

CCASE:
MSHA V. LUCKY L & L COAL
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SECRETARY OF LABOR,)	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),)	Docket No. VA 91-458
Petitioner)	A.C. No. 44-02241-03516D
)	
v.)	Mine No. 1
)	
LUCKY L & L COAL CO., INC.,)	
Respondent)	

ORDER OF DISMISSAL

Before: Judge Broderick

On December 8, 1992, the Secretary filed a motion to dismiss this proceeding on the grounds that on August 7, 1991, Respondent Lucky L & L Coal Co., Inc., and Robert Lee Brown, principal of Respondent entered into plea agreements, agreeing to plead guilty to charges of conspiracy to defraud an agency of 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 have been convicted of defrauding the Government, and have received prison sentences. Respondent provided Triangle with signed blank dust data cards which were submitted to MSHA with the samples.

On August 10, 1992, Judge Samuel G. Wilson of the Western District of Virginia, sentenced Lucky L & L Coal Co., Inc., to pay a fine of \$30,000 of which \$15,000 was suspended and to 2 years probation. Robert Lee Brown was sentenced to pay a fine of \$500 and to 2 years probation. 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 this proceeding effectuates the purposes of the Mine Act.

Accordingly, this proceeding is DISMISSED.

James A. Broderick
Administrative Law Judge

Distribution:

Douglas N. White, Esq., Mark Malecki, Esq., Office of the
Solicitor, U.S. Department of Labor, 4015 Wilson Boulevard,
Suite 400, Arlington, Virginia 22203 (Certified Mail)

Ronald L. King, Esq., Robertson, Cecil, King & Pruitt, 237 Main
Street, Drawer 1560, Grundy, Virginia 24614 (Certified Mail)

Hand Delivered to Lead Defense Counsel Committee

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