

## **BEFORE THE DELAWARE STATE FIRE COMMISSION**

In re: Townsend Fire Company

### **ORDER**

At its meeting on July 16, 2019, the Delaware State Fire Prevention Commission received a report indicating that Townsend Fire Company requested an extension of time to file annual financial audit, due July 15, 2019. *See* 16 *Del. C.* § 6608; 1 DE ADMIN. CODE 708.4.1. Because the Commission may grant extensions only “upon a showing of hardship,” the Commission scheduled a hearing for Townsend to justify its request. On August 19, 2019, the Commission held a hearing on Townsend’s request for an extension.

### **Summary of the Evidence**

Dana F. Wattay of Wattay Accounting presented on behalf of Townsend. Mr. Wattay testified that Wattay Accounting took over review of financial statements from another firm that handled it for Townsend previously. He explained there was a change in leadership at Townsend and that Wattay Accounting had some questions for the previous firm. Wattay Accounting had trouble getting the CPA firm to tie up loose ends. Mr. Wattay wanted to confirm that investments and that everything else was tied up and correct. He was not comfortable where things were and wanted

more time to submit the audit. Wattay Accounting started its work with Townsend last year.


Townsend's Treasure, Michele Ehart, also testified on behalf of the company. Although the Commission did not have a record of having received it, the company represented that audit was submitted on or about August 13, 2019.

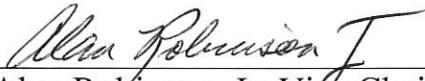
### **Findings of Fact and Conclusions of Law**

Each Delaware fire company is required to submit an annual financial audit for review to the Commission pursuant to 16 *Del. C.* § 6608. The Commission is empowered to promulgate regulations governing the audit process, including “specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audit.” 16 *Del. C.* § 6608(a). The statute further provides that the Commission has the authority, after a hearing, to impose a civil penalty of up to \$100 for each day a fire company fails to comply with any regulation promulgated under Section 6608. The Commission's regulations require that audits be submitted by July 15 of each year. 1 DE ADMIN. CODE 708.4.1. Extensions may be granted only where there is a showing of “hardship,” which is defined as something “beyond the company's control.” 1 DE ADMIN. CODE 708.4.2. “The Commission's decision on the extension request shall be final.” *Id.*

Here, Townsend submitted its request for an extension on July 11, 2019. Although the Commission did not have a record of having received the audit, for purposes of a possible penalty, the Commission accepted the testimony that it was sent by email on August 13, 2019. Based upon the testimony, a majority of the Commissioners concluded that Townsend's inability to submit a timely audit was not due to a hardship as defined by the Commission's regulation. The evidence did not convince the Commission that the additional time was needed because of reasons beyond the company's control. Accordingly, the request for an extension under the circumstances described by Citizen's is denied. After due consideration, the Commission determined that a \$2600 fine is appropriate and hereby orders this fine to be imposed.

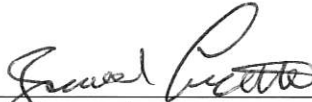
**IT IS SO ORDERED, this 17<sup>th</sup> day of September, 2019 by the Commission:**

  
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David J. Roberts, Chairman

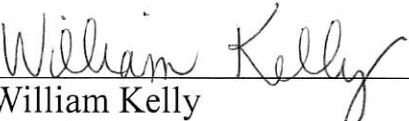
  
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Alan Robinson, Jr. Vice Chairman

  
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Lynn Truitt

  
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Ron Marvel

  
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Joe Leonetti, Sr.

  
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Richard T. Perillo

  
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William Kelly