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JAMES E. LANZO LLC
ATTORNEYS AT LAW

PUCO

James E. Lanzo Esq.

August 4, 2016

4126 Youngstown-Poland Road
Youngstown, Ohio 44514
Phone: 330-782-8283
Fax: 330-782-8433
Toll Free: 888-974-0077

Public Utilities Commission of Ohio
ATTN: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

RE: REQUEST FOR ADMINISTRATIVE HEARING
CASE NO.: OH0616003868C

To Whom It May Concern,

Please be advised that I represent Pedro J. Miranda Santos and JMS Towing of 180 Jacobs Road, Youngstown, OH 44505. I am requesting an Administrative Hearing regarding the above-referenced cases via telephone. Further be advised that any correspondence in this matter should be directed to my office. Please forward any information regarding this matter to my office, located at 4126 Youngstown-Poland Road, Youngstown, OH 44514; Telephone number 330-782-8283.

Thank you.

Sincerely,

JAMES E. LANZO
Attorney at Law

JEL/alr
Encls.

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Public Utilities Commission

John R. Kasich, Governor
Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson
M. Howard Petricoff

07/20/2016

OH0616003868C

James E. Lanzo, Attorney at Law
4126 Youngstown-Poland Rd
YOUNGSTOWN, OH 44514

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OH0616003868C

Dear Sir or Madam:

On 04/14/2016, a vehicle operated by JMS TOWING, and driven by PEDRO J MIRANDA SANTOS, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified JMS TOWING (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.60C	0	Damaged or discolored windshield	
393.83G	0	Exhaust leak under truck cab and/or sleeper	
396.17C	0	Operating a CMV without proof of a periodic inspection	
2-1-04	4	Fail to present PUCO Tax Receipt (Intra for hire)	100.00
2-21-06	4	Fail to register with PUCO (intra)	500.00
4921.03	4	Operating with no PUCO intra authority	500.00
		Total of Group 0	0.00
		Total of Group 4	1100.00

TOTAL AMOUNT DUE: \$1,100.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
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As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against JMS TOWING in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.60C	0	Damaged or discolored windshield	
393.83G	0	Exhaust leak under truck cab and/or sleeper	
396.17C	0	Operating a CMV without proof of a periodic inspection	
2-1-04	4	Fail to present PUCO Tax Receipt (Intra for hire)	100.00
2-21-06	4	Fail to register with PUCO (intra)	500.00
4921.03	4	Operating with no PUCO intra authority	500.00
		Total of Group 0	
		Total of Group 4	1100.00

TOTAL AMOUNT DUE: \$1,100.00

Within 30 days of this notice, you must **either**: (1) pay the assessed civil forfeiture **or** (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Milan Orbovich, Director
Transportation Department

Compliance Officer: Cheryl Streets

180 East Broad Street
Columbus, Ohio 43215-3793

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**ROADSIDE INSPECTION
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet carefully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). **Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio
Attn: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C. Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in

this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

4. Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.

5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by **an authorized administrative tribunal**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the **payment of a fine** or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

6. Copies of Inspection Reports

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

<https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx>

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the **inspection number and inspection date** in your request.



**The Public Utilities
Commission of Ohio**
180 E. Broad St. – Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 7/20/2016
Legal Name: PEDRO J MIRANDA SANTOS
Address: 180 JACOBS RD
City: YOUNGSTOWN
State: OH
Zip: 44505
Case Number: OH0616003868D
PIN: A62J

Item	DueDate	Amount
1	9/3/2016	\$100.00
Total		\$100.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH0616003868D