

THE PUBLIC UTILITIES COMMISSION OF OHIO

Case No. 03-1193-TR-UNC

The Commission finds:

- (1) Sections 4919.79 and 4921.04 of the Revised Code authorize the Commission to adopt safety rules applicable to interstate and intrastate highway transportation and the offering for transportation of hazardous materials. Pursuant to this authority, the Commission adopted in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations of the U.S. Department of Transportation contained in Title 49, Parts 40, 382, 383, 387, 390 through 397, and Parts 171 through 180, Code of Federal Regulations (C.F.R.). Sections 4905.83 and 4921.99 of the Revised Code authorize the Commission to assess a forfeiture against any person who violates these rules. Pursuant to this statutory authority, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Rules 4901:2-7-01 through 4901:2-7-22, O.A.C. This action is brought pursuant to those rules and regulations.
- (2) On June 3, 2002, Staff conducted a compliance review of a facility operated by Shun Da Corporation (Respondent), inspection number CR02S368. During the compliance review, Staff discovered apparent violations of the driver qualification files in accordance with 49 C.F.R. Part 391 and numerous hours of service violations including failing to maintain its drivers records of duty status for 6 months pursuant to 49 C.F.R. Part 395. The Respondent also failed to have its vehicles periodically inspected as required by 49 C.F.R. Part 396.
- (3) Staff timely issued to the Respondent a combined Notice of Apparent Violation and Intent to Assess Forfeiture, in accordance with Rules 4901:2-7-05, -07, and -09, O.A.C., proposing a civil forfeiture of \$10,004.

Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. The matter was discussed, and the Respondent had a full opportunity to present any evidence that the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, and any other information relevant to the action proposed to be taken by Staff. As mitigating circumstances, Respondent represented to Staff that it has hired additional personnel to monitor log books and verify log books for accuracy and hours of service issues. The Respondent also has its insurance company making inquiries into driver's driving records for the driver qualification file

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and the Respondent has also contracted with a vehicle service and repair company to perform all of its annual inspections as required by 49 C.F.R. Part 396.

- (4) As the result of this conference, Staff and Respondent entered into a settlement agreement to resolve these inspections. Among the terms of the settlement agreement, the Respondent agreed to make payment of \$5,002 within 30 days from the effective date of this settlement agreement. The remaining \$5,002 will be held in abeyance pending the results of a follow-up compliance review within one year after the effective date of this agreement.
- (5) Rule 4901:2-7-11(C), O.A.C., provides that settlement agreements providing for the payment of civil forfeitures of one thousand dollars or more for any violation shall not be effective until approved by and made the order of the Commission.
- (6) The settlement agreement entered into between Staff and Respondent represents a fair and equitable settlement of the matter and should be approved and adopted by the Commission.


It is, therefore,

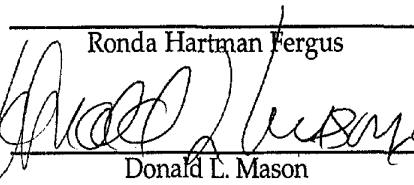
ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and Shun Da Corporation, be approved and adopted by the Commission by this Finding and Order. It is, further,

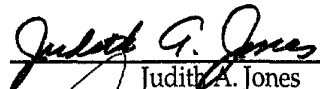
ORDERED, That the Respondent pay \$5,002 within 30 days from the effective date of this settlement agreement. It is, further,

ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Shawn Chen, Shun Da Corporation, 4112 LaGrange Street, Toledo, Ohio, 43612-1431.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman

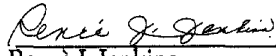

Ronda Hartman Fergus


Judith A. Jones

DLW:sm

Entered in the Journal

JUN 5 2003


Renee J. Jenkins
Secretary

FILE

CASE NUMBER: 03-1193-TR-UNC
CASE DESCRIPTION: SETTLEMENT AGREEMENT WITH SHUN DA CORPORATION
DOCUMENT SIGNED ON: 6/5/2003
DATE OF SERVICE: 6.5.2003

PARTIES SERVED

PARTIES OF RECORD

ATTORNEYS

Shawn Chen
Shun Da Corporation
4112 La Grange Street
Toledo, Ohio 43612-1431