

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710

June 16, 2026

DISCIPLINARY PROCEEDING¹
IN RE ANDY CARSON

Docket No. CENT 2025-0180

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

ORDER

BY THE COMMISSION:

On August 30, 2024, a Commission Administrative Law Judge referred attorney Andy Carson for disciplinary proceedings pursuant to Commission Procedural Rule 80, 29 C.F.R. § 2700.80. Mr. Carson had appeared before the Judge representing Cactus Canyon Quarries, Inc. (“Cactus Canyon”) in a proceeding in Docket No. CENT 2023-0045, *et al.*, arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.* (2024). Mr. Carson is an attorney licensed in Texas as well as the President of Cactus Canyon.

The disciplinary referral concerns a number of serious accusations impugning the Judge’s integrity that were presented by Mr. Carson in a written request for the Judge’s recusal. The Judge—noting the unsubstantiated nature of the claims—referred counsel to the Commission for consideration of discipline. The Judge also issued his decision on the merits of the citations in Docket No. CENT 2023-0045, *et al.* Cactus Canyon filed a petition for discretionary review, which the Commission granted.²

On March 19, 2025, the Commission stayed its disciplinary inquiry pending resolution of the case on the merits. The issues on review before the Commission when reviewing the case on the merits included whether the Judge erred in denying the request for recusal. On April 21, 2026, the Commission issued its decision on the merits, determining that the Judge did not abuse his discretion and that the operator’s allegations that the Judge demonstrated bias lacked merit.

¹ The caption is amended to reflect that neither the Secretary of Labor nor Cactus Canyon is a party to this proceeding. Moreover, the Judge in this proceeding has since retired.

² Specifically, in the same issuance on August 30, 2024, the Judge ruled on the merits of the case, denied the request for recusal, and referred counsel for discipline. 46 FMSHRC 710 (Aug. 2024) (ALJ). On October 9, 2024, the Commission issued its Direction for Review, granting Cactus Canyon’s petition for discretionary review of the Judge’s decision on the merits. On March 19, 2025, the Commission docketed this captioned disciplinary referral under a separate docket number.

Cactus Canyon Quarries, 48 FMSHRC __ (Apr. 2026), Docket No. CENT 2023-0045, *et al.*³

We now consider the disciplinary referral. On June 16, 2023, Mr. Carson filed the subject request for recusal. In that filing, Mr. Carson contended that the Judge was biased, and alleged that cited examples from the hearing transcript substantiated his assertion. As stated, the Commission reviewed these allegations and determined that the claims lacked merit. *Cactus Canyon*, slip op. at 9-16. Of particular concern to the Commission is the serious allegation by Carson that the Administrative Law Judge sought “to aid and abet false testimony” by a mine inspector at the hearing. Request for Withdrawal at 15-16.

According to Commission Procedural Rule 80, 29 C.F.R. § 2700.80, representatives appearing before the Commission’s Administrative Law Judges shall conform to the American Bar Association’s Model Rules of Professional Conduct.

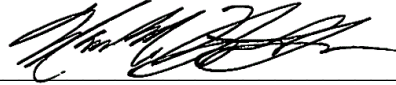
Model Rule of Professional Conduct 8.2(a) requires that “[a] lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.” Model Rules of Professional Conduct R. 8.2(a) (A.B.A. 2025).

Our preliminary determination is that further disciplinary proceedings are warranted as there is cause to believe that Mr. Carson did not abide by Model Rule 8.2(a).

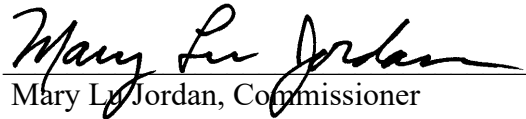
The stay in this matter is hereby lifted. This matter is now remanded to the Commission’s Chief Administrative Law Judge for further proceedings and assignment of an Administrative Law Judge to hear the matter pursuant to Commission Procedural Rule 80(c)(2)(ii), 29 C.F.R. § 2700.80(c)(2)(ii).

³ Previously, on April 20, 2026, the Commission issued a decision in a related proceeding, *Cactus Canyon Quarries, Inc.*, 48 FMSHRC __ (Apr. 2026), Docket No. CENT 2022-0010-M.

The issues to be resolved on remand are (1) whether any of the written statements in the request for recusal violated the Model Rule of Professional Conduct 8.2(a) and (2) if so, the appropriate sanction for that conduct.



Marco M. Rajkovich, Chair



Mary L. Jordan, Commissioner



Timothy J. Baker, Commissioner

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