

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Construction Material)
Specialists LLC, Notice of Apparent) Case No. 12-1507-TR-CVF
Violation and Intent to Assess) (OH3247008621C)
Forfeiture.)

FINDING AND ORDER

The Commission finds:

- (1) On November 10, 2011, a vehicle operated by Construction Material Specialists, LLC (Respondent), was inspected within the state of Ohio. The inspection resulted in the discovery of an apparent violation of the Code of Federal Regulations (C.F.R.): sign or device could be confused with hazardous materials placard, in violation of 49 C.F.R. 172.502(a)(2).
- (2) Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). A civil forfeiture of \$100.00 was assessed against Respondent.
- (3) On May 9, 2012, Respondent filed a request for an administrative hearing, pursuant to Rule 4901:2-7-13, O.A.C. Thereafter, a prehearing conference was held on the matter.
- (4) On July 3, 2012, Staff and Respondent (parties) filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the notice of preliminary determination.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) For purposes of settlement only, and not as an admission that the violation occurred as alleged, the violation may be included in respondent's Safety-Net record and history of violations, insofar as it may be relevant for purposes of determining future penalty actions.

- (b) Respondent will pay a civil forfeiture of \$100.00. Respondent must make such payment within 30 days of the Commission's order approving the settlement agreement. Respondent must make the payment by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH3247008621C) should appear on the face of the check.
- (c) The 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.
- (d) The settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.
- (6) 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,

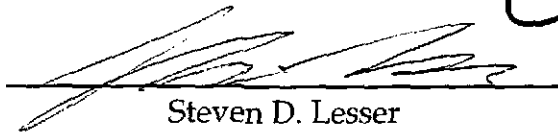
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That Respondent pay a total civil forfeiture of \$100.00 in accordance with the settlement agreement. Payment shall be made by check or money order made payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number (OH3247008621C) on the face of the check or money order. It is, further,

ORDERED, That a copy of this finding and order be served on each party of record.

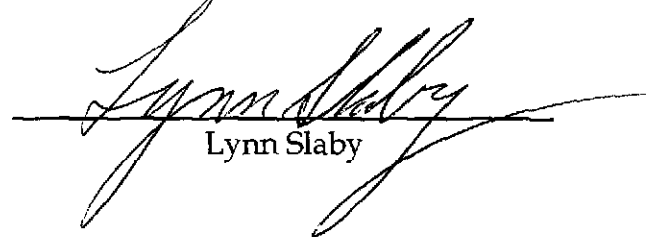
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter

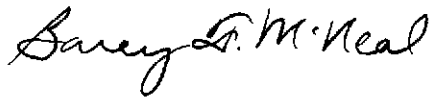

Cheryl L. Roberto


Lynn Slaby

SJP/sc

Entered in the Journal

JUL 11 2012


Barcy F. McNeal

Barcy F. McNeal
Secretary