

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF UMID ALIEV, NOTICE
OF APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE

CASE NO. 17-1547-TR-CVF
(OH3229013932D)

FINDING AND ORDER

Entered in the Journal on December 6, 2017

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Umid Aliev regarding violations of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission 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 (FMCSR), published in the Code of Federal Regulations (C.F.R.), 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, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On April 23, 2017, a commercial motor vehicle operated by JK Transportation, Inc. and driven by Umid Aliev (Respondent) was inspected in Hancock County, Ohio. As a result of the inspection, Respondent was cited with an out-of-service violation of the FMCSR. Specifically, Respondent was cited for a false report of a driver's record of duty status in violation of 49 C.F.R 395.8(e)(1).

{¶ 4} Pursuant to Ohio Adm.Code 4901:2-7-12, Staff timely served Respondent with a Notice of Preliminary Determination (NPD). The NPD assessed Respondent a civil forfeiture of \$100 for the alleged violation.

{¶ 5} On July 5, 2017, Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on September 6, 2017.

{¶ 7} On November 3, 2017, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves the issue raised in the NPD. The following is a summary of the conditions agreed to by the parties; it is not intended to replace or supersede the settlement agreement.

- (a) Respondent admits that his record of duty status was inaccurate, but denies that the error was made with any intent to falsify the record. As such, Respondent agrees to a violation of 49 C.F.R. 395.8(a) rather than 49 C.F.R. 395.8(e). Respondent recognizes that the violation 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.
- (b) Respondent agrees to pay a civil forfeiture of \$100 for the violation of 49 C.F.R. 395.8(a).
- (c) Respondent shall pay the civil forfeiture within 30 days of the Commission's approval of the settlement agreement. Payment should be made by certified check or money order payable to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad Street, Columbus, Ohio 43215-3793.

- (d) The settlement agreement shall not become effective until adopted by an order of the Commission. The date the Commission adopts the settlement agreement shall be considered the effective date of the settlement agreement.
- (e) The settlement agreement is made in settlement of all factual or legal issues of this case only. It is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 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,

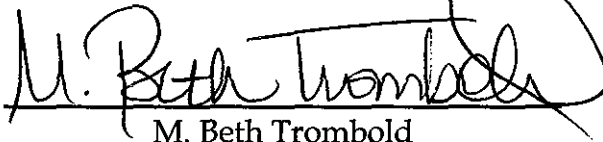
{¶ 11} ORDERED, That Respondent pay the civil forfeiture of \$100 in accordance with the settlement agreement. Payment shall be made by check or money order payable to the "Treasurer, State of Ohio" and mailed or delivered to PUCO FISCAL, 180 East Broad Street, Columbus, Ohio 43215-3793. In order to ensure proper credit, Respondent is directed to write the case number (OH3229013932D) 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.

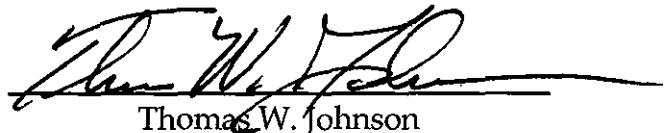
THE PUBLIC UTILITIES COMMISSION OF OHIO



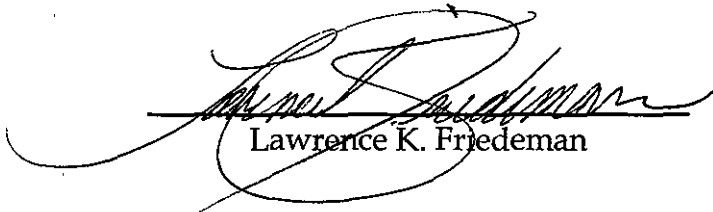
Asim Z. Haque, Chairman



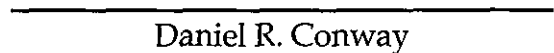
M. Beth Trombold



Thomas W. Johnson



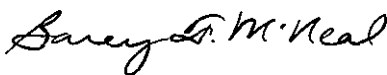
Lawrence K. Friedeman



Daniel R. Conway

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Barcy F. McNeal
Secretary