

Approved: Daniel S. Noble
DANIEL S. NOBLE
Assistant United States Attorney

12 MAG 2352

Before: HONORABLE JAMES C. FRANCIS IV
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA : SEALED COMPLAINT

- v. - : Violations of
18 U.S.C. §§ 1341 and 1349

FREDERICK P. CATALANO, JR., :
Defendant. : COUNTY OF OFFENSE:
NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

ADAM M. SUITS, being duly sworn, deposes and says that he is a Special Agent with the Office of the Inspector General, Office of Investigations, United States Railroad Retirement Board, and charges as follows:

COUNT ONE
(Mail Fraud and Health Care Fraud Conspiracy)

1. From at least in or about 2010, up to and including in or about 2012, in the Southern District of New York and elsewhere, FREDERICK P. CATALANO, JR., the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit mail fraud and health care fraud in violation of Sections 1341 and 1347 of Title 18, United States Code, to wit, CATALANO conspired with others known and unknown to defraud the United States Railroad Retirement Board ("RRB") by submitting a false claim for disability benefits to which he was not entitled.

2. It was a part and an object of the conspiracy that FREDERICK P. CATALANO, JR., the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and

property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did take and receive there from, such matter and thing, and would and did cause to be delivered by mail according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, in violation of Title 18, United States Code, Section 1341.

3. It was further a part and an object of the conspiracy that FREDERICK P. CATALANO, JR., the defendant, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud health care benefit programs and obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, in violation of Title 18, United States Code, Section 1347.

OVERT ACTS

4. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about June 1, 2011, FREDERICK P. CATALANO, JR., the defendant, and a co-conspirator, Marie Baran, who has been separately charged, spoke by telephone with a representative of the RRB located in New York, New York, to schedule an appointment for CATALANO to apply for disability benefits.

b. On or about August 27, 2012, FREDERICK P. CATALANO, JR., the defendant, mailed a disability recertification to the RRB in New York, New York.

(Title 18, United States Code, Section 1349.)

COUNT TWO
(Mail Fraud)

5. From at least in or about 2010 until at least in or about 2012, FREDERICK P. CATALANO, JR., the defendant, willfully and

knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did take and receive there from, such matter and thing, and would and did cause to be delivered by mail according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, in violation of Title 18, United States Code, Section 1341, to wit, CATALANO defrauded the RRB by submitting a false claim for disability benefits to which he was not entitled.

(Title 18, United States Code, Section 1341.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I am a Special Agent with the Office of the Inspector General, Office of Investigations, United States Railroad Retirement Board ("RRB-OIG"). I have been a Special Agent with RRB-OIG since in or about October 2010, and, since that time, I have personally been involved in an investigation into disability fraud at the Long Island Railroad ("LIRR"). Previously, beginning in or about 1997, I was a Special Agent at the Federal Bureau of Investigation, in a variety of capacities, including as associate division counsel, and, prior to that, I was a prosecutor with the Judge Advocate General for the United States Navy. From in or about 1994 to 1996, I also worked as a senior casualty claims adjuster/fraud investigator for a private insurance carrier. I am familiar with the facts and circumstances set forth below from my personal participation in the investigation, my examination of reports and records, and my conversations with other law enforcement officers and witnesses. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

BACKGROUND ON RAILROAD RETIREMENT BENEFITS AND
OVERVIEW OF THE PREMEDITATED DISABILITY FRAUD

7. The RRB is an independent federal agency that

administers comprehensive retirement and benefit programs, including disability benefits, for the nation's railroad workers and their families. The LIRR, founded in 1834, is one of the busiest commuter railroads in North America, carrying over 250,000 customers each week day.

8. Retiring LIRR employees are eligible to receive benefits both from the LIRR and the RRB. First, retiring LIRR workers hired before 1988 may draw a pension from the LIRR if they retire at or after the age of 50 and if they have been employed for at least 20 years as of the time of retirement. An LIRR pension is based, in part, on the average number of hours worked in the five years prior to retirement. Second, retiring LIRR workers may draw an additional pension from the RRB as of the time they reach age 65.¹ If, however, an LIRR worker retires and is disabled, that LIRR worker can receive a *disability* pension from the RRB, even if he or she retires before age 65. Thus, a non-disabled LIRR retiree is only eligible to receive pension benefits from both the LIRR and the RRB if, among other things, that LIRR retiree is age 65 or older. By contrast, an LIRR worker who retires and is disabled is eligible to receive benefits from both the LIRR and the RRB as early as age 50 - pension benefits from the LIRR and disability benefits from the RRB.

9. To qualify for disability benefits, retiring railroad workers must file with the RRB an Application for Determination of Employee's Disability, known as a Form AA-1d (hereinafter referred to as a "Disability Application"). In their Disability Application, petitioning workers must describe in detail, under penalty of perjury, their disability and the limitations resulting therefrom, and state when they could no longer work because of their disability. At times, annuitants receiving disability payments are directed to file a Continuing Disability Update Report, known as a Form G-254 or G-254A (hereinafter referred to as a "Disability Recertification"), in which annuitants must certify, under penalty of perjury, their continuing inability to work.

10. FREDERICK P. CATALANO, JR., the defendant, and others known and unknown, engaged in a multi-year, systemic fraud to obtain RRB disability benefits. As part of this fraud, LIRR workers who were ready to retire -- and who were older than 50 but younger than 65 years old -- falsely claimed to be disabled, including to be

¹ Certain LIRR workers - namely those with 30 years or more of service - are eligible to receive an RRB pension as of age 60.

occupationally disabled, i.e., unable to perform their railroad occupation, in order to receive benefits both from the LIRR and the RRB. Specifically, LIRR employees, who were eligible to retire as early as age 50 with an LIRR pension, routinely sought to supplement their LIRR pension by fraudulently procuring a separate RRB disability annuity which, when combined with their LIRR pension, resulted in a total income level that often approximated, and in some cases exceeded, their pre-retirement working income. This fraud was perpetrated with the knowing and intentional involvement of hundreds of LIRR retirees; "facilitators" who served as liaisons between retiring workers and participating doctors; and doctors themselves, who falsely declared retiring LIRR workers to be occupationally disabled. Typically, these disability doctors claimed that their LIRR patients suffered from various musculoskeletal impairments, which can involve claims of soft tissue injury that are more difficult to confirm by objective medical criteria than are other impairments, and are often diagnosed clinically, based upon pain as subjectively reported by the patient.

11. As a result of this pervasive fraud, hundreds of LIRR retirees received RRB disability benefits that they were not entitled to receive, and participating doctors received millions of dollars from patients and insurance companies. The foreseeable loss to the RRB disability funds -- if the scheme had not been uncovered and fraudulent claims had been paid out in full -- would have exceeded approximately \$1 billion. A complaint filed on October 26, 2011 in the U.S. District Court for the Southern District of New York against certain participants in this fraud is attached hereto as Exhibit A and is incorporated by reference herein. The defendants named in that complaint have been separately indicted in S1 11 Cr. 1091 (VM).

THE DEFENDANT

12. FREDERICK P. CATALANO, JR., the defendant, worked for the LIRR for 30 years, from in or about June 1981 through in on or about May 2011, retiring as a gang foreman. CATALANO's duties as a gang foreman included supervising work gangs within the department of Maintenance of Equipment, which is charged with repairing, overhauling, inspecting, troubleshooting, and cleaning train equipment.

13. FREDERICK P. CATALANO, JR., the defendant, retired from the LIRR on or about May 31, 2011, approximately six months after he turned 50 years old. In or about June 2011, CATALANO applied for - with the assistance of co-conspirator Marie Baran, a facilitator

who has been separately charged - an RRB occupational disability annuity, which was later granted by the RRB. CATALANO has received RRB disability benefits from in or about November 2011 through the present.

14. In his last full year of work for the LIRR (2010), FREDERICK CATALANO, JR., the defendant, earned approximately \$142,465, of which approximately \$65,938 was overtime compensation. In the first twelve months following his retirement, CATALANO received approximately \$87,000 in LIRR pension payments, approximately \$46,479 in RRB disability payments, and approximately \$28,700 in private disability insurance payments, for a total of approximately \$162,179 in payments.

OVERVIEW OF THE FRAUD

15. Based on the evidence set forth below, FREDERICK P. CATALANO, JR., the defendant, deliberately defrauded the RRB by falsely claiming to be disabled. I base this conclusion on, among other things: First, CATALANO retired approximately six months after he turned 50 years old - the age at which he became eligible for a LIRR pension. I know that CATALANO had planned to retire sometime around his actual retirement date for at least one year prior to his actual retirement. Second, in his last seventeen months at the LIRR, CATALANO worked nearly 1,500 hours of overtime, including 8 hours on his last day of work. Third, CATALANO only began seeing a doctor for his purportedly disabling conditions in March 2010, a little over a year before he retired. In the same month, CATALANO successfully obtained a 4th-degree black belt in jiu jitsu. Fourth, CATALANO used co-conspirator Marie Baran, a facilitator who has been separately indicted, to complete his Disability Application, which appears to contain several misstatements. For instance, although CATALANO's Disability Application stated that CATALANO could not do any indoor or outdoor chores "even with help," CATALANO told an independent RRB medical examiner six weeks later that he could in fact "do laundry and shopping." Fifth, around the time that CATALANO claimed to be occupationally disabled in connection with his RRB Disability Application, CATALANO claimed to be "totally" and "permanently" disabled in order to obtain additional disability insurance benefits and a waiver of life insurance premiums from two private insurance companies. Finally, CATALANO's profile on a mixed martial arts website indicates that CATALANO is "currently training for [his] Godan 5th degree [black belt] and will achieve this goal in 2015." Within the last month, CATALANO has been observed by law

enforcement agents attending jiu jitsu and hot yoga classes near his home on Long Island.

THE DEFENDANT'S PURPORTED DISABILITY

16. I am aware that FREDERICK P. CATALANO, JR., the defendant, had been contemplating early retirement for at least one year prior to his actual retirement. I base this conclusion on the fact that on or about May 6, 2010, CATALANO submitted an Application for Pension Estimate to LIRR in which he anticipated that his "planned retirement date" would be July 1, 2011.

17. I have reviewed a Disability Application, dated June 23, 2011, in which FREDERICK P. CATALANO, JR., the defendant, stated the following, among other things, knowing that he could be prosecuted for false statements:

a. CATALANO listed as the medical condition causing him to file for disability: "Lumbar spine," "Cervical spine," and "Right Shoulder."

b. In response to a question asking for a description of how his conditions prevented him from working, CATALANO wrote:

"The physical requirements of my job as a Gang Foreman are such that I can no longer perform them. My shoulder, lower back and neck injuries cause me severe pain and discomfort when lifting, carrying, pushing, pulling, or reaching. I am no longer able to walking [sic] or stand for extended periods without considerable pain."

c. CATALANO listed the date that his condition began to affect his ability to work as May 31, 2011 and the date that he "could no longer work because of [his] condition" as the very next day, June 1, 2011.

d. In response to questions about the daily activities of which he was capable, CATALANO stated that sitting, standing, walking, bathing, dressing, other bodily needs, and driving a motor vehicle were all "hard," and that these activities caused him "pain," or in the case of sitting, "severe pain." CATALANO stated that he could not do any indoor or outdoor chores

"even with help."

e. CATALANO stated that he had received treatment from two doctors: (1) a physician ("Disability Doctor-1"), from March 1, 2010 to the date of the Disability Application, for "Cervical Radiculopathy, Low back syndrome, Right Ulnar Neuritis, Right shoulder rotator cuff tear and AC joint sprain"; and (2) a chiropractor ("Chiropractor-1"), from 2007 to the date of the Disability Application, for "lower back and neck pain."

f. CATALANO stated that as of May 2011, he had been restricted by Disability Doctor-1 as follows: "No heavy lifting, pushing, pulling, carrying, bending, stooping, crawling, or crouching. No working above the shoulder level." In addition, CATALANO stated that he had been restricted by Chiropractor-1 as follows: "No heavy lifting or stooping or prolonged sitting."

g. CATALANO described his daily activities during a "normal day" as follows:

"I sleep poorly. I only sleep for 4 to 6 hours nightly. Staying in bed longer causes stiffness in my body. I get up around 8 a.m. I have a shower, dress and breakfast. I do some light Yoga to stretch as prescribed by [Disability Doctor-1]. I have lunch at home and watch television and play on the computer. Evenings I have dinner at home with my family and we watch T.V. Occasionally we visit with friends or family."

18. From my review of RRB records, I am aware that FREDERICK P. CATALANO, the defendant, first saw Disability Doctor-1 on or about March 1, 2010 - approximately 15 months before the onset of CATALANO's alleged disability - for various claimed ailments. In addition, CATALANO was seen by Chiropractor-1 for the first time since at least 2008 on or about January 20, 2011 - approximately four months before the onset of CATALANO's alleged disability. Based in part on the Medical Assessments submitted by these doctors, CATALANO later was approved by the RRB for an occupational disability annuity.

19. Disability Doctor-1's notes from his initial examination of FREDERICK P. CATALANO, JR., the defendant, on or about March 1, 2010 state, in part, that CATALANO complained of "long standing" pain in his neck, lower back, and right shoulder. CATALANO

had suffered injuries "over the years" in these areas. Although CATALANO did chiropractic treatment and physical therapy, he reported "persistent and sometimes worsening pain" in these areas. CATALANO reported pain in his neck if he turned his head to the side or looked down for an extended period of time; tingling and numbness, especially in his right fingers; low back pain with prolonged sitting or standing; intermittent pain in the heels of both legs; and pain in the right shoulder. Disability Doctor-1 diagnosed CATALANO with: (i) cervical radiculopathy; (ii) low back syndrome; (iii) right ulnar neuritis; and (iv) right shoulder rotator cuff tear and AC joint sprain. There were no reported restrictions on CATALANO's ability to work.

20. On or about May 12, 2011, FREDERICK P. CATALANO, JR. was again seen by Disability Doctor-1. Disability Doctor-1's notes from CATALANO's examination on that date state, in part, that CATALANO complained of "severe pain in the lower back radiating down into the feet of both lower extremities," especially when he was "climbing in and out of trains." CATALANO also complained of pain in his neck and shoulder. Disability Doctor-1 diagnosed CATALANO with a "cervical sprain" and "Lumbar disc bulges." Disability Doctor-1 recommended that CATALANO obtain epidural steroid injections and return in one month. There were no reported restrictions on CATALANO's ability to work.

21. I have reviewed a Medical Assessment dated May 31, 2011, submitted to the RRB in support of the Disability Application of FREDERICK P. CATALANO, JR., the defendant, in which Disability Doctor-1 states, in part, that CATALANO had experienced neck, low back, and right shoulder pain for "many years." CATALANO's neck was painful when he turned it to the side or looked down. CATALANO experienced low back pain with prolonged sitting or standing, and shoulder pain when he lifted his arm above his shoulder or in front of him. CATALANO could engage in "no heavy lifting, pushing, pulling, carrying, bending, stooping, crawling, crouching, [or] working above the shoulder level." CATALANO was "at risk of injury" if he worked around "heights" or "machinery." In addition, "vibration" and "temperature extremes" allegedly aggravated CATALANO's neck and back pain.

22. Chiropractor-1's notes from his examination of FREDERICK P. CATALANO, JR., the defendant, on or about January 20, 2010 state, in part, that CATALANO had pain in his lower back, neck, right shoulder and right arm that radiated down both legs. CATALANO stated that this pain was "consistent" at both home and work, and

specifically while "sitting" and "climbing." CATALANO reported that in the prior week his pain was "8" on a scale of 10, and that he experienced his symptoms "constantly." In response to a question about how much his symptoms had interfered with his "usual daily activities," CATALANO responded "extremely." CATALANO reported that his pain prevented him, among other things, from "sitting more than 10 minutes," "stand[ing] for longer than ½ hour without increasing pain," and "walk[ing] more than ¼ mile without increasing pain." Chiropractor-1 performed a nerve conduction velocity ("NCV") test and a needle electromyography ("EMG") on CATALANO's upper and lower extremities.

23. I have reviewed a Medical Assessment dated May 30, 2011, submitted to the RRB in support of the Disability Application of FREDERICK P. CATALANO, JR., the defendant, in which Chiropractor-1 states, in part, that CATALANO had "multiple cervical and lumbar disc herniations," weakness in his right deltoid, wrist, and bicep muscles, and certain sensory and reflex "decreases" in his extremities. CATALANO's lumbar disc conditions prevented him from performing "any heavy lifting or stooping or prolonged sitting."

24. From my review of a telephone call log maintained by the RRB, I have learned the following:

a. On or about June 1, 2011, FREDERICK P. CATALANO, JR., the defendant, called the RRB and spoke with a representative located in New York, New York. CATALANO requested an appointment at the Westbury, New York office of the RRB to submit his Disability Application. CATALANO became upset when the representative asked him to set up a phone appointment instead of an in-person appointment.

b. CATALANO's co-conspirator, Marie Baran, a facilitator who has been separately charged, then got on the telephone to speak with the RRB representative. The RRB call log notes state that CATALANO was using Baran to complete the paperwork for his Disability Application.

c. After speaking to Marie Baran, the RRB representative sent an email to the Westbury, New York office requesting that an appointment be scheduled for CATALANO. Later the same day, an appointment was scheduled for CATALANO for June 23, 2011 at the Westbury, New York office (the date that CATALANO in fact submitted his Disability Application).

25. In or about August 2012, FREDERICK P. CATALANO, JR.,

the defendant, mailed a Disability Recertification to RRB's offices in New York, New York. In the Disability Recertification, which was received on or about August 27, 2012, CATALANO certified that his doctor told him that he cannot work, that he has not worked for any employer, and that he has not been self-employed. CATALANO also certified that his health was the "same."

THE DISABILITY CLAIM WAS FRAUDULENT

26. Through my investigation, I have learned that FREDERICK P. CATALANO, JR., the defendant, was not physically restricted in the ways in which he represented to the RRB.

27. Although FREDERICK P. CATALANO, JR., the defendant, stated in his Disability Application that he could no longer work as of May 31, 2011, in his last five months at LIRR, CATALANO worked approximately 435 hours of overtime, including eight hours on his last day of work, for which he was paid approximately \$27,344. Moreover, in his last full year of work with LIRR (2010), CATALANO worked approximately 1,054 hours of overtime, for which he was paid approximately \$65,938.

28. On or about August 9, 2011, approximately six weeks after FREDERICK P. CATALANO, JR., the defendant, submitted his Disability Application, an independent medical examiner retained by the RRB examined CATALANO. The notes of this examination state, in substance and in part, the following:

a. Although CATALANO stated in his Disability Application that he could not do any indoor or outdoor chores "even with help," CATALANO told the medical examiner that he "can do laundry and shopping." Similarly, although CATALANO stated in his Disability Application that sitting, standing, walking, bathing, dressing, and other bodily needs were all "hard" for him, CATALANO told the medical examiner that he "can shower and dress himself" and that he "socializes, goes out to restaurants, movies, gym and PT."

b. CATALANO "appeared to be in no acute distress," had a "normal" gait and station, could walk on his heels and toes "without difficulty," could squat halfway, needed no help changing his clothes for the exam or getting on or off the exam table, and was able to rise from the chair "without difficulty."

c. CATALANO's prognosis was "stable." He had only "mild limitation" for sitting, walking and standing, and "mild to

moderate limitation" for bending and lifting heavy weight.

