

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ULUGBEK
ABDURAZZAKOV, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 18-148-TR-CVF
(OH3235004970C)

ENTRY

Entered in the Journal on June 6, 2018

I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment against US Power Express, LLC for its failure to appear at a hearing concerning violations of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations, published in the Code of Federal Regulations (C.F.R.), for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On October 22, 2017, a commercial motor vehicle (CMV) operated by US Power Express, LLC (Respondent) was inspected in Ohio. The inspection resulted in the discovery of numerous apparent violations. Namely, the inspector cited the following violations: five citations for inoperable required lamps (49 C.F.R. 393(a)); two citations for operating a CMV without proof of periodic inspection (49 C.F.R. 396.17(c)); one citation for no or defective ABS Malfunction Indicator Lamp for trailer

manufactured after 03/01/1998 (49 C.F.R. 193.55(e)); one citation for driving beyond 14 hour duty period (property carrying vehicle) (49 C.F.R. 395(a)(2)); one citation for driving beyond 11 hour driving limit in a 14 hour period (property carrying vehicle) (49 C.F.R. 395(a)(3)); one citation for driving beyond 8 hour limit since the end of the last off duty of sleeper period of least 30 minutes (49 C.F.R. 395.3(a)(3)(iii)); three citations for driving after 70 hours on duty in an 8 day period (property carrying vehicle) (49 C.F.R. 395(b)(2)); and one citation for failing to secure cargo as specified in 49 C.F.R. 393.100 through 393.142 (49 C.F.R. 392.9(a)(1)).

{¶ 4} Pursuant to Ohio Adm.Code 4901:2-7-12, Staff timely served Respondent with a Notice of Preliminary Determination (NPD). The NPD categorized the various violations into three groups and assessed Respondent a civil forfeiture of \$0 for Group 1, \$100 for Group 2, and \$50 for Group 3. Thus, the total forfeiture recommended by Staff is \$150.

{¶ 5} On January 26, 2018, Respondent's owner and driver, Ulugbek Abdurazzakov, requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} On March 1, 2018, Mr. Abdurazzakov and Staff participated in a prehearing conference, but no settlement was reached.

{¶ 7} By Entry dated March 6, 2018, the attorney examiner scheduled the matter for a hearing on April 18, 2018. A copy of the Entry scheduling the hearing was served upon Respondent by regular mail and a service notice was filed in the case docket.

{¶ 8} Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who requests an administrative hearing and fails to appear for the evidentiary hearing shall be in default. Further, a respondent in default shall be deemed to have admitted the

occurrence of the alleged violations and to have waived all further right to contest liability for the proposed forfeiture as described within the NPD.

{¶ 9} The evidentiary hearing was held, as scheduled, on April 18, 2018. Staff presented the testimony of Steve Morgan, the Motor Carrier Enforcement Officer who conducted the subject inspection. Staff also offered the following exhibits, all of which were admitted to the record: the Driver/Vehicle Examination Report (Staff Ex. 1), a packet of two screen-shot images taken from a video sent to Staff's counsel by Mr. Abdurazzakov (Staff Ex. 2), a collection of nine photographs taken by Mr. Morgan during the inspection (Staff Ex. 3), and a copy of the NPD issued to Respondent (Staff Ex. 4). Neither Respondent nor Mr. Abdurazzakov appeared at the hearing (Tr. at 5-6). Given this failure to appear, Staff moved for a default judgment against Respondent (Tr. at 6, 13).

{¶ 10} In view of Ohio Adm.Code 4901:2-7-14(E) and Respondent's failure to participate in the hearing, the Commission finds that Staff's motion for default judgment should be granted and the recommended forfeiture of \$150 should be paid by Respondent within 60 days.

{¶ 11} Pursuant to R.C. 4923.99, Respondent is liable to the state of Ohio for payment of the assessed civil forfeiture of \$150. Ohio Adm.Code 4901:2-7-22 provides that payment of any forfeiture shall be made by certified check or money order made payable to "Treasurer, State of Ohio" and shall be mailed or delivered to: "Public Utilities Commission of Ohio, Transportation Compliance Division, Attn: CF Processing, 180 East Broad Street, Columbus, Ohio 43215-3793." In order to ensure proper credit, Respondent is instructed to write "Case No. 18-148-TR-CVF" and inspection number "OH3235004970C" on the face of the certified check or money order. Respondent shall have 60 days from the date of this Entry to pay the assessed forfeiture of \$150.

III. ORDER

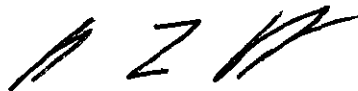
{¶ 12} It is, therefore,

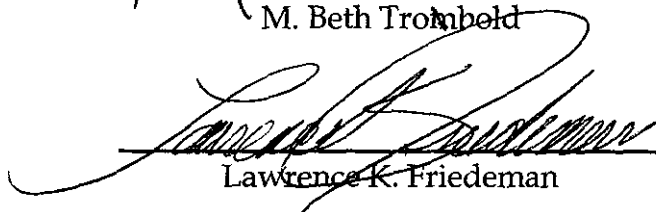
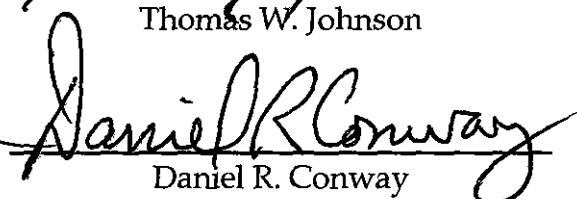
{¶ 13} ORDERED, That Staff's motion for default judgment be granted. It is, further,

{¶ 14} ORDERED, That Respondent pay the civil forfeiture of \$150 within 60 days to the state of Ohio as set forth in paragraphs 10 and 11. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party of record.

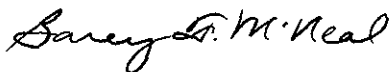
THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman
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Thomas W. Johnson
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PAS/sc

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JUN 06 2018

Barcy F. McNeal
Secretary