

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Scott A. Musleve, Notice of)
Apparent Violation and Intent) Case No. 09-309-TR-CVF
to Assess Forfeiture.) (OH841006741D)

FINDING AND ORDER

The Commission finds:

- (1) On November 24, 2008, the commercial motor vehicle driven by Scott A. Musleve (Respondent) was stopped and inspected within the State of Ohio by staff of the Department of Public Safety (Staff). The inspection resulted in Respondent being served with a Driver/Vehicle Examination Report containing one violation, as follows:

49 C.F.R. Sec. 392.16 Failure to use seat belt while operating a commercial motor vehicle.
- (2) On December 4, 2008, Staff sent Respondent a combined Notice of Apparent Violation and Intent to Assess Forfeiture in accordance with Rules 4901:2-7-05 and 4901:2-5-07, Ohio Administrative Code (O.A.C.). This combined notice contained the same citation under 49 C.F.R. 392.16 for failure to use a seat belt 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.
- (3) On March 3, 2009, a settlement conference was conducted between Staff and Respondent. At that time, Staff and Respondent were unable to settle the case.
- (4) On March 25, 2009, Staff sent Respondent a Notice of Preliminary Determination (NPD) in accordance with Rule 4901:2-7-12, O.A.C. This notice contained the same citation under 49 C.F.R. 329.16 for failure to use a seat belt while operating a commercial motor vehicle.
- (5) In response to the NPD, on April 8, 2009, Respondent made a timely request for an administrative hearing pursuant to Rule

4901:2-7-13, O.A.C. The hearing was scheduled for September 17, 2009. However, on September 15, 2009, Staff notified the attorney examiner that an agreement had been reached with Mr. Musleve to settle the matter.

- (6) On September 29, 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) Staff and Respondent agree to waive the civil forfeiture of \$210.00.
 - (b) Staff and Respondent agree that the citation for 49 C.F.R. 392.16, regarding failure 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) The settlement agreement shall not become effective until adopted by an order of the Commission. The date of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
 - (d) 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.
- (7) 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,

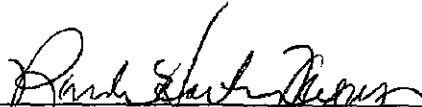
ORDERED, That Case No. 09-309-TR-CVF be dismissed. It is, further,

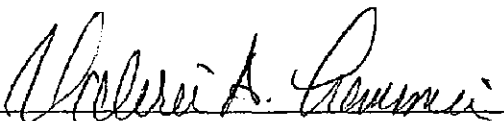
ORDERED, That a copy of this entry be served upon Scott Musleve and all other interested parties of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman


Paul A. Centolella



Ronda Hartman Fergus


Valerie A. Lemmie


Cheryl L. Roberto

JML:ct

Entered in the Journal

NOV 04 2009.

Renee J. Jenkins
Secretary