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SECRETARY

COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION

132 BRIGHTON PARK BLVD.

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COMMISSIONERS

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

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**MINE SAFETY REVIEW COMMISSION
MINUTES**

MINUTES OF THE REGULAR MEETING OF JULY 11, 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, and Commissioner David B. Sloan were present. J. Duncan Pitchford could not attend. 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, 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.
- The **minutes** for the meeting on **6/13/13** 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:**

- None submitted for this meeting.

□ **KRS 351.120(12) Petitions heard regarding miner appeals of workplace suspension for alcohol and substance abuse – revocations:**

- 13-MSRC-046 Leland Walker and 13-MSRC-038 Nicholas Mills, were each called. No one appeared. OMSL moved to revoke Walker for 1 year and to revoke Mills for 5 years. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

9:00 a.m. failed to appeal or chose drug treatment cases – “new law” 3 year revocation

- 13-MSRC-047 Justin K Bryant, 13-MSRC-063 Billy D. Rogers, 13-MSRC-064 Charles D. McAllister, 13-MSRC-065 Mikel J. Cartwright, 13-MSRC-066 Troy Linville, 13-MSRC-076 Willis Roberts, 13-MSRC-077 Christian Allen, 13-MSRC-078 Brandon Wynn, 13-MSRC-082 Allen Williamson and 13-MSRC-083 Cody Meek 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.
- 13-MSRC-074 Anthony Clayton and 13-MSRC-075 Solomon Madden were called. They did not appear or participate in any way and thus OMSL moved for a **5 year revocation** because this was their second offense. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

9:00 a.m. completed treatment & clean test drug cases, reinstate

- 13-MSRC-067 Chris Schwartzoise, 13-MSRC-079 Colin Hubbard and 13-MSRC-081 Jeffrey Robertson demonstrated that they completed counseling and had a clean drug test and moved to be **reinstated**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

The Docket for "traditional" type cases:

- 08-MSRC-124 Cyfers & Williamson was called and OMSL reported that a settlement was pending and requested a continuance to August 8. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 10-MSRC-123 Combs, Dishner & Cumberland River Coal, was called and OMSL reported that a settlement was pending and requested a continuance to August 8. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 10-MSRC-193 Lone Mountain, was called and OMSL reported that a settlement was pending and requested a continuance, however the Commission set the matter for a hearing on October 10th. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair..
- 13-MSRC-044 Verlin Perkins, requested **settlement**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 13-MSRC-052 Jeffrey Sizemore was called and no one appeared. OMSL moved for **default**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

Old Business

□ **Ratification of Final Order:**

- 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. 07-MSRC-100 **Hendrickson Equipment** & James Hylton is submitted for a ruling.

New Business

□ **Office & Administrative;**

- The General Counsel advised that the **mileage** remains forty seven (47) cents per mile.

□ **Training**

- **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June 21, 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**

- Probable cause was found for 13-MSRC-068 Steven D. Golden, 13-MSRC-069 David A. Hampton, 13-MSRC-070 Vonny W. Jones, 13-MSRC-071 Darrell Jones & Tony Stacy, 13-MSRC-072 Teddy Plaster, Donnie Meade & Randy Shortridge, 13-MSRC-073 Curtis Wagner & Darrell Wagner Sr. and 13-MSRC-080 Ousley, McKenzie, Martin, Wright, Ousley & Tram Energy. A motion was made which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair as to each case.

□ **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 August 8, 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 August 8, 2013. The meeting will be held in the conference and hearing room of the Commission located at 132 Brighton Park Blvd., Frankfort KY.

Approved:



Hon. William D. Donan Chair
Mine Safety Review Commission

8 Aug 2013
Date