

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Anthony :
Hrebluk d/b/a Decorative :
Curb and Concrete, : Case No. 21-115-TR-CVF
Notice of Apparent :
Violation and Intent to :
Assess Forfeiture. :

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PROCEEDINGS

before Jim Lynn and Jesse M. Davis, Attorney
Examiners, at the Public Utilities Commission of
Ohio, conducted via Webex video conference, called at
10:00 a.m. on Monday, January 31, 2022.

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- - -

1 APPEARANCES:

2 Dave Yost, Ohio Attorney General
3 By Robert Eubanks,
4 Assistant Attorney General
5 Public Utilities Section
6 30 East Broad Street, 26th floor
7 Columbus, Ohio 43215

8 On behalf of the Staff of the Public
9 Utilities Commission of Ohio.

10 Anthony Hrebluk

11 On his own behalf.

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1 Monday Morning Session,
2 January 31, 2022.

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4 EXAMINER LYNN: Let's go on the record at
5 this time.

6 The Public Utilities Commission of Ohio
7 has assigned for hearing at this time, Case No.
8 21-115-TR-CVF, Anthony Hrebluk, H-R-E-B-L-U-K, Notice
9 of Apparent Violation and Intent to Assess
10 Forfeiture. This hearing is taking place
11 electronically via Webex.

12 I'm Jim Lynn, the Attorney Examiner
13 assigned to hear this case. Actually there's two
14 Attorney Examiners. Jesse Davis also is with me.

15 At this time I'll have the appearances of
16 the parties. We'll begin with the Ohio Attorney
17 General's Office.

18 MR. EUBANKS: Yes. My name is Robert
19 Eubanks. I'm an Assistant Attorney General appearing
20 on behalf of the Public Utilities Commission of Ohio.
21 The address is 30 East Broad Street, Columbus, Ohio
22 43215, 26th floor.

23 EXAMINER LYNN: Thank you.

24 Mr. Hrebluk is not presently with us
25 virtually. Mr. Eubanks has informed me that he was

1 in touch with the Respondent who is aware that today
2 is the day and the time for the hearing.

3 I will mention that I tried to contact
4 the Respondent several times by telephone. I left
5 voice messages with my e-mail address. I never heard
6 anything back that he could not participate today.

7 I also would note that the Entry
8 indicating that today was the day for the hearing was
9 mailed out to the Respondent roughly about a month
10 ago and, again, no response that he could not
11 participate today; however, at the moment he is not
12 present. So what we'll do is we'll go off the record
13 for a time. I've agreed with my co-Attorney
14 Examiner, Jesse Davis, that we will give Mr. Hrebluk
15 no later than 10:30.

16 So everyone who is present at this time
17 can, you know, go off the record as well and do
18 whatever they need to in the meantime, and we will
19 reconvene around 10:30 and see if the Respondent is
20 able to get in touch with us. Thank you.

21 (Off the record.)

22 EXAMINER LYNN: We'll go back on the
23 record then.

24 Mr. Hrebluk, if you could just indicate
25 your name and address, please, and your company, that

1 kind of thing.

2 MR. HREBLUK: Anthony Hrebluck. 1437
3 Bristol Downs, Newark, Ohio.

4 EXAMINER LYNN: Okay. Thank you.

5 MR. HREBLUK: Decorative Concrete.

6 EXAMINER LYNN: Thank you.

7 We will go ahead then first with the
8 testimony of witnesses and testimony for the State.
9 Mr. Eubanks, if you would proceed, please.

10 MR. EUBANKS: Thank you, Your Honor. I'd
11 like to call to the stand Rod Moser.

12 EXAMINER LYNN: Okay. Mr. Moser, if you
13 would raise your right hand, please.

14 (Witness sworn.)

15 - - -

16 ROD MOSER

17 being first duly sworn, as prescribed by law, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Eubanks:

21 Q. Sir, could you please state your name and
22 your position.

23 A. My name is Rod Moser. I'm the Chief of
24 the Compliance and Registration Sections for the
25 Transportation Department of the PUCO.

1 Q. Could you explain your duties as it
2 relates to this case.

3 A. As it relates to this case, my duty is
4 just basically to shepherd the administrative civil
5 forfeiture process for the Transportation Department.

