

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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May 21, 2026

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

PAULSEN INC.,

Docket No. CENT 2026-0069
A.C. No. 25-00540-630877

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY: THE COMMISSION

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). On January 16, 2026, the Commission received from Paulsen Inc., (“Paulsen”) a motion to reopen a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).

Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

We have held, however, that in appropriate circumstances, we possess jurisdiction to reopen uncontested assessments that have become final Commission orders under section 105(a). *Jim Walter Res., Inc.*, 15 FMSHRC 782, 786-89 (May 1993) (“JWR”). In evaluating requests to reopen final orders, the Commission has found guidance in Rule 60(b) of the Federal Rules of Civil Procedure, under which the Commission may relieve a party from a final order of the Commission on the basis of mistake, inadvertence, excusable neglect, or other reason justifying relief. *See* 29 C.F.R. § 2700.1(b) (“the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure”); *JWR*, 15 FMSHRC at 787. We have also observed that default is a harsh remedy and that, if the defaulting party can make a showing of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Records of the Department of Labor’s Mine Safety and Health Administration (“MSHA”) indicate that the proposed assessment was delivered on December 2, 2025, and became a final order of the Commission on January 2, 2026.

Paulsen contends that it did not timely file to contest because it mistakenly paid the penalties. In an attached affidavit the Aggregate Division Manager, certified that “the penalties were paid based upon mistake or inadvertence.” Ex. A. The manager further explains that she believed that the citations had been issued to “one of Paulsen’s other locations that had recently been inspected.” Ex. A.

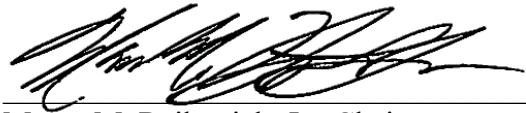
The Secretary opposes the operator’s motion, contending that the operator’s asserted reason for failing to timely file lack required detail. We agree.

Paulsen’s motion lacks specificity. For instance, it does not contain the identity of Paulsen’s second mine or the date upon which the inspection occurred. The Commission has consistently required that the operator provide known details, including dates and persons involved, when proffering an explanation to account for their failure to timely file. *See Higgins Stone Co.*, 32 FMSHRC 33, 34 (Jan. 2010). General assertions are insufficient when an operator seeks a grant of relief pursuant to Rule 60(b). *See Southwest Rock Products, Inc.*, 45 FMSHRC 747-48 (Aug. 2023).

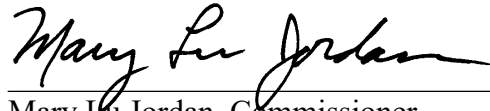
Furthermore, the Secretary has called the veracity of Paulsen’s position into question. The Secretary represents that MSHA has *not* received payment for the civil penalties at issue. In fact, the Secretary’s Mine Data Retrieval System reflects that the civil penalties for the four citations at issue remain unpaid.¹ MSHA, *Mine Data Retrieval System*, <https://www.msha.gov/data-and-reports/mine-data-retrieval-system> (last visited, May 20, 2026).

¹ Citation Nos. 6947802, 6947803, 6947804, and 6947805 are listed as delinquent unpaid penalties in the MDRS.

For these reasons, we find that Paulsen has failed to establish good cause for a failure to timely file. Its motion is denied with prejudice.



Marco M. Rajkovich, Jr., Chair



Mary Lu Jordan, Commissioner



Timothy J. Baker, Commissioner

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