

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In the Matter of:**

**DIGIT XPRESS LLC  
USDOT# 1561788**

**Respondent**

**Docket No. FMCSA-2012-0053<sup>1</sup>  
(Southern Service Center)**

**ORDER TERMINATING PROCEEDINGS  
WITH FINDING OF LIABILITY**

On December 21, 2011, the Tennessee Division Administrator of the Federal Motor Carrier Safety Administration (FMCSA) issued a Notice of Claim (NOC) against Digit Xpress, LLC (Respondent). The NOC alleged that Respondent committed thirteen (13) counts of violating 49 CFR 395.8(e) – false reports of records of duty status. The NOC proposed a civil penalty of \$9,360.<sup>2</sup>

Respondent filed a timely reply to the NOC, admitted the violations, and requested binding arbitration.<sup>3</sup> On February 27, 2012, the Field Administrator for FMCSA's Southern Service Center (Claimant) consented to Respondent's request for binding arbitration. On April 5, 2012, I referred this matter to binding arbitration.

On December 6, 2013, Claimant filed a Motion to Terminate Proceedings and Close Docket with Finding of Liability. Claimant's Motion is based on a June 25, 2013 Order of the

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<sup>1</sup> The prior case number of this matter was TN-2012-0007-US0468.

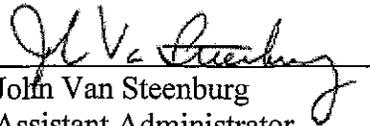
<sup>2</sup> Field Administrator's Consent to Respondent's Request for Binding Arbitration (Consent), Exhibit A.

<sup>3</sup> *Id.*, Exhibit B.

United States Bankruptcy Court for the Western District of Tennessee closing the Chapter 7 bankruptcy case filed by Respondent.<sup>4</sup> Claimant states that, based on the termination of Respondent's bankruptcy case, he will not be pursuing a civil penalty against Respondent. Claimant asks that I issue an order closing these proceedings with a finding of liability against Respondent.<sup>5</sup>

Respondent admitted the violations in its reply to the NOC.<sup>6</sup> These proceedings were referred to binding arbitration based on Respondent's admission of the violations.<sup>7</sup> Although Claimant does not seek a civil penalty against Respondent, Respondent's admission of the violations renders Respondent liable for the violations alleged in the NOC.

*It is therefore ORDERED*, that Respondent is found to have committed thirteen (13) violations of 49 CFR 395.8(e) – false reports of records of duty status and that no penalty shall be assessed against Respondent.<sup>8</sup>

  
John Van Steenburg  
Assistant Administrator  
Federal Motor Carrier Safety Administration

1/28/14  
Date

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<sup>4</sup> Field Administrator's Motion to Terminate Proceedings and Close Docket with Finding of Liability, Exhibit A.

<sup>5</sup> *Id.*

<sup>6</sup> Field Administrator's Consent to Binding Arbitration, Exhibit B.

<sup>7</sup> It does not appear that the parties selected an arbitrator before termination of Respondent's bankruptcy proceedings.

<sup>8</sup> Pursuant to 49 CFR 386.64, a petition for reconsideration may be submitted within 20 days of the issuance of this Final Order.

## CERTIFICATE OF SERVICE

This is to certify that on this 29 day of January, 2014, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

<p>Deborah A. Stanziano Office of Chief Counsel Federal Motor Carrier Safety Administration Southern Service Center 1800 Century Blvd., NE Suite 1700 Atlanta, GA 30345 <i>Claimant's Counsel</i></p>	<p>One Copy US First Class Mail</p>
<p>Cindy Garside, President Digit Xpress LLC 216 New Deal Road Jackson, TN 38305 <i>Respondent</i></p> <p><i>and</i></p> <p>Eric J. Arnold Arnold Safety Consulting, Inc. 117 Tudor Lane Birdsboro, PA 19508 <i>Respondent's Representative</i></p>	<p>One Copy US First Class Mail</p>
<p>U.S. Department of Transportation Docket Operations, M-30 West Building Ground Floor Room W12-140 1200 New Jersey Avenue, S.E. Washington, D.C. 20590</p>	<p>Original Personal Delivery</p>

