

FILE

PUCO EXHIBIT FILING

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Date of Hearing: 2/1/19 **PUCO**

Case No. 18-1050-TA-CVF

PUCO Case Caption: Michael Tobash

List of exhibits being filed:

Staff 1, 2, 3 and 4

Reporter's Signature: Michael Spencer
Date Submitted: 2/22/19

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technician lc Date Processed 2/22/19

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Michael Tobash : Case No.
Notice of Apparent Violation and: 18-1050-TR-CVF
Intent to Assess Forfeiture :

- - -

PROCEEDINGS

Before Anna Sanyal, Attorney Examiner, at the
offices of the Public Utilities Commission of
Ohio, 180 East Broad Street, Hearing Room 11-D,
Columbus, Ohio, on Friday, February 1, 2019, at
10:00 A.M.

- - -

Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481

- - -

DRIVER/VEHICLE EXAMINATION REPORT



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

Report Number: OH9420300619
Inspection Date: 3/15/2018 Certification Date:
Time Started: 12:00 Time Ended: 14:06
Inspection Level: 1 - Full Inspection
HM Inspection Type: No HM Inspection

CASTRO LANES CORPORATION

1450 DOS DEANNAS

EL PASO, TX 79936

USDOT #: 02921629

MC/MX #: 985377

State #:

Phone #: (915)301-0009

Fax #:

Driver: TOBASH, MICHAEL B

License #: 41341151

State: TX

Date of Birth: 12/20/1968

Location: CAMBRIDGE SCALES

MilePost: 173

Highway: IR70

Origin: WILMINGTON, DE

Bill of Lading: H11406

County: GUERNSEY

Destination: TOMAH, WI

Cargo: FRESH PRODUCE

Shipper: WILLIAM H. KOPKE JR. INC.

VEHICLE IDENTIFICATION:

Unit Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TT	VOLV	2014	TX	R355674	1606	4V4NC9EH6EN164612	80,000		
2	ST	WANC	2006	TX	38H9984	776103	1JJV532W36L980588	80,000		

BRAKE ADJUSTMENTS:

Axle #	1	2	3	4	5
Right	N/A	N/A	N/A	1 3/4	INOP
Left	N/A	N/A	N/A	1 3/4	INOP
Chamber	DISC	DISC	DISC	C-30	C-30

VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
395.22A	395.22A	D	N		N	N	Operating with a device that is not registered with FMCSA: Stoneridge EZ-ELD is not working causing driver to prepare paper RODS. Reported to motor carrier on 03/05/18.
395.8	395.8	D	N		N	N	Record of Duty Status violation (general/form and manner): Violation(s) of 395.8(f)(11), Totals in each category are missing.
395.8	395.8	D	N		N	N	Record of Duty Status violation (general/form and manner): Violation(s) of 395.8(f)(2), Driver did not record location of duty status as New Paris, OH.
393.48A	393.48(a)	2	N		N	N	Inoperative/defective brakes: Axle #5, right side inoperable and not moving.
393.48A	393.48(a)	2	N		N	N	Inoperative/defective brakes: Axle #5, left side inoperable and not moving.
396.3A1BOS	396.3(a)(1)	2	Y		A	N	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination: 2 of 4 required brakes inoperable (50%).
396.9C2	396.9(c)(2)	D	N		N	N	Operating an out-of-service vehicle: Trailer #776103 (VIN 1JJV532W36L980588) declared out of service on 03/10/18, Inspection Report Number MOA3WA003789.

* N - Non-OOS or Driver OOS Violation; A - Repaired at Scene

HazMat:

No HM Transported.

Placard: NA

Cargo Tank:

Special Checks:

- ☐ Alcohol/Controlled Substance Check
☐ Conducted by Local Jurisdiction
☐ Size and Weight Enforcement
☐ EScreening

- ☐ Traffic Enforcement
☐ PASA Conducted Inspection
☐ Drug Interdiction Search

- ☐ Post Crash Inspection
☐ PBBT Inspection
 Arrests:

Report Prepared By:

L Lancaster

Badge #:

9420

Copy Received By:

TOBASH, MICHAEL B

Page 1 of 3



OH9420300619

X

X

DRIVER/VEHICLE EXAMINATION REPORT



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

Report Number: OH9420300619
Inspection Date: 3/15/2018 Certification Date:
Time Started: 12:00 Time Ended: 14:06
Inspection Level: I - Full Inspection
HM Inspection Type: No HM Inspection

