

May 2, 1984

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

Re: Opinion of Trustees
Resolution of Dispute
Case No. 81-314

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 your Request for Advisory Opinion concerning benefits coverage for a disabled Employee.

The Complainant was employed by Newsome Coal Company ("Newsome"), an unincorporated company that was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1981, from on or about June 1982 through February 18, 1983. On February 18, 1983, he was injured in a non-work-related accident. He received sickness and accident benefits until April 25, 1983, when he returned to work. He was provided benefits coverage from February 18 through February 28, 1983 by Newsome and for the month of March by Hamilton, but no coverage for April 1983. His wife was hospitalized from March 27 through April 2, 1983, but none of the expenses related to this hospitalization were paid. The Complainant returned to work at the mine on April 25, 1983, and was injured in a mine accident after working 1-1/2 hours. He received workers' compensation benefits from April 25, 1983 through September 1983, but did not receive any health benefits coverage during that period.

When the Complainant ceased work in February 1983, Newsome was mining coal for Hamilton Coal Company ("Hamilton"). Newsome and Hamilton had no formal contract and Hamilton is not signatory to the 1981 Wage Agreement. According to information provided to the Trustees by Hamilton, the owners of Newsome hired the employees who worked at the mine and controlled the work force, performing all duties that would be performed by a foreman, but Newsome had no bank accounts of its own. Hamilton owned the coal lease for the mine and the equipment used at the mine, paid all operating expenses of the mine (including its payroll), completed all tax forms, and paid royalties to the Funds and union dues to the UMWA Union in the name Newsome. Hamilton paid wages to the owners of Newsome in an amount equal to coal sales from the mine less operating expenses and deductions for taxes.

Hamilton states that, on March 1, 1983, it took over the mine previously operated by Newsome, because, at that time, operating expenses for the mine exceeded coal sales. In an effort to secure additional pension credit for the employees of the mine, Hamilton continued to report union dues and to pay royalties to the Funds in the name of Newsome for all periods through August 1983. However, Hamilton did not sign the 1981 Wage Agreement.

Based on these facts, the Trustees conclude that Hamilton was an undisclosed principal when Newsome signed the 1981 Wage Agreement and, therefore, must be considered the signatory Employer at the mine where the Complainant last worked. Consequently, Hamilton is responsible for providing the Complainant's health benefits coverage from April 1, 1983, through April 24, 1983, under Article III D. (1) (b) of the Employer Benefit Plans. Under Article II A. of the Employer Benefit Plans, Hamilton is also responsible for providing the Complainant with health benefits coverage as an active Employee for April 25, 1983, the day he returned to work. Under Article III D. (1), Hamilton is responsible for providing the Complainant with health benefits coverage after April 25, 1983, for the greater of his period of eligibility for sickness and accident benefits or his period of eligibility based on his hours worked for Newsome and Hamilton during the 24 consecutive calendar month period prior to April 25, 1983, his date last worked.

Sincerely,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee