


WARRANT FOR ARREST

<p><b>United States District Court</b></p>		<p>DISTRICT</p> <p>SOUTHERN DISTRICT OF NEW YORK</p>	
<p>UNITED STATES OF AMERICA</p> <p>v.</p> <p>CHRISTOPHER P. PARLANTE</p>		<p>DOCKET NO.</p> <p><b>12 MAG 2356</b></p>	<p>MAGISTRATE'S CASE NO.</p> <p><b>2356</b></p>
<p>WARRANT ISSUED ON THE BASIS OF:    <input type="checkbox"/> Order of Court</p> <p><input type="checkbox"/> Indictment    <input type="checkbox"/> Information    <input type="checkbox"/> Complaint</p>		<p>NAME AND ADDRESS OF INDIVIDUAL TO BE ARRESTED</p> <p>CHRISTOPHER P. PARLANTE</p>	
<p>TO: UNITED STATES MARSHAL OR ANY OTHER AUTHORIZED OFFICER</p>		<p>DISTRICT OF ARREST</p> <p>CITY NEW YORK</p>	
<p>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.</p>			
<p>DESCRIPTION OF CHARGES</p> <p>CONSPIRACY TO COMMIT MAIL FRAUD AND HEALTH CARE FRAUD MAIL FRAUD</p>			
<p>IN VIOLATION OF</p>	<p>UNITED STATES CODE TITLE</p> <p>18</p>	<p>SECTION</p> <p>1349 and 1341</p>	
<p>ORDERED BY: <b>JAMES C. FRANCIS IV</b> UNITED STATES MAGISTRATE JUDGE SOUTHERN DISTRICT OF NEW YORK</p>		<p>BAIL</p> <p>OTHER CONDITIONS OF RELEASE</p> <p>SIGNATURE (FEDERAL JUDGE/U.S. MAGISTRATE)</p> <p><i>[Signature]</i></p>	<p>DATE ORDERED</p> <p><b>SEP 07 2012</b></p>
<p>CLERK OF COURT</p>	<p>(BY) DEPUTY CLERK</p>		<p>DATE ISSUED</p>
<p>RETURN</p> <p>This warrant was received and executed with the arrest of the above-named person.</p>			
<p>DATE RECEIVED</p>	<p>NAME AND TITLE OF ARRESTING OFFICER</p>	<p>SIGNATURE OF ARRESTING OFFICER</p>	
<p>DATE EXECUTED</p>			

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

Approved:   
AMY GARZON  
Assistant United States Attorney

12 MAG 2356

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  
CHRISTOPHER P. PARLANTE, : 18 U.S.C. §§ 1349, 1341  
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 2003, up to and including in or about 2012, in the Southern District of New York and elsewhere, CHRISTOPHER P. PARLANTE, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with others to mail fraud and health care fraud in violation of Sections 1341 and 1347 of Title 18, United States Code, to wit, PARLANTE conspired with others, known and unknown, to defraud the 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 CHRISTOPHER P. PARLANTE, 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 CHRISTOPHER P. PARLANTE, 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 24, 2003, August 26, 2003, March 29, 2004, May 17, 2004, and August 17, 2004, CHRISTOPHER P. PARLANTE, the defendant, met with Peter J. Lesniewski.

b. On or about March 28, 2011, CHRISTOPHER P. PARLANTE, the defendant, mailed a Disability Recertification to the Railroad Retirement Board ("RRB") in New York, New York.

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

#### COUNT TWO (Mail Fraud)

5. From at least in or about 2003 until at least in or about 2011, CHRISTOPHER P. PARLANTE, 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, PARLANTE 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 been personally involved in an investigation into disability fraud at the Long Island Railroad ("LIRR"), as set forth below. 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. This affidavit is based upon my investigation, my conversations with witnesses and other law enforcement agents, and my examination of reports, records, and consensual recordings. 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 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. 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. CHRISTOPHER P. PARLANTE, 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 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 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. CHRISTOPHER P. PARLANTE, the defendant, worked at the LIRR as a passenger conductor and freight conductor from July 1976 to November 2004. His duties and responsibilities in the last years of his job included supervising outside contractors who performed work on the LIRR and helping to ensure their safety. PARLANTE retired on or about November 2004, at the age of 52 years old, after approximately 28 years of employment. He has received RRB disability pension benefits from April 28, 2005 continuing to the present.

13. On or about February 3, 2005, PARLANTE applied for and was awarded an RRB occupational disability annuity. In his Disability Application, he claimed that he became "disabled" on October 31, 2004, one day before he was due to retire.

14. In his last full year with the LIRR (2003), CHRISTOPHER P. PARLANTE, the defendant, earned a salary of approximately \$73,824. In addition, PARLANTE worked approximately 604 overtime hours for which he earned approximately \$25,770. Thus, his combined income in 2003 was approximately \$99,600. In 2005, PARLANTE's first full year in retirement, he received more in benefits than he did in salary during his last full year of employment at the LIRR. Specifically, he received approximately \$46,690 in LIRR pension payments and approximately \$36,000 from his RRB disability payments, for a total of approximately \$82,690 in payments.

#### OVERVIEW OF THE FRAUD

15. Based on the evidence set forth below, there is probable cause to believe that CHRISTOPHER P. PARLANTE, the defendant, deliberately defrauded the RRB by falsely claiming to be disabled. I base this conclusion on, among other things, evidence that ten months before he retired, PARLANTE planned a particular date on which he would retire and in fact retired within a month of that date.

16. CHRISTOPHER P. PARLANTE, the defendant, visited co-conspirator Peter J. Lesniewski, who has been separately indicted for his participation in the fraud, and who diagnosed PARLANTE with a disability in order to allow PARLANTE to claim he was "disabled" as of his planned last day of work. However, PARLANTE worked a substantial amount of overtime in the years before he retired; over 600 hours in 2003 and 550 hours in 2004, even while visiting Lesniewski and documenting his purportedly worsening condition.

17. CHRISTOPHER P. PARLANTE, the defendant, admitted in Grand Jury testimony that he could in fact do his job at the time he retired. Indeed, undercover surveillance shows that PARLANTE performed physical tasks inconsistent with his claimed restrictions. Video surveillance of PARLANTE shows that he shoveled large amounts of snow unassisted and seemingly without difficulty after a heavy snowfall in 2011.

#### PARLANTE'S PURPORTED DISABILITY UPON RETIREMENT

18. After his retirement date, CHRISTOPHER P. PARLANTE, the defendant, submitted a Disability Application. I have reviewed PARLANTE's Disability Application, dated February 3, 2005, in which he stated the following, among other things, knowing that he could be prosecuted for false statements:

a. PARLANTE listed the medical condition causing him to file for disability as follows:

- 1) Herniated discs L3-4, L4-5, L5-S1;
- 2) Lumbar spine spondylosis;
- 3) Herniated C7-T1, significant disc bulging C6-7;
- 4) Cervical spondylosis;
- 5) Right carpal tunnel syndrome;
- 6) Pain: back, neck, knee, right hand

b. PARLANTE listed the date this condition began to affect his ability to work as June 4, 2003, and the date that he could no longer work because of this condition as October 31, 2004.

c. In response to a question asking PARLANTE to describe how his condition prevented him from working, PARLANTE responded:

My chronic neck, back, and right hand pain, along with the right knee problems I suffer, have made it impossible for me to perform the duties of a Railroad Conductor. I am unable to work on moving trains or locomotives, climb aboard cars or engines, crouch and lift heavy air hoses, jumper cables, couplers, etc. Other duties such as throwing and aligning hand thrown track switches, cranking on train hand brakes, coupling and uncoupling locomotives and cars, cutting out E.P. cocks, E.M.V. valves, angle cocks, brake valves, etc., and walking on track beds, are impossible to accomplish. My disabilities became so severe, that I had to go sick on October 31, 2004, finally leaving the railroad on November 26, 2004.

d. In response to a question about his daily activities, PARLANTE stated that it was hard for him to sit, stand, walk, bathe, dress himself, sleep, do indoor chores, do outdoor chores, drive a car, use public transportation, and write. He stated that he had difficulty lifting laundry baskets and could not lift heavy trash cans.

19. CHRISTOPHER P. PARLANTE, the defendant, first saw his



co-conspirator, Peter J. Lesniewski on or about June 24, 2003 for various claimed ailments. In his progress notes, Lesniewski catalogued PARLANTE's purported condition. PARLANTE later was approved by the RRB for disability benefits.

20. Lesniewski's statements from his June 24, 2003 examination of CHRISTOPHER P. PARLANTE, the defendant, provided that PARLANTE "works for LIRR and he's retiring. He has pain in his neck going to the back of his neck. He works out or he gets back problems. . . . He had MRI taken last [year]. Went to [physical therapy] for neck . . . ." Lesniewski noted that PARLANTE was not taking any medications. Based on a physical examination, Lesniewski stated that PARLANTE was a [w]ell developed gentleman in some distress. . . ." There were no reported restrictions on PARLANTE's ability to work.

21. CHRISTOPHER P. PARLANTE, the defendant, returned to Lesniewski approximately 2 months later, on August 26, 2003. Lesniewski's notes from PARLANTE's examination on that date stated that PARLANTE's "neck still hurts. Re-doing some furniture and he felt severe pain in his low back, mostly the right side." PARLANTE "has some tenderness and spasm in the area, range of motion is restricted, neurologically intact, motor and sensory are full, reflexes are intact. X-rays show significant spondylosis."<sup>1</sup> There were no reported restrictions on PARLANTE's ability to work.

22. CHRISTOPHER P. PARLANTE, the defendant, saw Lesniewski again on March 29, 2004. Lesniewski's notes from his examination of PARLANTE on that date stated that PARLANTE "[s]till has significant amount of pain in his neck and back and both his shoulders." There were no reported restrictions on PARLANTE's ability to work.

23. CHRISTOPHER P. PARLANTE, the defendant, saw Lesniewski again on May 17, 2004. Lesniewski's notes from his examination of PARLANTE on that date stated that PARLANTE had a herniated disc. "He has pain. Neck pain with headaches continues." There were no reported restrictions on PARLANTE's ability to work.

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1 As noted in the attached complaint, other law enforcement agents interviewed a medical technician who had long been employed by Lesniewski to perform certain diagnostic testing including Magnetic Resonance Imagings ("MRIs") for Lesniewski's LIRR patients. Based upon my review of a report of that interview, I am aware that the medical technician explained that most laborers in their fifties would have normal degenerative changes that could be documented, i.e., that would appear in scans and images.

24. CHRISTOPHER P. PARLANTE, the defendant, returned to Lesniewski on August 17, 2004. Lesniewski's notes from his examination of PARLANTE on that date stated that PARLANTE "[s]till has considerable amount of back pain. Hand is doing better, we know he has herniated disc. Neck pain. Some headaches. Range of motion is restricted, reflexes are intact." There were no reported restrictions on PARLANTE's ability to work.

25. Based on my review of the Disability Application of CHRISTOPHER P. PARLANTE, the defendant, I know that Lesniewski provided a narrative dated November 24, 2004, in support of PARLANTE's application.

a. In his narrative, Lesniewski diagnosed PARLANTE with

1. Cervical spondylosis
2. Lumbar spine spondylosis
3. Herniated disc lumbar spine
4. Carpal tunnel syndrome

b. Lesniewski also stated that, "[g]iven the above noted diagnosis, it can be stated within a reasonable degree of medical certainty that this patient is disabled for his job occupation and that this disability is on going [sic] and permanent."

26. Based on my review of the Disability Application of CHRISTOPHER P. PARLANTE, the defendant, I also know that Lesniewski provided a Medical Assessment of Residual Functional Capacity, dated December 15, 2004, in support of PARLANTE's disability application. In that assessment, Lesniewski imposed the following restrictions on PARLANTE:

a. In an 8-hour workday, PARLANTE can stand and/or walk, with normal breaks, for less than 2 hours total.

b. In an 8-hour workday, PARLANTE can sit, with normal breaks, less than 6 hours total.

c. PARLANTE can lift less than 10 pounds and 10 pounds an unlimited number of times, 20 pounds occasionally, but he can never lift more than 50 pounds or 100 pounds or more.

d. PARLANTE can never bend, stoop, crouch, squat, and he can only climb occasionally.

e. PARLANTE is moderately restricted from driving, and totally restricted from exposure to vibration.

27. I have reviewed documents from the RRB related to PARLANTE's Disability Application, and I have learned that PARLANTE's Disability Application was granted on April 28, 2005.

28. On or around March 28, 2011, CHRISTOPHER P. PARLANTE, the defendant, mailed a Disability Recertification to RRB's offices in New York, New York. In the Disability Recertification, PARLANTE certified that his condition was "worse."

#### PARLANTE'S DISABILITY CLAIM WAS FRAUDULENT

29. I am aware that CHRISTOPHER P. PARLANTE, the defendant, had been contemplating early retirement for approximately ten months prior to his actual retirement. I base this conclusion on the fact that on or about January 20, 2004, PARLANTE submitted an Application for Pension Estimate in which he anticipated that his "planned retirement date" would be November 2004. I am aware that CHRISTOPHER P. PARLANTE, the defendant, indeed submitted his Application for Pension Estimate on October 28, 2004. Based on my review of that application, I know that PARLANTE retired effective December 1, 2004.

30. Through my investigation, I have learned that CHRISTOPHER P. PARLANTE, the defendant, was not physically restricted in the ways in which he and his doctor, co-conspirator Peter J. Lesniewski, represented to the RRB.

31. On August 19, 2004, CHRISTOPHER P. PARLANTE, the defendant, underwent a medical examination by the LIRR. Based on my review of the corresponding report made by the examining doctor, I am aware that PARLANTE was deemed able to resume work "unrestricted."

32. On October 21, 2006, the RRB had a consulting physician assess the condition of CHRISTOPHER P. PARLANTE, the defendant, and the consulting physician concluded that he could: (1) frequently carry up to 10 pounds, and occasionally carry up to 20 pounds; (2) stand and walk at least 6 hours in an 8-hour work day; and (3) sit at least 6 hours in an 8-hour work day. The consulting physician also concluded that PARLANTE could frequently climb stairs, balance, and kneel, and he could occasionally climb ladders, stoop, crouch, and crawl. The consulting physician disagreed with Lesniewski's

Medical Assessment as "too restrictive."

33. In the years leading up to his retirement CHRISTOPHER P. PARLANTE, the defendant, worked substantial overtime. Based on my review of PARLANTE's overtime records from the LIRR, I have learned that in 2003, the last full year that PARLANTE worked at the LIRR, he worked approximately 604 overtime hours. In 2004, even while visiting Lesniewski for his purportedly worsening condition, PARLANTE worked approximately 553 overtime hours. In October 2004, the month PARLANTE stated he became disabled and could not do his job, PARLANTE worked approximately 100 hours of overtime.

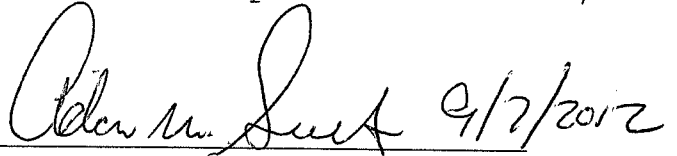
34. Aside from Lesniewski's statements in his narrative in support of the Disability Application of CHRISTOPHER P. PARLANTE, the defendant, there are no notes in PARLANTE's medical files stating that, due to PARLANTE's medical condition, he should stop working or take additional precautions at work.

35. On May 3, 2011, I interviewed CHRISTOPHER P. PARLANTE, the defendant, and he stated that, after he retired, he worked out a ton with weights and bulked up to 195 pounds. He also stated that co-conspirator Marie Baran, a facilitator of the scheme to defraud the RRB who has been separately indicted, filled out his Disability Application. PARLANTE admitted that he worked overtime up until the last day on the job.

36. On or about April 28, 2011, CHRISTOPHER P. PARLANTE, the defendant, testified before the Grand Jury and stated that there were no tasks he was unable to do in his job as a conductor with the LIRR prior to when he retired. PARLANTE testified that he could do outdoor chores at his house, including taking out the garbage and shoveling snow. PARLANTE also admitted that he has not seen a doctor for his back in the last five years.

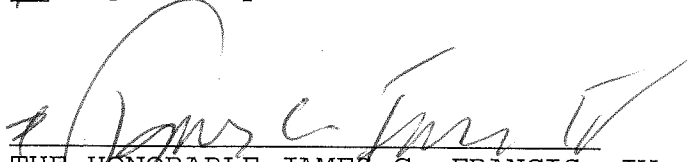
37. On January 12, 2011, special agents with the Office of Inspector General, Office of Investigations, conducted undercover surveillance of CHRISTOPHER P. PARLANTE, the defendant, at his home. Despite PARLANTE's claims in his Disability Application that it was hard for him to stand, walk, and do outdoor chores and Lesniewski's opinion that PARLANTE can never bend, stoop, crouch, or squat, the undercover surveillance recorded PARALANTE manually shoveling approximately three feet of snow from the front of his house and driveway. The surveillance showed PARALANTE repeatedly bending, chipping away at hard snow, and lifting full shovels of snow.

WHEREFORE, deponent asks that a warrant be issued for the arrest of CHRISTOPHER P. PARLANTE 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

Sworn to before me this  
7 day of September 2012

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