

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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August 30, 2017

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

v.

A&G COAL CORPORATION,
Respondent.

CIVIL PENALTY PROCEEDINGS

Docket No. VA 2014-243
A.C. No. 44-04534-346270

Docket No. VA 2014-244
A.C. No. 44-04534-346286

Docket No. VA 2014-364
A.C. No. 44-04534-352768

Docket No. VA 2014-365
A.C. No. 44-04534-353549

Docket No. VA 2014-383
A.C. No. 44-04534-353996

Mine: Prep Plant #2

ORDER LIFTING STAY **ORDER OF DEFAULT** **ORDER TO PAY**

These dockets are before me upon a petition for assessment of a civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977. At issue are five dockets with a total assessed penalty of \$321,753.00. These dockets were consolidated and stayed pursuant to an April 6, 2015 Order of the Court.


On August 7, 2017, the court scheduled a conference call with the parties for Monday, August 14, 2017 at 2:00pm MT to discuss lifting the stay and scheduling a hearing date. August 7, 2017 Court Email. The email allowed Respondent's representative one week to contact the court if he was unavailable and needed to reschedule the call. Respondent's representative made no such request. On August 14, 2017, Respondent's representative failed to appear for the 2:00pm conference call. The parties held the call open until 2:24pm MT, during which the court and the Secretary attempted to contact Respondent's representative via email and phone, respectively. Neither party received a response.

On August 16, 2017, the court issued a formal written Order to Show Cause ordering the Respondent to file a response by August 28, 2017 explaining why it failed to maintain contact with the court and why a default order in favor of the Secretary should not be entered pursuant to Commission Rule 2700.66. The court received confirmation that the show cause order was

processed and signed for on August 21, 2017. However, Respondent failed to file a response as of August 30, 2017.

Under Commission Rules, a Judge may issue an order of default or dismissal after issuing an order to show cause for a party's failure to comply with a Judge's orders. 29 C.F.R. § 2700.66.

Accordingly, I find Respondent to be **IN DEFAULT**. The stay is hereby **LIFTED** and Respondent's notice of contest and request for hearing are **DISMISSED**. Respondent is hereby **ORDERED** to pay a total penalty of \$321,753.00 as originally assessed within thirty (30) days of the date of this Order.¹



David P. Simonton
Administrative Law Judge

Distribution: (U.S. First Class Mail)

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¹ Checks or money orders should be sent to: Mine Safety & Health Administration, U.S. Department of Labor, P.O. Box 790390, St. Louis, MO 63179-0390.