

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

| | | |
|---|---|------------------------|
| In the Matter of Tony Nelsen, Notice of |) | Case No. 10-601-TR-CVF |
| Apparent Violation and Intent to Assess |) | OH0573004244D |
| Forfeiture. |) | |

ENTRY

The Commission finds:

- (1) Commission staff served a notice of preliminary determination upon Tony Nelsen (respondent), in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), alleging a violation of 49 Code of Federal Regulations 392.16 - failure to wear a seat belt while operating a commercial motor vehicle and, as a result, assessing a civil forfeiture of \$100.
- (2) On May 4, 2010, respondent filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (3) Pursuant to Rule 4901:2-7-16(B), O.A.C., a prehearing conference was held on September 1, 2010; however, the parties were unable to resolve this matter.
- (4) By entry issued on September 3, 2010, this matter was set for hearing on October 26, 2010, and respondent was served with a copy of the September 3, 2010, entry in accordance with Rule 4901:2-7-03, O.A.C. The September 3, 2010, entry noted that Rule 4901:2-7-14(A), O.A.C., provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The September 3, 2010, entry further indicated that Rule 4901:2-7-14(A), O.A.C., also states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.
- (5) The hearing was held as scheduled on October 26, 2010. At the hearing, staff presented evidence demonstrating the occurrence of the violation and supporting the civil forfeiture citation in this case. Respondent, however, did not appear or participate at the hearing.

- (6) Since respondent failed to appear or participate in the hearing in this case, the Commission finds that, pursuant to Rule 4901:2-7-14(A), O.A.C., respondent is in default and, therefore, has admitted the violation cited in the case and waived all further right to contest liability to the state for the forfeiture described in the notice. The recommended civil forfeiture of \$100, set forth in the notice of preliminary determination, should be assessed against respondent and should be paid within 30 days.
- (7) Rule 4901:2-7-22, O.A.C., requires that payment of any forfeiture be made by company check, certified check, or money order payable to "Treasurer, State of Ohio," and shall be mailed or delivered to "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Fourth Floor, Columbus, Ohio, 43215-3793."

It is, therefore,

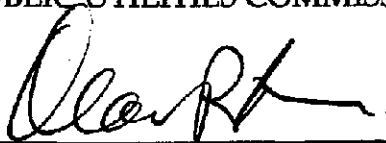
ORDERED, That respondent is in default and the assessed civil forfeiture remedy of \$100 is adopted. It is, further,

ORDERED, That respondent is ordered to pay the state of Ohio as set forth in finding (7). It is, further,

ORDERED, That if payment is not received within 30 days of the date of this entry, the Attorney General of Ohio shall bring a civil action in the Court of Common Pleas of Franklin County, or take any other appropriate action allowed by law, to recover the \$100.00 forfeiture assessed herein. It is, further,

ORDERED, That, a copy of this entry be served upon all parties of record.

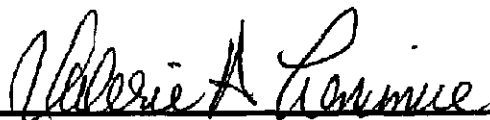
THE PUBLIC UTILITIES COMMISSION OF OHIO



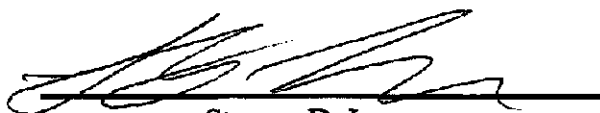
Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

KLS/dah

Entered in the Journal

~~NOV 22 2010~~



Renee J. Jenkins
Secretary