

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Settlement Agreement  
between the Public Utilities Commission  
of Ohio and Stansley Industries, Inc.

)  
) Case No. 09-0005-TR-CVF  
) CR08C285  
)

FINDING AND ORDER

The Commission finds:

- (1) Sections 4919.79 and 4921.04, 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 Hazardous Material Regulations of the U.S. Department of Transportation contained in Title 49, Parts 40, 382, 383, 385, 387, 390 through 397, and Parts 171 through 180, Code of Federal Regulations (CFR). Sections 4905.83, 4919.99 and 4921.99, Revised Code, authorize the Commission to assess forfeitures against any person who violates these rules. Pursuant to this 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 May 15, 2008, Staff conducted a compliance review of a facility operated by Stansley Industries, Inc. (Stansley Industries, Respondent) and located at Sylvania, Ohio.
- (3) During the compliance review, Staff discovered apparent violations of the CFR, including:

49 CFR §382.301(a)	Using a driver before the carrier has received a negative pre-employment drug test result.	\$400.00
--------------------	--	----------

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician TM Date Processed 1/14/2009

49 CFR §391.23(a)(2)	Failing to investigate driver's previous employment record and safety performance history.	\$500.00.
49 CFR §391.51(b)(2)	Failing to maintain inquiries into driver's driving record in driver's qualification file.	\$400.00
49 CFR §395.8(a)	Failing to require driver to make record of duty status.	\$3100.00

- (3) The results of the compliance review were forwarded to Compliance staff for assessment. The original amount of civil forfeitures for the alleged violations set forth above was \$4400.00. As a result of the compliance review, the carrier's safety rating was Unsatisfactory.
- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. On September 3, 2008, a settlement was conducted and the matter was discussed. 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. At conference, Stansley Industries stated that following the compliance review at issue, it submitted a safety management plan to the Federal Motor Carrier Safety Administration who, thereupon, upgraded the carrier's rating to Satisfactory. Among other things, the plan provides for monthly safety and management meetings to discuss federal and state safety regulations and compliance issues. Stansley has also implemented a disciplinary program that includes termination for safety violations. As a result of these corrective actions and because the carrier met Commission policy and was otherwise eligible, staff offered to hold half of the assessed forfeiture amount in abeyance if the carrier agreed to pay the other half and agreed to a follow up audit within 12 months.
- (5) As a result of this conference, Staff and Respondent entered into a settlement agreement to resolve this case. Among the terms of the settlement agreement, the Respondent agreed to make payment of a civil forfeiture of \$2200.00 within thirty days after the effective date of this settlement agreement.

- (6) Respondent further agrees to grant consensual access to the Staff to conduct compliance reviews, without notice, of all its facilities located in the state of Ohio, at any time during the period of one year from the effective date of this settlement agreement. In the event that the Respondent fails to fulfill its obligations under this agreement or in the event that compliance reviews conducted during the period of one year following the effective date of this agreement reveals a pattern of violations of the Hazardous Materials Regulations 49 CFR Parts 171-180, or the Federal Motor Carrier Safety Rules, 49 CFR Parts 382, 383, 387, 390-397, by the Respondent, the Respondent agrees to make payment of an additional civil forfeiture of \$2200.00.
- (7) 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.
- (8) The settlement agreement entered into between Staff and Respondent represents an 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 Stansley Industries, Inc. be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That Stansley Industries, Inc. pay a total civil forfeiture of \$2200.00, with such payment due within thirty days after the effective date of this Finding and Order. Payments should be made payable to "Treasurer, State of Ohio" and mailed to PUCO, Attention Fiscal Division, 13<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. In order to assure proper credit, Stansley Industries, Inc. is directed to write the inspection number (CR08C285) on the face of the check. It is, further,

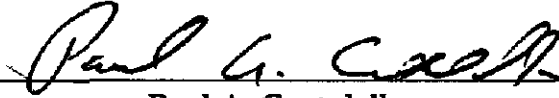
ORDERED, That United Producers, Inc. pay an additional civil forfeiture of \$2200.00 should it fail to fulfill its obligations under this settlement agreement as set forth in Finding 6 above. It is, further,

ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Stansley Industries, Inc.

THE PUBLIC UTILITIES COMMISSION OF OHIO



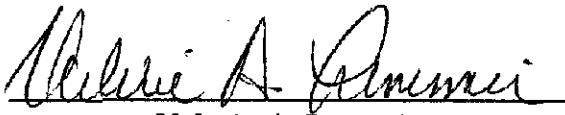
Alan R. Schriber, Chairman



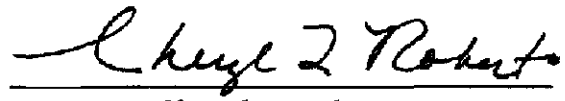
Paul A. Centolella



Ronda Hartman Fergus



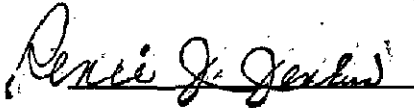
Valerie A. Lemmie



Cheryl L. Roberto

REM:js  
Attachment

Entered in the Journal  
JAN. 14 2009



Renee J. Jenkins  
Secretary