

CCASE:
SOLID MINING V. MSHA
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SOLID MINING COMPANY, INC.,)	CONTEST PROCEEDINGS
Contestant)	
v.)	Docket No. VA 91-254-R
)	through VA 91-259-R
SECRETARY OF LABOR,)	
MINE SAFETY AND HEALTH)	Mine No. 1
ADMINISTRATION (MSHA),)	
Respondent)	
)	
SECRETARY OF LABOR,)	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),)	Docket No. VA 91-498
Petitioner)	A.C. No. 44-05926-03537D
v.)	
)	Mine No. 1
SOLID MINING COMPANY,)	
Respondent)	

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 Paul Fletcher, 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 Samuel G. Wilson of the Western District of Virginia sentenced Solid Mining Co., Inc., to pay a fine of \$15,000 and to 2 years probation. Paul Fletcher was sentenced to 2 years probation and 60 days of home confinement. 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.

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

Accordingly the above contest proceedings and the civil penalty proceeding are DISMISSED.

James A. Broderick
Administrative Law Judge

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