29. I have reviewed policy and claim records maintained by an insurance company ("Insurance Company-1") for FREDERICK P. CATALANO, JR., the defendant. From my review of these materials, I have learned the following:

a. In or about September 2002, CATALANO submitted an application for a disability insurance policy to Insurance Company-1. At the time of the application, CATALANO had worked for LIRR for approximately 21 years and was, therefore, eligible to receive a RRB occupational disability annuity if he were to become disabled.

b. Under this disability insurance policy, CATALANO paid premiums of approximately \$92 per month. If CATALANO became totally disabled and unable to work, he was entitled to receive approximately \$3,000 per month, or \$100 per day, from Insurance Company-1.

c. On or about June 14, 2011 - approximately one week before CATALANO submitted his Disability Application to the RRB - CATALANO submitted a claim to Insurance Company-1 claiming "total disability."

d. Chiropractor-1 completed the portion of the claim required to be completed by a doctor. Chiropractor-1 stated that CATALANO's conditions were "chronic" and that CATALANO had been unable to work since June 1, 2011. Chiropractor-1 checked the box indicating that CATALANO was "permanently disabled."

e. On or about July 25, 2011, CATALANO's claim was approved by Insurance Company-1, retroactive to June 1, 2011, the alleged date of total disability.

f. Between in or about June 2011 through in or about May 2012, Insurance Company-1 paid CATALANO approximately \$28,700 in disability benefits pursuant to his insurance policy.

g. Since his initial claim was approved, CATALANO has submitted several Continuing Disability Claim Forms to Insurance Company-1, representing that he remained totally disabled. On each form, Chiropractor-1 checked the box indicating that CATALANO was "permanently disabled."

30. I have reviewed policy and claim records maintained by another insurance company ("Insurance Company-2") for FREDERICK P. CATALANO, JR., the defendant. From my review of these materials, I am aware of the following:

a. On or about September 6, 2006, CATALANO submitted an application for a \$150,000 life insurance policy to Insurance Company-2. On the application, CATALANO checked a box requesting a "Disability Waiver Provision," pursuant to which Insurance Company-2 would waive CATALANO's life insurance premiums if he were to become "totally disabled" and unable to work.

b. A call log maintained by Insurance Company-2 shows that on or about June 27, 2011 - four days after CATALANO submitted his Disability Application to RRB claiming occupational disability - CATALANO called and spoke to a representative of Insurance Company-2. CATALANO stated, in substance and in part, that he had retired and was totally disabled as of June 1, 2011. The representative advised CATALANO that he had to be totally disabled for six months before the premium waiver benefit could take effect.

c. On or about October 25, 2011, CATALANO submitted a "Life Waiver of Premium for Disability" claim form to Insurance Company-2. On the "Attending Physician's Statement," Chiropractor-1 stated that CATALANO was "totally disabled (unable to work)" as of June 1, 2011.

d. On or about January 5, 2012, Insurance Company-2 notified CATALANO that his life insurance policy had been placed on waiver of premium status.

e. On or about June 25, 2012, CATALANO submitted another "Life Waiver of Premium for Disability" claim form to Insurance Company-2. On the "Attending Physician's Statement" dated June 28, 2012, Chiropractor-1 stated that CATALANO was "totally disabled (unable to work)" as of June 1, 2011. In response to a question about CATALANO's current restrictions, however, Chiropractor-1 stated "only part-time sedentary - no lifting over 20 lbs, bend at waist, sit longer than 1/2 hour."

f. On or about July 17, 2012, Insurance Company-2 notified CATALANO that he was not eligible for waiver of premium benefits because Chiropractor-1 had stated that CATALANO was able to perform part-time or sedentary work.

g. CATALANO's life insurance policy remains in full force and effect as of August 7, 2012.

31. Although FREDERICK P. CATALANO, JR., the defendant, claimed that he is both occupationally disabled and totally and permanently disabled, CATALANO appears to have continued to engage in strenuous physical activities, including jiu jitsu and Bikram yoga, after his retirement.

