

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF CARMEN FAUSTINO  
AND PRIME ELECTRICAL CONTRACTING,  
LLC, NOTICE OF APPARENT VIOLATION  
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 21-1018-TR-CVF  
(OH3225014775D)  
(OH3225014775C)

### ENTRY

Entered in the Journal on April 7, 2022

{¶ 1} Staff served a notice of apparent violation and intent to assess forfeiture upon Carmen Faustino (Applicant) and Prime Electrical Contracting, LLC (Carrier), alleging violations of the Commission's transportation regulations.

{¶ 2} On September 30, 2021, Applicant filed correspondence that appears to seek Applicant's and Carrier's cases be "reopened." In this filing, Applicant argues that he was unaware of the laws governing his and the Carrier's actions and that the fines paid by them in accordance with the assessed forfeitures hurt his fledgling business, and he would like the payments refunded, with interest and collection fees returned.

{¶ 3} On October 7, 2021, Staff filed a response to Applicant's case reopening request. Staff describes that Applicant and Carrier were served a notice of intent to assess a forfeiture (NIF) for violation of the Commission's transportation regulations as a result of a vehicle inspection that occurred on January 6, 2021. According to Staff, the NIF was served on January 8, 2021, and stated that the Applicant could either request an administrative hearing or pay the assessed forfeiture on behalf of himself and the Carrier. Also, it advised the Applicant that failing to respond to the NIF would result in the admission of the violation. Further, it stated that payment of the forfeiture would act as an admission of the violation. Staff asserts that no forfeiture was paid, and no conference was requested by the Applicant or Carrier. Staff states that, on February 7, 2021, a second NIF was sent to the Applicant and Carrier, and neither the Applicant or Carrier responded to the notice. On March 25, 2021, Applicant and Carrier were served with notices of unpaid civil forfeitures, along with a copy of the Commission's Finding and Order directing recipients to pay the amounts assessed by April 23, 2021. *In re the Default of Motor Carriers and Drivers Pursuant*

to Rule 4901:2-7-14 of the Ohio Admin. Code, Case No. 21-215-TR-CVF, Finding and Order (Mar. 24, 2021). According to Staff, Applicant and Carrier failed to pay the amounts assessed or otherwise contact the Commission by the above deadline; consequently, on May 7, 2021, both the Applicant's and Carrier's cases were sent to the Ohio Attorney General's Office (OAG) for collections. On September 27, 2021, Applicant and Carrier made payment in full to the OAG.

{¶ 4} Staff maintains that the Applicant was provided multiple opportunities to respond to the NIFs by either paying the forfeiture or requesting a conference. By failing to timely respond to the notices, Applicant and Carrier are in default and have effectively admitted the violations. Also, by ultimately paying the fine, Commission rules hold that this payment amounts to a conviction. Therefore, Staff claims that the request to re-open the case should be denied.

{¶ 5} Upon review of the filings in this case, the attorney examiner advises that Applicant has until April 27, 2022, to file a response to Staff's correspondence in opposition to reopening the case. Any response from Applicant should be filed in the docket under this case number and should address his specific claims as to why this case should be reopened.

{¶ 6} At the conclusion of Applicant's time for response, the Commission, or the attorney examiner, will determine whether this matter should be opened for further consideration, or dismissed.

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That the Applicant has until April 27, 2022, to file a response to Staff's correspondence in opposition to reopening the case. It is, further,

{¶ 9} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Matthew Sandor

By: Matthew Sandor  
Attorney Examiner

SJP/kck

**This foregoing document was electronically filed with the Public Utilities  
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**in**

**Case No(s). 21-1018-TR-CVF**

Summary: Attorney Examiner Entry ordering that the Applicant has until April 27, 2022, to file a response to Staff's correspondence in opposition to reopening the case. electronically filed by Kelli C. King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio