

PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Raymond :  
Richmond Notice of Apparent : Case No  
Violation and Intent to : 19-458-TR-CVF  
Assess Forfeiture. :  
- - -

PROCEEDINGS

Before Anna Sanyal, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East  
Broad Street, Hearing Room 11-D, Columbus, Ohio,  
on Tuesday, August 13, 2019, at 10:00 A.M.

- - -

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- - -

1 APPEARANCES:

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

6 On behalf of the Staff of the  
7 Public Utilities Commission  
8 of Ohio,  
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1 Tuesday Morning,  
2 August 13, 2019.

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4 ATTORNEY EXAMINER: Good morning,  
5 everyone. We are here for Case No.  
6 19-458-TR-CVF which is In the Matter of Raymond  
7 Richmond Notice of Apparent Violation and Intent  
8 to Assess Forfeiture.

9 My name is Anna Sanyal and I am the  
10 Attorney Examiner assigned to this case. It is  
11 10:05 A.M., and Respondent Raymond Richmond has  
12 not made an appearance at this time. So, at  
13 this time we will take appearances from the AG  
14 for the record, and then we can discuss how to  
15 proceed.

16 MR. MARGARD: Thank you, Your Honor.  
17 On behalf of the transportation Staff of the  
18 Public Utilities Commission of Ohio, Dave Yost,  
19 Ohio Attorney General; John Jones, Section Chief  
20 Public Utilities Section; by Assistant Attorney  
21 General Werner L. Margard, 30 East Broad Street,  
22 16th Floor, Columbus, Ohio.

23 ATTORNEY EXAMINER: Thank you, Mr.  
24 Margard. So, in cases like these I prefer to  
25 wait an additional few minutes since I assume

1 Mr. Richmond is traveling from Cleveland today.  
 2 So, what I would propose is going off the record  
 3 for another 10 minutes or so and reconvening at  
 4 10:15. And at that point see if Mr. Richmond  
 5 has appeared. Is that amenable?

6 MR. MARGARD: It is, your Honor.  
 7 Thank you.

8 ATTORNEY EXAMINER: Okay. Well, in  
 9 that case let's go off the record until 10:15  
 10 and we will proceed at that time.

11 (RECESS TAKEN)

12 ATTORNEY EXAMINER: It is now 10:15  
 13 A.M. and Mr. Richmond is not here. So at this  
 14 time I will let the Attorney General proceed  
 15 with his case.

16 MR. MARGARD: Thank you, Your Honor.  
 17 Staff would call Inspector Holscher to the stand  
 18 please.

19 (WITNESS SWORN)

20 - - -

21 ALVIN W. HOLSCHER  
 22 called as a witness, being first duly sworn,  
 23 testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Margard:

1           Q.    Sir, will you please state your  
2   name and your business address?

3           A.    My name is Alvin W. Holscher.  180  
4   East Broad Street, Columbus.

5           Q.    What is your official capacity, sir?  
6   What's your title?

7           A.    I am a Transportation Examiner/DOT  
8   Inspector, roadside inspections as well.

9           Q.    Thank you, sir.  And what are your  
10  duties as a roadside inspector?

11          A.    I inspect property carriers,  
12  vehicles, as well as passenger carrier vehicles  
13  involving state or federal regulations.

14          Q.    How long have you been doing that  
15  job, please?

16          A.    Well, I started with the Patrol in  
17  2005 and I worked up through 2015.

18          Q.    Similar duties?

19          A.    Yes, sir.

20          Q.    Thank you.

21          A.    And then from PUCO 2015 to the  
22  present time.

23          Q.    Thank you.  Do you have any special  
24  certifications or training?

25          A.    Yes, sir.  I am North American

1 Standard Level 1 inspector trained. I have a  
2 passenger carrier certification for inspector.  
3 I have a hazmat general, other bulk packages and  
4 tank certification inspector. And I keep those  
5 current by recertifying every year.

6 Q. Thank you, sir. Were you on duty on  
7 October 14th, 2018?

8 A. Yes, sir, I was.

9 Q. Do you recall what your assignment  
10 was, what your duties here were day?

11 A. We were doing a passenger carrier  
12 blitz in Cincinnati for I believe Bengals/  
13 Steelers game.

14 Q. What do you mean by blitz? What  
15 does that mean?

16 A. Well, we were checking passenger  
17 carries to make sure that they were properly  
18 licensed, make sure their authority was right  
19 and insurance, vehicles not unsafe.

20 Q. This is a safety inspection for  
21 the benefit of the persons attending the game?

22 A. Yes.

23 Q. Okay. Thank you. In the course of  
24 your duties that day did you have an occasion to  
25 inspect a passenger vehicle operated by



1 Lakefront Lines?

2 A. Yes, sir, I did.

3 Q. And as a result of that inspection  
4 did you generate a report?

5 A. Yes, I did.

6 MR. MARGARD: May I approach, your  
7 Honor?

8 ATTORNEY EXAMINER: Yes, you may.

9 MR. MARGARD: Your Honor, would the  
10 record please reflect I have handed the witness  
11 two different documents. I will address those  
12 in order.

13 The first marked for purposes of  
14 identification as Staff Exhibit No. 1 is titled  
15 Driver/Vehicle Examination Report.

16 ATTORNEY EXAMINER: It shall be so  
17 marked.

18 (EXHIBIT HEREBY MARKED FOR  
19 IDENTIFICATION PURPOSES)

20 MR. MARGARD: Second marked for  
21 purpose of identification as Staff Exhibit No. 2  
22 is a multi-page exhibit of photographs.

23 ATTORNEY EXAMINER: And that one  
24 will be marked Staff Exhibit 2.

25 (EXHIBIT MARKED FOR PURPOSES OF

1 IDENTIFICATION)

2 MR. MARGARD: Thank you, your  
3 Honor.

4 Q. Inspector Holscher, do you have  
5 before you what's been marked Staff Exhibit 1?

6 A. Yes.

7 Q. And do you recognize this document?

8 A. Yes, I do.

9 Q. And is this a report that you  
10 prepared as a result of your inspection on  
11 October 14, 2018 on a vehicle operated by  
12 Lakefront Lines?

13 A. Yes, sir, this is it.

14 Q. And the driver of that particular  
15 vehicle was a Raymond Richmond?

16 A. Yes, sir.

17 Q. And you understand him to be  
18 the Respondent in this case?

19 A. Yes, sir.

20 Q. Now, first of all have you had a  
21 chance to review this report prior to taking  
22 the stand today?

23 A. Yes.

24 Q. And does this report accurately  
25 reflect your inspection on that date?

1           A.    It does.

2           Q.    Thank you.  I am going to direct  
3 your attention, if you would, please, to  
4 the violations section of this report.  Do you  
5 see that?

6           A.    Yes, sir.

7           Q.    Now, generally what goes in the  
8 violation section?

9           A.    Well, when I do an inspection, any  
10 violation that I find, whether it be driver  
11 violation or vehicle violation, it goes in this  
12 section.

13          Q.    And what information are you  
14 responsible for putting in?  You put some, does  
15 it automatically populate with some?  What do  
16 you put in here?

17          A.    I put in all of the information in  
18 there.

19          Q.    I see.

20          A.    So, I enter the section, violation,  
21 violation code, the section, who is assessed,  
22 whether Unit 1, which will be the vehicle, or D  
23 for driver.  And then I write out the general  
24 description for that.

25          Q.    And you have in fact two different

1 violations here. One for Unit 1 and one for D,  
2 which I presume is driver; is that correct?

3 A. Yes, sir, it is.

4 Q. And you understand that the unit  
5 violation is not at issue in this case?

6 A. Yes, I do understand.

7 Q. This is just the driver violation.

8 A. That's correct.

9 Q. And what was the driver violation  
10 that you found at the time of your inspection?

11 A. The driver violation was when I  
12 approached the driver I asked him for his  
13 driver's license and his medical card. And he  
14 produced his CDL, which said that he had a Class  
15 B restriction.

16 Q. Which is, sir, please?

17 A. He had corrective lenses.

18 Q. Thank you. Continue.

19 A. When he presented me his medical  
20 card, that also said he had to have corrective  
21 lenses.

22 I asked him for other documents;  
23 registration, a work ticket or job ticket saying  
24 where he is coming from, who he is picking up.  
25 And I also said, I asked him, I said are you

1 wearing your glasses, do you have glasses,  
2 contacts in? And his reply was no, he did not  
3 have any.

4 Q. Were the remainder of his documents  
5 in order?

6 A. Yes.

7 Q. Okay. Did he have glasses or  
8 corrective lenses anywhere in the vehicle?

9 A. No, he did not.

10 Q. He was not able to produce any type  
11 of correctives lenses?

12 A. No. He was not able to produce any  
13 corrective lenses, whether they be contacts or  
14 glasses.

15 Q. Thank you, sir. Now I will direct  
16 your attention to what I have marked Staff  
17 Exhibit No. 2. Do you recognize these  
18 photographs?

19 A. Yes, I do.

20 Q. And did you take these photographs?

21 A. Yes, I did.

22 Q. And are these accurate copies of the  
23 photographs that you took?

24 A. They are.

25 Q. And you took additional photographs

1     than these; didn't you?

