

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Claust LLC, Notice of) Case No. 21-512-TR-CVF
Apparent Violation and Intent to) (OH3223004187C)
Assess 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 amount. Under Ohio Adm.Code 4901:2-7-22(B), full payment of the forfeiture constitutes an admission of the occurrence of the violation and terminates all further proceedings regarding the violation.

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

Respectfully submitted,

Dave A. Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Thomas M. Shepherd

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**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. Under Ohio Adm.Code 4901:2-7-22(B), full payment constitutes an admission of the occurrence of the violation and terminates all further proceedings regarding the violation.

On March 16, 2021, a vehicle driven by Stelian Hritcu and operated by Claust LLC (Respondent) was inspected within the State of Ohio. Respondent was issued an inspection report noting the following violations:

- 1) 49 C.F.R. 393.9: inoperable required lamp; and
- 2) 49 C.F.R. 393.110(b): insufficient tiedowns to prevent forward movement for load not blocked by headerboard, bulkhead, or other cargo.

A Notice of Apparent Violation and Intent to Assess Forfeiture (NIF) was served upon the Respondent on or around March 17, 2021, pursuant to Ohio Admin.Code 4901:2-7-07. The notice set forth a proposed forfeiture of \$200.00.

On June 28, 2021, Respondent and Staff participated in a prehearing conference, however, the parties were unable to arrive at a settlement during the conference. Following a second prehearing conference on July 28, 2021, which did not lead to a settlement between the parties, the matter was scheduled for an administrative hearing, which was set to take place on May 25, 2022.

On September 9, 2021, Respondent paid the full forfeiture amount of \$200.

Under Ohio Adm.Code 4901:2-7-22(B), “[i]f the only remedy requested with respect to a violation is the payment of a forfeiture, and full payment of the forfeiture demanded in the notice is made prior to the execution of a settlement agreement or any final commission order,” payment of a civil forfeiture amounts to admission of the violation. Respondent’s payment of the full forfeiture amount therefore constitutes an admission of the violations noted in the NIF, and terminates all further proceedings.

In a recent case, the Commission dismissed the respondent’s request for a hearing based upon the payment of the forfeiture, stating that “given 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 re Stephanie Fuhrmann, Notice of Apparent Violation and Intent to Assess Forfeiture*, Case No. 20-1231-TR-CVF, Entry (Feb. 24, 2021).

By paying the assessed forfeiture here, 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

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**On Behalf of the Staff of
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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 United States mail, this 24th day of March, 2022.

/s/ Thomas M. Shepherd

Thomas M. Shepherd
Assistant Attorney General

Party of Record:

Claust LLC

Christie Bixler
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Parma Heights, OH 44130

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