

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of Jay Johnson/United Towing, Case No. 10-972-TR-CVF
Notice of Apparent Violation and Intent to (OH8006004463C&D)
Assess Forfeiture.

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Jay Johnson and United Towing, L.L.C. (Respondents) 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 settlement agreement, or adds to, or otherwise materially modifies its terms, either

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party may terminate and withdraw consent to the agreement within 30 days of issuance of the Commission's order, by filing with the Commission.

II. Procedural History

- A. On April 21, 2010 a vehicle operated by United Towing and driven by Jay Johnson was inspected within the State of Ohio by an employee of the Department of Public Safety. The inspector discovered the following violations:

<u>Code</u>	<u>Violation</u>
49 C.F.R. § 391.41(a)	No medical certificate in driver's possession
49 C.F.R. § 392.2	Failure to pay the UCR fee
49 C.F.R. § 392.9a(a)(1)	Operating without the required operating authority

- B. Respondent Jay Johnson was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C., for Case No. OH8006004463D. The preliminary determination assessed Respondent \$100.00 for the violations.
- C. Respondent United Towing was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C.,

for Case No. OH8006004463C. The preliminary determination assessed Respondent \$600.00 for the violations.

- D. Respondents made a timely formal request for an administrative hearing pursuant to 4901:2-7-13, O.A.C.
- E. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of preliminary determination.

III. Settlement Agreement

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

- A. Respondents agree to the violations of 49 C.F.R. §391.41(a) and 49 C.F.R. §392.2 and recognize that these violations may be included in the Respondents' Safety-Net Record and Respondents' history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- B. Respondents agree to pay a civil forfeiture of \$200.00 for the violations of 49 C.F.R. §391.41(a) and 49 C.F.R. §392.2. Payment should be made by certified check or money order to "Treasurer State of Ohio," and mailed to: PUCO FINANCE, 180 East Broad St., 4th Floor, Columbus, OH 43215-3793.

- C. The parties agree that United Towing has demonstrated that it now has the required operating authority, and therefore no forfeiture should be assessed for the violation of 49 C.F.R. §392.9a(a)(1).
- D. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry or of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- E. This settlement agreement is made in settlement of all factual or legal issues of only this case. It is not intended to have any effect whatsoever in any other case or proceeding.


III. Conclusion


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 this Settlement Agreement by affixing their signatures below on this 20 day of September, 2010.

On behalf of Jay Johnson and United Towing

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


Jay Johnson
Manager
United Towing, L.L.C.
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