

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
VALLEY BUILDING CENTER, NOTICE OF  
APPARENT VIOLATION AND INTENT TO  
ASSESS FORFEITURE.

CASE NO. 16-347-TR-CVF  
(CR201509240520)

FINDING AND ORDER

Entered in the Journal on June 8, 2016

I. SUMMARY

{¶ 1} In this Finding and Order, the Commission approves and adopts the settlement agreement submitted by the parties.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} 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.

B. *Procedural History*

{¶ 3} On September 24, 2015, a compliance review was conducted at the facility of Valley Building Center (Respondent) by Staff. The compliance review discovered the following violations of the Code of Federal Regulations (C.F.R.): 49 C.F.R. 391.45(b)(1) - Using a driver not medically examined and certified during the preceding 24 months, \$400.00, and 49 C.F.R. 387.7(d) - Failing to maintain at principal place of business required proof of financial responsibility, \$1,300.00.

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on January 15, 2016. The NPD assessed Respondent a total civil forfeiture of \$1,700.00 for the violations.

{¶ 5} On February 16, 2016, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on March 16, 2016, and a hearing was scheduled for May 18, 2016. Thereafter, Staff notified the attorney examiner that the parties had reached a settlement agreement, and the hearing was canceled.

{¶ 7} On May 19, 2016, 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 conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent agrees to the violations listed above and recognizes that that the violations may be included in Respondent's Safety-Net Record and Respondent's history of violations, insofar as they may be relevant for purposes of determining future penalty actions.
- (b) Respondent and Staff agree that the forfeiture for the 49 C.F.R. 387.7(d) violation should be reduced to \$910.00 based on the Respondent providing documentation showing sufficient insurance coverage.
- (c) Respondent shall pay the \$1,310.00 civil forfeiture within 30 days of the Commission order approving this Settlement Agreement. The payment shall be made by certified check or money order payable to "Treasurer of State of Ohio" and

mailed to PUCO FINANCE, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The inspection number (CR201509240520) shall appear on the face of the check or money order.

- (d) Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code Chapter 4901:2-7, as the result of future compliance reviews or roadside inspections.
- (e) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission order adopting the settlement agreement shall be considered as the effective date of the settlement agreement.
- (f) The settlement agreement is made in settlement of all factual and legal issues in only this case. It is not intended to have any effect whatsoever in any other case or proceeding.

**C. Commission Conclusion**

{¶ 8} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement shall be approved and adopted in its entirety.

**III. ORDER**

{¶ 9} It is, therefore,

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

{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$1,310.00 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO FINANCE, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number (CR201509240520) on the face of the check or money order. It is, further,

{¶ 12} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

**Commissioners Voting: Asim Z. Haque, Chairman; Lynn Slaby; Thomas W. Johnson.**

KKS/vrm