

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of William M. Novak,)	
Notice of Apparent Violation and)	Case No. 19-2008-TR-CVF
Intent to Assess Forfeiture.)	(OH0563008690D)
)	

MOTION TO DISMISS

Dave A. Yost
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**On Behalf of the Staff of
The Public Utilities Commission of Ohio**

February 17, 2021

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In the Matter of William M. Novak,)	
Notice of Apparent Violation and)	Case No. 19-2008-TR-CVF
Intent to Assess Forfeiture.)	(OH0563008690D)

MOTION TO DISMISS

The Staff of the Public Utilities Commission of Ohio hereby moves to dismiss this case for good cause as shown in the memorandum in support below. Respondent has paid the forfeiture demanded in full. Under Ohio Admin. Code 4901:2-7-22, full payment terminates all further proceedings regarding the violation.

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Werner L. Margard III

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Assistant Attorney General

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MEMORANDUM IN SUPPORT

Staff moves to dismiss this case because Respondent William Novak has paid the forfeiture demanded.

On March 12, 2019 a vehicle operated by Sea Air Land Logistics Inc. and driven by Respondent Novak was inspected within the State of Ohio. The inspection resulted in the discovery of the following violations of the federal motor carrier safety regulations:

- | | |
|----------------------|--|
| 49 C.F.R. §383.51(a) | Operating a commercial motor vehicle while CDL is suspended; |
| 49 C.F.R. §392.16 | Failure to use a seat belt while operating a commercial motor vehicle. |

On October 11, 2019, Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. The preliminary determination assessed Respondent Novak \$600.00 for the violations. On October 22, 2009, Respondents made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.

Based on information provided by the Respondent, Staff that Mr. Novak's CDL was not, in fact, under suspension, and that the violation of 49 C.F.R. §383.51(a) should be deleted. That violation has since been deleted. The forfeiture that had been assessed for that violation was \$500.00. Respondent therefore owed only \$100 for the remaining seat belt violation. Respondent has since paid that \$100 forfeiture.

The Commission has consistently found that "Rule 4901:2-7-22, Ohio Administrative Code, provides, in pertinent part, that payment of the forfeiture shall terminate all further proceedings regarding the violation." *In the Matter of Daniel S. Thacker, Notice of Apparent*

Violation and Intent to Assess Forfeiture, Case No. 12-2212-TR-CVF, Entry (Oct. 24, 2012). Moreover, Respondent's payment of the forfeiture constitutes an admission of the violation, and completely obviates any right to a hearing. In a recently decided case, the Commission ordered that a case involving a similarly situated respondent be dismissed. *In the Matter of Daniel Anofils, Notice of Apparent Violation and Intent to Assess Forfeiture*, Case No. 19-1792-TR-CVF, Finding and Order (Feb. 13, 2020). As the Commission has found, payment of the forfeiture ends the Commission's jurisdiction to hear this case. Consequently, Respondent's request for hearing must be dismissed, and this case closed of record.

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Werner L. Margard III

Werner L. Margard III

Assistant Attorney General

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Motion to Dismiss** submitted on behalf of the Staff of the Public Utilities Commission of Ohio has been served upon the below-named party via United States mail, this 12th day of February, 2021.

/s/ Werner L. Margard III

Werner L. Margard III
Assistant Attorney General

Party of Record:

William M. Novak II
4559 Memphis Villas S.
Brooklyn, OH 44144

Pro Se Respondent

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in

Case No(s). 19-2008-TR-CVF

Summary: Motion to Dismiss electronically filed by Mrs. Kimberly M Naeder on behalf of
PUCO