

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) On January 13, 2015, a commercial motor vehicle (CMV) operated by James Mitzo (Respondent) was inspected by Staff. The inspection resulted in the discovery of the following violation: 49 C.F.R. 383.51(a) (driving a CMV while commercial driver's license is suspended for safety-related or unknown reason, and outside the state of driver's license issuance). The total forfeiture for the violation is \$500.00.
- (3) Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on April 10, 2015. The NPD assessed Respondent a total civil forfeiture of \$500.00.
- (4) On May 5, 2015, Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13. Thereafter, a prehearing conference was held.
- (5) On June 18, 2015, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves all of the

issues raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) For purposes of settlement only, and not as an admission that the violation occurred as alleged, Respondent agrees that the violation may be included in his history of violations, insofar as may be relevant for purposes of determining future penalty actions.
 - (b) Staff agrees to a reduced civil forfeiture amount of \$0.00. The reduction is premised upon Staff's recognition that the matter was adjudicated in a state tribunal, resulting in 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) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission order adopting the settlement agreement shall be considered as the effective date of the settlement agreement. The settlement agreement is made in settlement of all factual and legal issues 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 shall be approved and adopted in its entirety.

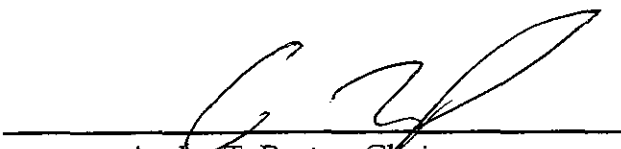
It is, therefore,

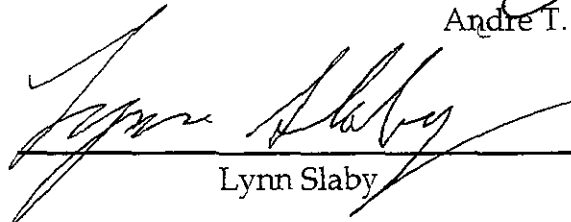
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

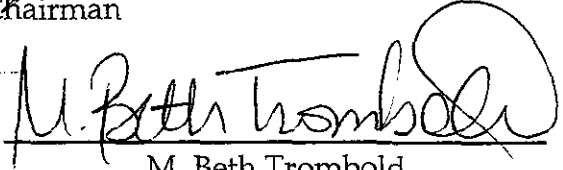
ORDERED, That the civil forfeiture be reduced to \$0.00. It is, further,

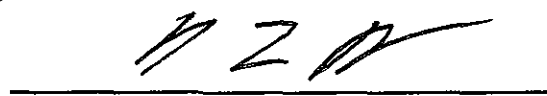
ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Andre T. Porter, Chairman

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

Thomas W. Johnson

JML/sc

Entered in the Journal

DEC 16 2015



Barcy F. McNeal
Secretary