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before Mr. Daniel E. Fullin, Hearing Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-A, Columbus, Ohio, called at 10:00 a.m. on Tuesday, May 3, 2011.

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APPEARANCES:

Michael DeWine
Ohio Attorney General
By Mr. Thomas S. Lindgren
Assistant Attorney General
Public Utilities
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Public Utilities
Commission of Ohio.

Mr. Charles E. Pflugh, Respondent
P.O. Box 155
Eau Claire, PA 16030

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ALSO PRESENT:

Trooper P.E. Gerke,
Mr. John Canty,
Mrs. Pflugh.

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INDEX

- - -

WITNESS	PAGE
Trooper Gerke	
By Mr. Lindgren - Direct Examination	06
By Hearing Examiner - Examination	19
By Mr. Pflugh - Cross-Examination	49
Mr. Canty	
By Mr. Lindgren - Direct Examination	23
Mr. Pflugh	
Pro se Direct Examination	29
By Hearing Examiner - Examination	35
By Mr. Lindgren - Cross-Examination	42

- - -

STAFF EXHIBITS	IDENTIFIED	ADMITTED
1 - Driver/Vehicle Examination Report	09	27
2 - Notice of Preliminary Determination	24	27

RESPONDENT EXHIBITS	IDENTIFIED	ADMITTED
1 - Ram's Transit Lines Invoice	38	38

- - -

1 Tuesday Morning Session,
2 May 3, 2011.

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4 HEARING EXAMINER FULLIN: Let's go on the
5 record, and say that the Commission has established
6 this time and place a hearing in Case No.
7 10-1025-TR-CVF, which is the matter of the request of
8 Charles -- how do you pronounce your name?

9 MR. PFLUGH: Pflugh.

10 HEARING EXAMINER FULLIN: Pflugh, for an
11 administrative hearing.

12 My name is Daniel E. Fullin. I'm the
13 Attorney Examiner assigned to this case. And before
14 we begin the presentation of evidence, I'll ask for
15 the appearances of record, so beginning with the
16 Staff.

17 MR. LINDGREN: Your Honor, on behalf of
18 the Staff of the Commission, Ohio Attorney General
19 Mike DeWine and William Wright, Section Chief of the
20 Public Utilities Section, by Thomas G. Lindgren,
21 Assistant Attorney General, the address is 180 East
22 Broad Street, 6th Floor, Columbus, Ohio 43215.

23 HEARING EXAMINER FULLIN: All right.
24 Thank you. And for the record, I'd like you to
25 identify that you're here, give your name and address

1 for the record.

2 MR. PFLUGH: Charles E. Pflugh, Junior,
3 Post Office Box 155, Eau Claire, PA. Do you need me
4 to spell that for you? Are you writing everything
5 down there?

6 HEARING EXAMINER FULLIN: Yeah, she's
7 keeping track of everything you say.

8 MR. PFLUGH: E-A-U C-L-A-I-R-E, P-A
9 16031. What else did you need?

10 HEARING EXAMINER FULLIN: I think that's
11 all we need for now.

12 MR. PFLUGH: All right.

13 HEARING EXAMINER FULLIN: Okay.

14 MR. PFLUGH: 16030 was the zip code, I'm
15 sorry.

16 HEARING EXAMINER FULLIN: I think we'll
17 just proceed right away to the testimony. So
18 Mr. Lindgren, you can call your first witness.

19 MR. LINDGREN: Thank you. The Staff
20 calls Trooper P.E. Gerke to the stand.

21 - - -

22 TROOPER P.E. GERKE
23 being first duly sworn, as prescribed by law, was
24 examined and testified as follows:

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1 HEARING EXAMINER FULLIN: If you would
2 begin by again stating your name and spelling it for
3 the record.

4 THE WITNESS: Sure. It's Trooper Paul
5 Edward Gerke, G-E-R-K-E.

6 HEARING EXAMINER FULLIN: Okay. And you
7 can have a seat.

8 THE WITNESS: Okay.

9 HEARING EXAMINER FULLIN: And you can
10 begin your questioning, Mr. Lindgren.

11 MR. LINDGREN: Thank you.

12 - - -

13 DIRECT EXAMINATION

14 By Mr. Lindgren:

15 Q. Good morning, Mr. Gerke.

16 A. Good morning.

17 Q. Where are you employed?

18 A. With the Ohio State Highway Patrol.

19 Q. And what is your position there?

20 A. Trooper.

21 Q. And what's your business address?

22 A. It is 7821 State Route 700, Hiram, Ohio.

23 Q. Thank you. How long have you been with
24 the State Patrol?

25 A. Close to nineteen-and-a-half years.

1 Q. And what are your duties with the Patrol?

2 A. To enforce the Ohio Revised Codes, to
3 implement safety regulation on the roadway, to assist
4 motorists and make sure they're safe.

5 Q. Okay. Thank you. Do you concentrate on
6 commercial motor vehicle enforcement with the Patrol?

7 A. Yes, sir, I do.

8 Q. And how long have you been involved in
9 commercial motor vehicle enforcement?

10 A. It is going on eight years now.

11 Q. Thank you. What training have you gone
12 through in connection with commercial motor vehicle
13 safety?

14 A. It's intensive training down in Columbus,
15 Ohio at the Academy. The first training was close to
16 a month -- actually, it was four weeks and then we
17 come down for periodic training for hazardous
18 materials and bulk, non-bulk, other bulk training,
19 several -- several aspects of the commercial vehicle,
20 Level 1, Level 2, Level 3. And we go down
21 periodically to update our progress and implement new
22 rules.

23 Q. Thank you. Do your duties include
24 enforcing the regulations concerning fatigued
25 drivers?

1 A. Yes, sir.

2 Q. Have you had experience in stopping
3 drivers who are fatigued?

4 A. Yes, sir, throughout my career.

5 Q. Do you do this on a regular basis?

6 A. Yes, sir, I do. They asked somebody to
7 implement the Fatigue Driver Program. We were having
8 some difficulty on the turnpike and I volunteered to
9 work on a special shift just to focus on that.

10 Q. Thank you. Based on your experience, are
11 there certain signs you would look for to determine
12 if a driver may be fatigued?

13 A. Yes, sir. I take into account all facts,
14 driving, log book, talking to the individual. I take
15 all facts into account.

16 Q. Thank you. Do you recall inspecting a
17 vehicle operated by the Respondent in this case on
18 April 28th of 2010?

19 A. Yes, sir, I do.

20 Q. Thank you.

21 MR. LINDGREN: May I approach the
22 witness?

23 HEARING EXAMINER FULLIN: Yes.

24 MR. LINDGREN: Thank you.

25 HEARING EXAMINER FULLIN: It looks like

1 you're presenting with some documents. Are you
2 sharing them with the other side?

3 MR. LINDGREN: Yes. Yes, I am.

4 HEARING EXAMINER FULLIN: Okay.

5 MR. LINDGREN: Let the record reflect
6 that I am handing the witness what I have marked for
7 identification as Staff Exhibit 1.

8 (EXHIBIT 1 MARKED FOR IDENTIFICATION.)

9 HEARING EXAMINER FULLIN: Thank you.

10 MR. LINDGREN: You're welcome.

11 Q. Trooper Gerke, do you recognize the
12 document labeled Staff Exhibit 1?

13 A. Yes, sir. It's a copy of the inspection
14 that I did on April 28th of 2010.

15 Q. Does this reflect the results of your
16 inspection of the Respondent's vehicle on that date?

17 A. Yes, sir, it does.

18 Q. And did you personally prepare this
19 report?

20 A. Yes, sir.

21 Q. And did you prepare this at the time of
22 the inspection?

23 A. Yes, sir.

24 Q. Thank you. Is this report a type of
25 document that you would regularly prepare in the

1 course of your work for the State Patrol?

2 A. Yes, sir. When I did an inspection on a
3 commercial vehicle, this is exactly what I print out,
4 very similar.

5 Q. Thank you. Did you give a copy of this
6 report to the driver after your inspection?

7 A. Yes, sir.

8 Q. Thank you. Does this report reflect any
9 violations that you found in the course of your
10 inspection?

11 A. Yes, sir. It reflects three violations.

12 Q. And can you explain what those were?

13 A. Yes. The first one is Section Code
14 392.3, which is operating a commercial vehicle while
15 ill or fatigued, and I have down here to refer to my
16 notes, which is below that. And also, 395.8(f)(1),
17 which is concerning his record of duty status, which
18 is his log book. And his last entry in his log was
19 on 4/27/2010 at 9 o'clock in the morning and the
20 entry was in Butler, Indiana. And the last one is
21 Section 393.11LR, which indicates is no lower rear
22 retroreflective sheeting or reflex reflective
23 materials as required for vehicles manufactured after
24 December of 1993 and that would be the lower rear of
25 his trailer. It is required to have red and white

1 reflective sheeting and half of the required sheeting
2 was present at the time.

3 Q. Thank you. Do you recall what prompted
4 you to cite a violation of 392.3 for driving while
5 fatigued?

6 A. Yes. I was very thorough. I put all of
7 my notes down below there in the inspection notes.
8 If you want me to read that, I can.

9 Q. Yes, if you could, please.

10 A. Basically in my notes I have, "Unit No. 1
11 was traveling westbound on the Ohio Turnpike in the
12 center lane."

13 Q. Excuse me, was Unit No. 1 referring to
14 the driver's vehicle?

15 A. Yes, sir.

16 Q. Thank you. Okay.

17 HEARING EXAMINER FULLIN: Can I interrupt
18 just to ask you why you referred to it as Unit No. 1,
19 I was curious about that.

20 A. I guess, sir, that throughout my career
21 whenever I investigate crashes, we always refer to
22 Unit No. 1, 2, 3, just force of habit.

23 HEARING EXAMINER FULLIN: Okay.

24 Q. Please continue.

25 A. Yes, sir. "Unit No. 1 was traveling

1 westbound on the Ohio Turnpike in the center lane.
 2 Unit No. 1 was observed drifting into the left lane
 3 of travel and almost striking the inspecting
 4 officer's patrol vehicle. The overhead lights and
 5 siren were activated in an attempt to stop the
 6 vehicle. Unit No. 1 continued to drift into the left
 7 lane of travel. The inspecting officer began
 8 traveling behind Unit No. 1 to avoid contact. Unit
 9 No. 1 was utilizing all three lanes of travel and the
 10 rear brake lights were observed blinking. It was
 11 apparent that the driver of Unit No. 1 was
 12 unknowingly activating the brake lights. The
 13 investigating officer attempted to travel on the left
 14 side of Unit No. 1 to obtain the driver's attention.
 15 The driver finally noticed patrol vehicle and applied
 16 the brakes. Unit No. 1 stopped on the right berm.
 17 The driver stated that he just left home but agreed
 18 that he needed to stop at the next service plaza."

19 Q. So based on the observations you record
 20 in your notes, you felt that the driver was so
 21 fatigued or impaired that he was not able to operate
 22 the vehicle safely?

23 A. Yes.

24 Q. Were the driver's log books current on
 25 the date of your inspection?

1 A. No, sir. That was one of the violations
2 above there. They were on the day before at 9
3 o'clock in the morning in Butler, Indiana.

4 Q. And where did the driver depart from on
5 the date of your inspection.

6 A. On the date of my inspection, I have down
7 here that his origin of travel was from Amherst, New
8 York and he was going back to Butler, Indiana.

9 MR. PFLUGH: May I interrupt for a
10 second?

11 HEARING EXAMINER FULLIN: Yes. Go ahead.

12 MR. PFLUGH: Amherst, New York is where
13 the company I was hauling for had their offices. I
14 was hauling it out of Mars, PA.

15 A. I just go by the shipping paper.

16 MR. PFLUGH: It says Amherst, New York on
17 the paper that I would have gave to you that came
18 from Mars.

19 HEARING EXAMINER FULLIN: That's fine. I
20 did allow you to interrupt, but --

21 MR. PFLUGH: I just wanted to state that
22 so you know I never go to New York.

23 HEARING EXAMINER FULLIN: Again, I just
24 want to remind you that you're going to get a chance
25 to basically present your side later.

1 MR. PFLUGH: Okay. I just wanted to
2 straighten that out.

3 HEARING EXAMINER FULLIN: But on the
4 other hand, if you have something, you know, I'd
5 rather get it out here.

6 MR. PFLUGH: That's why I asked if I
7 could interrupt. That's why I interrupted.

8 HEARING EXAMINER FULLIN: Okay. I would
9 expect there would be some type of question of the
10 witness what he said rather than your description of
11 the facts because you'll get a chance to give your
12 side of the facts later on. Okay. If you have a
13 question about something that he testified to or you
14 want to point out something that you object to what
15 he said or something, bring that up during his
16 testimony, but if it's presenting your side of the
17 case, then just wait for your turn to testify.

18 MR. PFLUGH: Okay.

19 HEARING EXAMINER FULLIN: Okay. Did you
20 have anything, Mr. Lindgren?

21 MR. LINDGREN: I believe I have some more
22 questions.

23 HEARING EXAMINER FULLIN: Okay. I didn't
24 know if you wanted to respond to what he said or
25 something, but go ahead with your questioning of the

1 witness.

2 MR. LINDGREN: Thank you.

3 Q. (By Mr. Lindgren) What time did your
4 inspection of this vehicle begin?

5 A. Time started at 6:17 in the morning.

6 Q. Thank you.

7 HEARING EXAMINER FULLIN: Could I ask
8 you, is that noted on the inspection report?

9 A. Yes, sir, at the top right.

10 HEARING EXAMINER FULLIN: Okay. Thank
11 you.

12 A. Yes, sir.

13 Q. Let me ask you what you thought was most
14 significant about the driver's operation of the
15 vehicle that prompted you to pull him over and then
16 to determine that he was too fatigued to operate the
17 vehicle safely?

18 A. Most prevalent would be the weaving in
19 the lanes and almost striking my vehicle and me
20 activating the sirens and the lights and having to
21 pull up along side of him to get his attention.
22 Because I followed him for a little while, at least a
23 half mile and had to pull up next to him to get his
24 attention and continue to --

25 MR. PFLUGH: I'd like to object to that,

1 if I may.

2 HEARING EXAMINER FULLIN: Let me hear
3 what you have to say.

4 MR. PFLUGH: He wasn't following me for a
5 half a mile or whatever it was. He was riding beside
6 me for a half a mile in my blind spot and it was
7 whenever he come in behind the trailer, I noticed the
8 lights and then I pulled over.

9 HEARING EXAMINER FULLIN: Again, I'm glad
10 you brought it up. I'm letting you bring it up, but
11 at this time --

12 MR. PFLUGH: You said if I had something
13 to object.

14 HEARING EXAMINER FULLIN: But on the
15 other hand, I think you're describing what your
16 narrative about what happened is.

17 MR. PFLUGH: All right.

18 HEARING EXAMINER FULLIN: I'm really not
19 to trying to cut you off. I'm trying to proceed in
20 an orderly way. What I consider is that you describe
21 the different --

22 MR. PFLUGH: I'm not a lawyer and I don't
23 go to Court that often so I don't understand what you
24 mean by it's okay to object. That's what I thought
25 was doing. All right.

1 HEARING EXAMINER FULLIN: Okay. I don't
2 really consider that an objection to what he says.
3 It's just a different side of the story.

4 MR. PFLUGH: Okay.

5 HEARING EXAMINER FULLIN: But again, I'm
6 trying to work with you. I don't want -- I don't
7 really want --

8 MR. PFLUGH: I'm trying to work with you
9 but I don't understand all of this. If you asked me
10 a question about driving a truck, I could tell you
11 anything you need to know.

12 HEARING EXAMINER FULLIN: Well, when you
13 take the stand -- see, what you just said, I can't
14 really use it because you're not sworn in as a
15 witness, so what you said is not going to go into the
16 record in the way you just said it. Now it will go
17 into the record when you take the stand and you're
18 sworn in and you give your side of the story,
19 whatever you say there is going to go into the
20 record.

21 MR. PFLUGH: Okay.

22 HEARING EXAMINER FULLIN: But here's it's
23 more like if -- but again, I don't want you to feel
24 like you're not getting a fair opportunity.

25 MR. PFLUGH: I'm trying to learn this as

1 I go here.

2 HEARING EXAMINER FULLIN: Yeah. I
3 understand you're not -- this isn't your thing. And
4 in that sense, I'd rather hear from you than not hear
5 from you, bit on the other hand, if it really is just
6 a disagreement about what the facts are and you're
7 going to present your own side, then I --

8 MR. PFLUGH: Okay. I apologize for
9 interrupting you.

10 HEARING EXAMINER FULLIN: That's okay. I
11 did encourage you to bring something up when it
12 occurs to you, but I am trying to give you an idea
13 that, you know, when you're providing sworn
14 testimony, that's when the facts of what you're
15 saying are going to enter into the record, not when
16 you just make a statement now that opposes what he
17 had to say or tells a different story.

18 MR. PFLUGH: All right.

19 HEARING EXAMINER FULLIN: Go ahead,
20 Mr. Lindgren.

21 MR. LINDGREN: Thank you.

22 Q. (By Mr. Lindgren) Was the driver's
23 crossing over each other's lanes of traffic a hazard
24 to other motorists on the turnpike?

25 A. Absolutely.

1 Q. Did you place Mr. Pflugh out of service
2 after your inspection?

3 A. Yes, sir.

4 Q. And how long was he placed out of
5 service.

6 A. At the time, the regulations stated that
7 he's out of service until he can operate the
8 commercial motor vehicle safely, which is at the time
9 it's different for everybody. It could be five
10 minutes for one, 20 minutes for another, half hour
11 for another. When he's safe to operate the vehicle,
12 he would be allowed to move the vehicle at the time.

13 Q. Thank you.

14 MR. LINDGREN: I have no further
15 questions for this witness.

16 HEARING EXAMINER FULLIN: Okay. I have a
17 few.

18 THE WITNESS: Yes, sir.

19 - - -

20 EXAMINATION

21 By Hearing Examiner Fullin:

22 Q. I'm trying to get a better idea of where
23 you were in relation to him when you first observed
24 him and as you proceeded.

25 A. I was to the left rear of him when I

1 first observed him.

2 Q. So you were traveling down the road and
3 he was driving ahead of you?

4 A. Yes.

5 Q. And then, you know, I think the rest of
6 the notes follow from that, but I was kind of
7 getting an idea when you first saw him, you were
8 driving along the same direction as him from behind?

9 A. Yes, sir.

10 Q. And then you said that you put on your
11 siren and lights and from what I'm gathering, you
12 felt that he didn't observe that you had done that,
13 you had to drive next to him?

14 A. (Nods head up and down.)

15 Q. So about how long before you drove up
16 next to him? You said you followed him for a time,
17 was that with your lights and sirens on?

18 A. Oh, yes, sir.

19 Q. And about how long? You said maybe about
20 a half a mile?

21 A. Yes, I'm guessing. I wish I still had
22 the tape, but we erase our tapes after so long, but
23 yes.

24 Q. Okay. And then you testified that the
25 origin point of the drive was Amherst, New York. You

1 got that from observing the papers that he had with
2 him?

3 A. That's shipping papers that the driver
4 hands you, yes.

5 Q. Okay. And then it also -- you reported
6 in the Violations Section that the last entry in the
7 log book was in the morning before at 9:00 a.m. Does
8 that indicate where that entry was made, from what
9 location that was?

10 A. Yes. It was marked Butler, Indiana.

11 Q. Oh, yeah, there it is.

12 A. I always put that in my section.

13 Q. Okay. So he was returning -- from your
14 understanding, he was returning to Butler, Indiana on
15 this trip?

16 A. That day, yeah.

17 Q. And so if he was coming from the other
18 direction, the last known entry was actually the
19 destination of where he was heading?

20 A. At Butler, yes, he was heading back
21 there.

22 HEARING EXAMINER FULLIN: All right. I
23 don't have any more at this time. Mr. Pflugh, if you
24 would like to question the witness, you can.

25 MR. PFLUGH: I have nothing.

1 HEARING EXAMINER FULLIN: Okay. Thank
2 you.

3 MR. PFLUGH: Any questions I had I
4 interrupted -- I'm sorry, I forget your name. I
5 interrupted him, so I'm good.

6 HEARING EXAMINER FULLIN: Okay. Thank
7 you. His name is Mr. Lindgren.

8 MR. PFLUGH: He told me, but I'm terrible
9 with names.

10 HEARING EXAMINER FULLIN: That's okay.

11 MR. PFLUGH: But the time I walk up
12 there, I'll forget it again.

13 MR. LINDGREN: No problem.

14 HEARING EXAMINER FULLIN: Thank you.
15 That's all the questions I have.

16 MR. LINDGREN: Thank you.

17 TROOPER GERKE: All right, sir. Thank
18 you.

19 HEARING EXAMINER FULLIN: Thank you.

20 MR. LINDGREN: The Staff would now like
21 to call John Canty to the stand.

22 - - -

23 JOHN CANTY

24 being first duly sworn, as prescribed by law, was
25 examined and testified as follows:

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HEARING EXAMINER FULLIN: Thank you. You can be seated. And again, if you would begin by giving your name and spelling it for the record.

MR. CANTY: Yes, my name is John J. Canty, C-A-N-T-Y.

- - -

DIRECT EXAMINATION

By Mr. Lindgren:

Q. Good morning, Mr. Canty. Where are you employed?

A. With the Public Utilities Commission of Ohio.

Q. And what are your duties with the Public Utilities Commission?

A. I'm the Assistant Chief of the Compliance Division. I supervise the employees who are responsible for sending out the notices informing the Respondent's of civil forfeitures resulting from violations discovered during inspections of commercial motor vehicles.

Q. Are you familiar with the forfeiture assessed against the Respondent in this case?

A. Yes.

Q. Thank you.

1 MR. LINDGREN: May I approach the
2 witness?

3 HEARING EXAMINER FULLIN: Yes.

4 MR. LINDGREN: Let the record reflect
5 that I am handing the witness what I have marked for
6 identification as Staff Exhibit 2.

7 (EXHIBIT 2 MARKED FOR IDENTIFICATION.)

8 HEARING EXAMINER FULLIN: Thank you.

9 MR. LINDGREN: You're welcome.

10 Q. Mr. Canty, do you recognize the document
11 that I have marked as Staff Exhibit 2?

12 A. Yes. This is known as a Notice of
13 Preliminary Determination. It's dated June 28th,
14 2010. It's addressed to the Respondent at his home
15 address. This is the notice that was sent out
16 following a telephone conference with the Respondent.
17 It advises the Respondent that as a result of the
18 conference, we have made a determination to maintain
19 a civil forfeiture of \$100. It directs him to pay
20 the fine or gives him instructions on how to request
21 an administrative hearing.

22 Q. Thank you. And what is the forfeiture
23 assessed in this notice?

24 A. \$100.

25 Q. And how would that figure have been

1 derived?

2 A. We have a chart of all the various
3 violations that can be discovered during commercial
4 motor vehicles. On the chart they're broken down
5 into four categories and then a monetary amount is
6 associated with those violations in each category.

7 Q. Thank you. Is this chart consistent with
8 guidelines promulgated by any organization?

9 A. Yes. The CVSA, Commercial Vehicle Safety
10 Alliance, has promulgated recommendations and our
11 forfeitures are consistent with those
12 recommendations.

13 Q. Thank you. And would the \$100 forfeiture
14 be consistent with forfeitures assessed against other
15 drivers who are found liable for similar offenses?

16 A. Yes. This is the standard amount that
17 would be assessed for this violation against all
18 drivers.

19 Q. Thank you. And is this the amount you
20 would recommend the Commission assess against the
21 Respondent in this case, if it should find that he
22 did commit the violation as charged?

23 A. Yes.

24 Q. Thank you.

25 MR. LINDGREN: I have no further

1 questions.

2 HEARING EXAMINER FULLIN: The one
3 question I have is -- I think I've asked this in
4 previous cases, but I don't remember the answer.
5 Where does this chart exist if I wanted to see this
6 chart or if the driver wanted to see this chart, how
7 would we find the chart?

8 MR. CANTY: It is not published on the
9 Internet, but it is an internal document that we
10 maintain in the office. We update it on a regular
11 basis, approximately, every year, year-and-a-half to
12 reflect any changes that have been made in the
13 Federal Motor Carrier Safety Regulations Okay.

14 HEARING EXAMINER FULLIN: So it's not
15 really a public document, it's an internal document.
16 But based on your testimony, it is based on the
17 guidelines of the CVS Alliance, so are those
18 guidelines publicly available somewhere to look at?

19 MR. CANTY: Yes, those are available on
20 the Internet. Yes.

21 HEARING EXAMINER FULLIN: Okay. You just
22 go to a CVS Alliance home page of some kind and find
23 it there?

24 MR. CANTY: Yes.

25 HEARING EXAMINER FULLIN: That's all the

1 questions I have. Did you have any questions of this
2 witness?

3 MR. PFLUGH: (Shakes head back and
4 forth.)

5 HEARING EXAMINER FULLIN: No, he doesn't
6 have any questions.

7 MR. LINDGREN: Your Honor, the Staff has
8 no further witnesses and at this time I would like to
9 move the admission of Staff Exhibits 1 and 2.

