

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Settlement Agreement)
Between the Public Utilities Commission of) Case No. 06-275-TR-UNC
Ohio and Peters Used Equipment, Inc.)

FINDING AND ORDER

The Commission finds:

- (1) Sections 4919.79 and 4921.04 of the Revised Code authorize the Commission to adopt safety rules applicable to interstate and intrastate highway transportation and the offering for transportation of hazardous materials. Pursuant to this authority, the Commission adopted in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations of the U.S. Department of Transportation contained in 49 CFR 40, 382, 383, 385, 387, 390 to 397, and 49 CFR 171 to 180. Sections 4905.83, 4919.99 and 4921.99 of the Revised Code authorize the Commission to assess forfeiture against any person who violates these rules. Pursuant to this statutory authority, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Rules 4901:2-7-01 through 4901:2-7-22, O.A.C. This action is brought pursuant to those rules and regulations.
- (2) On July 6, 2005, Staff conducted a compliance review of a facility operated by Peters Used Equipment, located at 5507 U.S. Route 6, Pemberville, Ohio.
- (3) During the compliance review, staff discovered the following apparent violations:

49 C.F.R. 382.115(a)	Failing to implement an alcohol and/or controlled substance testing program	\$ 1,000.00
49 C.F.R. 391.45(b)(1)	Using a driver not medically examined and certified.	\$ 600.00
49 C.F.R. 391.51(a)	Failing to maintain driver qualifications on drivers	\$ 600.00
49 C.F.R. 391.51(b)(2)	Inquiries into driving record not maintained	\$ 400.00

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician DM Date Processed 12/20/06

49 C.F.R. 395.8(a)	Failing to require driver to make record of duty status	\$ 1,000.00
49 C.F.R. 395.8(a)	Failing to require driver to make record of duty status	\$ 2,000.00
49 C.F.R. 396.3(b)	Failing to keep minimum record of inspections	\$ 425.00
49 C.F.R. 396.11(a)	Failing to require driver to prepare inspection report	\$ 450.00
49 C.F.R. 396.11(a)	Failing to require driver to prepare inspection report	\$ 1,025.00
49 C.F.R. 396.17(a)	Using a commercial motor vehicle not periodically inspected	\$ 400.00

- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. The matter was discussed, and the Respondent had a full opportunity to present any evidence that the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, and any other information relevant to the action proposed to be taken by Staff.
- (5) As the result of this conference, Staff and Respondent entered into a settlement agreement to resolve these inspections. Among the terms of the settlement agreement, the Respondent agreed to make payment of a civil forfeiture of \$4,350.
- (6) Respondent agrees that the findings of violations enumerated above will be included in the Respondent's Safety-Net record and in Respondent's history of violations insofar as they may be relevant for purposes of determining future penalties.
- (7) Rule 4901:2-7-11(C), O.A.C., provides that settlement agreements providing for the payment of civil forfeitures of one thousand dollars or more for any violation shall not be effective until approved by and made the order of the Commission.
- (8) The settlement agreement entered into between Staff and Respondent represents an equitable settlement of the matter and should be approved and adopted by the Commission.

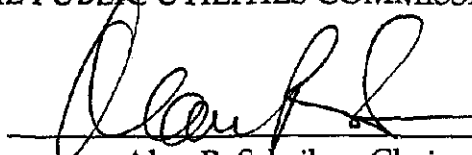
It is, therefore,

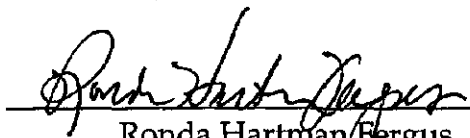
ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and Peters Used Equipment be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That the Respondent pay \$4,350.00. It is, further,

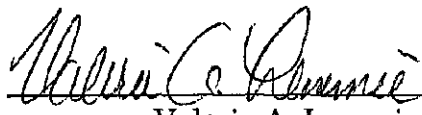
ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Respondent, Peters Used Equipment.

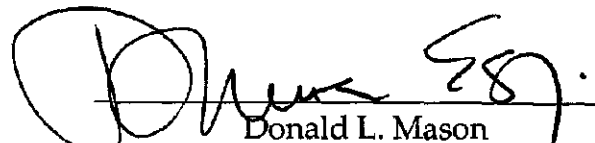
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Ronda Hartman Fergus


Judith A. Jones


Valerie A. Lemmie


Donald L. Mason

EW:sm

Entered in the Journal

DEC 20 2006



Renee J. Jenkins
Secretary