

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

COMMONWEALTH OF KENTUCKY  
**ENERGY AND ENVIRONMENT CABINET**

MINE SAFETY REVIEW COMMISSION  
132 BRIGHTON PARK BLVD.  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 573 - 0316  
FAX: (502) 573-0344

COMMISSIONERS

WILLIAM D. DONAN, CHAIR  
J. DUNCAN PITCHFORD  
DAVID BRIAN SLOAN

BRYON ALAN THOMPSON  
GENERAL COUNSEL

**MINE SAFETY REVIEW COMMISSION  
MINUTES**

MINUTES OF THE REGULAR MEETING OF JANUARY 10, 2013: A MEETING OF THE MINE SAFETY REVIEW COMMISSION (HEREINAFTER "MSRC" OR "COMMISSION") WAS HELD IN THE CONFERENCE AND HEARING ROOM OF THE COMMISSION LOCATED AT 132 BRIGHTON PARK BLVD., FRANKFORT KY.

- ❑ **Members Present:** The Chair and Commissioner William D. Donan, J. Duncan Pitchford and Commissioner David B. Sloan were present. Also in attendance MSRC Hearing Officer and General Counsel Bryon Alan Thompson.
- ❑ The meeting was **called to order** at 9:00 a.m. EST
- ❑ **Declaration of a Quorum:** Upon the call of the meeting, Commissioner Donan made a motion that a quorum was present, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- ❑ **Welcome Guests:** Hon. Mike Haines, Energy and Environment Cabinet General Counsel were present and also staff attorneys for OGC; Ottley, Huffman, Long, Girard, Smock, Patrick and Russell who were representing the Office of Mine Safety and Licensing. The Office of General Counsel was assisted by Kari Sutherland, Mary McCoy, and Tara New.
- ❑ The **minutes** for the meeting on **12/13/12** were discussed. Commissioner Donan made a motion for approval, which was seconded. The motion carried unanimously, and was ratified by the Chair.

- **OMSL Motions for Sanctions, Permanent or one (1) year Revocation for failure to comply with terms of the Settlement Agreement & Final Order by MSRC resolving KRS 351.120(12) workplace suspension for alcohol and substance abuse:**
  - Each of the following cases were called in turn: 11-MSRC-005 Mitchell T. Risner, 11-MSRC-086 James Clifford Slone, 11-MSRC-228 Bronell L. Sturgill, 11-MSRC-294 Gary Isaac Hogston, 11-MSRC-307 Jamie S. Owsley, 12-MSRC-067 Richie Coleman and 12-MSRC-073 Freddy Fuson and no one appeared or participated. OMSL by counsel moved to **permanently revoke** each of them based upon their failure to submit the drug tests in their agreement or the failure of drug tests. A motion was made to **grant**, each of their settlements which were seconded as appropriate. The motions carried unanimously, and were ratified by the Chair.
  - 11-MSRC-089 Scotty Collins and 11-MSRC-161 Travis Brock were called and OMSL moved to **continue**. A motion was made to **grant**, as to each which were seconded as appropriate. The motions carried unanimously, and were ratified by the Chair.
  - 11-MSRC-238 Timothy D. Mitchell, was called and OMSL moved to **Show Cause** because he failed to appear after requesting a continuance from last month. A motion was made to **grant**, each of their settlements which were seconded as appropriate. The motions carried unanimously, and were ratified by the Chair.
- **KRS 351.120(12) Petitions heard regarding miner appeals of workplace suspension for alcohol and substance abuse – revocations:**
  - 12-MSRC-072 Randal A. Snyder and 12-MSRC-214 Trichell Chapman were called and prior to this meeting had requested a **continuance**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
  - 12-MSRC-215 Brandon Bates and 12-MSRC-213 Jimmy Rose were called and did not appear. OMSL moved to **Show Cause**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
  - 12-MSRC-170 Hope C. Sisk (“new law”) was called in turn regarding a Show Cause issued at the last meeting for her failure to appear or participate in the hearing she requested. No one appeared at this

meeting, thus OMSL moved for **3 year revocation**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**The 11:00 a.m. Docket for KRS 351.120(12) workplace alcohol and substance abuse suspensions that were not appealed – “old law” revocations:**

