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RUSHTON MINING V. MSHA
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.
May 10, 1989

RUSHTON MINING COMPANY

v. Docket Nos. PENN 85-253-R
PENN 86-1

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka and Nelson, Commissioners

DECISION

BY THE COMMISSION:

The question presented is whether the Commission may award Rushton Mining Company ("Rushton") reimbursement from the Secretary of Labor for its attorney's fees and litigation expenses as a sanction against the Secretary under Rule 11 of the Federal Rules of Civil Procedure ("Fed. R. Civ. P. 11") in a proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. $ 801 et seq. (1982) (the "Mine Act" or "Act"). 1/ In a prior order, we remanded this matter to Commission

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1/ Fed. R. Civ. P. 11 provides:

> Signing of Pleadings, Motions, and Other Papers; Sanctions
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> Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state

the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness

Administrative Law Judge James A. Broderick for a determination of this issue. 9 FMSHRC 392 (March 1987). Judge Broderick concluded that monetary sanctions under Fed. R. Civ. P. 11 are not available in Commission proceedings and that, even if they were, the facts of this case would not support such an award. 9 FMSHRC 1270 (July 1987)(ALJ). We agree in result and affirm.

On June 11, 1985, Donald Klemick, an inspector of the Department of Labor's Mine Safety and Health Administration ("MSHA"), conducted an inspection at Rushton's underground coal mine located in Centre County, Pennsylvania. Klemick issued to Rushton withdrawal order No. 2403926 pursuant to section 104(d)(1) of the Mine Act, 30 U.S.C. $ 814(d)(1), alleging a violation of 30 C.F.R. $ 75.326. 2/ The withdrawal order

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> sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(As amended April 28, 1983, effective August 1, 1983.) (Emphasis added.)

2/ Section 75.326, taken from mandatory safety standards contained in the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. $ 801 et seq. (1976)(amended 1977) and the Mine Act (see 30 U.S.C. $ 863(y)(1) (1976)(amended 1977) and 30 U.S.C. $ 863(y)(1) (1982)), provides in relevant part:

Aircourses and belt haul ge entries.

In any coal mine opened after March 30, 1970, the entries used as intake and return air courses shall be separated from belt haulage entries, and each

states:

The West mains intake trolley haulage secondary escapeway entry was not separated from the parallel West mains belt haulage entry near the slope bottom. The permanent type stopping had been removed and was replaced by a brattice cloth check curtain on the belt side and by a runthrough type brattice cloth check on the trolley haulage side. Both curtains (checks) were installed in a poor workmanlike manner with excessive leakage from the belt into the track as was indicated by the use of smoke clouds. This order requires a permanent type stopping to be installed or the minimum of a substantial equipment door and a substantial check to serve as an adequate airlock.

Because Rushton's mine was opened prior to March 30, 1970, and had more than two entries, the second sentence of 30 C.F.R. $ 75.326 (n. 2 infra) was applicable to the mine. Although the trolley haulage entry was not a primary intake entry, it functioned at times as a component of the mine's air intake system. Due to the removal of the stopping between the trolley entry and the parallel belt entry and the installation of ineffective curtain barriers, air from the belt entry was entering the trolley entry. Under these circumstances, a violation of the second sentence of section 75.326 arguably would have occurred if air from the belt entry was used to ventilate active working places in the absence of an MSHA determination that such ventilation was "necessary." (In contrast, the first sentence of section 75.326, which applies to coal mines opened after March 30, 1970, provides that intake and return aircourse entries must be kept separate from belt haulage entries.)

Rushton filed a notice of contest of the withdrawal order contesting the validity of the order, denying that there was any violation in this case, and contending that the order failed even to

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operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to March 30, 1970, which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to

permit adequately the coursing of intake or return air through such entries, ... the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate, active working places....

state a violation on its face. In response the Secretary filed an answer asserting that the order was properly issued. The Secretary also filed a petition for civil penalty proposing a penalty of $1,100 for the alleged violation. This matter was assigned to Judge Broderick, who subsequently consolidated it with additional penalty and contest proceedings arising from other citations and orders issued at the Rushton Mine by Inspector Klemick. See Rushton Mining Co., 9 FMSHRC 325 (February 1987)(ALJ).

An evidentiary hearing in the consolidated cases was held before Judge Broderick on November 6, 1986. The testimony pertinent to this matter focused on the question of whether air in the trolley haulage entry had been used to ventilate active working places of the mine on the day that the withdrawal order was issued. Rushton's mine manager, Raymond Roeder, testified in essence that on that day air in the trolley entry was not being used to ventilate active working places but instead was being dumped in the return entry. Inspector Klemick's testimony concerning the alleged violation was, in our opinion, unclear and may have reflected some confusion as to the distinct requirements imposed by the first and second sentences of section 75.326.

On February 3, 1987, after completion of the hearing and before any briefs were filed with respect to the withdrawal order in question, the Secretary filed a motion seeking leave to vacate the order and to withdraw the associated civil penalty petition. The motion states:

> Subsequent to a hearing on the merits in the above-captioned matter and upon additional review of the alleged violation, it has been determined that the petition should be withdrawn insofar as it concerns Citation No. 2403926, which should be vacated. The respondent has no objection to the Secretary's Motion.

In his decision of February 20, 1987, ruling in the consolidated cases, Judge Broderick granted the motion without substantive comment, vacated the order, and dismissed the contest proceeding and associated civil penalty petition. 9 FMSHRC at 326.

On March 20, 1987, Rushton filed with the Commission a Petition for Discretionary Review pursuant to section 113(d)(2)(A)(ii) of the Mine Act, 30 U.S.C. $ 823(d)(2)(A)(ii), contending that in proceedings before the Commission a mine operator is eligible for

reimbursement of its litigation expenses from the Secretary under Fed. R. Civ. P. 11 if the Secretary has engaged in the kind of litigation abuse covered by the rule, and that the facts of this case justified such an award. Rushton asserted that Fed. R. Civ. P. 11 should be applied to Commission proceedings pursuant to Commission Procedural Rule 1(b), 29 C.F.R. $ 2700.1(b), which provides that "[o]n any procedural question not regulated by the Act, [the Commission's] Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission or any Judge shall be guided so far as practicable by any pertinent provisions of the Federal Rules of Civil Procedure as appropriate." Rushton argued that the Secretary's answer to Rushton's

notice of contest which alleged that the withdrawal order had been properly issued, was not well-grounded in fact as evidenced by the subsequent Motion to Withdraw and vacation of the Order." PDR at 5.

In an order issued on March 30, 1987, we stated that given the termination of the judge's jurisdiction upon issuance of his February 20, 1987 decision (see 29 C.F.R. $ 2700.65(c)). Rushton "did not have the opportunity to present the issue of reimbursement before the trier of fact." 9 FMSHRC at 392. We accordingly remanded the proceeding to Judge Broderick "for the purpose of developing a record and ruling on the issues" presented in Rushton's petition.

In response to an order issued by Judge Broderick in the remand proceeding, the parties indicated that they did not wish to submit any evidence on the issues presented. In his decision, the judge denied Rushton's application for attorney's fees and other litigation expenses, concluding that Fed. R. Civ. P. 11 does not apply to Commission proceedings. The judge held that the procedural question of possible reimbursement of litigation expenses is "regulated" by Commission Procedural Rules 6 and 80, 29 C.F.R. $$ 2700.6 & .80, and that those rules do not authorize reimbursement of a party's expenses as a sanction. 9 FMSHRC at 1273. Therefore, he found it "unnecessary to look to the Federal Rules of Civil Procedure for guidance." Id. The judge stated that Commission Procedural Rule 6 was "obviously modeled after Rule 11 of the FRCP except that it does not provide for a sanction when the rule is disregarded." Id. Although he found that certain sanctions could be assessed under Commission Procedural Rule 80, he concluded that they "do not include an order assessing costs or attorney's fees." 9 FMSHRC at 1272-73. The judge also determined that, even assuming the applicability of Fed. R. Civ. P. 11 as a guide, the record in this case would not support a conclusion that the Secretary's answer to Rushton's contest and the Secretary's civil penalty petition were not well grounded in fact or warranted by law. 9 FMSHRC at 1274.

Rushton filed a Petition for Discretionary Review of this ruling, which we granted. We also heard oral argument. The essential question presented is whether the monetary sanctions provision of Fed. R. Civ. P. 11 applies to Commission proceedings. In accord with the judge, we conclude that it does not.

The fundamental flaw in Rushton's position is that the Commission lacks authority to grant the relief requested. The barriers to the relief sought include the silence of the Mine Act on the subject, the nature of the Federal Rules of Civil Procedure,

the bar of sovereign immunity, and the Equal Access to Justice Act (Pub. L. No. 96-481, 94 Stat. 2325, r=authorized. Pub. L. 99-80, 99 Stat. 183) ("EAJA").

We begin with the Mine Act. No provision of the Act expressly empowers the Commission to award to a mine operator attorney's fees and costs from the Secretary in an administrative proceeding arising under the Act. Granting that Rushton is seeking attorney's fees and costs not as a prevailing party but, rather, as an alleged victim of litigation abuse, we nevertheless note that we have strictly interpreted the Act when determining whether such awards are due prevailing parties. For

instance, section 105(c)(3) of the Mine Act, 30 U.S.C. $ 815(c)(3), specifically authorizes assessment of attorney's fees and costs in favor of a prevailing complainant in certain discrimination proceedings arising under section 105(c) of the Act. 30 U.S.C. $ 815(c). In construing this provision, we have concluded, however, that attorney's fees are not awardable to a complainant who retains private counsel in a discrimination complaint proceeding brought by the Secretary of Labor on the complainant's behalf pursuant to section 105(c)(2) of the Act, 30 U.S.C. $ 815(c)(2). Odell Maggard v. Chaney Creek Coal Corp., etc., 9 FMSHRC 1314, 1322-23 (August 1987), aff'd in part, rev'd in part on other grounds, 866 F.2d 1424 (D.C. Cir. 1989). We based this position on Eastern Assoc. Coal Corp. v. FMSHRC, 813 F.2d 639, 643-44 (4th Cir. 1987), in which the Fourth Circuit, applying the "American Rule" limiting availability of attorney's fees in the absence of statutory authorization (see Alyeska Pipeline Service Co. v. The Wilderness Soc., 421 U.S. 240, 247-71 (1975)), discerned no statutory warrant for private counsel fees in a discrimination complaint proceeding brought by the Secretary under 30 U.S.C. $ 815(c)(2). Comparably, the absence of such an authorization in section 111 of the Act, 30 U.S.C. $ 821, precludes the award of attorney's fees and costs in a compensation proceeding. Loc. U. 2274, UMWA v. Clinchfield Coal Co., 10 FMSHRC 1493, 1498-99 (November 1988), pet. for review filed on other grounds, No. 88-1873 (D.C. Cir. December 16, 1988). We stated in Clinchfield: "[U]nder the 'American Rule' applied to the Mine Act as set forth in the Fourth Circuit's [Eastern] decision, attorney's fees are not available to prevailing litigants under the Mine Act, except where the Act specifically authorizes such fees." 10 FMSHRC at 1499. Thus, as we have observed in a number of analogous contexts, the absence of specific statutory authorization for an asserted form of relief under the Mine Act "dictates cautious review...." Council of So. Mtns. v. Martin County Coal Corp., 6 FMSHRC 206, 209 (February 1984), aff'd, 751 F.2d 1418 (D.C. Cir. 1985). See also Kaiser Coal Corp., 10 FMSHRC 1165, 1169-70 (September 1988).

