

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Michael M. Brooks, Notice)
of Apparent Violation and Intent to) Case No. 08-1231-TR-CVF
Assess Forfeiture.) (OH3260005036D)

FINDING AND ORDER

The Commission finds:

- (1) On December 21, 2007, a vehicle operated by MLS Trucking, Inc. and driven by Michael M. Brooks (Respondent) was inspected within the State of Ohio by staff of the Department of Public Safety (Staff). The inspection resulted in the discovery of the following apparent violation:

49 C.F.R. Sec. 392.2 Operating a vehicle out of service
- (2) Respondent's wife, Lemedisha Brooks, was timely served with a notice of preliminary determination (NPD) in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), for Inspection Report OH3260005036D. A civil forfeiture of \$1,000.00 was assessed to Respondent by Staff for the alleged violation.
- (3) Respondent made a timely request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C. The hearing was scheduled for March 27, 2009.
- (4) On March 24, 2009, the parties filed a settlement agreement which, in the parties' opinion, resolves all issues raised in the NPD. In the settlement agreement, Staff and Respondent agree, and recommend that the Commission find, as follows:
 - (a) For purposes of settlement only, and not as an admission or evidence that the violation occurred, Respondent agrees to the assessment of a civil forfeiture of \$500.00 for the alleged violation of 49 C.F.R. §392.2.
 - (b) For purposes of settlement only, and not as an admission or evidence that the violation occurred, Respondent agrees that the violation may be included in Respondent's Safety-Net record.
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- (c) Respondent shall have thirty days from the entry of the Commission order adopting the settlement agreement to pay in full the forfeiture indicated in (a) above. The payment shall be made using a certified check or money order payable to "Treasurer, State of Ohio" and mailed to The Public Utilities Commission of Ohio, Attention: Finance and Services Department, 180 E. Broad Street, 13th Floor, Columbus, Ohio 43215-3793. In order to ensure proper credit, Respondent is directed to write the inspection number OH3260005036D on the face of the check.
 - (d) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission finding and order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
 - (e) The settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect in any other case or proceeding.
 - (f) The parties agree that Respondent retains rights to due process and appeals from any other action stemming from the alleged violations as indicated above.
- (5) 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.

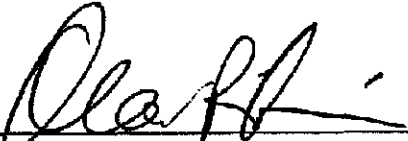
It is, therefore,

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

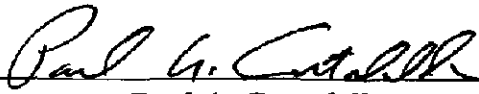
ORDERED, That Case No. 08-1231-TR-CVF be dismissed. It is, further,

ORDERED, That a copy of this entry be served upon Michael M. Brooks and all other interested parties of record.

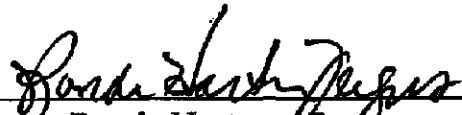
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Cheryl L. Roberto

Valerie A. Lemmie

JML:ct

Entered in the Journal

APR 15 2009



Renee J. Jenkins
Secretary