

CCASE:
SOL (MSHA) V. HARLAN-KYVA COAL
DDATE:
19930219
TTEXT:

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 92-226
Petitioner	:	A. C. No. 15-11292-03582
	:	Mine No. 1
	:	
v.	:	Docket No. KENT 92-182
	:	A. C. No. 15-14235-03588
	:	
HARLAN-KYVA COAL INC.,	:	Docket No. KENT 92-171
Respondent	:	A. C. No. 15-14235-03587
	:	
	:	Docket No. KENT 92-170
	:	A. C. No. 15-14235-03586
	:	Mine No. 2
	:	
	:	Docket No. KENT 92-169
	:	A. C. No. 15-10818-03531
	:	Mine No. 3

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

These cases are before me upon the petitions for assessment of the civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977. The parties have filed a joint motion to approve settlements. A reduction in penalties from \$9,370 to \$5,682 is proposed. The reduction is based upon the operator's financial condition. Reports from the operator's accountants show a balance sheet with a net deficit in stockholder equity and a profit and loss sheet with a net operating loss. I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlements are appropriate under the criteria set forth in section 110(i) of the Act, particularly the criterion of the operator's ability to continue in business.

WHEREFORE, the motion for approval of settlements is GRANTED, and it is ORDERED that the operator PAY a penalty of \$5,682 within 30 days of this order.

Paul Merlin
Chief Administrative Law Judge

~274

Distribution: (Certified Mail)

W. F. Taylor, Esq., Office of the Solicitor, U.S. Department of
Labor, 2002 Richard Jones Rd., Suite B-201, Nashville, TN 37215

Mr. Carl E. McAfee, Esq., 1033 Virginia Ave., P.O. Box 656, Norton,
Virginia 24273-0656