

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Special Materials Co.,) Case No. 23-268-TR-CVF
Notice of Apparent Violation and) (OH3258009624S)
Intent to Assess Forfeiture.)

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (Ohio Adm.Code), Special Materials Co. (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this agreement to resolve all issues in the above captioned case.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the parties' desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, the Respondent and the Staff encourage and recommend that the Commission adopt this Settlement Agreement.

This Settlement is conditioned upon adoption of the Settlement by the Commission in its entirety and without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Commission's approval of this Settlement constitutes a "material modification" thereof. If the Commission rejects or materially modifies all or any part of this Settlement, any Signatory Party shall have the

right to apply for rehearing. If the Commission does not adopt the Settlement without material modification upon rehearing, or if the Commission makes a material modification to any Order adopting the Settlement pursuant to any reversal, vacation and/or appeals, then within thirty (30) days of the Commission's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Settlement by filing a notice with the Commission ("Notice of Withdrawal"). No Signatory Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Settlement. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Commission will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Settlement by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are successful, then some or all of the Signatory Parties shall submit the amended Settlement to the Commission for approval after a hearing if necessary.

II. History

- A. On January 10, 2023, a commercial motor vehicle operated by Special Materials Company and driven by Matthew Truesdale was inspected within the State of Ohio.
- B. As a result of the inspection, the Respondent was served with a Notice of Apparent Violation and Intent to Assess Forfeiture on January 12, 2023.
- C. On March 8, 2023 the Respondent's request for a conference was honored, but it was determined that there was no way to resolve the issue at the conference level.
- D. On March 10, 2023, the 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 \$1,260.00 against Respondent for violation of 49 C.F.R §172.504A, Vehicle not placarded as required.
- E. The Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.
- F. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the case.

III. Settlement Agreement

The Staff and the Respondent agree and recommend that the Commission find as follows:

- A. The Respondent agrees to a violation of 49 C.F.R. §172.504A. The Respondent recognizes that this violation may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- B. The Respondent has provided proof sufficient to the Staff that he has a compliance plan in place to correct the violation found in this inspection. Therefore, for purposes of settlement, Staff agrees to reduce the amount of the civil forfeiture from \$1,260.00 to \$882.00 and Respondent agrees to pay the amount of \$882.00 in order to resolve this case.
- C. Respondent shall pay the \$882.00 civil forfeiture through 1 payment commencing 30 days after the Commission's order approving this Settlement Agreement. The payment shall be made payable to "Treasurer State of Ohio," and it shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. The case number 23-268-TR-CVF and inspection number (OH3258009624S) should appear on the face of the check.

- 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. 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, except as described in Paragraph A.

IV. Conclusion

The undersigned respectfully request that the Commission adopt the agreement in its entirety. The parties have manifested their consent and authority to enter into the Settlement Agreement by affixing their signatures below.

On Behalf of Special Materials Co.

/s/Michael Stafford
Michael Stafford
Special Materials Co.
369 Little Dude Avenue
Kershaw, SC 29067

June 20, 2023
Date

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

/s/Ashley M. Wnek
Ashley M. Wnek
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, OH 43215

June 20, 2023
Date

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 23-0268-TR-CVF

Summary: Agreement Settlement electronically filed by Mrs. Tonnetta Y. Scott on
behalf of PUCO.