

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
601 NEW JERSEY AVENUE, N.W., SUITE 9500  
WASHINGTON, D.C. 20001

January 26, 2005

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. PENN 2004-184
Petitioner	:	A.C. No. 36-00958-30409
v.	:	
	:	
EIGHTY FOUR MINING COMPANY,	:	Mine 84
Respondent	:	

**DECISION**

Appearances: Brian Mohin, Esq., and Susan Jordan, Esq., U.S. Department of Labor, Office of the Solicitor, Philadelphia, Pennsylvania, on behalf of the Petitioner;  
R. Henry Moore, Esq., Jackson Kelly, PLLC, Pittsburgh, Pennsylvania, for the Respondent;

Before: Judge Melick

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). During hearings the parties reached a settlement agreement. Petitioner vacated Order No. 7061085 and, following hearings, filed a motion to approve a settlement agreement as to the remaining charging documents. Modification of certain charging documents and a reduction in penalty to \$85,000.00, have been proposed. I have considered the evidence at hearings and the representations and documentation submitted in this case and I conclude that the proffered settlement is acceptable under the criteria set forth in Section 110(i) of the Act.

**WHEREFORE**, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that Respondent pay a penalty of \$85,000.00, within 40 days of this order.

Gary Melick  
Administrative Law Judge  
(202) 434-9977

Distribution:

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