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Please note that the present report sample is based upon a summary of profiles across several previous referrals. The present sample is not intended to represent an individual person or referral. Any similarities to a specific person or referral is strictly coincidental.

Vocational Rehabilitation Report

May 15, 2020

Ms. Rita Cummings, Attorney at Law
9234 Avery Avenue
New Orleans, LA 70809

REF: Chris Zybisco
Vocational Rehabilitation Report Submission

Re: Mr. Chris Zybisco
DOB:
Date of Injury:

The following offers submission of a report to be used in court proceedings regarding **Mr. Chris Zybisco**. The initial date of service was **April 5, 2020**.

Mr. Zybisco and I met for approximately two hours in my office in Lafayette, LA. Mr. Zybisco presented himself as pleasant and compliant during our meeting.

Purpose of the Present Report

The purpose of the present report is as follows:

- Appraise present medical and vocational status of Mr. Zybisco
 - Determine his past employability based upon his education and demonstrated work history
 - Using physician feedback and opinion, obtain an opinion from Mr. Zybisco physician regarding past ability to return to work, alongside present ability to return to work
 - Assess Mr. Zybisco's past wage-earning capacity, based upon both his demonstrated work history and comparable positions Mr. Zybisco may have been expected to perform based upon his transferable skills
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- Gauge Mr. Zybisco future employability, based upon work restrictions and his transferable skills
- Appraise Mr. Zybisco loss of wages and wage-earning capacity, based upon work restrictions and his transferable skills

Qualifications

I am qualified to complete the above actions and render an opinion of Mr. Zybisco employability and loss of wage-earning capacity based upon the following qualifications:

- Licensure: Licensed Rehabilitation Counselor, 1995, #473
- Certifications: Certified Rehabilitation Counselor, 1992, #12456; Certified Life Care Planner, 2012, #1180
- Education: Undergraduate degree in Psychology from Louisiana State University in Shreveport, 1989; Graduate degree in Counselor Education, with specialization in Rehabilitation Counseling, from the University of Alabama, 1992; Graduate degree in Educational Psychology from Texas A & M University in Commerce, 2004; Doctoral degree in Educational Psychology from Texas A & M University in Commerce, 2012
- Publications: Published over 30 peer-reviewed articles on various topics in rehabilitation counseling and educational psychology
- Professorship: Previously Assistant Professor at the University of Louisiana at Lafayette, 6 years
- Qualifications by State and Federal Courts: Declared an Expert in the field of Vocational Rehabilitation in several state courts in Louisiana and several federal courts in Louisiana and Texas

Methodology

The following methods were used to render opinions in the present report:

- Receipt of assignment from plaintiff attorney to complete a vocational rehabilitation evaluation
- Review of medical, vocational, and other records to assure qualified to render an opinion in the field of vocational rehabilitation
- Contacted plaintiff attorney to acknowledge of records and sufficient data and information is available to render an opinion in the field of vocational rehabilitation
- Completed face to face evaluation with Mr. Zybisco, including vocational testing, to obtain additional data and information to render report
- Obtained listing of job titles from ONET regarding comparable occupational attainment prior to accident, and examined multiple features of positions, including wages
- Scheduled and participated in rehabilitation conference with treating physician to obtain medical update and obtain work restrictions, as a product of the evaluation prepared a physician confirmation letter
- Compared and contrasted preinjury work duties and associated physical requirements with attained work restrictions set forth by treating physician
- Evaluated employability alongside vocational hierarchy, utilizing Mr. Zybisco transferable skills, alongside physician-based work restrictions
- Evaluated post-injury wage earning capacity by analyzing probable job placement prior to- and then following present accident
- Preparation of final report

Identified Assumptions and Error Rate

Assumptions

It is assumed that records reviewed in the scope of the present report are accurate, correct, and/or with minimal or acceptable error rates. More specifically, it is assumed that physician records do not represent an inaccurate presentation of medical diagnoses; Mr. Zybisco's physician has correctly identified Mr. Zybisco post-injury work restrictions; tax records have not over or under reported Mr. Zybisco's actual earnings; and records from the Department of Labor have not erroneously reported probable wages for comparable positions, in which Mr. Zybisco's has completed in the past.

I am also assuming that Mr. Zybisco's work restrictions at light duty will remain permanent. If his work restrictions decrease or increase, further analyses will be warranted, requiring modification of conclusions rendered in the present report.

I am also assuming that Mr. Zybisco's intellect and academic skills will remain constant as time progresses. More specifically, he will not significantly improve (i.e., obtain additional education) or decrease (i.e., dementia or acquisition of a head injury) as time evolves.

Error Rates

I will defer to Mr. Zybisco's treating physician regarding the probability or change of error that Mr. Zybisco may perform less than or greater than light work duty.

I will defer to tax records themselves, the persons preparing those records, and the reviewing agency (i.e., IRS) to determine if reported wages are greater or less than actual wages.

O*NET information from the Department of Labor does change or modifies based upon periodic changes in wage trends. Wages reflected in the present report are current as of the present report date. Admittedly, wage information may change at an undetermined later date. As needed, or upon request, I will update wage records to compare and contrast wage records presented in the current report versus wage records that may be updated as time progresses. (Anecdotally, wage records typically will change +/- 5% annually. However, this is not based upon long-term analysis of these trends.)

Records Reviewed

Financial

Medical

Educational

Employment

Results of Vocational Interview

Initial Impressions

First and Last Name	Chris Zybisco
Sex	
Date of Birth	
Referring Organization/Office	
Date of Testing	
Examiner's Name	T. Scott Smith
Normative Basis	Grade (K-12.9)
Does the referral have glasses?	
Were they used during testing?	
Does the referral have a hearing aid?	
Was it used during testing?	
Did the referral have a translator?	

Demographics

Personal Data	
Referral's Name	Chris Zybisco
Residential Address	
Date of Birth	
Age	
Sex	Male
Place of Interview	T. Scott Smith Consulting Office 600 Jefferson Street, Suite 1201 Lafayette, LA
Interview Date	

Personal Appearance

Height
Weight
Race
Grooming

Family Background

Father's Occupation
Mother's Occupation
Marital Status

Length of marriage?
Spouse's Name
Spouse's Age
Spouse's Occupation
Previously Married?
Children's Names and Ages
Additional Children Information

Miscellaneous Data

Driver's License?
Reliable Transportation?
Arrests/Convictions

Education

Work History

Mr. Zybisco presently remains employed receiving workers' compensation benefits. At present, he has not received a formal notice of termination or modification of his current employment status.

Last Employment

Employer
Job Title
Start Date
End Date
Reason for Leaving
Specific Duties
Salary

The following framework is used to estimate frequency for performance of various work duties:

- Rarely, < 5% of time;
- Occasionally, between 5-25% of time;
- Frequently, between 26-75% of time;
- Constantly, between 75-100% of time.

Numbers will not add to 100%, considering work duties will vary on a daily basis. Frequency is estimated and not based upon any time-series analysis.

On this job, was the referral required to complete the following:

Walk? How far?	Yes, Constantly
Stand? How long?	Yes, Constantly
Sit? How long?	Yes, Rarely
Lift? How much?	Yes, Constantly
Bend? How often?	Yes, Frequently
Kneel? How often?	Yes, Occasionally
Squat? How often?	Yes, Occasionally
Climb? How much?	Yes, Occasionally
Reach? How far?	Yes, Frequently
Drive? How far?	Rarely
Balance? How long?	Yes, Constantly
Carry? How much?	Yes, Constantly
Push? How far?	Yes, Frequently
Pull? How far?	Yes, Frequently
Stoop? How often?	Yes, Frequently
Handle? How often?	Yes, Constantly

Other Employment (Beginning with Most Recent)

Employer
Job Title
Start Date
End Date/Reason for Leaving
Specific Duties

Other Employment (Beginning with Most Recent)

Employer
Job Title
Start Date
End Date/Reason for Leaving
Specific Duties

Vocational Information

Description of business practices with which referral is familiar with:

Bookkeeping	No
Inventory Control	Yes
Shipping/Receiving	Yes
Scheduling	No
Supervising	Yes
Instructing	No

Description of machines/equipment with which referral is familiar with or has had experience with:

Office Machines	No
Farm Equipment	No
Construction Equipment	No
Hand Tools	No
Transportation Equipment	Forklift
Machine/Shop Tools	Yes
Other	Lawn care equipment

Regarding computer skills, in reality, Mr. Zybisco physically touched material and hand wrote inventory notes. Another employee entered the information into the computer. Mr. Zybisco lacks database entry and management skills.

Vocational Testing

Intelligence—Kaufman Brief Intelligence Test 2 (KBIT2)

It is important to note that intelligence represents a broad-base of cognitive skills. I used the Kaufman Brief Intelligence Test for this intelligence assessment. The KBIT-2 may be used in educational, clinical, and research areas. Considering that the present circumstance is both clinical and educational, it represents an appropriate test. The KBIT-2 has been used since 1990, with the latest edition following in 2004. As such, it represents a modern test to measure intelligence in this circumstance. There are three scores for the KBIT-2: verbal, non-verbal, and overall composite.

From a theoretical standpoint, the KBIT-2 measures crystallized intelligence, or intelligence which is reflective of learned skills, such as verbal reasoning and knowledges. Crystallized intelligence can be learned through schooling, informal teaching and educational experiences, and generalized experiences when a child learns something new. Considering that in the present circumstance an adult was tested, an adult's crystallized intelligence is relatively stable. That is, adults traditionally have completed their high school education and gained exposure to

communication from others. Test results are compared against others in their age groups. Fluid intelligence consists of abilities that make a person both flexible in their thinking and gives them the ability to adapt to situations; it further allows one to understand the relationships among concepts.

	Raw Score	Standard Score	90% Confidence Interval	Percentile Rank	Descriptive Category
Verbal	72	79	73-87	8%	Below Average
Non-Verbal	27	81	74-90	10%	Below Average
IQ	-	79	74-85	8%	Below Average

Interpretation:

Academic Aptitude – Wide Range Achievement Test-4 (WRAT4)

The Wide Range Achievement Test (WRAT-4) is made up of four subtests: Word Reading, Sentence Comprehension, Math Computation, and Spelling. The purpose of this test is to measure basic academic skills in order to detect for learning abilities or disabilities.

	Raw Score	Standard Score	90% Confidence Interval	Percentile Rank	Grade Equivalent
Word Reading	38	66	59-73	1%	3.2
Spelling	32	75	69-81	5%	5.5
Math Computation	27	71	65-77	3%	3.0

Interpretation:

Accident in Question and Related Medical Summary

Past Childhood Diagnoses

Current Treatment Providers

Special Problems with Environment			
<u>Condition</u>	<u>No</u>	<u>Yes</u>	<u>Extent</u>
Inside	X		
Outside	X		
Heat		X	Occasionally
Cold		X	Occasionally
Wet/Humid			
Dusty/Dirty			
Noisy			
Heights			
Tool Use		X	Totally restricted
Vibrations		X	Totally restricted

Physical Limitations			
Activity	No	Yes	Extent
Lifting		X	Occasionally up to 10 pounds
Talking	X		
Hearing	X		
Sitting		X	Occasionally
Climbing		X	Totally restricted from stair climbing
Awkward and/or sustained postures		X	Totally restricted
Crouching		X	Totally restricted
Breathing	X		
Driving	X		
Feeling	X		
Sustained grip		X	Occasionally
Reaching	X		
Seeing	X		
Standing		X	Occasionally
Walking		X	Occasionally
Bending		X	Totally restricted from bending at waist
Kneeling	X		
Data Entry and other repetitive motion tasks		X	Occasionally
Sleeping	X		

Review of Tax Records

Previous Four Years' Income According to W-2s Tax Record Review

<u>Tax Year</u>	<u>Employer</u>	<u>Income</u>
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Receipt of Current Income

He is receiving weekly in workers' compensation benefits.

Examination of Comparable Positions

The following positions in the O*NET database were found to be comparable to the positions Mr. Zybisco last held while at Eastern Refractory & Insulation and his lawn service position.

Storage and Distribution Managers	11-3071.02
First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand	53-1021.00
Laborers and Freight, Stock, and Material Movers, Hand	53-7062.00
Landscaping and Groundskeeping Workers	37-3011.00

Descriptions of Comparable Positions

The following information pertains to the occupation of Storage and Distribution Managers – 11-3071.02.

Individuals employed in this occupation will plan, direct, or coordinate the storage or distribution operations within an organization or the activities of organizations that are engaged in storing or distributing materials or products.

Projected Tasks

- Supervise the activities of workers engaged in receiving, storing, testing, and shipping products or materials.
- Plan, develop, or implement warehouse safety and security programs and activities.
- Inspect physical conditions of warehouses, vehicle fleets, or equipment and order testing, maintenance, repairs, or replacements.
- Respond to customers' or shippers' questions and complaints regarding storage and distribution services.
- Develop and document standard and emergency operating procedures for receiving, handling, storing, shipping, or salvaging products or materials.

Among individuals employed in this position, 21% have a high school diploma or the equivalent, 50% have a Bachelor's degree, and 8% have some college experience, but no degree.

Note: While this offers a representative title, I do assess that this offers an inaccurate representation of his job duties, particularly considering the educational requirements for this position. As such, I will later include and exclude salary for this position in the later assessment of wage-earning capacity.

Projected Wages and Job Openings

Storage and Distribution Managers – 11-3071.02

Location	Low Wages	Median Wages	High Wages	Projected Job Openings
Louisiana	\$22.49 \$46,780	\$37.92 \$78,880	\$70.94 \$147,550	130
United States	\$26.85 \$55,850	\$45.46 \$94,560	\$77.17 \$160,500	11,400

NOTE: The above wage figures are indicative of Transportation, Storage, and Distribution Managers, as information pertaining specifically to Storage and Distribution Managers alone was not available.

Reference: Career One Stop. (n.d.) Transportation, Storage, and Distribution Managers: Louisiana. Retrieved on August 12, 2020 from <http://www.onetonline.org/link/summary/11-3071.02>

The following information pertains to the occupation of First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand – 53-1021.00.

Individuals employed in this occupation will directly supervise and coordinate the activities of helpers, laborers, or material movers.

Projected Tasks

- Maintain a safe working environment by monitoring safety procedures and equipment.
- Review work throughout the work process and at completion to ensure that it has been performed properly.
- Inform designated employees or departments of items loaded or problems encountered.
- Examine freight to determine loading sequences.
- Collaborate with workers and managers to solve work-related problems.

Among individuals employed in this position, 62% have a high school diploma or the equivalent, 15% have a Bachelor's degree, and 12% have some college experience, but no degree.

Projected Wages and Job Openings

First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand – 53-1021.00

Location	Low Wages	Median Wages	High Wages	Projected Job Openings
Louisiana	\$15.17 \$31,550	\$24.86 \$51,710	\$39.30 \$81,740	390
United States	\$16.12 \$33,540	\$26.47 \$55,060	\$41.98 \$87,310	48,900

NOTE: The above wage figures are indicative of First-Line Supervisors of Transportation and Material Moving Workers, Except Aircraft Cargo Handling Supervisors, as information pertaining specifically to First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand alone was not available.

Reference: Career One Stop. (n.d.) First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand: Louisiana. Retrieved on August 12, 2020 from <http://www.onetonline.org/link/summary/53-1021.00>

The following information pertains to the occupation of Laborers and Freight, Stock, and Material Movers, Hand – 53-7062.00.

Individuals in this role will manually move freight, stock, or other materials or perform other general labor. This title includes all manual laborers not elsewhere classified.

Projected Tasks

- Move freight, stock, or other materials to and from storage or production areas, loading docks, delivery vehicles, ships, or containers, by hand or using trucks, tractors, or other equipment.
- Sort cargo before loading and unloading.
- Attach identifying tags to containers or mark them with identifying information.
- Read work orders or receive oral instructions to determine work assignments or material or equipment needs.
- Stack cargo in locations, such as transit sheds or in holds of ships as directed, using pallets or cargo boards.

Among individuals employed in this position, 70% have a high school diploma or equivalent, 19% have less than a high school diploma, and 5% have some college experience, but no degree.

Projected Wages and Job Openings

Laborers and Freight, Stock, and Material Movers, Hand – 53-7062.00

Location	Low Wages	Median Wages	High Wages	Projected Job Openings
Louisiana	\$8.90 \$18,510	\$12.69 \$26,390	\$19.83 \$41,240	6,900
United States	\$10.29 \$21,410	\$14.19 \$29,510	\$22.66 \$47,140	434,700

Reference: Career One Stop. (n.d.) Laborers and Freight, Stock, and Material Movers, Hand: Louisiana. Retrieved on August 12, 2020 from <http://www.onetonline.org/link/summary/53-7062.00>

The following information pertains to the occupation of Landscaping and Groundskeeping Workers – 37-3011.00.

Individuals employed in this capacity will landscape or maintain grounds of property using hand or power tools or equipment. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler installation, and installation of mortar less segmental concrete masonry wall units.

Projected Tasks

- Gather and remove litter.
- Use hand tools, such as shovels, rakes, pruning saws, saws, hedge or brush trimmers, or axes.
- Operate vehicles or powered equipment, such as mowers, tractors, twin-axle vehicles, snow blowers, chain-saws, electric clippers, sod cutters, or pruning saws.
- Water lawns, trees, or plants, using portable sprinkler systems, hoses, or watering cans.
- Prune or trim trees, shrubs, or hedges, using shears, pruners, or chain saws.

Among individuals employed in this position, 18% have a Bachelor's degree, 31% have a post-secondary certificate, and 39% have less than a high school diploma.

Projected Wages and Job Openings

Landscaping and Groundskeeping Workers—37-3011.00

Location	Low Wages	Median Wages	High Wages	Projected Job Openings
Louisiana	\$9.22 \$19,170	\$12.79 \$26,610	\$18.52 \$38,520	1,530
United States	\$10.44 \$21,710	\$14.63 \$30,440	\$22.37 \$46,530	173,600

Reference: Career One Stop. (n.d.) Landscaping and Groundskeeping Workers: Louisiana. Retrieved on August 12, 2020 from <http://www.onetonline.org/link/summary/37-3011.00>

Assessment of Employability within Vocational Hierarchy

Vocational rehabilitation has an established vocational hierarchy. The following represents that hierarchy and Mr. Zybisco's employability in relation to this hierarchy, with the first numerical listing being the most preferable within the hierarchy.

1. **Return to work with the same employer and same job.**
2. **Return to work with the same employer, different job.**
3. **Return to work with different employer, same job.**
4. **Return to work with different employer, different job.**
5. **On-the-job training.**
6. **Skills enhancement.**
7. **Retraining.**

Description of Lifting Requirements

According to the Code of Federal Regulations, physical exertion requirements for sedentary, light, medium, heavy, and very heavy job classifications are as follows:

Sedentary work. This work requires lifting of no more than 10 pounds at any given time, with only occasional lifting, carrying, walking, and standing.

Light work. This work requires lifting of no more than 20 pounds at any given time, with frequent lifting or carrying of objects up to 10 pounds in weight. These positions also require a good deal of walking or standing or some pushing or pulling if sitting. Individuals capable of this work are also capable of sedentary work, unless additional factors limiting abilities are present, such as loss of fine dexterity or inability to remain sitting.

Medium work. This work requires lifting of no more than 50 pounds at any given time, with frequent lifting or carrying of objects up to 25 pounds in weight. Individuals capable of this work are also capable of sedentary and light work.

Heavy work. This work requires lifting of no more than 100 pounds at any given time, with frequent lifting or carrying of objects up to 50 pounds in weight. Individuals capable of this work are also capable of medium, light, and sedentary work.

Very heavy work. This work requires lifting of more than 100 pounds at any given time, with frequent lifting or carrying of objects up to 50 pounds in weight. Individuals capable of this work are also capable of heavy, medium, light, and sedentary work.

Physical Exertion Requirements, 20 C. F. R. § 404.1567 (2019)

Assessment of Probable Wages, Barring Present Accident

Tax Records

<u>Tax Year</u>	<u>Income</u>
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Using the documented wage figures acquired through his tax records as stated above, the annual average income using these figures is .

However, considering his accident occurred on February 6, 2019, shortly into the year of 2019, and resulted in him being unemployable thereafter, the following annual average income would represent a more accurate picture, as it only includes years 2016 through 2018.

Review of Comparable Positions

Position	Low Wages (Annual)	Median Wages (Annual)	High Wages (Annual)
Storage and Distribution Managers	\$46,780	\$78,880	\$147,550
First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand	\$31,550	\$51,710	\$81,740
Laborers and Freight, Stock, and Material Movers, Hand	\$18,510	\$26,390	\$41,240
Landscaping and Grounds keeping Workers	\$19,170	\$26,610	\$38,520
Averages	\$29,002.50	\$45,897.50	\$77,262.50

Considering the wage figures for Storage and Distribution Managers in comparison to the other positions listed above, as well as Mr. Zybisco wages as documented by tax records, I would consider this to be an outlier. Therefore, the averages below will more probably than note offer a more accurate representation, as they do not include Storage and Distribution Managers.

Position	Low Wages (Annual)	Median Wages (Annual)	High Wages (Annual)
First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand	\$31,550	\$51,710	\$81,740
Laborers and Freight, Stock, and Material Movers, Hand	\$18,510	\$26,390	\$41,240
Landscaping and Groundskeeping Workers	\$19,170	\$26,610	\$38,520
Averages	\$23,076.67	\$34,903.33	\$53,833.33

Evaluation of Physical Requirements for Past Comparable Position

<u>Position</u>	<u>Physical Requirements</u>	<u>Meet Light Duty Restriction</u>
Storage and Distribution Managers	Medium to Heavy Duty	Beyond Light Work Duty
First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand	Medium to Heavy Duty	Beyond Light Work Duty
Laborers and Freight, Stock, and Material Movers, Hand	Medium to Heavy Duty	Beyond Light Work Duty
Landscaping and Grounds keeping Workers	Medium to Heavy Duty	Beyond Light Work Duty

Evaluation of Transferable Occupations

To evaluate employability in other occupations, using ONET, I identified closely transferable occupations and have offered data to evaluate appropriateness for transferable occupations.

Code	Position Identified	Comment
43-5041.00	Meter Readers, Utilities	Requires high school degree
47-2171.00	Reinforcing Iron and Rebar Workers	Heavy work duty
47-4031.00	Fence Erectors	Heavy work duty

47-4061.00	Rail Track Laying and Maintenance Equipment Operators	Heavy work duty
51-9195.07	Molding and Casting Workers	Heavy work duty

Calculation of Wage Losses and Loss of Wage-Earning Capacity

I will defer to a Forensic Economist or Accountant for official calculation of wage losses. However, based upon an evaluation of employability using the vocational hierarchy, it is determined that he cannot currently be employed with his previous employer or with a new employer in similar positions. Furthermore, his current restrictions greatly limit his options of employability within the open labor market in other positions, as well as in regards to on-the-job training or retraining endeavors.

Excluding wages from 2019, he had a demonstrated annual wage-earning capacity of

Summary and Conclusion

Mr. Zybisco is a -year old male living in with his wife and two children.

He does not have a high school diploma or GED. Without a high school diploma, he will have fewer job opportunities when competing within the open labor market, despite his work history.

His vocational testing indicates a below average intelligence. Testing also indicates that his academic skills are below grade level, largely at the elementary school level.

He was in a motor vehicle accident on in which . As a result of the accident, he sustained injuries causing . Two surgical interventions were later completed.

Despite efforts to reach maximum medical improvement, he was not previously released to return to work. However, during a rehabilitation conference with on , Dr. released him to Light Work Duty.

Utilizing the vocational hierarchy, Mr. Zybisco is unable to return to work in his pre-injury position with either the same or a different employer, and will be limited to positions meeting the criteria of light duty work status within the open labor market, according to his current physical restrictions.

Based upon a summation of this information, the following conclusions are offered:

1. He has not been able to return to the workforce since his date of injury, resulting in a complete loss of wage-earning capacity from the date of accident to the present date.
2. Founded upon his transferable skills, alongside his work restrictions, he cannot return to work in the open labor market in any capacity, again, resulting in a complete loss of wage-earning capacity from the present date to the unforeseeable future.

I reserve the opportunity to modify the present report based on receipt of additional information.

Sincerely,

Theodore Scott Smith

T. Scott Smith, Ph.D.