

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

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

March 8, 2001

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEVA 99-49  
Petitioner : Citation No. 46-06051-03754

v. :

CANNELTON INDUSTRIES, INC., : Stockton Mine - Portals No. 1 and  
Respondent : No. 130

UNITED MINE WORKERS OF AMERICA, :  
LOCAL UNION 8843 :  
Intervenor :

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEVA 2000-46  
Petitioner : Citation No. 46-06051-03773A

v. :

FRANK MATRAS, employed by :  
CANNELTON INDUSTRIES, INC., : Stockton Mine  
Respondent : Portals No. 1 and No. 130

UNITED MINE WORKERS OF AMERICA, :  
LOCAL UNION 8843 :  
Intervenor :

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEVA 2000-47  
Petitioner : Citation No. 46-06051-03774A

v. :

ROBERT HILL, employed by :  
CANNELTON INDUSTRIES, INC., : Stockton Mine  
Respondent : Portals No. 1 and No. 130

UNITED MINE WORKERS OF AMERICA, :  
LOCAL UNION 8843 :  
Intervenor :

## DECISION

Appearances: Melonie J. McCall, Esq., Office of the Solicitor, U.S. Dept. of Labor, Arlington, Virginia;  
David J. Hardy, Esq., Heenan, Althen & Roles, LLP, Charleston, West Virginia;  
Mr. William Willis, United Miner's of Workers of America, Miner's Representative, Pratt, West Virginia.

Before: Judge Bulluck

These cases are before me upon Petitions for Assessment of Penalty filed by the Secretary of Labor, through the Mine Safety and Health Administration (“MSHA”), against Cannelton Industries, Incorporated (“Cannelton”), pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977 (“the Act”), 30 U.S.C. § 815, and Frank Matras and Robert Hill as agents of Cannelton, pursuant to Section 110(c) of the Act, 30 U.S.C. § 820. The Petition against Cannelton seeks seven civil penalties totaling \$37,000.00 for alleged violations of section 75.1722(b), 30 U.S.C. § 22(b); 75.1725(a), 30 U.S.C. § 1725(a); and 75.400, 30 U.S.C. § 400.<sup>1</sup> The Petitions against Frank Matras and Robert Hill, individually, seek civil penalties of \$7,700.00 and \$5,500.00, respectively, for knowingly authorizing, ordering, or carrying out, as an agent of Cannelton, the seven violations charged to Cannelton.

A hearing on the merits was convened on January 30, 2000, in Charleston, West Virginia. Prior to convening the hearing, the Parties entered into a discussion and negotiated a settlement, whereby the Secretary agreed to vacate the charges and penalties proposed against Matras and Hill, and Cannelton agreed to pay, in-full, the penalty of \$8,600.00. the Orders, initial assessments, and the proposed settlement amounts are as follows:

<u>Order No.</u>	<u>Initial Assessment</u>	<u>Proposed Settlement</u>
4203559	\$1,400.00	\$1,400.00
4203560	1,200.00	1,200.00
4203655	1,200.00	1,200.00
4204261	1,200.00	1,200.00
4204262	1,200.00	1,200.00
4204264	1,200.00	1,200.00
4204266	1,200.00	1,200.00
TOTAL	\$8,600.00	\$8,600.00

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<sup>1</sup>Upon recognition that MSHA had misapplied the procedures to be followed pursuant to a mine ownership change, MSHA's office of Assessments reduced the total proposed penalty against Cannelton from \$37,000.00 to \$8,600.00.

Additionally, under the terms of the agreement, Cannelton is required to take the following action:

1. lay track between the 2<sup>nd</sup> North Portal and the 3<sup>rd</sup> Right Portal of the No. 130 Mine, which shall be completed by April 30, 2001;
2. provide training sessions, involving a smoke machine, to all eight active section crews at the Shadrick Mine and the No. 130 Mine, on or before December 31, 2001;
3. provide Frank Matras, Robert Hill and Jack Hatfield, Jr., with an eight-hour class at the MSHA Academy on the duties and responsibilities of an agent, on or before July 31, 2001 (Hatfield, Matras and Hill are to hold a class for foremen at the Shadrick Mine and No. 130 Mine on the same subject);
4. pay for the monthly safety runs performed by the Safety Committee during 2001, for the Shadrick Mine and No. 130 Mine, in accordance with the Collective Bargaining Agreement;
5. formulate a general plan to clean and maintain the belt system at the Shadrick Mine and No. 130 Mine, on or before March 16, 2001; and
6. require a foreman from the No. 130 Mine to regularly attend the communication meetings between mine management and the Union, commencing January 31, 2001.

The settlement was approved at hearing, pending filing of the written, executed agreement. I have considered the representations and documents 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. I hereby confirm my approval of settlement.

### **ORDER**

The settlement is appropriate and is in the public interest. **WHEREFORE**, the approval of settlement is **GRANTED**, and it is **ORDERED** that the charges against Frank Matras and Robert Hill, as individuals, are **VACATED**, and the Cannelton **PAY** a penalty of \$8,600.00 within thirty (30) days of this Order. Upon receipt of payment, these cases are **DISMISSED**.

Jacqueline R. Bulluck  
Administration Law Judge

Distribution:

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