

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF CHARLES
RODRIGUEZ, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 18-1306-TR-CVF
(OH0020004272D)

ENTRY

Entered in the Journal on February 20, 2019

I. SUMMARY

{¶ 1} The Commission finds that Staff's motion for default judgment should be granted against Charles Rodriguez for failing to appear at a hearing concerning a violation of the Commission's transportation rules, and directs him to pay the assessed \$100 forfeiture within 60 days of this Entry.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall 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 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 against any person who violates the safety rules adopted by the Commission.

{¶ 3} Charles Rodriguez, the driver, was served with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD informed Mr. Rodriguez that Staff intended to assess a \$100 civil forfeiture for violating 49 C.F.R. 395.8(a), no driver's record of duty status.

{¶ 4} On August 20, 2018, Mr. Rodriguez filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 5} A prehearing settlement conference was held on October 25, 2018; however, the parties were unable to settle the matter, and a hearing was scheduled for December 4, 2018. The Entry scheduling the hearing was served on Mr. Rodriguez at the address that he provided in his request for a hearing; the Entry was not returned by U.S. Mail to the Commission as undeliverable.

{¶ 6} 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.

{¶ 7} The hearing was convened, as scheduled, on December 4, 2018. Mr. Rodriguez failed to appear at the hearing and, accordingly, Staff moved for a default judgment against him (Tr. at 5). Staff presented as exhibits the NPD (Staff Ex. 2) and the Driver/Vehicle Examination Report (Staff Ex. 1) issued to Mr. Rodriguez.

{¶ 8} Given Mr. Rodriguez' failure to participate in the hearing, he is in default, in accordance with Ohio Adm.Code 4901:2-7-14. Accordingly, Staff's motion for default judgment should be granted, and the recommended \$100 civil forfeiture should be paid by Mr. Rodriguez within 60 days.

{¶ 9} Pursuant to R.C. 4923.99, Mr. Rodriguez is liable to the State of Ohio for payment of the assessed \$100 civil forfeiture. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures 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." Mr. Rodriguez should write Case No. 18-1306-TR-CVF and inspection number OH0020004272D on the check, and shall have 60 days from the date of this Entry to pay the assessed forfeiture of \$100.

{¶ 10} R.C. 4905.57 provides that, at the direction of the Commission, the Attorney General shall bring a civil action in the Court of Common Pleas of Franklin County to recover an assessed forfeiture.

III. ORDER

{¶ 11} It is, therefore,


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

{¶ 13} ORDERED, That Mr. Rodriguez pay the assessed \$100 civil forfeiture within 60 days to the state of Ohio as set forth in Paragraphs 8 and 9. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 18-1306-TR-CVF and inspection number OH0020004272D on the face of the check or money order. It is, further,

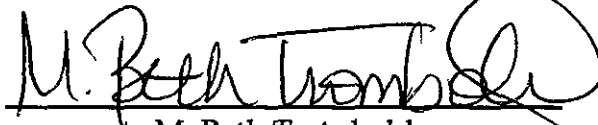
{¶ 14} ORDERED, That the Attorney General take the appropriate action to enforce this Entry as provided by law. It is, further,

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

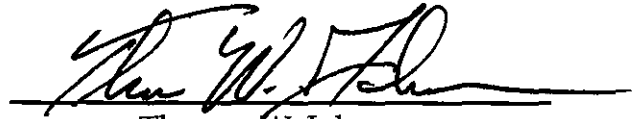
THE PUBLIC UTILITIES COMMISSION OF OHIO



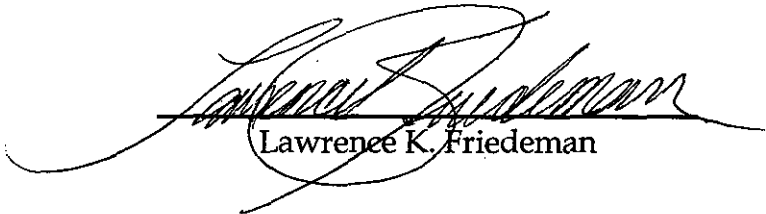
Asim Z. Haque, Chairman



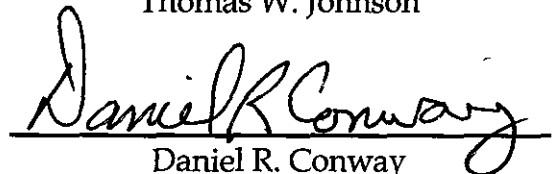
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman

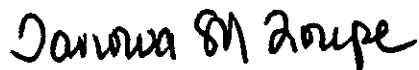


Daniel R. Conway

JML/hac

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FEB 20 2019



Tanowa M. Troupe
Secretary