

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of John Fullen, Notice of                    ) Case No. 21-1143-TR-CVF  
Apparent Violation and Intent to                    ) (OH0315001289D)  
Assess Forfeiture.

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**MOTION TO DISMISS**

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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/ Sarah Feldkamp  
**Sarah Feldkamp**  
Assistant Attorney General  
Public Utilities Section  
30 East Broad Street, 26<sup>th</sup> Floor  
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**On Behalf of the Staff of**  
**The Public Utilities Commission of Ohio**

## **MEMORANDUM IN SUPPORT**

Staff hereby moves to dismiss this case based on John E. Fullen's (Respondent) 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 August 6, 2021, a vehicle driven by Respondent and operated by Press Resource LLC was inspected within the State of Ohio. Respondent was issued an inspection report noting the following violations:

- 1) 49 C.F.R. 392.5(a)(2)-DETECT: Driver having any measured alcohol concentration, or any detected presence of alcohol while on duty, or operating, or in physical control of a CMV; and
- 2) 49 C.F.R. 392.5(a)(3): Driver in possession of intoxicating beverage while on duty or driving.

A Notice of Apparent Violation and Intent to Assess Forfeiture (NIF) was sent to the Respondent on August 11, 2021, pursuant to Ohio Adm.Code 4901:2-7-07. The NIF set forth a proposed forfeiture of \$500.00.

A Notice of Preliminary Determination (NPD) was sent to the Respondent on October 13, 2021, pursuant to Ohio Adm.Code 4901:2-7-12. The NPD set forth a proposed forfeiture of \$500.00.

On February 7, 2022, Respondent and Staff participated in a prehearing conference, however, the parties were unable to arrive at a settlement during the conference.

On March 30, 2022, Respondent paid the full forfeiture amount of \$500.00.

Under Ohio Adm.Code 4901:2-7-22(B), “If 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 NPD, and terminates all further proceedings.

Given Respondent’s payment of the civil forfeiture, the Commission can reasonably 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/ Sarah Feldkamp  
**Sarah Feldkamp**  
Assistant Attorney General  
Public Utilities Section  
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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 and/or electronic service upon the following parties of record, this 22<sup>nd</sup> day of April, 2022.

/s/ Sarah Feldkamp

**Sarah Feldkamp**

Assistant Attorney General

### **Parties of Record:**

**John Fullen**

237 E. Broadway

Westerville, Ohio 43081

**Press Resource LLC**

Joe Fullen

joe@pressresource.com

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

**Case No(s). 21-1143-TR-CVF**

Summary: Motion to Dismiss electronically filed by Mrs. Tonnetta Y. Scott on behalf  
of PUCO