

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request of)	Case No. 13-1916-TR-CVF
Lewis DeSalvo for an Administrative)	(OH3281010465D)
Hearing.)	

FINDING AND ORDER

The Commission finds:

- (1) Staff served a notice of preliminary determination (NPD) upon Lewis DeSalvo (Respondent), in accordance with Ohio Adm.Code 4901:2-7-12, alleging a violation of 49 C.F.R. 391.41A—operating a property carrying vehicle without possessing a valid medical certificate.
- (2) In accordance with Ohio Adm.Code 4901:2-7-12, Respondent was informed in the NPD that Staff intended to assess a civil forfeiture of \$100.00 for the violation.
- (3) On September 10, 2013, Respondent filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.
- (4) A prehearing conference was held, however the parties were unable to settle this matter. Thereafter, by entry of October 30, 2013, a hearing was scheduled for December 3, 2013.
- (5) Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding 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 to the state for the forfeiture described in the notice.

- (6) The hearing was convened on December 3, 2013. No one representing Respondent appeared at the hearing and Staff moved for a default judgment against Respondent.
- (7) Because Respondent failed to appear at the hearing, the Commission finds that, pursuant to Ohio Adm.Code 4901:2-7-14(E), Respondent is in default and, therefore, has admitted to the cited violation and waived all further rights to contest liability to the state for the forfeiture described in the NPD. The recommended civil forfeiture of \$100.00 set forth in the NPD should be assessed against Respondent and should be paid within 30 days.
- (8) Pursuant to R.C. 4923.99, Respondent is liable to the state of Ohio for payment of the assessed civil forfeiture of \$100.00. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeiture be made by certified check or money order made payable to: "Treasurer, state of Ohio" and shall be mailed or delivered to: "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793." Respondent should write the inspection number (OH3281010465D) on the check and shall have 30 days from the date of this finding and order to pay the assessed forfeiture of \$100.00.

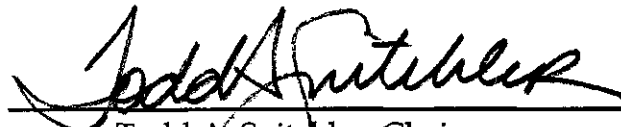
It is, therefore,

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

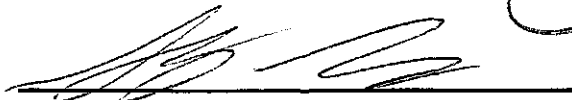
ORDERED, That Respondent pay the assessed civil forfeiture of \$100.00 within 30 days to the state of Ohio as set forth in finding (8). It is, further,

ORDERED, That a copy of this Finding and Order be served upon each party of record.

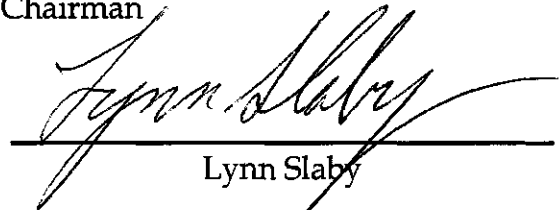
THE PUBLIC UTILITIES COMMISSION OF OHIO



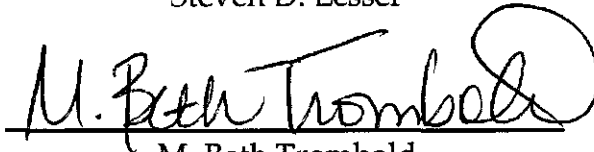
Todd A. Snitchler, Chairman



Steven D. Lesser



Lynn Slaby



M. Beth Trombold



Asim Z. Haque

SEF/sc

Entered in the Journal

DEC 18 2013



Barcy F. McNeal
Secretary