

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, 10th FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

April 21, 1997

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 96-96-D
on behalf of ANDY HOWARD, JR.,	:	
Complainant	:	PIKE CD 95-21
v.	:	
	:	Martiki Surface Mine
BRUCE YOUNG AND YOGO, INC.,	:	
Respondent	:	

**FINAL ORDER**

Before: Judge Fauver

A Decision Approving Settlement was entered on June 21, 1996, directing payment of the settlement amount to no later than August 1, 1996.

Following motions by Andy Howard, Jr., on July 16, 1996, and August 22, 1996, to compel payments, and to award late payment interest, and attorney fees, a Show Cause Order was entered on September 3, 1996. Following responses to the Show Cause Order, an Order was entered in September 26, granting the motion to compel payments and to award interest and an attorney fee, and ordering total payment within 30 days.

Andy Howard, Jr., filed a motion on January 27, 1997, to compel payment of attorney fees of \$1,200, including the fee due under the Order of September 26, 1996, and a fee for the time spent in preparing the motion filed on January 27, 1997.

Counsel for Respondents apparently takes the position that his clients are unable to make payment of the attorney fees. However, Respondents have made no showing in this proceeding that they are unable to pay the attorney fees.

Having considered the motion and the record as a whole, I conclude that the motion to compel payment should be granted.

WHEREFORE IT IS ORDERED that:

1. The Motion to Compel payment of attorney fees filed on January 27, 1997, is **GRANTED.**
2. Respondents, Bruce Young and Yogo, Incorporation, shall pay the Mine Safety

Project attorney fees of \$1,200 within 20 days from the date of this Order. Respondents are individually and jointly liable for the above amount.

3. This Order constitutes the judge's final disposition of this proceedings.

William Fauver  
Administrative Law Judge

Distribution:

Thomas A. Grooms, Esq., Office of the Solicitor, U. S. Department of Labor, 2002 Richard Jones Road, Suite B-201, Nashville, TN 37215-2862 (Certified Mail)

Tony Opegard, esq., Mine Safety Project of the Appalachian Research & Defense Fund of Kentucky, Inc., 630 Maxwellton Court, Lexington, KY 40508 (Certified Mail)

Bily R. Shelton, Esq., Baird, Baird, Baird & Jones, P.S.C., 415 Second Street, P. O. Box 351, Pikeville, KY 41502-0351 (Certified Mail)

dcp