32. On or about June 30, 2012, I reviewed a website called "MMA Fight Space," located at www.mmfightspace.com. From my review of this website, I have learned the following:

a. One of the user profiles on the "MMA Fight Space" website is that of "zanshincat," whose full name is listed as "Fred Catalano." The profile for "zanshincat" states that "Fred Catalano" is 51 years old and lives in "Nesconset." The photograph of "Fred Catalano" on "zanshincat's" profile appears to match the photograph on the New York State driver's license of FREDERICK P. CATALANO, JR., the defendant. The address listed in CATALANO's disability application is also in Nesconset.

b. CATALANO has been a member of MMA Fight Space since on or about October 18, 2007. CATALANO's profile states that he is an "Instructor," that his fighting style is "Jiu Jitsu," and that he trains at the "American Jiu Jitsu Centers."

c. Under the heading "My Story," CATALANO describes himself as a "Certified Instructor and Yodan 4th-degree black belt in American Jiu Jitsu systems of self-defense." CATALANO's profile states that he is "currently training for [his] Godan 5th degree and will achieve this goal in 2015." The profile states that CATALANO has been training in jiu jitsu for over 16 years and teaching jiu jitsu for over 12 years. It also states that CATALANO is a "practitioner of Power Yoga, Qi Gong, Pilates for grapplers, Zen Ki, Tai Chi, Kickboxing and Wrestling."

33. On or about June 30, 2012, I reviewed a LinkedIn profile on the Internet for an individual named "Fred Catalano" located in the greater New York City area. The photograph of "Fred Catalano" on the LinkedIn profile appears to match the New York State driver's license photograph of FREDERICK P. CATALANO, JR., the defendant. CATALANO's LinkedIn profile states that he "[a]chieved Yodan BlackBelt American Jiu Jitsu in March of 2010" and "continues to train and teach this wonderful martial art." Thus, according to

his LinkedIn profile, CATALANO obtained his 4th-degree black belt in jiu jitsu the same month that he began seeing Disability Doctor-1.

34. On or about June 30, 2012, I reviewed the Internet website for "American Jiu Jitsu Centers" located at www.americanjiujitsucenters.com. From my review of this website, I have learned the following:

a. "American Jiu Jitsu Centers" is a martial arts center located in St. James, New York. I know that St. James, New York is approximately two miles from Nesconset, New York, where FREDERICK P. CATALANO, JR., the defendant, resides.

b. Among the photographs included on the "Black Belts" page of the "American Jiu Jitsu Centers" website is a photograph of CATALANO. When I clicked on that photograph, the website opened a link to CATALANO's "zanshincat" profile on the "MMA Fight Space" website described above.

c. Among the photographs included on the "Photo Gallery" page of the "American Jiu Jitsu Centers" website is a photograph entitled "Nov. 21, 2011 American JIU JITSU taught at the Pentagon." The photograph, which appears to have been taken approximately six months after CATALANO's retirement, depicts a number of individuals clothed in black and white martial arts robes seated, bending, or kneeling in front of a group of United States military personnel dressed in fatigues. One of the kneeling individuals in a black robe in the photograph appears to be CATALANO.

d. Among the videos included on the "Videos" page of the "American Jiu Jitsu Centers" website is a video labeled "Renshi Fred Catalano." The filename of the video is "Yodan.mov." The video is approximately six and a half minutes long and depicts CATALANO performing various jiu jitsu maneuvers. The video shows CATALANO sparring with other adult male combatants and involves CATALANO punching, swinging his arms, lifting, kicking, spinning, twisting, crouching, bending, kneeling, and rolling on the ground. In one of the more complex maneuvers depicted in the video, CATALANO deflects a wooden stick swung at him by another combatant, grabs the combatant, flips him over his shoulder and back, lowers him to the ground, and then punches into the prostrate man with his fists.

35. On or about June 30, 2012, I performed a Google search for "Yodan.mov." From this search, I learned that the same video of FREDERICK P. CATALANO, JR., the defendant, which appears on the

"American Jiu Jitsu Centers" website was uploaded to YouTube by a user named "zanshinjiujitsu" on or about June 21, 2010. The video can be accessed on YouTube at www.youtube.com/watch?v=dI-756N2CIU. The description of the video on YouTube states: "FredCatalano.com American Jiu Jitsue Yodan Test 4th degree." From CATALANO's LinkedIn profile, I know that CATALANO obtained his Yodan 4th-degree black belt in jiu jitsu in or about March 2010, the same month that CATALANO started seeing Disability Doctor-1.

36. I have spoken with Special Agents of the Federal Bureau of Investigation ("FBI Agents") who have conducted surveillance of FREDERICK P. CATALANO, JR., the defendant. From my discussion with the FBI Agents, I have learned the following:

a. On or about August 6, 2012, CATALANO was observed driving with another individual to the American Jiu Jitsu Center in St. James, New York. At approximately 7:35 pm, CATALANO and the other individual entered the Center and remained inside until approximately 9:30 pm. According to the Center's class schedule, a class for orange and black belts was held that evening from 7:40 pm until 8:40 pm and an all-black belt class was held from 8:40 pm until 9:30 pm.

b. On or about August 13, 2012, CATALANO was observed entering a yoga studio ("Yoga Studio") in Smithtown, New York, at approximately 9:30 am. CATALANO was carrying a yoga mat and gym bag. CATALANO remained at the Yoga Studio until shortly after 11:00 am when he got into a car and drove away. According to the Yoga Studio's class schedule, there was a 90-minute Bikram yoga class that is conducted in over 100-degree heat during the period of time CATALANO was in the studio. At the end of the class, CATALANO was observed wearing a t-shirt and shorts and carrying a yoga mat.


WHEREFORE, deponent asks that a warrant be issued for the arrest of FREDERICK P. CATALANO, JR., the defendant, and that he be imprisoned or bailed, as the case may be.

 9/7/2012

ADAM M. SUITS
Special Agent
Office of the Inspector General,
U.S. Railroad Retirement Board

SEP 07 2012

Sworn to before me this
__th day of September, 2012


THE HONORABLE JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

WARRANT FOR ARREST

United States District Court		DISTRICT SOUTHERN DISTRICT OF NEW YORK	
UNITED STATES OF AMERICA v. FREDERICK P. CATALANO, JR.		DOCKET NO. 12 MAG 2352	MAGISTRATE'S CASE NO.
		NAME AND ADDRESS OF INDIVIDUAL TO BE ARRESTED FREDERICK P. CATALANO, JR.	
WARRANT ISSUED ON THE BASIS OF: <input type="checkbox"/> Order of Court <input type="checkbox"/> Indictment <input type="checkbox"/> Information <input checked="" type="checkbox"/> Complaint		DISTRICT OF ARREST	
TO: UNITED STATES MARSHAL OR ANY OTHER AUTHORIZED OFFICER		CITY	
YOU ARE HEREBY COMMANDED to arrest the above-named person and bring that person before the United States District Court to answer to the charge(s) listed below.			
DESCRIPTION OF CHARGES			
Mail Fraud and Conspiracy to Commit Mail Fraud and Health Care Fraud. (Title 18, United States Code, Sections 1341 and 1349.)			
IN VIOLATION OF	UNITED STATES CODE TITLE Title 18	SECTION(s) Sections 1341 & 1349	
BAIL		OTHER CONDITIONS OF RELEASE	
ORDERED BY	SIGNATURE (FEDERAL JUDGE/ U.S. MAGISTRATE) <i>JAMES C. FRANCIS IV</i>		DATE ORDERED SEP 07 2012
CLERK OF COURT	SOUTHERN DISTRICT OF NEW YORK (BY) DEPUTY CLERK		DATE ISSUED
RETURN			
This warrant was received and executed with the arrest of the above-named person.			
DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER	
DATE EXECUTED			

Note: The arresting officer is directed to serve the attached copy of the charge on the defendant at the time this warrant is executed.