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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
ON BEHALF OF
CHARLES EDWARD HAUN,
COMPLAINANT
v.
CONSOLIDATION COAL COMPANY,
RESPONDENT

DISCRIMINATION PROCEEDING
Docket No. WEVA 87-319-D
MORG CD-86-20
Blacksville No. 1 Mine

ORDER OF DISMISSAL

Before: Judge Broderick

This is a discrimination proceeding brought by the Secretary of Labor, on behalf of Charles Edward Haun, against the Consolidation Coal Company pursuant to Section 105(c) of the Federal Mine Safety and Health Act of 1977. 30 U.S.C. 815(c). The Secretary has moved to withdraw its complaint based on a proposed settlement agreement between the parties. The proposed settlement agreement provides:

1. Upon execution of this agreement, respondent will post immediately on the mine bulletin board, or in a conspicuous place where notices of employees are customarily posted, and maintain for a period of 14 consecutive days from the date of posting, the Notice attached hereto and made a part hereof. Said Notice is to be signed by a responsible official of the respondent and the date of actual posting is to shown thereon.
2. Respondent will comply with the terms and provisions of said Notice.
3. Complainant will, upon respondent's execution and completion of performance of this agreement, withdraw complaint of discrimination filed with the Department of Labor.

Respondent agrees to expunge from the personnel records of complainant all reference to the illegally issued discipline.

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Respondent agrees not to harass, treat differently, or interfere with the Complainant because he has filed a Section 105(c) complaint.

Respondent agrees to pay a civil penalty in the amount of \$600.

Respondent's consent to enter into this settlement agreement does not constitute an admission by Respondent to any violation of the Mine Act or the regulations or standards promulgated thereunder, and Respondent denies that it committed any such violations. However, for purposes of this settlement, Respondent agrees and consents to a finding by the Commission of the existence of the violations, that the violations may be assessed as set forth herein. Nothing contained herein shall be deemed an admission by Respondent of a violation of the Mine Act or any regulation or standard issued pursuant thereto, in any judicial or administrative forum, by the U.S. Government, other than in an action or proceeding brought by the United States Government under the Federal Mine Safety and Health Act of 1977.

The Complainant has assented to the terms and conditions of the foregoing proposed settlement as evidenced by his Statement of Consent to the agreement.

After consideration of the motion including the proposed settlement agreement, I conclude that its terms are consistent with the purposes of the Act. Accordingly, the motion to withdraw the complaint is GRANTED and subject to the operator complying with the terms of the settlement agreement, this proceeding is DISMISSED.

James A. Broderick
Acting Chief Administrative Law Judge