

STATEMENT UNDER OATH

OF

HAROLD BAISDEN

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Friday, February 17, 2006, at 1:25
p.m.

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A P P E A R A N C E S

JOSEPH R. O'DONNELL, JR.

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U.S. Department of Labor

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A P P E A R A N C E S (continued)

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EXHIBIT PAGE

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P R O C E E D I N G S

MR. O'DONNELL:

My name is Joe

O'Donnell, I'm an accident
investigator with the Mine
Safety & Health
Administration, an agency of
the United States Department
of Labor. With me is James

1 Crawford from the Solicitor's
2 Office, John Collins with the
3 West Virginia Office of
4 Miners' Safety, Health and
5 Training. I've been assigned
6 to conduct an investigation
7 into the accident that
8 occurred at the Sago Mine on
9 January the 2nd, 2006, in
10 which 12 miners died and one
11 was injured.

12 The investigation is
13 being conducted by MSHA and
14 the West Virginia Office of
15 Miners' Health, Safety &
16 Training to gather information
17 to determine the cause of the
18 accident. These interviews
19 are an important part of the
20 investigation.

21 At this time, the
22 accident investigation team

1 intends to interview a number
2 of people to discuss anything
3 that may be relevant to the
4 cause of the accident. After
5 the investigation is
6 completed, MSHA will issue a
7 written report detailing the
8 nature and causes of the
9 accident. MSHA accident
10 reports are made available to
11 the public in the hope that
12 greater awareness about the
13 causes of accidents can reduce
14 their occurrence in the
15 future.

16 Information obtained
17 through witness interviews is
18 frequently included in these
19 reports. Your statement may
20 also be used in other
21 enforcement proceedings. I'd
22 like to thank you in advance

1 for your appearance here
2 today. We appreciate your
3 assistance in this
4 investigation. The
5 willingness of miners and mine
6 operators to work with us is
7 critical in our goal of making
8 the nation's mines safer.

9 We understand the
10 difficulty for you in
11 discussing the events that
12 took place, and we greatly
13 appreciate your efforts to
14 help us understand what
15 happened.

16 This interview with Mr.
17 Harold Baisden is being
18 conducted under section 103(a)
19 of the Federal Mine Safety &
20 Health Act of 1977, as part of
21 an investigation by the Mine
22 Safety & Health Administration

1 and the West Virginia Office
2 of Miners' Health, Safety &
3 Training into the conditions,
4 events and circumstances
5 surrounding the fatalities
6 that occurred at the Sago Mine
7 owned by International Coal
8 Group in Buckhannon, West
9 Virginia on January the 2nd,
10 2006.

11 This interview is being
12 conducted at the U.S.
13 Bankruptcy Court in
14 Clarksburg, West Virginia on
15 February 17th, 2006.

16 Questioning will be
17 conducted by representatives
18 of MSHA and the Office of
19 Miners' Health, Safety &
20 Training. This is not an
21 adversarial proceeding,
22 therefore Cross Examination

1 will not be permitted.

2 Mr. Baisden, the
3 interview will begin by my
4 asking you a series of
5 questions. If you do not
6 understand a question, please
7 ask me to rephrase it. Feel
8 free at any time to clarify
9 any statements that you make
10 in response to the questions.

11 After we have finished
12 asking questions, you also
13 have an opportunity to make a
14 statement and provide us with
15 any other information that you
16 believe may be important. If
17 at any time after the
18 interview you recall any
19 additional information that
20 you believe may be useful in
21 the investigation, please
22 contact Mr. Richard Gates at

1 the phone number and e-mail
2 address provided to you.

3 Your statement is
4 completely voluntary. You may
5 refuse to answer any question,
6 and you may end your interview
7 at any time. If you need a
8 break for any reason, please
9 let us know.

10 A court reporter will
11 record your interview and will
12 later produce a written
13 transcript of the interview.
14 Please try and respond to all
15 the questions verbally, since
16 the court reporter can't
17 record non-verbal responses.
18 Also, please try to keep your
19 voice up. Copies of the
20 written transcript will be
21 available at a later time.

22 If any part of your

1 statement is based not on your
2 own firsthand knowledge but on
3 information you learned from
4 someone else, let us know.
5 Please answer each question as
6 fully as you can, including
7 any information that you have
8 learned from someone else.

9 We may not ask the
10 right question to learn the
11 information that you have, so
12 don't feel limited by the
13 precise question. If you have
14 any information --- if you
15 have information about a
16 subject area of a question,
17 please give it to us.

18 At this time, Mr.
19 Collins, would you like --- do
20 you have anything that you'd
21 like to add on behalf of the
22 State of West Virginia?

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MR. COLLINS:

Yes. Mr. Baisden, the West Virginia Office of Miners' Health, Safety & Training is conducting this interview session jointly with MSHA, and are in agreement with the procedures outlined by Mr. O'Donnell for these interviews today.

The Director does reserve the right, if necessary, to call or subpoena witnesses or require the production of any records, documents, photographs, or other relevant material necessary to conduct this investigation.

After the interview today, if there's --- if you have any questions or you'd

1 like to provide additional
2 information, here's a
3 telephone number that you can
4 do that with. Thank you.

5 MR. O'DONNELL:

6 Mr. Baisden, are you
7 aware that you may have a
8 personal representative
9 present during the taking of
10 this statement?

11 MR. BAISDEN:

12 Yes.

13 MR. O'DONNELL:

14 Do you have a
15 representative present with
16 you here today?

17 MR. BAISDEN:

18 Yes, I do.

19 MR. O'DONNELL:

20 And can you identify
21 him?

22 MR. BAISDEN:

1 Joe Yuhas.

2 MR. O'DONNELL:

3 Has anyone suggested
4 that you use this
5 representative?

6 MR. BAISDEN:

7 No.

8 MR. O'DONNELL:

9 Are you aware that your
10 representative may have a
11 conflict of interest in
12 representing you while being
13 provided by someone else such
14 as the company?

15 MR. BAISDEN:

16 Yes, sir.

17 MR. O'DONNELL:

18 And have you been
19 pressured in any way to accept
20 this person as your
21 representative?

22 MR. BAISDEN:

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No, I haven't.

MR. O'DONNELL:

With this understanding, do you still choose this person as your representative?

MR. BAISDEN:

Yes, I do.

MR. O'DONNELL:

Do you have any questions regarding the way we're going to have the interview?

MR. BAISDEN:

No, I don't.

MR. O'DONNELL:

Please swear Mr. Baisden in.

HAROLD BAISDEN, HAVING FIRST BEEN
DULY SWORN, TESTIFIED AS FOLLOWS:

1 BY MR. O'DONNELL:

2 Q. Would you please state your
3 full name and spell your last name?

4 A. Harold Baisden, Jr.,

5 B-A-I-S-D-E-N.

6 Q. And your address and phone
7 number, please?

8 A. [REDACTED]

9 [REDACTED]

10 Q. Are you ---?

11 [REDACTED]

12 Q. Are you appearing here today
13 voluntarily?

14 A. Yes, I am.

15 Q. And how many years of mining
16 experience do you have?

17 A. Thirty (30).

18 Q. And would you give me just a
19 short description of your employment
20 history?

21 A. The mines I've worked at?
22 Just Sugarcreek Coal, Page Creek

1 Processing, Aero Energy, and Beckley
2 Mining. And Advantage Mining, Sago
3 Mine.

4 Q. How much --- when did you
5 start at Sago Mine?

6 A. January the 7th of last year,
7 2005.

8 Q. And what is your current
9 position?

10 A. Motor man.

11 Q. How long have you been a motor
12 man?

13 A. Twenty (20) years.

14 Q. At Sago?

15 A. Oh, eight months.

16 Q. And what did you do before
17 that?

18 A. Underground mine examiner.

19 Q. You were a mine examiner. And
20 what kind of mining certificates do
21 you hold?

22 A. I hold a West Virginia

1 shotfirer. I have a West Virginia
2 mine foreman card, and miner's
3 certificate.

