

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 12 - MSRC- 008

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER

DAVID BLANKENSHIP

RESPONDENTS

* * * * *

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 David Blankenship, and the members of the Commission having reviewed the Settlement Agreement filed on or after November 8, 2012 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

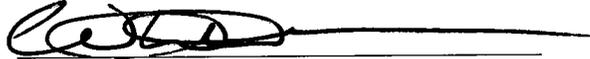
1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and **pre-hearing** conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a 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 8TH day of November 2012.

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 19TH day of November 2012:

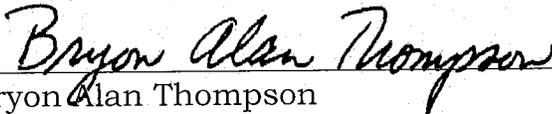
DAVID BLANKENSHIP
6654 HIGHWAY 297
PIONEER TN 37847

And by messenger mail to:

HON. C. MICHAEL HAINES
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
Action No. 12-MSRC-008**

KENTUCKY OFFICE OF MINE SAFETY & LICENSING

COMPLAINANT

v.

SETTLEMENT AGREEMENT

DAVID BLANKENSHIP

RESPONDENTS

* * * * *

Come the Complainant, the Kentucky Office of Mine Safety & Licensing (“OMSL”), and Respondent David Blankenship (“Blankenship”) 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, and the cancellation of the hearing (as it pertains to him) that was scheduled for November 8, 2012, Blankenship hereby admits that he was employed at the Dowis Chapel Mine (mine), as alleged in OMSL’s Complaint, and solely responsible for the violations alleged in the Complaint. Therefore, Blankenship hereby agrees to the following:

1. The probation for a period of one (1) year of his surface miner, electrical worker, surface mine foreman and MET certificates. The probation period shall be effective upon the acceptance and entry of this Settlement Agreement by the Mine Safety Review Commission.
2. During this one-year probationary period, Blankenship shall comply with all state and federal mine safety laws and regulations. The willful violation by Blankenship of any of said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke any or all of his certificates for the remainder of the probationary period.

Blankenship further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1(13).

Blankenship 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. Blankenship 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 agrees to its terms and provisions.

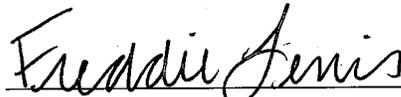
OMSL and Blankenship acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



DAVID BLANKENSHIP
6654 Highway 297
Pioneer, Tennessee 37847

11-5-12

DATE



FREDDIE LEWIS
Executive Director
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

11-8-2012

DATE



C. MICHAEL HAINES, General Counsel
Office of General Counsel
Kentucky Energy & Environment Cabinet
Office of Mine Safety & Licensing
12th Floor, Capital Plaza Tower
Frankfort, Kentucky 40601

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement Between OMSL and David Blankenship was mailed this 8th day of November, 2012, to:

Mr. David Blankenship
6654 Highway 297
Pioneer, Tennessee 37847



C. MICHAEL HAINES