

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

**IN THE MATTER OF:**

**uBreakiFix Atlanta  
(Respondent)**

PHMSA CASE Number:  
**23-0125-SH-SO**

**COMPROMISE ORDER**

By this Order I find that uBreakiFix Atlanta committed one (1) violation of the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. Accordingly, I assess Respondent a civil penalty of \$7,500 for this violation.

**I. Summary**

Respondent: uBreakiFix Atlanta  
2770 Lenox Road NE  
Atlanta, GA 30325

No. of Violations: 1  
Total Payment Due: \$7,500

**II. Finding**

This matter comes before me after uBreakiFix Atlanta (Respondent) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) agreed to a disposition of this case. I find that Respondent committed the violation 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: 2024.08.21 11:39:53  
-04'00'

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

Date: 08/21/2024

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 \$7,500 in accordance with the following:

#### Due date

Respondent must pay the first \$1,250 of the payment plan within 30 days of the date of this Order. Respondent must pay an additional \$1,250 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

## **Addendum A (Compromise Order)**

(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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**Addendum B (Compromise Order)**

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

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

**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:**

**uBreakiFix Atlanta  
  
(Respondent)**

PHMSA Case No.23-0125-SH-SO

**COMPROMISE AGREEMENT**

**I. Parties**

The Parties to this Compromise Agreement (Agreement) are:

**uBreakiFix Atlanta** (“Respondent”), a local franchise of a national chain of consumer repair stores and is an offeror of Class 9 lithium batteries in DOT Special Permit 14849 packaging,

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, 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 May 22, 2023, 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 one (1) alleged violation 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 Southern 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, 2023, an attorney from PHMSA's Office of Chief Counsel issued a Notice of Probable Violation ("NOPV" or "Notice") alleging one (1) violation of the HMR and proposing a \$15,000 civil penalty.

### **IV. Basis of Agreement**

A. Reply to Notice. On December 21, 2023, Respondent submitted a timely reply to the Notice.

B. Corrective Action. In correspondence dated June 13, 2023, Respondent submitted evidence of its corrective action it had taken in response to the exit briefing. Respondent submitted proof of purchase of DOT special permit packaging manufactured under CellBlock FCS DOT Special Permit 20549, created specifically for the purpose for shipping damaged, defective, or recalled (DDR) or end-of-life lithium ion and lithium metal batteries and cells. Respondent included the packing and closing instructions for the packaging. Respondent also provided a training log and training materials on battery handling and the special permit DDR packaging.

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 December 21, 2023, Respondent requested an informal conference to discuss the substance of the violation, as well as the possibility of further mitigation based on financial status. On January 16, 2024, PHMSA held an

informal conference with Respondent, and Respondent agreed to send its financial documentation.

D. Finances. In correspondence sent on February 26, 2024, March 11, 2024, and July 3, 2024, 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 damaged, defective, or recalled (DDR) UN3480, Lithium-ion batteries, 9, a hazardous material, without hazardous materials shipping papers, package labels, package markings, and UN standard packaging as required by the HMR, thereby creating an undeclared shipment of hazardous materials, in violation of 49 CFR §§ 171.2(a), (b), (c), and (e); 172.101; 172.200(a); 172.202(a); 172.300(a); 172.301(a); 172.400(a) and (b); 172.447; and 173.185(f).	\$15,000	\$7,500
TOTAL	-----	\$15,000	\$7,500

**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.

In consideration of Respondent's corrective actions for the violation as described *supra*, and in the interest of settlement, I am further reducing the penalty by 25%.

Additionally, 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 \$7,500, which represents a 50% reduction of the penalty proposed in the Notice.

## **VII. Terms and Conditions**

A. Respondent agrees to pay the sum of \$7,500 as full satisfaction of the civil penalty proposed in the Notice in six (6) monthly payments of \$1,250 each. Respondent must pay \$1,250 within thirty (30) days of the date of the Compromise Order. Respondent must pay an additional \$1,250 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. 23-0125-SH-SO, 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 Number<sup>1</sup>: 47-4563074

By: Jonathan Harper, Partner  
Name, Capacity or Position

Date: 8/20/24

  
\_\_\_\_\_  
<sup>1</sup> 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**

By:

**ANN VRSCAK**

Digitally signed by  
SAMANTHA ANN VRSCAK  
Date: 2024.08.21 11:18:21  
-04'00'

Date: \_\_\_\_\_

\_\_\_\_\_  
Samantha Vrscak, Attorney-Advisor