FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
601 New Jersey Avenue, N.W., Suite 9500
Washington, D.C. 20001

August 19, 2005

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 2004-330-M
Petitioner	:	A. C. No. 04-01299-24394
	:	
v.	:	Docket No. WEST 2004-472-M
	:	A. C. No. 04-01299-32142
	:	
ORIGINAL SIXTEEN TO ONE MINE, INC.	:	Sixteen to One Mine
Respondent	:	

DECISION

Appearances: Isabella M. Del Santo, Esq., Office of the Solicitor, U.S. Department of Labor, San Francisco, California, on behalf of the Petitioner;
Michael M. Miller, President, Original Sixteen to One Mine, Inc., Alleghany, California, on behalf of the Respondent.

Before: Judge Melick

These cases are before me upon petitions for civil penalty filed by the Secretary of Labor pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq*. (1994) the "Act," charging Original Sixteen to One Mine, Inc. (Sixteen to One) with violations of mandatory standards and proposing civil penalties for the violations. The general issue before me is whether Sixteen to One violated the cited standards and, if so, what is the appropriate civil penalty to be assessed in accordance with Section 110(i) of the Act. Additional specific issues are addressed as noted.

Docket No. 2004-472-M

Citation No. 6353514

Citation No. 6353514, issued pursuant to Section 104(d)(1) of the Act, alleges a "significant and substantial" violation of the mandatory standard at 30 C.F.R. § 57.4560(a) and charges as follows:[1]

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[1] Section 104(d)(1) of the Act provides as follows:

If, upon any inspection of a coal or other mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such

> The mines portal timber-set entrance at the 800' foot level did not have a fire suppression system capable of controlling fire in the early stages. Two holes of the four sprinkler heads have been plugged off, the drain plug on the end was missing, and the valve to the system was turned off. The portal consists dry timber sets and is considered main fresh air intake. Conditions near the mine entrance contribute to discrete hazards of fire conditions in that diesel fuel was stored and a combustible building was set up within the 100' limitations, creating fire and smoke hazards. This condition has been cited twice in the last three years along with several verbal warnings to the principal officer in charge. The principal officer was fully aware of the standard and the warnings which engages him in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard.

The cited standard provides that "[f]or at least 200 feet inside the mine portal or collar timber used for ground support in intake openings and in exhaust openings that are designated as escapeways shall be-

(a) Provided with a fire suppression system, other than fire extinguishers and water hoses, capable of controlling a fire in its early stages; or
(b) Covered with shotcrete, gunite, or other material with equivalent fire protection characteristics; or
(c) Coated with fire-retardant paint or other material to reduce its flame spread rating to 25 or less and maintained in that condition."

The 800 Portal is lined with timber on the ceiling and sides and has a fire suppression sprinkler system running along the roof of the portal. The sprinkler system is designed to have four sprinkler heads that are activated when the ambient air reaches a certain temperature. According to the credible testimony of Inspector James Weisbeck of the Department of Labor's Mine Safety and Health Administration (MSHA), during his inspection of the Sixteen to One Mine on March 10, 2004, he found that the mine's portal timber-set entrance at the 800 foot level (the 800 Portal) did not have a fire suppression system capable of controlling fire in its early stages. His testimony is undisputed that two holes of the four sprinkler heads had been plugged off thereby preventing their

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> violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any citation given to the operator under this Act. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c) to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

use; that the drain plug at the end of the system was missing thereby denying pressure to the system and thereby permitting all of the water in the system to drain out; and that the valve to the system was turned off thereby preventing any water from entering the system (See photographic Exhibits P-20, P-22 and P-19, respectively).

At hearing, Respondent's President, Michael Miller, appeared to suggest that, while the sprinkler system was admittedly not functioning, there was nevertheless a vinyl pipe running through the cited area and that heat from a fire would melt the vinyl causing it to burst and dump its water on nearby flames. Even assuming, *arguendo,* that Mr. Miller is an expert in fire suppression systems, his bald assertion that a melted vinyl pipe would provide adequate fire protection, is without factual support. Without such factual support, I can give his opinion but little weight. It is also patently obvious that if the vinyl pipe would melt and burst near the entrance to the mine portal then all the water would drain out at that point leaving no water to quench any flames further inby. In any event, the undisputed evidence shows that the main valve depicted in the photographic evidence (Exhibit P-19) was closed, thereby depriving even the vinyl pipe of water. Accordingly, even the purported alternative fire suppression system, based upon the melting of vinyl pipe, would have been inoperable. Under the circumstances, I find that Respondent failed to comply with the option provided in the cited standard to provide a fire suppression system.

The cited standard also gives a mine operator the option of coating mine portal timbers with fire-retardant paint, but the timbers in the 800 Portal were only partially coated with fire-retardant paint. Respondent had been cited on at least three prior occasions (August 1999, May 2001, and March 2003) because the fire sprinkler heads were taken off during the winter "freeze and thaw" season. It is undisputed that each time these prior citations were issued, Respondent was informed that he could comply with this standard if he painted the portal timbers with fire-retardant paint. In fact, one year prior to the subject citation, Weisbeck issued a citation at the 800 Portal for a violation of the same standard and terminated it when Respondent fixed the sprinkler system. It is undisputed that at the time the prior citation was issued, Respondent started painting the timbers in the 800 Portal but when half the timbers were painted, Respondent ran out of paint and did not complete the job.

Finally, it may reasonably be inferred from the credible record, including the photographic evidence, (Exhibits P-20 through P-22), that the operator also failed to comply with the third option provided in the cited standard i.e. that it covered the area with shotcrete, gunite or other material with equivalent fire protection characteristics.

The violation was also "significant and substantial" and of high gravity. A violation is properly designated as "significant and substantial" if, based on the particular facts surrounding that violation, there exists a reasonable likelihood that the hazard contributed to will result in an injury or illness of a reasonably serious nature. *Cement Division, National Gypsum Co*., 3 FMSHRC 822, 825 (April 1981). In *Mathies Coal Co*., 6 FMSHRC 1, 3-4 (January 1984) the Commission explained:

> In order to establish that a violation of a mandatory safety standard is significant and substantial under *National Gypsum* the Secretary must prove: (1) the underlying violation of a mandatory safety standard, (2) a discrete safety hazard — that is, a measure of danger to safety — contributed to by the violation, (3) a reasonable likelihood that the hazard contributed to will result in an injury, and (4) a reasonable likelihood that the injury in question will be of a reasonably serious nature.

The third element of the *Mathies* formula requires that the Secretary establish a reasonable likelihood that the hazard contributed to will result in an event in which there is an injury (*U.S. Steel Mining Co.,* 6 FMSHRC 1834, 1836 (August 1984)). The likelihood of such injury must be evaluated in terms of continued normal mining operations without any assumptions as to abatement. *U.S. Steel Mining Co., Inc.,* 6 FMSHRC 1573, 1574 (July 1984); See also *Halfway, Inc.,* 8 FMSHRC 8, 12 (January 1986) and *Southern Ohio Coal Co*., 13 FMSHRC 912, 916-17 (June 1991).

The gravity was also greatly heightened by the inadequacy of the fire warning system. It is undisputed that the stench warning system was not functioning and that the mine telephone system was not always capable of providing communication to the underground miners. According to the undisputed testimony of Inspector Weisbeck, the timber-sets in the cited area were also treated with creosote and would cause any fire to be even more gassy. In addition, Weisbeck observed that many of the timbers remained without fire-retardant paint. His conclusions that the air was intaking at the time he issued the citation and that such smokey conditions could cause serious injuries to the miners underground were also reasonable, supported by his credible testimony, and sufficient to find that the violation was "significant and substantial" and of high gravity.

I also find the violation was a result of high operator negligence and "unwarrantable failure". In *Emery Mining Corp.*, 9 FMSHRC 1997, 2004 (December 1987), the Commission determined that unwarrantable failure is aggravated conduct constituting more than ordinary negligence. This determination was derived, in part, from the plain meaning of "unwarrantable" ("not justifiable" or "inexcusable"), "failure" ("neglect of an assigned, expected or appropriate action"), and "negligence" (the failure to use such care as a reasonably prudent and careful person would use, and is characterized by "inadvertence", "thoughtlessness", and "inattention"). 9 FMSHRC at 2001. Unwarrantable failure is characterized by such conduct as "reckless disregard," "intentional misconduct," "indifference" or a "serious lack of reasonable care." 9 FMSHRC at 2003-04; *Rochester & Pittsburgh Coal Co.*, 13 FMSHRC at 189, 193-94 (February 1991).

The Commission has also considered other factors in determining whether a violation is unwarrantable, including the extent of the violative condition, the length of time it has existed, whether the violation is obvious or poses a high degree of danger, whether the operator has been placed on notice that greater efforts are necessary for compliance and the operator's effort in abating the violative condition. *Lexicon, Inc.*, 24 FMSHRC 1014, 1024 (November 2002). Moreover, evidence of a prior history of violations may be an aggravating factor for purpose of determining whether a violation is the result of an unwarrantable failure because prior citations place operators on notice that greater compliance is required.

In this regard, the operator's agent, Ian Haley, acknowledged to Inspector Weisbeck that he was aware that the endcap for the sprinkler system had been missing and he opined that the fire suppression system was not functioning because of this defect, i.e. because the water had drained out of the open pipe.[2] Since the operator's agent thereby admittedly had actual knowledge of the violative condition and took no corrective action, the violation was clearly the result of high negligence and "unwarrantable failure."

Weisbeck also determined from his inspection of MSHA's file on Respondent's mine that Respondent had been cited for the same hazard-sprinkler heads missing and the water valve turned off for the fire sprinkler system at the 800 Portal – on three prior occasions. Weisbeck issued the latest of these three citations in March 2003, and asked Haley why the painting of the timbers in the 800 Portal was not completed. It is not disputed that Haley told Weisbeck that they had run out of fire-retardant paint and that Miller was not going to buy any more.

After the March 2003 inspection, Weisbeck inspected Respondent's mine three more times and, although there was no violation to cite because the sprinkler system was functional, he noticed that Respondent had not completed painting the 800 Portal's timbers with fire-retardant paint. During the last of those three visits and in anticipation of another winter "freeze and thaw" season, it is undisputed that Weisbeck again brought the incomplete paint job to Respondent's attention and Respondent assured him that they would complete the painting of the 800 Portal.

The evidence thereby establishes that as a result of the prior citations and verbal warnings given by Weisbeck and other MSHA inspectors, Respondent knew that in order to comply with the cited standard he needed to maintain the fire sprinkler system in a functional condition or to completely paint the timbers in the 800 Portal with fire-retardant paint. These factors therefore provide an independent basis for finding high negligence and "unwarrantable failure."

Citation No. 6353511

Citation No. 6353511 alleges a violation of the standard at 30 C.F.R. § 57.11051(a) and charges as follows:

> The alternate secondary escape route was not inspected for a safe and travelable condition along with not being clearly marked to indicate the way of escape. The original secondary escape route had a gob wall failure on the 1700 making the route impassible. The alternate route was decided to be on and across the 1300 to the 49 winze in which all the miners have not traveled for at least a month or more. Creating hazards of confusion, disorientation, entrapment and mine rescue not knowing the designated route. Five miners work in the underground mine daily.

[2] Haley acknowledged at hearings that he was "for MSHA purposes" the operator's mine manager.

The cited standard, 30 C.F.R. § 57.11051(a), provides, in relevant part, that "[e]scape routes shall be-(a) [i]nspected at regular intervals and maintained in a safe, travelable condition...". It is undisputed that mine manager Haley was aware, at least several days before this citation was issued, that the prior designated secondary escapeway (on the 1700 level) had a gob wall failure making the route impassable. It is also undisputed that the alternate route, on the 1300 level to the 49 winze, contained a hole five to six feet deep and six to eight feet in diameter with only a plank to cross it. Weisbeck's testimony is also undisputed that while traveling the 1300-level route the inspection party had to "belly crawl" over certain areas. Within this framework of evidence, I have no difficulty in finding that the violation is proven as charged.

The violation was clearly also of a serious nature. Weisbeck interviewed the underground miners and found that two were unaware of the newly purported designated secondary escapeway at the 1300 level. In addition, there was no marking or signage to indicate that it had been designated as the secondary escapeway. Under these circumstances, some miners would not, in certain emergencies, find a safe escape route. In addition, as noted by Inspector Weisbeck, rescue teams would not know where to look for miners injured or overcome by smoke who might have become lost in trying to escape without knowledge of the purported new secondary escapeway.

I also find that the violation was a result of high operator negligence. Mine manager Haley admittedly knew for some time that the previously designated secondary escapeway had become blocked by a gob failure and, should have known from having traveled the purported newly designated secondary espcapeway, that it was not a safe and suitable route. His negligence, and therefore the operator's negligence, it is further enhanced by the fact that not all miners were told of the newly designated secondary escapeway on the 1300 level and that no signage or markings were in place to identify that route as the secondary escapeway.

Docket No. WEST 2004-330-M

Citation No. 6353507

Citation No. 6353507, as amended, alleges a violation of the standard at 30 C.F.R. § 57.4101 and charges as follows:

> No readily visible signs prohibiting smoking and or open flames were posted at the two fifty five gallon fuel barrels used for storage of the air compressors fuel supply. The containers were not sealed tight and had a 12-volt pump in the opening of the barrel, creating fire or explosion hazards in an area near the lower shop and the mine portals air intake area where miners work daily.

The cited standard provides that "[r]eadily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists". There is no dispute that there were no signs prohibiting smoking and or open flames posted at the two 55 gallon fuel barrels used to supply diesel fuel to the air compressors as cited. There is also no dispute that the containers were not sealed tight and one had a twelve-volt pump in the opening of the barrel. According to the undisputed testimony

of Inspector Weisbeck, each had a two-inch opening with a three-quarters to one-inch hole in the opening. One had an electric cord near the top of the barrel providing power to a twelve-volt pump. The credible evidence also establishes that the barrels and the surrounding ground were wet with fuel.

While the operator's witnesses acknowledged that diesel fuel was contained in the barrels for at least several days at a time, Mr. Miller, on behalf of the operator, maintained that the barrels were not used for storage. However, Miller misconstrues the nature of the violation charged under the cited standard. The issue is whether "readily visible signs prohibiting smoking and open flames [were] posted where a fire or explosion hazard exists". It is therefore irrelevant whether or not the fuel barrels were "used for storage" since it is admitted that they contained combustible fuel with potential ignition sources thereby presenting a fire or explosion hazard.

I accept Inspector Weisbeck's assessment that the violation was unlikely to cause injury or illness. Weisbeck testified that conditions were damp and that there was no torch work or grinding nearby. Weisbeck also observed that a fire extinguisher was located nearby. He found only "moderate" negligence based on an admission by Mr. Haley that the condition was an "oversight". I find no reason to modify Weisbeck's findings.

Citation No. 6353508

Citation No 6353508 alleges a violation of the standard at 30 C.F.R. § 57.4102 and charges as follows:

> Under the air compressor unit located at the lower shop and portal area there was combustible liquid spillage and leakage with little fuel puddles up under the unit along with fuel oil soaked dirt. There was [sic] several little puddles estimated 3" by 5" that appeared reddish in color from the red fuel oil used which appeared to have existed for weeks from the saturation levels in the dirt under the unit, creating potential fire and smoke hazards in an area close to the air intake of the mine portal. Four to five miners work on the surface area and in the underground mine daily.

The cited standard, 30 C.F.R. § 57.4102, provides that "[f]lammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard."

The testimony of Inspector Weisbeck regarding this violation is essentially undisputed. According to his credible testimony there were puddles of fuel beneath the compressor unit approximately one-quarter inch deep. The area was saturated suggesting to Inspector Weisbeck that the condition had existed for some time. According to Weisbeck, the hazard, of low gravity, would be from fire or smoke created by ignition of the fuel oil, possibly from a cigarette. He found operator negligence to be "moderate" apparently based on the fact that the area had been saturated thereby indicating that the condition had existed for some time. While Mr. Miller thought the spills were "fresh" because he saw only a few drops of fuel actually fall, I accept the inspector's credible testimony and find that the violation is proven as charged but with low gravity and moderate negligence.