10 HEARING EXAMINER FULLIN: Yes. If
11 there's no objection, I'll admit them into evidence
12 at this time. There's no objection, so they're
13 admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 HEARING EXAMINER FULLIN: Do you have
16 anything further to present?

17 MR. LINDGREN: Staff has nothing further.

18 HEARING EXAMINER FULLIN: Okay. So the
19 Staff has rested in their presentation of their case.
20 Now it's your opportunity to take the stand. I'll
21 swear you in and then present anything that you want
22 to bring.

23 MR. PFLUGH: Before you swear me in to
24 save me a trip, I didn't know this was a formal type
25 of deal so I didn't make any copies. Do you mind if

1 I show him --

2 HEARING EXAMINER FULLIN: Yes, go ahead
3 and share with him now. And Mr. Lindgren, if you
4 really want a copy.

5 MR. PFLUGH: On his notes it says that
6 the brake likes were blinking and I had a short in my
7 trailer and there's the service record there to show
8 that they had fixed that.

9 HEARING EXAMINER FULLIN: Is that
10 something that maybe you'd like to make a copy and
11 leave here as an exhibit so that it will be part of
12 the evidence?

13 MR. PFLUGH: This is a copy. The
14 original is still at the garage. I can leave the
15 whole thing, if you'd like.

16 HEARING EXAMINER FULLIN: Are you going
17 to be leaving that with me?

18 MR. PFLUGH: If you want it, you can have
19 it. It's going right here when I leave.

20 HEARING EXAMINER FULLIN: If it comes up
21 in your testimony, I'll make a decision from there
22 about it.

23 - - -

24 CHARLES E. PFLUGH

25 being first duly sworn, as prescribed by law, was

1 examined and testified as follows:

2 - - -

3 HEARING EXAMINER FULLIN: Thank you. You
4 can be seated.

5 And I'll just let you just begin to
6 present your side of the case and you can, you know,
7 bring up any facts or anything you want to.

8 - - -

9 PRO SE DIRECT EXAMINATION

10 MR. PFLUGH: Okay. On the morning in
11 question, yes, I had left from Mar, PA on -- I'm
12 sorry the date was the 28th that the citation was,
13 right? I left the papers you gave me back there. On
14 the day before, I picked up my trailer in Mars on the
15 27th and I went home that evening. And yes, my log
16 book was behind. I don't know what -- I don't recall
17 what happened. I believe I gave -- Paul, right?
18 I'll butcher your last name.

19 TROOPER GERKE: Paul is fine.

20 HEARING EXAMINER FULLIN: You're
21 referring to the Trooper?

22 MR. PFLUGH: To the Trooper.

23 HEARING EXAMINER FULLIN: Okay.

24 MR. PFLUGH: I believe I gave him an
25 explanation as to why I was behind on my logs. The

1 citation was more than a year ago and I can't
 2 remember that far back. Obviously, it wasn't a good
 3 excuse, but it was an excuse nonetheless. But I had
 4 just left home in Eau Claire, which is only about an
 5 hour away from where I was cited. When I noticed the
 6 Trooper behind me with his lights -- the signal
 7 lights on, he had dropped -- I saw him in the mirror
 8 as he was backing off a little bit and got behind me
 9 and then I pulled over immediately. I may have been
 10 swerving a little bit, but I don't believe that I
 11 crossed over out of my lane into any other lanes.

12 Would it be, I don't know what the word
 13 I'm looking for is, common, if a truck were to almost
 14 hit your car, your cruiser, like you said, would it
 15 be common to actually let the guy go?

16 MR. LINDGREN: Objection. He had a
 17 chance to cross-examine the witness. He declined to
 18 do that.

19 HEARING EXAMINER FULLIN: Right. See now
 20 you're asking the witness a question, which I think
 21 I'm going to allow you to do, but we'll put him back
 22 on the stand and let you ask him questions, but

23 MR. PFLUGH: No, that's not --

24 HEARING EXAMINER FULLIN: -- it's a
 25 chance -- if it's important to you.

1 MR. PFLUGH: That's not necessary.

2 HEARING EXAMINER FULLIN: The point of
3 asking him a question was -- it's okay to ask him a
4 question, but you should have done while he was on
5 the stand. For you to take the stand and then try to
6 ask him a question --

7 MR. PFLUGH: Well, I wasn't really
8 prepared for this. See, in Pennsylvania, when you
9 fight a citation like this, you go up in front of the
10 District Magistrate, just me and the Trooper would go
11 up in front of the District Magistrate and he'd say,
12 well, he did this and this and I'd say, well, I did
13 it because of this or whatever. And the Magistrate
14 would say, well, do you have any objection? Will you
15 drop the fine to \$50? No, I think you need to pay
16 the \$100 and a night in jail or whatever, whatever
17 the Magistrate -- I wasn't prepared for any of this.
18 This is catching me completely offguard.

19 HEARING EXAMINER FULLIN: I apologize.
20 I'm sorry for that and I'm not trying to make
21 procedures stand in the way.

22 MR. PFLUGH: That's fine. The procedures
23 -- you got a certain way to do things and I don't
24 expect you to change it for me.

25 HEARING EXAMINER FULLIN: So again, I'm

1 just going to let you again present your side of the
2 case, but I don't think this is your opportunity to
3 ask questions really of the Judge in terms of
4 anything other than my rulings and for anybody on the
5 other side. It's just you're presenting your side of
6 the case.

7 MR. PFLUGH: All right. Well, my point
8 of the whole thing is when he did pull me over, when
9 I did see him behind me and I did pull over to the
10 side of the road and he said I was weaving all over
11 the road and I initially told him, I don't think I
12 was, you know. Now, there's ruts in the highway.
13 It's not all smooth pavement on the turnpike, if
14 you've ever been on it, so I may have been weaving,
15 but I did not cross out of one lane and into the
16 another. A truck is not even allowed in the left
17 lane on the turnpike to begin with so I couldn't use
18 it, even if I wanted to, or I would have got cited
19 for that, too. I told him that I didn't think that I
20 was swerving that much. And he told me, and his
21 exact words were, after he let me go -- after he went
22 through and took my driver's license and went back to
23 his cruiser and did whatever he had to do in the
24 computer, bring up the paper or whatever, and he came
25 back up and he explained to me the log book violation

1 and I told him what the reason was for that. And he
 2 told me, his exact words were, I'm feeling generous
 3 today, I'm going to give you a warning, but I want
 4 you to stop at the next service plaza and take a
 5 break. And when it says on his notes that you have
 6 there that I agreed I needed to take a break, what he
 7 didn't write down is because I had to go to the
 8 bathroom. I was going to pull into the next service
 9 plaza anyway. I was driving with my legs crossed
 10 practically.

11 That's all I've got to say. I mean, this
 12 has been over a year ago. First of all, it should
 13 have been taken care of a long time ago. I'm sure
 14 everybody probably agrees with that. There's no
 15 reason for a \$100 fine to take more than a year.
 16 Whenever I first got the citation in the mail, I was
 17 shocked because I told my wife, I said, he told me it
 18 was a warning, what the heck is this \$100? So we
 19 called and they said, well, we can't talk to you guys
 20 on the phone. You have to submit in writing, request
 21 for a phone conference, so I did that. I went
 22 through all the procedures. And I don't remember --
 23 I remember the woman's name, who I talked to here at
 24 the Public Utilities Commission. It was Wendy
 25 Williams. And I don't remember the exact number of

1 days that she told me, but I had this many days to
2 send them a paper and then they would send me a paper
3 back letting me know when the phone conference was
4 and that was way overdue. I don't remember, like I
5 said, the exact number of days, but it was something
6 like that I had 60 days to get them a letter and then
7 they would have 60 days to get me back a letter.

8 Well, three months goes by and I still
9 haven't heard back from them yet. So my wife called
10 and they said, oh, no, we have as much as we want.
11 Well, that ain't what Wendy Williams told me. Okay.
12 So then whenever I finally do get my phone
13 conference, it was the middle of October sometime.
14 And I said, well, do you have any idea when the
15 hearing is going to be because I had to request a
16 hearing, too. I said, do you have any idea when the
17 hearing is going to be because I need to take a
18 vacation day to go do it? And the guy said, well, it
19 will be towards the end of the month, the 28th or
20 29th. That was October. This is May. What the heck
21 is going on over here? You know. This whole thing
22 is blown way out of proportion.

23 Now, it's \$100 fine. If I had paid the
24 100 bucks, it would be all scot-free now, but I took
25 a vacation pay, which pays me \$125. I gave up a \$210

1 load to come here so I'm already down 100 bucks, plus
2 the gas money to get all the way from Eau Claire down
3 to here and back again. This is way out of
4 proportion. Something is just not jiving in my head
5 with it. Maybe I'm wrong.

6 HEARING EXAMINER FULLIN: Can I ask you
7 -- I mean, I don't want to interrupt you. Go ahead
8 and I'll let you finish.

9 MR. PFLUGH: I even saved my log books
10 from that date because he told me whenever I
11 pulled -- he said, pull into the next service plaza,
12 which I believe was only a couple miles down the
13 road. You probably don't remember. Does it have the
14 mile marker on the citation there?

15 HEARING EXAMINER FULLIN: I think it's on
16 there.

17 MR. PFLUGH: But I believe it was only a
18 couple miles down the road, but like I said, I
19 planned on stopping anyhow. Oh, shoot, I don't
20 remember the point I was trying to make. I don't
21 even remember what I was talking about now. All
22 right. That's all I got. I don't know.

23 - - -

24 EXAMINATION

25 By Hearing Examiner Fullin:

1 Q. So when you talked to Wendy Williams, can
2 you remember when that happened in relation to the
3 inspection?

4 A. Would there be a date on record from when
5 they mailed me a letter? Because it was as soon as I
6 got the letter from her, said what the heck is this?
7 I know it was on a Saturday because I was home from
8 work that day, but I don't recall the exact date. I
9 just know it was the day I got the letter and then I
10 called her the following Monday because I figured
11 there was nobody here on a Saturday and she had told
12 me what to do and I followed her -- what she said to
13 do step by step.

14 Q. Okay. And that's when you made your
15 request in this case for an administrative hearing.
16 Then did you have a teleconference --

17 A. I did.

18 Q. -- after that between the time you made
19 the request and now?

20 A. Yeah. It was in the middle of the
21 October.

22 Q. Okay. I think I might have scheduled
23 that.

24 A. Well, whoever I talked to on the phone
25 that day, I asked him because I had my log book saved

1 -- that's the point I was getting to. Whenever I
 2 pulled off, I got my log book caught up because I
 3 just -- I was absent minded that morning or something
 4 and I forgot. So whenever I did pull off to go to
 5 the restroom, I got my log book caught up and I did
 6 save it. But like I said, they told me end of
 7 October. I saved it til the end of December, and I
 8 don't need that and in the garbage it went. I
 9 figured you guys just dropped the case because I
 10 didn't hear from anybody, so now I don't even have
 11 the log book with me. This is all I brought just to
 12 show that I wasn't hitting the brakes because I
 13 wasn't. I had the cruise control set.

14 Q. What is it that you have there?

15 A. Oh, I'm sorry. I forgot to show you.
 16 It's just a work order from Ram's Garage saying that
 17 I had a short in my trailer and they had to fix it.

18 Q. And what's the date on this?

19 A. I believe it was about a week after the
 20 citation. I didn't even look at it. I don't
 21 remember that far back and I didn't look at it that
 22 close to say. But I don't drive at night a whole lot
 23 so my trailer lights were all lit and I couldn't see
 24 that the brake lights were blinking until I was
 25 driving at night and I was like what the heck is that

1 red light I see blinking in the mirror?

2 Q. This is a receipt from a service station
3 that shows that they worked on the lights and you're
4 saying it happened a week or so later?

5 A. Yeah.

6 Q. Okay. And the reason why the lights come
7 into the picture is?

8 A. Some short in the wiring.

9 Q. But I mean, how does that relate to
10 whether you were fatigued?

11 A. It says in this notice that my brake
12 lights kept coming on. He thought I was hitting my
13 brakes and speeding up and slowing and I wasn't.

14 HEARING EXAMINER FULLIN: I'll mark this
15 as Respondent's Exhibit 1.

16 (EXHIBIT 1 MARKED FOR IDENTIFICATION.)

17 HEARING EXAMINER FULLIN: And if there's
18 no objection, I'm allow it into evidence.

19 MR. PFLUGH: Okay. That's about all I
20 got.

21 HEARING EXAMINER FULLIN: No objection?

22 MR. LINDGREN: No, no objection.

23 HEARING EXAMINER FULLIN: I'll allow it
24 into evidence in the case.

25 (EXHIBIT 1 ADMITTED INTO EVIDENCE.)

1 HEARING EXAMINER FULLIN: So a lot of
2 what you've told me just now has to do with the
3 timing of when things happened in terms of the
4 conference call and the hearing.

5 MR. PFLUGH: Well, yeah. Yeah.

6 Q. (By Hearing Examiner Fullin) But in terms
7 of the actual description of why it is that you're
8 telling me that you weren't fatigued that day, what
9 is your best -- I mean, what is your position or your
10 story about how it was?

11 A. Well, I had my ten hours off and if it
12 was you I talked to on the phone conference you asked
13 me if I had proof that I had my ten hours off, and I
14 said I was at home and my wife there was and that's
15 the only witness I have. I wasn't out clubbing or
16 nothing, and you said, well, bring her with you, or
17 whoever I spoke to.

18 Q. It wasn't me, but I think what you said,
19 no matter who it was, they would cover your
20 description.

21 A. I had ten hours off and where I was cited
22 was only an hour from home. How can a guy get
23 fatigued that quick. I wasn't weaving.

24 Q. I'm just going to ask this, where is
25 Mars, Pennsylvania?

1 A. Mars, Pennsylvania it about 20 minutes
2 south of Pittsburgh. That's the best I can describe
3 it.

4 Q. Now, I'm confused about -- your home is
5 in Eau Claire?

6 A. Eau Claire.

7 Q. So when you started the trip, where were
8 you leaving from?

9 A. Eau Claire.

10 Q. From Eau Claire. So how does Mars fit
11 into the picture?

12 A. The day before.

13 Q. Okay. So the day before you had driven
14 from Mars to your home?

15 A. My normal route is from Eau Claire, I go
16 to Butler, Indiana, unload, go back down to Mars and
17 drop the empty trailer, hook onto a loaded trailer
18 and go home. It's a big circle.

19 Q. So this is kind of like a regular pattern
20 of the route you take?

21 A. That's my regular routine, yes.

22 Q. So just because I didn't quite follow it
23 right now, I'm sure I'll read it in the transcript,
24 but could you repeat for me what your trip consists
25 of.

1 A. I leave from Eau Claire to Butler,
2 Indiana. Butler, Indiana back to Mars after I get
3 empty, drop the empty trailer, hook onto a loaded
4 trailer and back to Eau Claire. It is five hours
5 from Eau Claire to Butler, Indiana, half hour to
6 unload, five hours from Butler, Indiana to Mars, PA,
7 usually only 15 minutes to go grab another trailer,
8 but sometimes I go to the bathroom or BS with
9 somebody there or whatever, and then an hour home.
10 That's my 11 hours.

11 Q. Okay. And so on the day of the
12 inspection, which happened at like 6:00 in the
13 morning?

14 A. Yeah.

15 Q. So how long had you been driving?

16 A. About an hour.

17 Q. About an hour. From?

18 A. From Eau Claire.

19 Q. To where the inspection took place.

20 A. Yes.

21 Q. And --

22 A. Maybe a little more than an hour. It's
23 about an hour from my house to where I get on the
24 turnpike and I might have been on the turnpike 15
25 minutes.

1 Q. Roughly an hour, an hour to an
2 hour-and-a-half?

3 A. Yeah.

4 Q. No more than an hour-and-a-half?

5 A. Yeah.

6 Q. Okay.

7 HEARING EXAMINER FULLIN: I don't think I
8 have any questions right now. Mr. Lindgren, you can
9 cross-examine the witness.

10 MR. LINDGREN: Thank you. I just have a
11 few questions.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Lindgren:

15 Q. Mr. Pflugh, you said that you had
16 probably been driving a little more than an hour on
17 the morning that you were stopped and inspected by
18 Trooper Gerke.

19 A. Yes, sir.

20 Q. So it would have been about 5 o'clock
21 that you left your home?

22 A. Roughly.

23 Q. So you must have gotten up and got
24 dressed and maybe eaten breakfast before you left,
25 right?

1 A. Generally, I just grab something to eat
2 in the truck.

3 Q. Okay. But you would have been awake
4 maybe at least by 4:00 or 4:30?

5 A. 4:30, probably tops.

6 Q. So you would have left home by -- or
7 gotten up that day by at least 4:30. And on the day
8 before you had not completed your log books since you
9 had left Butler, Indiana; is that correct?

10 A. Yes.

11 Q. So is it possible that when you got home
12 that day it was late and you just said, well, I'm not
13 going to do a log book so I'll just catch up on that
14 tomorrow?

15 A. I generally do that anyhow whenever I go
16 home because I'm not going to get pulled over while
17 I'm laying on my couch watching TV. I just, when I
18 get up in the morning, I catch the next day up and
19 start the following day and the following day wasn't
20 started and the day before wasn't finished. I don't
21 remember what happened that morning that I forgot or
22 just kind of got out of my groove with something. I
23 probably had a light out on my trailer I had to work
24 on or something, I don't remember, and it threw me
25 out of my groove. I jump in the truck, turn the

1 lights on. I'll do a walk-around inspection of the
2 truck and fill my log book out and leave, and if I
3 had to get out of my groove to change a light or put
4 air in the tire or anything like that, it would have
5 just slipped my mind and I don't remember what it
6 was.

7 Q. So if you had to fix something on your
8 truck that night, you may have gotten to sleep later
9 than usual, right?

10 A. I don't remember.

11 Q. So you can't --

12 A. I got plenty of sleep.

13 Q. Okay. But you don't exactly remember
14 when you got to bed that night?

15 A. No. That was a year ago. I don't
16 remember what time I got to bed last night.

17 Q. So is it possible you left for your trip
18 the next day without having a full night's sleep?

19 A. Anything is possible. It's possible I
20 could walk out the front door today and get hit by a
21 bus on the street corner, but I don't remember. I
22 know I wasn't that tired.

23 Q. Would you agree with me that if you were
24 crossing lanes of traffic on the day that you were
25 stopped, that would present a hazard --

1 A. Oh, absolutely.

2 Q. -- to other motorists?

3 A. Absolutely. Absolutely.

4 Q. And there must have been some reason why
5 you would be crossing different lanes; is that right?

6 A. If I would have been, it would have been
7 because the truck beside me was pushing me, but that
8 wasn't happening or I would have explained that to
9 him that day. Like I said, the wind blowing could
10 push me one way or the other. That's why they build
11 the lanes a little bit bigger than the trucks, you
12 have a little bit of window for error, but I know I
13 wasn't crossing over any lanes, though.

