



Trimat Construction Inc.

Commercial Building & Excavating

"Equal Opportunity Employer"

13621 STATE ROUTE 554

BIDWELL, OH 45614

PH: (740) 388-9515

FAX: (740) 388-9530

June 1, 2011

PUCO Docketing
180 East Broad Street
11th Floor
Columbus, OH 43215

RE: Entry on Rehearing
Case #10-93-TR-CVF

10-943-TR-CVF

We are in receipt of your Entry of Rehearing, in which Trimat Construction, Inc. application for rehearing was denied.

The Application for Rehearing was denied due to being docketed on May 6, 2011 which the Commission states is 31 days after their decision of April 5, 2011.

April 5, 2011 was the day that decision was entered into the journal; but Trimat Construction, Inc. did not receive notification of the decision until May 8, 2011 (See Exhibit A).

By definition of "rule day" Trimat Construction, Inc. is well within the 30-Day time period of filing the Application for Rehearing; due to the fact Trimat did not receive notification until May 8, 2011. Further more, rule day is for the period of time once the respondent RECEIVES notification; not the date of ENTRY.

Therefore, we kindly request that the Entry on Rehearing dated May 25, 2011 be reversed and Trimat Construction, Inc. be granted our request.

Regards,



Maurice Toler
Trimat, Inc.

PUCO

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Attachments

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician TA Date Processed JUN 02 2011

EXHIBIT A :

RECEIVED

APR 08 2011

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

TRIMAT CONSTRUCTION

In the Matter of the Request of
Trimat Construction, Inc. for an
Administrative Hearing.

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Case No. 10-963-TR-CVF
(OH3208301399C)

ENTRY

File
CE MAURICE

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 Trimat Construction, Inc. (respondent), alleging the following violations of the Commission's transportation regulations: 49 Code of Federal Regulations (C.F.R.) 177.823(a), vehicle inspected was not placarded and marked as required when transporting a hazardous material; 49 C.F.R. 396.3(a)(1), inoperative brakes; 49 C.F.R. 383.23(a)(2), operating a commercial motor vehicle without a commercial driver's license; 49 C.F.R. 177.817(a), no shipping papers; and Rule 4901:2-6-14(A), O.A.C., due to respondent's failure to file a uniform hazardous materials program application. Respondent was assessed a civil forfeiture of \$2,660 for the violations.
- (2) On July 12, 2010, respondent filed a request for an administrative hearing in the above-captioned case.
- (3) By entry issued November 10, 2010, this matter was set for hearing on January 10, 2011. Staff and respondent subsequently filed a joint motion for continuance, requesting that the hearing be continued until March 4, 2011.
- (4) The joint motion for continuance was granted by entry issued January 10, 2011, and the hearing in this matter was rescheduled for March 4, 2011. This entry was served on respondent in accordance with Rule 4901:2-7-03, O.A.C.
- (5) The January 10, 2011 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 January 10, 2011 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.

- (6) The hearing was held as scheduled on March 4, 2011. At the hearing, staff presented evidence demonstrating the occurrence of the violations and supporting the civil forfeiture citation in this case. Respondent, however, did not appear at the hearing.
- (7) 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 violations 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 \$2,660, set forth in the notice of preliminary determination, should be assessed against respondent and should be paid within 30 days.
- (8) 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." Case Number 10-963-TR-CVF and Inspection Number OH3208301399C should be written on the check or money order.

It is, therefore,

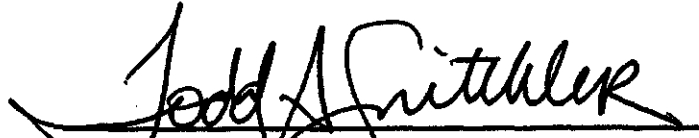
ORDERED, That respondent is in default and the assessed civil forfeiture remedy of \$2,660 is adopted. It is, further,

ORDERED, That respondent is ordered to pay the state of Ohio as set forth in finding (8). It is, further,

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

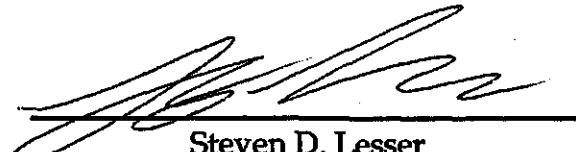
ORDERED, That, a copy of this entry be served upon respondent by ordinary United States mail and upon all other parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Valerie A. Lemmie

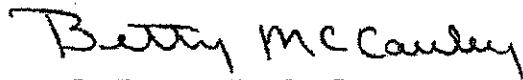

Steven D. Lesser


Cheryl L. Roberto

HPG/sc

Entered in the Journal

APR 05 2011



Betty McCauley
Secretary