

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

February 19, 1999

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. VA 98-69
Petitioner	:	A.C. No. 44-01873-03603 A
v.	:	
	:	
PAUL R. BRYSON , employed by	:	No. 1 Mine
STEDCO MINING, INCORPORATED,	:	
Respondent	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. VA 98-70
Petitioner	:	A.C. No. 44-01873-03605 A
v.	:	
	:	
STEVE HONAKER , employed by	:	No. 1 Mine
STEDCO MINING, INCORPORATED,	:	
Respondent	:	

DECISION

Appearances: Edward H. Fitch, Esq., Office of the Solicitor, U.S. Department of Labor, Arlington, Virginia for Secretary of Labor;
Jimmie L. Hess, Jr., Esq., Morefield, Kendrick, Hess and Largen, P.C., Abingdon, Virginia for Respondents.

Before: Judge Bulluck

These matters concern petitions for assessment of civil penalty against Respondents Paul Bryson and Steve Honaker, pursuant to Section 110(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. ' 820(c), as agents of Stedco Mining, Incorporated. The Secretary seeks to impose a civil penalty of \$1,400.00 on Bryson and \$800.00 on Honaker, for knowingly authorizing, ordering, or carrying out a violation of mandatory safety standards specified in 30 C.F.R. ' ' 75.400 and 75.1722 (applicable to Bryson only).

A hearing on the merits was convened on January 26, 1999 in Kingsport, Tennessee. At the hearing, the parties entered into a settlement agreement whereby Petitioner agreed to withdraw her request for individual civil penalties respecting certain citations/orders, and

Respondents agreed to pay reduced penalties respecting the remaining citations/orders. The settlement was accepted at hearing. That determination is hereby confirmed. The initial assessments and the proposed settlement amounts are as follows:

<u>Docket No.</u>	<u>Order No./ Citation No.</u>	<u>Initial Assessment</u>	<u>Proposed Settlement</u>
VA 98-69	7293475	\$500.00	Penalty withdrawn
	7293477	\$500.00	Penalty withdrawn
	7293478	<u>\$400.00</u>	<u>\$300.00</u>
	Total	\$1,400.00	\$300.00
VA 98-70	7293475	\$400.00	\$300.00
	7293477	<u>\$400.00</u>	<u>\$300.00</u>
	Total	\$800.00	\$600.00

The basis for withdrawal of penalties in Citation/Order Nos. 7293475 and 7293477 against foreman Bryson (loose coal, float coal dust, oil and grease accumulations violations) is evidence that he lacked authority from his employer to conduct clean-up activities on his shift. The reduced penalty in Citation No. 7293478 against Bryson (failure to maintain guard on belt drive) is based on the fact that Bryson no longer operates in the mining industry as a foreman or agent of an operator.

Respecting operator Honaker, the reduction in penalties for Citation Nos. 7293475 and 7293477 is based on evidence that he is no longer working in the mining industry and is currently working at a rate of pay far below that of a miner.

I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlement is appropriate under the criteria set forth in section 110(i) of the Act.

ORDER

The settlement is appropriate and is in the public interest. **WHEREFORE**, the approval of settlement is **GRANTED**, and it is ordered that Respondent, Paul R. Bryson, pay a penalty of \$300.00, and that Respondent, Steve Honaker, pay a penalty of \$600.00 within 30 days of this order. Upon receipt of payment, these cases are **DISMISSED**.

Jacqueline R. Bulluck
Administrative Law Judge

Distribution:

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