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

IN THE MATTER OF:
Schultz Barrel & Drum, Inc. **(Respondent)**

PHMSA CASE Number:

22-0294-PM-EA

COMPROMISE ORDER

By this Order I find that Schultz Barrel & Drum, Inc. committed two (2) violations of the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. Accordingly, I assess Respondent a civil penalty of $8,610 for these violations.

I. Summary

Respondent:	Schultz Barrel & Drum, Inc. 4800 S Morgan St. Chicago, IL 60609 ATTN: Michael Schultz, President
No. of Violations:	2
Total Payment Due:	$8,610

II. Finding

This matter comes before me after Schultz Barrel & Drum, Inc. (Respondent) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) agreed to a disposition of this case. I find that Respondent committed the violations described in the Compromise Agreement (Agreement), which I have attached hereto. I have reviewed the Agreement and I find that the terms as outlined therein are in the best interest of justice.

The Agreement, in its entirety, is incorporated and attached to this Order. All of the terms and conditions of the Agreement shall be given the full force of an Order issued pursuant to the Federal hazardous materials transportation law, 49 U.S.C. § 5101, et seq., or the Hazardous Materials Regulations, 49 CFR Parts 171-180.

So Ordered,

ADAM SCHAEFER HORSLEY

Digitally signed by ADAM SCHAEFER HORSLEY
Date: 2024.09.25 16:14:42 -04'00'

For Vasiliki Tsaganos
Acting Chief Counsel
Pipeline and Hazardous Materials Safety Administration

Date: 09/25/2024

Attachments:

Addendum A
Addendum B
Addendum C

ADDENDUM A

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Addendum A (Compromise Order)

Payment Information

Respondent must pay a total civil penalty of $8,610 in accordance with the following:

Due date

Respondent must pay the first $1,435 of the payment plan within 30 days of the date of this Order. Respondent must pay an additional $1,435 each 30 days thereafter until the entire civil penalty amount is paid. If Respondent defaults on any payment of this payment schedule, the entire amount of the remaining civil penalty shall, without further notice, become immediately due and payable as of the date that the first installment is due.

Payment Method

Respondent must pay the civil penalty by one of the following: (1) wire transfer, (2) certified check or money order, or (3) electronically via the Internet.

(1) Wire Transfer.

Detailed instructions for sending a wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury are contained in Addendum B of this Order. Please direct questions concerning wire transfers to:

DOT/PHMSA/MMAC
AMK-325/HQ-RM 181
6500 S MacArthur Blvd
Oklahoma City, OK 73169
(405) 954-9309

(2) Check or Money Order.

Make check or money order payable to "U.S. Department of Transportation" (include the Ref. No. of this case on the check or money order) and send to:

DOT/PHMSA/MMAC
AMK-325/HQ-RM 181
6500 S MacArthur Blvd
Oklahoma City, OK 73169
(405) 954-9309

(3) Bank Account (ACH), Debit Card, or Credit Card.

To pay electronically, visit the following website address and follow the instructions:

https://www.pay.gov/public/form/start/1078346

Interest and Administrative Charges

If Respondent pays the civil penalty by the due date, no interest will be charged. If Respondent does not pay by that date, the FAA's Financial Operations Division will start collection activities and may assess interest, a late-payment penalty, and administrative charges under 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 49 C.F.R. § 89.23.

The rate of interest is determined under the above authorities. Interest accrues from the date of this Order. A late-payment penalty of six percent (6%) per year applies to any portion of the debt that is more than 90 days past due. The late-payment penalty is calculated from the date Respondent receives the Order.

Treasury Department Collection

FAA's Financial Operations Division may also refer this debt and associated charges to the U.S. Department of Treasury for collection. The Department of the Treasury may offset these amounts against any payment due Respondent (31 C.F.R. § 901.3).

Under the Debt Collection Act (see 31 U.S.C. § 3716(a)), a debtor has certain procedural rights prior to an offset. You, as the debtor, have the right to be notified of: (1) the nature and amount of the debt; (2) the agency's intention to collect the debt by offset; (3) the right to inspect and copy the agency records pertaining to the debt; (4) the right to request a review within the agency of the indebtedness and (5) the right to enter into a written agreement with the agency to repay the debt. This Order constitutes written notification of these procedural rights.

ADDENDUM B

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INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

1. RECEIVER'S ABA NO. 021030004	2. TYPE SUBTYPE (provided by Sending bank)
3. SENDING BANK ARB NO. (provided by Sending bank)	4. SENDING BANK REF NO. (provided by Sending bank)
5. AMOUNT	6. SENDING BANK NAME (provided by Sending bank)
7. RECEIVER NAME: TREAS NYC	8. PRODUCT CODE (Normally CTR, or Sending bank)
9. BENEFICIAL (BNF)- AGENCY LOCATION CODE BNF=/AC-69140001	10. REASONS FOR PAYMENT *Example:* PHMSA Payment for Case #/Ticket #

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: $10,000.00**

Block #7 - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, which must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69140001" Ensure the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #10 - REASON FOR PAYMENT – "AC-Payment for PHMSA Case#" To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-9309 or 9-AMC- AMZ-AR-PHMSA@faa.gov.

ADDENDUM C

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

IN THE MATTER OF:	
Schultz Barrel & Drum, Inc. **(Respondent)**	PHMSA Case No. 22-0294-PM-EA

COMPROMISE AGREEMENT

I. Parties

The Parties to this Compromise Agreement (Agreement) are:

Schultz Barrel & Drum, Inc.("Respondent"), a reconditioner of steel and plastic drums and operates under the manufacturer's symbol M5011,

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 UN standard packaging, as well as someone who reconditions packagings to be used for the transportation of hazardous materials, 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, however, this Agreement does not constitute an admission by Respondent of wrongdoing; and

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

III. Background

A. On August 2, 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 four (4) 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 Eastern 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 investigator's report, on May 8, 2024, an attorney from PHMSA's Office of Chief Counsel issued a Notice of Probable Violation ("NOPV" or "Notice") alleging three (3) violations of the HMR, and one (1) quality control item, and proposing a $15,500 civil penalty.

IV. Basis of Agreement

A. Reply to Notice. On June 26, 2024, Respondent submitted a timely reply to the Notice.

B. Informal Response. On June 26, 2024, Respondent provided additional information and documentation to PHMSA's attorney. On July 25, 2024, Respondent submitted documentation showing it maintained operational leakproofness testing equipment at the time of the inspection, which was at issue for one of the violations outlined in the Notice.

C. Finances. Respondent has not requested mitigation based on finances.

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	Representing, marking, and/or certifying a reconditioned UN standard 55-gallon UN1A1 drum for reuse and failing to conduct a production leakproofness test, in violation of 49 CFR §§ 171.2(a), (g) and (h); 173.28(b)(2); 178.2(a); 178.504(a); 178.601(b); and 178.604(a) and (b).	$5,000	$0
2	Representing, marking, certifying, and offering 55-gallon steel drums, marked to a UN standard, as being reconditioned, when the metal drums had not been reconditioned as required, in violation of 49 CFR §§ 171.2(a), 171.2(g), 171.2(j), 173.28(a), 173.28(b)(1), and 173.28(c)(1).	$7,500	$6,150
3	Represented, reconditioned, and offered plastic drums as reconditioned UN standard 1H1 drums, while failing to include reconditioning markings, in violation of 49 CFR §§ 171.2(a) and (g); 173.28(c)(3); and 178.503(c).	$3,000	$2,460
TOTAL	---	$15,500	$8,610

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 evidence showing that it maintained operational leakproofness testing equipment at the time of the inspection. Based on this documentation, I am removing the penalty assessed for Violation No. 1, for a $5,000 reduction of the total penalty. Further, in consideration of Respondent's status as a small business and in the interest of settlement, I am also further reducing the penalty by an additional 18%, for a total penalty of $8,610.

VII. Terms and Conditions

A. Respondent agrees to pay the sum of $8,610 as full satisfaction of the civil penalty proposed in the Notice in six (6) monthly payments of $1,435 each. Respondent must pay $1,435 within thirty (30) days of the date of the Compromise Order. Respondent must pay an additional $1,435 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 Compromise 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. 22-0294-PM-EA, 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. This Agreement does not constitute an admission by Respondent of wrongdoing.

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 fourteen (14) days from its receipt will result in the withdrawal of this Agreement.

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 Number[1] 42-1597027

By: mike Schultz Date: 9/20/2024
Name, Capacity or Position

Pipeline and Hazardous Materials Safety Administration

By: SAMANTHA ANN VRSCAK Digitally signed by SAMANTHA ANN VRSCAK Date: 2024.09.25 12:41:39 -04'00' Date: ________
Samantha Vrscak, Attorney-Advisor

[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.

CERTIFICATE OF SERVICE

This is to certify that on the __2nd____ day of __October___, 2024, the undersigned served in the following manner the designated copies of this Order with attached addenda to each party listed below:

Michael Schultz, President Schultz Barrel & Drum, Inc. 4800 S Morgan St. Chicago, IL 60609 Mschultz@gmail.com	Original Order with Copy of Agreement Via Certified Mail
Carey Davis, Deputy Associate Administrator Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Field Operations 233 Peachtree Street NE, Suite 600 Atlanta, Georgia 30303 Carey.Davis@dot.gov	One Copy Via Electronic Mail
Vince Mercadante, Regional Director Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Field Operations Eastern Region, PHH-42 840 Bear Tavern Road, Suite 300 West Trenton, NJ 08628 Vincent.mercadante@dot.gov	One Copy Via Electronic Mail
Mitchell Brown, Chief Investigator Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Field Operations Eastern Region, PHH-42 840 Bear Tavern Rd., Suite. 300 West Trenton, New Jersey 08628 Mitchell.Brown@dot.gov	One Copy Via Electronic Mai
Adam Horsley, Assistant Chief Counsel Pipeline and Hazardous Materials Safety Administration Office of Chief Counsel United States Department of Transportation 1200 New Jersey Avenue SE Washington, DC 20590 Adam.Horsley@dot.gov	One Copy Via Electronic Mail

Samantha Vrscak, Attorney-Advisor Pipeline and Hazardous Materials Safety Administration Office of Chief Counsel United States Department of Transportation 1200 New Jersey Avenue SE Washington, DC 20590 Samantha.vrscak@dot.gov	One Copy Via Electronic Mail
U.S. DOT Dockets U.S. Department of Transportation 1200 New Jersey Avenue SE Room W12-140 Washington, DC 20590 Latasha.White.Ctr@dot.gov Joan.Coleman@dot.gov Greg.Michel@dot.gov Sridevi.Madduri.CTR@dot.gov	One Copy Via Electronic Mail

ASHLEY KALANNIE SIMONS
Digitally signed by ASHLEY KALANNIE SIMONS
Date: 2024.10.02 10:38:23 -04'00'

Ashley Simons