

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Request of Vasil : Case No. 05-22-TR-CVF  
Kabachenko for an Administrative :  
Hearing. :

In the Matter of the Request of Vasil : Case No. 05-23-TR-CVF  
Kabachenko for an Administrative :  
Hearing. :

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**SETTLEMENT AGREEMENT**

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**I. Introduction**

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Vasil Kabachenko (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (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 (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. In the event the Commission rejects any part of the settlement agreement, or adds to, or otherwise materially modifies its terms, either party

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may terminate and withdraw consent to the agreement within 30 days of issuance of the Commission's order, by filing with the Commission.

## II. Procedural History

A. On June 28, 2004, a vehicle operated and driven by Respondent was inspected within the State of Ohio. As a result of the inspection, staff discovered the following violations:

49 C.F.R. §392.2	Failure to maintain SSRS receipt in vehicle.
49 C.F.R. § 395.8(a)	Failing to require driver to make a record of duty status.
49 C.F.R. § 391.41(a)	No medical certificate on driver's possession.

B. Respondent was timely served with notices of preliminary determination in accordance with Rule 4901:2-7-12 O.A.C. for Case Nos. OH0998001919C&D. The notices of preliminary determination assessed Respondent \$250.00.

C. Respondent made a timely formal request for an administrative hearing pursuant to §4901:2-7-13, O.A.C.

D. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notices of preliminary determination.

### III. Settlement Agreement

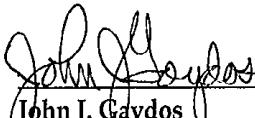
The parties hereto agree and recommend that the Commission find as follows:

- A. Respondent agrees to pay a civil forfeiture of \$50.00 for his violation of 49 C.F.R. §391.41(a) and a civil forfeiture of \$100.00 for the violation of 49 C.F.R. §395.8(a). The parties agree and recommend the dismissal of 49 C.F.R. §392.2 with the assessment of \$100.00 (Failure to maintain SSRS receipt in vehicle). Respondent acknowledges that these violations may be included in the Respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- B. Respondent shall pay the \$150.00 civil forfeiture in one lump sum. The payment shall be made within thirty days following Commission approval of this agreement.
- C. 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 the settlement agreement shall be considered the effective date of the settlement agreement.
- D. This settlement agreement is made in settlement of all factual or legal issues in these two cases. It is not intended to have any affect whatsoever in any other case or proceeding.

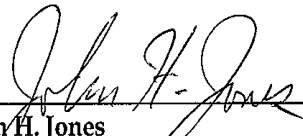
**IV. Conclusion**

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 this 31<sup>ST</sup> day of May, 2005.

  
\_\_\_\_\_  
**John J. Gaydos**  
Counsel for Vasil Kabachenko  
53838 Ida Street  
Elkhart, IN 46514

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

  
\_\_\_\_\_  
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