

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of JKS Trucking, LLC,) Case No. 13-818-TR-CVF
Notices of Apparent Violation and Intent) (OH3242008196C)
to Assess Forfeiture.) Case No. 13-844-TR-CVF
(OH3293005555C)

FINDING AND ORDER

The Commission finds:

- (1) Commission Staff (Staff) served notices of preliminary determination (NPD) upon JKS Trucking, LLC (JKS), in the above-captioned cases, in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). In Case No. 13-818-TR-CVF (13-818), Staff alleged violations of 49 Code of Federal Regulations (C.F.R.) 396.3(A)(1)--inspection, repair and maintenance of parts & accessories, 393.45--brake tubing and hose adequacy, and 393.75(A)(3)--tire-flat; and in Case No. 13-844-TR-CVF (13-844), Staff alleged violations of 49 C.F.R. 393.48(A)--inoperative/defective brakes, 396.3(A)(1)(BOS)—brakes out of service, and 393.207(A)--axle positioning parts defective.
- (2) In accordance with Rule 4901:2-7-12, O.A.C., JKS was informed in the NPDs that Staff intended to assess civil forfeitures of \$190.00 in 13-818 and \$300.00 in 13-844.
- (3) On April 4 and 8, 2013, JKS filed requests an administrative hearings in 13-818 and 13-844 in accordance with Rule 4901:2-7-13, O.A.C.
- (4) A prehearing conference was held in both cases on April 29, 2013; however, the parties were unable to settle these matters. Thereafter, by entry of June 3, 2013, a hearing in both cases was scheduled for August 12, 2013.
- (5) 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 rule additionally 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 in 13-818 and 13-844 was convened on June 3, 2013. No one representing JKS appeared at the hearing and Staff moved for a default judgment against JKS.
- (7) Because JKS failed to appear at the hearing, the Commission finds that, pursuant to Rule 4901:2-7-14(E), O.A.C., JKS is in default and, therefore, has admitted to the violations cited in the cases and waived all further rights to contest liability to the state for the forfeitures described in the NPDs. The recommended civil forfeiture of \$490.00 set forth in the NPDs should be assessed against JKS and should be paid within 30 days.
- (8) Pursuant to Section 4923.99, Revised Code, JKS is liable to the state of Ohio for payment of the assessed civil forfeiture of \$490.00. Rule 4901:2-7-22, O.A.C., provides that payment of such forfeiture be made by certified check or money order made payable to: "Treasurer, state of Ohio" and shall be mailed or delivered to: "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793." JKS shall have 30 days from the date of this entry to pay the assessed forfeiture of \$490.00.

It is, therefore,


ORDERED, That Staff's motion for default judgment in Case Nos. 13-818-TR-CVF and 13-844-TR-CVF is granted. It is, further,

ORDERED, That JKS pay the assessed civil forfeiture of \$490.00 within 30 days to the state of Ohio as set forth in finding (9). It is, further,

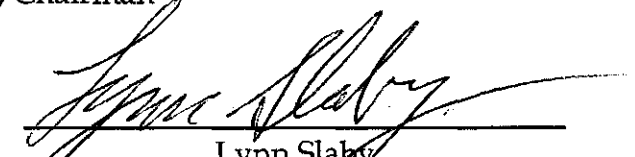
ORDERED, That a copy of this finding and order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman



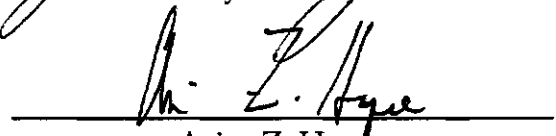
Steven D. Lesser



Lynn Slaby



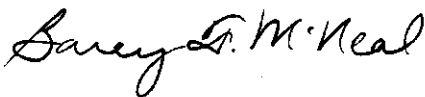
M. Beth Trombold



Asim Z. Haque

SEF/sc

Entered in the Journal
SEP 11 2013



Barcy F. McNeal
Secretary