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ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION
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COMMISSIONERS

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

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GENERAL COUNSEL

**MINE SAFETY REVIEW COMMISSION
MINUTES**

MINUTES OF THE REGULAR MEETING OF MAY 8, 2014: 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:**, Commissioner David B. Sloan and the Chair and Commissioner William D. Donan attended. 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 Sloan made a motion that a quorum was present, which was seconded as appropriate. The motion carried unanimously.
- ❑ **Welcome Guests:** Energy and Environment Cabinet Executive Director Mike Haines was present. Additionally General Counsel staff attorneys for OGC were present; Ottley, Girard, Smock, Slayton and Russell who were representing the Office of Mine Safety and Licensing. The Office of General Counsel was assisted by Kari Sutherland. OMSL was represented by Amy Hislope.
- ❑ The **minutes** for the meeting on **4/10/14** 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 three (3) 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:**

- 13-MSRC-089 Eric A. Smith and 13-MSRC-157 Steven R. Conrad were called and did not appear. OMSL moved for a 3 **year revocation**. The motion was made, seconded and approved unanimously.
- 12-MSRC-176 Joel Lovell was called. OMSL moved to withdraw its motion for sanction. The motion was made, seconded and approved unanimously.

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

- 14-MSRC-001 Stanley Wilson, 14-MSRC-032 Michael Broyles and 14-MSRC-042 Steven A. Ford were called for a hearing and they failed to appear, defend or participate in the hearing they requested. Thus OMSL moved to **revoke**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified.
- 14-MSRC-036 Robert Dale Alshire appeared and requested a **settlement**. A motion was made to sustain which was seconded as appropriate. The motion carried unanimously, and was ratified.
- 14-MSRC- Billy Turner Jr. appeared and requested a hearing. The Commission determined that this matter should be **continued** to May 14, 2015, one year and during that time he must test once a month. Turner is to remain suspended until further action by MSRC. A motion was made to sustain which was seconded as appropriate. The motion carried unanimously, and was ratified.
- 14-MSRC-051 Gary D. Hawkins was called upon a second alleged offence and a hearing was called. At the hearing he produced medical records and testimony which indicated that he should be **reinstated**. A motion was made to sustain which was seconded as appropriate. The motion carried unanimously, and was ratified.

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

- 14-MSRC-052 Erick Grome, 14-MSRC-053 Brian Smith, 14-MSRC-054 Jeff L. Sullivan, 14-MSRC-055 Timothus Barnes, 14-MSRC-056 Jeffery L. Justice, 14-MSRC-057 Christopher L. Stiltner, 14-MSRC-059 James R. Thacker, 14-MSRC-060 Bennie Caudill, 14-MSRC-061 Frank Muncy, 14-MSRC-062 Joseph Moore and 14-MSRC-063 Justin Johnson failed to appear, defend or participate upon the call of each of their cases. OMSL requested 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.

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

- 14-MSRC-058 Shawn Slone demonstrated that he 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.

Petition for Order in roof control violation

- None submitted for this meeting

Non-licensed facility drug cases

- None submitted for this meeting

The Docket for “traditional” type cases:

- 13-MSRC-080 Tram Energy was called for a ruling on a motion for Summary Judgment which was granted. Respondent Martin’s hearing was set for July 10 however settlement is likely.
- 13-MSRC-121 K& D mining was called for a ruling on a motion for default for failure to defend or respond and it was granted.
- 14-MSRC-019 Fields was called upon a motion for default for his failure to respond or defend which was granted. Respondent Boham’s hearing remains scheduled for June 12.
- 14-MSRC-020 James Cress Jr. was called upon a motion for default for his failure to respond or defend which was granted.
- 14-MSRC-021 Deborah Bledsoe was called upon a motion for default for her failure to respond or defend which was granted.

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** is forty six (46) cents per mile.

- ❑ **Training:** The statutorily required mine site visits were postponed until the new Commissioner is appointed and available.

- ❑ **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June 13, 2014** 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 June 12, 2014.**

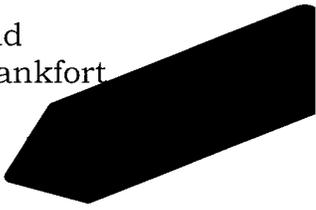
- **Adjournment:** Commissioner Sloan made a motion to adjourn, which was seconded and the motion carried unanimously, and was so Ordered.

The next meeting of the Mine Safety Review Commission will be held on Thursday June 12, 2014. 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



6/12/14
Date