

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF CURTIS HOLLIDAY,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 17-54-TR-CVF
(OH3256011617D)

ENTRY

Entered in the Journal on June 21, 2017

I. SUMMARY

{¶ 1} The Commission finds that Staff's motion for default judgement should be granted and directs Curtis Holliday to pay the assessed civil forfeiture of \$100.00 for the violation of 49 C.F.R. 392.5(a)(3) within 60 days of the date 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 4901:2-5-02(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} On September 15, 2016, a commercial motor vehicle driven by Curtis Holliday, and operated by Amita Transport, Inc., was inspected within the state of Ohio. As a result of the inspection, Mr. Holliday was issued a Driver/Vehicle Examination Report, citing him for possessing an intoxicating beverage while on duty or driving, in violation of 49 C.F.R. 392.5(a)(3), and for failing to move over for a stopped police vehicle, in violation of 49 C.F.R. 392.2.

{¶ 4} Mr. Holliday was timely served with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed Mr. Holliday a total civil forfeiture of \$100.00.

{¶ 5} On January 9, 2017, Mr. Holliday filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13. By Entry issued on January 24, 2017, a settlement conference was scheduled for February 28, 2017.

{¶ 6} The prehearing settlement conference was held as scheduled; however, the parties were unable to settle this matter. Thereafter, by Entry issued on March 27, 2017, the attorney examiner scheduled this matter for hearing on May 16, 2017. Copies of the Entries scheduling the settlement conference and hearing were served upon Mr. Holliday at the address registered with the Commission and service notices were filed in the case docket.

{¶ 7} The hearing was held as scheduled on May 16, 2017, however; Mr. Holliday failed to appear at the hearing or present evidence to explain why he should not be charged with the violation in this case. At the hearing, Staff presented, as exhibits, the Driver/Vehicle Examination Report (Staff Ex. 1), and the NPD issued to Mr. Holliday (Staff Ex. 2). Additionally, at the hearing, Staff moved for a default judgement against Mr. Holliday in the amount of \$100.00. (Tr. at 5-6.)

{¶ 8} Ohio Adm.Code 4901:2-7-14 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 Mr. Holliday's failure to participate in the hearing, the Commission finds that he is in default in accordance with Ohio Adm.Code 4901:2-7-14. Accordingly, Staff's motion for default judgement should be granted and the recommended civil forfeiture of \$100.00 against Mr. Holliday should be paid within 60 days.

{¶ 10} Pursuant to R.C. 4923.99, Mr. Holliday is directed to pay the assessed civil forfeiture for the violation in this matter. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures shall be made by certified check or money order made payable to: "Treasurer, state of Ohio" and shall be mailed or delivered to: "Public Utilities Commission of Ohio, Transportation Compliance Division, Attn: CF Processing, 180 East Broad Street, Columbus, Ohio 43215-3793." Mr. Holliday should write the inspection number (OH3256011617D) on the front of the check or money order and shall have 60 days from the date of this Entry to pay the assessed forfeiture.

{¶ 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 the assessed forfeiture.

III. ORDER

{¶ 12} It is, therefore,

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

{¶ 14} ORDERED, That Mr. Holliday pay the assessed civil forfeiture of \$100.00 within 60 days to the state of Ohio, in accordance with Paragraph 10. It is, further,

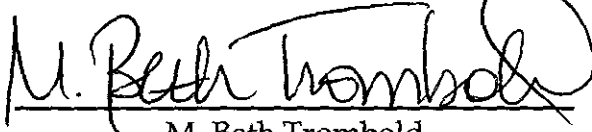
{¶ 15} ORDERED, That the Attorney General of Ohio take all legal steps necessary to enforce the terms of this Entry. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



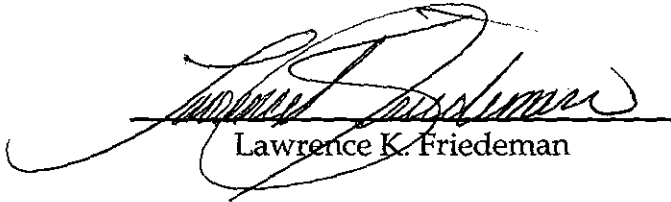
Asim Z. Haque, Chairman



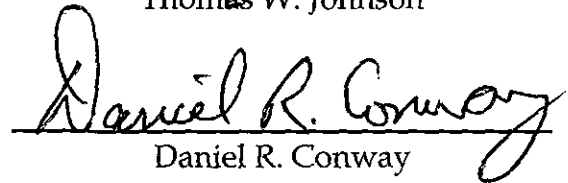
M. Beth Trombold



Thomas W. Johnson



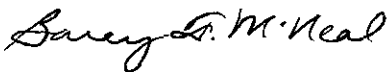
Lawrence K. Friedeman



Daniel R. Conway

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Barcy F. McNeal
Secretary