

WORKERS' COMPENSATION APPEALS BOARD

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STATE OF CALIFORNIA

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| DARRYL I. MARTIN, | |
| | <i>Applicant</i> |
| VS. | |
| GARRETT AIRESEARCH CORPORATION; CONTINENTAL INSURANCE COMPANY c/o UNDERWRITERS ADJUSTING COMPANY, | <i>Defendant</i> |

CASE No. 86 LBO 153955 (MF)
86 LBO 153956

FINDINGS, AWARD & ORDER

APPLICANT, Darryl I. Martin
 OZUROVICH & SCHWARTZ, by Michael Ozurovich,
 Attorneys for Applicant
 KEGEL, TOBIN, HAMRICK & TRUCE, by Rex Altman,
 Attorneys for Defendant

IT IS ORDERED that Cases No. 86 LBO 153955 and 86 LBO 153956, be, and they hereby are consolidated for trial, and the evidence in one will be received in the other, insofar as is relevant and material. Case No. 86 LBO 153955 will be designated as the Master File, and all exhibits shall be filed therein.

An application having been filed herein, all parties having appeared and the matter having been regularly submitted; the Honorable FRANK S. FALERO, Workers' Compensation Judge, now makes his decision as follows:

FINDINGS OF FACT

1) That Darryl I. Martin, Applicant, did not sustain injuries AOE/COE in both applications as alleged herein.

2) Defendants are liable for medical-legal costs, and are to adjust and/or pay same.

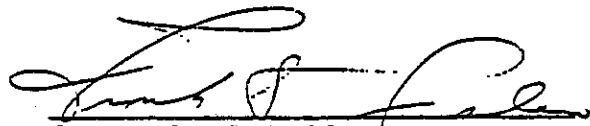
3) All other issues are rendered moot.

AWARD

AWARD IS MADE in favor of Darryl I. Martin, Applicant, against Garrett Airesearch Corporation/Continental Insurance Company c/o Underwriters Adjusting Company, of medical-legal costs as set forth in Findings 2.

ORDER

IT IS HEREBY ORDERED that Applicant take nothing further.



FRANK S. FALERO
Workers' Compensation Judge

Dated: SEP 15 1988
at Long Beach, California

Service by mail on parties
as shown on Official Address
Record effected on above date.

By: *[Signature]*

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86 LBO 153955 (MF)
86 LBO 153956

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WORKERS' COMPENSATION APPEALS BOARD

Case No. 86 LBO 153955 (M.F.)

Case No. 86 LBO 153956

DARRYL I. MARTIN

vs.

GARRETT AIRESEARCH CORP.;
CONTINENTAL INS. COMPANY
c/o UNDERWRITERS ADJUSTING,

WORKERS' COMPENSATION JUDGE:

FRANK S. FALERO

Dates of Injuries:

86 LBO 153955 - 3-6-78 to
2-26-86

86 LBO 153956 -1-14-86

OPINION ON DECISION

This matter came to trial on July 11, 1988 and again on August 19, 1988 at which time much testimony was taken and exhibits identified and taken into evidence. Both cases were consolidated, and 86 LBO 153955 was designated as the Master File.

86 LBO 153955 and 86 LBO 153956:

INJURY:

Applicant alleges industrial injury to his psyche, hypertension and back during the period of March 6, 1978 to February 26, 1986 (Case No. 86 LBO 153955) and injury to his eyes, head and ears on January 14, 1986 (Case No. 86 LBO 153956).

The Trier of Fact finds that Applicant did not sustain injuries AOE/COE as alleged in both applications. Applicant is found not worthy of belief. His testimony on the stand was impeached in most respects by the Defendant's attorney use of Applicant's earlier taken depositions by way of cross-examination (Defendant's Exhibit #B & C). The reports of Dr. Dennis Steen dated October 17, 1986 and August 26, 1986; Dr. William Hornstein dated September 11, 1986; Dr. Alan Ross dated December 11, 1987 and Dr. Fred Kramer dated September 7, 1987 are found to be the most persuasive and credible opinion supporting substantially the findings of this Trier of Fact. As to the conclusion of Dr. Rotterman in his reports dated March 11, 1987 and August 27, 1986, I find this resulted from the untruthful history given to him by the Applicant.

The Trier of Fact relied on a composite of all the medical opinions, records, deposition and the testimony at time of trial.

DARRYL I. MARTIN
86 LBO 153955 (M.F.)
86 LBO 153956

The Trier of Fact was the sole and exclusive judge of the demeanor, manner and finally the credibility of the witness on the stand and considered any matters that had a tendency in reason to prove or disprove the truthfulness of the testimony.

All other issues are rendered moot.

MEDICAL-LEGAL:

Defendant to adjust and/or pay all medical-legal costs.


FRANK S. FALERO
Workers' Compensation Judge

Dated: SEP 15 1988
at Long Beach, California
Service by mail on parties
as shown on Official Address
Record effected on above date.
By: 