

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of North Star Metals)	Case No. 21-1011-TR-CVF
MFG CO, Notice of Apparent)	(OH3220005114C)
Violation and Intent to Assess)	
Forfeiture.		

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (Ohio Adm.Code), North Star Metals MFG CO, represented by Mr. Vic Hottinger (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 Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the date of the Commission's entry or order, to

file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

II. History

- A. On August 2, 2021, a commercial motor vehicle operated by North Star Metals MFG CO and driven by Scott A. Kerns was inspected within the State of Ohio.
- B. As a result of the inspection, a Notice of Intent to Assess Forfeiture (NIF) was sent out on August 3, 2021 in accordance with Ohio Adm.Code 4901:2-7-07.
- C. A conference was held on September 2, 2021, at which the Respondent failed to participate.
- D. On September 9, 2021, 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 \$250.00 against Respondent for four violations of 49 C.F.R §393.48(a)(2), Inoperative/defective brakes, and for violation of 49 C.F.R §393.47(a), Inadequate brakes for safe stopping – brake lining condition.

- E. The Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.
- F. A prehearing settlement conference was held on March 4, 2022, at which the Respondent had a full opportunity to present reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.
- A. 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 for four violations of 49 C.F.R §393.48(a)(2), and a violation of 49 C.F.R. §393.47(a). 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. For purposes of settlement, Staff agrees to reduce the amount of the civil forfeiture from \$250.00 to \$175.00 and Respondent agrees to pay the amount of \$175.00 in order to resolve this case.

- C. Respondent shall pay the \$175.00 civil forfeiture within 30 days after the Commission's order approving this Settlement Agreement. The payment shall be made payable to "Public Utilities Commission 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 21-1011-TR-CVF and inspection number (OH3220005114C) 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 North Star Metals
MFG CO

/s/Victor Hottinger

Vic Hottinger

North Star Metals MFG CO

P.O. Box 309

Gnadenhutten, OH 44629-0309

9/11/2023

Date

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

/s/ Janet R. Gregory

Janet R. Gregory

Assistant Attorney General

Public Utilities Section

30 East Broad Street, 26th Floor

Columbus, OH 43215

9/11/2023

Date

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

Case No(s). 21-1011-TR-CVF

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