

William C. Shouse

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David P. Bowles

Kristin N. Logan

Chris J. Gadansky

Tyler Griffin Smith

Elizabeth A. Deener

Stephanie B. Chadwell

Elizabeth Winchell

January 28, 2008

Via E-Mail and First Class Mail

Patrick N. Findlay, Esq.
Investigative Counsel
Committee on Education and Labor
U.S. House of Representatives
1107 Longworth House Office Building
Washington, DC 20515

RE: Jim Poulson/Crandall Canyon Mine Investigation

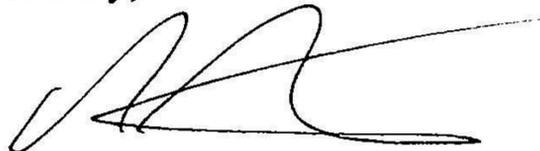
Dear Mr. Findlay:

As you know from our previous correspondence and conversations, our office represents Jim Poulson, who you have requested to appear for a deposition on February 4, 2008.

In my letter to you dated January 18, 2008, I made you aware that Mr. Poulson would assert a blanket Fifth Amendment privilege if he were to appear at the deposition. Since that time, Mr. Poulson has signed the attached affidavit to that effect. We sincerely hope that, given his intent to invoke his Fifth Amendment privilege, his appearance on February 4th will not be necessary.

I appreciate your consideration of this correspondence and I hope to hear from you as soon as possible regarding Mr. Poulson's February 4, 2008, deposition. Do not hesitate to contact me directly if you need any additional information.

Sincerely,



R. Kent Westberry
LANDRUM & SHOUSE, LLP
Louisville Office - Ext. 115
kwestberry@landrumshouse.com

RKW/knl

cc: Phillip T. Inglima (via e-mail)

Charles Landrum, Jr.

(1917-1990)

Weldon Shouse

(1915-2004)

Of Counsel

Thomas M. Cooper

John H. Burrus



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January 18, 2008

Via E-Mail and First Class Mail

Patrick N. Findlay, Esq.
Investigative Counsel
Committee on Education and Labor
U.S. House of Representatives
1107 Longworth House Office Building
Washington, DC 20515

RE: Jim Poulson/Crandall Canyon Mine Investigation

Dear Mr. Findlay:

As you know from our previous correspondence and conversations, our office represents Jim Poulson who you have requested to appear for a deposition on February 4, 2008. At the outset, please allow us to state that we are open to a notice of deposition in lieu of a subpoena. I will accept service of a subpoena for Mr. Poulson if that is what your office prefers.

Pursuant to the Fifth Amendment of the United States Constitution as well as Rule 24 of the House Rules which allows your office the authority to take these depositions, this correspondence will confirm our earlier conversation where I indicated that Mr. Poulson, on my advice, will exercise his constitutional privilege not to answer any questions propounded to him at a potential deposition. I will do my best to follow up with a sworn affidavit from Mr. Poulson as soon as possible.

As we have discussed, the investigation into the events at Crandall Canyon have involved parallel tracks. The office of OIG of the Department of Labor, as well as MSHA have either requested documents from Mr. Poulson or, in MSHA's case, taken sworn testimony from him. With regard to the sworn testimony, we have received no indication of when a copy of that transcript will be made available for our review. This causes me concern as to the wisdom of allowing multiple sworn statements to be made without an opportunity to review the same.

Further, at our recent conversation of January 14, 2008, you did inform that you wanted to inquire with Mr. Poulson as to his understanding of various MSHA approved plans at Crandall Canyon, any contacts that he would have had with MSHA inspectors as well as Agapito. I appreciate you sharing this information, but would state this only reinforces my belief that it is critical that he assert his privilege at this juncture. The climate surrounding the

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January 18, 2008

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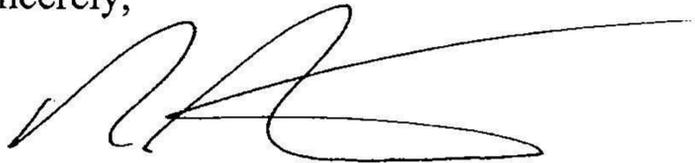
Crandall Canyon investigation, quite frankly, has caused grave concerns as to the purpose and use of any Congressional investigation. I am generally aware that that the Senate and perhaps the House has criticized Mr. Poulson's employer, Murray Energy and related entities, to the point that they allege criminal conduct may have occurred. Because of the uncertainty and ambiguity created by these parallel investigations, it is my recommendation that Jim Poulson decline to answer questions at any upcoming deposition.

I think we both would agree that the Fifth Amendment protection applies not only to "answers that in themselves support a conviction under criminal statute", but also to answers "which would furnish a link in the chain of evidence need to prosecute the claimant for a federal crime" *Hoffman v. United States*, 341 US 479, 486 (1951). Further, the United States Supreme Court recently stated in *Ohio v. Reiner*, 532 US 17, 18 (2001) that the basic protection the Fifth Amendment affords is "...to protect innocent men, who otherwise might be ensnared by ambiguous circumstances". *Id* at 21. (Emphasis in original)

We have not discussed the potential location for any deposition your office might want to take. However, I would point out that it is ordinarily the practice of the Department of Justice to not require a witness to appear if he indicates that he will assert his constitutional privilege. I recognize that you are an arm of the Legislative Branch, but would request that you consider the Department's policy as an analogous and appropriate. Accordingly, I would hope that it would not be necessary for Mr. Poulson to make an appearance simply to exercise his constitutional privilege. As you might understand, the cost and inconvenience of such an exercise will be substantial.

I appreciate your consideration of this correspondence. Do not hesitate to contact me directly if you need any additional information.

Sincerely,



R. Kent Westberry
LANDRUM & SHOUSE, LLP
Louisville Office - Ext. 115
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MU225/57093

AFFIDAVIT

Comes the Affiant, James Poulson, after first being duly sworn, and states as follows:

1. I am over 21 years of age and I am competent to make this affidavit.
2. My counsel, R. Kent Westberry, has informed me that the Committee on Education and Labor of the United States House of Representatives has requested that I give a deposition in connection with an investigation concerning certain events relating to the Crandall Canyon, Utah mine. I have reviewed House Resolution 836. See Exhibit 1.
3. I have had a full opportunity to confer with Mr. Westberry concerning the congressional request for a deposition and my constitutional rights. I have also had an opportunity to review his letter to Patrick Findlay, Investigative Counsel, Committee on Education and Labor, dated January 18, 2008. See Exhibit 2. I understand that the Fifth Amendment to the United States Constitution protects the innocent and it is my constitutional right to remain silent.
4. This affidavit confirms the representation in Mr. Westberry's letter that if I were to appear at the requested deposition, whether by notice or subpoena and regardless of location, I would invoke my constitutional right to remain silent and decline to provide testimony in response to all questions relating to the matter under investigation.

5. I provide this affidavit with the request that it be accepted in lieu of my personal appearance and testimony.

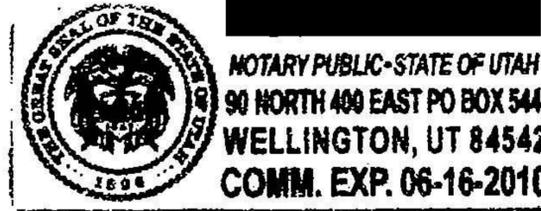
Further Affiant sayeth naught.


JAMES POULSON

Subscribed and sworn to before me
this 25 day of January, 2008



Notary Public



My Commission expires:

06-16-2010