

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **13-MSRC-044**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER

VERLIN J. PERKINS

RESPONDENT

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Scott Brooks, and the members of the Commission having reviewed the Settlement Agreement filed on or after July 11, 2013 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and any pre-hearing conferences are cancelled;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a

statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 11TH day of July 2013.

A handwritten signature in black ink, appearing to read 'W. Doan', is written over a horizontal line.

Hon. William D. Doan, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 12TH day of July 2013:

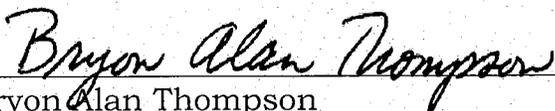
VERLIN J PERKINS
P. O. BOX 1542
HINDMAN, KY 41822-1542

And by messenger mail to:

HON. CARRIE SLAYTON
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ **564- 2356**
FAX 502/ 564 - 9212
Counsel for OMSL

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601



Bryon Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
13-MSRC-044**

**KENTUCKY OFFICE OF MINE
SAFETY & LICENSING**

COMPLAINANT

V. SETTLEMENT AGREEMENT

VERLIN J. PERKINS

RESPONDENT

Come the parties, Complainant, the Kentucky Office of Mine Safety & Licensing (OMSL), by counsel, and the Respondent, Verlin J. Perkins (Perkins), *pro se*, and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, Perkins hereby admits that his actions constituted a violation of KRS 351.120. Therefore, Perkins hereby agrees to the following:

1. Perkins's temporary underground miner and surface miner certifications shall be suspended for a minimum of sixty (60) days from the date of entry of the Final Order and Settlement Agreement by the MSRC. Said suspension period may be extended as set out in Paragraph No. 5 below, in the event that Perkins fails to timely submit an evaluation by a certified addiction counselor. Following the suspension, said certificate shall be placed on probation for a period of one (1) year.

2. During the suspension and probationary period, Perkins shall comply with all state and federal mine safety laws and regulations, including the terms of this Settlement Agreement. Any violation by Perkins of any said laws or regulations or the terms of this

Settlement Agreement will result in the OMSL filing a Motion for Sanctions with the MSRC, which may result in the revocation of his certificate for a period of one (1) year from the date of said violation.

3. Perkins shall submit to drug testing twice per month every month during the first four (4) months of the suspension/probationary periods and once every thirty (30) days for the duration of the probationary period. The twice-monthly drug testing shall be taken on or before the 15th and 30th days of each month. The report shall be provided to OMSL as soon as possible after each test is taken. The tests shall be 14 panel tests that includes, but is not limited to, bath salts, synthetic marijuana and suboxone. The tests can be administered by any certified testing facility, but, in all instances, it is Perkins's responsibility to pay for the tests at his own expense and have the results of all tests reported to the OMSL. Perkins may utilize the drug testing program offered by OMSL through its examination system, at his own expense. If so, no further reporting requirements are applicable.

4. Perkins understands and agrees that he shall undergo an evaluation by a certified addiction counselor or other professional familiar with addictive behaviors, to determine if attendance in rehabilitation, counseling or support group programs is warranted prior to the reinstatement of his certificates. The written determination of said professional shall be submitted to OMSL. If the professional determination concludes that Perkins should enroll in rehabilitation, counseling or support group programs, he shall do so and shall continue his participation in same during the probationary period or until such time as his counselors certify to OMSL that he has completed the treatment and counseling.

5. The evaluation required by Paragraph No. 4 above shall be completed and submitted to counsel for OMSL during the suspension period set out herein. In the event that

Perkins fails to submit the evaluation during the suspension period, the parties agree that his certificates shall remain suspended until such time as the evaluation has been completed and submitted. In the event that Perkins fails to complete and submit the evaluation within ninety (90) days of the entry of the Final Order by the MSRC, the parties agree that his certificates shall be revoked for a period of not less than one (1) year from the date of the entry of the Final Order and this Settlement Agreement by the MSRC, without the necessity of further Motions or Orders.

6. Perkins understands and agrees that the report of any positive drug test results shall be cause for the permanent revocation of his certificates. During the suspension/probationary period set out herein, if Perkins is reported by any employer for violating the employer's drug- and alcohol-free policy pursuant to KRS 351.170(2), the parties agree that Perkins's mining certifications will be immediately suspended (if not already suspended) until such time as a Motion for Sanctions can be filed by the OMSL and ruled upon by the MSRC.

7. Perkins further understands and agrees that he shall not be eligible for certification in any other specialties during the suspension/probationary period.

8. This Settlement Agreement and the Final Order incorporating said agreement issued by the MSRC constitutes a "first offense," as that term is defined at 805 KAR 8:010, Section 1(13).

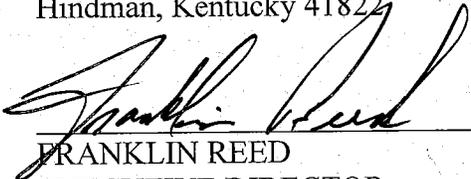
9. Perkins understands and agrees that he had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Perkins further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it, and that he understands and agreed to its terms and provisions.

10. OMSL and Perkins acknowledge and agree that there are no further promises, inducements, representation, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



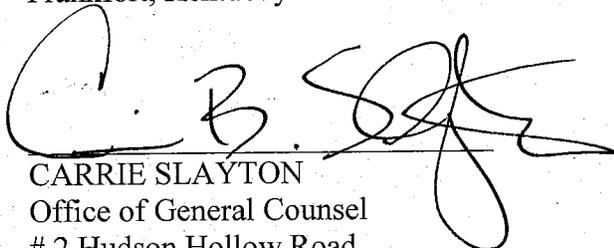
VERLIN J. PERKINS
P.O. Box 1542
Hindman, Kentucky 41822

July 11 2013
DATE



FRANKLIN REED
EXECUTIVE DIRECTOR
Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky

7/15/13
DATE



CARRIE SLAYTON
Office of General Counsel
2 Hudson Hollow Road
Frankfort, Kentucky 40601

7/11/13
DATE

Counsel for Complainant