

August 27, 1985

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

RE: Opinion of the Trustees
Resolution of Dispute
Case No: 81-426

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 health benefits coverage for a laid-off Employee by the Employer under the terms of the Employer Benefit Plan.

Information on file indicates that prior to February 22, 1982, you were employed as a truck driver for Coal Delivery, Inc. ("Coal Delivery"), a non-signatory company, hauling coal for non-signatory coal companies. On February 22, 1982, you state that you also began working for Richard Nelson Trucking Company ("Nelson Trucking"), a company Signatory to the 1981 National Bituminous Coal Wage Agreement. You continued working for both companies (which were jointly owned) until April 28, 1983, when you were laid off.

This dispute arises out of your contention that the Employer (Nelson Trucking) terminated your health benefits coverage on April 28, 1983 and that the Employer is responsible for the continuation of benefits in accordance with the terms of the Employer Benefit Plan. You have stated that the Employer deducted \$18 to \$20 per week from your pay for health insurance coverage which provides a lesser level of benefits than required by the Employer Benefit Plan, and you have submitted medical bills, exceeding \$8,000.00, which were incurred after April 28, 1983 and remain unpaid. You have asked that the Employer be required to provide you with benefits coverage consistent with the provisions of the Employer Benefit Plan.

Article III. D. (1) (a) of the Employer Benefit Plan provides that laid-off Employees are eligible for continuation of coverage for periods of 30 days, 6 months or 12 months from the date last worked, based on the number of hours worked for the Employer during the 24 consecutive calendar month period prior to their last date worked.

The Funds' General Counsel has taken the position that the two entities are jointly owned and that an alter ego relationship exists between Richard Nelson Trucking and Coal Delivery, Incorporated. In the absence of any evidence to the contrary, Richard Nelson Trucking and Coal Delivery, Incorporated may reasonably be considered the same entity for purposes of establishing classified hours worked. Therefore, hours worked for both Employers during the 24

consecutive calendar month period prior to April 28, 1983 may be considered for the purpose of determining the period of continuation of benefits coverage.

Evidence on file indicates that you worked a combined total of approximately 776 hours for the Employer in the twenty-four consecutive calendar month period immediately prior to your last day worked. In accordance with Article III D. (1) (a) of the Employer Benefit Plan, as an Employee who worked more than 500 hours but less than 2000 hours during the 24 consecutive calendar month period prior to the date last worked, you are entitled to continuation of benefits coverage for the balance of the month in which you were laid off plus 6 months. Consequently, the Trustees are of the opinion that the Employer, Richard Nelson Trucking Company, is responsible for continuing benefits coverage for you and your eligible dependents through October 31, 1983.

With respect to the dispute over the level of benefits provided by the Employer, you have submitted copies of the Nelson Trucking group insurance plan. The level of benefits provided therein is inconsistent with that required by the National Bituminous Coal Wage Agreement of 1981. Inasmuch as the level of benefits to be provided to beneficiaries under the Employer Benefit Plan is established through collective bargaining, it may not be unilaterally modified by the Employer. Therefore, the Trustees conclude that the Employer must provide coverage for you and your eligible dependents for the period set forth above at the level required by the Employer Benefit Plan.

Sincerely,

Joseph P. Connors, Sr., Chairman

Paul R. Dean, Trustee

William B. Jordan, Trustee

William Miller, Trustee

Donald E. Pierce, Jr., Trustee