

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of All States Transportation)
LLC, Notice of Apparent Violation and) Case No. 14-1254-TR-CVF
Intent to Assess Forfeiture.) (OH0616002131C)

ENTRY

The Commission finds:

- (1) On March 11, 2014, a vehicle operated by All States Transportation LLC (Respondent) and driven by Mauricio Leiva was inspected within the state of Ohio. As a result of the inspection, violations of 49 C.F.R. 392.2-SLIS2 (state/local laws - speeding, 73 mph in a 65 mph zone), 49 C.F.R. 393.9(a) (inoperable required lamp - right rear turn signal), and 49 C.F.R. 392.9AA1/H (household goods carrier operating without operating authority required by 49 U.S.C. 14901(d)(3)), were discovered and listed on the Driver/Vehicle Examination Report (DVER) issued by the inspecting officer.
- (2) Subsequently, Staff notified Respondent, pursuant to Ohio Adm.Code 4901:2-7-07, that it intended to assess a civil forfeiture against Respondent totaling \$550.00 for the violations.
- (3) An initial, staff-level conference was conducted with the Respondent pursuant to Ohio Adm.Code 4901:2-7-10. During the conference, Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, and any other information relevant to Staff's proposed action.
- (4) As a result of the conference, Respondent was notified, in a Notice of Preliminary Determination (NPD) of Staff's recommendation that the \$550.00 assessment for the violations should proceed against it.
- (5) On July 14, 2014, Respondent filed a letter requesting an administrative hearing, thereby initiating this matter.

- (6) A prehearing conference was held in the case on August 22, 2014; however, the parties were unable to reach a settlement agreement. Thereafter, by Entry dated September 4, 2014, a hearing was scheduled for September 25, 2014. A copy of the Entry scheduling the hearing was served on Respondent at the address that Respondent provided during the initial, staff-level conference and a service notice was filed in the case docket.
- (7) A hearing was convened on September 25, 2014. Respondent did not appear at the hearing to present evidence to explain why it should not be charged with the violations in this case. At the hearing, Staff presented, as exhibits, the DVER (Staff Ex. 1) and the NPD (Staff Ex. 2) in the case, and moved for a default judgment against Respondent.
- (8) Ohio Adm.Code 4901:2-7-14(A) 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.
- (9) In view of Respondent's failure to participate in the hearing, the Commission finds that Respondent is in default. Accordingly, Staff's motion for a default judgment should be granted.
- (10) Pursuant to R.C. 4923.99, Respondent is liable to the state of Ohio for payment of the forfeiture for the violations in this matter. Further, 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 \$550.00.
- (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 All States Transportation LLC pay the assessed amount within 30 days to the state of Ohio, as set forth in Finding (10). It is, further,

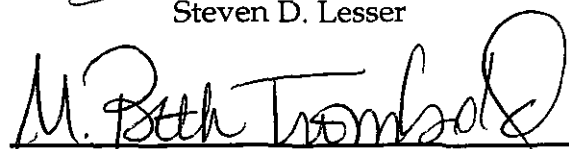
ORDERED, That if payment is not received within 30 days of the date of this Entry, the Attorney General of Ohio shall bring a civil action in the Court of Common Pleas of Franklin County, or take any other appropriate action allowed by law, to recover the \$550.00 forfeiture assessed therein. It is, further,

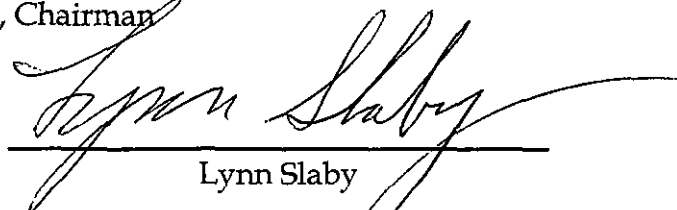
ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


M. Beth Trombold

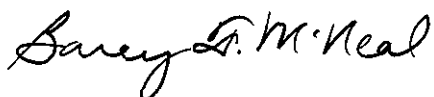

Lynn Slaby


Asim Z. Haque

JML/sc

Entered in the Journal

NOV 12 2014



Barcy F. McNeal
Secretary