

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

Office of Administrative Law Judges  
1331 Pennsylvania Avenue, N.W., Suite 520N  
Washington, D.C. 20004

May 29, 2015

FRANK RODRIGUEZ,  
Complainant,

v.

LEHIGH SOUTHWEST CEMENT  
COMPANY,  
Respondent

CIVIL PENALTY PROCEEDING

Docket No. WEST 2013-301-DM  
WE MD 13-05

Mine ID 04-04075  
Lehigh Permanente Cement

**FINAL DECISION APPROVING SETTLEMENT**  
**ORDER OF DISMISSAL**

This case is before me pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977 (“Mine Act”), 30 U.S.C. § 815(c). Complainant Frank Rodriguez (“Complainant” or “Rodriguez”), filed a discrimination complaint against Lehigh Southwest Cement Company (“Respondent” or “Lehigh”) under section 105(c)(3) of the Mine Act, 30 U.S.C. § 815(c)(3). Chief Administrative Law Judge Robert J. Lesnick assigned this case to me, and I set the matter for hearing several times, including: October 22–23, 2013, February 25–26, 2014, and July 17–18, 2014. However, each time the hearing was continued because of the complicated procedural circumstances of this case and Complainant’s efforts to obtain representation. On January 13–14, 2015, I received testimony and evidence at a hearing in San Jose, California. Translation of Complainant’s testimony was time-consuming, and neither party completed its case-in-chief in the allotted two days. The litigants’ schedules precluded a supplemental hearing on January 15, 2015, and after discussing next steps in this case and the parties’ availability, I held a supplementary hearing in San Jose, California on April 14–15, 2015, to complete the hearing and take evidence on damages, if any.

During the hearing on April 15, the parties informed me that they wished an opportunity to complete a settlement agreement. (Tr. 648:2–7.) After the agreement was reduced to writing and signed by the parties, the parties submitted a settlement agreement entitled Confidential Settlement Agreement and General Release (“Confidential Settlement Agreement”) to me for my review. (Tr. 648:7–649:7.) In addition, the parties asked that the terms and conditions of the agreement remain strictly confidential. (Tr. 649:4–8.) In light of the parties’ request, I agreed to review the settlement agreement *in camera* and I issued an order from the bench placing the Confidential Settlement Agreement under seal in the official file.<sup>1</sup> (Tr. 649:8–10.)

Next, I issued an interim decision approving settlement from the bench. Having reviewed the parties’ settlement agreement, I approved its terms as they relate to Complainant’s claim under section 105(c)(3) of the Mine Act, and I found the agreement to be consistent with

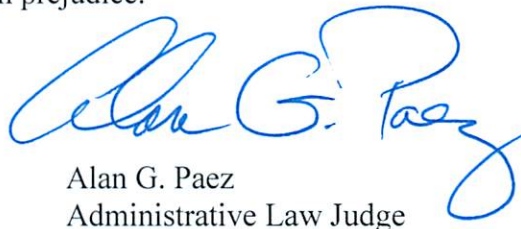
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<sup>1</sup> In a separate Order dated today, I also reduced to writing my April 15, 2015, bench order placing the Confidential Settlement Agreement under seal in the official file.

section 105(c) and the purposes of the Mine Act. *See* 30 C.F.R. §§ 815(c), 820(i). In addition to ordering the parties to comply with terms of the settlement agreement, I retained jurisdiction in the matter until the obligations outlined in the agreement had been satisfied. (Tr. 649:11–20.) Finally, I ordered counsel for the parties to report to my Law Clerk, Paul Veneziano, when all obligations had been satisfied. (Tr. 649:21–25.)

On May 13, 2015, counsel for Rodriguez informed Mr. Veneziano that the terms of the settlement agreement had been satisfied. On May 27, 2015, counsel for Lehigh confirmed that all obligations had been satisfied. Accordingly, final approval of the parties' settlement is hereby **GRANTED**.

WHEREFORE, the terms of the Confidential Settlement Agreement have been satisfied, this proceeding is hereby **DISMISSED** with prejudice.



Alan G. Paez  
Administrative Law Judge

Distribution: (Via Electronic Mail & U.S. Certified Mail – Return Receipt Requested)

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