- 12-MSRC-193 William P. North was called and no one appeared or participated and thus OMSL moved to **permanently revoke**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**11:00 a.m. failed to appeal or chose drug treatment cases – “new law” 3 year revocation**

- 12-MSRC-216 Brian S. Massengill, 12-MSRC-217 Jonathan Davis, 12-MSRC-219 Darrell W. Griffith, 12-MSRC-220 Thomas Eldon Kiser, 12-MSRC-221 Jeffery A. Lambdin and 12-MSRC-222 James F. Copeland were each called in turn. They did not appear or participate in any way and thus OMSL moved for a **3 year revocation**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**11:00 a.m. completed treatment & clean test drug cases, reinstate**

- 12-MSRC-218 Mark M. Randolph was called and OMSL moved to **reinstate**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**The 11:00 a.m. Docket for Reciprocity actions regarding Virginia Drug Sanctions:**

- None submitted for this meeting

**The 11:00 a.m. Docket for Petition for Roof Control Violation Orders:**

- None submitted for this meeting.

**The 11:00 a.m. Docket for Motions to Modify prior Orders:**

- None submitted for this meeting.

### 11:00 a.m. Appeal of Penalty Assessment

- None submitted for this meeting.

### The 11:00 a.m. Docket for “traditional” type cases:

- 12-MSRC-123 Combs et al. was called and OMSL moved for a trial date and certain pre-trial deadlines. A **trial date for September 12** was established with a status report in June and a pre-trial in July. This was so moved, seconded and passed unanimously.
- 2-MSRC-114 **John W. Mayo** was called and OMSL moved for a **default** based upon his failure to participate in discovery. This was so moved, seconded and passed unanimously.

### The 1:00 p.m. Docket for “traditional” type cases:

- None submitted for this meeting.

### **Old Business**

#### **Ratification of Final Order:**

*None submitted for this meeting.*

#### **Administrative Hearings Update;**

The Commission discussed briefly the pending number of cases set for the next meeting and the possibility of one “traditional” type hearing.

#### **Status Report & Abeyances;**

*None submitted for this meeting.*

#### **Appeals**

The Commission discussed the status of the appeal to Franklin Circuit Court of the Final Order in 07-MSRC-088 **Jerry J. Maggard**, et al. Hon. Smock, counsel for OMSL stated the matter has been **submitted** for a ruling.

### **New Business**

#### **Office & Administrative;**

- The General Counsel advised that the **mileage** decreased to forty five (45) cents per mile.
- **Training**
- **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June 2013** at the KY History Center.
- **Executive Session:** The Commission adjourned to conduct an Executive session to discuss the motions & settlements in the cases as above and then reconvened to issue its determinations.
- **Probable Cause Determinations**  
*None submitted for this meeting.*
- **Settlement Agreements**  
The Settlement Agreements were managed as indicated above in the Motions and suspensions sections.
- **The Time Memo and Travel Vouchers** were signed and submitted for payment by the General Counsel.
- **NEXT MEETING:** The Commissioners acknowledged that MSRC is regularly scheduled for a regular two day meeting on Starting on **Thursday February 14, 2013.**
- **Adjournment:** Commissioner and Chair Donan made a motion to adjourn, which was seconded and the motion carried unanimously, and was so Ordered.

The next meeting of the Mine Safety Review Commission will be held on Thursday February 14, 2013. The meeting will be held in the conference and hearing room of the Commission located at 132 Brighton Park Blvd., Frankfort KY.

Approved:

  
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 Hon. William D. Donan Chair  
 Mine Safety Review Commission

2/14/13  
 Date