detailing a description of all the services that the claimant had provided. The claimant provided his own vehicle, but was provided a uniform and business cards by the company. The business cards included the [employer's] address and phone number, as well as an email address provided by the company for the claimant's use. The claimant completed an independent contractor agreement; however, the specific terms of the agreement were not available, as only the first page of the agreement had been submitted. The claimant attended sales events at the place of business for the company, but performed most of his services in Florida, visiting schools and sports teams to attempt to sell the company's products. The claimant received specific orders as to customers that the claimant needed to visit on

> different occasions. The claimant was allowed to work for other companies, and performed services with [another company] owned by the owner of [the employer]. The claimant was required to be available during the business hours of [the employer], and regularly worked during the business hours of the company's clientele.
>
> The claimant filed a claim on February 3, 2016. The claimant worked for [another company]. The claimant stipulated that he would not dispute the reported wages of $4,411.66 in the 2nd quarter of 2015 and $13,671.36 in the 3rd quarter of 2015. The claimant also worked with [the employer] from February of 2014 through June of 2015. [The employer] provided a total payment of $14,000.00 in the 4th quarter of 2014, $14,718.57 in the 1st quarter of 2015, and $15,000.00 in the 2nd quarter of 2015. However, $1,000.00 per month of those payments, beginning in November of 2014, were for expenses, and not for recompense. As such, the claimant's pay for services is held to have been $12,000.00 for the 4th quarter of 2014, $11,718.57 for the 1st quarter of 2015, and $12,000.00 for the 2nd quarter of 2015. The claimant received no other pay from October 1, 2014 through September 30, 2015.

Based on these findings, the referee held the claimant monetarily qualified for receipt of benefits. He concluded that the claimant was an employee and entitled to wage credits for income earned through the employer. Upon review of the record and the arguments on appeal, the Commission concludes the referee adequately developed the record, and the referee's decision is supported by competent, substantial evidence and correctly applied the law; accordingly, it is affirmed.

Employment under the reemployment assistance law, "includes a service performed . . . by . . . [a]n individual who, under the usual common-law rules applicable in determining the employer-employee relationship, is an employee." §443.1216(1)(a)2., Fla. Stat.

The common law rules referred to in the statute were established by the Florida Supreme Court in *Cantor v. Cochran*, 184 So. 2d 173 (Fla. 1966), which adopted the test laid out in the Restatement (2d) of the Law of Agency, Section 220 (1958). The Restatement test includes ten non-exclusive factors which must be considered by the fact finder in determining whether an individual is subject to the degree of control necessary for an employment relationship, or alternatively, whether the individual is an independent contractor.

The question of whether a worker is an employee or an independent contractor is an issue of fact. If the referee's findings are supported and reflect that the referee correctly applied the common law test, the Commission has no authority to reverse the referee's decision. *See Blackman & Huckaby Enterprises v. Jones*, 104 So. 2d 667, 669 (Fla. 1st DCA 1958). As stated by the Florida Supreme Court in *Adams v. Wagner*, 129 So. 2d 129, 131 (Fla. 1961), "Whether one is an employee is a question of fact to be determined by the deputy, and where such determination is supported by substantial competent evidence and the deputy applies correct principles of law thereto, as we hold he did here, the findings cannot be disturbed (citation omitted)."

Thus, the Commission's analysis on review is limited to the following steps: (1) ensuring that the referee applied the Restatement test as expressed in *Cantor* and interpreted by subsequent decisions; (2) determining whether the referee properly adduced evidence from all parties as to each Restatement factor that is relevant in the case; (3) determining whether each of the referee's findings as to the Restatement factors is supported by competent, substantial evidence; (4) determining whether the referee properly applied the law in determining whether each individual finding he made under the Restatement factors supports an employment relationship or an independent contractor relationship; and, (5) evaluating the ultimate factual finding of whether an individual was an employee or an independent contractor, to ensure that it is supported by the referee's subsidiary findings under the Restatement factors, and complies with the legal standards regarding the weight to be given to the factors.

