

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ROBERT BROWN,  
NOTICE OF APPARENT VIOLATION AND  
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-282-TR-CVF  
(OH3223004014D)

## ENTRY

Entered in the Journal on November 30, 2022

### I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment regarding the transportation violations involving Robert Brown.

### 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 purposes 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, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On January 26, 2021, Ohio State Highway Patrol Inspector Andrew Bauer (Inspector Bauer) inspected a commercial motor vehicle driven by Robert Brown (Respondent) and operated by Prospere Logistics, Inc., which resulted in the finding of violations of the Commission's transportation regulations regarding the driver's duty status and performance of prohibited safety sensitive functions per the drug and alcohol clearinghouse.

{¶ 4} Staff served a notice of preliminary determination upon Respondent in accordance with Ohio Adm.Code 4901:2-7-07, alleging violations of the Commission's transportation regulations and recommending the civil forfeiture of \$3,274.

{¶ 5} On March 29, 2021, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} On April 29, 2021, the attorney examiner scheduled this matter for a prehearing conference, in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 7} On June 3, 2021, the telephonic prehearing conference took place; however, Respondent was unable to be reached. After the conference, Respondent did not contact Staff to engage in settlement discussions.

{¶ 8} On July 26, 2022, the attorney examiner scheduled this matter for an evidentiary hearing on August 30, 2022.

{¶ 9} At the hearing, Respondent did not appear nor present any evidence as to why he should not be held liable for the violations (Tr. at 5). In response, Staff moved for a default judgment against Respondent (Tr. at 5). Further, Staff also presented evidence from (1) Inspector Bauer, who inspected Respondent's vehicle at the time of the alleged violations, and (2) Bradley Long, the Commission's Assistant Chief of Compliance for the Transportation Section. Collectively, these witnesses described the transportation violations at issue and the resulting forfeiture recommendation. (Tr. at 7-17.)

{¶ 10} Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule further states that a respondent in default shall be deemed to have committed the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.

{¶ 11} The Commission finds Staff's motion for default judgment to be reasonable. Respondent did not participate in the prehearing conference on June 3, 2021, did not attend the hearing on August 30, 2022, and did not respond to Staff's motion for default judgment presented at hearing. Therefore, Staff's motion for default judgment should be granted.

{¶ 12} Pursuant to R.C. 4923.99, Respondent is liable to the State of Ohio for payment of the assessed civil forfeiture of \$3,274.00. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures can be made via the Commission website or by certified check or money order made payable to: Public Utilities Commission of Ohio and shall be mailed or delivered to: PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No. 21-282-TR-CVF and inspection number OH3223004014D should appear on the face of the check or money order. Respondent shall have 60 days from the date of this Entry to pay the assessed forfeiture of \$3,274.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Staff's motion for default judgment be granted. It is, further,

{¶ 15} ORDERED, That Respondent shall pay the assessed forfeiture as described in Paragraph 12. It is, further,

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

#### COMMISSIONERS:

*Approving:*

Jenifer French, Chair  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

JWS/IMM/dmh

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

**11/30/2022 2:52:28 PM**

**in**

**Case No(s). 21-0282-TR-CVF**

Summary: Entry that the Commission grants Staff's motion for default judgment regarding the transportation violations involving Robert Brown electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio