

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

April 7, 2005

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 2003-268-M
Petitioner	:	A.C. No. 02-01221-05528
	:	
v.	:	Docket No. WEST 2003-269-M
	:	A.C. No. 02-01221-05529
CKC MATERIALS DIVISION,	:	
Respondent	:	Docket No. WEST 2003-270-M
	:	A.C. No. 02-01221-05530

## DECISION APPROVING SETTLEMENT

Before: Judge Bulluck

These cases are before me upon petition for assessment of civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977 ("the Act"). Petitioner has filed a motion to approve settlement agreement and to dismiss these cases. A reduction in penalty from \$10,384.00 to \$6,000.00 is proposed. The citations, initial assessments and the proposed settlement amounts are as follows:

	<u>Citation No.</u>	<u>Initial Assessment</u>	<u>Proposed Settlement</u>
WEVA 2003-268-M	6283833	\$ 55.00	\$ 55.00
	6283836	55.00	55.00
	6283846	55.00	55.00
	6292219	55.00	55.00
	6292220	90.00	90.00
	6292221	90.00	55.00
	6292222	90.00	90.00
	6292223	55.00	55.00
	6292224	90.00	0.00
	6292225	90.00	55.00
	6292226	55.00	55.00
	6292228	55.00	55.00
	6292260	113.00	113.00
	6292261	90.00	90.00
	6292262	90.00	90.00
	6292263	55.00	55.00

6292264	55.00	55.00
6292265	55.00	55.00
6292266	55.00	55.00

SUBTOTAL: \$ 1,348.00                      \$ 1,153.00

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6292267	\$ 55.00	\$ 0.00
6292268	55.00	0.00
6293869	55.00	55.00
6293870	55.00	55.00
6293871	55.00	55.00
6293872	55.00	55.00
6293873	55.00	55.00
6293874	55.00	55.00
6293875	55.00	55.00
6293876	90.00	90.00
6293877	90.00	55.00
6293878	90.00	55.00
6293879	55.00	0.00
6293880	90.00	90.00
6293881	55.00	55.00
6293882	55.00	55.00
6293884	55.00	55.00
6293885	231.00	231.00
6293886	55.00	55.00

SUBTOTAL: \$ 1,361.00                      \$1,126.00

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6293890	\$ 231.00	\$ 231.00
6292997	224.00	224.00
6292999	224.00	224.00
6293001	655.00	162.00
6293002	399.00	399.00
6293003	161.00	161.00
6293004	317.00	317.00
6293005	224.00	224.00
6293007	655.00	162.00
6293008	655.00	162.00
6293009	655.00	645.00
6293010	655.00	162.00
6293011	655.00	162.00
6293012	655.00	162.00

6293013	655.00	162.00
6293014	655.00	162.00
	SUBTOTAL: \$ 7,675.00	\$3,721.00
	TOTAL: \$10,384.00	\$6,000.00

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.

**WHEREFORE**, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that Citation Nos. 6292224, 6292267, 6292268 and 6293879 are **VACATED**, that the Secretary **MODIFY** Citation Nos. 6293877 and 6293878 to reduce the level of gravity to “unlikely,” Citation Nos. 6292221, 6292225, 6292261, 6293877 and 6293878 to delete the “significant and substantial” designation, and that Respondent **PAY** a penalty of \$6,000.00 within 30 days of this decision. On receipt of payment, these cases are **DISMISSED**.

Jacqueline R. Bulluck  
 Administrative Law Judge  
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Distribution:

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