With respect to the last test, reviewing the weighing of the factors, we draw guidance from *Keith v. News & Sun Sentinel*, 667 So. 2d 167 (Fla. 1995). The *Keith* court held that "courts should initially look to the agreement between the parties, if there is one, and honor that agreement, unless other provisions of the agreement, or the parties' actual practice, demonstrate that it is not a valid indicator of status." *Id.* at 171. If "the actual practice of the parties[ ] belie[s] the creation of the status agreed to by the parties, [then] the actual practice and relationship of the parties should control." *Id.* A court must "place special emphasis on the extent of the 'free

agency' . . . in the means and method of performing . . . duties." *Id.* at 171-72. The court further indicated that "this analysis is consistent with the factors set out in the Restatement." *Id*. at 172. The court also cautioned that the Restatement factors should not "routinely be used to support any resolution of the issue by the factfinder simply because each side of the dispute has some factors in its favor." *Id.*

Thus, it is clear under Florida law as expressed in *Keith* that the two most important factors are the intent of the parties and, if that is not decisive, the degree of control over the performance of the work. *See also 4139 Mgmt., Inc. v. Dep't of Labor & Employment*, 763 So. 2d 514, 517 (Fla. 5th DCA 2000); *VIP Tours of Orlando v. Dep't of Labor & Employment Sec.*, 449 So. 2d 1307, 1309 (Fla. 5th DCA 1984). As to the issue of control over the performance of the work, we review the referee's findings in light of the conceptual explanation given by the court in *Farmers & Merchants Bank v. Vocelle*, 106 So. 2d 92, 95 (Fla. 1st DCA 1958):

> The general rule and basic test is the right of control by the party being served over the means to be employed by the party serving in performing the service. If the person serving is merely subject to the control or direction of the owner as to the result to be obtained, he is an independent contractor; if he is subject to the control of the person being served as to the means to be employed, he is not an independent contractor (citations omitted).

In addition to these factors, we next give priority to two additional factors that are of particular pertinence in the cases we review: the rights of the parties in the continuation of the engagement; and the method of determining payment. As the *Cantor* court held, quoting Larson's workers' compensation treatise,

> "The power to fire is the power to control. The absolute right to terminate the relationship without liability is not consistent with the concept of independent contractor, under which the contractor should have the legal right to complete the project contracted for and to treat any attempt to prevent completion as a breach of contract."

184 So. 2d at 174.

The referee's lengthy discussion of the legal standards he applied accurately summarized the controlling legal principles. The referee's subsidiary findings are supported by competent, substantial evidence and he correctly applied the principles of law discussed above to those findings to reach the ultimate finding that the claimant was an employee. In particular, the referee correctly held that the employer failed to establish the terms of the independent contractor agreement due to its failure to provide a complete, executed copy of the agreement for the record; that the employer's control over the method of performing the work, although limited, was meaningful; that the lack of any binding commitment, due to the at-will nature of the engagement, strongly indicated an employment arrangement; and that the compensation structure was more characteristic of an employment arrangement than an independent contractor arrangement. Therefore, we affirm the referee's ruling.

The referee's decision is affirmed.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Thomas D. Epsky, Member
Joseph D. Finnegan, Member

This is to certify that on 12/13/2016, the above Order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.

By: Benjamin Bonnell
Deputy Clerk

DEPARTMENT OF ECONOMIC OPPORTUNITY
Reemployment Assistance Appeals
PO BOX 5250
TALLAHASSEE, FL 32314-5250

IMPORTANT: For free translation assistance, you may call 1-800-204-2418. Please do not delay, as there is a limited time to appeal.
IMPORTANTE: Para recibir ayuda gratuita con traducciones, puede llamar al 1-800-204-2418. Por favor hágalo lo antes posible, ya que el tiempo para apelar es limitado.
ENPòTAN: Pou yon intèpret asisté ou gratis, nou gendwa rélé 1-800-204-2418. Sil vou plè pa pràn àmpil tàn, paské tàn limité pou ou ranpli apèl la.

Docket No. 0028 1469 83-03 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellant **EMPLOYER/Appellee**

APPEARANCES: CLAIMANT, LOCAL OFFICE #:

DECISION OF APPEALS REFEREE

Important appeal rights are explained at the end of this decision.
Derechos de apelación importantes son explicados al final de esta decisión.
Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

Issues Involved:

WAGE CREDITS: Whether the claim ant was paid sufficient base period wages to qualify for re-employment assistance benefits, pursuant to Sections 443.036(21), (27), (45); 443.091(1)(g); 443.111; 443.1217, Florida Statutes, Rule 73B-11.016, Florida Administrative Code.

ADDITIONAL WAGE CREDITS: Whether the claimant earned additional wages for insured work during the base period, pursuant to Sections 443.036(21), (27), (45), 443.111; 443.1216, Florida Statutes; Rule 73B-11.016, Florida Administrative Code.

INSURED WORK: Whether services performed by the claimant during the base period constitute “employment”, pursuant to Sections 443.036(21); 443.036(27); 443.1216, Florida Statutes.

Case History: The claimant disputed wages as reported by during a hearing held on June 13, 2016. The hearing was then postponed to provide notice to and rescheduled for July 1, 2016. requested postponement of the hearing, as the employer would be closed for the celebration of Independence Day. The claimant stipulated at the July 1, 2016

hearing that he was not contesting the wages as reported with Therefore, the referee did not address wages from .

Findings of Fact: The claimant worked with from February of 2014 through June of 2015. The claimant was brought on as the "Sales Manager for the State of Florida", but was told that he would be an independent representative, being required to pay his own taxes. The claimant completed a W9 form at the time of the agreement. The claimant was paid a "draw against commission" of $4,000.00 per month. The claimant was not required to repay whatever draw did not exceed the amount of com missions he had earned. The claim ant was given a 10% commission of the gross value of sales if it exceeded the draw, but the claimant's gross commissions in each month never exceeded the draw allotted. The claimant was given an additional $1,000.00 per month, beginning in November of 2014, to cover expenses. The claimant performed services by selling sports goods on behalf of the company, though he assisted in the development of a specific iteration of one of the sets of pads sold by the company. The claimant received training on the equipment available through the company and the computer system that the company utilized. The claimant was required to submit a "call report" by Tuesday of every week, detailing a description of all the services that the claim ant had provided. The claim ant provided his own vehicle, but was provided a uniform and business cards by the company. The business cards included the address and phone number, as well as an email address provided by the company for the claimant's use. The claimant completed an independent contractor agreement; however, the specific terms of the agreement were not available, as only the first page of the agreement had been submitted. The claim ant attended sales events at the place of business for the company, but performed most of his services in Florida, visiting schools and sports teams to attempt to sell the company's products. The claimant received specific orders as to customers that the claimant needed to visit on different occasions. The claimant was allowed to work for other companies, and performed services with , a company owned by the owner of . The claimant was required to be available during the business hours of , and regularly worked during the business hours of the company's clientele.

The claimant filed a claim on February 3, 2016. The claimant worked for . The claimant stipulated that he would not dispute the reported wages of $4,411.66 in the 2nd quarter of 2015 and $13,671.36 in the 3rd quarter of 2015. The claimant also worked with Team Athletic Goods Inc. from February of 2014 through June of 2015. provided a total payment of $14,000.00 in the 4th quarter of 2014, $14,718.57 in the 1st quarter of 2015, and $15,000.00 in the 2nd quarter of 2015. However, $1,000.00 per month of those payments, beginning in November of 2014, were for expenses, and not for recompense. As such, the claimant's pay for services is held to have been $12,000.00 for the 4th quarter of 2014, $11,718.57 for the 1st quarter of 2015, and $12,000.00 for the 2nd quarter of 2015. The claimant received no other pay from October 1, 2014 through September 30, 2015.

Conclusions of Law: The law provides that employment includes services by an individual who is an employee under the usual common-law rules applicable in determining the employer-employee relationship. The United States Supreme Court held that the term "usual common law rules" is to be used in a generic sense to mean the "standards developed by the courts through years of adjudication." United States v. W.M. Webb, Inc., 397 U.S. 179 (1970). In Cantor v. Cochran, 184 So.2d 173 (Fla. 1966), the Supreme Court of Florida adopted the tests in 1 Restatement of Law, 2d Section 220 (1958) to determine whether an employer-employee relationship exists, including:

(1) A servant is a person employed to perform services for another and who, in the performance of the services, is subject to the other's control or right of control.

(2) The following matters of fact, among others, are to be considered:

(a) the extent of control which, by the agreement, the business may exercise over the details of the work;

(b) whether the one employed is in a distinct occupation or business;

(c) the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the employer or by a specialist without supervision;

(d) the skill required in the particular occupation;

(e) whether the employer or worker supplies the instrumentalities, tools, and a place of work, for the person doing the work;

(f) the length of time for which the person is employed;

(g) the method of payment, whether by time or job;

(h) whether or not the work is part of the regular business of the employer;

(i) whether or not the parties believe they are creating the relation of master and servant;

(j) whether the principal is or is not in business.

In Department of Health and Rehabilitative Services v. Department of Labor & Employment Security, 472 So.2d 1284 (Fla. 1st DCA 1985) the court confirmed that the factors listed in the Restatement are the proper factors to be considered in determining whether an employer-employee relationship exists. However, in citing La Grande v. B&L Services, Inc., 432 So.2d 1364, 1366 (Fla. 1st DCA 1983), the court acknowledged that the question of whether a person is properly classified an employee or an independent contractor often cannot be answered by reference to "hard and fast" rules, but rather must be addressed on a case-by-case basis.

The existence of an independent contractor agreement creates a separate analysis. In Justice v. Belford Trucking Company, Inc., 272 So.2d 131 (Fla. 1972), a case involving an independent contractor agreement which specified that the worker was not to be considered the employee of the employing unit at any time, under any circumstances, or for any purpose, the Florida Supreme Court commented "while the obvious purpose to be accomplished by this document was to evince an independent contractor status, such status depends not on the statements of the parties but upon all the circumstances of their dealings with each other." In Keith v. News and Sun-Sentinel Co., 667 So.2d 167, 171 (Fla. 1995), the Florida Supreme Court altered that analysis, stating:

> […][C]ourts should initially look to the agreement between the parties, if there is one, and honor that agreement, unless other provisions of the agreement, or the parties' actual practice, demonstrate that it is not a valid indicator of status. In the event that there is no express agreement and the intent of the parties cannot otherwise be determined, courts must resort to a fact-specific analysis under the Restatement based on the actual practice of the parties. Further, where other provisions of an agreement, or the actual practice of the parties, belie the creation of the status agreed to by the parties, the actual practice and relationship of the parties should control.

This holding creates a preliminary analysis, requiring that the agreement be honored unless other provisions of the agreement or actual practice by the parties demonstrate that it is not a valid indicator of status.

The record reflects that the claimant was originally brought on as an “Independent representative”. There was a written agreement, establishing that the claimant would be employed as an indepdent contractor. However, the specific terms of the agreement were not available, as only the first page of the agreement had been submitted, and the employer’s witness testified that no independent contrac tor agreement existed. As such, an analysis of that agreement cannot be made, as the employer has provided insufficient evidence to establish the terms of the agreement.

The record reflects that the claimant performed his services, in the majority of cases, either from his own home or from the place of business of the potential customers of Team Athletic Goods Inc. The claimant was subject to orders from the CEO of Team Athletic Goods Inc., being required to submit weekly reports to show what actions he had taken in furtherance of the company’s aims, and to meet with potential customers when visits had been scheduled by the company. In Cawthon v. Phillips Petroleum Co., 124 So 2d 517 (Fla. 2d DCA 1960) the court explained: Where the employee is merely subject to the control or direction of the employer as to the result to be procured, he is an independent contractor; if the employee is subject to the control of the employer as to the means to be used, then he is not an independent contractor.

The record reflects that the claimant’s pay was a “draw against commission”, with the claimant receiving $4,000.00 monthly with a commission rate of 10% of gross sales. However, the employer did not require the claimant to repay the “draw against commission”, despite the fact that the claimant’s commission never reached levels that would satisfy the “draw”. The claimant’s pay is considered to have been a de facto salary, whereby the claimant would only receive additional compensation if the amount of sales exceeded the point where 10% of the sales was equal to $4,000.00. The employer required the claimant to be available during the hours of the company’s operations.

The record reflects that the claimant’s services with were those of sales and product consulting. The employer manufactured and sold football pads. The claimant’s services were an essential portion of the employer’s business. In Hilldrup Transfer & Storage of New Smyrna Beach, Inc. v. Department of Labor and Employment Security, 447 So.2d 414 (Fla. 5th DCA 1984), the Court stated, “if the work performed in the relationship under consideration is a part of the principle’s business, this factor indicates an employment status, even if the work requires a high level of skill to perform it.”

The record reflects that the claimant performed services for the employing unit from February of 2014 through June of 2015. Either party had the right to terminate the relationship at any time without incurring liability for breach of contract. These facts reveal the existence of an at-will relationship of relative permanence; the lack of a defined term of employment, the nearly year and a half duration of the relationship, and the ability to end a contract without any penalty designate the relationship as such. In Cantor v. Cochran, 184 So.2d 173 (Fla. 1966), the court in quoting 1 Larson, Workmens' Compensation Law, Section 44.35 stated: "The power to fire is the power to control. The absolute right to terminate the relationship without liability is not consistent with the concept of independent contractor, under which the contractor should have the legal right to complete the project contracted for and to treat any attempt to prevent completion as a breach of contract.”

The record reflects that the claimant had control over when he performed services, but that he had to be available during the time which the company operated. The claimant’s services were a part of ’s business. had the ability to provide instructions as to when work was performed and where the work was performed. required that the claimant submit weekly reports of what work had been performed. had a business relationship which lasted in excess of a year and four months, during which the employer had the absolute right to sever the relationship without any recompense to the claimant or any right to complete a set term. The claimant’s pay was

a salary plus commission, in which the claimant received a set amount irregardless of performance and additional amounts when the claimant's sales exceeded $40,000. While the claimant was given a large amount of power in the manner and timing of the performance of services, the referee finds that the underlying nature of the relationship is defined by the company's rights to separate without recourse, the indefinite length of the relationship, the employer's ability to require reports of activity from the claimant, and the fact that the claimant's services were an inextricable part of the company's business. It is therefore concluded that the claimant's services for the employing unit during the entire term of his service were those of an employee, and not an independent contractor. All of the claimant's wages with the employing unit during the base period should therefore be used on the claimant's claim for benefits.

To qualify for Reemployment Assistance benefits, the claimant must have:

(a) Base period wages for insured work in two or more calendar quarters of the base period; and

(b) Total base period wages equaling at least 1.5 tim es the wages paid during the high quarter of the base period, but not less than $3400.

The "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of the benefit year. The "high quarter" is the calendar quarter in which the most wages were paid.

The weekly benefit amount equals one twenty-sixth of the total wages paid during the high quarter, but not less than $32 or more than $275. Available benefits equal twenty-five percent of total base period wages, with a maximum of $6,325.

For claims submitted during a calendar year, the duration of benefits is limited to:

1. Twelve weeks if this state's average unemployment rate is at or below 5 percent.
2. An additional week in addition to the 12 weeks for each 0.5 percent increment in this state's average unemployment rate above 5 percent.
3. Up to a maximum of 23 weeks if this state's average unemployment rate equals or exceeds 10.5 percent.

The maximum available benefit for any claim filed effective 2016 is $3,300, based upon an unemployment rate of 5.4%.

The base period for a claim is the first four of the last five completed calendar quarters, which means that for the claim filed in February of 2016, the wages considered would be wages paid from October 1, 2014 through September 30, 2015. paid the claimant $12,000.00 for the 4th quarter of 2014, $11,718.57 for the 1st quarter of 2015, and $12,000.00 for the 2nd quarter of 2015 of payments now considered to have been wages. reported wages of $4,411.66 in the 2nd quarter of 2015 and $13,671.36 in the 3rd quarter of 2015. The claimant's highest quarter of wages in the 2nd quarter of 2015, during which the claimant received $16,411.66 in wages. The claimant was required to have wages of 1.5 times that amount in the base period, or over $24,617.49. The claimant's base period wages of $53,801.59 exceed that amount. The claimant's wages also exceeded $3400 by the same calculation, and were made over all four quarters of the base period, which meets the requirement that there be at least two quarters of earnings in the base period. The claimant has met all of the monetary qualifications to establish eligibility on this claim.

The hearing officer was presented with conflicting testimony regarding material issues of fact and is charged with resolving these conflicts. In Order Number 2003-10946 (December 9, 2003), the Commission set forth factors to be considered in resolving credibility questions. These factors include the witness' opportunity and capacity to observe the event or act in question; any prior inconsistent statement by the witness; witness bias or

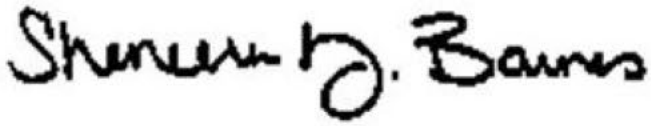
lack of bias; the contradiction of the witness' version of events by other evidence or its consistency with other evidence; the inherent improbability of the witness' version of events; and the witness' demeanor. Upon considering these factors, the hearing officer finds the testimony of the claimant to be more credible. Therefore, material conflicts in the evidence are resolved in favor of the claimant.

Decision: The determination dated April 26, 2016 is REVERSED . The monetary determination dated April 26, 2016 is MODIFIED to reflect wages of $12,000.00 for the 4th quarter of 2014, $11,718.57 for the 1st quarter of 2015, and $12,000.00 for the 2nd quarter of 2015 with Team Athletic Goods Inc. As modified, the monetary determination is REVERSED. The claimant is monetarily eligible for benefits.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision w as mailed to the last known address of each interested party on July 5, 2016.

CHARLES GREENBERG
Appeals Referee

By: 

Shanedra Barnes, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the mailing date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.004, filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at www.connect.myflorida.com or by writing to the address at the top of this decision. The date the confirmation number is generated will be the filing date of a request for reopening on the Appeals Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la fecha marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.004, el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [*pago excesivo de beneficios*] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en www.connect.myflorida.com o escribiendo a la dirección en la parte superior de esta decisión. La fecha en que se genera el número de confirmación será la fecha de registro de una solicitud de reapertura realizada en el Sitio Web de la Oficina de Apelaciones.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, Suite 101 Rhyne par Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket num ber*] y el número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para – a substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

ENPÒTAN - DWA DAPÈL: Desizyon sa a ap definitif sòf si ou depoze yon apèl nan yon delè 20 jou apre dat nou poste sa a ba ou. Si 20yèm jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.004, depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, **www.connect.myflorida.com** oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat yo pwodui nimewo konfimasyon an se va dat yo prezante demann nan pou reouvri kòz la sou Sitwèb Apèl la.

Yon pati ki te asiste odyans la epi li resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon retounen travay Asistans Komisyon Apèl la, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Faks: 850-488-2123); https://raaciap.floridajobs.org. Si poste a, dat tenm ap dat li ranpli aplikasyon. Si fakse, men yo-a delivre, lage pa sèvis mesaje lòt pase Etazini Sèvis nan Etazini Nimewo, oswa soumèt sou Entènèt la, dat yo te resevwa ap dat li ranpli aplikasyon. Pou evite reta, mete nimewo rejis la ak nimewo sosyal demandè a sekirite. Yon pati pou mande revizyon ta dwe presize nenpòt ak tout akizasyon nan erè ki gen rapò ak desizyon abit la, yo epi bay sipò reyèl ak / oswa legal pou defi sa yo. Alegasyon sou erè pa espesyalman tabli nan demann nan pou revizyon yo kapab konsidere yo egzante.