

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Ronald Hogan :  
Notice of Apparent Violation : Case No.  
and Intent to Assess : 17-1373-TR-CVF  
Forfeiture. :

- - -

PROCEEDINGS

Before Kerry Sheets, Attorney Examiner, held at  
the Public Utilities Commission of Ohio, 180  
East Broad Street, Hearing Room 11-C, Columbus,  
Ohio, on Thursday, September 21, 2017, at 1:30  
P.M.

- - -

Armstrong & Okey, Inc.  
222 East Town Street, 2nd Floor  
Columbus, Ohio 43215  
(614) 224-9481 - (800) 223-9481

- - -

1 APPEARANCES:

2 Mr. Werner L. Margard, III  
3 Assistant Attorney General  
4 30 East Broad Street, 16th Floor  
Columbus, Ohio 43215

5 On behalf of the Staff of the  
6 Public Utilities Commission  
of Ohio.

7  
8 Mr. Ronald Hogan  
257 Gault School Road  
9 Connellsville, Pennsylvania 15425

10 Appearing Pro se.

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Thursday Afternoon,  
September 21, 2017.

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ATTORNEY EXAMINER: The Public  
Utilities Commission of Ohio has set for hearing  
at this time and place Case No. 17-1373-TR-CVF  
In the Matter of Ronald Hogan.

My name is Kerry Sheets, I am an  
Attorney Examiner with the Commission and I have  
been assigned to hear this case. May I now have  
the appearances of the parties, please, starting  
with the Staff.

MR. MARGARD: Thank you, your Honor.  
On behalf of the transportation staff of the  
Public Utilities Commission of Ohio, Mike  
DeWine, Ohio Attorney General; William Wright,  
Section Chief, Public Utilities Section; by  
Assistant Attorney General Warner L. Margard, 30  
East Broad Street, 16th Floor, Columbus, Ohio.

ATTORNEY EXAMINER: Thank you. Mr.  
Hogan, give your name and address, please.

MR. HOGAN: Ronald Hogan, 257 Gault  
School Road, Connellsville, Pennsylvania 15425.

ATTORNEY EXAMINER: Thank you. Do  
you have any witnesses to call today?

1 MR. MARGARD: I do, yes. Thank you,  
2 Your Honor. I would like to call Trooper Lauren  
3 Merz to the stand, please

4 (WITNESS SWORN)

5 - - -

6 TROOPER LAUREN MERZ  
7 called as a witness, being first duly sworn,  
8 testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Margard:

11 Q. Begin if you would, please, by  
12 stating your name and business address.

13 A. Lauren Merz. Address is 3424 US  
14 422, Southington, Ohio 44470.

15 Q. And by whom are you employed and in  
16 what capacity, please?

17 A. Ohio State Highway Patrol as a  
18 Commercial Motor Vehicle Inspector. Trooper.

19 Q. Trooper would be the appropriate  
20 title?

21 A. Yes, sir.

22 Q. Thank you. What are your duties as a  
23 motor carrier inspector, please, Trooper Merz?

24 A. As a Trooper I can respond to  
25 anything any other Trooper can. Then we have

1 additional training and powers to inspect  
2 commercial vehicles.

3 Q. And what sort of training do you  
4 have to perform that job?

5 A. We had training down in Columbus,  
6 the Part A and Part B is what I have had. I am  
7 not even sure the specific detail, what's it's  
8 called. That is what certifies me.

9 Q. How long have you been performing  
10 those duties?

11 A. Little over a year.

12 Q. Okay. Were you on duty on March  
13 29th of 2017?

14 A. Yes, sir, I was.

15 Q. And in the course of your employment  
16 on that date did you have an opportunity to  
17 inspect a vehicle being operated by  
18 the Respondent here today, Mr. Hogan?

19 A. Yes, I did.

20 Q. And as a result of that inspection  
21 did you prepare an examination report?

22 A. Yes, I did.

23 MR. MARGARD: Your Honor, I have  
24 marked for purposes of identification, although  
25 the copies are not always very clear, as Staff

1 Exhibit No. 1 a copy of the Driver/Vehicle  
2 Examination Report prepared by Trooper Merz on  
3 that day.

4 ATTORNEY EXAMINER: Very good.

5 (EXHIBIT HEREBY MARKED FOR  
6 IDENTIFICATION PURPOSES)

7 Q. Do you have before you what's been  
8 marked as Staff Exhibit 1?

9 A. I would assume so, yes.

10 Q. It's --

11 A. Inspection report.

12 Q. It's not well copied, but there are  
13 marks up in the corner.

14 A. Yes, sir, I do.

15 Q. Very good. Thank you. Is this a  
16 copy of the report that you prepared following  
17 your inspection on that date?

18 A. Yes, it is.

19 Q. And is it a true and accurate copy  
20 of that report?

21 A. Yes, it is.

22 Q. Do you have, before we get to the  
23 substance of the report itself, do you have an  
24 independent recollection of that inspection as  
25 you sit here today?



1           A.    I do, but I think I have sort of  
2 amalagaized some of the different stops, so I  
3 would prefer to refer to my notes.

4           Q.    You recognize Mr. Hogan?

5           A.    I do, yes.

6           Q.    Okay. Thank you. As a result of  
7 your inspection do you note any violations?

8           A.    As a result of the inspection, I did  
9 not. But I witnessed violations prior to  
10 conducting the inspection.

11          Q.    And that was the reason for  
12 the stop; is that correct?

13          A.    That is correct.

14          Q.    And what did you witness, what  
15 caused you to stop Mr. Hogan on that date?

16          A.    I stopped because I observed him  
17 traveling eastbound on the turnpike at mile  
18 marker 212. I was sitting in the cross-over  
19 facing eastbound traffic. I observed him  
20 driving by. He was wearing a neon green  
21 sweatshirt and I saw that there was no belt  
22 across his chest.

23          Q.    There is different shades of green.

24          A.    Like a yellow green, like  
25 construction workers wear, what we wear for a

1 safety vest. That is the color I would describe  
2 it.

3 Q. Thank you. Did you have a clear  
4 view of Mr. Hogan in his cab?

5 A. Yes.

6 Q. Unobstructed?

7 A. Yes.

8 Q. Do you know what the weather  
9 conditions were that day, per chance?

10 A. No, I don't recall.

11 Q. But you had no difficulty seeing  
12 him; is that correct?

13 A. Correct. Otherwise I would not have  
14 pulled him over.

15 Q. Okay. When you approached him did  
16 you inquire whether he had been wearing a seat  
17 belt or why he had not been wearing a seat belt?

18 A. I don't remember the specific  
19 conversation that occurred, but he admitted to  
20 not wearing it, stating that at his last stop he  
21 had taken it off and then failed to put it back  
22 on. I think he said that he normally does wear  
23 it.

24 Q. Did you observe a seat belt in the  
25 vehicle?

1           A.    I did.  It was a gray seat belt.  
2   It was kind of hanging down a little bit.  A lot  
3   of the slack was out of it.

4           Q.    It was not fastened at the time you  
5   spoke with him?

6           A.    Correct.

7           Q.    And it was a substantially different  
8   color that the color of the sweatshirt he was  
9   wearing?

10          A.    Correct.  A gray and the hoody was  
11   like a neon color.

12          Q.    Now, often times drivers will wear  
13   some kind of protective sleeve or padding or  
14   something over the belt to minimize chafing or  
15   discomfort.  Did you notice any kind of device  
16   or any sort of protective sleeve in the vehicle?

17          A.    No, I did not notice that.

18          Q.    Would you have noted it had you?

19          A.    I believe I would have.

20          Q.    Okay.  Was Mr. Hogan cooperative  
21   during the inspection?

22          A.    Yes.  Very much so.

23          Q.    Is there anything else regarding  
24   your observations regarding this inspection that  
25   you think the Commission should know in order to

1 resolve this matter?

2 A. Not that I can think of.

3 MR. MARGARD: I have no further  
4 questions. Thank you, your Honor.

5 ATTORNEY EXAMINER: Do you have any  
6 questions for the witness, Mr. Hogan?

7 MR. HOGAN: I have two questions.  
8 Well, three actually.

9 CROSS-EXAMINATION

10 By Mr. Hogan:

11 Q. Whenever you say I had on a sweatshirt,  
12 was it a hoody or a sweatshirt?

13 A. I believe that I documented you had  
14 on a hoody. It was a hoody.

15 Q. And you documented that the seat  
16 belt was a gray seat belt?

17 A. Yes.

18 Q. Okay. And did the driver, which was  
19 myself, explain to you that he did have a seat  
20 belt on and I took it off so I could get you the  
21 paperwork as needed for the officer when you  
22 come to the vehicle?

23 A. I don't specifically remember you  
24 saying that. I did document in my notes that  
25 you took it off when you stopped. So, I suppose

1 you could interpret that to say when you stopped  
2 for me. And since I don't specifically  
3 remember, that's possible.

4 MR. HOGAN: All right. That is all  
5 the questions I have because and I got -- is  
6 there anything I should show the court at this  
7 time? I am not sure how the procedure goes.

8 Because I got pictures of the seat  
9 belt in my truck, what color it is.

10 ATTORNEY EXAMINER: You will have a  
11 chance to testify in a little while.

12 Mr. Margard, any other questions?

13 MR. MARGARD: Your Honor, if he  
14 intends to challenge the witness' recollection  
15 of the color of the seat belt, rather than  
16 recalling the witness, if he would like to show  
17 them to her now to see if she recalls, that is  
18 probably more expedient. Either way, I am more  
19 than happy to recall the officer.

20 ATTORNEY EXAMINER: We will go with  
21 the normal course of things. Do you have other  
22 questions?

23 MR. MARGARD: If I can just follow  
24 up with redirect, your Honor.

25 REDIRECT EXAMINATION

1 By Mr. Margard:

2 Q. Mr. Hogan has indicated that he was  
3 wearing a hoody as distinct from a sweatshirt.  
4 How do you understand the difference between a  
5 hoody and a sweatshirt?

6 A. Well, the hoody would be the  
7 sweatshirt with the hood on it.

8 Q. Would a hoody obscure you of his  
9 wearing a seat belt?

10 A. It might at the shoulder portion,  
11 but not across the chest.

12 Q. So that is a distinction without a  
13 difference as far as your observations are  
14 concerned; is that right?

15 A. I wouldn't say a hoody if it was a  
16 sweatshirt. If I said hoody I meant that I  
17 fully believed there was a hood on the shirt.

18 Q. But, again you had a very clear view  
19 and from your observation he was not wearing a  
20 seat belt while he was operating the vehicle?

21 A. Correct. When I checked I check  
22 across the entire chest. I don't just check one  
23 segment. I look for contrasting colors.

24 MR. MARGARD: That's all I have.  
25 Thank you, Your Honor.

1                   ATTORNEY EXAMINER: Do you have  
2 anything else on recross?

3                   MR. HOGAN: One more question.

4                   RE CROSS-EXAMINATION

5 By Mr. Hogan:

6                   Q. Whenever you was looking at the  
7 vehicle on the side, how high was my position in  
8 the window? If I am at the steering wheel, when  
9 you are looking down from the ground where you  
10 were located, the position of my head above the  
11 seal of the window, how far above that was it?

12                  A. I am not sure. I did document that  
13 you were in a day cab, and usually the reason I  
14 document that is because the light comes in from  
15 the back as well as the front and it is, I have  
16 found in my experience, far easier to see the  
17 driver because you have light sources coming  
18 from both the front and the back.

19                   I don't specifically recall you  
20 being scrunched down in your seat or anything.  
21 So, I am not sure how to answer that as far as  
22 like how much of your upper torso could I see?

23                  Q. Yes. Above the side of the window  
24 in the truck.

25                  A. Usually it's kind of from the elbow

1 up would be a rough estimation. I don't  
2 specifically remember in your case.

3 MR. HOGAN: Thanks.

4 ATTORNEY EXAMINER: Any other  
5 questions?

6 MR. HOGAN: That's all.

7 ATTORNEY EXAMINER: You are excused.

8 THE WITNESS: Thank you.

9 MR. MARGARD: Your Honor, I call Mr.  
10 Rod Moser to the stand please.

11 (WITNESS SWORN)

12 - - -

13 ROD MOSER

14 called as a witness, being first duly sworn,  
15 testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Margard:

18 Q. And state your name and business  
19 address, please.

20 A. My name is Rod Moser. Business  
21 address is 180 East Broad Street, Columbus, Ohio  
22 43215 I believe is the zip.

23 Q. And by whom are you employed and in  
24 what capacity?

25 A. I am employed by the Public



1 Utilities Commission of Ohio. My title is Chief  
2 of Compliance within the Department of  
3 Transportation for the Commission.

4 Q. And how long have you been  
5 performing those duties?

6 A. Since March of this year.

7 Q. Prior to assuming that position at  
8 the Public Utilities Commission did you have any  
9 experience in motor carrier safety issues?

10 A. I did, yes. I was employed by the  
11 Ohio State Highway Patrol for nearly 30 years.  
12 During that time I had not only just regular  
13 enforcement, but supervisory duties in the field  
14 of commercial enforcement.

15 Q. And do you have specific training to  
16 allow you to perform those kind of inspections?

17 A. I do have training in North American  
18 Standards Parts A and B.

19 Q. Thank you. In preparing for your  
20 testimony today did you have an opportunity to  
21 review the Commission's file with respect to  
22 this violation?

23 A. Yes, sir, I did.

24 Q. And in the course of that review did  
25 you have an opportunity to review the notices

1 that were provided to the Respondent?

2 A. Yes, sir.

3 MR. MARGARD: Your Honor, I have  
4 marked for purposes of identification as Staff  
5 Exhibit No. 2 a Notice of Preliminary  
6 Determination sent to Mr. Hogan and dated on May  
7 12th of 2017.

8 ATTORNEY EXAMINER: Very good.

9 (EXHIBIT MARKED FOR THE PURPOSE OF  
10 IDENTIFICATION)

11 Q. Mr. Moser, do you have before you a  
12 copy of that exhibit?

13 A. I do, yes.

14 Q. And is this a true and accurate copy  
15 of the document that is contained in the  
16 Commission's file?

17 A. Yes, sir.

18 Q. And have you reviewed the forfeiture  
19 that is proposed in this notice?

20 A. I have.

21 Q. Now, sir, can you tell me how civil  
22 forfeitures are calculated in cases such as  
23 this?

24 A. The different violations are broken  
25 down into groups depending whether it's an acute

1 or critical violation, and whether it's  
2 equipment or a carrier violation or driver  
3 violation.

4 This one happens to be what is  
5 considered a Group 4 violation. That is a  
6 violation for which there is no out of service  
7 criteria applied, but there is a fine amount  
8 associated with it. In this case that fine  
9 amount is \$100.

10 Q. Sir, are you familiar with something  
11 called the Commercial Vehicle Safety Alliance?

12 A. Yes, sir.

13 Q. What is that?

14 A. It's a safety group that has come up  
15 with, trying to think of the phrase I want to  
16 use, but they categorize offenses and assign  
17 levels of danger to them. The more dangerous  
18 the offense the more fine that they would impose  
19 upon it.

20 Q. And the CVSA is how this alliance is  
21 known, do they recommend fines or forfeitures  
22 for different violations?

23 A. Yes, they do.

24 Q. And are the forfeitures assessed by  
25 the Public Utilities Commission consistent with

1 those recommended by the CVSA?

2 A. There are close to it. They are not  
3 exactly. But, yes, they are consistent.

4 Q. And was the forfeiture that you  
5 proposed in this case consistent with those  
6 routinely recommended by the Staff of the Public  
7 Utilities Commission?

8 A. Yes, it is.

9 Q. And in your opinion is this  
10 forfeiture properly determined and appropriately  
11 assessed in this case?

12 A. Yes, it is.

13 Q. And this is the same for all  
14 individuals and all carriers; is that correct?

15 A. Yes. There is no change for anyone.

16 Q. In the course of your inspection of  
17 the Commission's file did you also have an  
18 opportunity to review Staff Exhibit 1, the  
19 inspection report?

20 A. I did, yes.

21 Q. And is that a true and accurate copy  
22 of the report that is maintained in the  
23 Commission's files?

24 A. It is.

25 Q. And, sir, can you tell me whether in

1 your opinion you know whether the Respondent was  
2 provided with all of the notices that he was  
3 required to receive?

4 A. Well, we mailed them to the address  
5 that is shown. That is our requirement that we  
6 send them out to the last known address. I  
7 don't know how he received them or how he got  
8 word of this. But, yes, he was provided notice.

9 Q. The Commission's file does not  
10 reflect that any of those notices were returned?

11 A. No.

12 MR. MARGARD: Your Honor, I have no  
13 further questions for this witness.

14 ATTORNEY EXAMINER: Do you have any  
15 questions, Mr. Hogan?

16 MR. HOGAN: I do not.

17 ATTORNEY EXAMINER: You are excused.

18 MR. MARGARD: Your Honor, I have no  
19 further witnesses and no further exhibits and I  
20 respectfully move the admission of Staff  
21 Exhibits No. 1 and 2.

22 ATTORNEY EXAMINER: All right. I  
23 will admit those exhibits into evidence at this  
24 time.

25 (EXHIBITS HEREBY ADMITTED INTO

1 EVIDENCE)

2 ATTORNEY EXAMINER: I would like to  
3 ask a question of the Trooper.

4 EXAMINATION

5 By the Attorney Examiner:

6 Q. The inspection notes here, it says  
7 "Took it off for a second." Is that a typo  
8 there? I see took it for a second.

9 A. Correct. That was a typo.

10 Q. Took it off?

11 A. I did not mean to type that. That  
12 is a mistake.

13 ATTORNEY EXAMINER: Thank you. Mr.  
14 Hogan, do you wish to present testimony?

15 MR. HOGAN: Yes, I do.

16 (WITNESS SWORN)

17 - - -

18 RONALD HOGAN

19 called as a witness, being first duly sworn,  
20 testified as follows:

21 ATTORNEY EXAMINER: Be seated. Go  
22 ahead and present your case in a narrative style  
23 what happened on the day of the inspection.

24 MR. HOGAN: The day of  
25 the inspection I was traveling eastbound on

1 the Turnpike, 76. And I travel, whenever I  
2 drive my seat is always in the lowest position,  
3 because I have a one inch purple mat for my back  
4 so I don't bounce up and down which let my head  
5 above the window probably from the shoulder  
6 across.

7 On doing so that hoody that I had  
8 on, as you referred to earlier, asked the  
9 Trooper a question if there was a pad or  
10 anything like that on the seat belt to handle  
11 the chafing part.

12 The seat belt I always pull down  
13 the whole way, which is you can see on here, and  
14 there is a yellow latch, pulled all the way down  
15 with as much slack as I can get.

16 And that switch up and it holds it  
17 with all the slack out of it. And laid across  
18 my shoulder and I put that hoody across it,  
19 because I can't stand the rubbing of the seat  
20 belt on my neck.

21 And actually whenever I was going  
22 that way that is exactly what I was doing. And  
23 I was going 64 miles an hour because I saw  
24 the Trooper in the middle. And I actually  
25 waived to her when I went by.

1                   At that time I said I am good to go  
2 down the road. I wasn't doing nothing wrong.  
3 And this tri-axle come by. And I saw her pull  
4 out, she got him for speeding. So there goes  
5 the tri-axle, I am looking to see, waiting for  
6 her to come by and looking at the side and I see  
7 the lights on.

8                   So I pulled over. Whenever I pull  
9 over and put it in park. Trooper comes up the  
10 right side of the truck, to the door. Knocks on  
11 the door. Meanwhile I am actually reaching  
12 because I see her coming up, figured she was  
13 going to come on that side, which it's happened  
14 before, not this Trooper, but other Troopers.

15                  I unsnapped my -- actually went to  
16 reach over and unlock the door. I couldn't do  
17 it. Unsnapped my seat belt and started reaching  
18 for my electronic log sheet up there because we  
19 just started those things and I had the  
20 electronic logs. And there is a sheet there,  
21 that they said you have to give those to the  
22 Trooper and DOT people if they want to inspect.  
23 So, trying to find those. First time I had the  
24 electronic books in place.

25                  So, I have that and my driver's



1 license. When she opens the door, or knocks on  
2 the door, I reach over again and I unlock  
3 the door, let her open the door.

4 She said do you know the reason I  
5 pulled you over? I said I do not. She said you  
6 didn't have your seat belt on. I explained to  
7 her I did have my seat belt on. No, you did  
8 not.

9 So I can't argue this point, I  
10 refuse to argue. I have done that in the past  
11 with an officer over things and you don't get  
12 nowhere to argue with a police officer. Just  
13 don't do it.

14 So I said okay. She said I cannot  
15 give you, site you right now for the seat belt,  
16 I have to do something else required for  
17 pulling you over for the seat belt. So I got to  
18 give you an inspection.

19 At this time we are going to proceed  
20 up to the wide spot at Lordstown. And that's  
21 when she did the inspection, checked everything  
22 out and everything worked well.

23 And I referred to what happened.  
24 I said I am going to dispute this because I did  
25 have my seat belt on. She said, well, you will

1 get something in the mail. And we will go from  
2 there.

3 So you have a good day. I signed  
4 the papers and that is the way it was. But as  
5 far as me having my seat belt on and  
6 constitution this \$100 forfeiture, that is what  
7 I am disputing my seat belt. As stated in here  
8 for having a gray seat belt, it's a black seat  
9 belt.

10 ATTORNEY EXAMINER: Excuse me. Do  
11 you wish to have that marked as an exhibit?

12 MR. HOGAN: Yes. How do I do that?  
13 How do I mark it as an exhibit?

14 ATTORNEY EXAMINER: I will do that.  
15 Mark this as Respondent's Exhibit 1. It's a  
16 picture of the inside of your truck cab?

17 MR. HOGAN: Correct.

18 ATTORNEY EXAMINER: And showing the  
19 seat and seat belt.

20 MR. HOGAN: Also showing the latch  
21 that holds the seat belt slack. I can  
22 understand why she wouldn't maybe have seen it  
23 with the seat belt there because of the slack.  
24 Always leave it draped over my shoulder and the  
25 hoody was across it to keep it from rubbing my

1 neck.

2 ATTORNEY EXAMINER: Does that  
3 conclude your testimony?

4 MR. HOGAN: Yes.

5 ATTORNEY EXAMINER: Do you have any  
6 questions?

7 MR. MARGARD: Some clarifying  
8 questions, if I can, Your Honor.

9 CROSS-EXAMINATION

10 By Mr. Margard:

11 Q. I want to try to understand the  
12 slack mechanism, and the adjustment that you  
13 made here.

14 Are you telling me that the belt  
15 does not go from where it is affixed to the cab  
16 directly to the latch; that somehow you adjust  
17 that or modify that?

18 A. I do not modify any of that.  
19 Whenever the seat belt is hooked it will always  
20 pull against you. And these trucks you can  
21 actually pull down and flip that switch up to  
22 alleviate that tension on you all the time.

23 And that is what I do. Every stop I  
24 get in and out of I pull that down, flip that  
25 yellow switch up. In a vehicle I use a

1 clothespin. Clothespin works very well for  
2 that.

3 And that way it's in the proper  
4 position where it's supposed to be and it's, as  
5 far as I know, you are able to do that.

