

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Real Deal Delivery)	
Service LLC, Notice of Apparent)	Case No. 20-1101-TR-CVF
Violation and Intent to Assess)	(OH0944002198C)
Forfeiture.)	

MOTION TO DISMISS

Dave A. Yost
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**On Behalf of the Staff of
The Public Utilities Commission of Ohio**

October 7, 2020

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Service LLC, Notice of Apparent)	Case No. 20-1101-TR-CVF
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Forfeiture)	

MOTION TO DISMISS

The Staff of the Public Utilities Commission of Ohio (Staff) hereby moves to dismiss this case based on Respondent's payment in full of the forfeiture assessed. Under O.A.C. § 4901:2-7-22, full payment terminates all further proceedings regarding the violation.

Grounds for this motion are more particularly set forth in the accompanying Memorandum in Support.

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Thomas G. Lindgren

Thomas G. Lindgren

Assistant Attorney General

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MEMORANDUM IN SUPPORT

Staff moves to dismiss this case based on payment of the assessed forfeiture in full. Under O.A.C. § 4901:2-7-22, full payment terminates all further proceedings regarding the violation.

On February 8, 2019, a vehicle driven by Kyle W. Sperling and operated by Real Deal Delivery Service LLC (Respondent) was inspected by the Ohio State Highway Patrol. Respondent was issued an inspection report noting two violations of the motor carrier safety regulations. A Notice of Apparent Violation and Intent to Assess Forfeiture was served upon the Respondent pursuant to Ohio Admin. Code 4901:2-7-07. The notice set forth a proposed forfeiture of \$600.00.

After Respondent failed to either request a hearing or pay the assessed forfeiture, the matter was referred to the Attorney General's Office for collection. Respondent subsequently paid the \$600 forfeiture in full.

On May 28, 2020, Respondent filed a request to reopen the case. Respondent, however, failed to participate in multiple prehearing conferences that were scheduled by the Attorney Examiner.

Respondent's payment of the forfeiture constitutes an admission of the violation, and completely obviates any right to a hearing. In a recently decided case, the Commission ordered that a case involving a similarly situated respondent be dismissed. *In the Matter of Daniel Anofils, Notice of Apparent Violation and Intent to Assess Forfeiture*, Case No. 19-1792-TR-CVF, Finding and Order (Feb. 13, 2020). As in this case, Mr. Anofils filed a request for a hearing after having paid the proposed forfeiture because "he did not

understand the consequences to his CDL that resulted from payment of the forfeiture.” *Id.* at

¶3. After a motion to dismiss was filed by the Commission Staff, the Commission found that:

¶9] Ohio Adm.Code 4901:2-7-22 provides, in pertinent part, that payment of a civil forfeiture assessed pursuant to a violation of the Commission’s transportation regulations constitutes an admission of the occurrence of the violation and serves to terminate all further Commission proceedings.

¶10] The Commission finds that respondent’s payment of the civil forfeiture . . . concludes jurisdiction over this matter.

. .

By paying the assessed forfeiture, Respondent is deemed, by operation of law, to have admitted to the violation. Further, as the Commission has found, payment of the forfeiture ends the Commission’s jurisdiction to hear this case. Consequently, Respondent’s request for hearing must be dismissed, and this case closed of record.

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Thomas G. Lindgren

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Motion to Dismiss** submitted on behalf of the Staff of the Public Utilities Commission of Ohio has been served upon the below-named party via electronic mail, this 7th day of October, 2020.

/s/ Thomas G. Lindgren

Thomas G. Lindgren

Assistant Attorney General

Party of Record:

John Potok

Owner

Real Deal Delivery Service LLC

Cuyahoga Falls, Ohio 44223

330.608.1940 (telephone)

realdeal92414@yahoo.com

Respondent

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Case No(s). 20-1101-TR-CVF

Summary: Motion to Dismiss electronically filed by Mrs. Kimberly M Naeder on behalf of
PUCO