

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF DAMIR LOGISTICS
INC., NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 18-1573-TR-CVF
(CR201808100388)

FINDING AND ORDER

Entered in the Journal on March 20, 2019

I. SUMMARY

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

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 August 10, 2018, a compliance review (CR) of Damir Logistics Inc.'s (Respondent) facility was conducted by Staff. The CR resulted in discovery of the following violations, for which Respondent was assessed civil forfeitures. The violations and applicable forfeitures are: 49 C.F.R. 395.8(a)(1) (failing to require a driver to prepare a record of duty status using an appropriate method, \$9,690); 395.8(e)(1) (making, or permitting to make, a false report regarding duty status, \$0.00); and R.C. 4921.03 (operating a for-hire motor carrier in intrastate commerce without a current valid certificate of public convenience and necessity, \$750).

{¶ 4} On October 18, 2018, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 5} A prehearing conference was conducted on December 7, 2018.

{¶ 6} On January 4, 2019, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves 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 admits to the violations listed above and in the NPD, and agrees that the violations may be included in its history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Pursuant to Ohio Adm.Code 4901:2-7-02(B), Staff and Respondent seek a waiver of the requirement in Ohio Adm.Code 4901:2-7-12 to serve a Notice of Preliminary Determination upon the respondent prior to a request for an administrative hearing.
- (c) Respondent shall pay the \$6,000 civil forfeiture in 12 consecutive monthly installments of \$500 per installment, starting 30 days after the Commission's order approving this settlement agreement. Payments shall be made payable to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. In order to assure proper credit, Case No. 18-1573-TR-CVF and compliance review number CR201808100388 should appear on the face of each check or money order.

- (d) This settlement agreement shall not become effective until adopted by the Commission. The date of the Finding and Order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (e) 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.

C. Commission Conclusion

{¶ 7} 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

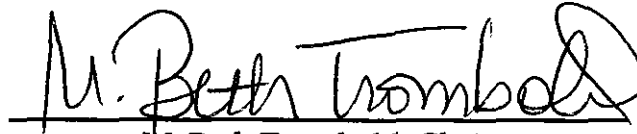
{¶ 8} It is, therefore,

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

{¶ 10} ORDERED, That Respondent pay the civil forfeiture of \$6,000 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 Case No. 18-1573-TR-CVF and inspection number CR201808100388 on the face of the check or money order. It is, further,

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

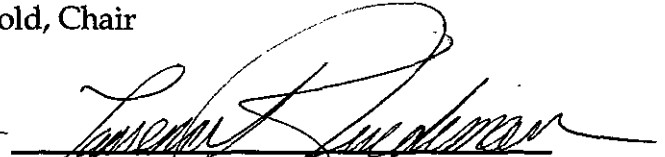
THE PUBLIC UTILITIES COMMISSION OF OHIO



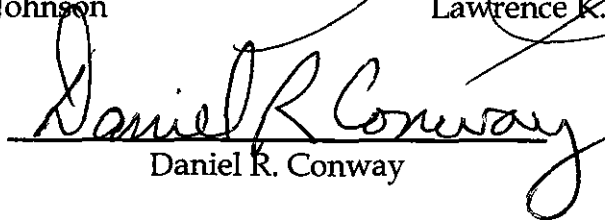
M. Beth Trombold, Chair



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

JML/hac

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MAR 20 2019



Tanowa M. Troupe
Secretary