

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

June 27, 1995

SOUTHMOUNTAIN COAL, INC. : CONTEST PROCEEDINGS  
: :  
AND : Docket No. VA 93-108-R  
: Citation No. 4257501; 5/26/93  
WILLIAM RIDLEY ELKINS, :  
Contestants : Docket No. VA 93-109-R  
: Order No. 4257502; 5/26/93  
v. :  
: Docket No. VA 93-110-R  
SECRETARY OF LABOR, : Order No. 4257503; 5/26/93  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. VA 93-111-R  
Respondent : Order No. 4257504; 5/26/93  
: :  
: Docket No. VA 93-112-R  
: Order No. 4257505; 5/26/93  
: :  
: Docket No. VA 93-113-R  
: Order No. 4257506; 6/26/93  
: :  
: Docket No. VA 93-114-R  
: Order No. 4257507; 5/26/93  
: :  
: Docket No. VA 93-115-R  
: Order No. 4257508; 5/26/93  
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: Docket No. VA 93-116-R  
: Order No. 4257509; 5/26/93  
: :  
: Docket No. VA 93-117-R  
: Order No. 4257510; 5/26/93  
: :  
: Docket No. VA 93-119-R  
: Order No. 4257512; 5/26/93  
: :  
: Docket No. VA 93-124-R  
: Order No. 4257517; 5/26/93  
: :  
: Docket No. VA 93-125-R  
: Citation No. 4257518; 5/26/93  
: :  
: Docket No. VA 93-131-R  
: Citation No. 4257524; 5/26/93

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	:	Docket No. VA 93-132-R
	:	Order No. 4257525; 5/26/93
	:	Docket No. VA 93-133-R
	:	Citation No. 4257526; 5/26/93
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	:	Docket No. VA 93-134-R
	:	Citation No. 4257527; 5/26/93
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	:	Docket No. VA 93-135-R
	:	Citation No. 4257528; 5/26/93
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	:	Docket No. VA 93-137-R
	:	Order No. 4257530; 5/26/93
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	:	Docket No. VA 93-138-R
	:	Order No. 4257531; 5/26/93
	:	
	:	Mine No. 3 I.D. No. 44-06594
	:	
SECRETARY OF LABOR, MINE	:	CIVIL PENALTY PROCEEDINGS
SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. VA 93-165
Petitioner	:	A.C. No. 44-06594-03522
	:	
v.	:	Docket No. VA 93-166
	:	A.C. No. 44-06594-03523
SOUTHMOUNTAIN COAL, INC.,	:	
Respondent	:	No. 3 Mine

**ORDER LIFTING STAYS/DECISION APPROVING SETTLEMENT  
AND ORDER OF DISMISSAL**

In a motion to dismiss these proceedings the Secretary states as follows:

In accordance with a plea agreement and sentencing in related criminal proceedings and because the respondent motion, the Secretary offers the following information and explanation. Southmou

(1) As a result of criminal prosecution against both respondents, the United States District Court for the Western District of Virginia accepted guilty pleas from the proposed civil penalties totalling \$436,732. Southmou

(2) On May 17, 1995, in accordance with the guilty pleas, Administration, in addition to criminal fines and restitution totalling an additional \$1,563,268. United S

(3) On May 31, 1995, Judge Wilson ordered Apple Coal Company, the parent company of Southmountain, to pay the amounts amounts

(4) The amount to be paid to the Mine Safety and Health Administ

(5) The Secretary sought the civil penalties in this case against monetary liability of both respondents has been satisfied. In addition, the findings of criminal conduct serve as significant deterrents to further such violations.

Therefore, in light of the payment of substantial civil penalties and criminal sentences in the related criminal proceedi

The Secretary's motion is deemed in part to constitute a motion for settlement in which Respondent has agreed to pay and has, in fact, paid the proposed penalty of \$436,732 in full. I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlement is acceptable under the criteria set forth in Section 110(i) of the Act.

**ORDER**

**WHEREFORE,** the Stay Orders in the captioned cases are lifted, and the settlement in the civil penalty proceedings is approved. Furthermore, the captioned contest proceedings are dismissed as now moot.

Gary Melick  
Administrative Law Judge  
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