

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Michael E. Karns,	)	Case No. 12-1751-TR-CVF
Notice of Apparent Violation and	)	(OH3255008733D)
Intent to Assess Forfeiture.	)	(OH3259006596D)

FINDING AND ORDER

The Commission finds:

- (1) On February 21, 2012, and February 22, 2012, a vehicle driven by Michael E. Karns (respondent) was inspected within the state of Ohio. The February 21, 2012, inspection, which was assigned Case No. OH3259006596D, resulted in the discovery of two apparent violations of the Code of Federal Regulations (C.F.R.): operating an out-of-service vehicle, Unit 1, in violation of 49 C.F.R. 396.9(c)(2); and operating an out-of-service vehicle, Unit 2, in violation of 49 C.F.R. 396.9(c)(2). The February 22, 2012, inspection, which was assigned Case No. OH3255008733D, resulted in the discovery of one apparent violation: operating an out-of-service vehicle, Unit 1, in violation of 49 C.F.R. 396.9(c)(2).
- (2) Respondent was timely served with notices of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). Civil forfeitures of \$2,000.00 and \$1,000.00 were assessed against respondent for the February 21, 2012, and February 22, 2012, inspections, respectively.
- (3) On June 5, 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 October 4, 2012, Commission Staff (Staff) and respondent filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the notices of preliminary determination.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) Upon further investigation and discussions with respondent, Staff determined that further prosecution of the apparent violations resulting from the February 21, 2012, inspection is unwarranted. The apparent violations and civil forfeiture of \$2,000.00 resulting from that inspection should be dismissed against respondent, and respondent's commercial driver's license should not be subject to the disqualification provisions of 49 C.F.R. 383.51. Respondent acknowledges that the violations will remain on the inspection report and the carrier's Safety-Net record.
  - (b) Respondent admits to the violation resulting from the February 22, 2012, inspection and agrees to pay the civil forfeiture of \$1,000.00. Respondent acknowledges that this admission constitutes a conviction of an offense for which respondent will be disqualified from driving a commercial motor vehicle, pursuant to 49 C.F.R. 383.51.
  - (c) Respondent will pay the civil forfeiture of \$1,000.00 in ten consecutive monthly payments of \$100.00 commencing within 30 days of the Commission's order approving the settlement agreement. The payments 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. The case number (OH3255008733D) must appear on the face of each check.

- (d) 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.
- (e) The settlement agreement is intended to resolve the factual or legal issues raised in this case as related to respondent. The settlement agreement is not intended to have any effect whatsoever in any other case or proceeding or any future actions that Staff may pursue against the carrier.
- (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 \$1,000.00 in accordance with the settlement agreement. Payments 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 (OH3255008733D) on the face of each check or money order. It is, further,

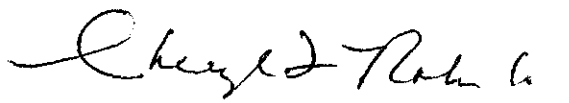
ORDERED, That a copy of this finding and order be served on each party of record.

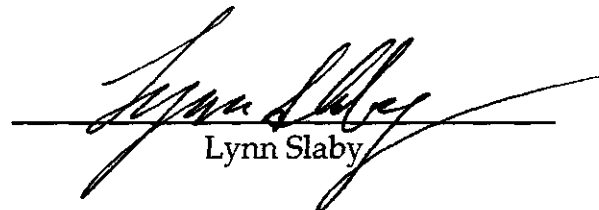
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
Andre T. Porter

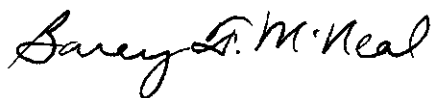
  
Cheryl L. Roberto

  
Lynn Slaby

SJP/sc

Entered in the Journal

**OCT 24 2012**

  
Barcy F. McNeal

Barcy F. McNeal  
Secretary