

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of a Request for	:	
Approval of the Settlement Between	:	Case No. 21-327-TR-CVF
Staff and National Freight Lines LLC.	:	(21-CR-425739)
	:	

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Ohio Adm.Code 4901:2-7-11(C), National Freight Lines LLC (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement and request the approval of the Commission.

It is understood by the Respondent and Staff (jointly, Signatory Parties) that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This Settlement Agreement, however, is based on the Signatory Parties' desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Signatory Parties believe that this Settlement Agreement should be approved by the Commission.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms in their entirety and without material modification. The Signatory Parties agree that if the Commission rejects all or any part of this Settlement Agreement or otherwise materially modifies its terms, either Signatory 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 Settlement Agreement by filing a notice with the Commission. If an application for rehearing is filed, and if the Commission does not adopt the Settlement Agreement without material modification, or if the Commission makes a material modification to any Order adopting the Settlement Agreement pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then either signatory part may terminate and withdraw from this agreement by filing a notice with the Commission within ten (10) days of the Commission's Entry on Rehearing or Order. In such an event, a hearing shall go forward, and the Signatory 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 February 1, 2021, Staff conducted a compliance review of National Freight Lines LLC at 2714 Blueflag Street, Tipp City, Ohio 45371. The compliance review resulted in the discovery of nine (9) violations of the Federal Motor Carrier Safety Administration regulations, and one (1) violation of the Ohio Administrative Code. The violations were:
- (1) use of a driver before receiving a pre-employment result in violation of 49 C.F.R. 382.301(a);
 - (2) failure to ask an employee about a prior positive or refused test in violation of 49 C.F.R. 382.105;

- (3) failure to implement random controlled substance or alcohol testing program in violation of 49 C.F.R. 382.305;
- (4) failure get "reasonable suspicion" designee 60 minutes of training in violation of 49 C.F.R. 382.603;
- (5) failure to conduct an annual query in violation of 49 C.F.R. 382.701(b)(1);
- (6) failure to conduct a pre-employment query in violation of 49 C.F.R. 382.701(a);
- (7) failure to designate a consortium/third party administrator in violation of 49 C.F.R 382.705(b)(6);
- (8) failure to register in the Clearinghouse in violation of 49 C.F.R. 382.711(b);
- (9) failure to require a driver to prepare a record of duty status in violation of 49 C.F.R. 395.8(a)(1); and
- (10) failure to register as required by the unified carrier registration agreement in violation of Ohio Adm.Code 4901:2-15-03(A).

B. Due to the violations described above and in accordance with Ohio Adm.Code 4901:2-7-07, Staff sent Respondent a Notice of Apparent Violation and Intent to Assess Forfeiture in the amount of \$8,950.00 on February 9, 2021.

- C. Pursuant to Ohio Adm.Code 4901:2-7-10, Respondent made a timely request for conference to present mitigating circumstances. A conference was held on March 30, 2021, where Respondent had the opportunity to present mitigating circumstances regarding the amount of the forfeiture, reasons why the compliance order may be unjustified, or any other information relevant to the action proposed to be taken. By the time the conference occurred, Respondent had been working to address some of the issues identified in the inspection.
- D. The Signatory Parties have negotiated this settlement agreement which the Signatory Parties believe resolves all the issues raised in the notice of apparent violation. Because the civil forfeiture exceeds five thousand dollars, this settlement agreement is submitted for the Commission's approval in accordance with Ohio Adm.Code 4901:2-7-11(C).

III. Settlement Agreement

The Signatory Parties agree and recommend that the Commission find as follows:

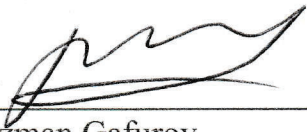
- A. Respondent agrees to violations of 49 C.F.R. §382.301(a); 49 C.F.R. §382.105; 49 C.F.R. §382.305; 49 C.F.R. §382.603; 49 C.F.R. §382.701(b)(1); 49 C.F.R. §382.701(a); 49 C.F.R. §382.705(b)(6); 49 C.F.R. §382.711(b); 49 C.F.R. §395.8(a)(1); and Ohio Adm.Code 4901:2-15-03(A) and recognizes that they may be included in 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. Pursuant to Ohio Adm.Code 4901:2-7-11, this settlement agreement shall not become effective until approved 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.
- C. The Respondent agrees to make payment of a civil forfeiture of \$8,050.00 for the violations listed in paragraph A within thirty (30) days after the effective date of this settlement agreement. Payment shall be made payable to "Public Utilities Commission of Ohio," and it shall be mailed to PUCO FISCAL, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. Case Nos. 21-CR-425739 and 21-327-TR-CVF should appear on the face of the check.
- D. This Settlement Agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding, except as described in paragraph A.

III. Conclusion

The Signatory Parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to approve 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 06 day of July 2021.

On behalf of National Freight Lines LLC

/s/ 

Rizman Gafurov
Owner, National Freight Lines LLC
2714 Blueflag Street
Tipp City, OH 45371

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

/s/ *Thomas M. Shepherd*

Thomas M. Shepherd
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, OH 43215

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 21-0327-TR-CVF

Summary: Agreement Settlement Agreement electronically filed by Mrs. Kimberly M Naeder
on behalf of PUCO