

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request of Michael Waller     ) Case No. 09-1859-TR-CVF  
for an Administrative Hearing.                     ) (OH3269005421D)

ENTRY

The Commission finds:

- (1) Pursuant to Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), the Commission staff served a notice of preliminary determination upon Michael Waller (respondent), alleging a violation of the Commission's transportation regulations, and, as a result, assessing a civil forfeiture of \$100.
- (2) On November 25, 2009, respondent filed a request for an administrative hearing in the above-captioned case.
- (3) By entry issued on December 10, 2009, this matter was set for a prehearing conference on January 25, 2010. Service of the December 10, 2009, entry was made upon respondent by certified mail at a post office box address; however, on January 11, 2010, the certified mail was returned unclaimed. The attorney examiner subsequently contacted respondent by phone and respondent indicated that service should be made by ordinary United States mail.
- (4) By entry issued on February 26, 2010, the prehearing conference in this matter was rescheduled for April 6, 2010. The February 26, 2010, entry was served upon respondent by ordinary United States mail. At the prehearing conference, the attorney examiner was unable to contact the respondent.
- (5) By entry issued on June 29, 2010, this matter was set for hearing on August 26, 2010. While the initial attempt at serving the June 29, 2010, entry on respondent was returned unclaimed, respondent was served again on July 29, 2010, in accordance with Rule 4901:2-7-03(D), O.A.C.
- (6) The June 29, 2010, entry noted that Rule 4901:2-7-14(A), O.A.C., provides that a respondent who has requested an

administrative hearing and fails to participate in the hearing proceeding shall be in default. The June 29, 2010, entry further indicated that Rule 4901:2-7-14(A), O.A.C., also 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 held as scheduled on August 26, 2010. At the hearing, staff presented evidence demonstrating the occurrence of the violation and supporting the civil forfeiture citation in this case. Respondent, however, did not appear at the hearing.
- (8) Since respondent failed to participate in the prehearing conference and the hearing in this case, the Commission finds that, pursuant to Rule 4901:2-7-14(A), O.A.C., respondent is in default and, therefore, has admitted the violation cited in the case and waived all further right to contest liability to the state for the forfeiture described in the notice. The recommended civil forfeiture of \$100, set forth in the notice of preliminary determination, should be assessed against respondent and should be paid within 30 days.
- (9) Rule 4901:2-7-22, O.A.C., requires that payment of any forfeiture be made by company check, certified check, or money order payable to "Treasurer, State of Ohio," and shall be mailed or delivered to "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Fourth Floor, Columbus, Ohio, 43215-3793."

It is, therefore,

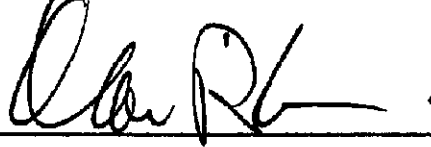
ORDERED, That respondent is in default and the assessed civil forfeiture remedy of \$100 is adopted. It is, further,

ORDERED, That respondent is ordered to pay the state of Ohio as set forth in finding (9). It is, further,

ORDERED, That the Attorney General take the appropriate action to enforce this order as provided by law. It is, further,

ORDERED, That, a copy of this entry be served upon respondent by ordinary United States mail and upon all other parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



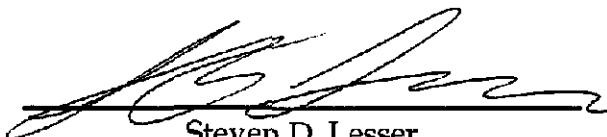
Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser

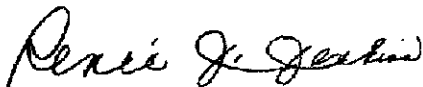


Cheryl L. Roberto

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Entered in the Journal

**OCT 15 2010**



Renee J. Jenkins  
Secretary