

CCASE:
MSHA V. JAMBOREE COALS
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SECRETARY OF LABOR,)	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),)	Master Docket No. 91-1
Petitioner)	Docket No. KENT 91-1175
v.)	A.C. No. 15-14583-03545D
)	
JAMBOREE COALS, INCORPORATED,)	No. 3 Mine
Respondent)	
)	Docket No. KENT 91-1174
)	A.C. No. 15-16784-03510D
)	
)	No. 4 Mine

ORDER OF DISMISSAL

Before: Judge Broderick

On November 27, 1992, the Secretary filed a motion to dismiss these proceedings on the grounds that on August 2, 1991, the Respondent and Jack Fannon, President of Respondent entered into plea agreements, agreeing to plead guilty to charges of conspiracy to defraud the United States in connection with the civil violations charged herein. Respondent contracted with Triangle Research to handle its dust sampling program. Triangle's principal and agent admitted falsifying the samples submitted to MSHA and admitted that on numerous occasions they blew air on the filter surfaces of manufactured dust samples. Harry White and Ronald Ellis of Triangle have been convicted of defrauding the government and have been sentenced to prison. Respondent provided Triangle with signed blank dust data cards which were submitted to MSHA with the samples.

On May 8, 1992, Judge Joseph M. Hood of the Eastern District of Kentucky sentenced Jamboree Coals to pay a fine of \$5,000 and to 2 years probation. Jack Fannon was sentenced to 2 years probation and 3 months of home detention. As part of the plea agreement the Secretary agreed to move to dismiss pending civil penalty proceedings against Respondent for violations of the laws governing the dust sampling program.

I conclude that under the circumstances dismissal of these proceedings effectuates the purposes of the Mine Act.

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Accordingly, these proceedings is DISMISSED.

James A. Broderick
Administrative Law Judge

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