

Commission. If an application for rehearing is filed, and if the Commission does not, on rehearing, accept the Settlement Agreement without material modification, either Party may terminate and withdraw from this agreement by filing a notice with the Commission within ten (10) business days of the Commission's order or entry on rehearing. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

II. Procedural History

A. On May 18, 2009 a vehicle operated by Respondent Nobscot and driven by respondent Smith was inspected within the State of Ohio. The inspection resulted in the discovery of the following violations of the federal motor carrier safety regulations:

1. Respondent Nobscot was found to have failed to operate in accordance with the laws, ordinances, and regulations of the State of Ohio in violation of 49 C.F.R. §392.2. Specifically, Respondent Nobscot was found to have failed to pay the required Unified Carrier Registration fee.
2. Respondent Nobscot was also found to be operating without the required operating authority in violation of 49 C.F.R. §392.9a(a)(1).
3. Respondent Smith was found to have failed to record his duty status in violation of 49 C.F.R. §395.8(a).

4. Respondent Smith was also found to have operated a commercial motor vehicle without being medically certified as physically qualified to do so in violation of 49 C.F.R. §391.41(a).
- B. On September 9, 2009, Respondents were timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. The preliminary determination assessed Respondent Nobscot \$600.00 and Respondent Smith \$200.00 for the violations.
- C. On September 15, 2009, Respondents made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.
- D. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of preliminary determination.

III. Settlement Agreement

The parties hereto agree and recommend that the Commission find as follows:

- A. Respondents agree to violations of 49 C.F.R. §§392.2, 395.8(a), and 391.41(a), and recognizes that they may be included in the Respondents' Safety-Net Record and Respondents' history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- B. Staff agrees, based on information provided by the Respondents, that the violation of 49 C.F.R. §392.9a(a)(1) should and has been be deleted, resulting in a \$500.00 reduction of the civil forfeiture assessed by Staff.
- C. Respondents agree to pay a civil forfeiture of \$300.00 for the remaining violations. The parties have further agreed that Respondents may make monthly

payments in the amount of \$50.00 per month for a period of no more than six months, the first such payment being due thirty (30) days from Commission approval of this settlement agreement. All payments are to be made by certified check or money order to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad St., 4th Floor, Columbus, OH 43215.

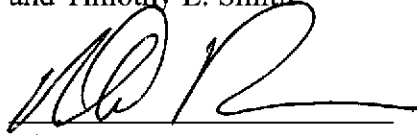
- D. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- E. This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.

III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.


The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this _____ day of September, 2011.

On behalf of Nobscot Organ Works
and Timothy E. Smith



Richard R. Parsons
Michael D. Dortch
Kravitz, Brown & Dortch, LLC
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On behalf of the Staff of the Public
Utilities Commission of Ohio



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