6 Q. Does part of that involve sending out a
7 Notice of Preliminary Determination?

8 A. Yes, sir, it does.

9 Q. And assessing the forfeiture amounts on
10 those notices?

11 A. Yes.

12 Q. And what is your training when it comes
13 to assessing the amounts of the forfeiture?

14 A. That would have been I've been in this
15 job approximately five years now. I had some
16 on-site, on-the-job training when I first started by
17 a more senior person. In addition to that, I'm
18 certified in North American Standards Parts A and B,
19 hazmat, cargo tank, other bulk and non-bulk and other
20 hazmat. I was certified in motor coach, I am no
21 longer. And then on top of all that, I was a trooper
22 for just shy of 30 years, with my main duties there
23 being commercial enforcement.

24 Q. Was there a Notice of Preliminary
25 Determination sent out in this matter?

1 A. Yes, there was.

2 Q. Was it sent out to the Respondent?

3 A. Yes, Anthony Hrebluk.

4 Q. And are you familiar with the Notice of
5 Preliminary Determination that you received?

6 A. I am, yes.

7 MR. EUBANKS: Your Honor, I would like to
8 have marked as State's Exhibit 1, the Notice of
9 Determination that I sent out through e-mail to the
10 Respondent as well as yourself and the witnesses in
11 this matter.

12 EXAMINER LYNN: Okay. Definitely we'll
13 mark that as State's Exhibit 1.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Mr. Moser, do you have before you what I
16 have requested to be marked as State's Exhibit 1, the
17 Notice of Preliminary Determination?

18 A. Yes, I do.

19 Q. Do you recognize it?

20 A. I do.

21 Q. Is it what was sent out to the
22 Respondent?

23 A. Yes, it is.

24 Q. Okay. Is it a record that is regularly
25 maintained as part of business or a public record at

1 the Public Utilities Commission of Ohio?

2 A. Yes, sir, it is.

3 Q. Looking at the violations on the Notice
4 of Preliminary Determination, are those the correct
5 violations that were cited against the Respondent?

6 A. Yes, they are.

7 Q. And the amounts of forfeiture, are they
8 appropriate for the violations that are cited?

9 A. Yes, they are.

10 Q. How did you go about determining that?

11 A. Civil forfeiture violations related to
12 compliance reviews are divided up into, I believe,
13 five categories: Acute violations, which are deemed
14 to be very serious; critical; then there are state
15 violations; out-of-service violations; and then what
16 we call 396 violations. 396 violations are related
17 to mechanical operation of the vehicles. So each of
18 these falls into one of those categories.

19 For instance, 382.115, the first
20 violation noted, is an acute violation. It's always
21 an acute violation. It is \$1,000 for the first
22 violation and then it would be an additional \$250 for
23 any additional violations. In this case there was
24 just one, so the amount was correctly assessed at
25 \$1,000.

The second violation, 383.37, is also an acute violation. The same assessment process. In this case there were two violations, so it's \$1,000 for the original, \$250 for the second. \$1,250 total for that violation.

The third violation is actually assessed correctly. It is a critical violation but it's also considered a 396 violation. Critical violations are \$400 for the first offense. And then if they are not 396, they're \$100 for each additional, but when they are a 396 violation, they are only \$25 for each additional. So in this case there were two violations, \$400 for the original, \$25 for the second, \$425 total.

The next violation, 4901:2-5-03, failing to require a driver to prepare a record of duty status, is a critical violation. In this case there were, I believe, 59 violations. The first one would be \$400, and \$100 for each additional after that. However, the PUCO has a rule that we do not fine on compliance reviews more than 1 percent of the carrier's gross revenue. In this case the gross revenue for Mr. Hrebluk was \$200,000, so the maximum fine there was \$2,000 rather than what it would have been, \$6,200.

1 The next violation, failing to maintain
2 driver qualification files on each driver is also a
3 critical violation with a second offense. So \$400
4 for the first offense, \$100 for the second, so \$500
5 total, and that is correct.

6 And the last violation, using a driver
7 not medically examined and certified. Again, a
8 critical violation. Two violations that were noted,
9 so \$400 for the first, \$100 for the second, for a
10 total of \$500. That was also assessed correctly.

