

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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APR 17 2015

SHAMOKIN FILLER COMPANY,
INC.,

Contestant,

v.

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Respondent.

CONTEST PROCEEDINGS

Docket No. PENN 2009-736-RM
Citation No. 7011691; 08/12/2009

Docket No. PENN 2009-737-RM
Citation No. 7011692; 08/12/2009

Docket No. PENN 2009-738-RM
Citation No. 7011693; 08/13/2009

Docket No. PENN 2009-739-RM
Citation No. 7010952; 08/20/2009

Docket No. PENN 2009-740-RM
Citation No. 7011695; 08/25/2009

Docket No. PENN 2009-741-RM
Citation No. 7011696; 08/25/2009

Docket No. PENN 2009-742-RM
Citation No. 7011697; 08/25/2009

Docket No. PENN 2009-763-RM
Citation No. 7011699; 08/27/2009

Docket No. PENN 2009-776-RM
Citation No. 7011700; 08/31/2009

Docket No. PENN 2009-777-RM
Citation No. 7011781; 08/12/2009

Docket No. PENN 2009-778-RM
Citation No. 7011782; 08/31/2009

Docket No. PENN 2009-779-RM
Citation No. 7011783; 08/31/2009

Docket No. PENN 2009-780-RM
Citation No. 7011784; 09/01/2009

SHAMOKIN FILLER COMPANY,
INC.,

Contestant,

v.

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Respondent.

Docket No. PENN 2010-52-RM
Citation No. 7007971; 10/23/2009

Docket No. PENN 2010-53-RM
Order No. 7009792; 10/23/2009

Docket No. PENN 2010-54-RM
Order No. 7009793; 10/23/2009

Docket No. PENN 2010-55-RM
Citation No. 7009794; 10/23/2009

Docket No. PENN 2010-56-RM
Citation No. 7011792; 10/21/2009

Docket No. PENN 2010-57-RM
Order No. 7011793; 10/21/2009

Docket No. PENN 2010-58-RM
Order No. 7011794; 10/21/2009

Docket No. PENN 2010-59-RM
Order No. 7011795; 10/21/2009

Docket No. PENN 2010-60-RM
Order No. 7011796; 10/21/2009

Docket No. PENN 2010-61-RM
Order No. 7011797; 10/21/2009

Docket No. PENN 2010-146-RM
Citation No. 7009795; 11/17/2009

Docket No. PENN 2010-147-RM
Citation No. 7009796; 11/17/2009

Docket No. PENN 2010-354-RM
Citation No. 7000087; 03/04/2010

Docket No. PENN 2010-377-RM
Citation No. 7012104; 03/08/2010

Docket No. PENN 2010-378-RM
Citation No. 7012105; 03/09/2010

SHAMOKIN FILL COMPANY, INC.,
Contestant,

v.

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION, (MSHA),
Respondent.

Docket No. PENN 2010-390-RM
Citation No. 7012106; 03/16/2010

Docket No. PENN 2010-391-RM
Citation No. 7012107; 03/16/2010

Docket No. PENN 2010-577-RM
Citation No. 7012685; 06/21/2010

Docket No. PENN 2010-589-RM
Citation No. 7012687; 06/23/2010

Docket No. PENN 2010-650-RM
Citation No. 7012120; 07/15/2010

Docket No. PENN 2010-651-RM
Citation No. 7012441; 07/15/2010

Docket No. PENN 2010-652-RM
Citation No. 7012442; 07/15/2010

Docket No. PENN 2010-653-RM
Citation No. 7012443; 07/15/2010

Docket No. PENN 2010-654-RM
Citation No. 7012669; 07/15/2010

Docket No. PENN 2010-655-RM
Citation No. 7012670; 07/15/2010

Docket No. PENN 2010-656-RM
Citation No. 7012671; 07/15/2010

Docket No. PENN 2010-657-RM
Citation No. 7012672; 07/15/2010

Docket No. PENN 2010-658-RM
Citation No. 7012673; 07/16/2010

Docket No. PENN 2011-13-RM
Citation No. 7007198; 09/22/2010

Docket No. PENN 2011-122-RM
Citation No. 7007528; 12/10/2010

Mine ID: 36-02945
Mine: Carbon Plant

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Petitioner,

v.

SHAMOKIN FILLER COMPANY,
INC.,
Respondent.

CIVIL PENALTY PROCEEDINGS

Docket No. PENN 2009-775-M
A.C. No. 36-02945-194224

Docket No. PENN 2009-825-M
A.C. No. 36-02945-197364

Docket No. PENN 2010-63-M
A.C. No. 36-02945-200482

Docket No. PENN 2010-191-M
A.C. No. 36-02945-206331

Docket No. PENN 2010-275-M
A.C. No. 36-02945-208680

Docket No. PENN 2010-291-M
A.C. No. 36-02945-209018

Docket No. PENN 2010-381-M
A.C. No. 36-02945-213119

Docket No. PENN 2010-465-M
A.C. No. 36-02945-216876

Docket No. PENN 2010-515-M
A.C. No. 36-02945-219682

Docket No. PENN 2010-745-M
A.C. No. 36-02945-229176

Docket No. PENN 2011-16-M
A.C. No. 36-02945-232342

Docket No. PENN 2011-104-M
A.C. No. 36-02945-238543

Docket No. PENN 2011-189-M
A.C. No. 36-02945-244057

Mine: Carbon Plant

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Petitioner,

v.

WILLIAM ROSINI, employed by
SHAMOKIN FILLER COMPANY, INC.,
Respondent.

CIVIL PENALTY PROCEEDING

Docket No. PENN 2011-129-M
A.C. No. 36-02945-241465-A

Mine: Carbon Plant

ORDER AMENDING FINAL DECISION AND ORDER
ORDER LIFTING STAY
ORDER TO PAY

On October 17, 2012, I issued a Final Decision and Order with respect to the above-captioned dockets. The Final Decision and Order contained several typographical errors and omissions. Several Contest Proceedings were not listed in the caption, despite the fact that the related Civil Penalty Proceedings (and therefore the citations contained in the Contest Proceedings) were settled and contained therein. The omissions include the following:

- Docket Nos. PENN 2010-52-RM, PENN 2010-53-RM, PENN 2010-54-RM and PENN 2010-55-RM dealt with citations contained in Docket No. PENN 2010-191-M.
- Docket Nos. PENN 2010-56-RM and PENN 2010-61-RM dealt with citations contained in contained in Docket Nos. PENN 2010-291-M and PENN 2011-129-M (an individual liability proceeding under §110(c) of the Mine Act).
- Docket Nos. PENN 2010-57-RM and PENN 2010-58-RM dealt with citations contained in Docket No. PENN 2010-381-M.
- Docket Nos. PENN 2010-390-RM and PENN 2010-391-RM dealt with citations contained in Docket No. PENN 2010-515-M.
- Docket No. PENN 2011-13-RM dealt with citations contained in Docket No. PENN 2011-104-M.
- Docket No. PENN 2011-122-RM dealt with citations contained in Docket No. PENN 2011-189-M.

In addition to these omissions, the Final Decision and Order listed Docket No. PENN 2010-378-RM incorrectly as PENN 2010-387-RM. All of these typographical errors and omissions have been corrected in the in the caption above. Further, it is hereby **ORDERED** that the Final Decision and Order be **AMENDED** to reflect these corrections.

The Final Decision and Order was stayed at the time of issuance to allow the parties to exhaust all appeals and obtain final resolution on whether MSHA had jurisdiction over Shamokin Filler Company, Inc.'s facility. On July 11, 2014 the Third Circuit denied Respondents' petition for review and affirmed the Secretary's assertion of jurisdiction. *Shamokin Filler Company, Inc., v. Federal Mine Safety and Health Review Commission*, 772 F.3d 330 (3rd Cir. 2014). On March 23, 2015 the Supreme Court denied cert in the instant matter. *Shamokin Filler Company, Inc., v. Federal Mine Safety and Health Review Commission*, 2015 WL 1280245 (March 23, 2015). On April 13, 2015 the parties confirmed that the appeals have been exhausted in this matter. Wherefore, it is hereby **ORDERED** that the stay be **LIFTED**.

It is further **ORDERED** that Shamokin Filler Company, Inc. pay the Secretary of Labor the sum of \$65,736.00 within 30 days of the date of this Order.¹ William Rosini is also hereby **ORDERED** to pay the Secretary of Labor the sum of \$5,164.00 within 30 days of the date of this Order. Upon receipt of these payments, this matter is **DISMISSED**.


John Lewis
Administrative Law Judge

Distribution:

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/tjb

¹Payment should be sent to: MINE SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR, PAYMENT OFFICE, P. O. BOX 790390, ST. LOUIS, MO 63179-0390