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MSHA V. CHESTNUT RIDGE SAND  
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SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. PENN 92-696-M  
: A.C. No. 36-08120-05504  
Complainant :  
v. : Chestnut Ridge Sand  
: :  
CHESTNUT RIDGE SAND, :  
Respondent :

ORDER

Before: Judge Feldman

The respondent, a division of Haines Kibblehouse, Inc., (H&K) has filed a motion seeking permission to have Mr. James F. Sassaman represent it in this matter. H&K is a member of the General Building Contractor's Association. Mr. Sassaman is the association's Director of Safety and is reportedly familiar with administrative proceedings as they pertain to safety and health related issues.

The petitioner opposes the respondent's motion on the grounds that Mr. Sassaman should be precluded from serving as representative under Commission rule 3(b)(2) because "he is not experienced or familiar with the Mine Safety and Health Act of 1977, the Commission's rules of procedure, or Mine Safety issues in general." In this regard, the petitioner asserts that the seriousness and complexity of this case, which involves a 107(a) imminent danger order, requires a representative with mine safety experience.

Rule 3(b)(2) permits the appointment of a representative for the limited purpose of a specific proceeding. The plain language of this section does not preclude a representative solely because the individual has no mine safety experience. Moreover, the petitioner's reliance on the "complexity" of this case as a basis for its opposition is without merit in view of the fact that the respondent's answer admits the occurrence of the violations in issue, and seeks to be heard only on the issues of the degree of negligence and the appropriateness of the penalty assessment.

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ACCORDINGLY, the respondent's motion seeking permission for Mr. James F. Sassaman to represent it in this proceeding IS GRANTED.

Jerold Feldman  
Administrative Law Judge  
(703) 756-5233

Distribution:

John M. Strawn, Esq., Office of the Solicitor, U.S. Department of Labor, 14480 Gateway Bldg., 3535 Market St., Philadelphia, PA 19104 (Certified Mail)

James F. Sassaman, Director of Safety, Chestnut Ridge Sand Company, 36 S. 18th St., P.O. Box 15959, Philadelphia, PA 19103 (Certified Mail)

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