

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of James Mitzo, Notice of :  
Apparent Violation and Intent to : Case No. 15-877-TR-CVF  
Assess Forfeiture. : (OH1663002883D)  
:   
:

---

**SETTLEMENT AGREEMENT**

---

**I. Introduction**

Pursuant to Rule 4901:2-7-11, Ohio Admin. Code, James P.

Mitzo (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) entering into this Settlement Agreement to resolve all issues in the above captioned case.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, the Respondent and the Staff recommend that the Commission adopt this Settlement Agreement.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party

shall have the right, within thirty (30) days of the Commission's order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

## **II. Procedural History**

- A. On January 13, 2015, a commercial motor vehicle operated by Respondent was inspected in the State of Ohio.
- B. As a result of the inspection, Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-07-12, Ohio Administrative Code. The notice of preliminary determination notified the Respondent that Staff intended to assess a forfeiture of \$500.00 against the Respondent for violating 49 C.F.R. 383.51(a) (driving a commercial motor vehicle while commercial driver's license is suspended for safety-related or unknown reason and outside the state of driver's license issuance).
- C. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the notice of preliminary determination.

### **III. Settlement Agreement**

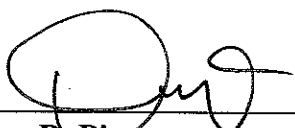
The Staff and Respondent agree and recommend that the Commission find as follows:

- A. For purposes of settlement only, and not as an admission that the violation occurred as alleged, the Respondent agrees that 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. Staff agrees to reduce the civil forfeiture to \$0. The reduction of the forfeiture is premised upon Staff's recognition that the matter was adjudicated in a state tribunal, resulting in the Respondent having paid fines and fees to resolve the matter. Per Staff's policy, Respondent should not be assessed a civil forfeiture under these circumstances.
- C. 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. This 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.

#### IV. Conclusion

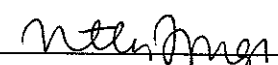
The undersigned respectfully request that the Commission adopt the agreement in its entirety. The parties have manifested their consent and authority to enter into the Settlement Agreement by signing below.

On behalf of the Respondent

  
\_\_\_\_\_  
**Dean DePiero**  
Attorney and Counselor at Law  
5546 Pearl Rd.  
Parma, OH 44129

  
\_\_\_\_\_  
Date

On behalf of the Staff of the Public  
Utilities Commission of Ohio

  
\_\_\_\_\_  
**Natalia Messenger**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

  
\_\_\_\_\_  
Date

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/18/2015 10:35:54 AM**

**in**

**Case No(s). 15-0877-TR-CVF**

Summary: Agreement Settlement Agreement electronically filed by Mrs. Tonnetta Y Scott on behalf of PUCO