2             A.     Yes, I did.

3             Q.     A variety of photographs of  
4     the vehicle?

5             A.     Yes.

6             Q.     For the vehicle violation?

7             A.     Yes.

8             Q.     And some photographs of other  
9     documents?

10            A.     Right.

11            Q.     And documents which you have  
12   indicated were in order?

13            A.     Yes, they were.

14            Q.     So, presumably the first page of  
15   Staff Exhibit 2 is his CDL; is that correct?

16            A.     That is correct.

17            Q.     And the second page of this is his  
18   medical examiner's certificate; correct?

19            A.     Yes.

20            Q.     And you have testified, have you  
21   not, today, that both of these indicated that he  
22   was restricted to wearing corrective lenses?

23            A.     That's correct.

24            Q.     And in deed that is, while not  
25   apparent from the first photograph, it is

1     apparent from the second photograph, we can see  
2     the box checked that says wearing corrective  
3     lenses; correct?

4             A.     Yes, sir.

5             Q.     Very good. Thank you. Now, you  
6     have been relating to us the events of that day,  
7     the events of the inspection. Do you recall  
8     that, independently, do you remember that day?

9             A.     Yes.

10            Q.     You remember your interaction with  
11    this Respondent?

12            A.     Yes, I do.

13            Q.     This is not simply from reviewing  
14    the report?

15            A.     No, sir.

16            MR. MARGARD: Your Honor, that is  
17    all the questions I have for this witness.

18            ATTORNEY EXAMINER: And I have no  
19    questions, so you may step down.

20            THE WITNESS: Thank you.

21            ATTORNEY EXAMINER: Thank you.

22            MR. MARGARD: Your Honor, we call  
23    Mr. Moser to the stand, please.

24            (WITNESS SWORN)

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ROD MOSER

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

DIRECT EXAMINATION

By Mr. Margard:

Q. Sir, if you would please state your  
name and business address.

A. My name is Rod Moser. My address is  
180 East Broad Street, Columbus, Ohio.

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

A. I am the Chief of the Compliance  
Section within the Transportation Department for  
the Public Utilities Commission of Ohio.

Q. And what are your duties and  
responsibilities in that position, please?

A. My primary duty is to administer  
this civil forfeiture process for  
the Transportation Department.

Q. And in the course of your duties --  
first of all let me ask you about your  
experience. Tell us briefly what your  
experience is, how long you have performed in  
this particular job?

A. I have been in my current position



1 for roughly two and a half years. Prior to that  
2 I was with the State Highway Patrol for just shy  
3 of 30 years.

4 Q. Thank you. Prior to taking  
5 the stand today did you have an opportunity to  
6 review the Commission's file with respect to  
7 this case?

8 A. I did, yes.

9 Q. And did you have an opportunity to  
10 review what's been marked Staff Exhibit No. 1  
11 which is on the stand there before you?

12 A. I did.

13 Q. And is that an accurate copy of the  
14 report which is maintained in the Commission's  
15 records in this case?

16 A. Yes, it is.

17 Q. Were you responsible for determining  
18 the assessment, the amount of the forfeiture to  
19 be assessed in this case?

20 A. My office determines it, yes. The  
21 actual process is automated. So, it's not a  
22 hands on function in this case.

23 Q. Could you explain for us briefly how  
24 that process occurs?

25 A. Sure. Violations are divided up

1 into various groups depending upon the nature of  
2 the violation. And once the group has been  
3 determined the computer system assigns the civil  
4 forfeiture assessment to the case depending upon  
5 the violation.

6 Q. And can you walk us through how the  
7 assessment was determined in this specific case?

8 A. Sure. In this particular case, this  
9 is a driver violation. This is a Group 4  
10 violation. Group 4 violations always carry a  
11 civil forfeiture penalty. And this particular  
12 violation, that penalty is always \$250.

13 Q. Now, is this dollar amount something  
14 that is consistent with the Commercial Motor  
15 Vehicle Safety Alliance recommendations?

16 A. It was initially established per  
17 their guidance, yes.

18 Q. And this is the procedure that is  
19 used for all such violations?

20 A. For all violations that come into  
21 our system, yes.

22 Q. Nothing unique or different about  
23 this case?

24 A. No.

25 MR. MARGARD: Okay. May I

1 approach, Your Honor?

2 ATTORNEY EXAMINER: Yes, you may.

3 MR. MARGARD: Your Honor, would the  
4 record please reflect that I have handed the  
5 witness a series of documents that have been  
6 marked for purposes of identification as Staff  
7 Exhibits 3, 4 and 5.

