

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Leroy Zimmerman, )	Case No. 16-16-TR-CVF
Notice of Apparent Violation and Intent )	(OH1191011991C)
to Assess 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 October 12, 2015, a commercial motor vehicle operated by Leroy Zimmerman (Respondent) was inspected by Staff. The inspection resulted in the discovery of the following violations: 49 C.F.R. 395.8 (Record of Duty Status violation, \$0.00), and 49 C.F.R. 387.301A (No evidence of public liability and property damage insurance, \$500.00).
- (3) The Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on December 20, 2015. The NPD assessed Respondent a total civil forfeiture of \$500.00.
- (4) On January 7, 2016, the Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.
- (5) A prehearing conference was conducted by the parties on February 18, 2016.

- (6) On March 23, 2016, Staff and the 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) Upon further review of the facts of this case, Staff agrees with the Ohio State Highway Patrol that further prosecution of the alleged violation of 49 C.F.R. 387.301(A) is not warranted and that the violation should be deleted.
  - (b) The Respondent admits to the violation of 49 C.F.R. 395.8 and in the NPD and agrees that the violation may be included in the Respondent's history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
  - (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 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.
- (7) 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.

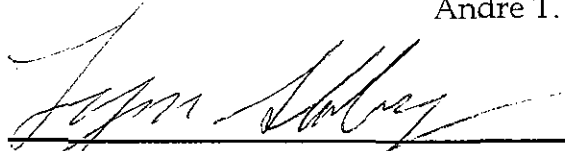
It is, therefore,

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

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Andre T. Porter, Chairman

  
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Lynn Slaby

  
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M. Beth Trombold

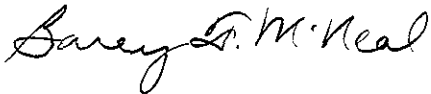
  
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Asim Z. Haque

  
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Thomas W. Johnson

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Entered in the Journal

**MAY 11 2016**

  
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Barcy F. McNeal  
Secretary