

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request of Jeremy L.) Case No. 13-993-TR-CVF
Rowe for an Administrative Hearing.) (OH0779003248C)
) (OH0779003248D

ENTRY

The Commission finds:

- (1) On October 24, 2012, a vehicle operated and driven by Jeremy L. Rowe (Mr. Rowe or respondent) was inspected within the state of Ohio. As a result of the inspection, violations of the Code of Federal Regulations were discovered, including the following violations relevant to this case:

<u>Code</u>	<u>Violation</u>
392.9(a)(2)	Failing to secure vehicle equipment/spare tire loose on trailer.
393.43	No or improper breakaway or emergency braking/not connected to truck.
393.87(a)	Warning flag required on projecting load.
390.21(b)	Carrier name and/or U.S. Dept. of Transportation number not displayed as required.
392.2UCR	Failure to pay Unified Carrier Registration fee.
395.8(k)(2)	Driver failing to retain previous seven days records of duty status/no record present.
391.41(a)	No medical certificate in driver's possession.

- (2) In accordance with Ohio Adm.Code 4901:2-7-12, respondent was informed in a Notice of Preliminary Determination (NPD) that Staff intended to assess a civil forfeiture of \$1050.00 for the apparent violations.
- (3) On April 19, 2013, Mr. Rowe responded to the NPD and filed a letter requesting an administrative hearing, thereby initiating this matter.
- (4) By entry dated May 6, 2013, a prehearing teleconference was scheduled in the case on May 30, 2013. The parties, however, were unable to resolve the matter during the conference, and the case was scheduled for hearing on September 10, 2013.

- (5) At Staff's request, the hearing was continued and rescheduled, on January 9, 2014, because one of Staff's witnesses was unavailable to testify on the September 10, 2013 hearing date. Notice of the hearing was served on Mr. Rowe at the address listed on the NPD.
- (6) The hearing was convened as rescheduled on January 9, 2014. The respondent did not appear at the hearing.
- (7) At the January 9, 2014 hearing, Staff moved for a default judgment against the respondent.
- (8) Ohio Adm.Code 4901:2-7-14(E) 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 NPD.
- (9) The respondent did not appear at hearing and present any evidence to explain why he should not be held liable in this case. Accordingly, Staff's motion for a default judgment should be granted.
- (10) Pursuant to R.C. 4923.99, the respondent is liable to the state of Ohio for payment of the forfeiture on the transportation safety rule violations. Ohio Adm.Code 4901:2-7-22, 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, 4th floor, 180 East Broad Street, Columbus, Ohio 43215-3793." Respondent shall have 30 days from the date of this entry to pay the assessed forfeiture of \$1050.00.
- (11) R.C. 4923.99 further provides that, upon written request of the Commission, the Attorney General shall bring a civil action in the Court of Common Pleas of Franklin County to recover an assessed forfeiture.

It is, therefore,

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

ORDERED, That Jeremy L. Rowe pay the assessed amount within 30 days to the state of Ohio as set forth in Finding (10). It is, further,

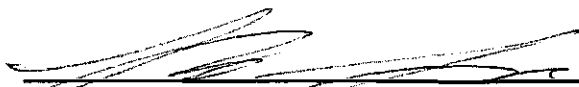
ORDERED, That if payment is not received within 30 days of the date of this entry, the Attorney General of Ohio shall bring a civil action in the Court of Common Pleas of Franklin County, or take any other appropriate action allowed by law, to recover the \$1050.00 forfeiture assessed herein. It is, further,

ORDERED, That this case be closed of record. It is, further,

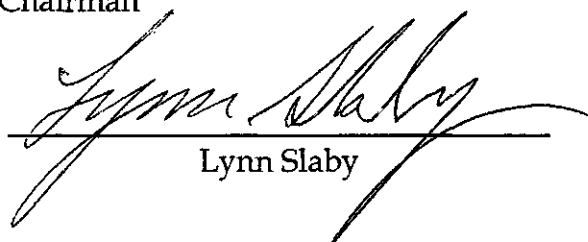
ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman



Steven D. Lesser



Lynn Slaby



M. Beth Trombold

Asim Z. Haque

KKS/vrm

Entered in the Journal
JAN 29 2014



Barcy F. McNeal
Secretary