

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF BRENT PEACE,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 19-645-TR-CVF
(OH0519000592D)

FINDING AND ORDER

Entered in the Journal on January 29, 2020

I. SUMMARY

{¶ 1} The Commission approves the settlement agreement filed between Staff and Richard Arthur regarding violations of the Commission's transportation rules.

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.

{¶ 3} On December 27, 2018, a vehicle operated by J. Murray Motor Co. and driven by Richard Arthur (Respondent) was inspected within the state of Ohio. The inspector discovered a violation of 49 C.F.R. 395.8(A), 49 C.F.R. 391.41, and 49 C.F.R. 392.3.

{¶ 4} On February 24, 2019, Staff served a notice of preliminary determination (NPD) upon Respondent in accordance with Ohio Adm.Code 4901:2-7-12, alleging three violations of the Commission's transportation regulations. The NPD notified Respondent that Staff intended to assess a civil forfeiture in the amount totaling \$300 for a violation of 49 C.F.R. 395.8(A), for no record of duty status when one is required; 49 C.F.R. 391.41, for operating a property carrying vehicle without possessing a valid medical certificate; and 49 C.F.R. 392.3, for operating a property carrying commercial motor vehicle while impaired by fatigue.

{¶ 5} On March 14, 2019, Brent Peace, on behalf of Respondent, requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on May 21, 2019, and a hearing was scheduled for July 11, 2019, and then rescheduled to July 25, 2019.

{¶ 7} Subsequently, on August 20, 2019, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves all of the issues raised in the NPD. The parties state that the settlement agreement is based on the parties' desire to arrive at a reasonable result considering the law, facts, and circumstances. 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 violations of 49 C.F.R. 395.8(A), 49 C.F.R. 391.41, and 49 C.F.R. 392.3, as cited in the NPD, and agrees that the violation may be included in Respondent's history of violations insofar as its relevancy for purposes of determining penalty actions for future violations.
- (b) Respondent shall pay a reduced civil forfeiture amount of \$250 within 30 days after the Commission's order approving the settlement agreement.
- (c) Respondent executed an agreement with Staff, attached to the settlement agreement as Exhibit A, affirming that his primary business is not the transportation of persons or property in interstate commerce and agreeing to come into compliance with any applicable regulations prior to doing so at any point in the future.
- (d) The settlement agreement is intended to resolve only factual or legal issues raised in this case.

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

III. ORDER

{¶ 9} It is, therefore,

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

{¶ 11} ORDERED, That Respondent pay the \$250 civil forfeiture within 30 days after the Commission's order approving the settlement agreement. The payment shall be made payable to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th floor, Columbus, Ohio 43215-3793. In order to ensure proper credit, the Case Number 19-645-TR-CVF and inspection number OH0519000592D should appear on the face of each check or money order. It is, further,

{¶ 12} 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

Dennis P. Deters

LLA/hac

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Case No(s). 19-0645-TR-CVF

Summary: Finding & Order that the Commission approves the settlement agreement filed between Staff and Richard Arthur regarding violations of the Commission's transportation rules. electronically filed by Docketing Staff on behalf of Docketing