

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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FALLS CHURCH, VIRGINIA 22041

June 21, 1996

SECRETARY OF LABOR, : DISCRIMINATION PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. SE 93-182-D  
ON BEHALF OF :  
CARROLL JOHNSON, : MSHA Case No. BARB CD 92-20  
Complainant :  
v. : Mine No. 7  
:  
JIM WALTER RESOURCES, INC., :  
Respondent :  
and :  
UNITED MINE WORKERS OF :  
AMERICA, :  
Intervenor, :  
:  
SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. SE 93-104  
Petitioner : A.C. No. 01-01401-03938  
v. :  
: Mine No. 7  
JIM WALTER RESOURCES, INC., :  
Respondent :

**DECISION ON REMAND**

Before: Judge Weisberger

On April 24, 1996, the Commission remanded this case to reconsider the assessment of penalties with respect to violations of Section 103(f) and 105(c) of the Federal Mine Safety & Health Act of 1977 (the Act). Specifically, the remand required reconsideration of the issues of the Operator's history of violations and good faith, and the gravity of the violations. Also required was reconsideration of the expenses incurred by the Complainant as a result of his pursuing the discrimination action.

On June 18, 1996, the Secretary filed a Joint Motion to Approve Settlement. The motion seeks to increase the penalty for the Section 105(c) violation to \$3,000. The parties agree that the penalty for the section 103(f) violation should remain at \$1,000. It was further agreed that the Complainant be paid \$261.56, less legally required withholdings, as a result of attending the hearing in this matter.

Based on the evidence of record and the representations set forth in the motion, I conclude that the settlement is consistent with the purposes of the Act, and the motion is granted.

**ORDER**

It is ORDERED that the Operator pay, within 30 days of this decision, a total civil penalty of \$4,000. It is further ORDERED that the Operator within 30 days of this decision, pay the Complainant \$261.56 less legally required withholdings.

Avram Weisberger  
Administrative Law Judge

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