

PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of :
Ziwei Hang Notice of :Case No.
Apparent Violation and :19-660-TR-CVF
Intent to Assess Forfeiture.:

- - -

PROCEEDINGS

Before Jim Lynn, Attorney Examiner, held at the
Public Utilities Commission of Ohio, 180 East
Broad Street, Hearing Room 11-D, Columbus, Ohio,
on Thursday, September 12, 2019, at 10:00 A.M.

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1 APPEARANCES:

2 Mr. Steven Beeler
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.

9 Mr. Ziwei Hang
10 1441 Paso Real Avenue SP 31
11 Rowland Heights, California 91748

12 Appearing Pro se.

13 INTERPRETER: Wendy Lee
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Thursday Morning,
September 12, 2019.

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ATTORNEY EXAMINER: The Public
Utilities Commission of Ohio has assigned for
hearing at this time and place Case No.
19-660-TR-CVF in the matter of Ziwei Hang notice
of apparent violation and intent to assess
forfeiture.

I am Jim Lynn, I am the Attorney
Examiner assigned to hear this case. And at
this time we will have the appearances of the
parties beginning with the Staff.

MR. BEELER: Thank you, your Honor.
On behalf of the Staff of the Public Utilities
Commission of Ohio, Attorney General Dave Yost.
I am Steve Beeler. I am with the Ohio Attorney
General's Office, and my address is 30 East
Broad Street, Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you, Mr.
Beeler. And I am going to have Mr. Hang
indicate his name and address, please.

THE INTERPRETER: Ziwei Hang. 1441
Paso Real Avenue, Rowland Heights, California
91748 Zip Code. That is 31 in front of the Zip

1 Code.

2 Correction. So the address 1441-31,
3 Paso Real.

4 Again correction. 1441 Paso Real
5 Avenue, Space 31, Rowland Heights, California
6 91748.

7 ATTORNEY EXAMINER: Thank you. And
8 then at this point we will have Mr. Beeler bring
9 up his witnesses first. And then Mr. Hang will
10 have a chance ask them any questions. And we
11 will explain that to him. Thank you, Mr.
12 Beeler. Please have your first witness come up
13 or however you want to proceed.

14 MR. BEELEER: Thank you, Your Honor.
15 At this time the Staff would call Inspector
16 Scott to the stand.

17 (WITNESS SWORN)

18 ATTORNEY EXAMINER: Mr. Beeler, you
19 may proceed.

20 - - -

21 RICHARD SCOTT
22 called as a witness, being first duly sworn,
23 testified as follows;

24 DIRECT EXAMINATION

25 By Mr. Beeler:

1 Q. Good morning, Inspector Scott.

2 A. Good morning.

3 Q. Please state your full name for the
4 record.

5 A. Richard Scott, Unit No. 3244.

6 Q. Where are you employed?

7 A. Wilmington, the Ohio State Highway
8 Patrol.

9 Q. So you are employed by the Ohio
10 State Highway Patrol; correct?

11 A. Correct.

12 Q. What is your position at the Highway
13 Patrol?

14 A. Motor Carrier Enforcement
15 Investigator.

16 Q. Again your position is what?

17 A. Motor Carrier Enforcement
18 Investigator.

19 Q. And in going forward just when we
20 talk, so when I ask a question give it a little
21 bit of pause and wait for her to stop talking
22 and then give your answer.

23 How long have you been with
24 the Patrol?

25 A. I started in 1997 as a license

1 examiner. And done that job for 14 years, and
2 changed over to a Motor Vehicle Investigator,
3 which I was a school bus inspector for three,
4 and the last five years I have been Motor
5 Carrier Investigator.

6 Q. In your current job what are your
7 duties?

8 A. To ensure that the driver of a motor
9 vehicle is doing his job.

10 Q. And beyond drivers what else?

11 A. Log books are correct, they are
12 licensed appropriately, and check the vehicle
13 for safety defects.

14 Q. So you check not only drivers, but
15 you also check carriers and on occasion shippers
16 for violations of federal regulations as they
17 apply in Ohio; correct?

18 A. Correct.

19 Q. What sort of training do you have?

20 A. I went through the North American
21 Standards A and B, as well as hazmat training.

22 Q. Okay. Do you take any yearly
23 courses?

24 A. We have yearly meetings to inform us
25 of any changes in the federal regulations so

1 that everybody understands.

2 Q. Thank you. Would you agree that
3 motor inspections are conducted to protect the
4 safety of Ohio's traveling public?

5 A. I do.

6 Q. How many inspections on average do
7 you perform in a year?

8 A. Around 1,200.

9 MR. BEELER: May I approach the
10 witness, your Honor?

11 ATTORNEY EXAMINER: Yes.

12 MR. BEELER: I have what is marked
13 as Staff Exhibit 1. And a little out of order,
14 Staff Exhibit 9. These are two reports that
15 where done on the day of the incident.

16 Staff Exhibit 1 is the second driver
17 report, second report that was done.

18 And Staff Exhibit 9 is the first
19 report that was done.

20 May I approach?

21 ATTORNEY EXAMINER: Yes.

22 (EXHIBITS MARKED FOR THE PURPOSE OF
23 IDENTIFICATION)

24 Q. Do you recognize what have been
25 marked as Staff Exhibit 1 and Staff Exhibit 9?

1 A. No. 9 is the first inspection, and
2 No. 1 is the second.

3 Q. Are these documents, are they
4 records of the Patrol?

5 A. They are my records.

6 Q. So they are kept in the ordinary
7 course of business of your job; correct?

8 A. Correct.

9 Q. And it's the practice of the Patrol
10 to make these reports?

11 A. I wouldn't say the Patrol, but for
12 federal records. Each report that I do is --
13 there is a record of it.

14 Q. But in your job as a Patrolman you
15 produce these reports; correct?

16 A. Correct. I give one to the driver
17 at the end of each inspection.

18 Q. That was my next question. Was the
19 reason you prepared both of these reports a stop
20 of a truck TBI Express, LLC?

21 A. Correct.

22 Q. Do you remember these inspections?

23 A. Being over a year ago, I remember
24 the majority of it, but not the total
25 inspection. I don't remember the brake being

1 not operating. But I do remember the broken
2 wheel, cracked rim.

3 Q. Who is the driver listed on both
4 reports?

5 A. Mr. Hang.

6 Q. Mr. Hang here today?

7 A. He is.

8 Q. Are these documents, are they in the
9 same condition as when you originally prepared
10 them? Is the information the same?

11 A. The information is exactly the same.

12 Q. Okay. All right. And you already
13 noted that the driver gets a copy of the report
14 at the stop; correct?

15 A. Correct.

16 Q. Okay. Could you go through the
17 violations listed on each report?

18 A. Okay.

19 Q. Start with -- I guess start with
20 Staff Exhibit 9, because that was your first
21 inspection.

22 A. First inspection is report No.
23 OH3244011662, found that he had on axle 1 left
24 side, he had a cracked rim.

25 We then proceeded to do a Level 1.

1 Also found a brake on the trailer axle 5 left
2 side that the pad when the brake pedal was
3 applied, it wasn't touching the drums.

4 And also on the trailer his right
5 mud flap was missing.

6 Q. Okay. While we are still on Staff
7 Exhibit 9, the first report, those concerned the
8 carrier, right, TBI Express, not the driver;
9 right?

10 A. Correct.

11 Q. But, the cracked rim violation put
12 the truck out of service; correct?

13 A. Correct.

14 Q. Now we will go to Staff Exhibit 1.
15 Go through the violations on that report.

16 A. Okay. Without getting the out of
17 service order fixed the truck still had the same
18 crack on axle left side, and then the driver was
19 cited for operating an out of service vehicle
20 placed out of service.

21 Q. Okay. And so today we are here to
22 talk about the violation that was in Staff
23 Exhibit 1, which is the second report, the out
24 of service violation, or operating a vehicle
25 that was placed out of service; correct?

1 A. Correct.

2 Q. But, staff report, or
3 the investigation report 9 was the reason that
4 the truck was put out of service in the first
5 place; correct?

6 A. That is correct.

7 Q. Okay. You said you remember the
8 stop. So at this point take us, in your
9 narrative form, take us through what happened on
10 that day from beginning to end.

11 A. At about 9:34 I saw the vehicle
12 going over the Harrison scales missing his mud
13 flap. So I had him stop, back into the parking
14 lot behind the scales, and we proceeded with the
15 Level 1 inspection.

16 And discovering all the items listed
17 on Exhibit 9, he was placed out of service. And
18 with a long explanation I stressed to him that
19 they had to get that wheel fixed here. It was
20 too dangerous to drive for the safety of him and
21 others on the roadway.

22 Q. How long did you have a conversation
23 with Mr. Hang about this?

24 A. Five to seven minutes. And showing
25 him the wheel and pointing to the ground had to

1 get it fixed here.

2 ATTORNEY EXAMINER: Mr. Beeler, I
3 have a question for the inspector. Inspector,
4 this first inspection, that violation was
5 against the carrier; am I correct?

6 THE WITNESS: That's correct.

7 ATTORNEY EXAMINER: Thank you. Mr.
8 Beeler, continue.

9 Q. Please continue with your answer.
10 We were talking about how long you spoke with
11 him.

12 A. After the explanation of the cracked
13 wheel I did place an out of service stricker on
14 his windshield, and explained to him the truck
15 was not supposed to move until the wheel was
16 fixed.

17 Q. Then what happened?

18 A. I finished the inspection, got
19 involved in another inspection, and then at that
20 point saw Mr. Hang leave the Harrison scales.

21 Q. You saw him driving away?

22 A. Driving away.

23 Q. Then what?

24 A. Then happened to notice that Trooper
25 Cooper was in eating lunch, and I went in there

1 and asked him to get that truck because he was
2 placed out of service, try to get him back to
3 the scales to get it fixed.

4 ATTORNEY EXAMINER: Question.
5 Inspector, you said you saw Mr. Hang leave the
6 location where you placed him out of service.

7 THE WITNESS: Yes.

8 ATTORNEY EXAMINER: And had he yet
9 got back out onto the highway at that point when
10 you asked the other inspector to stop him?

11 THE WITNESS: He was on 74
12 eastbound at the end of the ramp when I saw him.

13 ATTORNEY EXAMINER: So he was about
14 to enter the interstate?

15 THE WITNESS: Correct. He was on
16 the interstate.

17 ATTORNEY EXAMINER: Okay. Thank
18 you. Mr. Beeler.

19 Q. Please continue your narrative.

20 A. And Trooper Cooper saw the truck,
21 stopped the truck, and got him back to the scale
22 house within a half hour. I put him back out of
23 service for the wheel.

24 Q. At this point you began a second
25 inspection; right?

1 A. Second inspection.

2 Q. That is Staff Exhibit 1, which is
3 the driver violation.

4 A. Correct. The wheel was not fixed
5 with the crack in it. And then I placed the
6 operating and out of service -- the vehicle was
7 placed out of service.

8 Q. Was the sticker, when he came back
9 to the stop, was the sticker still on the
10 windshield?

11 A. Correct.

12 Q. So up in the violation section of
13 Staff Exhibit 1 you have cited under violation
14 description, you have "wheel/rim cracked or
15 broken." Correct?

16 A. Correct.

17 Q. So before the colon, that is
18 automatically generated language; correct?

19 A. Correct.

20 Q. Then you fill in what's after;
21 right?

22 A. Correct.

23 Q. And what you filled in was on
24 tractor axle 1 left side rim cracked; correct?

25 A. Correct.

1 Q. Okay. And then down in the
2 inspector notes part of the Staff Exhibit 1,
3 could you just read your notes?

4 A. "I placed the tractor out of
5 service. The driver spoke little English. I
6 showed the driver and co-driver the out of
7 service cracked rim and a minute later the
8 driver left the scale house. I was tied up with
9 another inspection. Trooper 1111 got
10 the tractor and trailer and brought him back to
11 the Harrison scales."

12 Q. Okay. Two questions. Did you speak
13 with the co-driver as well?

14 A. Correct. I did.

15 ATTORNEY EXAMINER: I have a
16 question, Mr. Beeler.

17 MR. BEELEER: Sure.

18 ATTORNEY EXAMINER: For
19 the Inspector. Did you speak with the co-driver
20 at the time of the first inspection?

21 THE WITNESS: Yes, I did. I had
22 both of them out and showing them the cracked
23 wheel.

24 ATTORNEY EXAMINER: And Mr. Hang
25 obviously needs an interpreter, did the first

1 driver understand English any better than Mr.
2 Hang? Did the second driver understand English
3 any better?

4 THE WITNESS: Yes, he did.

5 ATTORNEY EXAMINER: You believe he
6 did?

7 THE WITNESS: I believe he did.

8 ATTORNEY EXAMINER: Also a different
9 question. The inspection notes that you have
10 here on Staff Exhibit 1, which is the second
11 inspection, those notes actually refer to the
12 first inspection; am I right?

13 THE WITNESS: That is correct.

14 ATTORNEY EXAMINER: Okay. All
15 right. Thank you.

16 MR. BEELER: May I approach, your
17 Honor?

18 ATTORNEY EXAMINER: Yes.

19 MR. BEELER: I have marked Staff
20 Exhibits 2 through 7. They are photos from the
21 inspection.

22 (EXHIBITS MARKED FOR THE PURPOSE OF
23 IDENTIFICATION)

24 Q. Please just flip through those.
25 You took these pictures; correct?

1 A. I did.

2 Q. Are they accurate depictions of the
3 inspection you witnessed on the day of the
4 inspection?

5 A. It is.

6 Q. Okay. Please go through each of the
7 pictures and basically explain how it relates to
8 the violation listed on your report, which is
9 the operating out of service vehicle while
10 placed out of service.

11 A. The first two pictures are pictures
12 of the side of the truck which has TBI Express,
13 their DOT number.

14 Q. Those are Staff Exhibit 2 and Staff
15 Exhibit 3?

16 A. Correct.

17 Q. If you could just say Staff
18 the Exhibit 2 and it makes it easier to read
19 later.

20 A. In Staff Exhibit 4, 5, and 6 are all
21 pictures of the same cracked rim.

22 Q. Okay. So would you say that Staff
23 Exhibits 4 and Staff Exhibit 5, that they are
24 kind of two separate areas where the rim is
25 cracked?

1 A. Correct.

2 Q. And then in Staff Exhibit 6 you are
3 really focused more on the one crack; correct?

4 A. That is correct.

5 Q. What sort of, in your opinion, what
6 sort of risks does that cause having a cracked
7 rim like that?

8 A. The rim could disintegrate and he
9 could lose the front steer tire.

10 Q. Is that dangerous?

11 A. Yes. Very. If you don't have a
12 front steer tire the truck is going to lose
13 control possibly and wreck.

14 Q. It is dangerous enough that it is an
15 out of service violation; correct?

16 A. Correct.

17 Q. And in your opinion those are clear
18 violations of the rules; correct?

19 A. Correct.

20 Q. Staff Exhibit 7, did you already
21 explain that?

22 A. No, I have not.

23 Q. Okay.

24 A. The picture there shows the out of
25 service sticker placed on the vehicle.

1 Q. And you showed that sticker to Mr.
2 Hang?

3 A. Yes, I did.

4 Q. Okay. I see from the picture you
5 can read it says out of service. What other
6 information is on that sticker?

7 A. The report number that the vehicle
8 was placed out of, and my signature and date.

9 Q. At the time of inspection did you
10 believe that the driver understood that he was
11 being placed out of service?

12 A. I did.

13 Q. You communicated it to him and his
14 co-driver?

15 A. That's correct.

16 Q. On both reports you have the reason
17 code as OBVI. Just explain what that means.

18 A. It means the reason code is obvious
19 violation.

20 Q. Okay. And the obvious violation for
21 the first reason you pulled him over was missing
22 mud flap.

23 A. Missing mud flap.

24 Q. And the obvious reason the second
25 time was because he left the scales with the out

1 of service sticker; correct?

2 A. Correct.

3 Q. I think you already said this, but
4 you did see the vehicle in motion leaving the
5 scales; correct?

6 A. Correct.

7 Q. Okay. So, at the end of the day
8 it's your testimony here that you observed Mr.
9 Hang operating a vehicle that was placed out of
10 service; correct?

11 A. Correct.

12 Q. Is there anything else that you
13 would think would be important for Mr. Lynn to
14 here today or the Commission?

15 A. On my first inspection doing a Level
16 1 I had enough confidence in Mr. Hang to perform
17 the Level 1 because of the interaction between
18 he and I to go through the inspection of pushing
19 the brakes, releasing the brakes, releasing
20 brakes, parking brakes, and rocking the wheel
21 and operating the turn signals.

22 Q. In other words, you believed Mr.
23 Hang understood you enough to go through an
24 inspection?

25 ATTORNEY EXAMINER: I have a

1 question.

2 MR. BEELEER: Sure.

3 ATTORNEY EXAMINER: I want to ask
4 the Inspector here, did you feel Mr. Hang, that
5 you were confident he understood what an out of
6 service is, what it means and he could not move
7 the vehicle?

8 THE WITNESS: I did explain that to
9 him, and I felt that he was competent enough
10 that he was placed out of service.

11 ATTORNEY EXAMINER: All right. Thank
12 you. And you pointed to the ground and said it
13 must stay here; correct?

14 THE WITNESS: Correct.

15 ATTORNEY EXAMINER: All right.

16 MR. BEELEER: At this point I have
17 no further questions, your Honor. I would move
18 for admission of Staff Exhibits 1 through 7 and
19 9 subject to any cross-examination. But I would
20 reserve the witness for rebuttal if necessary.

21 ATTORNEY EXAMINER: Okay. Thank
22 you. And, Inspector, if you will stay up here
23 just a moment.

24 Okay. And, Wendy, could you check
25 with Mr. Hang, does he have any questions of

1 the witness?

2 MR. BEELER: I would just note,
3 your Honor, if that statement, he can make a
4 statement, this is questions, but we will see if
5 it's a question or not.

6 ATTORNEY EXAMINER: Wendy, you can
7 tell us what he has to say. Right now he can
8 just ask any questions. As far as his thinking
9 about what happened, he can tell that when he
10 gets up on the witness stand. Does he have a
11 particular question?

12 THE INTERPRETER: I do not.

13 ATTORNEY EXAMINER: No questions.
14 All right. Thank you. And, Wendy, our next
15 step is all the documents that Mr. Beeler
16 entered, produced here, he wants those admitted
17 into evidence if Mr. Hang has no objection to
18 any of them.

19 THE INTERPRETER: I do not
20 understand the law. I do not understand what do
21 you mean by agree or not.

22 ATTORNEY EXAMINER: Okay. Well, in
23 other words, does Mr. Hang believe that these
24 are photographs of the wheel on the truck that
25 he was driving? Does he feel they are true

1 and accurate photographs of what he was
2 driving?

3 THE INTERPRETER: That is correct.

4 ATTORNEY EXAMINER: Okay. Then with
5 that in mind --

6 THE INTERPRETER: Not entirely.

7 ATTORNEY EXAMINER: Okay. Is there
8 a particular photograph he disagrees with?

9 THE INTERPRETER: The sticker, the
10 area that was out of service sticker, it was not
11 in my plain view sight, not until the patrol
12 officer pointed out to me, then I noticed that
13 the sticker was there.

14 MR. BEELER: At this point he can
15 make that statement on the stand, but as far as
16 the picture, the picture speaks for itself.

17 THE INTERPRETER: Correct.

18 ATTORNEY EXAMINER: Thank you.
19 Well, with that comment being made we will admit
20 these exhibits into evidence.

21 (EXHIBITS ADMITTED INTO EVIDENCE)

22 ATTORNEY EXAMINER: And, Inspector
23 Scott, you can take your seat over there.

24 And, Mr. Beeler, do you have any
25 additional witnesses?

1 MR. BEELER: Yes. Staff would call
2 Trooper Cooper to the stand.

3 (WITNESS SWORN)

4 - - -

5 TROOPER JUSTIN COOPER
6 called as a witness, being first duly sworn,
7 testified as follows:

8 ATTORNEY EXAMINER: Mr. Beeler.

9 DIRECT EXAMINATION

10 By Mr. Beeler:

11 Q. Good morning.

12 A. Good morning.

13 Q. Please state your full name for the
14 record.

15 A. Trooper Justin T. Cooper. Unit
16 1111.

17 Q. Where are you employed?

18 A. I am employed with the Ohio State
19 Highway Patrol. I am currently at the
20 Cincinnati Post.

21 Q. What is your position at the Ohio
22 Highway Patrol?

23 A. I am a State Trooper, and alternate
24 my duties between patrol car and a motorcycle.

25 Q. How long have you been with

1 the Patrol?

2 A. Since 2004.

3 Q. Your duties in your job?

4 A. My duties are to enforce the traffic
5 laws on all public roadways. And we also
6 investigate crimes that occur on state owned and
7 leased property.

8 Q. So you don't do roadside truck
9 inspections, but you are a general Trooper that
10 enforces all the other laws?

11 A. Correct. I work out of the scales,
12 so I can write scale violations and other
13 violations. But I am not federally certified to
14 inspect vehicles.

15 Q. Okay. For your, just, you know, job
16 as a Trooper, what sort of training do you have?

17 A. Go through a six-month academy at
18 the Ohio State Highway Patrol Academy where we
19 learn the ORCs and different things along
20 policing. And then after you graduate from
21 there you go through a three-month field
22 training period. And then after that you still
23 have supervisors and different trainings,
24 supervisor ride time and different trainings
25 yearly.

1 Q. How many stops do you do in a year?

2 A. Oh, 1,500 to 2,000.

3 Q. Okay. Tell me about your
4 involvement on the day of this inspection?

5 A. On this date here I just happened to
6 be grabbing lunch and sitting in the scale
7 house. And while I was eating my lunch motor
8 carrier Scott advised me that a vehicle that he
9 had just put out of service was leaving.

10 So I put down my food. I was on the
11 motor cycle that day. So I had to get my helmet
12 on. By the time this happened the truck had
13 already exited the scale house, completely was
14 on Interstate 74 heading eastbound.

15 I was in radio communication with
16 him because there were several trucks. And
17 called and confirmed which vehicle it was that
18 he put out of service and identified it by the
19 missing mud flap. And then I made the traffic
20 stop with that vehicle.

21 Q. You lit them up, you put your lights
22 on?

23 A. Yes. I initiated the traffic stop
24 with the lights, got him on the side of
25 the road. Told him I stopped him because of

1 the driving the out of service. And got his
2 driver's license off of him.

3 And at that point I told him to
4 follow me and we went around and turned around
5 and got back to the scale house which was the
6 closest safe haven to get him completely off
7 the highway and get the defects fixed that put
8 him out of service.

9 Q. You essentially escorted him back to
10 the scales; correct?

11 A. Yes.

12 Q. Did you then -- was that -- were you
13 done, or did you stick around for the second
14 inspection?

15 A. I was inside the office. I really
16 had nothing to do with the inspection.

17 Q. Okay. Did you happen to see the
18 sticker?

19 A. Yes

20 Q. The out of service sticker?

21 A. Yes. It was in plain site on the
22 truck.

23 Q. Okay. So you obviously witnessed
24 the vehicle in motion; correct?

25 A. Correct. And when I stopped him I

1 got his driver's license and I held on to his
2 driver's license until I got back to the scale
3 house then I gave that to motor carrier Scott.

4 Q. Okay. So you knew the driver was
5 operating an out of service vehicle both by what
6 Inspector Scott told you and by seeing the
7 sticker; correct?

8 A. Yes.

9 Q. Did you happen to see the rims?

10 A. I looked at them afterwards briefly,
11 and I could see the crack. I wanted to see what
12 the violation was, but I didn't stick around for
13 the actual second inspection.

14 MR. BEELER: Okay. Nothing further,
15 your Honor.

16 ATTORNEY EXAMINER: Okay. Wendy,
17 does Mr. Hang have any questions of the Trooper?

18 THE INTERPRETER: I do not.

19 ATTORNEY EXAMINER: No questions.

20 All right. Thank you. You can take your seat.
21 Thank you.

22 Now, Mr. Beeler, do you have a
23 further witness?

24 MR. BEELER: I do, Your Honor.

25 Staff would call Rod Moser to the stand.

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(WITNESS SWORN)

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ROD MOSER

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

DIRECT EXAMINATION

By Mr. Beeler:

Q. Please state your full name.

A. My name is Rod Moser.

Q. Where are you employed?

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

Q. How long have you been in your
current position?

A. Around two and a half years.

Q. So you are Chief of Compliance at
the PUCO; correct?

A. For the Transportation Department,
yes.

Q. Transportation. What are your
duties?

A. My basic duty in general would be to
administrate the civil forfeiture process for
the Transportation Department.

1 Q. What sort of expert qualifications
2 do you have, training and continuing education?

3 A. I served almost 30 years with
4 the State Highway Patrol. I am certified by
5 North American Standards Parts A and B, general
6 hazmat, cargo tank, motor coach.

7 And then also just on-the-job
8 training with a mentor when I first started the
9 job.

10 Q. Explain just generally how you
11 determine forfeiture amounts.

12 A. Forfeitures for non-hazardous
13 violations are all predetermined. They are
14 grouped according to severity and likelihood to
15 cause crashes. And each respondent that way
16 ends up with the same assessment as the other
17 respondents with the same violation.

18 Q. Okay. Does the Commission apply
19 this process uniformly to everyone, to drivers
20 and carriers?

21 A. It is uniformly assessed each, like
22 I said, each respondent with that violation
23 would get the same fine.

24 MR. BEELEER: May I approach?

25 ATTORNEY EXAMINER: Yes. Yes, you

1 may approach. Thank you.

2 MR. BEELER: I have what has been
3 previously marked as Staff Exhibit 8. This is
4 the Notice of Preliminary Determination that is
5 sent to the driver and it's dated February 26,
6 2019.

7 (EXHIBIT MARKED FOR THE PURPOSE OF
8 IDENTIFICATION)

9 Q. Do you recognize this document?

10 A. I do, yes, sir.

11 Q. What is it?

12 A. It's a copy of a letter that we
13 send, we commonly refer to as an NPD, Notice of
14 Preliminary Determination. This letter is sent
15 to a respondent after an unsuccessful attempt to
16 mediate a case by means of a phone conference.

17 Q. Did you review this document prior
18 to you testifying here today?

19 A. I did, yes.

20 Q. Is this a Commission record?

21 A. Yes, it is.

22 Q. And kept in the ordinary course of
23 the Commission's business?

24 A. Yes, sir.

25 Q. Explain how you came to the \$2,500

1 amount in this case.

2 A. That is the amount that is assigned
3 to all respondents who receive this violation as
4 part of an inspection.

5 Q. The violation of operating an out of
6 service vehicle?

7 A. Yes.

8 Q. And is this penalty consistent with
9 the recommended fine schedule, recommended civil
10 penalty procedure adopted by the Commercial
11 Motor Vehicle Alliance and the Commission's
12 rules?

13 A. It is, yes.

14 Q. The forfeiture amount is 2,500;
15 correct?

16 A. Yes.

17 Q. That is a correct amount for this
18 case?

19 A. Yes, it is.

20 Q. Would you recommend this amount to
21 the Commission?

22 A. I do.

23 Q. Okay. Just a few other questions
24 here. Do you know whether the carrier from the
25 first inspection, do you know if TBI Express was

1 cited for those violations?

2 A. There was a case generated actually
3 on both inspections for the carrier for
4 the first inspection for the cracked rim and for
5 a missing mud flap. There might have been a
6 third violation.

7 Q. Would you like to see that?

8 A. Sure. Then on the second inspection
9 the only carrier violation was the cracked rim.

10 Yes. So the third violation on the
11 initial inspection was for a brake issue.

12 Q. So, the report we are here for today
13 is Staff Exhibit 1; correct?

14 A. Correct.

15 Q. However, Staff Exhibit 9 also has a
16 wheel rim cracked violation; correct?

17 A. Yes, sir.

18 Q. That would be a carrier violation;
19 correct?

20 A. Yes.

21 Q. And that would be sent to the
22 carrier as a violation on their record; correct?

23 A. That's right.

24 Q. Did you look into whether the
25 carrier disputed the cracked rim violation?

1 A. They did not on either inspection.
2 We actually generated two separate cases, one
3 for each inspection, and they did not contest on
4 either case.

5 Q. And by not disputing those
6 violations -- one more question before that.

7 The reason that you know they
8 haven't disputed is that they haven't responded
9 in the required time frame to request a hearing;
10 correct?

11 A. Right. When we send the letters out
12 in this case they have 30 days to request a
13 conference or whatever other action they deemed.
14 We received no request for a conference. And
15 these cases because of the nature of the
16 violation, the case is automatically closed
17 after that 30-day period.

18 Q. By not disputing the violation the
19 carrier is essentially admitting the violations;
20 correct?

21 A. That's correct.

22 Q. Is there anything else important
23 that you would like to note for Mr. Lynn or for
24 the Commission?

25 A. I thought it was interesting that

1 the driver was able to communicate enough with
2 the Trooper to know to go back to the scale
3 house. Wasn't any confusion about that.

4 MR. BEELEER: No further questions at
5 this point. I would move for the admission of
6 Staff Exhibit 8 subject to cross-examination.

7 ATTORNEY EXAMINER: Wendy, we need
8 to know does Mr. Hang have any questions for Mr.
9 Moser?

10 THE INTERPRETER: I do not.

11 ATTORNEY EXAMINER: No questions.
12 All right. In that case we will admit this
13 exhibit into evidence as well.

14 (EXHIBIT ADMITTED INTO EVIDENCE)

15 ATTORNEY EXAMINER: All right.
16 Thank you, Mr. Moser. You can go take your
17 seat.

18 This is the opportunity for Mr. Hang
19 to say anything as well. We will go off the
20 record just for a minute.

21 (DISCUSSION OFF THE RECORD)

22 ATTORNEY EXAMINER: Thank you. So,
23 Wendy, can you just explain to Mr. Hang it's all
24 right if he stays there because he needs to hear
25 right from you what is being said.

1 (MR. HANG WAS SWORN IN)

2 ATTORNEY EXAMINER: Thank you. If
3 Mr. Hang could explain to us what his thoughts
4 are about this alleged violation.

5 THE INTERPRETER: How I feel, or you
6 want me to go ahead and give you my point of
7 view, my story?

8 ATTORNEY EXAMINER: Both really.
9 What he believes happened here, the
10 understanding he was not supposed to move
11 the vehicle. Did he understand what
12 the violation was. Did he understand he was not
13 supposed to move the vehicle.

14 THE INTERPRETER: I did not fully
15 understood that my trailer needed to be there at
16 the service area until repair is made.

17 Most of the time my co-driver was
18 communicating with the inspector. I wasn't 100
19 percent involved because I was busy working on
20 the elogbook. I wasn't able to send the e-mail,
21 I was more in the area that I tried to figure
22 out how the system worked. And I was on the
23 phone with my company trying to fix this.

24 So, when the inspector was showing
25 all the damage, all this, it was to the

1 co-driver, not me.

2 ATTORNEY EXAMINER: All right.

3 Could you ask Mr. Hang, did the co-driver though
4 explain to Mr. Hang what had been said by the
5 inspector that this is a serious violation,
6 don't move the vehicle. You know, did the
7 co-driver relay that information to Mr. Hang,
8 did Mr. Hang understand?

9 THE INTERPRETER: My co-driver and
10 I have been living in this country about two and
11 a half years, not even three years. What he
12 related to me that day was that we did not need
13 to stay, we can leave. But, we must get
14 everything fixed before 11:00 P.M. that evening.
15 That was the message from the co-driver.

16 ATTORNEY EXAMINER: All right. Did
17 Mr. Hang understand that, or did the co-driver
18 say because this is a cracked rim if you
19 continue to drive on this you could lose control
20 of the vehicle, not be able to steer. Was that
21 message given to Mr. Hang, did he understand
22 that?

23 THE INTERPRETER: No.

24 ATTORNEY EXAMINER: Okay. And when
25 Mr. Hang was stopped after the inspection, when

1 he reentered the highway, how did he finally
2 understand that he did have to go back to the
3 scale house and not drive any further until the
4 repair was made?

5 This goes back to the question Mr.
6 Moser asked; that after the first inspection Mr.
7 Hang reentered the highway, but when he was
8 stopped on the highway after the reentering, he
9 did, you know, agree and not argue and turned
10 around and come back. How did he understand the
11 second time but not the first?

12 THE INTERPRETER: So at that time,
13 yes, the patrol officer did have conversation
14 with us. It was interpreted by my co-driver.
15 I did not see the out of service stricker from
16 view where I was until the patrol officer
17 pointed it out to me.

18 I remember his face. He looked very
19 surprised too when he pointed out the sticker,
20 that we looked surprised. He used not only
21 English, but he used visual hand signals to let
22 us know that we need to turn back to the scale.

23 ATTORNEY EXAMINER: All right. And
24 I have another question for Mr. Hang. He said
25 that during the inspection, the first

1 inspection, he had been I believe on the
2 telephone with his employer. And did he explain
3 anything to the employer about the inspection,
4 about what was found, anything about the cracked
5 rim, that kind of thing? Anything about out of
6 service?

7 THE INTERPRETER: No. I did not
8 know that the inspector had conversation with my
9 employer. I tried to contact my employer. I
10 even used my own phone. I was hoping that the
11 inspector could also use my phone to communicate
12 with the owner, but he refused. So I did not
13 know that there was a policy that he did not --
14 he couldn't use the driver's phone to
15 communicate.

16 ATTORNEY EXAMINER: I guess what I
17 was trying to find out was this. Did Mr. Hang,
18 did he speak to his employer about the
19 inspection and what was found and so on?

20 THE INTERPRETER: No.

21 ATTORNEY EXAMINER: He did not.
22 Okay. But am I correct that he said he spoke to
23 the employer on the telephone? Maybe I
24 misunderstood.

25 THE INTERPRETER: Yes. I was on the

1 phone with him because of my English -- the
2 language barrier, and I was hoping that my
3 employer can help me to interpret what the
4 inspector said. But the inspector refused to
5 take my phone. So do not know the fact that
6 the trailer was out of service, I could not
7 leave.

8 ATTORNEY EXAMINER: Thank you. Mr.
9 Beeler, up to this point I have been asking all
10 the questions. Did you have any questions?

11 MR. BEELEER: Just a few.

12 CROSS-EXAMINATION

13 By Mr. Beeler?

14 Q. You were driving on the day?

15 A. (Via the Interpreter) Yes.

16 Q. And you drove the vehicle, after the
17 first inspection, you drove the vehicle out of
18 that area or the scales; correct?

