

CCASE:
SOL (MSHA) V. JOSEPH CRACCO
DDATE:
19860321
TTEXT:

~

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. CENT 85-123-M
A.C. No. 39-00055-05551 A

v.

Homestake Mine

JOSEPH CRACCO,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Morris

This is a civil penalty proceeding initiated by the petitioner against the respondent pursuant to Section 110(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(c).

Prior to a hearing, the petitioner filed a motion seeking approval of a settlement agreement entered into by the parties.

1. The agreement reflects that at all times mentioned herein respondent was acting as master ropeman and foreman at the gold mine operated by the Homestake Mining Company in Lead, South Dakota.

2. On July 25, 1984 MSHA issued Citation 2097234 against the corporate mine operator alleging a violation of 30 C.F.R. 57.15Å5. Subsequently, the corporate operator paid a civil penalty of \$8,000 for the foregoing violation.

3. Thereafter, MSHA charged respondent with having knowingly authorized, ordered or carried out the corporate mine operator's violation as an agent of said operator. A civil penalty of \$1,000.00 was proposed.

4. Subsequently, respondent proposed that the case be settled for the amount of \$750.

5. In mitigation petitioner states that respondent had been acting as a temporary foreman for only a short period of time. Under these circumstances and in consideration of the criteria contained in Section 110(i) of the Act I find that the proposed settlement is reasonable and in the public interest.

~403

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The petition to assess a civil penalty is affirmed.
3. A civil penalty of \$750 is assessed.

John J. Morris
Administrative Law Judge