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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Scott A. Musleve, :
Notice of Apparent Violation and :
Intent to Assess Forfeiture. :

Case No. 09-309-TR-CVF
(OH841006741D)

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Respondent. :

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Scott A. Musleve (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this Settlement Agreement and urge the Commission to adopt the same.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff believe that the Commission should adopt this Settlement Agreement.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Set-

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tlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the Commission's order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate/withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

II. Procedural History

- A. On November 24, 2008, Respondent's commercial motor vehicle was stopped and inspected within the State of Ohio. As a result of the inspection, Respondent was served a Driver/Vehicle Examination Report that contained a citation for failing to use a seatbelt while operating a commercial motor vehicle under 49 C.F.R. 392.16.
- B. On December 4, 2008, Commission Staff sent Respondent a combined Notice of Apparent Violation and Intent to Assess Forfeiture in accordance with Rules 4901:2-7-05 and 07. This combined notice contained the same citation under 49 C.F.R. 392.16 for failing to use a seatbelt while operating a commercial motor vehicle. The \$210.00 forfeiture that was assessed by Staff for the violation in this case was included in the notice.
- C. On March 3, 2009, a settlement conference was held between Staff and Respondent. At that time, Staff and Respondent were unable to settle the case.

- D. On March 25, 2009, Staff sent Respondent a notice of preliminary determination, pursuant to Rule 4901:2-07-12 of the O.A.C. This notice contained the same citation under 49 C.F.R. 329.16 for failing to use a seat belt while operating a commercial motor vehicle. In response to the notice of preliminary determination, Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13 of the O.A.C. in this case.
- E. The parties have negotiated this Settlement Agreement which the parties believe resolves all the issues raised in the case.

III. Settlement Agreement

The parties hereto agree and recommend that the Commission find as follows:

- A. The Commission Staff and Respondent agree to waive the civil forfeiture of \$210.00.
- B. The Commission Staff and Respondent agree that the citation for 49 C.F.R. 392.16 failing to use a seat belt while operating a commercial motor vehicle, may be included in Respondent's Safety-Net record and history of violations for purposes of determining future penalty actions.
- C. 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.

D. 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.

IV. Conclusion

This agreement, which is subject to the Rules of the Commission, constitutes the entire agreement of the parties. The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.

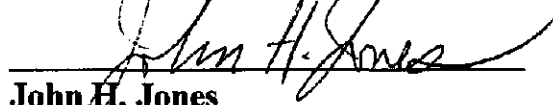
The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 23 day of September, 2009.

On behalf of the Respondent



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On behalf of the Staff of the Public
Utilities Commission of Ohio



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