6 Q. But it's loose?

7 A. Yes. It's loose and drapes across  
8 my shoulder. So it's not constantly rubbing on  
9 my neck. Summer time I have a hard time. I got  
10 to wear a collar a lot of times to do that so it  
11 doesn't rub my neck.

12 MR. MARGARD: Those are all  
13 the questions I have for Respondent. Thank you.

14 ATTORNEY EXAMINER: Do you have  
15 anything else to say?

16 MR. HOGAN: No, sir.

17 ATTORNEY EXAMINER: You are excused.

18 MR. HOGAN: Thank you.

19 ATTORNEY EXAMINER: Is there  
20 anything further?

21 MR. MARGARD: Yes, your Honor. In  
22 the first instance I have no objection to the  
23 admission of Respondent's exhibit. He wouldn't  
24 necessarily know to move it, so I will voice no  
25 objection.

1 But I would like to recall Trooper  
2 Merz, please.

3 ATTORNEY EXAMINER: Very well. I  
4 haven't marked that, by the way.

5 MR. MARGARD: I am going to ask her  
6 a question about it.

7 ATTORNEY EXAMINER: You are still  
8 under oath.

9 TROOPER MERZ: Yes, sir.

10 - - -

11 TROOPER LAUREN MERZ  
12 recalled as a witness for rebuttal, being  
13 previously duly sworn, testified as follows

14 FURTHER DIRECT EXAMINATION

15 MR. MARGARD: May I approach, Your  
16 Honor?

17 ATTORNEY EXAMINER: You may.  
18 By Mr. Margard:

19 Q. Trooper Merz, you have had an  
20 opportunity to review Respondent's Exhibit No.  
21 1; correct?

22 A. Correct.

23 Q. And to the best of your recollection  
24 is that an accurate depiction of the inside of  
25 his cab?

1 A. Yes.

2 Q. Are you acquainted with the  
3 mechanisms that creates slack in the seat belt?

4 A. I am, yes.

5 Q. Is that a common thing for drivers  
6 to use?

7 A. It is actually fairly common.

8 Q. Does that change how the seat belt  
9 lies across his chest?

10 A. It definitely can.

11 Q. Would that have caused you not to  
12 have observed the seat belt?

13 A. Only if it were not over his  
14 shoulder.

15 Q. And he did testify, did he not, did  
16 you hear him testify that it was over his  
17 shoulder just under the hood?

18 A. Correct.

19 Q. So the seat belt would have been  
20 across his chest had it be secured; correct?

21 A. Correct. Unless he had all  
22 the slack out, which I have seen, and then it  
23 just hangs, which defeats the purpose of the  
24 seat belt.

25 Q. Okay. And he didn't indicate to you

1     that that was the case; did he?

2             A.     Not that I recall.

3             Q.     Now, there was a question of the  
4     color of the belt.

5             A.     I documented it was dark gray, yes.

6             Q.     So his description of it as black is  
7     not in your mind different than your description  
8     of it as gray?

9             A.     That looks dark gray to me on the  
10    photograph.

11            Q.     So, that is what you would call the  
12    belt looking like?

13            A.     Correct.

14            Q.     And in fact the darker color would  
15    have created more contrast against a neon hoody;  
16    correct?

17            A.     Correct.

18            Q.     And just so the record is clear, at  
19    the time that you observed him driving did you  
20    have a clear and unobstructed view of his chest  
21    where you expected the seat belt to be?

22            A.     Yes.

23            Q.     And in your opinion, in your view,  
24    he was not in fact wearing a seat belt at the  
25    time that you observed; is that correct?

1           A.     That's correct.

2                     MR. MARGARD: I have nothing  
3 further, your Honor. Thank you.

4                     ATTORNEY EXAMINER: Do you have any  
5 questions?

6                     MR. HOGAN: I do have a question.

7                             RE CROSS-EXAMINATION

8 By Mr. Hogan:

9           Q.     In your sight of me driving the  
10 truck, if I had that belt attached and all the  
11 slack was out of it, and as I had the hoody  
12 laying over it so it doesn't rub my neck, and I  
13 have my arm on the window actually waiving to  
14 you as I go by, how much of my chest would you  
15 be able to see whether the seat belt was  
16 actually across my chest or not?

17           A.     Well, you are assuming that you were  
18 waiving from the time I first saw you to the  
19 time you went completely by me. But I am sure  
20 there was some point you went by me that I was  
21 watching you that your arm wasn't up.

22                     But, again, with the contrasting  
23 colors I am confident that the shoulder portion  
24 of your belt was not covering your chest area.

25           Q.     It's a rather big hood you saw that



1 I had on that day, oversized, when I pulled off  
2 the side and laid it over my shoulder. And you  
3 have seen those things which helps prevent that  
4 seat belt from rubbing people's neck and stuff  
5 like that.

6 Do you feel that that would cover up  
7 any of my shoulder or part of the belt that you  
8 could see the belt?

9 A. When I look for a seat belt  
10 violation I look at the person's chest area.  
11 That is where I am looking. And definitely if  
12 you are wearing a hood it could cover  
13 the shoulder portion. And also I talked to  
14 other drivers.

15 If you have so much slack out of the  
16 shoulder portion that it's not covering your  
17 chest area, the seat belt is not doing what it's  
18 designed to do.

19 So that is why I check that area. I  
20 can't tell from the viewpoint whether it's over  
21 your lap, but I can definitely check your  
22 shoulder. When any truck goes by and I am  
23 looking for the seat belt violation, I am  
24 looking at your upper torso area.

25 And I would not have stopped you if

1 I had questions as to whether or not there was  
2 something covering your chest.

3 Q. Do you have any testimony as other  
4 drivers here today that would state that from  
5 other drivers that wouldn't do any good that you  
6 mentioned that you had spoken to other drivers,  
7 which is hearsay, but that wouldn't do any good  
8 as far as having the slack out of the seat belt  
9 itself?

10 A. No. I don't have any testimony of  
11 any other drivers.

12 Q. So that shouldn't be brought into  
13 it. I am a volunteer fireman and have seen  
14 where seat belts actually hurt an individual  
15 instead of helping them.

16 But, as far as your vision with that  
17 picture you see with the seat belt in the low  
18 position, I should have taken pictures of it,  
19 but there is only probably six inches of my  
20 shoulder above the window.

21 MR. MARGARD: Your Honor --

22 Q. And I don't have that with me.

23 MR. MARGARD: I will move to strike  
24 that. That is testimony. If he has a question  
25 he is more than welcome to ask a question.

1 MR. HOGAN: I am sorry.

2 Q. The question, if my shoulder is  
3 above --

4 ATTORNEY EXAMINER: Go ahead.

5 Q. -- six inches, would you be able to  
6 see my chest?

7 A. I could see six inches of your  
8 chest.

9 Q. Okay. And traveling at 64 miles an  
10 hour, I know how fast I was going, you could  
11 actually see everything in plain view that it  
12 wasn't there, that the seat belt was not there?

13 A. If the seat belt wasn't across the  
14 chest where it's supposed to be, yes.

15 MR. HOGAN: That is all, your Honor.

16 ATTORNEY EXAMINER: Mr. Margard.

17 MR. MARGARD: Nothing further.

18 Thank you.

19 ATTORNEY EXAMINER: You are excused.  
20 Do you have anything else?

21 MR. MARGARD: I do not. Thank you.

22 ATTORNEY EXAMINER: All right. I  
23 will admit Respondent's Exhibit 1 into evidence.

24 (EXHIBIT ADMITTED INTO EVIDENCE)

25 ATTORNEY EXAMINER: And we will

consider this matter submitted on the record.

I thank you all for coming.

(At 2:00 P.M. the hearing was  
concluded).

- - -

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter on  
September 21, 2017, and carefully compared with  
my original stenographic notes.

*Michael O. Spencer*  
Michael O. Spencer,  
Registered Professional  
Reporter.

- - -



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Summary: Transcript In the Matter of Ronald Hogan Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on September 21, 2017. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.