

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Kahsay Berhane, Notice)
of Apparent Violation and Intent to) Case No. 15-1408-TR-CVF
Assess Forfeiture.) (OH3293007816C)

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) On June 23, 2015, a commercial motor vehicle (CMV) operated by Kahsay G. Berhane (Respondent) was inspected within the state of Ohio. Respondent is a for-hire motor carrier, as defined in R.C. 4923.01, and subject to the jurisdiction of the Commission. As a result of the inspection, Respondent was cited for the following:
 - (a) One violation of 49 C.F.R. 393.11, which is for the lack of or defective lighting devices or reflective material as required. The inspector noted that one of the three left ID lamps was missing.
 - (b) Nine violations of 49 C.F.R. 393.9, which is for inoperable lamps located on the CMV and any towed units. The inspector determined the following nine lamps were inoperable at the time of inspection: right tail lamp, left front turn signal lamp, and license plate lamp for the CMV; and right tail lamp, left tail

lamp, left turn signal lamp, left stop lamp, right turn signal lamp, and the right stop lamp for the towed unit.

- (c) A violation of 49 C.F.R. 392.9(a)(1), which is for failing to secure cargo as specified in 49 C.F.R. 393.100 through 393.142. The inspector noted that the towed unit had no type of securement.
 - (d) A violation of 49 C.F.R. 209(d), which is for steering system components that are worn, welded, or missing. The inspector noted that the steering drag link had more than 1/8" movement other than rotational.
- (3) Respondent was timely served a notice of preliminary determination (NPD) in accordance with Ohio Adm.Code 4901:2-7-12, alleging the above violations of the Commission's transportation regulations. The NPD assessed Respondent a total civil forfeiture of \$300.00 for the violations.
 - (4) On August 4, 2015, Respondent filed a request for an administrative hearing in the above-captioned case in accordance with Ohio Adm.Code 4901:2-7-13. Thereafter, a prehearing conference was held.
 - (5) On September 10, 2015, Staff and Respondent filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the NPD. The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the settlement agreement. In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) Respondent admits to the alleged violations in the NPD and agrees that the violations may be included in Respondent's Safety-Net Record and history of violations, insofar as it may be relevant for purposes of determining future penalty actions.

- (b) Respondent shall pay a total civil forfeiture of \$300.00 in six consecutive monthly installments of \$50.00 per installment commencing 30 days after the Commission's approval of the settlement agreement. The payments should be made by check or money order to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH3293007816C) shall appear on the face of each check or money order.
- (c) The 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. The settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect in any other case or proceeding.
- (6) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

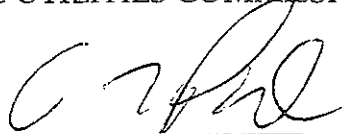
It is, therefore,

ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That Respondent shall pay a total civil forfeiture of \$300.00 in six consecutive monthly installments of \$50.00 per installment commencing 30 days after the Commission's approval of the settlement agreement. The payments should be made by check or money order to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH3293007816C) shall appear on the face of each check or money order. It is, further,

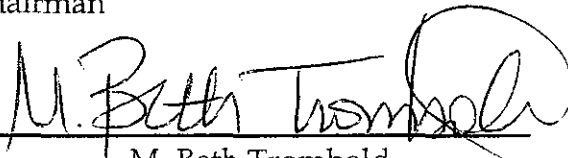
ORDERED, That a copy of this Finding and Order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Andre T. Porter, Chairman

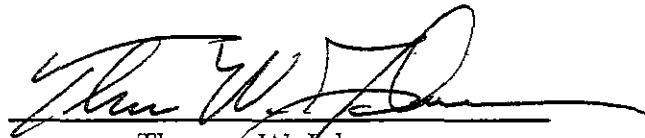
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

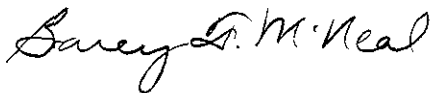


Thomas W. Johnson

MJA/sc

Entered in the Journal

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Barcy F. McNeal
Secretary