11 And then the grand total, \$5,675.

12 MR. EUBANKS: Your Honor, I have no more
13 questions for the witness.

14 EXAMINER LYNN: Please go ahead. Oh. No
15 more questions?

16 MR. EUBANKS: Yeah.

17 EXAMINER LYNN: Okay. Mr. Hrebluk, do
18 you have any questions concerning how the dollar
19 amounts were calculated for the violations?

20 MR. HREBLUK: Are you asking me that? My
21 phone is breaking up. I'm sorry.

22 EXAMINER LYNN: Okay. Sure. I want to
23 make sure I'm pronouncing your name correctly. Is it
24 ree-block or ree-blook or what?

25 MR. HREBLUK: Herb-lock. It's Ukrainian.

1 I mean, people say it differently. I'm not really
2 sure.

3 EXAMINER LYNN: Okay.

4 MR. HREBLUK: I mean, I don't -- I don't
5 have any questions. I'm not -- I'm not a trucking
6 company so I don't even understand, I don't even know
7 what none of that stuff means. I'm just a
8 mom-and-pop concrete company. I'm a single guy that
9 has a couple guys help me here and there. I don't
10 know what none of this stuff means.

11 EXAMINER LYNN: Well --

12 MR. HREBLUK: I believe whatever you say.
13 I mean, I don't know. I'm not a trucking company. I
14 don't haul nothing. I haul my bobcat, which weighs
15 5,000 pounds, like once a month maybe.

16 EXAMINER LYNN: Okay. Just basically --

17 MR. HREBLUK: Other than that, I don't
18 know what none of that stuff means. I don't have any
19 driver -- I don't know what none of that stuff means.
20 I'm not a trucking company.

21 EXAMINER LYNN: Okay. Well, then so
22 we'll --

23 MR. HREBLUK: I got rid of that truck. I
24 got rid of that trailer. I was under the assumption
25 that I was legal. I bought it off an old farmer.

1 Once I found out it wasn't, I got rid of it. I don't
2 want the headache. I just want to get this cleared
3 up.

4 My wife just died. I'm raising two
5 daughters on my own now. I just -- I just -- I don't
6 know how to do this on my own and I want no part of
7 it no more.

8 EXAMINER LYNN: Okay. I understand.
9 Okay. Then --

10 MR. HREBLUK: I just want it done, I want
11 it cleared up, I want it to be over with, and I want
12 to move on with my life.

13 EXAMINER LYNN: Okay. Well, again, I'm
14 sorry about your circumstances certainly.

15 MR. HREBLUK: It's nobody fault. I mean,
16 it is what it is. I'm guilty. I did whatever you
17 guys said I did. I just want it to be over with. I
18 don't feel like I should be treated like a trucking
19 company because I'm not a trucking company. I pour
20 sidewalks. I'm a one-man band.

21 EXAMINER LYNN: Okay. Well, then we'll
22 figure as far as the calculation of the violations,
23 the dollar amounts, you don't have any questions
24 there.

25 MR. HREBLUK: I don't understand what

1 none of it means so, I mean, just, I don't know, you
2 guys do what you think is fair to me and I'll just do
3 whatever. Like I say, my wife helped me take care of
4 all the business stuff, she's gone now, so the
5 business is pretty much over. I don't know what I'll
6 do.

7 EXAMINER LYNN: We'll go off the record
8 here just for a minute.

9 (Discussion off the record.)

10 EXAMINER LYNN: We have discussed with
11 Mr. Hrebluk that, you know, based on his comments, he
12 has said that while he considers the fine to be high
13 and he didn't realize he was in violation of any
14 Commission rules, he's not disputing there was a
15 violation or violations. And with that in mind, I
16 have spoken to Mr. Eubanks who represents the
17 Attorney General's Office on behalf of Staff here at
18 the Commission. Mr. Eubanks will be checking with
19 Staff to find out if they are willing to resume
20 settlement discussions.

21 Mr. Eubanks, then, if you could just make
22 a motion for a continuance, please.

23 MR. EUBANKS: I'm sorry. Your Honor,
24 what I meant to say was I was going to check with
25 them briefly like over a one- or two-minute call.

1 EXAMINER LYNN: Oh, okay. Fine. If you
2 want to check with them now, fine.

3 MR. EUBANKS: All right. It shouldn't
4 take long at all.

5 EXAMINER LYNN: I didn't know if you
6 could get in touch with them. Okay. Then we'll go
7 off the record and, you know, if you think it will
8 only take a few minutes, fine.

9 MR. EUBANKS: Okay.

10 (Off the record.)

11 EXAMINER LYNN: We'll go back on the
12 record.

13 There's been some discussion off the
14 record with Mr. Eubanks and Mr. Moser and then some
15 additional discussion with Mr. Hrebluk back on the
16 line. And Mr. Eubanks, I guess you can indicate that
17 there's been a settlement agreement reached and
18 that, you know, you can move to, I guess, say there's
19 no need to proceed further with the hearing today.
20 Go ahead, please.

21 MR. EUBANKS: Yes, Your Honor. In light
22 of the fact that we were able to reach a settlement
23 agreement, that being \$2,400 separated out over
24 24 months, Staff will enter into a Settlement
25 Agreement with the Respondent and, therefore, there's

1 no reason to continue today. I request for a
2 continuance in order to effectuate that Settlement
3 Agreement and get it filed before the Commission. Of
4 course, if, for some reason, it's not signed, we'll
5 need to reset the hearing date but hopefully that
6 doesn't happen.

7 EXAMINER LYNN: All right. Well, then
8 I'll grant the continuance. Mr. Hrebluk, that's
9 basically done so that Staff will have time to write
10 up what the agreement consists of.

11 I want to thank everyone for calling in
12 today; and Carolyn, our court reporter, thank you for
13 persisting through all the interruptions and so on;
14 and also to Micah Schmidt, who helped out with the
15 technical details including getting Mr. Hrebluk on
16 the line.

17 Mr. Davis, do you have any questions, my
18 fellow Attorney Examiner?

19 EXAMINER DAVIS: No, I don't think so.
20 Thank you.

21 Just to re-encapsulate what we're doing
22 now is we're going to continue and then we're
23 expecting, Mr. Eubanks, you'll be filing something in
24 the docket that's signed and so forth and then
25 proceed from there?

1 MR. EUBANKS: It will be Werner Margard,
2 but, yes, the AG's office will be filing something.

3 EXAMINER DAVIS: Okay. Thank you.

4 EXAMINER LYNN: All right. Okay. Well,
5 thank you very much.

6 Mr. Hrebluk, thank you for calling in,
7 and again, certainly, you know, we hope things go
8 better for you in the future but we're sorry you've
9 been through so much.

10 MR. HREBLUK: I appreciate you guys
11 working with me. I apologize for breaking your guys'
12 rules. I didn't, at the time, know I was doing it.
13 It won't happen anymore, I promise.

14 EXAMINER LYNN: I'm sure it won't. And
15 again, you're not alone. There's other folks who
16 operate businesses, too, that aren't aware, you know,
17 because of the weight of the vehicles they're driving
18 and how they're using them, namely in a business,
19 they're not aware they fall under what is the Motor
20 Carrier Safety Rules. We understand that. But thank
21 you for calling in. I certainly hope things can go
22 better for you. You've been through a lot. With
23 that being said --

24 MR. HREBLUK: I appreciate that.

25 EXAMINER LYNN: -- I thank everyone for

1 participating today and working our way through this
2 situation that was kind of unique. There are
3 certainly a lot of hearings that don't proceed in
4 this way but it's appropriate that we did it at this
5 time.

6 So, thanks, everyone, for being
7 available. Mr. Lockhart, by the way, who would have
8 been Staff's witness, thanks for being available as
9 well.

10 And I believe that we will then -- you
11 know, we'll certainly grant the continuance and close
12 the proceedings for today.

13 Have a good morning, everyone. Please
14 stay safe and stay well.

15 (Thereupon, the proceedings concluded at
16 11:03 a.m.)

17 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, January 31, 2022, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires July 17, 2023.

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**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

Case No(s). 21-0115-TR-CVF

Summary: Transcript In the Matter of Anthony Hrebluk d/b/a Decorative Curb and Concrete, Notice of Apparent Violation and Intent to Assess Forfeiture.
electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and
Burke, Carolyn