CASTRO LANES CORPORATION

1450 DOS DEANNAS
EL PASO, TX 79936

USDOT #: 02921629

MC/MX #: 985377

State #:

Phone #: (915)301-0009

Fax #:

Driver: TOBASH, MICHAEL B
License #: 41341151 State: TX
Date of Birth: 12/20/1968

Inspection Notes: Driver is preparing paper RODS, reviewed them for fatigue. Driver says the Stoneridge EZ-ELD is not working. The port wont allow the tablet to sync. Driver reported problem to motor carrier on 03/05/18. Driver was given another system on 03/12/18 called Top Tracking. This system is not certified as approved as an ELD in eRODS. Driver says Top Tracking system would not sync to his tablet and it is also not working.

In the previous week, driver has had two inspections as follows:

MD0281001363, on 03/12/18. Tractor placed out of service for kinked service hose rear of cab. Trailer placed out of service for flat tire. Driver provided repair work orders.

MOA3WA003789, on 03/10/18, Trailer placed out of service for inoperable brakes on 5th axle (left and right side). Driver operating a CMV in violation of a Federal Out of Service Order.

Trailer brakes were Repaired At Scene at 15:15 by Hughes Truck Service of Cambridge.

Record of Duty Status, Form and Manner Violations on 03/11/2018:
395.8(f)(2) - drivers record of duty status entries not legible.

Special Study Fields:

Special Study1:L&I, MEC, UCR

Special Study2:

Special Study3:

Special Study4:

Special Study5:

Special Study6:

Special Study7:

Special Study8:

Special Study9:

Special Study10:

Locally Defined Fields:

For-Hire Carrier: Y;Fatalities (Y/N): N;Driver Address: 1553 REBECCA ANN DRIVE;Driver City: EL PASO;Driver State: TX;Driver Zip: 79936;Photos Taken (Y/N): Y;Reason Code: ISS;FMCSA Credentials Verified-Y/N: Y;CDL Verified (Y/N): Y;FMCSA OOS Order Issued(Y/N): N

* 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.

All violations of the FHMR 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, TARD - 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 Carrier Official: X

Date: _____

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.

Report Prepared By:

L Lancaster

Badge #:

9420

Copy Received By:

TOBASH, MICHAEL B

Page 2 of 3



X

X

OH9420300619

DRIVER/VEHICLE EXAMINATION REPORT



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

Report Number: OH9420300619
Inspection Date: 3/15/2018 Certification Date:
Time Started: 12:00 Time Ended: 14:06
Inspection Level: I - Full Inspection
HM Inspection Type: No HM Inspection

CASTRO LANES CORPORATION

1450 DOS DEANNAS

EL PASO, TX 79936

USDOT #: 02921629

MC/MX #: 985377

State #:

Phone #: (915)301-0009

Fax #:

Driver: TOBASH, MICHAEL B
License #: 41341151 State: TX
Date of Birth: 12/20/1968

Signature of Repairer: X Facility: _____ Date: _____

Report Prepared By:
L Lancaster

Badge #:
9420

Copy Received By:
TOBASH, MICHAEL B

Page 3 of 3



X _____

X _____

OH9420300619

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Missouri State Highway Patrol
Commercial Vehicle Enforcement Division
P.O. Box 568, Jefferson City, MO 65102-0568
Phone: (573)526-6128 Fax: (573)526-4637
Email: cvemail@mshp.dps.mo.gov

Report Number: MOA3WA003789
Inspection Date: 03/10/2018
Start: 10:36 AM CT End: 12:30 PM CT
Inspection Level: I - Full
HM Inspection Type: None

CASTRO LANES CORPORATION
1450 DOS DEANNAS DR
EL PASO, TX 79936-0257
USDOT#: 02921629 Phone#: (915)401-6603
MC/MX#: 985377 Fax#:
State#:

Driver: TOBASH, MICHAEL B
License#: 41341151 State: TX
Date of Birth: 12/20/1968
CoDriver:
License#: State:
Date of Birth:

