

CCASE:
MSHA V. GREFCO INCORPORATED
DDATE:
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TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1244 SPEER BOULEVARD #280
DENVER, CO 80204-3582
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October 27, 1992

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. CENT 92-42-M
Petitioner : A.C. No. 29-01433-03526
:
v. : Grefco Inc.
:
GREFCO INCORPORATED, :
Respondent :

DECISION

Appearances: Robert A. Fitz, Esq., Office of the Solicitor,
U.S. Department of Labor, Dallas, Texas,
for Petitioner;
Michael Conley, Esq., GENERAL REFRACTORIES
COMPANY, Bala Cynwyd, Pennsylvania,
for Respondent.

Before: Judge Lasher

At the commencement of hearing in this matter in Albuquerque, New Mexico, on September 9, 1992, the parties announced their accomplishment of a settlement covering the three enforcement documents (citation and two withdrawal orders) involved. The agreement reached was considered and approved from the bench on the record (T. 8) and such is here AFFIRMED. The settlement called for the withdrawal of Section 104(d)(1) Citation No. 3448924 and the modification of Section 104(d)(1) Withdrawal Order No. 3446523 from an Order to a 104(d)(1) Citation. Withdrawal Order No. 3448925, also issued under the authority of Section 104(d)(1) of the Act was not modified. Thus, with the modification of Order No. 3446523 to a 104(d)(1) Citation, such enforcement document became the underlying Citation for 104(d)(1) Order No. 3448925 in the 104(d) chain. Petitioner agreed that appropriate penalties for Citation No. 3446523 and Order No. 3448925 were \$18,500 and \$13,500, respectively, and Respondent agreed to the payment of such as part of the settlement. Such penalties are here ASSESSED. In effectuation of this settlement, the following order is entered:

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ORDER

1. Citation No. 3448924 is VACATED.
2. Withdrawal Order No. 3446523 is MODIFIED to change its nature from a Section 104(d)(1) Withdrawal Order to a Section 104(d)(1) Citation.
3. Section 104(d)(1) Withdrawal Order No. 3448925 is AFFIRMED.
4. Respondent, if it has not previously done so, SHALL, within 30 days from the date of issuance hereof, PAY to the Secretary of Labor the total sum of \$31,500 as and for the civil penalties here assessed.

Michael A. Lasher, Jr.
Administrative Law Judge

Distribution:

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