

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Mane D. Diouf/KAD)
Transport, Notice of Apparent Violation) Case No. 10-1255-TR-CVF
and Intent to Assess Forfeiture.) (CR10H041)

ENTRY

The Commission finds:

- (1) On February 2, 2010, a compliance review was conducted at the facility of Mane D. Diouf/KAD Transport (respondent), located in Euclid, Ohio. As a result of the inspection, respondent was cited for the following violations of the Code of Federal Regulations (C.F.R.):

<u>Code Section</u>	<u>Violation</u>
49 C.F.R. 391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.
49 C.F.R. 391.51(a)	Failing to maintain a driver qualification file on each driver.
49 C.F.R. 395.8(e)	False reports of record of duty status.
49 C.F.R. 396.17(a)	Using a CMV not periodically inspected.

- (2) Commission staff timely served respondent with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code. This notice indicated staff's intention to assess civil forfeitures totaling \$1,900.00 for the alleged violations.
- (3) On August 27, 2010, respondent requested an administrative hearing, thereby initiating this case.
- (4) The parties filed a settlement agreement under which respondent agreed to make payment of a civil forfeiture. In the settlement agreement, staff and respondent agree, in pertinent part, as follows:

- (a) The staff and the respondent agree that the respondent will pay a civil forfeiture in the amount of \$ 1,330.00. The reduction is based on remedial actions taken by the respondent. Specifically, the respondent submitted documentation indicating that the respondent obtained the necessary medical certificate and vehicle inspection after the compliance review was conducted, as well as documentation showing that the respondent has elected to close his business.
- (b) The staff and the respondent agree that the citations may be included in the respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining fixture penalty actions.
- (c) The respondent shall make payment of the civil forfeiture of \$1,330.00 in 12 consecutive monthly payments. The 12 consecutive monthly payments shall be made in installments of \$110.83 for each of the first 11 months and \$110.87 for the 12th month. The consecutive monthly payments shall commence within 30 days from the effective date of this settlement agreement. Each of the 12 consecutive monthly payments shall be made using a certified check or money order payable to "Treasurer State of Ohio" and mailed to PUCO Fiscal, 180 E. Broad St., 4th Floor, Columbus, Ohio 43215-3793. The inspection number (CR10H041) should be written on the certified check or money order.
- (d) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order 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 in this case. It is not

intended to have any effect whatsoever in any other case or proceeding.

- (5) 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 Mane D. Diouf/KAD Transport pay a total civil forfeiture of \$1,330.00 in 12 consecutive monthly installments, with an initial payment \$110.83 due within 30 days of the date of this Finding and Order, and the remaining payments made as set forth in the settlement agreement. Payment should be made payable to "Treasurer, State of Ohio" and mailed to PUCO Fiscal, 4th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793. In order to assure proper credit, Mane D. Diouf/KAD Transport is directed to write the inspection number (CR10H041) on the face of each check or money order. It is, further,


ORDERED, That a copy of this entry be served on each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Steven D. Lesser, Chairman

Paul A. Centolella



Valerie A. Lemmie


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

JAN 19 2011



Renee J. Jenkins

Secretary