

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Rodney :
Demmitt, Jr., Notice of :
Apparent Violation and : Case No. 17-2174-TR-CVF
Intent to Assess :
Forfeiture. :

- - -

PROCEEDINGS

before Ms. Stacie Cathcart, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at
11:23 a.m. on Thursday, October 18, 2018.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481

- - -



Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

01/12/2018

OH3235004821C

Mr. Rodney DeMitt Jr, Manager

PO BOX 223

MEDWAY, OH 45341

RE: **NOTICE OF PRELIMINARY
DETERMINATION**

Case No. OH3235004821C

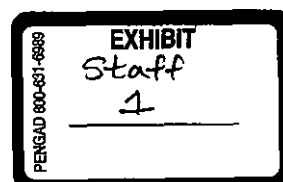
Dear Sir or Madam:

On 09/05/2017, a vehicle operated by TOTAL TOWING LLC, and driven by RODNEY E DEMMITT, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified TOTAL TOWING LLC (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.81	0	Horn inoperative	
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.95A	0	No/discharged/unsecured fire extinguisher	
393.95F	0	No / insufficient warning devices	
392.2IN	0	State Insurance Violation	
392.9A1	1	Failing to secure cargo as specified in 49 CFR 393.100 through 393.142	
393.48A	1	Inoperative/defective brakes	
393.9	2	Inoperable Required Lamp	
393.9	2	Inoperable Required Lamp	
390.21A	4	Not marked in accordance with regulations	100.00
		Total of Group 0	0.00
		Total of Group 1	250.00

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov





Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

Total of Group 2	50.00
Total of Group 4	100.00

TOTAL AMOUNT DUE: \$400.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against TOTAL TOWING LLC in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.81	0	Horn inoperative	
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390.21A	4	Not marked in accordance with regulations	100.00
Total of Group 0			
Total of Group 1			250.00
Total of Group 2			50.00
Total of Group 4			100.00





Public Utilities Commission

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TOTAL AMOUNT DUE: \$400.00

Within 30 days of this notice, you must **either**: (1) pay the assessed civil forfeiture **or** (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Milan Orbovich, Director
Transportation Department

Compliance Officer: Cheryl Streets



**ROADSIDE INSPECTION
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet carefully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). **Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio
Attn: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, **you should file a "Request for an Administrative Hearing"** with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C. Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to



further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

4. Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.

5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by **an authorized administrative tribunal**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the **payment of a fine** or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

6. Copies of Inspection Reports

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

<https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx>

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the **inspection number and inspection date** in your request.





The Public Utilities
Commission of Ohio
180 E. Broad St. – Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 1/12/2018
Legal Name: TOTAL TOWING LLC
Address: PO BOX 223
City: MEDWAY
State: OH
Zip: 45341
Case Number: OH3235004821C
PIN: EO79

Item	DueDate	Amount
1	2/26/2018	\$400.00
Total		\$400.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH3235004821C



DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone: (614)466-0429 Fax: (614)752-9274

Report Number: OH3235004821
Inspection Date: 09/05/2017
Start: 12:52 PM ET End: 1:55:29 PM ET
Inspection Level: II - Walk-Around
HM Inspection Type: None

TOTAL TOWING LLC
1718 LUNDGREN RD
NEW CARLISLE, OH 45344

USDOT#: 02058815 Phone#: (937)849-9878
MC/MX#: Fax#:
State#:

Location: ROADSIDE
Highway: INTERSTATE 70 WEST
County: MADISON, OH

MilePost: 87 Shipper: MAINES TOWING
Origin: COLUMBUS, OH Bill of Lading:
Destination: DAYTON, OH Cargo: MOTOR VEHICLES

Driver: DEMMITT, RODNEY E
License#: RU341818 State: OH
Date of Birth: 03/25/1960
CoDriver:
License#: State:
Date of Birth:

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TR	FORD	2005	OH	PIP4933	2	3FRNX65F65V122364	26,000			3235004821

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.9A1	392.9(a)(1)	1	Y		U	N	Failing to secure cargo as specified in 49 CFR 393.100 through 393.142: No safety chains from wrecker to towed vehicle
393.48A	393.48(a)	1	Y		U	N	Inoperative/defective brakes: Emergency brake on wrecker when set wrecker still moves
393.9	393.9(a)	1	Y		U	N	Inoperable Required Lamp: Light bar on towed vehicle when left turn lamp in on right side blinks
393.9	393.9(a)	1	Y		U	N	Inoperable Required Lamp: Light bar on towed vehicle when right turn lamp is on left side blinks
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: Left and right front marker lamps inoperative
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: Left and right rear marker lamps on wrecker bed inoperative
393.81	393.81	1	N		N	N	Horn inoperative: No horn at time of inspection
393.95A	393.95(a)	1	N		N	N	No/discharged/unsecured fire extinguisher: Fire extinguisher not secured and empty
393.95F	393.95(f)	1	N		N	N	No / insufficient warning devices: No triangles in wrecker at time of inspection
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: No license plate lamp
390.21A	390.21(a)	1	N		N	N	Not marked in accordance with regulations: Both sides of wrecker has wrong DOT#. Showing 2925697 should be 02058815
392.2IN	392.2	1	N		N	N	State Insurance Violation: No proof of insurance at time of inspection
391.41A-F	391.41(a)	D	N		N	N	Operating a property-carrying vehicle without possessing a valid medical certificate.: Driver stated he had no medical certificate

HazMat: No HM Transported.

Placard: No **Cargo Tank:**

Special Checks: No Data for Special Checks.



Report Prepared By:
S.R. MORGAN

Badge #:
3235

Copy Received By:
RODNEY DEMMITT

Page 1 of 2



02058815 OH OH3235004821

X _____

X _____

DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone: (614)466-0429 Fax: (614)752-9274

Report Number: OH3235004821
Inspection Date: 09/05/2017
Start: 12:52 PM ET End: 1:55:29 PM ET
Inspection Level: II - Walk-Around
HM Inspection Type: None

TOTAL TOWING LLC
1718 LUNDGREN RD
NEW CARLISLE, OH 45344

USDOT#: 02058815 Phone#: (937)849-9878
MC/MX#: Fax#:
State#:

Location: ROADSIDE
Highway: INTERSTATE 70 WEST
County: MADISON, OH

MilePost: 87
Origin: COLUMBUS, OH
Destination: DAYTON, OH

Driver: DEMMITT, RODNEY E
License#: RU341818 State: OH
Date of Birth: 03/25/1960
CoDriver:
License#: State:
Date of Birth:

Shipper: MAINES TOWING
Bill of Lading:
Cargo: MOTOR VEHICLES

State Information:

FMCSA Credentials Verified-Y/N: N; CDL Verified (Y/N): N; FMCSA OOS Order Issued(Y/N): N; For-Hire Carrier: Y; Reason Code: OBVI; Fatalities (Y/N): N; Crash Report #: N; Supplemental Report #: N; Paper Report #: N; Driver Address: 39 FOREST RD; Driver City: MEDWAY; Driver State: OH; Driver Zip: 45341; Photos Taken (Y/N): Y;

* Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Repairer X: _____ Facility: _____ Date: _____

All violations of the FHM and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio, TAD - 4th floor, 180 E Broad St, Columbus, OH 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000. If you have any questions, please contact (614) 466-0429.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By:
S.R. MORGAN

Badge #:
3235

Copy Received By:
RODNEY DEMMITT

Page 2 of 2



02058815 OH OH3235004821

X _____

X _____

100%

T O W N G

626.6268



USDOT 2925697





200