COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-016**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING COMPLAINANT

FINAL ORDER FOR JEFFERY D. McGUIRE

JEFFERY D. McGUIRE 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 Jeffery McGuire, and the members of the Commission having reviewed the Settlement Agreement filed on July 11, 2006 in the matter herein, and the Commissioners being sufficiently advised,

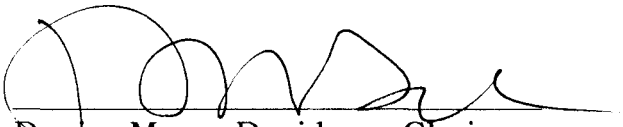
IT IS HEREBY **ORDERED** as follows:

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 13 TH day of July 2006.



Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 14TH day of July 2006:

JEFFREY D. MCGUIRE
P.O. BOX 538
MCDOWELL, KY 41647

And by messenger mail to:

Hon. Steven C. Boyd
Office of Legal Services
Natural Resources Legal Division
#2 Hudson Hollow
Frankfort, Kentucky 40601
(502) 564-2356
FAX: (502) 564-9212

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

RECEIVED
JUL 1 2006
MINE SAFETY

KENTUCKY MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-016

KENTUCKY OFFICE OF MINE SAFETY & LICENSING COMPLAINANT

V. **SETTLEMENT AGREEMENT BETWEEN OMSL & JEFFREY D. MCGUIRE**

JEFFREY D. MCGUIRE RESPONDENT

* * * * * * * * *

Come the Complainant, the Kentucky Office of Mine Safety & Licensing ("OMSL"), and Respondent, Jeffrey D. McGuire ("McGuire"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration of the final resolution of this action against him, and the cancellation of the hearing that is currently scheduled for September 14, 2006, McGuire hereby admits that he violated KRS 352.220, KRS 352.060 and KRS 352.230, et al underground on November 10, 2005 through December 19, 2005, at Marsh Coal Company No. 3 mine. Therefore, Jeffrey D. McGuire hereby agrees to the following:

1. The suspension of his underground miner foreman's certificate, (#A-140-87), for a period of one (1) year, and the probation for one (1) year of McGuire's underground coal miner, drill operator's certificate (MN-025), electrical worker's certificate (#MN-461-05), shot firer's certificate (#MN-018-87), and shot firer solid-blasting certificate (#MN-035-87) effective upon the signing of the Order by the Mine Safety Review Commission approving this Settlement Agreement.

2. During this one-year probationary period, McGuire shall comply with all state and federal mine safety laws and regulations. The willful violation by McGuire of any said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground miner's certificate for the remainder of the probationary period.

3. Within 45 days of the effective date of this Settlement Agreement, McGuire must

take eight (8) hours of special safety training from OMSL at its Martin District Office.

4. McGuire 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).

5. McGuire understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself.

6. McGuire further states that he has carefully read this Settlement Agreement (or that the Settlement 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 Jeffrey D. McGuire 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.

JEFFREY D. MCGUIRE
P.O. Box 538
McDowell, Kentucky 41647

July 5, 2006
DATE

JOHNNY GREENE, Acting Executive Director
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

7-11-06
DATE