8 And, your Honor, specifically  
9 the document marked as Staff Exhibit No. 3 is  
10 labeled Notice of Apparent Violation dated  
11 October 16, 2018.

12 The document marked Staff Exhibit  
13 No. 4 is a Second Notice of Apparent Violation  
14 dated November 27, 2018.

15 And Staff Exhibit 5 is a Notice of  
16 Preliminary Determination dated January 25th,  
17 2019.

18 ATTORNEY EXAMINER: Thank you, Mr.  
19 Margard. These documents shall be marked as you  
20 indicated.

21 (EXHIBITS MARKED FOR THE PURPOSE OF  
22 IDENTIFICATION)

23 MR. MARGARD: Thank you, your  
24 Honor.

25 Q. Mr. Moser, do you have before you

1 what's been marked Staff Exhibits 3, 4 and 5?

2 A. Yes, sir.

3 Q. Do you recognize these documents?

4 A. I do.

5 Q. These documents are maintained in  
6 the Commission's file in this case; correct?

7 A. They are.

8 Q. And do these documents indicate that  
9 the Respondent was properly served with all of  
10 the required notices in this matter?

11 A. Yes, sir.

12 Q. Just out of curiosity do you happen  
13 to know why a second notice of intent was served  
14 in this case?

15 A. Not specifically in this case, but  
16 normally it's because the Respondent failed to  
17 respond to the first notice that was sent.

18 Q. To afford them an additional  
19 opportunity to respond?

20 A. Sometimes the second notice is sent  
21 because there is a change of address. That  
22 doesn't appear to be the case in this particular  
23 instance, but he did get a second notice.

24 Q. But based on your review this  
25 Respondent received all the notices that he was

1 required to be served; is that correct?

2 A. Yes, he did.

3 Q. And in your opinion the forfeiture  
4 amount was correctly and reasonably determined?

5 A. Yes, it was.

6 MR. MARGARD: Thank you. Your  
7 Honor, I have no further questions for this  
8 witness.

9 ATTORNEY EXAMINER: I have no  
10 questions for you. You may step down.

11 MR. MARGARD: Your Honor, I have no  
12 further witnesses. I respectfully move for  
13 admission of Staff Exhibits 1 through 5.

14 ATTORNEY EXAMINER: And they shall  
15 be so admitted.

16 (EXHIBITS ADMITTED INTO EVIDENCE)

17 MR. MARGARD: Thank you, your Honor.  
18 In light of the Respondent's failure to appear  
19 this morning, your Honor, and in light of  
20 the case presented by Staff I would respectfully  
21 move for a default judgment against Mr.  
22 Richmond.

23 ATTORNEY EXAMINER: Thank you for  
24 making that motion. We will take that under  
25 advisement and the Commission will consider that

1 when it issues its decision in this matter.

2 Also, as a quick note, I think  
3 previously I stated the Respondent resides in  
4 Cleveland, Ohio. Upon reviewing the documents  
5 here today he actually lives in Columbus, Ohio,  
6 on Cleveland Avenue.

7 Are there any other matters you wish  
8 to discuss before we go off the record?

9 MR. MARGARD: I have none, your  
10 Honor. I presume that you don't require the  
11 matter to be briefed.

12 ATTORNEY EXAMINER: No. Thank you  
13 for asking.

14 MR. MARGARD: One moment, your  
15 Honor.

16 Apparently, your Honor, we need to  
17 make a redaction for the public record. Would  
18 you prefer that I merely make that redaction  
19 manually, or do you wish that be filed under  
20 seal?

21 ATTORNEY EXAMINER: I think as long  
22 as we make the redaction and after making the  
23 redaction it is no longer visible when we scan  
24 it into our docket I think that would suffice.  
25 So however you want to accomplish that I will

1 let you decide.

2 MR. MARGARD: We will take care of  
3 that. Thank you, your Honor.

4 ATTORNEY EXAMINER: Okay. Are  
5 there any other matters we need to discuss  
6 before we go off the record?

7 Hearing none, thank you everyone for  
8 participating. And we will go off the record  
9 and the case shall be submitted to the  
10 Commission. Thank you.

11 MR. MARGARD: Thank you.

12 (At 10:35 A.M. the hearing was  
13 concluded)

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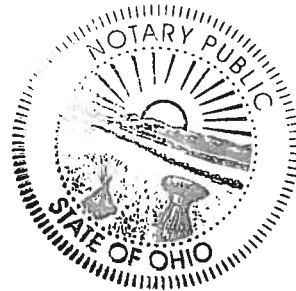
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CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter on August  
13, 2019, and carefully compared with my  
original stenographic notes.

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

- - -





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

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Summary: Transcript In the Matter of Raymond Richmond Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on August 13th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.