Location: MAYVIEW A3E
Highway: I-70
County: LAFAYETTE, MO

MilePost: 43 Shipper: CHILIES
Origin: HOOPER, CO Bill of Lading: 180295
Destination: HALIFAX, PA Cargo: FRESH PRODUCE

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TT	VOLV	2014	TX	R355674	1606	4V4NC9EH6EN164612	51,200			
2	ST	WANC	2006	TX	38H9984	776103	1JJV532W36L980588	68,000			A3WA003789

BRAKE ADJUSTMENTS

Axle #	1	2	3	4	5
Right	N/A	N/A	N/A	1 1/4	INOP
Left	N/A	N/A	N/A	1 1/2	INOP
Chamber	DISC	DISC	DISC	C-30	C-30

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
395.22A	395.22(a)	D	N		N	N	Operating with a device that is not registered with FMCSA: Using paper logs.
395.8	395.8	D	N		N	N	Record of Duty Status violation (general/form and manner): Violation(s) of 395.8(a)(1), 395.8(f)(4), 395.8(f)(6), 395.8(f)(9), 395.8(f)(11), 395.8(f)(12)
395.3A2-PROP	395.3(a)(2)	D	N		N	N	Driving beyond 14 hour duty period (Property carrying vehicle): Driving beyond 14 hour duty period on 03/07/2018
395.34A1	395.34(a)(1)	D	N		N	N	Failing to note malfunction that requires use of paper log
395.8E	395.8(e)(1)	D	N		N	N	False report of drivers record of duty status: False Log on 03/09/2018. Driver shows being in sleeper berth while scaling truck & performing pre-trip inspection.
395.3A3II	395.3(a)(3)(ii)	D	N		N	N	Driving beyond 8 hour limit since the end of the last off duty or sleeper period of at least 30 minutes: Driving beyond 8 hour limit since end of the last off duty period on 03/09/2018. Shows breaks on the On Duty line
395.8F01	395.8(f)(1)	D	N		N	N	Drivers record of duty status not current: Log not Current on 03/10/2018 10:36 AM
392.2-SLLEWA1	392.2	D	N		N	N	State/Local Laws - Excessive weight - 1-2500 lbs over on an axle/axle groups.: Over weight on tandem drive axles by 1,120 lbs. 11,260+ 35,120+ 32,220= 78,600 lbs. No APU.
393.207F	393.207(f)	2	Y		U	N	Air suspension pressure loss: All four trailer air bags flat.

Report Prepared By:
C SHERMAN

Badge #:
W212

Copy Received By:
MICHAEL TOBASH

Page 1 of 3



02921629 MO MOA3WA003789

X _____

X _____

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Missouri State Highway Patrol
Commercial Vehicle Enforcement Division
P.O. Box 568, Jefferson City, MO 65102-0568
Phone: (573)526-6128 Fax: (573)526-4637
Email: cvemail@mshp.dps.mo.gov

Report Number: MOA3WA003789
Inspection Date: 03/10/2018
Start: 10:36 AMCT End: 12:30 PM CT
Inspection Level: 1 - Full
HM Inspection Type: None

CASTRO LANES CORPORATION
1450 DOS DEANNAS DR
EL PASO, TX 79936-0257
USDOT#: 02921629 Phone#: (915)401-6603
MC/MX#: 985377 Fax#:
State#:

Driver: TOBASH, MICHAEL B
License#: 41341151 State: TX
Date of Birth: 12/20/1968
CoDriver:
License#: State:
Date of Birth:

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.48A	393.48(a)	2	N		N	N	Inoperative/defective brakes: Axle #5 left, no movement of brake linings on application.
393.48A	393.48(a)	2	N		N	N	Inoperative/defective brakes: Axle #5 right, no movement of brake linings on application.
396.3A1BOS	396.3(a)(1)	2	Y		U	N	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination
393.9	393.9(a)	2	N		N	N	Inoperable Required Lamp: Trailer license plate light.

HazMat: No HM Transported.

Placard: No Cargo Tank:

Special Checks:

State Information:

AGENCY: MSHP;

* I hereby declare the above vehicle(s)/drivers as "OUT OF SERVICE". No person shall remove the "OUT OF SERVICE" sticker(s) applied to this/these vehicle(s) or operate such vehicle(s) until the OUT-OF-SERVICE defect(s) has/have been repaired and vehicle(s) restored to a safe operating condition.