Similarly, as Judge Broderick correctly observed, none of our procedural rules, which establish procedures governing administrative litigation before the Commission arising under the Act, purports to grant the Commission such authority. Rule 11, upon which Rushton relies, is one of the Federal Rules of Civil Procedure, which "govern the procedure in the United States district courts in all suits of a civil nature...." Fed. R. Civ. P. 1. The Commission, of course, is not a federal court. The Commission is an agency created under the Mine Act with certain defined and limited administrative and adjudicative powers.

30 U.S.C. $ 823; see generally, e.g., Kaiser Coal, supra, 10 FMSHRC at 1169-70: Old Ben Coal Co., 1 FMSHRC 1480, 1484 (October 1979). Rushton has not enlightened us with any federal court decisions supporting its novel proposition that a federal agency such as the Commission may employ Fed. R. Civ. P. 11 in administrative proceedings to support an award of attorney's fees against the federal government. (Rushton acknowledged this lack of judicial authority at oral argument. Tr. Arg. 14.) Our own review of the case law under Fed. R. Civ. P. 11 persuades us that an administrative agency's grant of attorney's fees against the federal government under Fed. R. Civ. P. 11 in administrative proceedings would be unprecedented.

Rushton misconstrues our Procedural Rule 1(b). Rule l(b) does not dictate that any particular Federal Rule of Civil Procedure be reflexively applied in Commission proceedings on procedural questions not regulated by the Mine Act, Administrative Procedure Act, or our own procedural rules. Rather, Procedural Rule 1(b) merely states that in such circumstances, the Commission and Commission judges are to be "guided so far as practicable" by the Federal Rules of Civil Procedure "as appropriate." Plainly, Procedural Rule 1(b) reserves to the Commission considerable discretion in deciding whether and to what extent it is to be "guided" by a particular Federal Rule of Civil Procedure. In assessing the "practicability" and "appropriateness" of awarding attorney's fees and costs against the Secretary under Fed. R. Civ. P. 11, we are met with formidable obstacles, the doctrine of sovereign immunity and the clear applicability of the EAJA.

It is a settled principle of federal law that the United States, as the "sovereign," is immune from suit except as it consents to be sued, and that the terms of such consent strictly limit a court's jurisdiction to entertain the suit. Block v. North Dakota, 461 U.S. 273, 280 (1983); United States v. Mitchell, 445 U.S. 535, 583 (1980). A claim is against the sovereign if the judgment sought, as here, would draw on the public treasury. Dugan v. Rank, 372 U.S. 609, 620 (1963). Waivers of sovereign immunity "cannot be implied but must be unequivocally expressed." United States v. King, 395 U.S. 1, 4 (1969); United States v. Testan, 424 U.S. 392, 394 (1976). Only Congress may waive the sovereign immunity of the United States. Block, supra, 461 U.S. at 280. The doctrine of sovereign immunity bars the award of attorney's fees and costs to be taxed against an agency of the United States unless there is Congressional authorization. United States v. Chemical Foundation, Inc., 272 U.S. 1, 20 (1926); NAACP v. Civiletti, 609 F.2d 514, 520 (D.C. Cir. 1979); Van Hoomissen v. Xerox Corp., 503 F.2d 1131, 1132 (9th Cir. 1974); Pyramid Lake Paiute Tribe of Indians v. Morton, 499 F.2d 1095, 1096 (D.C. Cir. 1974), cert denied, 420 U.S. 962 (1975).

In enacting the EAJA, Congress has occupied the relevant field in a manner, as we explain below, fatal to Rushton's claims here. The EAJA expressly permits attorney's fees and costs against the United States in administrative proceedings (5 U.S.C. $ 504 (West Supp. 1988)) and in civil court proceedings (28 U.S.C. $ 2412 (West Supp. 1988)). 3/ Under 5 U.S.C. $ 504, a prevailing party in administrative litigation against an agency of the United States may be awarded fees and expenses "unless ... the position of the agency was substantially justified or that special circumstances make an

award unjust." In turn, we have promulgated rules implementing the EAJA in Commission adjudicatory proceedings. 29 C.F.R. Part 2704. We conclude that the EAJA is presently the exclusive remedy provided by Congress to prevailing litigants who seek reimbursement of their litigation expenses from the Secretary in Commission contest and civil penalty proceedings.

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3/ The EAJA as originally enacted was effective for a three-year period, October 1, 1981, through October 1, 1984. The EAJA expired and Pub. L. 99-80 reauthorizing EAJA was enacted on August 5, 1985.

The EAJA, which was originally enacted in 1980 (P.L. 96-481), amended the Administrative Procedure Act by adding new section 5 U.S.C. $ 504 and also modified 28 U.S.C. $ 2412. As originally enacted and as reauthorized, EAJA is intended to expand the liability of the United States for attorney's fees and other expenses in administrative proceedings and civil actions. H.R. Rep. No. 1418, 96th Cong., 2d Sess. 5, reprinted in 1980 U.S. Code Cong. & Ad. News 4984; H.R. Rep. No. 99, 99th Cong, 1st Sess. 4, reprinted in 1985 U.S. Code Cong. & Ad. News 132. The primary purpose of EAJA is to ensure that certain eligible individuals, partnerships, corporations, business associations, and other organizations will not be deterred from seeking review of or defending against unjustified governmental action because of the expense involved in securing the vindication of their rights. H.R. Rep. No. 1418, supra, at 5, 12 reprinted in 1980 U.S. Code Cong. & Ad. News 4984, 4991; H.R. Conf. Rep. No. 1434, 96th Cong., 1st Sess. 21, reprinted in 1985 U.S. Code Cong. & Ad. News 5010; H.R. Rep. No. 99, supra, at 4, reprinted in 1985 U.S. Code Cong. & Ad. News 132-33. The EAJA serves as a clear expression of Congress' waiver of sovereign immunity for the purpose of compensating eligible parties for the cost of litigation incurred as a result of unreasonable action by the United States. However, by its explicit terms, the EAJA sets economic limits for such relief and this restriction mandates our denial of Rushton's claim.

The EAJA restricts eligible applicants to those individuals with a net worth of not more than $2 million and those small businesses and other entities with a net worth of not more than $7 million and not more than 500 employees. 5 U.S.C. $ 504(b)(1)(B) (West Supp. 1988); 28 U.S.C. $ 2412(d)(2)(B) (West Supp. 1988). The Commission's EAJA rules, as amended, mirror these eligibility criteria. 29 C.F.R. $ 2704.104(b) (54 Fed. Reg. 6284, 6285 (February 1989)). Rushton, a large mine operator, concedes that it does not meet these criteria and would have us use Fed. R. Civ. P. 11 to bypass the EAJA's eligibility standards and its failure to qualify under those standards. The EAJA and the doctrine of sovereign immunity cannot be so easily circumvented.

Congressional waivers of sovereign immunity are strictly and narrowly construed, and a statute permitting claims against the United States must be confined to its explicit terms. See, e.g., In re Oliver North, 842 F.2d 340, 342 (D.C. Cir. 1988); Unification Church v. INS, 762 F.2d 1077, 1089 (D.C. Cir. 1985); Nichols v. Pierce, 740 F.2d 1249, 1255-56 (D.C. Cir. 1984). These principles apply fully to the EAJA. Action on Smoking & Health v. CAB, 724 F.2d 211, 225 (D.C. Cir. 1984). In setting the size and dollar eligibility

limitations in the EAJA, Congress determined that sovereign immunity was not waived as to entities of a size or with net worth above those limits. We are bound to respect that congressional choice. Cf. Kaiser Coal, supra, 10 FMSHRC at 1170. Under these circumstances, Rushton's proper appeal lies, not with the Commission, but with Congress -- to relax EAJA's eligibility requirements. 4/

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4/ In Adamson v. Bowen, 855 F.2d 668 (lOth Cir. 1988), decided just prior to oral argument in this case, the Tenth Circuit approved a grant of Fed. R. Civ. P. 11 attorney's fees against the federal government in

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Finally, we conclude, as did the judge, that even if Fed. R. Civ. P. 11 did apply to Commission proceedings, the standards for an award have not been met. In general, under Rule 11, monetary sanctions may be imposed if a reasonable inquiry discloses that a litigant's pleading or other paper is not well grounded in fact, is not warranted in law, or has been interposed for any improper purpose. See, e.g., Westmoreland v. CBS, Inc., 770 F.2d 1168, 1174-80 (D.C. Cir. 1985). The rule is directed against unreasonable or abusive litigation. Westmoreland, supra, 770 F.2d at 1180.

Here, Rushton asserts that the Secretary:s answer to Rushton's contest and the Secretary:s civil penalty petition were not well grounded in fact as evidenced by the Secretary's dismissal motion. However, we emphasize that, as the judge noted, Rushton failed to put forth any evidence, either in the original proceeding or in the remanded proceeding before Judge Broderick, to prove that allegation. As the judge properly observed:

> Rushton's brief assumes that it is self-evident, or at least evident from the record made in this case, that the Secretary's Answer in the contest case and his Petition in the penalty case did not meet the requirements of Rule 11.... [T]he record before me is limited to the testimony and exhibits addressed to the order and its propriety, and the fact that after hearing, the Secretary moved to withdraw the penalty petition as related to the order and to vacate the order. Rushton did not object to the motion and it was granted. It would be presumptuous in the extreme on the basis of such a record to conclude that the documents in question were filed by officers of the court without the belief that they were well grounded in fact and warranted by law. I don't know and the record does not show what inquiry was made prior to the filing of the documents.... Therefore, even if Rule 11 applied to Commission proceedings, I would conclude that this record does not show that it was violated.

9 FMSHRC at 1274.

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civil litigation involving a social security disability applicant on the grounds that the civil branch of the EAJA, 28 U.S.C. $ 2412, waived the government's sovereign immunity from fee awards made pursuant to the Federal Rules of Civil Procedure. 855 F.2d at 671-72. The court acknowledged that waivers of sovereign immunity must be

construed strictly (855 F.2d at 671), and we read this decision. to mean that a party in federal civil litigation who otherwise would qualify as an EAJA applicant may be entitled to Rule 11 attorney's fees under appropriate circumstances. As emphasized in the text, there is no dispute here that Rushton does not qualify under the EAJA. Furthermore, Adamson does not address the more difficult question presented in this matter of whether federal agencies may apply Fed. R. Civ. P. 11 in their administrative proceedings.

On the basis of the present record, we will not disturb the judge's conclusion that, if Fed. R. Civ. P. 11 were applicable, this case would not support the imposition of monetary sanctions against the Secretary. As the prosecutor under the Act, the Secretary has a duty to withdraw litigation that, upon further examination, she finds to be insufficiently founded. Cf. Robert K. Roland v. Secretary, 7 FMSHRC 630, 635-36 (May 1985). From all that can be gleaned from the existing record, the Secretary did just that. 5/

On the foregoing bases, we conclude that the monetary sanctions provision of Fed. R. Civ. P. 11 does not apply to Commission proceedings and that, even if it did apply, the record would not support the imposition of such sanctions. We therefore affirm the judge's decision denying Rushton's application.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

5/ In view of our determinations, we find it unnecessary to comment on the judge's construction of the meaning and effect of Commission Procedural Rules 6 and 80, 29 C.F.R. $$ 2700.6 & .80.

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