

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of La Brun Transport, Inc.,)	Case No. 09-468-TR-CVF
Notice of Apparent Violation and Intent)	(CR07C433)
to Assess Forfeiture.)	

FINDING AND ORDER

The Commission finds:

- (1) On August 28, 2007 the Commission's staff conducted a compliance review of a facility operated by La Brun Transport, Inc. (respondent) located at 478 Strable Road, Rockford, Ohio. In the above-captioned inspection report, Staff cited respondent with the following violations of the Code of Federal Regulations (C.F.R.):

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| 49 C.F.R. § 382.305(b)(1) | Failing to conduct random alcohol testing |
| 49 C.F.R. § 382.305(b)(2) | Failing to conduct random drug testing |
| 49 C.F.R. § 390.15(b) | Failing to maintain an accident register for a period of three years |
| 49 C.F.R. § 391.45(b)(1) | Using a driver who has not been medically examined and certified |
| 49 C.F.R. § 391.51(b)(5) | Failing to maintain a note relating to the annual review of a driver's driving record |
| 49 C.F.R. § 391.51(b)(6) | Failing to maintain a list relating to violations |
| 49 C.F.R. § 395.3(a)(1) | Requiring or permitting driver to drive more than eleven cumulative hours following ten consecutive hours off duty |
| 49 C.F.R. § 395.3(a)(2) | Requiring or permitting driver to drive after the end of the 14th hour after coming on duty |
| 49 C.F.R. § 395.8(e) | False reports of duty status |

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| 49 C.F.R. § 395.8(f) | Failing to prepare records of duty status in form and manner prescribed |
| 49 C.F.R. § 396.3(b) | Failing to keep minimum records of vehicle inspections |
| 49 C.F.R. § 396.11(a) | Failing to require driver to prepare vehicle inspection reports |

- (2) On May 4, 2009, Staff served a notice of preliminary determination upon respondent in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), to assess a civil forfeiture of \$6,350.00. On June 3, 2009, respondent filed a request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.
- (3) On February 3, 2010, the parties filed a settlement agreement, which includes the following provisions:
- (a) Respondent agrees to the violations listed above and recognizes that the violations may be included in the respondent's Safety-Net Record and respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
 - (b) Respondent agrees to pay a civil forfeiture of \$3,175.00. Respondent will pay this amount in six equal monthly installments, with the first payment being due thirty (30) days from Commission approval of this settlement agreement. Payment should be made by certified check or money order to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad St., 4th Floor, Columbus, OH 43215-3793.
 - (c) Respondent 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.
 - (d) In the event that compliance reviews of respondent's facilities or roadside inspections of respondent's vehicles, conducted during the period of one year following the effective date of this settlement agreement, reveal a pattern of violations of the

Federal Motor Carrier Safety Rules, 49 C.F.R. Parts 382, 383, 387, and 390 through 397, by the respondent, the respondent agrees to make payment of an additional civil forfeiture of \$3,175.00.

- (4) The Commission finds that the settlement agreement is reasonable and should be approved and adopted.

It is, therefore,

ORDERED, That the settlement agreement be approved and adopted. It is, further,

ORDERED, That respondent is ordered to pay the state of Ohio as set forth in finding (3). It is, further,

ORDERED, That if payment is not received in accordance with the settlement agreement, the Attorney General of Ohio shall bring a civil action in the Court of Common Pleas of Franklin County, or take any other appropriate action allowed by law, to recover the forfeiture assessed herein. It is, further,

ORDERED, That this case be closed. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

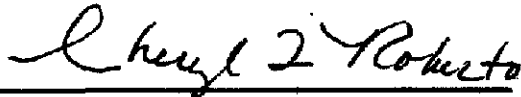
Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

RMB/dah

Entered in the Journal **DEC 01 2010**



Renee J. Jenkins
Secretary