

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Eric Ahlers, Notice of : Case No. 17-1576-TR-CVF  
Apparent Violation and Intent to : (OH0593000660C)  
Assess Forfeiture. :

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**SETTLEMENT AGREEMENT**

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**I. Introduction**

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Eric Ahlers (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 May 26, 2017, a vehicle operated by Respondent and driven by Garrett J. Gruen, was inspected within the State of Ohio. The inspection resulted in the discovery of two out-of-service violations of the federal motor carrier safety regulations. The out-of-service violations were: (1) a flat tire or tire with fabric exposed, in violation of 49 C.F.R. §393.75(a); and (2) tire tread depth of less than 2/32 of an inch, in violation of 49 C.F.R. §393.75(c). In addition, the inspection also discovered the following violations, among others: (1) operating a commercial motor vehicle in interstate commerce without a USDOT registration in violation of 49 C.F.R. §392.9b(a); and (2) failure to display the carrier's name and/or USDOT number in violation of 49 C.F.R. §390.21(b).

- B. On June 27, 2017, Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. for Case No. OH0593000660C. The preliminary determination assessed Respondent \$690.00 for the violations.
- C. On July 12, 2017, Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.
- 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 violations of 49 C.F.R. §393.75(a) and 49 C.F.R. §393.75(c), and recognizes that they may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- B. Respondent agrees to pay a civil forfeiture of \$190.00 for the violations.
  - 1. The proposed forfeiture for the violations of 49 C.F.R. §393.75(a) and 49 C.F.R. §393.75(c) was \$90.00, and Respondent agrees to pay this amount in full.

2. The proposed forfeiture for the violations of 49 C.F.R. §392.9b(a) and 49 C.F.R. §390.21(b) was \$600.00. Respondent has provided proof sufficient to Staff that he has obtained USDOT registration, and Staff agrees to reduce the forfeiture amount to \$100.00.

Respondent acknowledges he did not have a USDOT registration at the time of the inspection, and agrees to pay the \$100.00 forfeiture amount for these violations.

C. Payment will be due thirty (30) days from Commission approval of this settlement agreement. Payment should be made by certified check or money order to “Treasurer State of Ohio,” and mailed to: PUCO FISCAL, 180 East Broad St., Columbus, OH 43215-3793.

D. 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.

E. 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 3<sup>rd</sup> day of April, 2018.

**On behalf of Eric Ahlers**

**On behalf of the Staff of  
The Public Utilities Commission of  
Ohio Attorney General**

*/s/ A. Brian McIntosh*  
(per telephone authorization))

**A. Brian McIntosh**  
McIntosh & McIntosh  
1136 Saint Gregory Street  
Cincinnati, OH 45202

*/s/ Werner L. Margard III*

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

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

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**Case No(s). 17-1576-TR-CVF**

Summary: Agreement Settlement Agreement submitted by Assistant Attorney General Werner Margard III on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio