

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Request for	:	
Approval of the Settlement Between	:	
Staff and THUMAN TRUCKING	:	Case No. 21-0998-TR-CVF
INC., Case No. 21-CR-449809,	:	(21-CR-449809)
Pursuant to Rule 4901:2-7-11, Ohio	:	
Administrative Code.	:	

SETTLEMENT AGREEMENT

I. INTRODUCTION

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (“Ohio Adm.Code”), THUMAN TRUCKING INC. (hereinafter, “Respondent”) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (hereinafter, “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 (hereinafter, “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 Settlement 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 3, 2021, a compliance review of the Respondent's facility located at 7001 Harrisburg Pike, Orient, Ohio 43146, resulted in the discovery of alleged violations of the Commission's rules. The Staff timely notified the Respondent pursuant to Ohio Adm.Code 4901:2-7-07 that it intended to assess a civil forfeiture against the Respondent for the following violations:
- (1) Using a driver before receiving a pre-employment result in violation of 49 C.F.R. §382.301(a);

- (2) Failing to conduct post accident testing on driver for alcohol in violation of 49 C.F.R. §382.303(a);
- (3) Failing to conduct post accident testing on driver for controlled Substances in violation of 49 C.F.R. §382.303(b);
- (4) Not keeping record of reason post acc alcohol test not done in violation of 49 C.F.R. §382.303(d)(1);
- (5) Not keeping record of reason post acc. drug test not done in violation of 49 C.F.R. §382.303(d)(2);
- (6) Not ensuring each driver has an equal chance at random test in violation of 49 C.F.R. §382.305(i)(2);
- (7) Failing to conduct an annual query in violation of 49 C.F.R. §382.701(b)(1);
- (8) Failing to conduct a pre-employment query in violation of 49 C.F.R. §382.701(a);
- (9) No annual list of traffic violations in violation of 49 C.F.R. §391.11(b)(6)
- (10) No road test/certificate/class license in violation of 49 C.F.R. §391.11(b)(8);
- (11) Incomplete or no employment application in violation of 49 C.F.R. §391.21(a);
- (12) Failing to obtain driver's driving record each 12 months in violation of 49 C.F.R. §391.25(a);

- (13) Failing to review the driving record of each driver in violation of 49 C.F.R. §391.25(b);
- (14) Inquiries into driving record not kept in qualification file in violation of 49 C.F.R. §391.51(b)(2);
- (15) Inquiries into driving record not kept in qualification file in violation of 49 C.F.R. §391.51(b)(2);
- (16) No medical certificate in qual. File in violation of 49 C.F.R. §391.51(b)(7);
- (17) Failed to manage ELD account as required in violation of 49 C.F.R. §395.22(b)(2);
- (18) Req./perm. property CMV driver to drive after 70 hrs. on duty in 8 days in violation of 49 C.F.R. §395.3(b)(2);
- (19) Failing to require a driver to prepare a record of duty status in violation of 49 C.F.R. §395.8(a)(1);
- (20) Failing to maintain fleet in violation of 49 C.F.R. §396.3(a);
- (21) No road test/certificate/class license in violation of Ohio Adm.Code 4901: 2-5-03;
- (22) Failing to obtain driver's driving record each 12 months in violation of Ohio Adm.Code 4901: 2-5-03;
- (23) Req./perm. property CMV driver to drive after 70 hrs. on duty in 8 days in violation of Ohio Adm.Code 4901: 2-5-03;

- (24) Failing to require a driver to prepare a record of duty status in violation of Ohio Adm.Code 4901: 2-5-03;
- (25) No medical certificate in qual. File in violation of Ohio Adm.Code 4901: 2-5-03;
- (26) Incomplete or no employment application in violation of Ohio Adm.Code 4901: 2-5-03;
- (27) No annual list of traffic violations in violation of Ohio Adm.Code 4901: 2-5-03; and
- (28) Failing to review the driving record of each driver in violation of Ohio Adm.Code 4901:2-5-30.

- B.** On May 15, 2021, the Staff sent a timely Notice of Apparent Violation and Intent to Assess Forfeiture (“Notice”) in accordance with Ohio Adm.Code 4901:2-7-07 for 21-CR-449809. The Notice assessed the Respondent \$11,800.00 for the violations.
- C.** On June 14, 2021, the Staff sent Respondent a Second Notice for 21-CR-449809 assessing Respondent \$11,800.00 for the violations.
- D.** The Respondent made a request for a conference with the Staff pursuant to Ohio Adm.Code 4901:2-7-10.
- E.** A conference between the Respondent and the Staff was held on September 21, 2021.

- F.** 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.** The Respondent agrees to violations of 49 C.F.R. §§382.301(a); 382.303(a); 382.303(b); 382.303(d)(1); 382.303(d)(2); 382.305(i)(2); 382.701(b)(1); 382.701(a); 391.11(b)(6); 391.11(b)(8); 391.21(a); 391.25(a); 391.25(b); 391.51(b)(2); 391.51(b)(2); 391.51(b)(7); 395.22(b)(2); 395.3(b)(2); 395.8(a)(1); 396.3(a); and Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; Ohio Adm.Code 4901: 2-5-03; and Ohio Adm.Code 4901:2-5-30.
- B.** The Respondent recognizes that these violations 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.
- C.** The Respondent has provided proof sufficient to the Staff that it has a compliance plan in place to correct the violations found in this inspection. The Staff therefore agrees to reduce the forfeiture amount from \$11,800.00

to \$9,160.00. The Respondent agrees to pay a total civil forfeiture of \$9,160.00 for the violations.

- D. The Respondent shall pay the \$9,160.00 civil forfeiture within 30 days after the Commission's order approving this Settlement Agreement. The payments shall be made by certified check or money order payable to "Treasurer State of Ohio," and they shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case numbers (21-CR-449809 and 21-0998-TR-CVF) should appear on the face of the check.
- 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 this 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 effect whatsoever in any other case or proceeding, except as described in Paragraph A.

IV. 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 behalf of THUMAN TRUCKING
INC.

/s/ 

Todd A. Ruck
Owner
THUMAN TRUCKING INC.
7001 Harrisburg Pike
Orient, Ohio 43146

Date: 9/28/21

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

/s/ *Steven L. Beeler*

Steven L. Beeler
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

Date: 09/28/2021

This foregoing document was electronically filed with the Public Utilities

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9/28/2021 3:00:35 PM

in

Case No(s). 21-0998-TR-CVF

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