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SOL (MSHA) V. TAZCO INC.
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

Civil Penalty Proceeding

Docket No. VA 80-121
A.O. No. 44-05124-03009V

v.

Laurel Mine No. 2

TAZCO, INC.,
RESPONDENT

DECISION AND ORDER

The parties move for approval of a settlement of a serious roof control violation at a 20% reduction in the amount initially assessed, \$500.

Based upon an independent evaluation and de novo review of the circumstances and the amount of the penalty warranted, I conclude the reduction fails to give sufficient weight to the exemplary action the operator took to deter future violations and insure voluntary compliance. In the thousands of violations that have come before me for adjudication, this is the first in which an operator, and a small nonunion operator at that, undertook to impose the most severe of disciplinary sanctions for a miner's grossly negligent refusal to comply with a mandatory safety standard, namely summary discharge for cause. If more operators could be persuaded to follow this course of action, there would be far fewer deaths and disabling injuries in the mines. I wish to commend this operator and once again endorse the following recommendation of the President's Commission on Coal:

That shared responsibility by management and labor for improving the safety of underground mining include acceptance of the principle that coal companies not prepared to operate safe mines and miners not prepared to observe safe mining practices have no place in the industry.

See also, Secretary v. Davis Coal Company, WEVA 80-589, et al., Order Denying Settlement, dated November 12, 1980, copy attached.

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Accordingly, it is ORDERED that for the violation found the operator pay a penalty of \$400, with payment to be suspended. It is FURTHER ORDERED that the captioned matter be, and hereby is, DISMISSED.

Joseph B. Kennedy
Administrative Law Judge