

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

July 27, 1989

SECRETARY OF LABOR,	:	CTVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 89-12
Petitioner	:	A. C. No. 15-16216-03502
v.	:	
	:	No. 1 Mine
GEORGE'S BRANCH COAL,	:	
INCORPORATED,	:	
Respondent	:	

ORDER OF DEFAULT

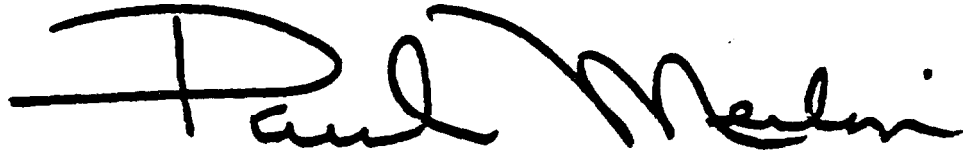
On October 11, 1988, you signed a notice of contest (blue card) telling the Mine Safety and Health Administration (MSHA) that you wanted a hearing on the penalty which MSHA proposed. The Secretary of Labor has certified that the Proposal in this case was mailed November 14, 1988.

Subsequent to filing the Proposal, the Solicitor in a letter dated February 1, 1989, stated that based on a January 31, 1989, telephone conversation with you she was forwarding a draft of a Joint Motion to Approve Settlement formalizing your negotiated settlement. You were to review this document and then return a signed copy to the Secretary. On April 13, 1989, the Solicitor orally advised she had not received the signed copy or heard from you since the January 31, telephone conversation.

Thereafter, on May 12, 1989, you were ordered to answer or show cause for your failure to do so. You were told that if you did not comply you would be held in default.

The Solicitor has now filed a motion for default. In her motion the Solicitor states that on July 12, 1989, MSHA advised that they had received a check from you in the amount of \$441.33. However, the Solicitor states that this represents payment of only one-third of the originally assessed amount and that no settlement was entered into reducing the original penalty. You cannot resolve this matter by deciding on your own initiative what amount you wish to pay without agreement by the Solicitor and approval by the Commission. Finally, you have not complied with the May 12 show cause order. Consequently, the Solicitor and this Commission have been forced to spend an inordinate amount of time on this matter.

Accordingly, judgment by default shall enter in favor of the Secretary. As a result, you are hereby OQDFRPD TO PAY the sum of \$882.67 immediately.

A handwritten signature in black ink that reads "Paul Merlin". The signature is fluid and cursive, with a large initial "P" and "M".

Paul Merlin
Chief Administrative Law Judge

Distribution:

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