

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of **CLV, Inc.**, Notice of :
Apparent Violation and Intent to Assess : Case No. 17-1765-TR-CVF
Forfeiture. : (CR201704040184)
:

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), CLV, Inc. (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement and urge the Commission to adopt the same.

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 believe that the Commission should adopt this Settlement Agreement.

This settlement agreement is submitted on the condition that the Commission adopts the agreed upon terms. The Parties agree that if the Commission rejects all or any part of this Settlement Agreement or otherwise materially modifies its terms, either Party shall have the right, within thirty (30) business days of the Commission's order, either to file an application for rehearing or to terminate and withdraw from this agreement by filing a notice with the Commission. If an application for rehearing is filed, and if the Commission does not, on

rehearing, accept the Settlement Agreement without material modification, either Party may terminate and withdraw from this agreement by filing a notice with the Commission within ten (10) business days of the Commission's order or entry on rehearing. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

II. Procedural History

A. On April 4, 2017, a Compliance Review was conducted by Staff at the Respondent's facility at 9701 Brookpark Rd., Cleveland, Ohio. The inspection resulted in the discovery of two (2) apparent violations of the Federal Motor Carrier Safety Regulations. The apparent violations in this case are:

49 C.F.R. §395.8(e)(1) Making, or permitting a driver to make, a false report regarding duty status. (8 violations found.)

49 C.F.R. §383.37(a) Allowing, requiring, permitting, or authorizing a driver to operate a CMV during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL. (1 violation found.)

B. Respondent was timely served with a notice of preliminary determination in accordance with Ohio Admin Code. §4901:2-7-12 for Case No. CR05C272. The preliminary determination assessed Respondent \$1,000.00 for all violations, to wit:

49 C.F.R. §395.8(e)(1) \$0.00

49 C.F.R. §383.37(a) \$1,000.00

- C. Respondent made a timely formal request for an administrative hearing pursuant to Ohio Admin. Code §4901:2-7-13.
- D. The parties have negotiated this Settlement Agreement, which the parties believe resolves all the issues raised in the notice of preliminary determination.

III. Settlement Agreement

The parties hereto agree and recommend that the Commission find as follows:

- A. Respondent agrees to the assessment of a civil forfeiture of \$500.00 for the violation 49 C.F.R. §383.37(a).
- B. Respondent has provided adequate information that its driver relied on documents provided by a shipper that contained inaccurate and misleading load weight, causing him to operate a vehicle weighing more than his endorsement would otherwise permit. Respondent has also provided information that its driver had no opportunity, prior to the inspection which resulted in the violation giving rise to the violation here, to verify the information provided by the shipper, to his detriment. In light of the information presented by Respondent to Staff's satisfaction, Respondent and the Staff agree to reduce the assessed civil forfeiture for violation of 49 C.F.R. §383.37(a) in half, or by \$500.00.
- C. For purposes of settlement, Respondent agrees that the findings of these violations in Paragraph A of this Settlement Agreement may be included in the Respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining future penalty actions.

- D. Respondent and staff agree that Respondent shall pay \$500.00 within thirty days following Commission approval of this agreement. Respondent shall submit payment by certified check or money order to “Treasurer State of Ohio,” and mail to: PUCO FISCAL, 180 E. Broad St., Columbus, Ohio 43215-3793.
- E. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry of the Commission order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- F. This Settlement Agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.

III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.

The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 31st day of October, 2017.

On behalf of CLV, Inc.



Chuck Williams
President, CLV, Inc.
P.O. Box 1673
Cornelius, OH 28031

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



Werner L. Margard III
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, OH 43215

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Case No(s). 17-1765-TR-CVF

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