

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF JOHN LARROW, NOTICE
OF APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 16-61-TR-CVF
(OH3252012784D)

ENTRY

Entered in the Journal on August 10, 2016

I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment against John F. Larrow for his failure to appear at a hearing concerning an alleged violation of 49 C.F.R. 392.16, failure to use a seat belt while operating a commercial motor vehicle, and directs him to pay the assessed forfeiture of \$100 within 60 days of this Entry.

II. DISCUSSION

{¶ 2} 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.

{¶ 3} John F. Larrow, the driver, was served with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD informed Mr. Larrow that Staff intended to assess a civil forfeiture of \$100 for a violation of 49 C.F.R. 392.16, which is a violation for failure to use a seat belt while operating a commercial motor vehicle.

{¶ 4} On January 15, 2016, Mr. Larrow filed a request for an administrative hearing in the above-captioned case in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 5} A prehearing settlement conference was scheduled for February 24, 2016; however, the attorney examiner was unable to reach Mr. Larrow by telephone and a hearing was scheduled for April 21, 2016. Thereafter, Mr. Larrow contacted the attorney examiner and requested a continuance. The attorney examiner granted the request and the hearing was continued to June 20, 2016. Copies of the Entries scheduling the prehearing conference and scheduling and continuing the hearing were served on Mr. Larrow at the address he provided in his request for an administrative hearing.

{¶ 6} 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 notice.

{¶ 7} The hearing was convened, as scheduled, on June 20, 2016. Mr. Larrow failed to appear at the hearing and, accordingly, Staff moved for a default judgment against Mr. Larrow (Tr. at 4). Staff presented as an exhibit the NPD (Staff Ex. 1) issued to Mr. Larrow.

{¶ 8} In view of Mr. Larrow's failure to participate in the hearing, Mr. Larrow is in default, in accordance with Ohio Adm.Code 4901:2-7-14. Accordingly, Staff's motion for default judgment should be granted and the recommended civil forfeiture of \$100 should be paid by Mr. Larrow within 60 days.

{¶ 9} Pursuant to R.C. 4923.99, Mr. Larrow is liable to the State of Ohio for payment of the assessed civil forfeiture of \$100. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures 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." Mr.

Larrow should write the inspection number (OH3252012784D) on the check and shall have 60 days from the date of this Entry to pay the assessed forfeiture of \$100.

{¶ 10} R.C. 4905.57 provides that, at the direction 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.

III. ORDER

{¶ 11} It is, therefore,

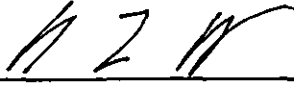
{¶ 12} ORDERED, That Staff's motion for default judgment be granted. It is, further,

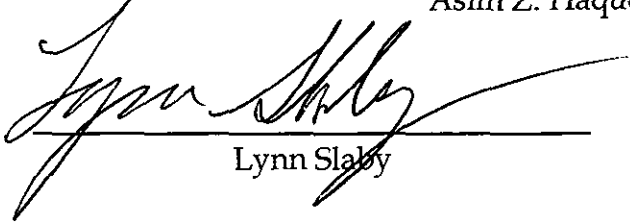
{¶ 13} ORDERED, That Mr. Larrow pay the assessed civil forfeiture of \$100 within 60 days to the state of Ohio as set forth in paragraphs 8 and 9. It is, further,

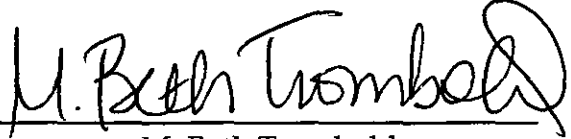
{¶ 14} ORDERED, That the Attorney General take the appropriate action to enforce this Entry as provided by law. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Asim Z. Haque, Chairman


Lynn Slaby

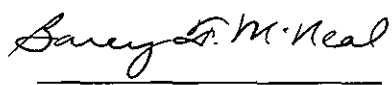

M. Beth Trombold


Thomas W. Johnson


M. Howard Petricoff

NW/MGG/vrm

Entered in the Journal
AUG 17 2018


Barcy F. McNeal
Secretary