

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF NTR CANOE LIVERY  
INC., NOTICE OF APPARENT VIOLATION  
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 18-1718-TR-CVF  
(CR201807240375)

## FINDING AND ORDER

Entered in the Journal on April 3, 2019

### I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

### II. DISCUSSION

#### A. *Applicable Law*

{¶ 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.

#### B. *Procedural History*

{¶ 3} On July 24, 2018, a compliance review (CR) at NTR Canoe Livery (NTR or Respondent) was conducted by Staff. The CR resulted in discovery of the following violations, for which Respondent was assessed civil forfeitures specified in a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The violations and applicable forfeitures are: R.C. 4921.03 (No operating authority, \$625); 49 C.F.R. 383.37(a) (allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle (CMV) during any period in which the driver does not have a current CPL or CDL with the proper class or endorsements, \$800); 49 C.F.R. 382.115(a) (Failing to implement an alcohol and/or controlled substance program on the date the

employer begins CMV operations, \$800); Ohio Adm.Code 4901:2-13-03 (operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage, \$0); and 49 C.F.R. 391.45(a) (using a driver not medically examined and certified, \$500).

{¶ 4} On November 26, 2018, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 5} A prehearing conference was conducted on January 18, 2019.

{¶ 6} On January 28, 2019, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issues raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent admits to the violations listed above and in the NPD, and agrees that the violations may be included in its history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) The civil forfeiture of \$2,725 shall be reduced to \$1,400 because of corrective actions taken by Respondent following the CR. Specifically, Respondent has started the process to become certified with the Commission, taken steps to ensure CDL compliance, and required its drivers to be medically certified.
- (c) Respondent shall pay the \$1,400 civil forfeiture in four consecutive monthly installments of \$350, starting 30 days after the Commission's order approving this settlement agreement. Payments shall be made payable to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing,

180 East Broad St., 4th floor, Columbus, OH 43215-3793. In order to assure proper credit, Case No. 18-1718-TR-CVF and compliance review number CR201807240375 should appear on the face of each check or money order.

- (d) This settlement agreement shall not become effective until adopted by the Commission. The date of the order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (e) This settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

**C. Commission Conclusion**

{¶ 7} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement shall be approved and adopted in its entirety.

**III. ORDER**

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

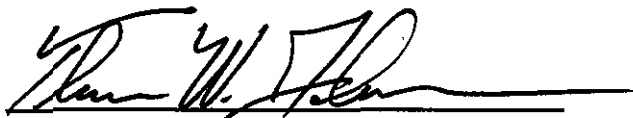
{¶ 10} ORDERED, That Respondent pay the civil forfeiture of \$1,400 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit,

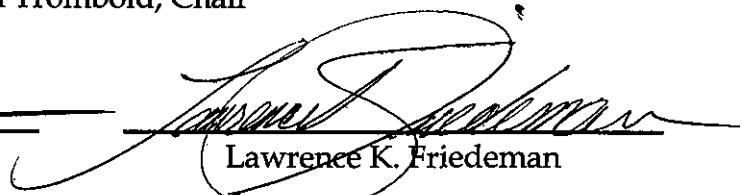
Respondent is directed to write Case No. 18-1718-TR-CVF and inspection number CR201807240375 on the face of each check or money order. It is, further,

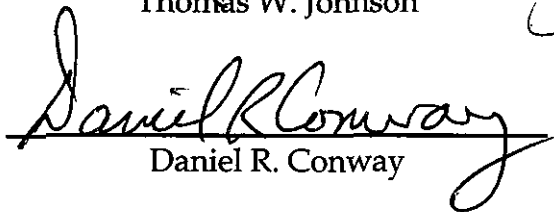
{¶ 11} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

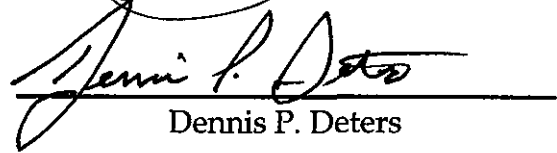
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
M. Beth Trombold, Chair

  
Thomas W. Johnson

  
Lawrence K. Friedeman

  
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JML/hac

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APR 03 2019



Tanowa M. Troupe  
Secretary