

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF PRIDE HAULING
RECYCLING LLC, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 18-1836-TR-CVF
(OH1575000403D)

FINDING AND ORDER

Entered in the Journal on May 15, 2019

I. SUMMARY

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

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} On August 16, 2017, a commercial motor vehicle (CMV) operated by Pride Hauling and Recycling and driven by Frank Walker III (Respondent) was inspected within the state of Ohio. The inspection resulted in violations of 49 C.F.R. 391.15(a) (driving a CMV while disqualified/license suspended in state of driver's license issuance), 49 C.F.R. 391.41(a) (operating a CMV without a valid medical certificate) and Ohio Adm.Code 4901:2-5-07(D) (operating after vehicle/driver declared out of service).

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, which assessed Respondent a civil forfeiture of \$500 for the violation of 49 C.F.R. 391.15(a) (driving a CMV while disqualified/license suspended in state of driver's license issuance), \$100 for a violation of 49 C.F.R. 391.41(a)

(operating a CMV without a valid medical certificate) and \$2,750 for the violation of Ohio Adm.Code 4901:2-5-07(D) (operating after vehicle/driver declared out of service).

{¶ 5} On December 14, 2018, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on March 7, 2019.

{¶ 7} On April 8, 2019, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issue 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 in the NPD and agrees that the violations may be included in his history of violations, insofar as it may be relevant for purposes of determining by the Ohio Bureau of Motor Vehicles, including but not limited to disqualification of Respondent's CDL, or for future violations.
- (b) Respondent and Staff agree that the total forfeiture should be reduced to \$1,750.00 based upon Respondent's ability to pay, pursuant to Ohio Adm.Code 4901:2-7-11(D)(2).
- (c) Accordingly, Respondent shall pay the \$1,750 civil forfeiture in ten monthly installments of \$175 each beginning 30 days after the Commission's order approving this settlement agreement. The payments shall be made payable by check or money order to "Treasurer State of Ohio," and mailed to PUCO, Attn: PUCO Finance, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. In order to assure proper credit, Case No. 18-1836-TR-CVF and

inspection number OH1575000403D 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 Entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (e) Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code Chapter 4901:2-7 as a result of future compliance reviews or roadside inspections.
- (f) This settlement agreement is made in settlement of all factual and legal issues in this case. It is not intended to have any effect in any other case or proceeding.

{¶ 8} 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

{¶ 9} It is, therefore,

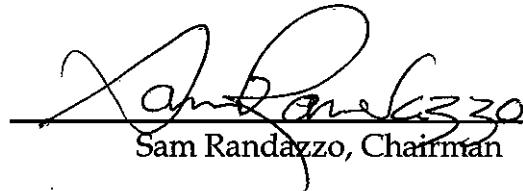
{¶ 10} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$1,750 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: PUCO Finance, 180 East Broad


Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 18-1836-TR-CVF and inspection number OH1575000403D on the face of the check or money order. It is, further,

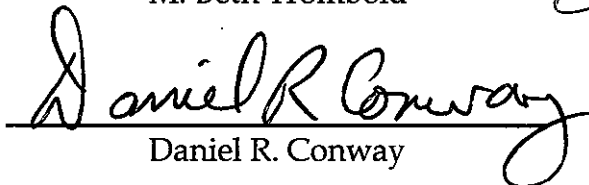
{¶ 12} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

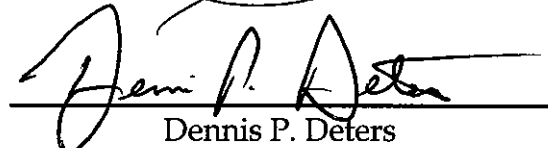
THE PUBLIC UTILITIES COMMISSION OF OHIO


Sam Randazzo, Chairman


M. Beth Trombold


Lawrence K. Friedeman

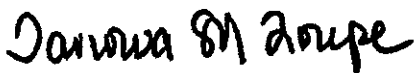

Daniel R. Conway


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MAY 15 2019



Tanowa M. Troupe
Secretary