Citation No. 6353509

Citation No. 6353509 alleges a violation of the standard at 30 C.F.R. § 57.4533(a) and charges as follows:

> An estimated 8' by 24' foot long trailer building has been set up within 56' feet of the mine openings portal and air intake. The building is not of a non-combustible material nor does it meet a fire resistance rating of no less than one hour. Creating fire and smoke hazards near the mine portal air intake in the event of a fire and wind conditions [sic]. Five miners work in the underground mine daily.

The cited standard, 30 C.F.R. § 57.4533(a), provides that "[s]urface buildings or other similar structures within 100 feet of mine openings used for intake air or within 100 feet of mine openings that are designated escapeways in exhaust air shall be-
(a) Constructed of noncombustible materials..."
(b) Constructed to meet a fire resistance rating of no less than one hour; or
(c) Provided with an automatic fire suppression system; or
(d) Covered on all combustible interior and exterior structural surfaces with noncombustible material or limited combustible material, such as five-eighth inch, type "X" gypsum wallboard.

Inspector Weisbeck's testimony is undisputed that the cited trailer was within 56 feet of the mine's opening portal and was not made of non-combustible material meeting a fire resistant rating of no less than one hour. It is also apparent that no automatic fire suppression system was provided on the outside of the trailer (Exhibits. P-7 and P-8). It is also clear from Weisbeck's credible testimony that this portal was an air intake for at least part of the time. Mr. Miller agrees. The violation is accordingly proven as charged. Inspector Weisbeck found that the hazard of an ignition and fire causing smoke and moving into the air intake of the mine thereby exposing the underground miners to the related dangers, was "unlikely".

Mine Manager Haley acknowledged that he told Sixteen to One President, Michael Miller, that it would be a violation to place the trailer where it was subsequently found by the inspector. Haley therefore wanted to place the trailer more than 100 feet away from the mine portal but Miller overruled him and had the trailer placed where it was subsequently found by the inspector, only 56 feet from the portal. Under the circumstances, the violation was intentional and in flagrant disregard of the mandatory standard. It was therefore the result of the highest form of "negligence."

Citation No. 6353510

Citation No. 6353510 alleges a violation of the standard at 30 C.F.R. § 57.4431(a)(1) and charges as follows:

> Unburied combustible liquids are being stored within 75' feet of the mine openings portal and air intake. Two 55 gallon barrels of diesel fuel oil were stored for the air compressors weekly use at the lower shop area. The barrels had a 12-volt pump inserted into the barrel for fueling the compressor along with some spillage or leakage around the compressor and barrels. Creating fire and smoke hazards in the event a fire was to break out in the area. Five

miners work in the underground mine daily.

The cited standard, 30 C.F.R. § 57.4431, provides, in relevant part, as follows:

> (a) On the surface, no unburied flammable or combustible liquids or flammable gases shall be stored within 100 feet of the following:
> (1) Mine openings or structures attached to mine openings.

There is no dispute that the two 55 gallon barrels of diesel fuel were positioned within 75 feet of the mine portal opening as alleged. While acknowledging that diesel fuel was indeed contained in the barrels as cited and that such fuel would remain in the barrels for up to two days at a time, Respondent argues that the fuel was nevertheless not "stored" in those barrels and that therefore there was no violation of the cited standard. Since the term "store" is authoritatively defined as "a source from which things may be drawn as needed" and is synonymous with the term "hold", I find Respondent's argument to be without merit. See Webster's Third New International Dictionary (Unabridged) 2252 (2002).

Inspector Weisbeck found no nearby ignition sources and concluded that injuries were "unlikely". He cautioned however that should there be fire and smoke, there was a danger of smoke inhalation to the miners underground. Weisbeck found only moderate negligence, relying upon the statement by Mr. Haley that he was not aware that he could not store fuel within 100 feet of the mine portal.