19 A. Correct.

20 Q. And at the inspection you got copies
21 of both reports, Staff Exhibit 1 and Staff
22 Exhibit 9; correct?

23 A. Do you mean the first or the second
24 inspection?

25 Q. Both.

1 A. Correct. Yes.

2 Q. You understand trucking inspections;
3 correct?

4 A. I know of inspection, but my English
5 is very limited. I only can understand the
6 basic.

7 Q. And you understand the federal
8 regulations; correct?

9 A. During the written test, yes, I
10 learned that.

11 MR. BEELER: No further questions.

12 ATTORNEY EXAMINER: How about I have
13 a question for Inspector Scott.

14 MR. BEELER: I was going to bring
15 Inspector Scott back up on rebuttal if you want
16 me to do that now.

17 ATTORNEY EXAMINER: That is fine.
18 Inspector Scott, you can come back up, please.
19 Thank you.

20 You are still under oath. Mr.
21 Beeler, go ahead.

22 - - -

23 RICHARD SCOTT
24 recalled as a witness on rebuttal, being
25 previously duly sworn, testified as follows:

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DIRECT EXAMINATION

By Mr. Beeler:

Q. You heard Mr. Hang tell his side of the story?

A. Yes.

Q. Again, you told both the driver and the co-driver about this violation; correct?

A. Correct.

Q. Do you agree with Mr. Hang's statement that it was communicated mostly with his co-driver and not to him?

A. I tried to do it to both of them.

Q. Okay. And again I believe I asked you this before, but with Mr. Hang you spent five to seven minutes explaining to him that he needed to stay where he was at; correct?

A. Correct.

Q. Okay. As part of the federal regulations a driver should know that a cracked rim is an out of service offense; correct?

A. Correct.

Q. And again you showed Mr. Hang the out of service sticker before he left the scales and after, correct, and when he came back for the second inspection?

1 A. Along with pointing to the cracked
2 rim, and expressing how dangerous it was.

3 MR. BEELEER: I have no further
4 questions.

5 ATTORNEY EXAMINER: All right. I
6 have a question for the inspector. Mr. Hang had
7 mentioned that he had contacted his employer by
8 telephone and had offered the telephone to you
9 to speak to the employer. Do you remember
10 anything about that?

11 THE WITNESS: Not particularly.
12 But, my personal thought is I break that phone
13 by accident I own it. So, I don't like to use
14 other people's phones.

15 ATTORNEY EXAMINER: I understand.
16 Okay.

17 And I have a question for Mr. Hang.
18 Is the primary language of your co-driver
19 Mandarin also?

20 THE INTERPRETER: Yes.

21 ATTORNEY EXAMINER: All right. Go
22 off the record just for a minute, please.

23 (DISCUSSION OFF THE RECORD)

24 ATTORNEY EXAMINER: I had asked Mr.
25 Hang what brought him here today, whether he

1 thought there was no violation or he didn't
2 actually understand the violation, or was it the
3 dollar amount of the fine.

4 Our interpreter, Wendy, explained
5 that to him. And, Wendy, if you can repeat that
6 answer back, please. That is what Mr. Hang has
7 said to you or what you just said a minute ago.

8 THE INTERPRETER: I am here today
9 because I want everybody to know that was a
10 miscommunication, a language barrier, on that
11 day.

12 I take fully responsible if I have
13 violated any rules or regulations. I have been
14 a good driver for about two years driving in and
15 out of Ohio for the past half a year. I obey
16 all the regulations. I was very, very careful.

17 I am a good driver. I know that
18 there might be slightly different of between
19 regulations in Ohio and California. If I have
20 point on my record it might harm my job or going
21 to a different company they might not even hire
22 me if I have points.

23 I have a family, I have children,
24 and I need this job.

25 ATTORNEY EXAMINER: Thank you,

1 Wendy. An additional question for Mr. Hang. He
2 indicated that after the inspection when he
3 reentered the highway and then he was stopped by
4 Trooper Cooper, that it was through some hand
5 gestures on the part of Trooper Cooper that Mr.
6 Hang realized he had to turn the vehicle around
7 and go back to the scale house.

8 Now, Inspector Scott had said that
9 he also did some hand gestures, to do his best
10 to indicate that after the inspection at the
11 scale house, the first inspection, that
12 the vehicle had to stay there until repair was
13 done.

14 Does Mr. Hang recall anything of
15 that nature, that is any hand gestures at the
16 time of the first inspection to say you must
17 stay here?

18 THE INTERPRETER: I really do not
19 recollect that a hand gesture was made to me.
20 I would have admit to the fact that if I would
21 have seen was pointed to me, I remember that I
22 was so busy collecting information, getting into
23 my logbook, but I don't really recollect a hand
24 gesture the first time.

25 ATTORNEY EXAMINER: And I have a

1 question for Inspector Scott again. Your memory
2 of this inspection is that you communicated to
3 Mr. Hang with hand gestures that the vehicle had
4 to stay where it was immediately after
5 the inspection?

6 INSPECTOR SCOTT: Along with the
7 co-driver. To the best of my recollection both
8 of them were looking at the wheel, point to it,
9 and the ground to make sure it was fixed there.

10 ATTORNEY EXAMINER: All right.
11 Thank you. And actually a question, is it your
12 recollection that the co-driver had no better
13 understanding of the language, or maybe I am
14 remembering incorrectly?

15 INSPECTOR SCOTT: I don't remember
16 the co-driver, but more than likely he
17 understood more English than Mr. Hang.

18 ATTORNEY EXAMINER: Why do you think
19 that was so?

20 INSPECTOR SCOTT: From his
21 statements that he was indicating.

22 ATTORNEY EXAMINER: His statements
23 being?

24 INSPECTOR SCOTT: That the co-driver
25 was helping interpreting what I was saying.

1 ATTORNEY EXAMINER: Okay. Mr. Hang,
2 you had said that you had taken say a written
3 exam about I assume motor carrier safety rules.
4 So, you can read English. You can read it. Do
5 you have difficulty understanding when it is
6 spoken?

7 THE INTERPRETER: The written test,
8 mainly it's memorizing, you memorize the
9 questions. And I am able to recognize a few
10 words in the sentence to pick out the answers.

11 And also to your question, in
12 California now they have the written test
13 offered in Chinese language as well.

14 ATTORNEY EXAMINER: Just for my own
15 information, or perhaps everyone here, did he
16 take the written test in English?

