

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Koivisto Constructors and)
Erectors, Inc., Notice of Apparent Violation) Case No. 06-744-TR-CVF
and Intent to Assess Forfeiture.) (CR05C20)

ENTRY

The Commission finds:

- (1) A compliance review was performed at the facility of Koivisto Constructors and Erectors, Inc. (respondent) in Andover, Ohio from April 28, 2005 to May 11, 2005. Subsequently, respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code. This notice indicated Commission staff's intention to assess civil forfeitures totaling \$4,180.00 for the following violations of the Code of Federal Regulations (C.F.R.):

<u>Code</u>	<u>Violation</u>
49 C.F.R. §382.115(a)	Failing to implement an alcohol and/or controlled substances testing program.
49 C.F.R. §383.23(a)	Operating a CMV without a valid CDL.
49 C.F.R. §391.51(b)(1)	Failing to maintain driver's employment application in driver's qualification file.
49 C.F.R. §391.51(b)(2)	Failing to maintain inquiries into driver's driving record in driver's qualification file.
49 C.F.R. §391.51(b)(5)	Failing to maintain a note relating to the annual review of the driver's driving record as required by §391.25(c)(2).

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| 49 C.F.R. §391.51(b)(6) | Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by §391.27. |
| 49 C.F.R. §395.8(a) | Failing to require driver to make a record of duty status. |
| 49 C.F.R. §395.8(a) | Failing to require driver to make a record of duty status. |
| 49 C.F.R. §395.8(e) | False reports of records of duty status. |
| 49 C.F.R. §395.8(f)(5) | Failing to require driver to prepare record of duty status showing commercial motor vehicle identification. |

Respondent was timely served with a notice of apparent violation.

- (2) On May 30, 2006, respondent requested an administrative hearing, thereby initiating this case.
- (3) The parties filed a settlement agreement. In the settlement agreement, staff and respondent agree, in pertinent part, as follows:
 - (a) Respondent agrees to pay a combined civil forfeiture of \$2,090.00 for all of the violations cited to under the Federal Motor Carrier Safety Regulations by staff from respondent's compliance review in this case. Respondent and staff also agree that another \$2,090.00 forfeiture amount will be held in abeyance for a period of one year following the effective date of this settlement agreement.
 - (b) For purposes of settlement, and not as an admission or evidence that the violations occurred, respondent agrees that the findings of these violations in this settlement agreement may

be included in the respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining future penalty actions.

- (c) Respondent shall pay the combined civil forfeiture of \$2,090.00 within 30 days following Commission approval of this settlement agreement. Respondent shall submit payment by certified check or money order to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St., 13th floor, Columbus, Ohio 43215-3793.
- (d) If, as a result of a future compliance review conducted by staff at respondent's business within one year from the Commission's adoption of this settlement agreement, there is a repeat violation of any one or more of the citations presented in this case, the amount held in abeyance (\$2,090.00) shall be forfeited and paid by respondent. However, the parties agree there can be no forfeiture of the abeyance amount until there is a final disposition by the Commission upholding any future violation(s) cited within the one year period. The parties agree that a final disposition in any new case may occur outside the one year probationary period for the amount held in abeyance.
- (e) The parties agree that nothing in this settlement agreement shall prevent staff from assessing new civil forfeitures pursuant to Chapter 4901:2-7, O.A.C., as the result of future compliance reviews being conducted by staff. The parties also agree that nothing in this settlement agreement shall prevent staff from proposing that the Commission make a compliance order pursuant to Chapter 4901:2-7, O.A.C., as the result of future compliance reviews being made by staff.
- (f) This settlement agreement shall not become effective until adopted by an opinion and order of the Commission. The date of the entry of the

Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.


- (g) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
 - (h) In the event respondent defaults in its obligations under this agreement, the Commission may order the respondent to pay the full amount of \$4,180.00, which includes the amount held in abeyance.
- (4) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

It is, therefore,

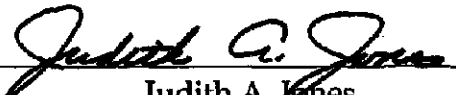
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That a copy of this entry be served upon each party of record.

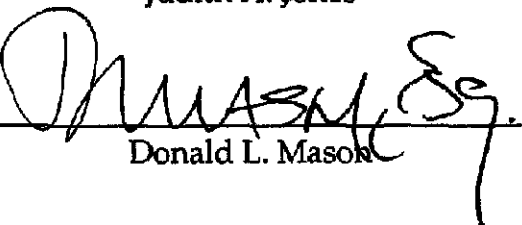
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Ronda Hartman Fergus


Judith A. Jones

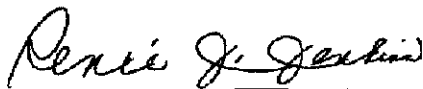
Valerie A. Lemmie


Donald L. Mason

KKS/vrm

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FEB 14 2007



Renee J. Jenkins
Secretary