14 Q. But didn't you just say you don't
15 remember the events of this morning very well because
16 it was over a year ago?

17 A. Well, I don't remember the exact events,
18 but I know I wasn't crossing over any lanes or I
19 wouldn't have argued with him to begin with. I would
20 have paid the 100 bucks and gotten it over with.

21 MR. LINDGREN: Thank you. I have no
22 further questions.

23 HEARING EXAMINER FULLIN: Let me ask you.
24 Do you recall in the area where the officer saw you
25 and then eventually pulled you over, is that -- how

1 many lanes of traffic are there?

2 A. Three lanes in each direction, so a
3 six-lane highway.

4 Q. And so you're basically saying you were
5 maintaining a lane?

6 A. I was maintaining a lane.

7 Q. Which lane were you maintaining?

8 A. The center one.

9 Q. The center one.

10 A. I had just finished passing a truck or
11 something or a car.

12 Q. Okay. And from your earlier testimony, I
13 gather what you're saying is that to the extent you
14 were weaving, you may have been weaving within that
15 center lane?

16 A. Yes, sir.

17 Q. And you may have been doing it to avoid
18 pot holes or that kind of thing?

19 A. Yeah, the ruts in the road can push you
20 either way, too.

21 Q. The ruts or the wind could have been
22 pushing you?

23 A. Any way.

24 Q. But your testimony basically is that the
25 whole time you're maintaining the center lane and not

1 switching from one lane to the another?

2 A. Yes, sir.

3 Q. Moving around within that lane according
4 to the conditions but staying within the center lane?

5 A. Yes, sir.

6 Q. Until you were finally pulled over?

7 A. (Nods head up and down.)

8 HEARING EXAMINER FULLIN: Anything
9 further?

10 MR. LINDGREN: Nothing further, Your
11 Honor.

12 HEARING EXAMINER FULLIN: Thank you for
13 your testimony.

14 MR. PFLUGH: Go sit down?

15 HEARING EXAMINER FULLIN: Yeah, you're
16 finished, unless you have something you want to add.

17 MR. PFLUGH: No, I'm finished.

18 HEARING EXAMINER FULLIN: Okay. So
19 you're done presenting your side of the case?

20 MR. PFLUGH: Me?

21 HEARING EXAMINER FULLIN: Yeah.

22 MR. PFLUGH: Yeah.

23 HEARING EXAMINER FULLIN: Okay. Well,
24 then in that case, I think I will draw the hearing to
25 a close, unless either side wants to make some kind

1 of a further statement or closing statement of any
2 kind, which I will allow.

3 MR. LINDGREN: No, thank you.

4 HEARING EXAMINER FULLIN: Okay. In that
5 case then I thank everyone for their testimony and
6 their time and I'll bring the hearing to a close and
7 I thank you. There will be formal Commission
8 decision in that case, which the way it works is I
9 will be drafting it, but then the Commission actually
10 is the one that signs it. So they'll look at my
11 draft and tell me if they don't agree with it or how
12 they want it changed, but I'll be drafting it. The
13 Commission will meet and decide the case.

14 MR. PFLUGH: Is it too late for me to
15 recall the Trooper? She just reminded me that I
16 wanted to ask him something.

17 HEARING EXAMINER FULLIN: Okay. We'll go
18 back on the record.

19 MR. PFLUGH: If it's too late, I'm sorry.

20 HEARING EXAMINER FULLIN: No. I'm not
21 cutting you off because you didn't ask a question at
22 the right now because you're not an attorney and you
23 didn't know how we were going to proceed. I think
24 what you're saying is you want to cross-examine the
25 Trooper, so I'd like to bring him back up on the

1 stand.

2 MR. PFLUGH: Just a couple of questions.
3 It will take two minutes.

4 HEARING EXAMINER FULLIN: Okay. I'll
5 consider that you're already still sworn in from
6 before so.

7 TROOPER GERKE: Okay, sir.

8 HEARING EXAMINER FULLIN: You can go
9 ahead and ask him your questions.

10 - - -

11 CROSS-EXAMINATION
12 OF TROOPER P.E. GERKE

12 By Mr. Pflugh:

13 Q. Okay. As I was saying before, would it
14 be customary if a truck were to almost hit your car,
15 I believe you stated three times on the paper to --

16 A. Three times?

17 Q. I don't remember.

18 A. I don't remember putting --

19 Q. I do know you said that I almost hit your
20 car. Would it be customary that I would just, oh,
21 pull over at the next service plaza and gather your
22 thoughts?

23 A. I don't know where you're leading me with
24 that question. What do you mean?

25 Q. Well, I mean, when you brought the paper

1 up, I had never gotten a warning before. I didn't
2 know that that was an actual citation and you told me
3 it was a warning.

4 A. I did not say that. I said I'm not
5 citing you for the violation. I said it's a
6 violation on the inspection. If I would have gave
7 you a warning, I would have gave you a warning slip.

8 Q. Well, I didn't know what a warning was.
9 I didn't know that that was a citation. I thought
10 they looked the same and since there was no price on
11 it, it was a warning. But you did not say, I'm
12 feeling generous today, I'm just going to give you a
13 warning, but I want you to stop and gather your
14 thoughts at the next plaza?

15 A. Did I give you a warning slip because I'm
16 required by law to give a warning slip?

17 Q. I didn't know that at the time, but that
18 is what you said.

19 A. I did not say warning.

20 MR. PFLUGH: All right. Then nevermind.
21 I'll just pay it. I'm done. No more questions.
22 Whatever.

23 HEARING EXAMINER FULLIN: Okay. Thank
24 you. All right. Thank you for your testimony this
25 morning.

1 TROOPER GERKE: Yes, sir.

2 HEARING EXAMINER FULLIN: We'll go off
3 the record. In fact, we'll bring the hearing to a
4 close.

5 (Thereupon, the proceedings concluded at
6 10:52 a.m.)

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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 Tuesday, May 3, 2011, and carefully compared with my original stenographic notes.

Sandra D. Kin, Registered
Professional Reporter and
Notary Public in and for the
State of Ohio.

My Commission Expires May 14, 2012.

(sdk-1314)

- - -

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Case No(s). 10-1025-TR-CVF

Summary: Transcript Transcript of Charles E. Pflugh hearing held on 05/03/11. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Kin, Sandra Ms.