I certify that the above violation(s) was/were corrected.

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

NOTICE TO DRIVER/MOTOR CARRIER: The motor carrier name that appears on this report must sign the certification and fax, mail to the Missouri State Highway Patrol, Commercial Vehicle Enforcement Division, P.O. Box 568, Jefferson City, MO 65102-0568 or Email to cvemail@mshp.dps.mo.gov within 15 days. If no violations were discovered, you are NOT required to sign and return a copy of the report.

****Warning**** If this box is checked(), A separate traffic citation was issued to the violator. Please refer to the Issued traffic citation for additional information.

DO NOT send fine payment with the return of this report.

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

Report Prepared By:
C SHERMAN

Badge #:
W212

Copy Received By:
MICHAEL TOBASH

Page 2 of 3



02921629 MO MOA3WA003789

X _____

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DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Missouri State Highway Patrol
Commercial Vehicle Enforcement Division
P.O. Box 568, Jefferson City, MO 65102-0568
Phone: (573)526-6128 Fax: (573)526-4637
Email: cvemail@mshp.dps.mo.gov

Report Number: MOA3WA003789
Inspection Date: 03/10/2018
Start: 10:36 AM CT End: 12:30 PM CT
Inspection Level: I - Full
HM Inspection Type: None

CASTRO LANES CORPORATION
1450 DOS DEANNAS DR
EL PASO, TX 79936-0257
USDOT#: 02921629 Phone#: (915)401-6603
MC/MX#: 985377 Fax#:
State#:

Driver: TOBASH, MICHAEL B
License#: 41341151 State: TX
Date of Birth: 12/20/1968
CoDriver:
License#: State:
Date of Birth:

Inspection Notes

Record of Duty Status, Form and Manner Violations on 03/10/2018:

- 395.8(a)(1) - Not using the appropriate method to record hours of service
- 395.8(f)(4) - Driver failed to record total miles driven for each 24 hour period.
- 395.8(f)(6) - Driver failed to record name of carrier for each 24 hour period. Logs show a different carrier
- 395.8(f)(9) - Driver failed to record main office address for each 24 hour period.
- 395.8(f)(11) - Driver failed to record total hours for each 24 hour period.
- 395.8(f)(12) - Driver failed to record shipping document number(s) or name of shipper and commodity for each 24 hour period.

Special Studies No Special Study Data Recorded

Report Prepared By:
C SHERMAN

Badge #:
W212

Copy Received By:
MICHAEL TOBASH

Page 3 of 3



02921629 MO MOA3WA003789

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DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Maryland Motor Carrier Safety Program
 Maryland State Police
 6855 Deerpath Rd., Suite G
 Elkridge, MD 21075
 Phone: (410)579-5959 Fax: (410)796-0430

Report Number: MD0281001363
 Inspection Date: 03/12/2018
 Start: 3:45 PM ET End: 04:01 PM ET
 Inspection Level: II - Walk-Around
 HM Inspection Type: None

CASTRO LANES CORPORATION
 1450 DOS DEANNAS
 EL PASO, TX 79936
 USDOT#: 02921629 Phone#: (915)301-0009
 MC/MX#: 985377 Fax#: (915)301-0009
 State#:

Driver: TOBASH, MICHAEL B
 License#: 41341151 State: TX
 Date of Birth: 12/20/1968
 CoDriver:
 License#: State:
 Date of Birth:

Location: I-83
 Highway:
 County:

MilePost: Shipper:
 Origin: HERSHEY, PA Bill of Lading:
 Destination: BALTIMORE, MD Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TT	VOLV	2014	TX	R355674	1606	4V4NC9EH6EN164612	80,000			
2	ST	WANC	2006	TX	036B320	776103	1JJV532W36L980588				

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.45B2PC	393.45B2PC	1	Y		U	N	Brake Hose or Tubing Chafing and/or Kinking - Connection to Power Unit: Service tubing rear of cab kinked rear of cab
393.75A	393.75A	2	Y		U	N	Flat tire or fabric exposed: 5th axle left side outer tire flat, 35/110 psi, measured with agency issued equipment
395.3A2-PROP N	395.3A2-PROP N	D	N		N	N	Driving beyond 14 hour duty period (Property carrying vehicle) - Nominal Violation: Driving beyond 14 hour duty period on 3/7/2018 @ 0300 -0400 hrs.