Citation No. 6353512

Citation No. 6353512 alleges a "significant and substantial" violation of the standard at 30 C.F.R. § 57.4360(a) and charges as follows:

> The fire alarm system was not functional nor capable of promptly warning every person working underground in the event of a fire. The Mercaptan Stench Cartridge located at the upper shop and old compressor area was totally missing from its location along with the likelihood of it being in a [sic] air lock in this configuration. The inlet tube from the cartridge to the mine air system was in place and it appeared the cartridge had been missing for a while. Conditions at the portal present discrete hazards at this time and contribute to the likelihood based on continuous mining operations. Five miners work in the underground mine daily.

The cited standard, 30 C.F.R. § 57.4360(a), provides that "[f]ire alarm systems capable of promptly warning every person underground, except as provided in paragraph (b), shall be provided and maintained in operating condition." The operator does not claim that the exception provided in paragraph (b) of the cited standard is applicable herein.

The stench system was attached to the compressed air flow system to the mine. The system can be manually activated by puncturing the stench cartridge, sending a "rotten cabbage" smell throughout the mine and thereby signaling the miners to evacuate. There is no dispute that the cited

stench fire alarm system at the Sixteen to One mine was indeed not functional. It is further undisputed that the Mercaptan Stench Cartridge was absent thereby preventing the system from operating. According to Inspector Weisbeck, miners and the miners representative told him that they had removed an expired cartridge and had no others to replace it. According to them, the cartridge had been missing for weeks. According to Weisbeck, even if the cartridge had been replaced there would not have been enough pressure to operate the stench system since the compressor was not working.

Respondent argues that it was not necessary to have the stench warning system in a working condition because it could provide warning by way of the mine telephone system. Mine Manager Haley testified that either the stench system or the telephone system could be used to warn miners of a fire. It is undisputed, however, that the miners were trained in a fire alarm system based on the stench system. As noted, the stench system depends upon the transmission by mine ventilation of the strong and distinctive odor of rotten cabbage. Since the miners were trained in the use of the stench warning in the event of fire and would therefore, in the event of a fire, expect to receive such a warning, I find that it was the duty of the mine operator to maintain it in a functioning condition. The telephone system would not, in any event, be a reliable means of communicating to all miners. Inspector Weisbeck testified credibly that, on three or four occasions during his six prior inspections, underground miners could not be reached by the mine telephone.

I also find that the violation was of high gravity and "significant and substantial". I agree with the inspector that it was reasonably likely for fatalities to occur since there was no other reliable means to alert miners in the event of fire. I further find that the violation was the result of high operator negligence. Sixteen to One President Miller acknowledged that he had ordered the removal of the stench cartridge in the summer of 2003, at least five months before the citation at bar was issued. Miller further testified that he then thought there were only outdated cartridges available at the mine. When later told that a working cartridge was found at the mine, Miller refused to allow it to be installed.

Civil Penalty Analysis

In assessing a civil penalty under Section 110(i) of the Act, the Commission and its judges must consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of the violation. Sixteen to One has a modest history of violations. It is a small size business and achieved appropriate compliance after notice of the violations herein. Gravity and negligence have been previously discussed. Any claim regarding the effect of penalties on Respondent's ability to continue in business was barred by order of the undersigned judge because of its failure to have responded to the Secretary's discovery requests in this regard.

ORDER

Citations No. 6353507, 6353508, 6353509, 6353510, 6353511, 6353512 and 6353514 are affirmed

and the Respondent is directed to pay the following civil penalties, totaling $4,180.00, within 40 days of the date of this decision:

Docket No. WEST 2004-472-M
Citation No. 6353511-$500.00, Citation No. 6353514-$2,000.00.

Docket No. WEST 2004-330-M
Citation No. 6353507-$60.00, Citation No. 6353508-$60.00, Citation No. 6353509-$500.00, Citation No. 6353510-$60.00, Citation No. 6353512-$1,000.00.

Gary Melick
Administrative Law Judge
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Distribution: (First Class Mail)

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