

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Mark DeBaer, Notice of)
Apparent Violation and Intent to Assess) Case No. 14-1589-TR-CVF
Forfeiture.) (OH3240004605D)

FINDING AND ORDER

The Commission finds:

- (1) On July 8, 2014, a commercial motor vehicle driven by Mark DeBaer (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of an apparent violation of 49 C.F.R. 391.11(b)(4): driver not physically qualified - driver has no corrective lenses as required on driver's medical certificate.
- (2) Respondent was timely served with a notice of preliminary determination in accordance with Ohio Adm.Code 4901:2-7-12. A civil forfeiture of \$250.00 was assessed against Respondent.
- (3) On September 10, 2014, Respondent filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.
- (4) On November 7, 2014, Staff and Respondent filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the notice of preliminary determination.
- (5) The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the settlement agreement. In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) Respondent agrees to the violation of 49 C.F.R. 391.11(b)(4) and recognizes that it may be included in the Respondent's Safety-Net Record and history of violations insofar as it

may be relevant for purposes of determining future penalty actions.

- (b) Staff agrees to waive the civil forfeiture of \$250.00 for the violation. Respondent has provided proof sufficient to Staff that the medical certificate was in error, and that Respondent did not require the use of corrective lenses at the time of the inspection. Respondent acknowledges that the medical certificate produced at the time of the inspection indicated that he required corrective lenses, but he did not realize the error on the medical certificate until the inspection occurred. Respondent has further demonstrated that he has since secured a medical certificate that correctly reflects that he does not require corrective lenses.
 - (c) The settlement agreement shall not become effective until the Commission adopts the settlement agreement. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
 - (d) The settlement agreement is made in settlement of all factual and legal issues in this case. It is not intended to have any effect 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.

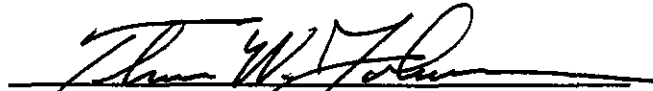
It is, therefore,

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

ORDERED, That the assessed civil forfeiture of \$250.00 be waived, in accordance with the settlement agreement and this Finding and Order. It is, further,

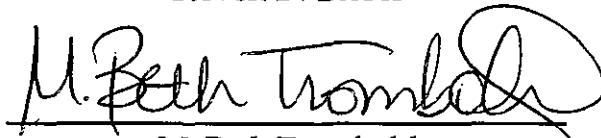
ORDERED, That a copy of this Finding and Order be served on each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser

Lynn Slaby

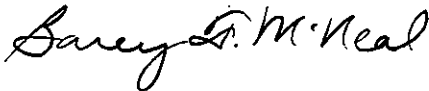

M. Beth Trombold

Asim Z. Haque

SJP/sc

Entered in the Journal

DEC 03 2014



Barcy F. McNeal
Secretary

Barcy F. McNeal
Secretary