17 THE INTERPRETER: At that time I
18 took it in English because Chinese language was
19 not offered. But I have tell you everything was
20 memorization.

21 ATTORNEY EXAMINER: Thank you. Mr.
22 Beeler, any further questions?

23 MR. BEELEER: One more if I am
24 permitted, your Honor.

25 ATTORNEY EXAMINER: Yes. Certainly.

- - -

RICHARD SCOTT

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

FURTHER DIRECT EXAMINATION

Q. (By Mr. Beeler) Inspector Scott, is
it your general understanding under the federal
regs that drivers need to speak the English
language sufficiently to converse with the
general public, understand the highway traffic
signs and signals, and also to respond to
official inquiries like the inspection today; is
that your understanding?

A. That's correct.

Q. That they need to understand English
sufficiently to at least comply with those
things; correct?

A. Yes.

ATTORNEY EXAMINER: All right.

Thank you. I don't believe there are anymore
questions on my part. Any more questions from
Mr. Hang of the witness? Of either witness?

Do you have any further questions of
either witness? Or any additional comments?

THE INTERPRETER: I don't have

1 question for the officer, but I do have a
2 comment that for the language part. A lot of
3 drivers on the road are bilingual or just speak
4 one language. I understand that I only speak
5 enough to communicate limited English. And I
6 can read some.

7 For example, in the exhibits here
8 cracked rim. Those I recognize. I can read and
9 I understand. But, as far as to go deeper into
10 the conversation, like I have to stay, and go in
11 deeper to the violation, I might not be able to
12 grasp it enough.

13 ATTORNEY EXAMINER: All right.
14 Thank you very much. I want to thank everyone
15 for attending today. Special thanks for our
16 interpreter who we couldn't have the proceedings
17 go forward if you were not here.

18 On that note we will wrap matters up
19 and go back to work wherever you need to go.

20 MR. BEELER: Thank you, your Honor.
21 No briefs, your Honor?

22 ATTORNEY EXAMINER: Oh, gee. Well,
23 I am sorry. Hold on there, Wendy. I need to
24 explain to Mr. Hang, there is an opportunity
25 after a hearing that either side can prepare

1 what's called a brief. It's a written summary
2 of the thoughts and the arguments the party has.

3 No one has to do that. They can do
4 that if they wish. And if one party files
5 what's called a brief, the other party can file
6 what's called a reply brief. Again, no one has
7 to do that.

8 MR. BEELEER: Your Honor, I would
9 move to not brief this, just submit it on the
10 record for what was said.

11 ATTORNEY EXAMINER: That is fine.
12 And, Wendy, you can ask Mr. Hang, does he want
13 to submit anything in writing, or summarize his
14 arguments? He does not have to do it.

15 THE INTERPRETER: If it's written I
16 don't know how to write English.

17 ATTORNEY EXAMINER: We understand.
18 We can just rely on what was said here today.

19 THE INTERPRETER: So it's done, you
20 don't need anything else from me?

21 ATTORNEY EXAMINER: No, we don't.
22 Thank you very much.

23 THE INTERPRETER: My final say, if I
24 may.

25 ATTORNEY EXAMINER: Fine.

1 THE INTERPRETER: Again, I thank you
2 very much for the opportunity today. I
3 understand that there will be a penalty upon me.

4 I am willing to take this
5 opportunity to pay my fine, if there is a fine,
6 for me to be responsible for. And for this case
7 I would like to say again that any points going
8 to the BMV in California will definitely hurt my
9 job. I hope that point will not be put on my
10 record. But finally, thank you.

11 ATTORNEY EXAMINER: All right.

12 MR. BEELER: Nothing further from
13 me, your Honor.

14 ATTORNEY EXAMINER: Wendy, if you
15 could explain to Mr. Hang that as far as paying
16 any fine, he asked for a hearing and the outcome
17 of the hearing determines whether there would be
18 a fine.

19 And if he is found guilty he has to
20 pay a fine. If he is found not guilty he
21 wouldn't have to pay a fine.

22 I want to make it clear that he
23 wanted a hearing, and that is his right to do.
24 But as far as paying any fine, that would be
25 really the outcome of the hearing today. Do you

1 know what I am trying to explain?

2 THE INTERPRETER: Yes.

3 ATTORNEY EXAMINER: Okay.

4 THE INTERPRETER: How long before
5 there is a ruling?

6 ATTORNEY EXAMINER: It will be easily
7 several months. We have a lot of cases in front
8 of us. I will summarize what was said here at
9 the hearing, and then the Commissioners, who I
10 work for, they would review what I have written
11 in the summary and actually make the final
12 decision.

13 But it will easily be several months
14 given the number of cases that we have. And it
15 takes a while to get the transcript of the
16 hearing and go through the material.

17 I would like to have a definite
18 date, but it depends on what other cases come up
19 in the meantime.

20 THE INTERPRETER: Is it going to be
21 negotiable? If I agree on the fine, don't agree
22 on the fine, able to appeal if the fine is too
23 heavy?

24 ATTORNEY EXAMINER: Let's go off the
25 record for a minute.

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(DISCUSSION OFF THE RECORD)

ATTORNEY EXAMINER: We will go back on the record. Mr. Hang just had some questions about the process from here on out, and I explained it takes time to summarize everything that was said and the Commissioners have the final say in the matter.

So that being said, again thank everyone for being here, and especially the two officers who have driven from out of town, and the interpreter for making it possible.

So with that being said we are adjourned. Thank you.

(At 11:55 the hearing was concluded)

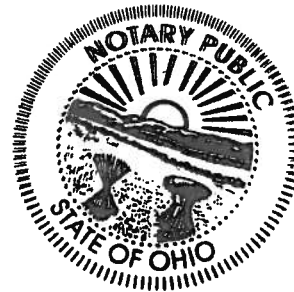
- - -

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 12, 2019, and carefully compared with
my original stenographic notes.

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

- - -



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Case No(s). 19-0660-TR-CVF

Summary: Transcript In the Matter of Ziwei Hang Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on September 12th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.