

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE APPLICATION
OF RICHARD SIMON, NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.**

**CASE NO. 17-1897-TR-CVF
(OH3252014734D)**

FINDING AND ORDER

Entered in the Journal on May 2, 2018

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} 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.

{¶ 3} On June 15, 2017, a commercial motor vehicle (CMV) operated by Alltype Trucking LLC and driven by Richard Simon (Respondent) was inspected within the state of Ohio. The inspection resulted in a violation of 49 C.F.R. 392.16 (failing to use a seat belt while operating a CMV), \$100.

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, which assessed Respondent a civil forfeiture of \$100 for the violation of 49 C.F.R. 392.16.

{¶ 5} On August 31, 2017, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on November 6, 2017, at which a settlement was agreed upon.

{¶ 7} On March 6, 2018, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issue 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) Respondent admits to the violation listed above and in the NPD and agrees that the violation may be included in his history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Respondent shall pay the \$100 civil forfeiture in four consecutive monthly installments of \$25 per installment, beginning 30 days after the Commission's order approving this settlement agreement. The payments shall be made payable to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. In order to assure proper credit, Case No. 17-1897-TR-CVF and inspection number OH3250214734D should appear on the face of each check or money order.
- (c) This settlement agreement shall not become effective until adopted by the Commission. The date of the Entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.

- (d) This 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.

{¶ 8} 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.

III. ORDER

{¶ 9} It is, therefore,

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

{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$100 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 17-1897-TR-CVF and inspection number OH3252014734D on the face of the check or money order. It is, further,

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


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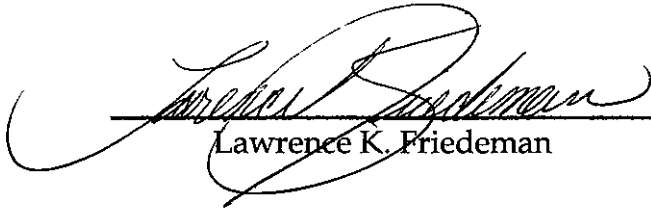
Asim Z. Haque, Chairman



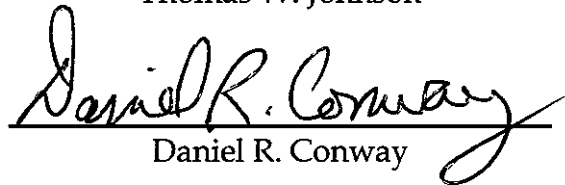
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman

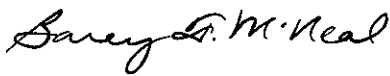


Daniel R. Conway

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Barcy F. McNeal
Secretary