

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, SUITE 1000  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

April 21, 1995

SECRETARY OF LABOR, : DISCRIMINATION PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. KENT 94-969-D  
on behalf of GARIS MARTIN, : MSHA Case No. PIKE CD 94-10  
Complainant :  
v. : Road Creek Mine No. 1  
: :  
BRANHAM & BAKER COAL COMPANY, :  
Respondent :

DECISION APPROVING SETTLEMENT

Appearances: Mary Sue Taylor, Esq., Office of the Solicitor,  
U.S. Department of Labor, Nashville, Tennessee  
for the Complainant;  
Tony Oppgaard, Esq., Lexington, Kentucky on behalf  
of Garis Martin and William K. Doran, Esq., Washington, D.C. for the  
Respondent.

Before: Judge Melick

This case is before me upon a Complaint of Discrimination under Section 105(c) of the Federal Mine Safety and Health Act of 1977 (the Act). At hearing the parties filed a motion to approve a settlement agreement and to dismiss the case. The individual Complainant, Garis Martin, consented to the agreement on the record. I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement is acceptable.

WHEREFORE, upon the acknowledged receipt of the agreed settlement amounts, the motion for approval of settlement is GRANTED. It is further ORDERED that, if it has not already done so, Respondent pay a civil penalty of \$100 within 30 days of this order. This nominal civil penalty is in recognition of conflicting views of the evidence, the vagaries of the trial

process and that the monetary award to the Complainant in this case is a disincentive in itself against future violations of Section 105(c).

Gary Melick  
Administrative Law Judge

Distribution:

Mary Sue Taylor, Esq., Office of the Solicitor, U.S. Dept. of Labor, 2002 Richard Jones Road, Suite B201, Nashville, TN 37215-2862

Tony Oppgaard, Esq., Mine Safety Project of the Appalachian Research and Defense Fund of Kentucky, Inc., 630 Maxwellton Court, Lexington, KY 40508

William K. Doran, Esq., Michael T. Heenan, Esq., Smith, Heenan and Althen, 1110 Vermont Ave., N.W., Washington, D.C. 20005

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