

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Robbie D. Wood, Inc.,)	Case No. 13-1138-TR-CVF
Notice of Apparent Violation and Intent)	(OH3296013596C)
to Assess Forfeiture.)	

ENTRY

The Commission finds:

- (1) On February 21, 2013, a vehicle operated by Robbie D. Wood, Inc. (respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of an apparent violation of the Code of Federal Regulations (C.F.R.): vehicle not placarded as required, in violation of 49 C.F.R. 172.504(a).
- (2) Respondent was timely served with a notice of preliminary determination (NPD) in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). A civil forfeiture of \$3,840.00 was assessed against respondent.
- (3) On May 3, 2013, respondent filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (4) A prehearing conference was held on June 12, 2013. The parties, however, were unable to settle the matter.
- (5) By entry of July 11, 2013, a hearing was scheduled for September 9, 2013.
- (6) Rule 4901:2-7-14(E), O.A.C., provides that a respondent who has requested an administrative hearing and fails to appear for the hearing shall be in default. The rule additionally 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 for the forfeiture proposed in the NPD.

- (7) The hearing was convened, as scheduled, on September 9, 2013. No one representing respondent appeared at the hearing and, accordingly, Staff moved for a default judgment against respondent. Staff represented that it had contacted respondent prior to the hearing and that, although respondent was aware of the hearing, respondent advised Staff that it did not intend to appear or further contest liability for the forfeiture proposed in the NPD.
- (8) Because respondent failed to appear at the hearing, the Commission finds that, pursuant to Rule 4901:2-7-14(E), O.A.C., respondent is in default and, therefore, has admitted to the violation cited in the case and waived all further right to contest liability to the state for the forfeiture described in the NPD. The recommended civil forfeiture of \$3,840.00 set forth in the NPD should be assessed against respondent and should be paid within 30 days.
- (9) Pursuant to Section 4923.99, Revised Code, respondent is liable to the state of Ohio for payment of the assessed civil forfeiture of \$3,840.00. Rule 4901:2-7-22, O.A.C., provides that payment of such forfeiture shall be made by certified check or money order payable to "Treasurer, State of Ohio" and mailed or delivered to Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793. Respondent shall have 30 days from the date of this entry to pay the assessed forfeiture of \$3,840.00.

It is, therefore,

ORDERED, That Staff's motion for default judgment be granted. It is, further,


ORDERED, That respondent pay the assessed civil forfeiture of \$3,840.00 within 30 days to the state of Ohio as set forth in finding (9). It is, further,

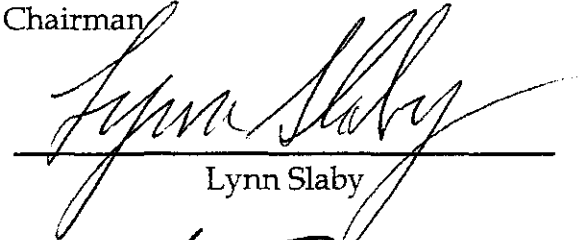
ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


M. Beth Trombold

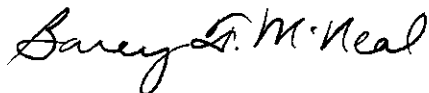

Lynn Slaby


Asim Z. Haque

SJP/sc

Entered in the Journal

OCT 09 2013



Barcy F. McNeal
Secretary