



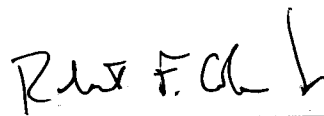
Records of the Department of Labor's Mine Safety and Health Administration ("MSHA") indicate that the proposed assessment was delivered on March 3, 2014, and became a final order of the Commission on April 2, 2014. Tata asserts that it failed to timely contest the proposed assessment due to the individual who was responsible for contests being on medical leave, and his assistant being reassigned to different duties as part of a corporate reorganization. The person who then received the proposed assessment, Brett Harding, was inexperienced with the procedures for contesting MSHA penalties and did not realize that the citations and orders had been split into two proposed assessments. Harding mistakenly believed that the citations and orders in proposed assessment No. 000344161 had been timely contested since Tata had properly contested other citations and orders issued during the same inspection. When he discovered the mistake, he acted to rectify it. Tata filed this motion to reopen within less than a month of the proposed assessments becoming final, and accompanied it with an affidavit containing a detailed explanation of the cause of the default.

The Secretary does not oppose the request to reopen, and urges the operator to take steps to ensure that future penalty contests are timely filed.

Having reviewed Tata's request and the Secretary's response, in the interest of justice, we hereby reopen this matter and remand it to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission's Procedural Rules, 29 C.F.R. Part 2700. Accordingly, consistent with Rule 28, the Secretary shall file a petition for assessment of penalty within 45 days of the date of this order. *See* 29 C.F.R. § 2700.28.



Patrick K. Nakamura, Acting Chairman



Robert F. Cohen, Jr., Commissioner



William I. Althen, Commissioner

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