

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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Falls Church, Virginia 22041

January 5, 2000

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. CENT 99-220-M
Petitioner	:	A. C. No. 34-01348-05524
v.	:	
	:	Bessie Plant Allied
ALLIED CUSTOM GYPSUM, INC. ,	:	
Respondent	:	

DECISION

Appearances: Raquel Tamez, Esq., Office of the Solicitor, U.S. Department of Labor, Dallas, Texas, for Petitioner;
Peter T. VanDyke, Esq., McAfee & Taft, P.C., Oklahoma City, Oklahoma, for Respondent.

Before: Judge Hodgdon

This case is before me on a Petition for Assessment of Civil Penalty filed by the Secretary of Labor, acting through her Mine Safety and Health Administration (MSHA), against Allied Custom Gypsum, Inc., pursuant to section 105 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815. The petition alleges eight violations of the Secretary's mandatory health and safety standards and seeks a penalty of \$535.00. A hearing was held in Oklahoma City, Oklahoma. For the reasons set forth below, I affirm the citations and assess a penalty of \$440.00.

At the beginning of the case, the parties stated that they had settled the case. The agreement provides that Citation Nos. 4460236, 4460238 and 4460239 will be modified by the Secretary to delete the "significant and substantial" designations and that the penalties for those three citations will be reduced from \$66.00, \$97.00 and \$97.00, respectively, to \$55.00 each. (Tr. 7-8.) The Respondent agreed to pay the proposed penalty for the five remaining citations in full.

Order

Having considered the representations and documentation submitted, I conclude that the settlement is appropriate under the criteria set forth in section 110(i) of the Act, 30 U.S.C. § 820(i). Accordingly, the settlement is approved and the Respondent is **ORDERED TO PAY** a civil penalty of **\$440.00** within 30 days of the date of this decision.

T. Todd Hodgdon
Administrative Law Judge

Distribution:

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