

THE PUBLIC UTILITIES COMMISSION OF OHIO

## FINDING AND ORDER

- (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, 383, 385, 387, 390 through 397, and Parts 171 through 180, Code of Federal Regulations (C.F.R.). Sections 4905.83, 4919.99 and 4921.99 of the Revised Code authorize the Commission to assess 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 May 2, 2008, Staff conducted a compliance review of a facility operated by VT Freighters LLC. (VT Freighters, Respondent), located at Celina, Ohio.
- (3) During the compliance review, staff discovered apparent violations of the Code of Federal Regulations including:

49 CFR § 391.23(a)(2)	Failing to investigate driver's previous employment record and/or safety performance history.	\$400.00
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Technician Ann Date Processed 2/11/09

49 CFR § 391.23(b)	Failing to obtain a copy of the driver's driving record.	\$400.00
49 CFR § 395.3 (b)(2)	Permitting driver to drive after being on duty 70 hours.	\$1600.00
49 CFR § 395.8(i)	Failing to require driver to forward within 13 days of completion the original of the record of duty status.	\$4300.00

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 \$7100.00.

- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. On August 5, 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, the carrier provided evidence of the new policies and procedures it has implemented to address the violations discovered during the compliance review. The carrier has also hired a new safety director to address compliance issues and has implemented a new driver log auditing and review system. Finally, the carrier has incorporated a new disciplinary policy involving violations of record of duty status requirements.
- (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 \$3550.00 within 30 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 171-180, or the Federal Motor Carrier Safety Rules, 49 CFR Parts 382, 383, 387, 390-397, by the Respondent, VT Freighters LLC. agrees to make payment of an additional civil forfeiture of \$3550.00.

- (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,

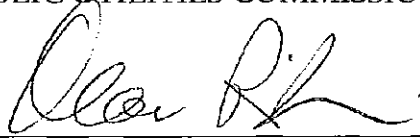
ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and VT Freighters LLC. be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That VT Freighters LLC. pay a total civil forfeiture of \$3550.00 due within 30 days after the effective date of this Finding and Order. Payment should be made payable to "Treasurer, State of Ohio" and mailed to the PUCO, Attention Fiscal Division, 13<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. In order to assure proper credit, VT Freighters LLC. is directed to write the inspection number (CR08C255) on the face of the check. It is, further,

ORDERED, That VT Freighters LLC. pay an additional civil forfeiture of \$3550.00 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 VT Freighters LLC.

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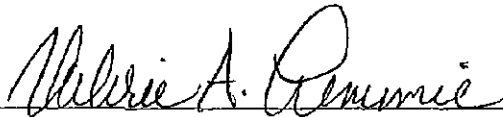
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie



Cheryl L. Roberto

REM:js

Entered in the Journal

FEB 11 2009



Renee J. Jenkins  
Secretary