

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

IN THE MATTER OF:

**STS Electronic Recycling, LLC
(Respondent)**

PHMSA Case No. 22-0181-SI-SW

COMPROMISE AGREEMENT

I. Parties

The Parties to this Compromise Agreement (Agreement) are:

STS Electronic Recycling, LLC (“Respondent”), an electronics recycler and shipper of Class 9 hazardous materials,

and

The Pipeline and Hazardous Materials Safety Administration (“PHMSA”), a modal Administration of the United States Department of Transportation.

II. Authority/Jurisdiction

A. The Parties enter into this agreement under authority of 49 U.S.C. § 5123(e) and 49 C.F.R. § 107.327(a)(1).

B. For the Purposes of this Agreement, Respondent acknowledges:

(1) As an offeror of hazardous materials for transportation in commerce, Respondent is a regulated entity subject to the Hazardous Materials Regulations (HMR) and to the jurisdiction of (a) the Secretary of Transportation, (b) the PHMSA’s Associate Administrator for Hazardous Materials Safety, and (c) PHMSA’s Office of Chief Counsel (49 U.S.C. § 5103(b) and 49 C.F.R. § 107.301); and

(2) PHMSA has sufficient proof to show by a preponderance of the evidence that Respondent violated the Federal regulations listed in Section V below; and

(3) Respondent has received proper notice of PHMSA's actions in the proceeding.

III. Background

A. On July 12, 2022, an Investigator from PHMSA's Office of Hazardous Materials Safety Field Operations ("OHMSFO") conducted a routine compliance inspection at Respondent's business pursuant to 49 U.S.C. § 5121 and 49 C.F.R. § 107.305. PHMSA's investigator reported two (2) alleged violations of the HMR. At the conclusion of the investigation, PHMSA's Investigator conducted an "exit briefing" during which the investigator discussed the alleged violations and the required corrective actions with Respondent's representative.

B. Upon completion of the investigation, the investigator submitted a report to the Director of OHMSFO's Southwest Region, who reviewed the report for accuracy and sufficiency of evidence. Based on that review, the Regional Director referred the matter to PHMSA's Office of Chief Counsel thereby recommending the initiation of a civil penalty action against Respondent pursuant to 49 C.F.R. § 107.311.

C. Based on a preliminary assessment of the apparent nature, circumstances, extent, and gravity of the probable violation, as set forth in the inspector's report, on November 21, 2022, an attorney from PHMSA's Office of Chief Counsel issued a Notice of Probable Violation ("NOPV") alleging two (2) violations of the HMR and proposing a \$21,600 civil penalty.

IV. Basis of Agreement

A. Reply to Notice. On November 30, 2022, Respondent submitted a timely reply to the Notice.

B. Corrective Action. In correspondence dated November 30, 2022 and December 21, 2022, Respondent submitted evidence of its corrective action taken to support mitigation of the proposed civil penalty. Respondent submitted proof of purchase of training materials, new employee training certificates, receipt of party status to Special Permit DOT-SP-16532 for transportation of damaged, defective, or recalled lithium cells and batteries, and proof of purchase of necessary materials to package, label, and ship hazardous materials.

PHMSA finds that the foregoing corrective actions have corrected the violations outlined in the Notice and no further corrective actions are required.

C. Informal Response. On January 18, 2023, Respondent requested an informal conference to discuss the possibility of further mitigation based on financial status. On January 20, 2023, PHMSA held an informal conference with Respondent, and Respondent agreed to send its financial documentation.

D. Finances. In correspondence sent on January 25, 2023, Respondent submitted financial documentation demonstrating that Respondent would be unable to pay the full penalty amount.

V. **Violations and Civil Penalty**

In a subsequent Order, the Chief Counsel will find that Respondent committed the following violations and will assess the following civil penalty:

Violation No.	HMR Violation	NOPV Penalty Amount	Compromise Penalty Amount
1	Offering for transportation in commerce a hazardous material, UN3480, Lithium-ion batteries, 9, PGI (damaged, defective) without hazmat shipping papers, package labels, package markings and authorized packaging, thereby creating an undeclared shipment of hazardous materials, in violation of 49 CFR §§ 171.2(a), (b), (c), & (e); 172.300(a); 172.400; and 173.185(f).	\$18,000	\$9,000
2	Allowing an employee to perform functions subject to the requirements of the HMR, while failing to provide general awareness, function-specific, safety and security awareness training to hazmat employees, in violation of 49 CFR §§ 171.2(a), (e) & (f); 172.702(b); and 172.704(a)(1), (2), (3), & (4).	\$3,600	\$1,800
TOTAL	-----	\$21,600	\$10,800 (after reduction for corrective action and financial status)

VI. **Factors Considered in Determining the Civil Penalty**

In determining the amount of a civil penalty, PHMSA considered the following statutory criteria (49 U.S.C. § 5123(c)):

- (1) The nature, circumstances, extent, and gravity of the violation;
- (2) The degree of culpability and history of prior violations;
- (3) Respondent’s size;

- (4) Respondent's ability to pay the penalty and its ability to continue to do business;
and
- (5) Other matters as justice may require.

