Julian M. Carroll
Governor
Iris R. Barrett
Executive Director

Kentucky Occupational Safety and Health
Review Commission
104 Bridge St.
Frankfort, Kentucky 40601
Phone (502) 564-6892

July 30, 1979

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

VS.

B. G. DANIS COMPANY

DECISION AND ORDER OF
REVIEW COMMISSION

Before STANTON, Chairman; UPTON and ROBERTS, Commissioners. ROBERTS, Commissioner, for the Majority.

A Recommended Order of Hearing Officer Wayne Waddell, issued under date of 30 April 1979, is presently before this Commission for review of the recommended penalty reduction pursuant to a direction of review ordered by Chairman Merle H. Stanton.

Finding that the evidence establishes sufficient mitigating circumstances to justify the recommended reduction in penalty, it is accordingly hereby ORDERED by this Commission that the Hearing Officer's decision be and it is hereby AFFIRMED.

John C. Roberts, Commissioner

s/Charles B. Upton
Charles B. Upton, Commissioner

STANTON, Chairman, Dissenting:

I dissent from the majority action in this case. The Commissioner of Labor proposed a fair penalty assessment of $420. The Commissioner's forty percent reduction in the unadjusted $700 penalty reveals that due consideration was given by the Commissioner to the Respondent's history
and good faith efforts to comply with occupational safety and health requirements. It is my opinion that the record does not indicate additional mitigating circumstances sufficient to justify the Hearing Officer's further reduction in penalty.

DATED: July 30, 1979
Frankfort, Kentucky

DECISION NO. 748
Copy of this Decision and Order has been served by mailing or personal delivery on the following:

Commissioner of Labor
Commonwealth of Kentucky
U. S. 127 South
Frankfort, Kentucky 40601

Honorable Larry D. Hamfeldt
Assistant General Counsel
Department of Labor
801 West Jefferson - 1st Floor
Louisville, Kentucky 40202

Mr. C. S. Mihoci, Project Mgr.
B. G. Danis Company
2295 Scioto-Harper Drive
Columbus, Ohio 43204

B. G. Danis Company
c/o Ashland Oil, Inc.
Post Office Box 391
Ashland, Kentucky 41101

Mr. James Lawson
Brotherhood of Carpenters & Joiners
Local 472
924 Greenup
Ashland, Kentucky 41101

This 30th day of July, 1979.

Iris R. Barrett
Executive Director