HazMat: No HM Transported.

Placard: No Cargo Tank:

Special Checks:

State Information:

CREW CODE: 0140; Electronic Logs (AOBRD) Y/N: N; VEHICLE SELECTED: O;

Pursuant to authority in Title 49, Code of Federal Regulations, Section 396.9, and in accordance with TA25-111, Annotated Code of Maryland, I hereby declare vehicles with defects marked with a "Y" in the "Out of Service" column in the violations discovered section of this report "Out of Service". No person shall remove out of service stickers applied to this vehicle, or operate this vehicle until the out of service defects have been repaired and the vehicle has been restored to a safe operating condition.

I hereby certify that all Out of Service vehicle defects marked with the letter "Y" in the out of service column have been repaired and the vehicle has 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: _____

NOTE TO DRIVER/MOTOR CARRIER: This report must be furnished to the motor carrier whose name appears at the top of this report. Please sign the below certification and return to the Maryland State Police preferably by email (msp.cvedinspections@maryland.gov) or by U.S. Mail within fifteen days. Do not send fine payment with the return of this report. Fine payment for traffic citations associated with this report must be mailed (as per instruction on the back of the defendant's copy of the citation) to: Maryland District Court, P.O. Box 6676, Annapolis, MD 21401-0676. Failure to pay fines associated with this report will result in Maryland's Department of Motor Vehicles suspending the driving privileges in Maryland of the driver of this vehicle. If you feel there are discrepancies on the Driver/Vehicle Examination Report you must submit a Data Review Request through the DataQ Website, <https://dataqs.fmcsa.dot.gov>. The undersigned certifies that all violations noted on this report have been corrected and action has been taken to assure compliance with the Federal/State Motor Carrier Safety and Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers.

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

Report Prepared By:
 G. SCOLLINS

Badge #:
 0281

Copy Received By:
 MICHAEL TOBASH

Page 1 of 2



02921629 MD MD0281001363

X _____

X _____

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Maryland Motor Carrier Safety Program
Maryland State Police
6855 Deerpath Rd., Suite G
Elkridge, MD 21075
Phone: (410)579-5959 Fax: (410)796-0430

Report Number: MD0281001363
Inspection Date: 03/12/2018
Start: 3:45 PM ET End: 04:01 PM ET
Inspection Level: II - Walk-Around
HM Inspection Type: None

CASTRO LANES CORPORATION

1450 DOS DEANNAS
EL PASO, TX 79936

USDOT#: 02921629

MC/MX#: 985377

State#:

Phone#: (915)301-0009

Fax#: (915)301-0009

Driver: TOBASH, MICHAEL B

License#: 41341151

Date of Birth: 12/20/1968

CoDriver:

License#:

Date of Birth:

State: TX

State:

Inspection Notes

DRIVER UTILIZING PAPER RODS AT TIME OF INSPECTION. DRIVER STATED THAT ELD WAS FAILING TO SYNCH WITH VEHICLES ECM. DRIVER ALSO STATED THAT M/C PROVIDED ANOTHER ELD THAT WAS A TABLET THAT ALSO FAILED TO SYNCH. ADVISED THAT M/C WAS MADE AWARE ON 3/5/18.

Special Studies No Special Study Data Recorded

Report Prepared By:
G. SCOLLINS

Badge #:
0281

Copy Received By:
MICHAEL TOBASH

Page 2 of 2



02921629 MD MD0281001363

X _____

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Ohio | Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

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

06/08/2018

OH9420300619D
Mr. Michael B. Tobash
1553 REBECCA ANN DRIVE
EL PASO, TX 79936

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OH9420300619D

Dear Sir or Madam:

On 03/15/2018, a vehicle operated by CASTRO LANES CORPORATION, and driven by MICHAEL B TOBASH, 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 MICHAEL B TOBASH (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
396.9C2	4	Operating an out-of-service vehicle	2500.00
		Total of Group 4	2500.00

TOTAL AMOUNT DUE: \$2,500.00

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 MICHAEL B TOBASH in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
396.9C2	4	Operating an out-of-service vehicle	2500.00
		Total of Group 4	2500.00

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 AMOUNT DUE: \$2,500.00

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,

Rod Moser, Chief of Compliance
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.

