

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Jacob Dillingham, Notice)
of Apparent Violation and Intent to) Case No. 15-805-TR-CVF
Assess Forfeiture.)

ENTRY

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) Jacob Dillingham (Mr. Dillingham) was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed a total civil forfeiture of \$600.00 against Mr. Dillingham for a violation of 49 C.F.R. 391.41(a), operating with a suspended commercial driver's license, \$500.00; and for a violation of 49 C.F.R. 391.51(a), no medical certificate in driver's possession, \$100.00.
- (3) On April 24, 2015, Mr. Dillingham requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.
- (4) A prehearing settlement conference was held on June 23, 2015, at which Mr. Dillingham and Staff participated; however, the parties failed to resolve this matter.

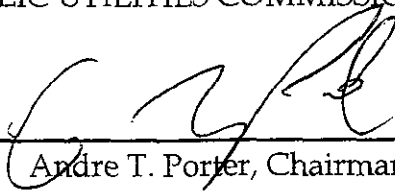
- (5) By Entry issued June 24, 2015, a hearing was scheduled for August 27, 2015. The Entry advised Mr. Dillingham that, pursuant to Ohio Adm.Code 4901:2-7-14(E), a respondent who requests an administrative hearing and fails to appear for the hearing, shall be in default. The Entry also noted a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture.
- (6) The hearing convened on August 27, 2015, at which time Staff, but not Respondent, made an appearance. At the commencement of the hearing, the attorney examiner was informed by Staff that 30 minutes before the hearing, Mr. Dillingham had telephoned Staff to advise that his legal counsel was unable to attend the hearing. Thereafter, Staff made a motion for a default judgment pursuant to Ohio Adm.Code 4901:2-7-14(E), based on Mr. Dillingham's failure to appear at the hearing. Mr. Dillingham had never indicated at the prehearing settlement conference that he was represented by legal counsel, nor had a notice of appearance been filed by his legal counsel in the docket.
- (7) By Entry issued September 10, 2015, counsel for Mr. Dillingham was directed to file a notice of appearance in the case docket no later than September 30, 2015, and to indicate available dates for a rescheduled hearing. The Entry also stated that failure of Respondent's counsel to file, as of September 30, 2015, a notice of appearance and available dates for a hearing, would result in a recommendation to the Commission that Respondent be found in default.
- (8) To date, no notice of appearance has been filed, and Mr. Dillingham has not contacted the Commission since August 27, 2015. Therefore, pursuant to Ohio Adm.Code 4901:2-7-14(E), Respondent is found to be in default.

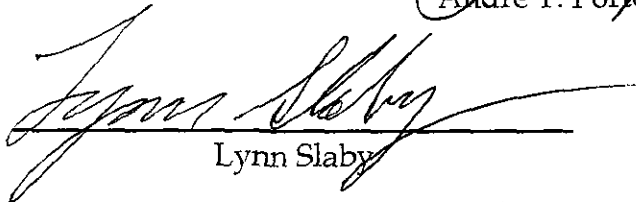
It is, therefore,

ORDERED, That Mr. Dillingham is found in default. It is, further,

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

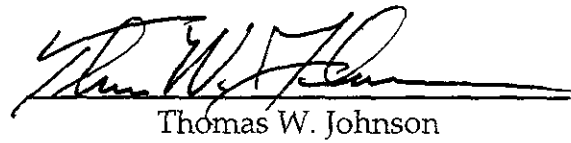
THE PUBLIC UTILITIES COMMISSION OF OHIO


Andre T. Porter, Chairman


Lynn Slaby


M. Beth Trombold


Asim Z. Haque


Thomas W. Johnson

JML/sc

Entered in the Journal

DEC 16 2015


Barcy F. McNeal

Barcy F. McNeal
Secretary