4 Q. Any other state certifications
5 from other states?

6 A. Kentucky. Kentucky horse
7 card, Kentucky shotfirer.

8 Q. Were you working on January
9 the 2nd?

10 A. Yes, I was. No, not January
11 2nd.

12 Q. The day of the explosion?

13 A. No, sir.

14 Q. You weren't scheduled to work?
15 When was the last day that you
16 worked?

17 A. January 1st.

18 Q. Okay. If you would --- well,
19 who's your immediate supervisor?

20 A. Lonnie Short.

21 Q. And what's your normal job
22 duties at Sago?

1 A. Motor man.

2 Q. I mean, what do you do as a
3 motor man?

4 A. House supplies.

5 Q. That's what you are, primarily
6 a supply ---?

7 A. Primary supply man.

8 Q. Okay. And you say you worked
9 on January the 1st?

10 A. January 1st.

11 Q. And did you work the day
12 before that also?

13 A. Yes, sir.

14 Q. What shift did you work on
15 January the 1st?

16 A. Dayshift.

17 Q. And could you tell me a little
18 bit about what you did that day?

19 A. That morning, when I started?

20 Q. Yeah.

21 A. Well, when I got to the mines
22 or when I started to work?

1 Q. Yeah, what time did you start
2 that day?

3 A. I start at seven o'clock.

4 Q. Okay.

5 A. I went in, I pre-shift the
6 track --- make a pre-shift on the
7 track, came outside, got the motor
8 started ballasting, hauling ballast.

9 Q. Okay. You said --- was there
10 anybody in the mine before you?

11 A. No, sir.

12 Q. So was the mine idle the day
13 before?

14 A. No, sir.

15 Q. I mean, the shift before you?

16 A. The shift --- we work 12-hour
17 shifts.

18 Q. Okay.

19 A. And when we left that evening
20 --- as far as I know, when we left
21 that evening, we was the ones that
22 came back the next day.

1 Q. Okay. You followed yourself?

2 A. That's why I pre-shift the
3 track.

4 Q. So how much of the track did
5 you pre-shift?

6 A. All of it.

7 Q. From the pit mouth ---?

8 A. From the pit mouth to One
9 Left, Two Left.

10 Q. From One Left to Two Left.
11 Did you go into the section at all,
12 or just the end of the rail?

13 A. No, sir. No, sir, just the
14 end of the rail.

15 Q. Okay. What were your
16 observations?

17 A. Everything was clear, no CO or
18 nothing or methane.

19 Q. Okay. And you entered that
20 examination in the book?

21 A. Yes, I did.

22 Q. Okay. About how long did it

1 take you to run the rail?

2 A. An hour and 15 minutes or 20
3 minutes.

4 Q. Okay. So when you were
5 finished --- who was your buddy that
6 day?

7 A. Chester Runyon.

8 Q. And besides yourself, was
9 anyone else underground?

10 A. That day?

11 Q. Yes.

12 A. Lonnie Short and Mr. Webb,
13 Mike Webb, I think. They came in
14 after we do.

15 Q. Okay. During the course of
16 your shift, though --- was there any
17 equipment at the end of the track in
18 Second Left or First Left?

19 A. There was nothing on the track
20 on First Left. Second Left had three
21 supply cars on it.

22 Q. Second Left had three supply

1 cars?

2 A. Three supply cars.

3 Q. Do you remember what was in
4 them?

5 A. Block and B Bond on one car,
6 one car was empty, the other car was
7 over the rail.

8 Q. What about One Left?

9 A. There was nothing on the end
10 of the track.

11 Q. Did you work a full shift that
12 day?

13 A. We left the mines about four
14 o'clock.

15 Q. So you started at 7:00 and
16 worked until 4:00?

17 A. Left about 4:00.

18 Q. And about --- so did you have
19 any other interaction with anyone
20 during the course of your shift?

21 A. Yes, sir.

22 Q. Tell me about it.

1 A. We hauled ballast, Chester and
2 I was hauling ballast. I don't know
3 what time we was hauling ballast. I
4 think on my first load in to One
5 Left, Nathan and I --- I think ---
6 Nathan hollered at me, he asked me to
7 go check the CO monitor at One Left
8 tailpiece. I went and checked the CO
9 monitor and it was reading 26 part
10 per million. I took my spotter, I
11 checked it, it was clear. I went
12 back to One Left power center and
13 called outside, and I told them
14 everything was clear. But I did go
15 check the CO monitor.

16 Q. Okay. Did the CO monitor ever
17 clear?

18 A. I had to reset, I couldn't
19 read it clear.

20 Q. Okay. So what would that tell
21 you, that it was a what?

22 A. It was a malfunction.

1 Q. Malfunction. Okay. And then
2 you went back to your regular?

3 A. Went back to ---.

4 Q. How much stone --- where was
5 the location that you plowed ballast
6 that day?

7 A. I ballasted about three breaks
8 outby the end of the track.

9 Q. The end of the track of ---?

10 A. One Left. About three breaks
11 outby we ballasted up to the end of
12 the rail.

13 Q. And that's all you did that
14 shift?

15 A. No. No, that's not all I did.
16 When I was on the phone, we hauled
17 four or five loads of ballast. We
18 was coming back out the One Left, I
19 hollered outside at Nathan --- I
20 hollered outside to him. And when I
21 hollered outside, Lonnie heard me on
22 the phone, and Lonnie asked me to

1 come to Two Left, to help him. He
2 had a waterline stopped up. Lonnie
3 was up --- we went up to --- we all
4 went up to Two Left. We went up to
5 the one break above the power center,
6 I think it is, or above the
7 tailpiece. There's a three-inch pump
8 sitting there. We unstopped the
9 waterline on it, we left.

10 Q. Anything else that shift?

11 A. That's all we done.

12 Q. Did your --- now, your primary
13 communication while you're on the
14 track is ---

15 A. Radio.

16 Q. --- trolley phone?

17 A. Trolley phone.

18 Q. And did that work that whole
19 day?

20 A. It wasn't working when we went
21 in.

22 Q. Okay.

1 A. On the way out --- it wasn't
2 working on our way in. Lonnie and
3 Mike Webb came in, and they fixed the
4 trolley phones, because we hollered
5 outside on them. And we --- after we
6 left Two Left, coming to the outside,
7 Lonnie stopped at Nine break on Four
8 belt and showed us how to put the
9 power back on the trolley phones.
10 The breaker had knocked on the
11 trolley phone.

12 Q. Okay. And did it function
13 normally after that?

14 A. Yes, it did.

15 Q. Was there anything about the
16 condition of the mine that you found
17 to be different or out of the
18 ordinary?

19 A. No.

20 Q. As far as direction of
21 airflow?

22 A. Just like every day.

1 Q. You say you were a mine
2 examiner prior to ---?

3 A. Prior to it, I fire bossed
4 belts.

5 Q. Is that all you pre-shifted,
6 was belts?

7 A. Yes. While I was mine
8 examiner for them, yes. I have
9 worked as a section foreman at Sago.

10 Q. No, just at Sago. That's what
11 we want to find out. Now, did you
12 ever pre-shift the area --- you know,
13 where the old seals are?

14 A. I've never been up to the
15 seals.

16 Q. Okay. You know their
17 location; is that correct?

18 A. Since the seals have been
19 built, I have never been by the
20 seals.

21 Q. Okay. What about the area
22 behind that, were you involved with

1 any mining or examinations in that
2 area?

3 A. I delivered supplies in that
4 area.

5 Q. Okay. Is there --- well, you
6 did examinations of the belts also
7 there, too?

8 A. I'm thinking. I could have, I
9 don't recall.

10 Q. Okay. Well, even during your
11 examinations, anywhere at Sago Mine,
12 have you found methane to be an issue
13 or a problem?

14 A. I've never found methane.

15 Q. What's the most you found?

16 A. I had never found no methane
17 in Sago until after this explosion.

18 Q. Okay.

19 A. Since the explosion, I've
20 found four or five-tenths in the
21 faces due to the ventilation problem.

22 Q. Yeah. Did you notice any,

1 well, roof conditions up in that
2 area?

3 A. All the same.

4 Q. Same all over the mine?

5 A. Basically the same.

6 Q. Have you ever roof bolted in
7 the mine?

8 A. Not there.

9 Q. Were you ever involved in
10 withdrawing any equipment from the
11 area?

12 A. From the mines?

13 Q. From that old section when
14 they pulled out.

15 A. I pulled the supplies and
16 stuff like that back out of there.

17 Q. Do you know if they left any
18 equipment in there?

19 A. There was nothing left in
20 there.

21 MR. O'DONNELL:

22 Okay. John?

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MR. COLLINS:

I don't have anything.

Thank you.

BY MR. O'DONNELL:

Q. Did you return to the mine at all after the explosion?

A. Yes, sir.

Q. When? When did you return?

A. I think the 3rd.

Q. So the 3rd, the day after?

A. The day after.

Q. And what were your responsibilities then?

A. I was just out there to do what I could help get done.

Q. Okay. So you primarily worked outside?

A. Yes, sir.

Q. Okay. Let's take a five-minute break.

SHORT BREAK TAKEN

BY MR. O'DONNELL:

1 Q. Harold, we just want to go
2 over if you had any idea of where the
3 equipment was or curtains in the
4 Second Left section. You know, when
5 you went up there to do the pump. If
6 you can recall --- if you can, then
7 we'll get a map here and we'll get
8 you to mark it down.

9 A. I actually can't recall.

10 Q. That's fine. That's fine. If
11 you could remember, that's good,
12 but ---.

13 A. I actually can't recall. I
14 think --- on the end of the dump
15 feeder, I think they were buggies
16 setting there. I walked by it.

17 Q. Okay.

18 A. Because I pumped water right
19 out just to break it from it.

20 Q. How long were you in this
21 section?

22 A. An hour.

1 Q. An hour. And you stayed in
2 that area, just ---?

3 A. Yes, sir. We was no farther
4 than a break above it, but we wasn't
5 in the faces.

6 Q. Okay. The three cars, did you
7 deliver them to the section?

8 A. Yeah, I had.

9 Q. And when would you have done
10 that?

11 A. It's been a couple ---.
12 That's been a month and a half ago,
13 I'd say.

14 Q. But like, two shifts or three
15 shifts before the day you were there?
16 If you can't remember, that's ---.

17 A. I can't recall. I couldn't
18 put a date on it.

19 Q. Okay. When you went back into
20 that section to work on the pump, did
21 someone --- because it had not been
22 pre-shifted; right?

1 A. Lonnie was up there. I
2 don't --- Lonnie's the ---.

3 Q. Okay. Do you know if he ---?

4 A. I didn't pre-shift it.

5 Q. Okay.

6 A. That's all --- I don't know.

7 Q. But you didn't --- let me say
8 this. Was work planned or scheduled
9 in there, to work on the pump?

10 A. I don't think so.

11 Q. Okay. All right, that's fine.

12 A. The only thing we done on that
13 section was unstopped that three-inch
14 waterline, which the pump's there
15 today.

16 Q. Uh-huh (yes).

17 A. And that was it.

18 Q. Okay. Did you ever work on
19 the --- you said you never were at
20 the seals once they were ---?

21 A. After the seals had been ---
22 I've never been to them. I hauled

1 block to them maybe, you know.

2 Q. But did you ---?

3 A. Yeah, I hauled it.

4 Q. Were you there when they built
5 them?

6 A. No, sir. I just took supplies
7 to them.

8 Q. At the end of the track?

9 A. At the end of the track.

10 Q. You didn't get a scoop and
11 deliver them?

12 A. No.

13 Q. Okay. Have you ever been
14 searched for smoking articles?

15 A. Yes, sir.

16 Q. And have you ever observed
17 anyone at Sago Mine smoking
18 underground?

19 A. No, sir.

20 Q. Have you ever found smoking
21 articles underground at Sago Mine?

22 A. No, sir.

1 Q. Has anyone offered you
2 anything or made a promise to you in
3 exchange for appearing here today?

4 A. No, sir.

5 Q. Do you have anything that
6 you'd like to add that may be
7 relevant to the investigation?

8 A. No, sir.

9 MR. O'DONNELL:

10 On behalf of MSHA, I
11 want to thank you for
12 appearing and answering
13 questions today. Your
14 cooperation is very important
15 to the investigation as we
16 work to determine the cause of
17 the accident. We ask that you
18 not discuss your testimony
19 with any person who may have
20 already been interviewed, or
21 who may be interviewed in the
22 future. This will ensure that

1 we obtain everyone's
2 independent recollection of
3 the events surrounding the
4 accident.

5 After questioning other
6 witnesses, we may call you if
7 we have any follow-up
8 questions that we feel we may
9 need to ask you. If at any
10 time you have additional
11 information regarding the
12 accident that you'd like to
13 provide us, please contact us
14 at the contact information
15 that was given to you earlier.

16 The Mine Act provides
17 certain protections to miners
18 who provide information to
19 MSHA, and as a result, are
20 treated adversely. If at any
21 time you believe that you've
22 been treated unfairly because

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of your cooperation in this investigation, you should notify MSHA immediately.

If you wish to go back now, over any answer you have given during this interview, and you may also make a statement that you'd like to at this time.

A. No, sir, I don't.

MR. O'DONNELL:

Harold, thanks for coming, I appreciate it.

A. You're welcome.

* * * * *

SWORN STATEMENT

CONCLUDED AT 1:51 P.M.

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