

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF MICHAEL D. OGLESBEE,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 18-937-TR-CVF
(OH3202306604D)

FINDING AND ORDER

Entered in the Journal on November 7, 2018

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 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.

{¶ 3} On March 8, 2018, a commercial motor vehicle (CMV) operated by Covenant Transport Inc. and driven by Michael D. Oglesbee (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of a violation of 49 C.F.R. 392.10(a)(3) (failure to stop at railroad crossing - CMV requiring display of hazardous materials placards).

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent a civil forfeiture of \$500 for the violation of 49 C.F.R. 392.10(a)(3).

{¶ 5} On May 29, 2018, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on July 10, 2018.

{¶ 7} On October 16, 2018, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issue 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:

- (1) For purposes of settlement only, Staff agrees to reduce the total civil forfeiture to \$100 for the reason that Respondent agrees to take remedial action to avoid repeating the violation. The parties agree that Respondent shall make a civil forfeiture payment of \$100 no later than 30 days after the effective date of the settlement agreement.
- (2) The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- (3) The settlement agreement can be considered to determine future forfeitures if Respondent has any future cases before the Commission.
- (4) The settlement agreement is made in settlement of all factual and legal issues in this case.

{¶ 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

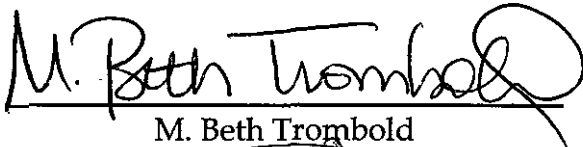
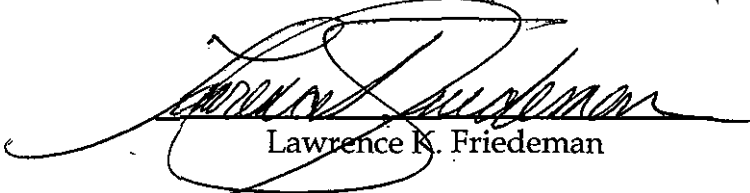
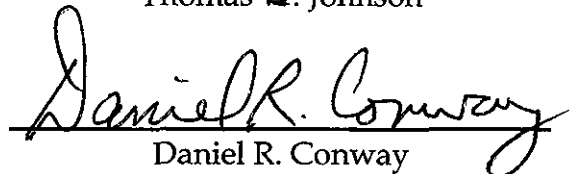
{¶ 9} It is, therefore,

{¶ 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 \$100 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, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number, OH3202306604D, 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.

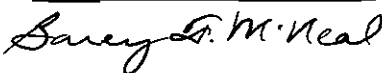
THE PUBLIC UTILITIES COMMISSION OF OHIO


Asim Z. Haque, Chairman
M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

SJP/sc

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Barcy F. McNeal
Secretary