Respondent has provided documentation showing that it has fully corrected the violations described in the Notice. Based on Respondent's corrective action documentation, and in the interest of settlement, I am proposing a reduction of 25% from the penalty proposed in the Notice.

Respondent has provided a statement that it would be unable to pay the full penalty amount and provided supporting financial documentation including its last three tax returns, an income statement, and a current balance sheet. In light of this information, I am further reducing the penalty with an additional 25% reduction from the penalty proposed in the Notice.

Together, these penalty reductions reduce the total penalty to \$10,800, which represents a 50% reduction of the penalty proposed in the Notice.

VII. Terms and Conditions

A. Respondent agrees to pay the sum of \$10,800 as full satisfaction of the civil penalty proposed in the Notice in twelve (12) monthly payments of \$900 each. Respondent must pay \$900 within thirty (30) days of the date of the Compromise Order. Respondent must pay an additional \$900 each thirty days after the first payment until the entire amount is paid. Respondent is to make the payment within 30 days from the date the Chief Counsel issues the Final Order, which will issue after Respondent signs and returns this Agreement.

B. By entering into this agreement, Respondent waives:

- (1) Any right to present further written or oral explanations, information, and arguments in this matter;
- (2) Any right to Administrative appeal; and
- (3) Any right to seek judicial review or otherwise contest or challenge the validity of this Agreement or the Notice associated with this case.

C. This Agreement resolves only the violations noted in PHMSA Case No. 22-0181-SI-SW, as referenced in Section V of this agreement. In the event Respondent commits any future violations of the Federal Hazardous Material Transportation Law, 49 U.S.C. § 5101 *et seq.*, the HMR, or any exemption, or order issued thereunder this violation shall constitute a prior violation under 49 U.S.C. § 5123.

D. After Respondent signs and returns this Agreement, PHMSA's representative will present the Agreement to the Chief Counsel requesting that the Chief

Counsel adopt the terms of this Agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of this Agreement constitute an offer of compromise until accepted by the Chief Counsel.

E. After issuance of the Compromise Order, Respondent must pay the civil penalty in accordance with the terms of this Agreement. Upon receipt of Respondent's final payment, the Chief Counsel will close this case with prejudice to the Respondent (49 C.F.R. § 107.327(a)(1)(ii)).

F. Respondent neither admits nor denies any allegations of fact or law with regard to the alleged violations committed by Respondent contained in this Agreement.

VIII. Miscellaneous Provisions

A. By signing this Agreement, Respondent or its representative warrants to have read the agreement and understood its terms and conditions.

B. The individuals signing on behalf of the Respondent and PHMSA represent that they are authorized to sign and have authority to enter into this Agreement.

C. Respondent's failure to sign and return this agreement within thirty (30) days from its receipt will result in the withdrawal of this Agreement and the Chief Counsel will issue an Order pursuant to 49 C.F.R. §§ 107.317(d), for the full amount of the penalty proposed in the Notice.

D. Respondent must return the signed Agreement to:

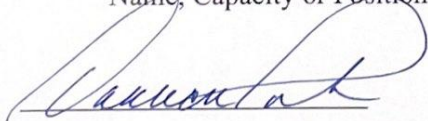
Samantha Vrscak
United States Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, S.E.
East Building, 2nd Floor (PHC-10)
Washington, D.C. 20590-0001
samantha.vrscak@dot.gov

Respondent

Federal Tax ID Number¹: 87-4613885

By: Dannon Pate, CFO
Name, Capacity or Position

Date: 10/19/23



¹ The Taxpayer Identifying Number is required by 31 U.S.C. § 7701(c)(3). PHMSA will use this number for purposes of collecting and reporting on any delinquent amounts arising out of this agreement.

Pipeline and Hazardous Materials Safety Administration

SAMANTHA

Digitally signed by
SAMANTHA ANN VRSCAK
Date: 2023.10.19 15:37:16
-04'00'

By:

ANN VRSCAK

Samantha Vrscak, Attorney-Advisor

Date: October 19, 2023