

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE DEFAULT
OF MOTOR CARRIERS AND DRIVERS
PURSUANT TO RULE 4901:2-7-14 OF THE
OHIO ADMINISTRATIVE CODE.

CASE NO. 17-1764-TR-CVF

FINDING AND ORDER

Entered in the Journal on September 13, 2017

I. SUMMARY

{¶ 1} In this Finding and Order, the Commission directs each identified respondent to pay the forfeiture amount indicated or demonstrate why it is not in default.

II. APPLICABLE LAW

{¶ 2} R.C. 4923.04 authorizes the Commission to adopt safety rules applicable to the highway transportation of persons or property, and the transportation and offering for transportation of hazardous materials. Pursuant to this authority, the Commission established safety standards in Ohio Adm.Code 4901:2-5, including the adoption of the provisions of the Federal Motor Carrier Safety Regulations (FMCSR) of the U.S. Department of Transportation contained in 49 C.F.R. 40, 107, subparts f and g, 367, 380, 382, 383, 385, 386, 387 and 390 to 397, unless specifically excluded or modified by a rule of the Commission, and those portions of the hazardous materials regulations contained in 49 C.F.R. 171 to 180 as are applicable to transportation or offering for transportation by motor vehicle.

{¶ 3} R.C. 4923.99 authorizes the Commission to determine whether any person has committed a violation of such regulations, and assess a civil forfeiture against such person. Accordingly, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Ohio Adm.Code 4901:2-7. These rules require that a

respondent be afforded reasonable notice and opportunity for a hearing when the Commission finds a violation of the regulations adopted in Ohio Adm.Code 4901:2-5-02.

{¶ 4} Ohio Adm.Code 4901:2-7-07 provides that Staff may serve a Notice of Intent to Assess Forfeiture (NIF) upon a respondent within 90 days after the discovery of a violation, but no more than one year following the violation. In addition, Ohio Adm.Code 4901:2-7-12 states that a Notice of Preliminary Determination (NPD) may be issued to a respondent following the issuance of a NIF.

{¶ 5} Ohio Adm.Code 4901:2-7-11 permits Staff and a respondent to enter into a settlement agreement regarding the amount of a forfeiture to be assessed.

{¶ 6} Ohio Adm.Code 4901:2-7-14 provides that a respondent upon whom an NIF or an NPD has been served who, within 30 days, fails to pay the amount of the forfeiture stated in the notice, or serve upon the Commission a request for conference, pursuant to Ohio Adm.Code 4901:2-7-10, or administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13, shall be in default.

{¶ 7} Pursuant to Ohio Adm.Code 4901:2-7-14(D), a respondent who has failed to comply with the provisions of a settlement agreement for a period exceeding 30 days shall be in default.

{¶ 8} Pursuant to Ohio Adm.Code 4901:2-7-14, a respondent in default shall be deemed to have admitted the occurrence of the violation(s) and waived all further right to contest liability for the forfeiture described in the NIF or NPD, and the Commission may, on its own motion and without prior notice, order payment of the amount indicated in the NIF or NPD.

III. DISCUSSION

{¶ 9} The respondents listed in the attachment have been served with either an NIF or an NPD and have neither: paid the forfeiture indicated in the notice, served a

request for conference pursuant to Ohio Adm.Code 4901:2-7-10, served a request for administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13, nor complied with the provisions of a settlement agreement. Each respondent therefore is in default, pursuant to Ohio Adm.Code 4901:2-7-14, and is liable for the amount indicated in the attachment.

{¶ 10} Before the Commission forwards the attachment to the Ohio Attorney General's Office so that it may undertake further collection efforts against the identified respondents, each respondent will be granted a final opportunity to pay the civil forfeiture or demonstrate why it is not in default. A respondent may serve upon Staff a response to this finding and order demonstrating that it was not properly served with the NIF, it previously paid the civil forfeiture, it served a request for conference or administrative hearing within 30 days of receipt of the NIF or NPD, or is in compliance with the terms of a settlement agreement. This response shall be made in writing, by October 13, 2017, and addressed to the Public Utilities Commission of Ohio, Transportation Compliance Department Show Cause, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215.

{¶ 11} Staff shall review the responses and remove cases from this proceeding for which a respondent has demonstrated that it is not in default. After October 13, 2017, Staff shall forward a list of all respondents that remain in default to the Ohio Attorney General, Collections Enforcement Section.

IV. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That by October 13, 2017, each respondent listed in the attachment to this finding and order pay the forfeiture amount indicated or demonstrate why it is not in default. It is, further,

{¶ 14} ORDERED, That Staff remove from this proceeding cases for which a respondent demonstrates that it is not in default. It is, further,

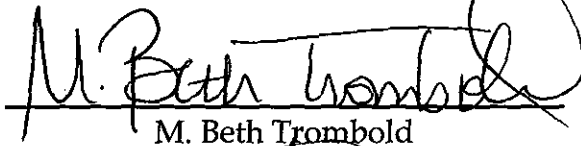
{¶ 15} ORDERED, That after October 13, 2017, Staff submit a list of all respondents that remain in default to the Ohio Attorney General, Collections Enforcement Section. It is, further,

{¶ 16} ORDERED, That a copy of this Finding and Order be served upon each respondent.

THE PUBLIC UTILITIES COMMISSION OF OHIO



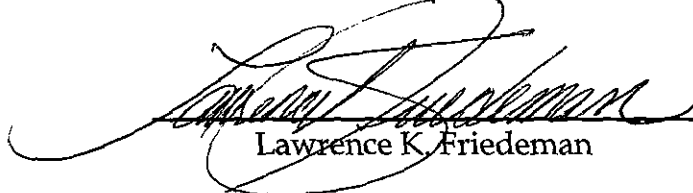
Asim Z. Haque, Chairman



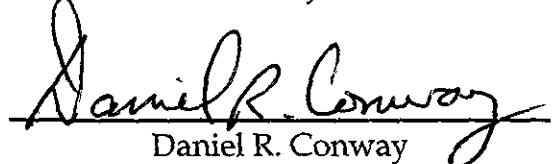
M. Beth Trombold



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Lawrence K. Friedeman



Daniel R. Conway

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SEP 13 2017



Barcy F. McNeal
Secretary