

March 28, 1984

(Opinion issued in letter form; name and address deleted)

Re: Opinion of Trustees
Resolution of Dispute
Case No. 81-237

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of benefits coverage for the widow of an Employee under the terms of the Employer's Benefit Plan.

The Complainant's husband was last employed by A&O Corporation of Virginia, Inc. ("A&O") and died on June 22, 1980. Under Article II. E. (3) of the 1978 Employer Benefit Plans, the Complainant was eligible for 60 months of benefits coverage from her husband's last signatory Employer following the month of her husband's death.

At the time of her husband's death, A&O was owned by two individuals who also owned another coal company, B&B Mining, Inc. ("B&B"). Both companies were signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1978 and were contract miners for another Employer at separate mines. Both companies filed for Chapter XI bankruptcy in February 1980, but resumed operations in March 1980 and were producing coal as of April 1980. Although A&O and B&B were separate corporations, B&B provided operating capital, in the form of cash advances, to A&O. In November 1980, one of the owners of these corporations and his wife obtained total control of the corporations.

On October 31, 1980, A&O ceased all business operations. B&B began operating A&O's mine site in November 1980 with A&O's equipment, and without signing a new contract mining agreement with the mine owner. On April 8, 1981, the Bankruptcy Court ordered A&O to be liquidated under Chapter VII of the Bankruptcy Code.

Until January 19, 1981, B&B maintained separate health insurance policies for the employees of A&O's mine and its mine. On January 19, 1981, B&B secured a single policy to cover all employees of both mines. The Complainant was provided benefits coverage first by A&O, then by B&B, until February 28, 1983, when B&B terminated her coverage. B&B states that it voluntarily provided the Complainant with benefits coverage until February 28, 1983, but had no contractual obligation to do so.

B&B continued operating both mines until March 26, 1981, when it closed A&O's mine. B&B signed the 1981 Wage Agreement and continued operating its mine until February 14, 1984,

when it ceased operations. B&B has stated that it intends to file for Chapter VII bankruptcy in the near future, but it has not yet done so. Based on these facts the Trustees are of the opinion that B&B is the successor of A&O.

The Trustees have separately determined, however, that B&B satisfies the no longer in business definition of Article II.E.4. of the UMWA 1974 Benefit Plan ("1974 Plan") as of April 1, 1984. Therefore, the Complainant will be eligible for benefits coverage from the 1974 Plan effective April 1, 1984.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee