

CCASE:
SHADY LANE COAL V. MSHA
DDATE:
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

SHADY LANE COAL COMPANY,)	CONTEST PROCEEDINGS
Contestant)	
v.	)	Master Docket No. 91-1
	)	Docket No. VA 91-367-R
SECRETARY OF LABOR,	)	through VA 91-368-R
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),	)	Citation Nos. 9861503
Respondent	)	through 9861504; 4/4/91
)	
	)	Mine No. 3
	)	Mine ID 44-06549
)	
SECRETARY OF LABOR,	)	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),	)	Docket No. VA 91-491
Petitioner	)	A.C. No. 44-06549-03507D
v.)	
	)	Mine No. 3
SHADY LANE COAL COMPANY,)	
Respondent)	

ORDER OF DISMISSAL

Before: Judge Broderick

On December 17, 1992, the Secretary filed a motion to dismiss these proceedings on the grounds that on August 9, 1991, Respondent Shady Lane Coal Company, and Ted Osborne, Jr., principal of Shady Lane Coal Company, 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 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.

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On September 1, 1992, Judge James C. Turk of the Western District of Virginia sentenced Shady Lane Coal Company to pay a fine of \$30,000 of which \$15,000 was suspended and to 2 years probation. Ted Osborne, Jr. was sentenced to pay a fine of \$5,000, to 2 years probation, and to 2 months 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.

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

Accordingly, these proceedings are DISMISSED.

James A. Broderick
Administrative Law Judge

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