

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF SHUNKOR KHAMMAT,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 19-1093-TR-CVF
(OH30519000602C)

FINDING AND ORDER

Entered in the Journal on January 15, 2020

I. SUMMARY

{¶ 1} The Commission finds the settlement agreement filed between Staff and Shunkor Khimmat regarding a violation of the Commission's transportation rules reasonable and approves the same.

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, per violation, against any person who violates the safety rules adopted by the Commission. Ohio Adm.Code 4901:2-7-20 requires that, at the hearing, Staff prove the occurrence of a violation by a preponderance of the evidence.

{¶ 3} On January 9, 2019, an inspector inspected a vehicle driven by Shunkor Khimmat (Respondent). Respondent was driving the vehicle within the state of Ohio. The inspector discovered violations of 49 C.F.R. 395.8(a) (no record of duty status), 49 C.F.R. 390.21(b) (carrier name and/or U.S. Department of Transportation number not displayed), and 49 C.F.R. 392.9(b) (operating a commercial motor vehicle without a U.S. Department of Transportation registration).

{¶ 4} Staff served a notice of preliminary determination upon Respondent in accordance with Ohio Adm.Code 4901:2-7-07, alleging a violation of the Commission's transportation regulations and assessing a civil forfeiture of \$700.

{¶ 5} On May 13, 2019, Respondent's counsel, Michael J. Yemc, requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} By Entry dated June 26, 2019, the attorney examiner scheduled a prehearing settlement conference in this matter for July 24, 2019. During the conference, the parties were unable to settle this matter.

{¶ 7} By Entry dated July 26, 2019, the attorney examiner scheduled a hearing in this matter for September 26, 2019.

{¶ 8} On September 25, 2019, the parties filed a joint motion for continuance of the hearing. In the motion, the parties indicated that they have reached settlement and required additional time to finalize and file a stipulation.

{¶ 9} On November 21, 2019, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves the issue raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent admits to the three violations, 49 C.F.R. 395.8(a), 49 C.F.R. 390.21(b), and 49 C.F.R. 392.9(b), as cited on January 9, 2019, and agrees that the violation may be included in Respondent's history of violations insofar it may be relevant for purposes of determining penalty actions by the Ohio Bureau of Motor Vehicles for future violations.
- (b) Respondent shall pay a reduced total forfeiture of \$200 within 30 days of the Commission's order approving this settlement agreement. Payment shall be made by certified check or money

order payable to "Treasurer, State of Ohio," and mailed to: Public Utilities Commission of Ohio, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No. 19-1093-TR-CVF and inspection number OH0519000602C should appear on the face of the check or money order.

- (c) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (d) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 10} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, it shall be approved and adopted in its entirety.

III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 13} ORDERED, That Respondent will pay the \$200 civil forfeiture within 30 days of the Commission's order approving this settlement agreement. Payment shall be made by certified check or money order payable to "Treasurer, State of Ohio," and mailed to: Public Utilities Commission of Ohio, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No. 19-1093-TR-CVF and inspection number OH0519000602C should appear on the face of the check or money order. It is, further,

{¶ 14} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

AS/kck

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Case No(s). 19-1093-TR-CVF

Summary: Finding & Order that the Commission finds the settlement agreement filed between Staff and Shunkor Khimmat regarding a violation of the Commission's transportation rules reasonable and approves the same electronically filed by Docketing Staff on behalf of Docketing