

NC
FILE

20-0692-TR-CVF

ROSS | BRITTAIN
& SCHONBERG
CO., L.P.A.

Nick A. Nykulak
nickn@rbslaw.com

Certified by the Ohio State Bar Association
Labor and Employment Specialist

6480 Rockside Woods Blvd. South | Suite 350 | Cleveland, Ohio 44131-2224
(216) 447-1551 | Fax (216) 447-1554 | www.rbslaw.com

670 Meridian Way, Suite 108 | Westerville, Ohio 43082 | (614) 654-4477
2115 Luray Avenue | Cincinnati, Ohio 45206 | (513) 216-3008

April 1, 2020

SENT VIA UPS Overnight

Public Utilities Commission of Ohio
ATTN: Docketing Division
180 E. Broad Street, 11th Floor
Columbus, Ohio 43215-3793

2020 APR -2 PM 2:05
PUCO

RE: Request for Administrative Hearing- Case No. 20-CR-316153

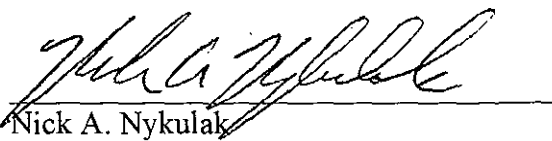
To Whom it May Concern,

This firm represents Cardinal Asphalt Company ("Cardinal"). Cardinal wishes to request an administrative hearing in the above captioned case. Any further communication or notices should be sent to the undersigned at the following address:

Attorney Nick A. Nykulak
Ross Brittain & Schonberg, Co., L.P.A
6480 Rockside Woods Blvd. South- Suite 350
Cleveland, OH 44131

A copy of the preliminary determination has been enclosed.

Sincerely,


Nick A. Nykulak

Encl.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician UCN Date Processed 4/2/20



**Public Utilities
Commission**

Sam Randazzo, Chairman

Commissioners

M. Beth Trombold
Lawrence K. Friedeman
Dennis P. Deters
Daniel R. Conway

February 25, 2020

CARDINAL ASPHALT COMPANY
1380 ORLEN AVE
CUYAHOGA FALLS, OH 44221

RE: **NOTICE OF PRELIMINARY DETERMINATION**
Case No. 20-CR-316153

Dear Sir or Madam:

On 10/18/2019, a vehicle operated by CARDINAL ASPHALT COMPANY, and driven by, was inspected within the state of Ohio. As a result of discovery of the following violation(s) of the Commission's rules, Staff of the Commission timely notified CARDINAL ASPHALT COMPANY pursuant to rule 4901:2-7-07, Ohio Administrative Code (OAC), that it intended to assess a civil forfeiture against CARDINAL ASPHALT COMPANY in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
382.115 - (a)		Failing to implement an alcohol and/or drug testing program	\$ 1,000.00
4901:2- 5-03		Failing to maintain an accident register	\$ 0.00
4901:2- 5-03		Failing to maintain driver qual. file on each driver	\$ 500.00
4901:2- 5-03		Failing to require a driver to prepare a record of duty status.	\$ 6,300.00
4901:2- 5-03		Failing to keep minimum records of inspection and maintenance	\$ 500.00
4901:2- 5-03		Using a CMV not periodically inspected	\$ 500.00

Original Amount Due: \$8,800.00

A conference was conducted pursuant to Rule 4901:2-10, OAC, at which CARDINAL ASPHALT COMPANY had a full opportunity to present reasons why the violation(s) did not occur as alleged, mitigating

180 East Broad Street
Columbus, Ohio 43215-3793

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



INSTRUCTION SHEET

NOTICE OF PRELIMINARY DETERMINATION

Please read these instruction sheets carefully. They contain 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 4901:2-7-12, Ohio Administrative Code (OAC). Within 30 days of this notice you must either: 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing. If you do not pay the forfeiture or request a hearing within 30 days of this notice, your case will be placed in our default process. Additionally, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

How to pay the forfeiture

Online <https://www.puco.ohio.gov/sc/mcqs/>
Enter the case number and PIN located on
the enclosed invoice.

Mail Public Utilities Commission of Ohio
Attn: Fiscal Section
180 E. Broad Street, 4th Floor
Columbus, Ohio 43215-3793

Send check/money order (no foreign checks/money orders) made payable
to "Public Utilities Commission of Ohio". To ensure proper credit, write
the case number on the face of the check or money order.

* Payments cannot be completed by telephone

How to make 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, OAC.

Your "Request for an Administrative Hearing" must be in writing and must contain the case number found at the top of the "Notice of Preliminary Determination." Also, please include the contact name, address, and telephone number of the person to whom further communications should be directed. The request shall be signed by the Respondent or the Respondent's authorized representative. A copy of the "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 E. Broad Street, 11th Floor
Columbus, Ohio 43215-3793

Failure to submit a Request for 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. Also, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule 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 (CFR). Some section numbers may have suffixes beyond those appearing in the CFR. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

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



circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by the Staff.

As a result of the conference, staff has made a preliminary determination that the commission should assess a civil forfeiture against CARDINAL ASPHALT COMPANY in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
382.115 (a)	-	Failing to implement an alcohol and/or drug testing program	\$ 1,000.00
4901:2- 5-03	-	Failing to maintain an accident register	\$ 0.00
4901:2- 5-03	-	Failing to maintain driver qual. file on each driver	\$ 500.00
4901:2- 5-03	-	Failing to require a driver to prepare a record of duty status.	\$ 6,300.00
4901:2- 5-03	-	Failing to keep minimum records of inspection and maintenance	\$ 500.00
4901:2- 5-03	-	Using a CMV not periodically inspected	\$ 500.00
<u>New Amount Due:</u>			\$8,800.00

Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing.

Failure to comply with either option above shall constitute a waiver of your right to further contest the violation(s) and will conclusively establish the occurrence of the violation(s). 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. In addition, your Ohio operating authority and/or commercial driving privileges may be sanctioned as permitted by law.

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

Sincerely,



John D. Williams, Director
Transportation Department

cc: Michael Hines

