

FILE

13-1138-TR-CVF

April 30, 2013

The Public Utilities Commission of Ohio
Attention: Docketing Division
180 East Broad Street, 11th Floor
Columbus, Ohio 43215-3793

RE; Request For Administrative Hearing

Dear Sir/Ms.,

We would like request an Administrative hearing in case #3296013596C. Our driver made a simple mistake that put no one in danger and had no adverse effect on the safety of the material being transported. We feel the assessment of \$3840.00 in fines for his action to be excessive.

Thank you,

I thank you,
Bruce Fallaw
Bruce Fallaw
For Jerry L. Lance
Robbie D Wood, Inc.

RECEIVED-DOCKETING DIV
2013 MAY -3 PM 3:59
PUCO

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**Public Utilities
Commission**

John R. Kasich, Governor
Todd A. Snitchler, Chairman

13-1138-TR-CVF

Commissioners
Steven D. Lesser
Andre T. Porter
Lynn Slaby
M. Beth Trombold

April 29, 2013

MR BRUCE FALLAW
ROBBIE D WOOD INC
1051 OLD WARRIOR RIVER ROAD
PO BOX 125
DOLOMITE, AL 35061

RE: NOTICE OF PRELIMINARY DETERMINATION

Case No. 3296013596C

Officer:

Dear MR FALLAW:

On February 21, 2013 , a vehicle operated by ROBBIE D WOOD INC, and driven by JERRY L LANCE, was inspected within the State of Ohio. As the result of discovery of the following apparent violation the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amount:

Code	Violation
172.504A	Vehicle not placarded as required 5.1 OR DANG \$ 3840.00

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)



Public Utilities Commission

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ROBBIE D WOOD INC
3296013596C

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As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against ROBBIE D WOOD INC in the following forfeiture:

Code	Violation
172.504A	Vehicle not placarded as required 5.1 OR DANG \$ 3840.00

Total Forfeiture Agreed :

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 4th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Milan Orbovich, Director
Transportation Department
Public Utilities Commission of Ohio

INSTRUCTION SHEET

NOTICE OF PRELIMINARY DETERMINATION

You have received a "Notice of Preliminary Determination" pursuant to Rule 4901:2-7-12, Ohio Administrative Code. This Notice of Preliminary Determination is based upon the inspection report prepared in this case, further review and investigation by the Staff, and information presented in a settlement conference with the Staff, if held.

Within thirty (30) days of receipt of this Notice you must either: (1) Pay the civil forfeiture indicated in the Notice, or (2) File a written "Request for Administrative Hearing." **If you do not pay the civil forfeiture or file a "Request for Administrative Hearing" within thirty days, you will waive your right to further contest the violation and the civil forfeiture, and you will be subject to an order of the Commission placing you in default and referring your case to the Ohio Attorney General for collections.**

Both procedures are described below. Please read them carefully.

1. How to Pay the Forfeiture:

If you do not wish to further contest the civil forfeiture indicated in the Notice, you must make payment of the civil forfeiture indicated in the Notice by check or money order (no Canadian postal money orders please) made payable to: "Treasurer, State of Ohio" and must indicate the case numbers for which payment is being made. Please use the ENCLOSED ENVELOPE to make payment or mail the payment to the following address:

The Public Utilities Commission of Ohio
Attention: Fiscal Department
180 East Broad Street, 4th Floor
Columbus, Ohio 43215-3793

THE CASE NUMBER AND THE COMPANY NAME MUST BE WRITTEN ON THE FACE OF YOUR CHECK OR MONEY ORDER.

2. How file a "Request for Administrative Hearing":

If you do wish to further contest the civil forfeiture indicated in the Notice, **you should file a "Request for Administrative Hearing"** with the Commission's Docketing Division. Please note that you must file a "Request for Administrative Hearing" in order to further contest the civil forfeiture or compliance order in this matter, even if you had previously served upon the Staff a "Request for Conference." Your "Request for Administrative Hearing" must be in writing and should be mailed or otherwise delivered within thirty (30) days after receipt of the Notice of Preliminary Determination to the following address:

The Public Utilities Commission of Ohio
Attention: Docketing Division
180 East Broad Street, 11th Floor
Columbus, Ohio 43215-3793

(Over please)

Your "Request for Administrative Hearing" should contain the case number indicated on the of Preliminary Determination and the name, address, and telephone number of the person to whom further communications regarding this matter should be directed. **A copy of the Notice of Preliminary Determination must be attached to your "Request for Administrative Hearing."**

3. The Administrative Hearing

Following receipt of your "Request for Administrative Hearing," the Commission will initiate an administrative hearing proceeding in this matter and set a date for an evidentiary hearing. The evidentiary hearing will be held at the Commission offices in Columbus, Ohio and may consist of written stipulations, oral testimony or such other evidence which is admitted. An Attorney-Examiner employed by the Commission will preside over the administrative hearing. Following the administrative hearing, the Commission will make its decision in this matter. The decision of the Commission may be appealed to the Franklin County Court of Appeals.

4. Failure to file a "Request for Administrative Hearing"

If you do not file a timely "Request for Administrative Hearing," in the manner described above, you will waive your right to contest liability to the State of Ohio for the amount of the civil forfeitures indicated in the Notice of Preliminary Determination, even if you had previously served upon the Staff a "Request for Conference" in this matter. The occurrence of the violations described in the Notice of Preliminary Determination will be conclusively established in your history of violations for the purposes of determining the amount of the penalty for future violations.

5. Violation Codes and Amounts

"Code" in the Notice of Preliminary Determination identifies the rule or regulation which was violated. Numbers in a 100 or 300 series refer to sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Rules, respectively, contained in Title 49, Code of Federal Regulations. Codes in other formats refer to violations of the Ohio Revised Code or the Ohio Administrative Code.

Section 4905.83, Ohio Revised Code, authorized the Commission to assess a civil forfeiture of up to \$10,000.00 per day for any violation of the rules governing the highway transportation of hazardous materials against any person who transports, or offers for transportation, hazardous materials. The amount of the forfeiture depends on the nature, gravity, extent and circumstances of the violations and the degree of culpability, history of violations, effect upon ability to continue in business and ability to pay of the person who committed the violation.

Please contact the Compliance Division at (614) 466-0351 if you need additional information regarding this Notice of Preliminary Determination.