

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

IN THE MATTER OF:

**SMI Services, Inc.
(Respondent)**

PHMSA Case Number:

24-0147-HM-SO

COMPROMISE ORDER

By this Order I find that SMI Services, Inc. committed one (1) violation of the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. Accordingly, I assess Respondent a civil penalty of \$2,400 for these violations.

I. Summary

<u>Respondent:</u>	SMI Services, Inc. PO Box 2358 Jamestown, North Carolina 27282 ATTN: Kristin Lambert, Vice President
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<u>No. of Violations:</u>	1
<u>Total Payment Due:</u>	\$2,400

II. Finding

This matter comes before me after SMI Service, Inc. (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: 2025.06.16 09:58:08
-04'00'

For Keith Coyle
Chief Counsel
Pipeline and Hazardous Materials Safety Administration

Date: 06/16/2025

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 \$2,400 in accordance with the following:

Due date

Respondent must pay the first \$1,200 of the payment plan by August 1, 2025, after this Order is issued. Respondent must pay an additional \$1,200 by September 30, 2025, 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:

SMI Services, Inc.

PHMSA Case Number:

24-0147-HM-SO

COMPROMISE AGREEMENT

I. Parties

The Parties to this Compromise Agreement (“Agreement”) are:

SMI Services, Inc. (“Respondent”), a DOT/PHMSA-approved DOT cylinder requalifier using the ultrasonic method and holding a current requalifier identification number (RIN) N090, which also fills and transports DOT 3AL and 3AA cylinders with Class 2.2 medical oxygen,

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 CFR § 107.327(a)(1).

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

(1) As a RIN-holder and transporter of hazardous materials, it is a regulated entity subject to the HMR and to the jurisdiction of (a) the Secretary of Transportation, (b) PHMSA’s Associate Administrator for Hazardous Materials Safety, and (c) PHMSA’s Office of the Chief Counsel (49 U.S.C. § 5103(b) and 49 CFR § 107.301);

(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) That it received proper notice of PHMSA’s action in this proceeding.

III. Background

A. On March 19, 2024, an Investigator from PHMSA’s Office of Hazardous Materials Safety Field Operations (“OHMSFO”) conducted an inspection at Respondent’s facility in Jamestown, North Carolina, pursuant to 49 U.S.C. § 5121 and 49 CFR § 107.305. PHMSA’s Investigator reported one (1) alleged violation of the HMR and one (1) quality control item. At the conclusion of the compliance inspection, PHMSA’s Investigator conducted an “exit briefing,” during which the Investigator discussed the alleged violation and quality control item and the required corrective actions with Respondent’s representatives.

B. Upon completion of the inspection, 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 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 CFR § 107.311.

C. Based on a preliminary assessment of the apparent nature, circumstances, extent, and gravity of the probable violations, as set forth in the Investigator’s report, on March 31, 2025, an attorney from PHMSA’s Office of Chief Counsel electronically issued a Notice of Probable Violation (“Notice”), alleging one (1) violation of the HMR and one (1) quality control item, and proposing a \$2,400 civil penalty. Respondent did not accept electronic service of process, so PHMSA’s attorney mailed a hardcopy, which Respondent emailed to acknowledge receipt of on April 21, 2025.

IV. Basis of Agreement

A. Reply to Notice. Respondent acknowledged receipt of the NOPV on April 21, 2025 and requested an informal conference. The informal conference was held on May 28, 2025, and PHMSA’s attorney followed up via email to reiterate what documents and information would be needed for financial hardship considerations. Respondent replied on May 30, 2025 and asked if the Notice penalty could instead be split into two (2) payments and scheduled for August and September 2025.

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:

Viol. No.	HMR Violation	NOPV Penalty Amount	Compromise Penalty Amount
1	Offering for transportation and transported in commerce hazardous materials, accompanied by shipping papers, which included an	\$2,400	\$2,400 (To be paid in two (2) installments of

	emergency response telephone number that was incapable of providing the emergency response information, as required by the Hazardous Materials Regulations (HMR), in violation of 49 CFR §§ 171.2(a), (b), (e), (f); 172.201(d); and 172.604(a) & (b).		\$1,200, with the first due by August 1, 2025 and the second due by September 30, 2025)
QC	Offering for transportation and transporting in commerce hazardous materials, accompanied by shipping papers, which listed basic shipping descriptions in an incorrect sequence and not as specified by the Hazardous Materials Regulations (HMR), in violation of 49 CFR §§ 171.2(a), (b), (e), & (f); 172.200(a); and 172.202(a)(1), (2), (3), (4), & (b).	\$0	\$0 (Quality Control Item))
TOTAL	----- -----	\$2,400	\$2,400 (To be paid in two (2) installments of \$1,200, with the first due by August 1, 2025 and the second due by September 30, 2025)

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 violations;
- (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.

At the time of the Notice, Respondent had provided full corrective action. PHMSA's attorney has constructed a two (2) installment payment plan to pay the Notice penalty, at Respondent's request.

VII. Terms and Conditions

A. Respondent agrees to pay a total civil penalty of \$2,400, as full satisfaction of the civil penalty proposed in the Notice, according to the following payment plan. Respondent is to make the first payment of \$1,200 by August 1, 2025, after the Chief Counsel issues the Compromise Order, which will issue after Respondent signs and returns this Agreement. Respondent must

pay an additional \$1,200 by September 30, 2025, until the entire 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.

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 Ref. No. **24-0147-HM-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, these violations shall constitute a prior violation under 49 U.S.C. § 5123.

D. After Respondent returns this signed 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 CFR § 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 CFR § 107.327(a)(1)(ii)).

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 CFR § 107.317(d), for the full amount of the penalty proposed in the Notice.

D. Respondent must return the signed Agreement by electronic mail to:

Brittany.Besser@dot.gov

Respondent

Federal Tax ID #: 51-0472046 ¹

By:  Date: 6/11/25
Kristin Lambert, Vice President

**Pipeline and Hazardous
Materials Safety Administration**

By: BRITTANY
SIGRID BESSER <sup>Digitally signed by BRITTANY
SIGRID BESSER
Date: 2025.06.11 14:43:08 -04'00'</sup> Date:
Brittany S. Besser, 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.