

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF GREGORY
DABROWSKI, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 22-658-TR-CVF
(OH3223005445D)

FINDING AND ORDER

Entered in the Journal on November 30, 2022

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Gregory Dabrowski regarding violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission 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, published in the Code of Federal Regulations (C.F.R.), 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, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On April 15, 2022, a commercial motor vehicle (CMV) operated by Cleveland Ready Mix Cement LLC and driven by Gregory Dabrowski, Respondent, was inspected within the State of Ohio.

{¶ 4} As a result of the inspection, Respondent was served with a Notice of Preliminary Determination (NPD) in accordance with Ohio Adm.Code 4901:2-7-12

indicating that Staff intended to assess a civil forfeiture of \$200 against Respondent for violation of:

- (1) 49 C.F.R. § 392.16, Failing to use a seatbelt when operating a CMV.
- (2) 49 C.F.R. § 391.41(A)(1), Operating a property-carrying vehicle without possessing a valid medical certificate – no previous history.

{¶ 5} On June 30, 2022, Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13. A prehearing settlement conference was scheduled for, and held, on August 23, 2022.

{¶ 6} On October 24, 2022, Staff and Respondent (the parties) filed a settlement agreement that, in the parties' opinion, resolves the issues raised in the above-captioned case. 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 agrees to violations of 49 C.F.R. §392.16 and 49 C.F.R. §391.41(A)(1). Respondent recognizes that these violations 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. Respondent has provided proof sufficient to the Staff that he has a compliance plan in place to correct the violation found in the inspection. Therefore, for purposes of settlement, Staff agrees to reduce the amount of the civil forfeiture from \$200 to \$140 and Respondent agrees to pay the amount of \$140 in order to resolve this case.

- C. Respondent shall pay a reduced total civil forfeiture of \$140 within 30 days of the Commission's order approving the settlement agreement.
- D. Payment shall be made via the Commission website or by certified check or money order payable to "Public Utilities Commission of Ohio," and mailed to:

Public Utilities Commission of Ohio
Attn: CF Processing
180 E. Broad Street, 4th Floor
Columbus, Ohio 43215-3793

- E. The case number (22-658-TR-CVF) and inspection number (OH3223005445D) should appear on the face of the check or money order.
- F. For purposes of enforcement, the Commission considers the date of the entry or order of the Commission adopting the settlement agreement to be the effective date of the settlement agreement.
- G. Pursuant to Ohio Adm.Code 4901:2-7-14, if Respondent fails to comply with the provisions of the settlement agreement, Respondent shall be in default and deemed to have admitted the violation. In the event of default, the Commission may set aside the agreement and order Respondent to pay the amount indicated in the NPD.
- H. Nothing in the settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code

4901:1-2-7 as a result of future compliance reviews or roadside inspections.

- I. The settlement agreement is made in settlement of all factual or legal issues presented in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 7} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, it shall be approved and adopted in its entirety.

III. ORDER

{¶ 8} It is, therefore,

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

{¶ 10} ORDERED, That Respondent pay the \$140 civil forfeiture within 30 days of the Commission's order approving the settlement agreement. Payment should be made via the Commission website or by check or money order payable to "Public Utilities Commission of Ohio," and shall be mailed to: Public Utilities Commission of Ohio, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. The case number 22-658-TR-CVF and inspection number (OH3223005445D) should appear on the face of the check or money order. It is, further,

{¶ 11} ORDERED, That a copy of this Finding and Order be served upon each party of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

DEF/dmh

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in

Case No(s). 22-0658-TR-CVF

Summary: Finding & Order that the Commission finds reasonable and approves the settlement agreement filed between Staff and Gregory Dabrowski regarding violation of the Commission's transportation rules electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio