



# Public Utilities Commission

Ted Strickland, Governor  
Alan R. Schriber, Chairman

10-2922-TR-LVF

Commissioners

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## SETTLEMENT AGREEMENT

PUCO

Case NO. CR10H119

Respondent: M & J PAINTING COMPANY

Date of Agreement: October 27, 2010

This agreement was reached between M & J PAINTING COMPANY the Respondent in the above case (Respondent), and the Staff of the Public Utilities Commission of Ohio (staff), pursuant to Rule 4901:2-7-11(A), Ohio Administrative Code (O.A.C.).

On July 19, 2010, a Compliance Review was conducted by Staff of the Transportation Department Hazardous Materials Division at the Respondent's facility located at:

2 SHORT ST

CAMPBELL, OH 44405

As the result of discovery of the following apparent violations of rule 4901:2-5-02, O.A.C, the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amounts:

Code	Violation	Forfeiture
382.301(a)	Failing to have driver undergo pre-employment	\$ 400.00
382.305	Failing to implement a random drug/alcohol te	\$ 1000.00
382.305(i) (2)	Failing to ensure that each driver selected f	\$ 0.00
387.7(d)	No proof of financial responsibility	\$ 500.00
391.21(a)	Using a driver who has not completed and furn	\$ 0.00
391.45(a)	Using a driver not medically examined and cer	\$ 400.00
391.51(b) (2)	Failing to maintain inquiries into driver's d	\$ 600.00
395.8(a)	Failing to require driver to make a record of	\$ 5000.00
396.11(a)	Failing to require driver to prepare vehicle	\$ 1300.00
396.17(a)	Using a CMV not periodically inspected	\$ 575.00

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff. As the result, for purposes of settlement, and not as an admission or evidence that the violation occurred, Respondent agrees that the following findings of violations may be included in the Respondent's hazardous materials compliance record, and in Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions, and agrees to make immediate payment of the following forfeitures:

Code	Violation	Agreed Forfeiture
382.301(a)	Failing to have driver undergo pre-employment	\$ 280.00
382.305	Failing to implement a random drug/alcohol te	\$ 700.00
382.305(i) (2)	Failing to ensure that each driver selected f	\$ 0.00

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
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387.7(d)	No proof of financial responsibility	\$ 350.00
391.21(a)	Using a driver who has not completed and furn	\$ 0.00
391.45(a)	Using a driver not medically examined and cer	\$ 280.00
391.51(b)(2)	Failing to maintain inquiries into driver's d	\$ 420.00
395.8(a)	Failing to require driver to make a record of	\$ 3500.00
396.11(a)	Failing to require driver to prepare vehicle	\$ 910.00
396.17(a)	Using a CMV not periodically inspected	\$ 402.50

This agreement shall become effective when executed by both parties.

Respondent understands that this agreement may be adopted by the Commission as its order without notice pursuant to Rule 4901:2-7-11(D), O.A.C. If Respondent defaults in its obligations under this agreement, the commission may set this agreement aside and order the Respondent to pay the amount indicated in the Notice of Intention to Assess Forfeiture served in this case, pursuant to Rule 4901:2-7-11(E), O.A.C.

This agreement, which is subject to the Rules of the Commission, constitutes the entire agreement of the parties.

Date: 11-30-2010

MR. MICHAEL KERPELIS

For: M & J PAINTING COMPANY

Robert Marvin, Director  
Transportation Department  
Public Utilities Commission of Ohio

Date: November 16, 2010

Case no. CR10H119  
Respondent: M & J PAINTING COMPANY  
Date of Agreement: October 27, 2010  
Officer: CR  
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