

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of A.R. Paquette &	:	
Company, Inc., Notice of Apparent	:	Case No. 15-328-TR-CVF
Violation and Intent to Assess	:	
Forfeiture.	:	
	:	

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**SETTLEMENT AGREEMENT**

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**I. Introduction**

Pursuant to Rule 4901:2-7-11, Ohio Admin. Code, A.R. Paquette & Company, Inc. (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this Settlement Agreement to resolve all issues in the above captioned case.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, the Respondent and the Staff recommend that the Commission adopt this Settlement Agreement.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty (30) days of the Commission's order, to file an application

for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

## **II. Procedural History**

- A. On November 13, 2014, a commercial motor vehicle operated by Respondent was inspected in the State of Ohio.
- B. As a result of the inspection, Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-07-12, Ohio Administrative Code. The preliminary determination assessed an aggregate forfeiture of \$8,060.00 against the Respondent for violating the following provisions:
  - \$0 forfeiture assessed for violating 49 C.F.R. 393.9 (inoperable required lamp (top cab clearance lamp))
  - \$0 forfeiture assessed for violating 49 C.F.R. 397.2 (must comply with rules in Parts 390-297 of the FMCSR when transporting hazardous materials)
  - \$500 forfeiture assessed for violating 49 C.F.R. 397.67 (hazardous-material vehicle routing violation (non-radioactive material))

- \$0 forfeiture assessed for violating 49 C.F.R. 172.332 (ID# marking not displayed when required for shipment containing UN3077))
- \$2,520.00 forfeiture assessed for violating 49 C.F.R.172.602(a) (emergency response information not maintained with hazardous-material shipment)
- \$5,040.00 forfeiture assessed for violating 49 C.F.R. 177.823(a) (transport vehicle missing required ID markings)

C. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the notice of preliminary determination.

### **III. Settlement Agreement**

The Staff and Respondent agree and recommend that the Commission find as follows:

A. For purposes of settlement only, and not as an admission that the violations occurred as alleged, the Respondent agrees to pay a reduced forfeiture amount of \$4,030.00 and agrees that the violations may be included in Respondent's Safety-Net Record and history of violations, insofar as they may be relevant for purposes of determining future penalty actions. Staff's agreement to the reduced forfeiture is premised upon an error made in regards to the forfeiture calculation. The Respondent was assessed as a history-4 carrier, resulting in a quadrupling of the base

forfeiture, however, the Respondent should have been assessed as a history-2 carrier, resulting in a doubling of the base forfeiture.

- B. Respondent will pay a civil forfeiture of \$4,030.00 within thirty (30) days of the Commission's order approving this Settlement Agreement. The payment shall be made by check or money order made payable to: "Treasurer State of Ohio," and shall be mailed to: PUCO Fiscal, 180 E. Broad St., 4<sup>th</sup> Floor, Columbus, Ohio 43215-3793. The case number (OH3202306068C) must appear on the face of the check.
- C. This Settlement Agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement. This Settlement Agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

#### **IV. Conclusion**

The undersigned respectfully request that the Commission adopt the agreement in its entirety. The parties have manifested their consent and authority to enter into the Settlement Agreement by signing below.

On behalf of the Respondent

On behalf of the Staff of the Public  
Utilities Commission of Ohio

/s/ Kelly E. Mulrane (per authority RPO)

**Kelly E. Mulrane**

Benesch, Friedlander, Coplan  
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/s/ Ryan P. O'Rourke

**Ryan P. O'Rourke**

Assistant Attorney General  
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180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

5/14/2015

**Date**

5/14/2015

**Date**

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 15-0328-TR-CVF**

Summary: Agreement Settlement Agreement electronically filed by Mrs. Tonnetta Y Scott on behalf of PUCO