

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Harmony Farms and) Case No. 13-761-TR-CVF
Guy C. Martin, Notice of Apparent) (OH3247009433C)
Violation and Intent to Assess Forfeiture.) Case No. 13-762-TR-CVF
(OH3247009433D)

ENTRY

The Commission finds:

- (1) On September 7, 2012, a vehicle operated by Harmony Farms and driven by Guy C. Martin was inspected within the state of Ohio. With respect to Case No. 13-761-TR-CVF (OH3247009433C), the inspection resulted in the discovery of one apparent violation of the Code of Federal Regulations (C.F.R.): failure to pay unified carrier registration fee, in violation of 49 C.F.R. 392.2. With respect to Case No. 13-762-TR-CVF (OH3247009433D), the inspection resulted in the discovery of one other apparent violation of the C.F.R.: no medical certificate in driver's possession, in violation of 49 C.F.R. 391.41(a).
- (2) Harmony Farms and Guy C. Martin (respondents) were timely served with notices of preliminary determination (NPD) in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). A civil forfeiture of \$500.00 was assessed against Harmony Farms in Case No. 13-761-TR-CVF (OH3247009433C). A civil forfeiture of \$100.00 was assessed against Guy C. Martin in Case No. 13-762-TR-CVF (OH3247009433D).
- (3) On March 28, 2013, respondents filed requests for an administrative hearing in the above-captioned cases, in accordance with Rule 4901:2-7-13, O.A.C.
- (4) A prehearing conference was held on May 1, 2013. The parties, however, were unable to settle the matter.
- (5) By entry dated May 2, 2013, these cases were scheduled for hearing on July 9, 2013. The hearing was subsequently rescheduled for October 8, 2013, and November 5, 2013.

- (6) Rule 4901:2-7-14(E), O.A.C., provides that a respondent who has requested an administrative hearing and fails to appear for the hearing 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 for the forfeiture proposed in the NPD.
- (7) On November 4, 2013, Guy C. Martin contacted the attorney examiner and stated that respondents would not attend or otherwise participate in the hearing. The hearing was convened, as scheduled, on November 5, 2013, and Staff presented evidence in support of the alleged violations. No one representing respondents appeared at the hearing and, accordingly, Staff moved for a default judgment against respondents.
- (8) Because respondents failed to appear at the hearing, the Commission finds that, pursuant to Rule 4901:2-7-14(E), O.A.C., respondents are in default and, therefore, have admitted to the violations cited in these cases and waived all further right to contest liability to the state for the forfeitures described in the NPD. The recommended civil forfeiture of \$500.00 should be assessed against Harmony Farms and should be paid within 30 days. The recommended civil forfeiture of \$100.00 should be assessed against Guy C. Martin and should be paid within 30 days.
- (9) Pursuant to Section 4923.99, Revised Code, respondents are liable to the state of Ohio for payment of the assessed civil forfeitures. Rule 4901:2-7-22, O.A.C., provides that payment of such forfeiture shall be made by certified check or money order payable to "Treasurer, State of Ohio" and mailed or delivered to Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793. Respondents shall have 30 days from the date of this entry to pay the assessed forfeitures.

It is, therefore,

ORDERED, That Staff's motion for default judgment be granted. It is, further,

ORDERED, That respondents pay the assessed civil forfeitures within 30 days to the state of Ohio as set forth in finding (9). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

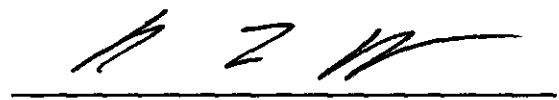
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser

Lynn Slaby

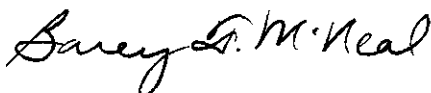

M. Beth Trombold


Asim Z. Haque

SJP/sc

Entered in the Journal

DEC - 4 2013



Barcy F. McNeal
Secretary