

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF JESSE BUNNER, NOTICE
OF APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 21-1181-TR-CVF
(OH3285014186D)

FINDING AND ORDER

Entered in the Journal on July 27, 2022

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.

{¶ 3} On August 24, 2021, a commercial motor vehicle operated by Jesse Bunner (Respondent) was inspected within the state of Ohio. The inspection resulted in the following violation: performing safety sensitive functions per 49 C.F.R. 382.501(a) when prohibited in the Drug and Alcohol Clearinghouse (in violation of 49 C.F.R. 390.3(e)).

{¶ 4} On August 25, 2021, Respondent was served with a Notice of Apparent Violation and Intent to Assess Forfeiture, assessing Respondent \$3,174.00 for the violation.

{¶ 5} On October 5, 2021, a conference was conducted but no settlement was reached.

{¶ 6} On October 13, 2021, Staff sent a Notice of Preliminary Determination (NPD), assessing Respondent \$3,174.00 for the violation.

{¶ 7} On November 15, 2021, Respondent made a timely request for an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 8} On May 6, 2022, the parties attended a prehearing conference to discuss the inspection and negotiated a Settlement Agreement.

{¶ 9} On July 5, 2022, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issues raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent agrees to one violation of 49 C.F.R. 390.3(e) and recognizes that this violation may be included in Respondent's history of violations and Safety-Net Record, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Respondent and Staff agree that Respondent will pay a civil forfeiture of \$500.00 for one violation of 49 C.F.R. 390.3(e). Respondent has provided sufficient proof to Staff that Respondent has met his obligations to return to duty and become compliant. Staff therefore agrees to reduce the \$3,174.00 forfeiture to \$500.00.
- (c) Respondent's payment will be made in four monthly payments. The first payment will be due 30 days from Commission approval of this settlement agreement. Payment should be made via the Commission website or by certified check or money order payable to the "Public Utilities Commission of Ohio" and mailed to Public Utilities Commission of Ohio, Attn: CF Processing, 180 East Broad

Street, 4th floor, Columbus, OH 43215-3793. Case No. 21-1181-TR-CVF and inspection number OH3285014186D should be written on the face of the certified check or money order.

- (d) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry of the Commission order adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (e) This settlement agreement is made in settlement of all factual and legal issues in this case. It is not intended to have any effect in any other case or proceeding.

{¶ 10} The Commission notes that, in accordance with Ohio Adm.Code 4901:2-7-14(D), if the respondent fails to comply with the provisions of the settlement agreement for a period exceeding 30 days, the respondent shall be in default and shall be deemed to have admitted the occurrence of the violations and waived all further right to contest liability for the forfeiture originally assessed by Staff.

{¶ 11} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement shall be approved and adopted in its entirety.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 14} ORDERED, That Respondent pay a civil forfeiture of \$500.00 in accordance with the settlement agreement. Payment shall be made via the Commission website or by

check or money order payable to "Public Utilities Commission of Ohio," and mailed to Public Utilities Commission of Ohio, Attn: CF Processing, 180 East Broad Street, 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 21-1181-TR-CVF and inspection number OH3285014186D on the face of the certified check or money order. It is, further,

{¶ 15} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Daniel R. Conway

Dennis P. Deters

JML/hac

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

Case No(s). 21-1181-TR-CVF

Summary: Finding & Order that the Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio