

November 29, 2021

In the Matter of Quentin Brown) Case No. 20-1714-TR-CVF
Request for an Administrative Hearing.) (OH3254012903D)

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Thomas M. Shepherd
Thomas M. Shepherd
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215-3414
614.644.8539 (telephone)
866.818.6152 (facsimile)
Thomas.Shepherd@OhioAGO.gov

On Behalf of the Staff of
The Public Utilities Commission of Ohio

MEMORANDUM IN SUPPORT

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 amount agreed to by Staff and Respondent. Under Ohio Adm.Code 4901:2-7-11(E), payment of the agreed forfeiture amount by a respondent is an acceptance of a settlement agreement. Further, under Ohio Adm.Code 4901:2-7-22, full payment terminates all further proceedings regarding the violation.

On February 26, 2020, a vehicle driven by Quentin M. Brown (Respondent) and operated by MSIG Logistics, LLC was inspected within the State of Ohio. Respondent was issued an inspection report noting, among other things, the following violation:

49 C.F.R. 383.51(a): Driving a commercial motor vehicle while commercial driver's license is disqualified.

A Notice of Apparent Violation and Intent to Assess Forfeiture was served upon the Respondent on or around February 28, 2020, pursuant to Ohio Admin.Code 4901:2-7-07. The notice set forth a proposed forfeiture of \$500.00.

Respondent requested a conference to discuss the case pursuant to Ohio Adm.Code 4901:2-7-10. Staff and Respondent participated in a conference on June 10, 2020, which resulted in a reduction of the forfeiture amount to \$250.000. The settlement agreement reducing the forfeiture amount was signed by Staff, but not signed by Respondent. A copy of the settlement agreement is attached as Exhibit A.

On November 9, 2020, Respondent requested an administrative hearing and that his case be reopened.

On February 18, 2021, Respondent paid the reduced forfeiture amount of \$250.00 agreed to by Staff and Respondent.

Under Ohio Adm.Code 4901:2-7-11(E), “a respondent shall be deemed to have accepted the terms of a settlement agreement, if the settlement agreement only requires the respondent to pay an agreed forfeiture and the respondent pays that forfeiture.” Respondent’s payment of the reduced amount therefore functions as an acceptance of the settlement agreement despite the absence of Respondent’s signature on the settlement agreement.

Under Ohio Adm.Code 4901:2-7-22, payment of a civil forfeiture amounts to admission of the violation. Respondent’s payment of the agreed forfeiture amount therefore constitutes an admission of the violation, and bars 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. . .

In another recent case, the Commission again dismissed the Respondent's request for a hearing based upon the payment of the forfeiture, stating that given "the Respondent's payment of the civil forfeiture, the Commission finds it reasonable to grant Staff's motion and dismiss Respondent's request for hearing." *In the Matter of Stephanie Fuhrmann, Notice of Apparent Violation and Intent to Assess Forfeiture*, Case No. 20-1231-TR-CVF, Entry (Feb. 21, 2021). 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 M. Shepherd
Thomas M. Shepherd
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
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On Behalf of the Staff of
The Public Utilities Commission of Ohio

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 United States mail, this 29th day of November, 2021.

/s/ Thomas M. Shepherd

Thomas M. Shepherd
Assistant Attorney General

Party of Record:

Quentin M. Brown
230 Windigo Road
Spartanburg, SC 29306
QuentinBrown1@icloud.com



**Public Utilities
Commission**

Sam Randazzo, Chairman

EXHIBIT A

Commissioners

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

June 11, 2020

BROWN, QUENTIN M
230 WINDIGO RD
SPARTANBURG, SC 2933065902

RE: **Settlement Agreement**
Case No. OH3254012903D
PIN #: NNiI7QUE

Dear Sir or Madam:

Thank you for taking time to participate in the settlement agreement process. Enclosed please find a copy of the agreement reached at conference between QUENTIN M BROWN and Staff of the Public Utilities Commission of Ohio (PUCO) as required by Rule 4901:2-7-11, Ohio Administrative Code.

Please return a signed copy of the agreement to the following address:

Public Utilities Commission of Ohio
ATTN: CF Processing
180 E. Broad Street, 4th Floor
Columbus, Ohio 43215-3793

If the agreement requires payment of a civil forfeiture, you may make payment of the agreed upon forfeiture online at <https://www.puco.ohio.gov/sc/mcos/>. You will need the case number found at the top of this notice and the PIN located on the enclosed voucher. You may also pay by check or money order payable to "Public Utilities Commission of Ohio." To ensure proper credit, you must include your case number on the face of the check or money order.

Questions regarding this agreement may be directed to the Compliance Division at (614) 466-0351.

Sincerely,

John D. Williams, Director
Transportation Department

Enclosure
cc: Michael Hines



Public Utilities Commission

Sam Randazzo, Chairman

Commissioners

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

SETTLEMENT AGREEMENT

Case No. OH3254012903D

Respondent: QUENTIN M BROWN

- (1) This agreement was reached between QUENTIN M BROWN (Respondent) and the Staff of the Public Utilities Commission of Ohio (Staff), pursuant to Rule 4901:2-7-11, Ohio Administrative Code (OAC).
- (2) On 02/26/2020, a vehicle operated by MSIG LOGISTICS LLC, and driven by, BROWN, QUENTIN M, was inspected within the State of Ohio, resulting in alleged violations of the Commission's rules. Commission Staff timely notified Respondent pursuant to Rule 4901:2-7-07, OAC, that it intended to assess a civil forfeiture against QUENTIN M BROWN in the following amount(s):

<u>Code</u>	<u>Group</u>	<u>Violation</u>	<u>Forfeiture</u>
383.51A -SOUT	Group 4	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the state of driver's license issuance	\$ 500.00
<u>Total Amount Due:</u>			\$500.00

- (3) A conference was held 06/10/2020, at which QUENTIN M BROWN had a full opportunity to present reasons why the violations 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.
- (4) For purposes of settlement QUENTIN M BROWN agrees the following violation(s) may be included in QUENTIN M BROWN's compliance record and in QUENTIN M BROWN's history of violations insofar as they may be relevant for the purposes of determining penalty actions by the Ohio Bureau of Motor Vehicles, **including, but not limited to disqualification of your commercial drivers license**, or for future violations, and agrees to make immediate payment of the following forfeiture, unless a payment plan has been approved by Staff for which Respondent will receive a separate notification:

<u>Code</u>	<u>Group</u>	<u>Violation</u>	<u>Forfeiture</u>
383.51A- SOUT	Group 4	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the state of driver's license issuance	\$ 250.00
<u>Total Amount Due:</u>			\$250.00

- (5) **This agreement shall become effective when executed by both parties.** Pursuant to Rule 4901:2-7-14, OAC, if QUENTIN M BROWN fails to comply with the provisions of this settlement agreement QUENTIN M BROWN shall be in default and deemed to have admitted the violation(s). In the event of default, the Commission may set aside this agreement and order QUENTIN M BROWN



Public Utilities Commission

Sam Randazzo, Chairman

Commissioners

M. Beth Trombold
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to pay the amount indicated in the "Notice of Alleged Violation and Intent to Assess Forfeiture" previously served in this case.

- (6) This agreement, which is subject to the rules of the Commission, constitutes the entire agreement between the parties.

Signature

Date

QUENTIN M BROWN



6/11/2020

Date

John D. Williams, Director
Transportation Department
Public Utilities Commission of Ohio

Case No. OH3254012903D

cc: Michael Hines

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

11/29/2021 4:41:37 PM

in

Case No(s). 20-1714-TR-CVF

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