

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF KEITH ERTEL,  
NOTICE OF APPARENT VIOLATION AND  
INTENT TO ASSESS FORFEITURE.

CASE NO. 20-577-TR-CVF  
(OH1931000754C)

## FINDING AND ORDER

Entered in the Journal on June 3, 2020

### 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 December 20, 2019, a commercial motor vehicle (CMV) operated by Ertel Farms, Inc. and driven by Keith Ertel (Respondent) was inspected within the state of Ohio. The inspection resulted in violations of 49 C.F.R. 393.102(c) (exceeding load limit for tiedowns), 49 C.F.R. 393.104(b) (damaged securement system/tiedowns) and 49 C.F.R. 392.2 (state vehicle registration or license plate violation).

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, which assessed Respondent a total civil forfeiture of \$250 for the violation of 49 C.F.R. 393.102(c) (exceeding load limit for tiedowns), 49 C.F.R. 393.104(b) (damaged securement system/tiedowns) and 49 C.F.R. 392.2 (state vehicle registration or license plate violation).

{¶ 5} On March 11, 2020, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on May 4, 2020. During the prehearing conference, Staff informed Respondent that, after review by the Ohio State Highway Patrol, the 49 C.F.R. 393.102 violation has been deleted, resulting in a remaining total forfeiture of \$100. For purposes of settlement, Staff reduced the remaining total forfeiture to \$50.

{¶ 7} On May 7, 2020, 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) After deletion of the 49 C.F.R. 393.102(c) violation, Respondent admits to the remaining violations in the NPD, and agrees that the remaining violations may be included in his history of violations, insofar as it may be relevant for purposes of determining by the Ohio Bureau of Motor Vehicles, including but not limited to disqualification of Respondent's CDL, or for future violations.
- (b) Respondent and Staff agree that the total forfeiture should be reduced to \$50.00.
- (c) Accordingly, Respondent shall pay the \$50 civil forfeiture after the Commission's order approving this settlement agreement. The payments shall be made payable by check or money order 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. 20-577-TR-CVF and inspection number OH1931000754C should appear on the face of each check or money order.

- (d) 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.
- (e) Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code Chapter 4901:2-7 as a result of future compliance reviews or roadside inspections.
- (f) This settlement agreement is made in settlement of all factual and legal issues in this case. It is not intended to have any effect 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 \$50 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. 20-577-TR-CVF and inspection number OH1931000754C 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.

**COMMISSIONERS:**

*Approving:*

Sam Randazzo, Chairman  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

JML/hac

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

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**Case No(s). 20-0577-TR-CVF**

Summary: Finding & Order approving the settlement agreement regarding a violation of the Commission's transportation rules. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio