

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Notice of Apparent :
Violation and Intent to : Case No. 10-2493-TR-CVF
Assess Forfeiture Against :
Dimitri A. Ivanov. :

- - -

PROCEEDINGS

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 9:58
a.m. on Thursday, June 23, 2011.

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On behalf of the Staff of the Public
Utilities Commission.

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On behalf of the Respondent.

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Thursday Morning Session,
June 23, 2011.

- - -

EXAMINER FULLIN: I'm going to begin by saying that the Commission has called for a hearing, at this time and place, Case No. 10-2493-TR-CVF which is the Matter of the Notice of Apparent Violation and Intent to Assess Forfeiture against Dimitri A. Ivanov.

My name is Daniel E. Fullin. I'm the attorney examiner assigned to hear this case.

May I have appearances, first on behalf of the staff.

MR. LINDGREN: On behalf of the staff of the Commission, Ohio Attorney General Mike DeWine and William Wright, Section Chief, of the Public Utilities Section, by Thomas Lindgren and Steven Beeler, Assistant Attorneys General, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215.

EXAMINER FULLIN: Thank you.

And appearing on behalf of the -- what would we call -- well, on behalf of Dimitri Ivanov.

MR. YEMC: Yes. Thank you, your Honor.

EXAMINER FULLIN: Is he the Respondent in the case?

1 MR. YEMC: Yeah, he's the Respondent.

2 Michael Yemc on behalf of the Respondent.

3 Last name is spelled Y-e-m-c. My Supreme Court
4 number is 0065390. And, earlier, I gave the
5 stenographer my address and information.

6 EXAMINER FULLIN: Okay.

7 MR. YEMC: Thank you.

8 EXAMINER FULLIN: And the pronunciation
9 is "yemz"?

10 MR. YEMC: "yemz."

11 EXAMINER FULLIN: Okay.

12 Then I'll also begin by allowing either
13 party or both parties, if they wish, to make an
14 opening statement in the case. Again, first the
15 offer is to staff if they wish to make an opening
16 statement.

17 MR. LINDGREN: Yes, your Honor.

18 The staff intends to show, by a
19 preponderance of the evidence, that the driver and
20 Respondent, Dimitri Ivanov, operated his motor
21 vehicle after he had been placed out of service for
22 two defects which were brake lights that were staying
23 on and also an insecure or a hazardous operation due
24 to damage to his trailer. And the evidence will show
25 that the driver drove his vehicle after being placed

1 out of service and without having the necessary
2 repairs made.

3 Thank you.

4 EXAMINER FULLIN: Okay. Thank you.

5 And an opening statement if you would
6 like.

7 MR. YEMC: Yes. Thank you, your Honor.

8 The evidence is going to show that after
9 my client was initially stopped, he was, in fact,
10 transported to a repair shop, it was E & R Trailer
11 Sales and Service, that, at that point, one of the
12 repairmen signed off on a receipt indicating that the
13 brake lights were indeed operational and that there
14 was no problem with the brake lights.

15 In addition, even the photographic
16 evidence will show that, although there was damage to
17 the trailer or the rear of the cab, that the issue,
18 and on the report the issue is that there were items
19 initially hanging out of that container compartment,
20 and the subsequent photographs will show that those
21 items were removed and the only thing that was really
22 hanging out there was some trailer lining on the
23 tractor for that actual door.

24 So I believe that the evidence, today,
25 will show that my client actually complied with the

1 out-of-service order to the best of his abilities and
2 tried to do the necessary repairs before he operated
3 the vehicle.

4 EXAMINER FULLIN: Thank you.

5 I appreciate both opening statements and
6 now we'll move to the presentation of evidence in the
7 case and we'll begin with the presentation of staff's
8 case.

9 MR. BEELER: Thank you, your Honor.

10 Before we start our case in chief, the
11 parties had spoke before and we're stipulating to the
12 forfeiture witness in this case. Basically, we
13 stipulated that the fine of \$1,000 in the case is
14 consistent with the recommended fine or penalty
15 scheduled and recommended civil penalty procedure
16 adopted by the Commercial Motor Vehicle Safety
17 Alliance.

18 EXAMINER FULLIN: Okay. I'll note that
19 stipulation for the record. Will it suffice the
20 statement that you made today on the record will
21 amount to the stipulation? Is there paperwork to
22 follow or . . .

23 MR. YEMC: I don't think there's a need
24 for additional paperwork, your Honor. We'll
25 stipulate that that is the correct amount.

1 EXAMINER FULLIN: Okay. Thank you then.

2 MR. BEELER: Thank you.

3 EXAMINER FULLIN: Okay.

4 MR. LINDGREN: Thank you.

5 Your Honor, the staff calls to the stand,
6 Trooper Robert Pargeon.

7 EXAMINER FULLIN: If you would come
8 forward. I'll swear you in.

9 (Witness sworn.)

10 EXAMINER FULLIN: And if you would begin,
11 I didn't really catch your name, so if you'd repeat
12 that, maybe spell it for the record if you don't mind
13 spelling it for the record.

14 THE WITNESS: Okay. I'm Trooper Robert
15 L. Pargeon. Last name is P-a-r-g-e-o-n.

16 EXAMINER FULLIN: Okay.

17 MR. LINDGREN: Thank you.

18 - - -

19 ROBERT L. PARGEON

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Lindgren:

24 Q. Good morning, Trooper Pargeon. Where are
25 you employed, sir?

1 A. At the Ohio State Highway Patrol.

2 Q. Where is your business address?

3 A. It's North Main Street. 3201 North Main
4 Street in Findlay, Ohio.

5 Q. Thank you. And what is your position
6 with the Ohio State Highway Patrol?

7 A. I am a trooper with the state patrol. I
8 am in the LCS. I am a commercial motor vehicle
9 trooper. I do truck inspections, DOT.

10 Q. How long have you been in that position?

11 A. Been doing DOT inspections, it would be
12 just over six years.

13 Q. What sort of training have you had in
14 connection with your position?

15 A. I've had the North American training for
16 Level I's on DOT inspections; trained in non -- I'm
17 sorry, non-bulk and bulk and other hazmat inspections
18 for DOT.

19 Q. Do you hold any certifications in
20 connection with commercial motor vehicle inspections?

21 A. Yes. I've been certified since late '04,
22 first of '05 when I completed all my certifications,
23 and maintained them since then.

24 Q. Thank you. What are your duties with the
25 Ohio State Highway Patrol?

1 A. State trooper and then I do traffic
2 enforcement. With the unit DOT, I'm pretty much
3 focused on commercial enforcement, whether it's state
4 laws and the federal regulations.

5 Q. Thank you. Do you recall inspecting a
6 vehicle driven by the Respondent in this case,
7 Dimitri Ivanov, on June 30th of 2010?

8 A. Yes. I was working a rural task squad
9 that day, near Van Wert, Ohio, and was called there
10 for an inspection.

11 Q. Can you explain what a task squad is?

12 A. We were just working with a group of
13 other DOT motor carrier inspectors and myself. There
14 was, like, I believe, like, four of us focused around
15 the Van Wert area for commercial enforcement that
16 couple of days.

17 Q. Thank you. And what prompted you to
18 inspect Mr. Ivanov's vehicle?

19 A. Trooper Knebel of Van Wert, he had
20 received a reckless-op call on a semi, and then he
21 stopped the semi, saw the damages, and he called me
22 to come do an inspection once he had him stopped.

23 Q. Where did this inspection take place?

24 A. It was on US 30. I can't remember an
25 exact milepost, but it was east of Van Wert. It

1 would have been somewhat close to Middle Point where
2 he was placed out of service at E & R. He was within
3 a couple miles of there, I believe.

4 Q. Thank you. Do you recall if you found
5 any violations in the course of this inspection?

6 A. Yes. I guess the two major ones that
7 stick out was the out-of-service violations. The
8 first one was the damage on the left rear of the
9 sleeper cab. The driver had stated to me that the
10 damage was caused from another commercial vehicle had
11 struck his vehicle in some parking lot in Illinois.
12 But when I asked him if he had any type of police
13 report or any kind of report on it, he couldn't
14 produce any paperwork on it.

15 And then the other main thing on the
16 trailer was that the brake lights were stuck on.
17 They weren't properly operational on the back of the
18 trailer. And then -- I believe that's the two main
19 things.

20 There was a couple other things. I think
21 the low air system didn't -- one of the things didn't
22 properly work on that. He had an ID light on the
23 trailer out. Other than that, I can't remember,
24 without looking at the report, what I have.

25 Q. Thank you. Did you place the vehicle out

1 of service after your inspection?

2 A. Yes. I told him that I was going to take
3 him, if he wanted to go, E & R was the closest place
4 I could think of. I could take him there. To save
5 him a tow bill, I would escort him to their shop to
6 get the repairs done there for the tractor and the
7 trailer. And I placed him -- I took him there and
8 gave him all his paperwork back, placed both vehicles
9 out of service there at the E & R repair place.

10 Q. Did you place an out-of-service sticker
11 on the vehicle?

12 A. Yes.

13 Q. Thank you. Did you prepare a report that
14 reflects the result of your inspection of Mr.
15 Ivanov's vehicle?

16 A. Yes, that's correct.

17 MR. LINDGREN: May I approach the
18 witness?

19 EXAMINER FULLIN: Yes.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. LINDGREN: Let the record reflect
22 that I'm handing the witness what I have marked for
23 identification as Staff Exhibit 1.

24 Q. Trooper Pargeon, do you recognize this
25 document?

1 A. Yes.

2 Q. And can you explain what it is?

3 A. This is a -- that would be a copy of the
4 inspection report that I would have done with the
5 driver on a Level II walk-around.

6 Q. Did you prepare this report immediately
7 following your inspection of Mr. Ivanov's vehicle?

8 A. Yes.

9 Q. And does the information contained in
10 this report accurately reflect the results of your
11 inspection?

12 A. Yes.

13 Q. Is this a type of report that's used
14 regularly in the course of your employment with the
15 state patrol?

16 A. Yes.

17 Q. Thank you. And does this report note the
18 violations that you had explained previously?

19 A. Yes. One thing I didn't mention was
20 the -- Trooper Knebel, he wrote him a warning for the
21 first violation that's on the federal code; it's a
22 lane-restriction violation. I put in there he was
23 stopped for marked lane violation by Trooper Knebel
24 out of Van Wert.

25 And then the rest of it's the -- the

1 second one is the out of service on the tractor. And
2 then the -- the low air system, it was -- the buzzer
3 was not working but the light was. And the right ID
4 light on the trailer and the stuck brake lights that
5 were stuck on, yes.

6 Q. Thank you. Did you enter the information
7 contained in the field labeled "Inspection Notes"?

8 A. I had some notes. I don't have those in
9 front of me, but I did make some notes on the
10 inspection.

11 Q. Yes. I'm referring to the inspection
12 report in the place where it says "Inspection Notes."
13 Do you see that?

14 A. No, I don't see where -- oh, they are
15 right here. I'm sorry. They're right in the middle.
16 Yes. Yes, that's my notes.

17 Q. Thank you. Did you give a copy of this
18 inspection report to Mr. Ivanov?

19 A. Yes.

20 Q. And does this report note that his
21 vehicle was placed out of service?

22 A. Yes. On the two -- it's kind of hard to
23 see on the copy. The two out-of-service violations
24 are in bold print in the caption there and on the
25 second page. Okay. I guess it would be on the first

1 page, excuse me. It's a little different set-up than
2 mine.

3 Okay. Very bottom, above my name and his
4 name, it states declare vehicle -- vehicles with
5 defects to be out of service. On the bottom of the
6 front page there.

7 Q. Thank you. Trooper Pargeon, did you also
8 take some photographs in the course of your
9 inspection of Mr. Ivanov's vehicle?

10 A. Yes.

11 MR. LINDGREN: May I approach the witness
12 again?

13 EXAMINER FULLIN: Yes.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MR. LINDGREN: Let the record reflect
16 that I'm handing the witness what I have marked for
17 identification as Staff Exhibit 2. Actually, there
18 are multiple pages in this document that I have
19 marked as Staff Exhibit 2A through 2G.

20 Q. Trooper Pargeon, have you had a chance to
21 look through Staff Exhibit 2?

22 A. Yes.

23 Q. And can you explain what it is?

24 A. Okay. The first picture in the stack is
25 the -- it's a picture of the trailer.

1 Q. Excuse me. First, did you -- did you
2 take these photographs, yourself?

3 A. Yes.

4 Q. And do these photographs accurately
5 depict the vehicle as it appeared on the date of your
6 inspection?

7 A. Yes.

8 Q. And do these photographs appear to have
9 been altered in any way since the time that you took
10 them?

11 A. No.

12 Q. Thank you. Let me direct your attention
13 to the first page, 2A. Could you explain what that
14 picture shows?

15 A. This is the back of the trailer that he
16 was pulling. You can see the light -- all the lights
17 are on the back. The ID's up top. The one that's
18 out is the right -- it would be the top right-center
19 ID light at the top is out. And then the brake
20 lights, in this picture, are on, and they were --
21 they would stay on. When I did my light check, they
22 were on. It just shows that they were on.

23 Q. So were the lights staying on even when
24 the brake was not applied?

25 A. Was released, right. He could be on or

1 off the brake and they would still stay on on the
2 trailer.

3 Q. Thank you. Let me now direct your
4 attention to Exhibit 2B. Can you explain what that
5 shows?

6 A. Okay. That's just to show a little bit
7 closer up of the picture. It shows the plate a
8 little better and just the brake lights with the
9 taillight, itself, there.

10 Q. Thank you. Let us now turn to Exhibit
11 2C. Can you explain what that shows?

12 A. The close-up of the ID light that's out.
13 That would be the right top-center ID light that's
14 out on the back of the trailer.

15 Q. Thank you. Now, please turn to
16 Exhibit 2D. Can you explain what this picture shows?

17 A. This is a picture of the left rear of the
18 sleeper cab. It shows the damage of the floor inside
19 the sleeper with the side box. And you have some
20 chains and other stuff hanging out of the side box
21 and then bungee cords trying to secure the
22 driver-side box door on the back of the cab where
23 it's damaged.

24 Q. Thank you. Now, please turn to
25 Exhibit 2E. Can you explain what that is?

1 A. Yes. That's just a close-up of the same
2 area of damage on the cab.

3 Q. Thank you. Now, please turn to
4 Exhibit 2F. Can you explain that?

5 A. It's just a different angle. Same damage
6 of the left rear of the cab; the tractor cab.

7 Q. Thank you. And, finally, please turn to
8 Exhibit 2G. Can you explain what that shows?

9 A. This would be the left front of the
10 tractor cab. It was just -- I was just showing that
11 there was some other damage to the bodywork and the
12 taillight -- or the parking-light lens.

13 Q. Thank you. Based on your training in
14 commercial motor vehicle inspections, was it your
15 opinion that this vehicle was unsafe to operate in
16 its condition at the time?

17 A. Yes. That's why I placed him out of
18 service for the unsafe operation due to the damage of
19 the left rear of the cab and the equipment. The
20 floor was hanging -- was pushed in and hanging down,
21 along with the left rear of the cab, for equipment to
22 be secure in the truck.

23 Q. Thank you. Is there anything else that
24 you recall about this inspection that you believe is
25 important to note?

1 A. When I did take him to the E & R repair
2 place, when I gave him his report and his paperwork,
3 he -- when I told him he's been placed out of
4 service, the tractor was placed out of service for
5 the damage, he told me that -- that I couldn't take
6 his house, that means referring to his tractor, and
7 he said it was -- he stated that -- made reference
8 that it was unconstitutional to park his house, or to
9 that effect.

10 Q. Thank you. Is there anything else?

11 A. That's it.

12 MR. LINDGREN: I have no further
13 questions for this witness.

14 EXAMINER FULLIN: All right.

15 - - -

16 EXAMINATION

17 By Examiner Fullin:

18 Q. Before cross-examination, I just have a
19 few that I think I'd like to ask. One is, at the
20 beginning of your testimony, when you identified your
21 title, I think you used the word "LSC." I didn't
22 know what that is.

23 A. Oh, LCS.

24 Q. Yeah. What does that mean?

25 A. It's licensing in the commercial

1 standards.

2 Q. The only other question I have relates to
3 these pictures in Staff Exhibit 2. Were these
4 pictures taken at the very site where the inspection
5 took place, before you escorted him --

6 A. Yes.

7 Q. -- to the repair shop?

8 A. I took them along the roadside, yes.

9 Q. So, really, the whole time of the
10 inspection, the truck was -- did it -- you didn't
11 move the truck during the inspection; it was as
12 pictured here.

13 A. It was just stopped. Where he was
14 stopped by the other trooper and I came and did the
15 inspection, I took the pictures there. Now, these --
16 the out-of-service sticker was applied at E & R, at
17 the actual point where I placed him out of service.

18 Q. So the pictures were taken prior to that;
19 where the inspection took place.

20 A. These were. I did take pictures of the
21 out-of-service sticker at the repair place.

22 EXAMINER FULLIN: Okay. Thank you.

23 Any cross-examination?

24 MR. YEMC: Yes, your Honor.

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CROSS-EXAMINATION

By Mr. Yemc:

Q. Trooper, you stated you're certified to perform Level I inspections. Do you have your certification with you, today?

A. I do not have those with me.

Q. Now, you weren't the initial trooper that stopped the Respondent, correct?

A. Correct.

Q. Where's that trooper at, today?

A. He's assigned to the Van Wert post.

Q. So he's not going to be testifying, today, why he pulled him over?

A. I don't believe he was subpoenaed for that.

MR. YEMC: Okay. I have no further questions.

EXAMINER FULLIN: All right. Thank you for your testimony.

MR. LINDGREN: Staff next calls H.A. Emnett to the stand.

(Witness sworn.)

EXAMINER FULLIN: Again, if you would begin by giving your name and spelling it for the record.

1 THE WITNESS: My name is Harold A.
2 Emnett, spelled E-m-n-e-t-t.

3 EXAMINER FULLIN: Thank you.

4 - - -

5 HAROLD A. EMNETT

6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Lindgren:

10 Q. Good morning, Mr. Emnett. Sir, where are
11 you employed?

12 A. I'm employed for the State of Ohio
13 Department of Public Safety and the Ohio State
14 Highway Patrol and the Department of Licensing and
15 Commercial Standards as a motor carrier enforcement
16 inspector.

17 Q. So is your title "motor carrier
18 enforcement inspector"?

19 A. Yes.

20 Q. And how long have you been a motor
21 carrier enforcement inspector?

22 A. I've been a motor carrier enforcement
23 inspector for 13 years. I've done 12,600 inspections
24 and I've been with the State of Ohio for 13 years.

25 Q. What are your duties as a commercial

1 motor vehicle inspector?

2 A. I conduct different levels of the North
3 American Safety Alliance inspections. I have
4 certifications in the North American Level I, Level
5 II, Level III, Level IV, Levels V and VII. I also
6 have a North American hazardous materials inspection
7 certification. I have a North American certificate
8 for bulk package hazardous materials inspection. I
9 also have a certification in North American hazardous
10 materials bulk other inspections, and North American
11 certification in motor coach inspection. And I also
12 have certification for the training that I received
13 for state inspector at the Ohio State Highway Patrol
14 Academy through the Ohio State Highway Patrol.

15 Q. Thank you. Do you recall inspecting a
16 vehicle driven by the Respondent in this case,
17 Dimitri Ivanov, on June 30th of 2010?

18 A. Yes, I do.

19 Q. What were the circumstances that led to
20 this inspection?

21 A. I was advised that a truck was placed out
22 of service at the E & R repair service in Middle
23 Point, Ohio, and that he had left the scene, and he
24 may not have had all the repairs done that he was
25 supposed to do on the truck and trailer. And I was

1 advised that a Lieutenant Hass, the lieutenant at the
2 Van Wert post of the State Highway Patrol, had that
3 vehicle stopped on US 30 at milepost 8 in Allen
4 County and they needed another inspection completed.

5 Q. Were you given this information by a
6 dispatcher?

7 A. Both by dispatcher and I was given a
8 phone call by my supervisor that was near and around
9 the area that knew what was going on, because I was
10 just coming on duty to work that task squad. I was
11 on the afternoon shift unit that was going to work
12 the task squad. So I just came on duty, so I had a
13 little bit of knowledge what was going on, but not
14 all the knowledge before it happened.

15 Q. Thank you. When you arrived on the
16 scene, did you conduct an inspection of Mr. Ivanov's
17 vehicle?

18 A. Yes, I did. It was a Level II
19 inspection. Inspection report No. 0H3229007350.

20 Q. Did you prepare a report as a result of
21 your inspection?

22 A. Yes, I did. There at the scene.

23 Q. Thank you.

24 MR. LINDGREN: May I approach the
25 witness?

1 EXAMINER FULLIN: Yes.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. LINDGREN: Let the record reflect
4 that I'm handing the witness what I have marked for
5 identification as Staff Exhibit 3.

6 Q. Inspector Emnett, do you recognize Staff
7 Exhibit 3?

8 A. Yes. This is the inspection report that
9 I completed at the scene of the stop.

10 Q. Thank you. Does the information in this
11 report accurately reflect the results of your
12 inspection?

13 A. Correct. It does.

14 Q. And is this a -- is this report a record
15 that you would regularly prepare in the course of
16 your work with the Ohio State Highway Patrol?

17 A. Yes, it is.

18 Q. Thank you. Inspector Emnett, does this
19 report note any violations that you found in the
20 course of your inspection?

21 A. Yes, it does.

22 Q. And can you explain what these are?

23 A. The first one was operating an
24 out-of-service vehicle. The vehicle still had two
25 out-of-service stickers on it; one on the windshield

1 and one on the trailer that plainly stated that the
2 vehicle was out of service. I was able to obtain the
3 report that Trooper Pargeon did. I read over the
4 report and found that the out-of-service items still
5 existed on that vehicle during this inspection.

6 I conducted the inspection and found that
7 the left rear corner of the tractor cab where the
8 storage area was damaged and, in my pictures, you can
9 see items still hanging out. I believe it was from
10 the storage area and the floor that were separated on
11 the corner of the cab and the storage box area.

12 The second thing is we checked the
13 low-air-warning light and buzzer. He pumped down on
14 the brakes or we did. I believe he was too upset to
15 get back up in the truck. And we checked it and we
16 found that the low-air-warning light did work, but
17 the buzzer did not; the audible sound.

18 We took it clear down, past 55-pounds
19 pressure on the gauge, and the buzzer did not work,
20 and we let the air pressure completely down with the
21 ignition in and the truck running and the ignition
22 key turned on.

23 We also found that the stop lamps were
24 stuck on; were not properly operable. They stuck on,
25 all the time, while the truck was running. And they

1 would not go out when you lift your foot off the
2 brake pedal. We found the same ID light, on the rear
3 of the trailer, was inoperative.

4 And also, during the inspection, the
5 driver became physically ill, three times, and was in
6 no condition to operate a commercial vehicle on a
7 public roadway, because he could not be getting sick
8 and also driving at the same time. That would
9 jeopardize the safety of the other people, the
10 motorists on the roadway, if he did not have complete
11 control of his vehicle.

12 Q. Thank you. Did you say that you had
13 reviewed the report prepared by Trooper Pargeon that
14 was introduced previously as Staff Exhibit 1?

15 A. Yes. He had the copy with him.

16 Q. Were the defects that --

17 EXAMINER FULLIN: When you say "he," you
18 mean the driver?

19 THE WITNESS: Yes. I took a picture of
20 the copy he had with him.

21 Q. Were the defects that Trooper Pargeon had
22 found that caused the vehicle to be placed out of
23 service, had those defects been adequately repaired?

24 A. No.

25 Q. Thank you. Did the driver, at any time,

1 provide you with a report that showed a signature of
2 the person who made a -- made a repair?

3 A. Yes. I also had an opportunity to talk
4 to them before I went down to do the inspection. He
5 did show a note that they checked the brake lights.
6 I don't know if the note actually said the brake
7 lights actually worked. But he would not sign the
8 inspection report, under the signature of the
9 repairer, because they did not do any repairs or work
10 on the vehicle; that the driver made the repairs,
11 himself.

12 Q. Thank you. What happened to the vehicle
13 after you completed your inspection?

14 A. Beaverdam Fleet Service, out of
15 Beaverdam, Ohio, came and towed the vehicle back to
16 their shop at I-75 and US 30, and that's where we
17 placed it out of service again.

18 Q. Do you know if the vehicle was ultimately
19 repaired after that point?

20 A. I don't know if it was completely
21 repaired, but they told me what items they were --
22 how they were going to repair one of them and they
23 were going to check the electrical system to find out
24 why the brake lights were sticking on when the truck
25 was running.

1 Q. Thank you. Did you provide a copy of
2 this report to Mr. Ivanov after your inspection?

3 A. Yes, I did.

4 Q. Thank you. Did you take any photographs
5 during the course of your inspection?

6 A. Yes. I took a number of photographs at
7 the scene of the inspection.

8 Q. Thank you.

9 MR. LINDGREN: May I approach the
10 witness?

11 EXAMINER FULLIN: Yes.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. LINDGREN: Let the record reflect
14 that I'm handing the witness what I've marked for
15 identification as Staff Exhibit 4A through 4I.

16 Q. Inspector Emnett, are these copies of the
17 photographs you just described?

18 A. Yes.

19 Q. Have you had an opportunity to review
20 them?

21 A. Yes, just to look through them, real
22 quick.

23 Q. And do these photographs accurately
24 depict the vehicle as it appeared in the -- at the
25 time of your inspection?

1 A. Yes.

2 Q. And did you take these photographs,
3 yourself?

4 A. Yes, I did.

5 Q. And do these photographs appear to have
6 been altered in any way since the time that you took
7 them?

8 A. No.

9 Q. Thank you. Let me direct your attention
10 to Staff Exhibit 4A. Can you explain what that
11 picture shows?

12 A. It shows the rear of the vehicle. I did
13 not have the running lights on as Trooper Pargeon
14 did. The "running lights" as in the headlights,
15 taillights, ID lights on. But it shows the rear of
16 the truck with the brake lights stuck on. The
17 running lights weren't turned on at this time; I did
18 that later in the inspection. But I just wanted a
19 picture to show that the brake lights were stuck on.

20 Q. So were the lights staying on even when
21 the brake pedal was not applied?

22 A. Correct.

23 Q. Thank you. Now, let us turn to Exhibit
24 4B. Can you explain what that shows?

25 A. That's the same picture of the rear of

1 the trailer. I wanted to get a clear picture of the
2 license plate to verify that was the trailer in the
3 inspection and also a picture of the brake lights
4 stuck on.

5 Q. Thank you. Now, please turn to Exhibit
6 4C. Can you explain what that shows?

7 A. That shows the rear-corner view of the
8 sleeper-berth area, the storage-box area that was
9 damaged, and the floor hanging down, of this tractor.

10 Q. Thank you. Now, please turn to Exhibit
11 4D. Can you explain what that shows?

12 A. That shows a broken driver-side
13 turn-signal lens on the tractor on the front corner.

14 Q. Thank you. Now, please turn to Exhibit
15 4E. Can you explain what that shows?

16 A. I took another picture of the storage
17 area and the floor from a different angle because of
18 the sunlight, so I could get the picture of the strap
19 and it appears to be a metal ring and a -- it looks
20 like air tubing and other loose items sticking out of
21 the bottom of the storage box area between the floor
22 and the door.

23 Q. Thank you. Now, please turn to Exhibit
24 4F. What does that show?

25 A. It's just another picture of the wrinkle

1 and how far back the damage went on the back of the
2 sleeper. This is a picture from the rear of the cab
3 going toward the front of the tractor.

4 Q. Thank you. Now, please turn to Exhibit
5 4G. What does this show?

6 A. That shows the out-of-service sticker
7 that was on the vehicle at the time of the
8 inspection, that Trooper Pargeon placed on the
9 windshield of the driver side of the tractor, showing
10 that this vehicle was out of service.

11 Q. Thank you. Can you turn to Exhibit 4H.
12 What does that depict?

13 A. That shows -- this is a copy of the
14 inspection that Trooper Pargeon did that I ran off of
15 my computer that I got off the database that Trooper
16 Pargeon did. This is not the copy that was given to
17 the driver; this is a copy that I printed out for my
18 records.

19 Q. Thank you.

20 A. That shows Trooper Pargeon inspecting the
21 vehicle and his violations.

22 Q. Thank you. And, finally, please turn to
23 Exhibit 4I.

24 A. That was the note the driver presented to
25 me that showed that the brake lights were checked at

1 E & R Trailer. I take it it was at E & R Trailer
 2 because it was on their letterhead or their notepad
 3 with their letterhead on it, by Dave, the service
 4 manager. He also put down "can not park on private
 5 property" and will have another facility, I guess,
 6 fix it or something like that. I only can go by what
 7 he wrote on the note. But he just said that he
 8 checked the stoplight operation. He didn't say if it
 9 was working; he just checked it. I don't know what
 10 else the note was supposed to mean.

11 Q. Did the driver provide you with any
 12 evidence that anyone had actually repaired the
 13 defects to the vehicle?

14 A. No. Checking on Trooper Pargeon's
 15 inspection that the signature-of-the-repairer part of
 16 the inspection form had not been filled out; it was
 17 still blank at the time of the inspection from
 18 Trooper Pargeon's inspection.

19 Q. Thank you. Based on your training and
 20 experience as a commercial motor vehicle inspector,
 21 is it your opinion that this vehicle was still unsafe
 22 to operate on the roadways at the time of your
 23 inspection?

24 A. Yes.

25 Q. Thank you. Is there anything else that

1 you recall about this inspection that you think is
2 important to note for the record?

3 A. Yes. The driver was very belligerent and
4 was very hard to deal with during this inspection.

5 Q. So was he not cooperative?

6 A. He didn't have complete and clear
7 english, but he was argumentative and wanted to argue
8 everything. I don't know cooperative-wise, but I
9 sort of gave up working with him during the
10 inspection and some of the things were done by the
11 towing company.

12 Q. Thank you. At what point in this
13 inspection did the driver become ill?

14 A. It was during the inspection, itself, as
15 we were checking the vehicle.

16 Q. Thank you.

17 A. And toward the end, I also think he got
18 sick, once, after we told him that we were going to
19 tow the vehicle.

20 Q. So was it your determination that he was
21 -- that it would have been unsafe for him to operate
22 the vehicle in that condition?

23 A. Correct. It would have been hard for him
24 to operate the vehicle safely and get physically ill
25 at the same time.

1 Q. Thank you.

2 MR. LINDGREN: I have no further
3 questions for this witness.

4 EXAMINER FULLIN: Let me ask you this:
5 I'm new to this kind of a case. I don't think I've
6 had this fact pattern with an out-of-service sticker,
7 so I'd like background in terms of how that
8 out-of-service sticker works. Are you going to be
9 providing anything like that in terms of testimony
10 today? In terms of once it's applied, who's allowed
11 to remove it or that kind of thing? I would like
12 more background on how it's supposed to work because
13 I don't -- I don't know that I could --

14 MR. LINDGREN: I could go ahead and ask
15 the inspector those questions or you can, whichever
16 you prefer.

17 EXAMINER FULLIN: Well, go -- why don't
18 you do it and then I'll follow up with other
19 questions.

20 MR. LINDGREN: Thank you.

21 Q. (By Mr. Lindgren) Inspector Emnett, can
22 you explain the significance of the out-of-service
23 sticker?

24 A. Yes. It's fluorescent orange color. It
25 states on there "out of service," so the driver or

1 any other drivers or people operating that vehicle
2 knows that vehicle is in out-of-service condition and
3 they need to check further before they drive.

4 The actual out-of-service sticker says
5 "out of service" on it in big letters, and, also,
6 "Operation of this vehicle and/or removal of this
7 notice before repairs are successfully completed is a
8 violation of law (Chapters 4919, 4921, 4923) as
9 applicable." Corrective -- correction -- "Correct
10 all violations as noted on the OSHP Inspection Report
11 No. OH1" -- after the number, this is what Trooper
12 Pargeon wrote on it: "OH1554003873" period. And this
13 is printed on there: "By the order of the Ohio State
14 Highway Patrol." It has a section for a signature
15 name which Trooper Pargeon put "Trooper Pargeon" on
16 it, and the date, 6/30/2010.

17 We place these on either the windshield
18 if the tractor is out of service, so the driver can
19 plainly see the sticker is still there; or the left
20 front corner of the trailer if the trailer is out of
21 service, so if the driver happens to jump in the
22 truck and starts to take off, he can see that sticker
23 in his window -- in his side mirror. So it's plainly
24 visible before he took off with that truck or if he
25 goes to move the truck or hook up to the trailer.

1 Q. Thank you. Were there two out-of-service
2 stickers still on the vehicle when you arrived?

3 A. Yes, the stickers were still on. The one
4 on the windshield was damaged, I don't know what
5 from, but, yes, there was one on the windshield, and
6 there was one on the left front corner of the --
7 driver-side front corner of the trailer.

8 Q. Thank you. And who is lawfully entitled
9 to remove these stickers?

10 A. Usually the person that repairs the
11 vehicle; a certified mechanic or whoever signs off on
12 the inspection form as the repairer.

13 Q. Thank you.

14 EXAMINER FULLIN: I think that addresses
15 what I wanted to know about that topic.

16 Cross-examination?

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Yemc:

20 Q. You said that the repair mechanic is the
21 one who's lawfully allowed to remove that inspection
22 sticker. Can you cite me to that?

23 A. I'm just saying that --

24 Q. Or you think that?

25 A. -- whoever made the repairs or signs off

1 on this form is usually the one that takes the
2 sticker.

3 Q. It's usually but it's not -- there's no
4 legal requirement with regards to it as you
5 indicated; is that correct?

6 A. That's correct.

7 Q. Okay. Thank you. With regards to your
8 certifications, do you have those with you, here
9 today?

10 A. No. They're on file at the Ohio State
11 Highway Patrol.

12 Q. But they're not here today?

13 A. They weren't requested.

14 Q. Okay. With regards to -- what is this --
15 the Exhibit 4I that you had in front of you, can you
16 pull that up again, please?

17 Now, I don't think you fully read that
18 receipt when you were testifying because I'm reading
19 it as "checked stoplight operation ok." Do you see
20 that "operation ok" on there?

21 A. Well, I didn't know what that -- what the
22 circle was.

23 Q. Can you see the "ok" on there?

24 A. I see an "o." I guess there is a "k,"
25 but . . .

1 Q. Okay. So according to the service
2 manager, the stoplights were okay when he checked
3 them.

4 A. He just checked the operation of it.

5 Q. Yeah. So according to him, they were
6 okay.

7 A. According to him.

8 Q. Okay. Because that's what my client
9 operated his commercial vehicle on, based on the fact
10 that the service manager actually okay'd the brake
11 lights.

12 MR. LINDGREN: Objection.

13 A. I also talked to the service manager and
14 they didn't have an opportunity to work on the truck
15 to verify what was wrong with it.

16 Q. Why would he work on something that he
17 indicates was okay?

18 A. Because we put it in the inspection.
19 And, also, the truck was not running at the time and
20 the key was not on the "on" position and the ignition
21 was turned on.

22 Q. But he thought they were okay. Why
23 wouldn't the Respondent think they were okay?

24 A. He wouldn't sign the paper.

25 Q. It's because he didn't do the repair work

1 because he didn't think he needed to because they
2 were okay.

3 MR. LINDGREN: Objection.

4 A. I don't remember that, because I talked
5 to the repair -- the service repair guy there at the
6 mechanic's location, and he did it just because he
7 was being bugged so much by the driver to have him
8 write a note.

9 Q. But he wrote the note, signed it, dated
10 it that he checked the stoplight and the operation
11 was okay.

12 A. That's with the key off and the engine
13 not running.

14 Q. Okay. I'll refer you back to your
15 photographs that you took. Let's go to 4C if you
16 would, please. That's the picture of the back of the
17 sleeper cab; is that correct?

18 A. That's correct.

19 Q. Did you have a chance to look at the
20 first trooper's photographs that he took?

21 A. Yes.

22 Q. Okay. I'm going to approach you. I
23 don't know if they're up there. They actually may be
24 up there still. If you could look at what's marked
25 as 2D for me, please.

1 A. Yes.

2 Q. Okay. Now, there are chains hanging out
3 on 2D and E, correct? Hanging out of the box?

4 A. Yes.

5 Q. Okay. And on 4C, the photograph you
6 took, have those chains been removed?

7 A. Yeah. Those chains are not there.

8 Q. Okay. And what's hanging out, there in
9 4C? Is that rubber? Is that part of the door?

10 A. Yes. In 4C, it's hard to see. I took
11 another picture from another direction to show the
12 other stuff hanging out of the box.

13 Q. Okay. Did you try to remove any of those
14 items?

15 A. No. It's not my job to do that.

16 Q. Okay. Now, Officer Emnett -- "Emnett";
17 is that correct?

18 A. Correct.

19 Q. You indicated you were not the officer
20 that pulled over the Respondent; is that correct?

21 A. That's correct.

22 Q. Once you got there, at what point did the
23 Respondent get ill?

24 A. I can't remember the exact times, but it
25 was during the inspection and after the inspection.

1 Q. Okay. So you don't know if he was
2 actually ill while he was driving the vehicle; is
3 that correct?

4 A. I wasn't in the cab with him.

5 Q. Okay. But you chose to cite him for
6 operating a commercial vehicle while ill. Why did
7 you do that when you didn't witness him operate the
8 motor vehicle?

9 A. Because he was still on an on-duty status
10 with that vehicle at the time of the stop. He's
11 still the driver. It's like having a person that's
12 under the influence, but I don't let him get back in
13 the truck and drive away.

14 Q. Yeah. But you're saying that he was
15 operating it while he was ill. He wasn't operating
16 it while he was ill. He was ill on the side of the
17 roadway. Is it possible he got ill on the side of
18 the roadway because of the stress of the situation?

19 A. Might have. I don't know. I'm not a
20 doctor.

21 Q. Okay. Thank you. I have no further
22 questions for you.

23 EXAMINER FULLIN: Any follow up to the
24 cross-examination?

25 MR. LINDGREN: One moment, your Honor.

1 Thank you. I have no redirect.

2 EXAMINER FULLIN: All right. Thank you.

3 Thank you for your testimony.

4 MR. LINDGREN: The staff next calls
5 Lieutenant Hass to the stand.

6 (Witness sworn.)

7 EXAMINER FULLIN: Will you begin by
8 giving your name, again, and spelling it for the
9 record?

10 THE WITNESS: Raymond Frederick Haas.
11 Last name is H-a-a-s.

12 EXAMINER FULLIN: Thank you.

13 - - -

14 RAYMOND F. HAAS

15 being first duly sworn, as prescribed by law, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Lindgren:

19 Q. Good morning, Lieutenant Hass. Where are
20 you employed?

21 A. I'm the post commander of the Van Wert
22 post of the Ohio State Highway Patrol.

23 Q. And what is the address of your post?

24 A. 123 -- I'm terrible at remembering that
25 number because we moved there four years ago. 120 --

1 12304, I believe, Van Wert Decatur Road, Van Wert,
2 Ohio.

3 Q. Thank you. How long have you been the
4 commander of that post?

5 A. Two -- it will be two years, July 21st.

6 Q. Thank you. And how long have you been
7 with the Ohio State Highway Patrol?

8 A. Twenty-three and a half years.

9 Q. Thank you. Are you trained as a
10 commercial motor vehicle inspector, yourself?

11 A. No, sir, I am not.

12 Q. So do you simply do traffic enforcement?

13 A. Yes, sir.

14 Q. Thank you. Do you recall stopping a
15 vehicle driven by the Respondent in this case,
16 Dimitri Ivanov, on June 30th of 2010?

17 A. Yes, I do.

18 Q. And why did you stop this vehicle?

19 A. I was returning from Findlay from a
20 meeting I was in, and the dispatch put out a
21 broadcast that the vehicle -- the way I took the
22 message was that E & R Trailer Sales had reported
23 that the vehicle drove off without the repairs being
24 made; had called the post.

25 Just shortly after that, I saw the

1 vehicle drive by, eastbound on US 30, near milepost 6
2 or 7 in Allen County. Very noticeable; matched the
3 description exactly. I'd actually never seen an
4 out-of-service sticker before because I'm not a
5 commercial motor vehicle inspector, but I could see
6 the orange glow on the window as it went by. Heavy
7 damage to the driver-side sleeper area, and extremely
8 noticeable, even in the bright sun, the brake lights
9 were stuck on, on the trailer, as it passed by.

10 Q. Did you follow this trailer after you saw
11 it pass by?

12 A. Yes, I did. I proceeded to turn around
13 and chase him down. I initiated a standard traffic
14 stop using my lights on my patrol car.

15 Q. Thank you. And did you notice if the
16 brake lights were staying on on the vehicle?

17 A. They stayed on the entire time. There
18 was no change to them. And you could tell the
19 difference between the brake lights and the trailer
20 lights because of the inside lights versus the
21 outside lights on the corners.

22 Q. Thank you. Did you happen to notice any
23 damage to the cab when you approached the vehicle?

24 A. Yes, sir. Heavily damaged. It looked
25 like it had been in an accident not real recently.

1 It appeared that it had never been repaired. It
2 looked like it maybe jackknifed.

3 Q. Thank you. So what happened after you
4 had pulled the vehicle over?

5 A. The driver was, for no easier term, had
6 kind of an intimidating personality. He's very
7 aggressive. I've actually been to a lot of the
8 Baltic states in Russia. It's kind of the
9 personality of the men there; they're very aggressive
10 in their nature.

11 I had to verbally warn him that if he
12 didn't back down, I was going to arrest him. He
13 insisted that he didn't do anything wrong. And he
14 kept trying to show me the inspection from the E & R
15 Trailer Sales. I did look at it. I didn't take it
16 as something that the repairs had been made; I took
17 it as something saying that they checked the lights.

18 The "ok" that was mentioned earlier, it
19 wasn't really clear that that was an "ok"; I actually
20 thought that was an initial when I looked at it. It
21 looked like whoever had written it, handwritten it,
22 had initialed it, saying that he checked the
23 operation of the brakes.

24 Q. Thank you. So what happened after that?

25 A. During the process, I had notified the

1 post that I was making the stop and the location that
2 I was making the stop, and I just confirmed with the
3 post that one of the inspectors were on the way to
4 take over.

5 Shortly thereafter, Inspector Emnett
6 showed up on the scene. Right around that time, the
7 defendant actually had thrown up just shortly after
8 he arrived, I recall, before he actually started any
9 of the process. But, like I said, to start off with,
10 the defendant was aggressive in his actions, almost
11 to the point where I felt he was trying to intimidate
12 me into letting him go.

13 Q. Thank you. Did you say that you observed
14 the Respondent throw up after you stopped him?

15 A. Just shortly after Inspector Emnett
16 arrived.

17 Q. Thank you. Did you stay on the scene
18 during the course of Inspector Emnett's inspection or
19 did you leave?

20 A. I stood by there for -- I couldn't give
21 you a time, but a while, just to make sure that
22 things had stabilized to the point where Inspector
23 Emnett wasn't in danger. After -- I believe after we
24 were there for a while, the defendant calmed down and
25 Inspector Emnett told me that he felt he would be all

1 right. At that point, I left.

2 Q. Thank you. Is there anything else about
3 this traffic stop that you recall that you think is
4 important to note for the record?

5 A. No, sir.

6 Q. Thank you.

7 MR. LINDGREN: I have no further
8 questions for this witness.

9 EXAMINER FULLIN: I don't have any
10 questions.

11 Cross-examination?

12 MR. YEMC: No.

13 EXAMINER FULLIN: No cross-examination.
14 Thank you for your testimony.

15 MR. LINDGREN: Your Honor, first, I'd
16 like to move for the admission of Staff Exhibits 1,
17 2, 3, and 4.

18 EXAMINER FULLIN: All right. Any
19 objection to admission of all four exhibits?

20 MR. YEMC: No, your Honor.

21 EXAMINER FULLIN: I will admit them into
22 evidence at this time.

23 MR. LINDGREN: And, your Honor, as you
24 recall, the parties have stipulated to the amount of
25 the forfeiture recommended in this case, which is

1 \$1,000.

2 EXAMINER FULLIN: And maybe it's not on
3 the record, maybe you don't intend it to be on the
4 record, the 1,000-dollar violation, it's not clear to
5 me even what violations that relates to. Is that
6 something that you want to put on the record?

7 MR. BEELER: Sure.

8 EXAMINER FULLIN: From my recollection of
9 the stipulation, I wasn't clear on that.

10 MR. BEELER: Sure.

11 EXAMINER FULLIN: Maybe you said it
12 earlier, but I'm not clear on it right now.

13 MR. BEELER: Yes, your Honor. The
14 calculation for this case was done under -- for
15 operating an out-of-service vehicle and that's under
16 the Ohio Administrative Code. And the other
17 violation -- the 1,000-dollar forfeiture in this case
18 was attributed to that violation, but there was also
19 a cite of CFR 392.3, operating a CMV while ill. And
20 those are the two violations where the total
21 forfeiture amount is \$1,000.

22 EXAMINER FULLIN: The stipulated amount
23 of \$1,000 is designed to cover both violations or
24 just one of them and the other one's --

25 MR. BEELER: Yes. The 1,000 is actually

1 attributable to the first violation which is an OAC.

2 EXAMINER FULLIN: So the stipulated
3 amount of the violation is designed to cover that
4 violation, the out-of-service violation, rather than
5 both of them?

6 MR. BEELER: Well, you know, the driver
7 in this case, we're arguing, was cited for both
8 sections. However, there's -- the process --

9 EXAMINER FULLIN: So there was a cite for
10 both violations and the stipulation is that if there
11 is to be an assessment of a forfeiture, it should be
12 in the amount of \$1,000 --

13 MR. BEELER: That is correct.

14 EXAMINER FULLIN: -- based on the two
15 cited violations?

16 MR. BEELER: That is correct, your Honor.

17 EXAMINER FULLIN: Would you agree with
18 that?

19 MR. YEMC: Not really. Not how it was
20 explained to me whenever the guy was up here earlier.

21 It's my understanding that for operating
22 an out-of-service vehicle, the civil forfeiture
23 amount is 1,000 bucks.

24 MR. BEELER: Correct.

25 MR. YEMC: Period. That's it. There's

1 no real civil forfeiture imposed for the operating a
2 commercial vehicle while ill in this case. It's
3 just, you know, we got the first one, we're not going
4 to hit you with more, type of a situation, is my
5 understanding. Because if the second charge wasn't
6 there, it would still be \$1,000.

7 MR. BEELER: That is correct.

8 MR. YEMC: It wouldn't be less.

9 MR. BEELER: That is correct. Typically,
10 the violation for CFR 392.3 would be \$100. However,
11 there's a cap of \$1,000, so we could not exceed that
12 cap. So the recommended forfeiture in this case is
13 \$1,000.

14 EXAMINER FULLIN: Okay. So the staff's
15 position in the case is it's recommending the
16 Commission should impose a 1,000-dollar --

17 MR. BEELER: Correct.

18 EXAMINER FULLIN: -- forfeiture in the
19 case.

20 MR. BEELER: Correct.

21 MR. YEMC: And if there's a finding that
22 he violated that section -- if there's a finding that
23 he did not violate the out of service, but did
24 violate the operating a commercial vehicle while ill,
25 then we're looking at \$100; is that correct?

1 MR. BEELER: Correct.

2 EXAMINER FULLIN: So if that's the only
3 violation the Commission ends up proposing a
4 forfeiture on, the illness one, then the staff's
5 recommendation is for \$100 forfeiture if that's the
6 only violation the Commission agrees to.

7 MR. BEELER: Yes.

8 EXAMINER FULLIN: Okay. I think now I'm
9 clear on that. I just wanted to know, as I drafted
10 this, you know, how the forfeiture applies to the two
11 different violations. I think I'm clear on it now
12 and it sounds like there's agreement of the parties
13 on that, also. Since it's based on a stipulation, I
14 wanted to make sure that was clarified. Thank you.

15 Anything further?

16 MR. LINDGREN: No, your Honor. The staff
17 rests its direct case.

18 EXAMINER FULLIN: Okay. Then we'll allow
19 the presentation of direct by the Respondent.

20 MR. YEMC: Okay. Thank you, your Honor.

21 At this time we're going to call our only
22 witness, Dimitri Ivanov.

23 EXAMINER FULLIN: Okay.

24 (Witness sworn.)

25 EXAMINER FULLIN: I think we already have

1 your name on the record and spelling on the record.

2 Thank you for being here.

3 You can proceed with questions.

4 MR. YEMC: Okay. Thank you, your Honor.

5 - - -

6 DIMITRI IVANOV

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

8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Yemc:

11 Q. Mr. Ivanov, what is your occupation?

12 A. My occupation is professional driver, CDL
13 driver.

14 Q. And on June 30th of last year, 2010, did
15 you happen to be in the state of Ohio?

16 A. Yes.

17 Q. Okay. And what happened on that day?

18 A. I just crossed the line and probably a
19 little bit about, I'd say about 15/20 miles, I got
20 pulled over by an officer with white hair, about 50
21 years old. I don't know his name. He told me that I
22 am making kind of an "S" on the route while I'm
23 driving and this is the reason he stopped me. He
24 pulled me over.

25 Q. Then what happened after he pulled you

1 over?

2 A. Just -- he told me just to be careful and
3 gave me a warning.

4 Q. Okay. And then prior to you pulling out,
5 what happened?

6 A. Officer -- I don't remember his name --
7 he arrived and started walking around the vehicle and
8 he says, "You're not going anywhere." He start
9 walking around. And he called, I don't know if she
10 was the supervisor, there was a woman with brown
11 hair, and they both did the inspection.

12 Q. So is it Trooper Pargeon that testified
13 earlier today?

14 A. Yes.

15 Q. Okay. And then there was a female there,
16 as well?

17 A. Yes.

18 Q. Okay.

19 A. I believe she was the supervisor. I'm
20 not sure because I don't know the staff and who is
21 working with them.

22 Q. Okay. And now, following the inspection,
23 were you advised that you were put out of service?

24 A. Yes. He told me that I'll get escorted
25 to a repair shop, E & R, and I have to find out if

1 they can do the repairs for me.

2 Q. Okay. What happened once you got to E &
3 R Trailer Sales and Service?

4 A. Yeah. We -- we talked with an officer
5 and I told him that this may be, you know, very rough
6 on me and I'll probably lose my home and everything.
7 I didn't get any aggressive.

8 Then I went inside the office to talk to
9 a -- talk to a manager, Dave, the one that gave me
10 this document, and I asked him if he can come out.
11 And I put the key on and I was inside the cab. He
12 was the one inspecting the vehicle all the way
13 around.

14 Q. Okay. This Dave looks like, perhaps,
15 Pullman?

16 A. I don't remember his name, but I know
17 he's an old man, about 60 years old. I remember how
18 he looks. And I asked him to come out with me. He
19 told me to jump in the vehicle so he can inspect
20 everything. We checked the air. We checked the
21 brakes. He said that he doesn't find anything wrong.

22 Q. Okay. And, now, I'm going to refer you
23 back to the State's Exhibit 4I. Since it's no longer
24 up there, I'll walk around and hand it to you.

25 Do you recognize that document?

1 A. Yes. He wrote it in front of me.

2 Q. Okay. Is that the service manager that
3 wrote that for you?

4 A. Yes. Yes.

5 Q. And what does that note say?

6 A. I believe he called -- I believe he
7 called the state trooper. He told them that he
8 doesn't find anything wrong with the vehicle. He was
9 on the phone with somebody at this time. So I can't
10 tell; I thought that everything is fine. I thought
11 because only the problem was only mechanical, that's
12 why I thought that I could go.

13 And for the body repair, they wanted me,
14 basically, what they wanted me to do is to find a
15 body shop on the highway, somebody who can straighten
16 out my truck --

17 Q. Okay.

18 A. -- without even waiting for my insurance.

19 Q. Mr. Ivanov, let's stop there. Can you
20 read to me what this slip says?

21 A. Yeah. He checked stoplight in operation.
22 It says okay. It says David Pullman, store manager.

23 Q. Okay. Now, there was some chains hanging
24 out of your side box on your tractor; is that
25 correct?

1 A. Yes.

2 Q. Let me hand you what's marked as
3 Exhibit 2D.

4 A. Yeah. The vehicle had an accident. This
5 was an accident prevention because I had to hit
6 somebody and a truck jackknifed in Pennsylvania on
7 Route 30. I don't have a -- I should be able to
8 provide the case number from there.

9 Q. Okay. And, now, when you were initially
10 pulled over, you had those chains hanging out of the
11 side of that box.

12 A. Yes, I did.

13 Q. Okay. Now, I'm going to hand you what's
14 been marked as State's Exhibit 4C. I don't see those
15 chains anymore. What happened to them?

16 A. Yeah. The officer recommended to me if I
17 can, you know, put them inside the box. And they
18 told me that they shouldn't be hanging over there
19 because this is dangerous. And I explained it to him
20 that because the aluminum frame that you see on, you
21 know, on the down part of the bracket, they were tied
22 up over there and I was not able to -- to remove them
23 at first. But, you know, once when I got pulled over
24 and put out of service, then I had to do it. And
25 this guy told me that they don't have, basically,

1 rubber tape so he can close it up at all, to secure
2 the area.

3 Q. Okay. So you removed the chains and put
4 them in the box; is that correct?

5 A. Yes, this is correct.

6 Q. Now, there's another exhibit there that's
7 a different angle. I think it was 4E. Now, there's
8 still some material hanging out there. What is that
9 material?

10 A. That's some bungee cords. I need them
11 for the chains when I go to the west. The fine is
12 \$1,000. This is basically a requirement of the
13 Department of Transportation in the western states,
14 starting from Colorado and, you know, going through
15 the west.

16 Q. Okay. Now, there's some rubber lining
17 there. Is that part of the tractor, itself?

18 A. Yeah. From, I believe from the box --
19 from the box, but it was tied up inside, so I didn't
20 have a knife or anything to cut it.

21 Q. So the remaining materials there, could
22 you remove those?

23 A. I did everything possible, but because it
24 was on an angle as far as you can see the exhibit,
25 the picture from the exhibit, it was not possible

1 because, you know, the box is not going that deep.

2 Q. So those items were secure inside that
3 box?

4 A. Yeah, everything was -- everything was
5 secure. I mean, I tried to do the best I could have
6 at this time.

7 Q. Now, you heard testimony, today, from the
8 second officer that came along that did the
9 inspection, that, at some point, you got sick. What
10 happened?

11 A. I would like to start, first, that I
12 realized that probably something is wrong, my lights
13 are not fixed, and I stopped the first time. I was
14 on flashers when he was coming from that meeting and
15 I saw him and he turned around. I don't know if he
16 had a call from somebody, but he turned over and came
17 to the vehicle.

18 So what happened is sometimes I get this
19 because of depression -- because of depression,
20 because of too many police officers and, you know, I
21 think this was just too much stress for me.

22 But let me continue on this --

23 Q. So it was the stress that made you ill
24 from the second stop?

25 A. Yes, sir. And I was not operating the

1 vehicle at this time. The vehicle was on flashers in
2 the right-hand lane, in the emergency lane.

3 Q. Okay. Now, Mr. Ivanov, after the second
4 stop, was your vehicle towed?

5 A. Yeah. I was separated from Officer
6 Emmett. I was handing -- I was handing the document,
7 from the shop, to this officer right there. I'm
8 sorry, I apologize, I don't remember the name. But
9 he says, "I'm not certified, so we have to wait for
10 motor vehicle enforcement."

11 Q. But after that inspection got done, was
12 your vehicle towed?

13 A. Yes, it was towed. I was separated.
14 Another police car was --

15 Q. You were separated? What does that --
16 you were separated from your tractor?

17 A. They asked me for the key and he says,
18 "I'm not going to wait for you because I got some
19 other things to do." And there was another officer
20 who isn't present over here, he stopped behind my
21 vehicle at the time of the tow. And they talked that
22 they don't like the condition of this vehicle.

23 I told them, "Why you trying to do an
24 additional damage to me," which you can see on the
25 receipt, "to tow my vehicle? I mean, you can escort

1 me."

2 Q. So he towed your vehicle and where did he
3 tow it to?

4 A. About 7 miles down, at the Beaverdam --
5 at the Beaverdam repair shop.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Okay. I'm going to just hand you what's
8 going to be marked as Respondent's Exhibit A. Is
9 this a receipt from the Beaverdam Fleet Service shop?

10 A. Yes, it is.

11 Q. What repair work did they do there?

12 A. They checked the lights and they charged
13 me for the towing that police officer Emmett
14 requested.

15 Q. And then after this, after you went to
16 that repair shop, did you ultimately get this vehicle
17 repaired?

18 A. Yeah. I had to wait about two or three
19 hours. I asked them if everything is fine if I can
20 go. They told me that everything -- they asked me to
21 come over. I mean, I believe that they have
22 everything recorded over there because there's
23 cameras in the shop.

24 Q. Okay.

25 A. So they tell me it is okay.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Now I'm going to hand you Respondent's
3 Exhibit B. Could you just describe for us what this
4 is?

5 A. Yeah. This is fixing the -- this is
6 fixing the vehicle.

7 Q. Okay. And that was done in August of
8 last year?

9 A. Yeah.

10 Q. So after all this was done and you got
11 your insurance money, you ultimately got the tractor
12 repaired?

13 A. Yeah. Because I didn't have enough
14 money. They were -- all the repair shops were asking
15 for too much money, so I wasn't able to afford it at
16 this time. They were asking numbers like 6,500 to
17 fix that corner.

18 Q. Okay. So the truck's repaired now?

19 A. Yeah. It's out of service again. You
20 know, I didn't pay because I realized it's too old.
21 I just stopped it forever --

22 Q. Okay.

23 A. -- because some of the mechanics is, you
24 know, screwed up.

25 Q. It's costing too much money to maintain

1 it.

2 A. Well, I realized, but, you know . . .

3 Q. I'm just going to take you back and just
4 ask you a few questions about operating this
5 commercial vehicle after you received the
6 out-of-service order.

7 So you received the out-of-service order,
8 went to E & R Trailer Sales and Repairs, you had the
9 sales manager go over the brake lights with you,
10 correct?

11 A. Yeah. Yeah. I asked the guy from the
12 parts department if they're able to sell me the
13 parts, the body parts. He says, "We don't carry. We
14 don't do such work and you can't stay over here
15 because it's private property." He told me,
16 "Probably a few hours, but no more than that."

17 Q. Okay. So then you removed the chains at
18 that point?

19 A. Yeah, I removed the chains. I done
20 everything I could have and I told them, "Are you
21 sure everything is okay?"

22 And he says, "Yes. But still be
23 careful."

24 I told him, "Okay. I'll try it and if I
25 see some problems, I'll probably go to Beaverdam and

1 fix it." Because it wasn't that far.

2 Q. And at that point, then, you left E & R?

3 A. Yeah, I left E & R. I tried to go -- not
4 to go on the highway, but it was impossible because
5 the routes are so narrow, and then in some townships,
6 you can't go.

7 Q. Okay. Thank you very much.

8 MR. YEMC: I have nothing further.

9 EXAMINER FULLIN: All right. Any
10 cross-examination?

11 MR. LINDGREN: Yes, your Honor.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Lindgren:

15 Q. Mr. Ivanov, I'd like to direct your
16 attention to Respondent's Exhibit A that your counsel
17 had introduced. It notes there that the Beaverdam
18 Fleet Service did find a short in your brake
19 lights; is that correct?

20 A. 2A?

21 MR. YEMC: No. It's one of the exhibits
22 I handed you.

23 EXAMINER FULLIN: It looks like this.

24 A. Okay.

25 Q. This receipt does note that the Beaverdam

1 Fleet Service people did find a short in your brake
2 lights.

3 A. Yeah.

4 Q. Is that correct?

5 A. Yes.

6 Q. So you would agree with me, wouldn't you,
7 that your brakes were not -- brake lights were not
8 working properly?

9 A. Yeah. Yeah, I agree with you. The
10 problem was electrical. They were on and off.
11 Sometimes it may happen from temperature. I mean,
12 sometimes they happen from the wiring.

13 Q. Yeah. But you had not had this problem
14 corrected prior to the second stop. Is that right?

15 A. I understand. I agree with you on this,
16 but I had a document -- I had a document from the
17 shop, from the previous shop when I got pulled over
18 the first time, that everything is okay. I mean, you
19 can clearly see that they stated that it's okay, you
20 know, that everything was checked. And I put the
21 chains back. I did the best I could have at this
22 time.

23 Q. Okay. Well, you put the chains away, but
24 you didn't make any repairs to the cab other than
25 putting the chains away. Is that right?

1 A. Yeah. Yes.

2 Q. Sir, what parts were you attempting to
3 buy, then, if the repairs had been made?

4 A. What parts?

5 Q. Yeah. I believe you said you were
6 attempting to buy some parts, but found that they
7 were too expensive.

8 A. Yeah. I was talking about the body parts
9 because they got two departments. One is the repair
10 department which is, I believe, on the west -- on the
11 west side with three doors, and then the other one is
12 the service department where they sell parts for the
13 vehicle -- for commercial vehicles.

14 I asked him if they carry body parts or
15 if there is something we can do. And he told me,
16 "No. We don't sell them. No. We just take care of
17 vehicles." I mean, he basically told me they can't
18 fix it over there.

19 Q. Okay. But you didn't make any effort to
20 have the vehicle towed to another location where they
21 could do these repairs then?

22 A. I mean, I didn't know. I don't know
23 if -- would they do such work over there. I was left
24 in the middle of nowhere, without information, and I
25 didn't have a good signal on my phone. I tried to

1 call 411, you know, to get some information. I was
2 breaking up and they told me that there's nothing
3 nearby in the area. I mean, this is -- we talking
4 AT&T directory assistance.

5 Q. Thank you. Mr. Ivanov, you were given an
6 inspection report, at the time of your first
7 inspection, by Trooper Pargeon. Is that right?

8 A. Yes.

9 Q. And I actually had introduced that as
10 Staff Exhibit 1. Are you aware that there's a place
11 for the signature of a repairer on this form?

12 A. Yes, I am.

13 Q. Did you have anyone sign this form?

14 A. Yeah. I asked him -- yes, I asked him to
15 sign, but I cannot push him to do it. I told him and
16 he said -- what -- this guy, the manager, he told me,
17 he says, "I think that they'll be enough." I mean, I
18 can't sign myself or I can't put his name on the
19 official document.

20 Q. So no one signed on the report under
21 "Signature of Repairer." Is that right?

22 A. Yeah. But, you see, we clearly have the
23 receipt where he stated that it's okay and he put the
24 date, the time, and his two names.

25 Q. Mr. Ivanov, if the person at the first

1 repair shop thought your vehicle was okay, do you
2 know why he would have contacted the highway patrol
3 to advise them that you had driven off?

4 MR. YEMC: Objection, your Honor. How's
5 he going to know this?

6 EXAMINER FULLIN: I'll allow the
7 question, but if he doesn't know, he doesn't know.

8 A. I don't know because it's like -- just
9 I'm talking, you know, to the person in front of me.
10 He was on the phone with somebody and he says state
11 patrol, you know. I told him everything's fine. I
12 don't know who he talked to, basically. I have no
13 idea.

14 Q. Thank you. Mr. Ivanov, do you recall
15 telling Trooper Pargeon that your cab had been
16 damaged in a parking lot in Illinois?

17 A. No, I did not say that.

18 Q. You didn't say that?

19 A. I don't recall. I have -- I can provide
20 to you, if you insist, I can provide you with an
21 accident number from Pennsylvania. It jackknifed on
22 highway 30 but in Pennsylvania, because I had to hit
23 the guy. Basically, what happened, it's an
24 intersection, he hit the brakes, and the truck just
25 flew all through the fences, on both sides, which I

1 couldn't stop at all.

2 Q. Did you explain that to Trooper Pargeon
3 at the time of the stop?

4 A. I don't remember. I don't recall that he
5 asked such a question. And I told him that -- we had
6 a conversation about it, if it is legal in the state
7 of Ohio, because I can probably pull some other
8 police reports from other states. I never got pulled
9 over. You know, nobody says anything about it. I
10 mean, there's some way -- I mean, we drivers should
11 know about what's legal in the state and what's not.

12 Q. But you don't recall saying anything at
13 that time about an accident in Illinois?

14 A. I didn't say that, no. I don't recall.

15 Q. Thank you.

16 A. There was a jackknife and I do have -- I
17 mean, I can ask my insurance company to provide the
18 pictures so I can hand them back to you, if you want
19 me to.

20 Q. No, thank you.

21 Mr. Ivanov, the reason you didn't have
22 the repairs made, as quoted on Respondent's Exhibit
23 B, was that it cost too much and you were waiting on
24 your insurance money. Is that right?

25 A. No. The insurance didn't -- didn't go

1 over it -- didn't look at it because they told me --
 2 they just gave me a six-thirty number. Just to give
 3 them a call and find him and talk to him to make the
 4 estimate; how much it's going to cost. And I tell
 5 them that I was trying to negotiate, you know, just
 6 asking him, there, what -- how much the repair will
 7 cost. But they were asking for about almost 6,500,
 8 7,000 dollars; money which I did not have at this
 9 time.

10 Q. Okay. So the repairs, at that time, were
 11 too expensive for you to have made?

12 A. Yes.

13 Q. Thank you.

14 MR. LINDGREN: Thank you. I have no
 15 further cross-examination.

16 - - -

17 EXAMINATION

18 By Examiner Fullin:

19 Q. Let me ask: Are you saying that the
 20 damage to the cab that's in these pictures, resulted
 21 from the jackknife incident in Pennsylvania?

22 A. Yeah. I can provide -- I don't remember
 23 if -- it's a five-thirty number, I believe. There's
 24 an accident number. I don't remember the county.
 25 It's right on Route 421, I believe, and Route 30.

1 Q. Do you know when that jackknife incident
2 occurred?

3 A. About maybe a few months back. A few
4 months back, but you have to wait --

5 Q. A few months back before this inspection?

6 A. Yeah. It was the wintertime. I had to
7 go back because the trailer was damaged, too. I
8 didn't see the guy. He stopped suddenly. I had to
9 just go.

10 EXAMINER FULLIN: Okay. Any redirect?

11 MR. YEMC: No.

12 EXAMINER FULLIN: Thank you for your
13 testimony.

14 THE WITNESS: Thank you. Thank you.

15 MR. YEMC: Your Honor, at this point,
16 we'd just like to have Respondent's Exhibits A and B
17 moved into evidence.

18 EXAMINER FULLIN: Any objection?

19 MR. LINDGREN: No objection.

20 EXAMINER FULLIN: Both of those exhibits
21 will be admitted into evidence at this time.

22 Does the Respondent rest?

23 MR. YEMC: Yes.

24 EXAMINER FULLIN: At this time, I would
25 like to allow both sides to make any closing

1 arguments or statements that they would like. Again,
2 starting with the staff.

3 MR. LINDGREN: Your Honor, the evidence
4 showed that the Respondent's vehicle was stopped
5 initially in Van Wert County and two out-of-service
6 violations were noted; namely, defective brake lights
7 that were staying on, and damage to the cab that made
8 it unsafe to operate.

9 The evidence also showed that the driver
10 did not have the necessary repairs made at
11 Beaverdam -- or at the E & R facility. While he did
12 introduce an exhibit that purports to show that
13 someone found the brakes to be okay, that does not
14 adequately show that the defects were remedied.

15 First of all, that person was not
16 provided as a witness today. We don't have him to
17 cross-examine on the stand. So that evidence should
18 not be relied on by the Commission.

19 Furthermore, we have no signature on the
20 report that notes that the necessary repairs were
21 made.

22 Also, as Lieutenant Hass and Inspector
23 Emmett noted, following the first stop and following
24 the driver leaving the repair facility, the brake
25 lights were staying on. Also, at the time of the

1 second inspection, the damage to the cab still
2 existed. The driver may have stowed away the chains,
3 so they were not hanging out, but there were other
4 materials still hanging out and the damage still had
5 not been repaired at all. Apparently, the driver
6 found it was too expensive to make those necessary
7 repairs, but he still chose to drive anyway.

8 Also the evidence shows that these brake
9 lights were still staying on and, in fact, one of the
10 Respondent's own exhibits shows that, at the second
11 repair facility, they found a short in this vehicle.
12 So at the first facility, apparently they had not
13 adequately checked the brake lights out and found
14 this short, so it was not a repair that was -- that
15 qualified the vehicle to be operated. So the
16 evidence shows that the vehicle was operated after it
17 had been placed out of service and without the
18 necessary repairs being made.

19 Also, as noted by two state patrol
20 officers, the Respondent was -- was vomiting at the
21 time of the second inspection. Now, I agree that it
22 is possible that this was induced by stress; we don't
23 know that. It could have been as a result of a virus
24 or a food poisoning; we just don't know. But, in any
25 case, it would have been unsafe, as Inspector Emnett

1 testified, for the driver to be driving down the road
2 and vomiting at the same time. Obviously, that would
3 be a great distraction and hazardous to other
4 vehicles on the roadway.

5 In conclusion, I would ask that the
6 Commission find the Respondent to have violated both
7 inspections -- or both violations in this case:
8 operating a vehicle out of service and operating a
9 vehicle while ill.

10 Thank you.

11 EXAMINER FULLIN: Thank you.

12 And Mr. -- I'm sorry.

13 MR. YEMC: That's all right.

14 EXAMINER FULLIN: I don't want to
15 mispronounce your name.

16 MR. YEMC: Yemc.

17 EXAMINER FULLIN: If you'd like to make a
18 closing argument.

19 MR. YEMC: Yes, please.

20 I think, clearly, the State has failed to
21 show, by a preponderance of the evidence, that my
22 client was operating his commercial vehicle while
23 ill. I think the State's closing proves that, that
24 they don't even know when he became ill; was it a
25 result of his stress associated with the stop, the

1 second stop, or was it some virus. They even said
2 that they don't know.

3 So there's -- they have failed to show,
4 by a preponderance of the evidence, that he was
5 operating the commercial vehicle while ill because he
6 got sick afterwards; he didn't get sick while he was
7 in the truck. There's no testimony from the first
8 trooper that he was ill when he pulled him over that
9 time, that he had the flu or anything. There was no
10 testimony with regards to that. There's just
11 testimony that after he got stopped the second time,
12 he threw up.

13 My client testified that he -- because of
14 nerves, he got sick. He wasn't operating the
15 commercial vehicle when he got sick. So I don't
16 think the State's proven, by a preponderance of the
17 evidence, that he operated a commercial vehicle while
18 being ill.

19 Secondly, I find it odd that the State is
20 objecting to one of its own exhibits in saying that
21 this Court should not take into consideration an
22 exhibit that it introduced into evidence which is
23 Exhibit 4I, showing that the defendant's trailer was
24 checked, stoplights were checked, and the operation
25 was okay. It was signed off by the sales manager or

1 the service manager at the first service stop that my
2 client went to.

3 I think we've lost track of what damage
4 we're really dealing with here and what the issue is.
5 The out-of-service was an issue because his truck --
6 trailer had some damage to it. That's not the issue.
7 You go up and down the roadways, you see cars that
8 are beat to heck and other trucks that have issues on
9 the roadway.

10 The problem here, as noted in both
11 inspection reports, is that there was exposed -- the
12 first report was exposed vehicle accessory equipment;
13 that was the problem. It's not that there was damage
14 to the actual trailer. The problem is that there
15 was, according to the first officer, insecure
16 equipment that was hanging out there.

17 My client testified that he secured the
18 equipment that was hanging out, which was the chains,
19 the other -- the bungee strap was -- was in the
20 second photograph. And then there was some lining
21 from the trailer cab, itself, that was secured.

22 He couldn't get the bungee strap out
23 because of how the thing was bent; the trailer was
24 bent. My client testified that it wasn't insecure;
25 it was actually secured. We heard testimony from

1 Officer Emmett that he didn't check to see if those
2 items were secure or not. However, in his report, he
3 said that there was unsecured equipment on there.
4 Why wouldn't he check -- pull to see if it was
5 actually secure or not? It was stuff that my client
6 said he couldn't even get out; it's physically
7 impossible.

8 So I just want to make sure this Court is
9 aware that we're not dealing with the damage to the
10 trailer. We're just dealing with the equipment that
11 was being exposed and would cause a hazard as he's
12 driving down the roadway and stuff is falling out.
13 Those issues were addressed whenever he was stopped
14 the first time. He took care of the chains; he got
15 those secure. Everything else was secured in that
16 compartment.

17 As far as the brake lights, he checked
18 the brake lights. He had the service manager come
19 out and check. The service manager is not going to
20 sign off on a repair report when he doesn't do
21 repairs; that's ludicrous. He's not going to sign
22 the repair because he doesn't think the repairs were
23 necessary and that's -- that's shown by the, you
24 know, the State's Exhibit, you know, 4I here, that it
25 was checked and operation was okay. That doesn't

1 look like initials to me. It would make no sense
2 that it would be initials considering he signed it
3 down below. That's clearly an "ok."

4 My client operated this vehicle thinking
5 his lights were fine because, yeah, he had the
6 service manager look at them and the service manager
7 says they were fine. And, after he secured the
8 equipment that was insecure, he didn't realize that
9 the lights weren't working when the truck was -- when
10 the ignition was turned on; he had no idea. They
11 checked them after they got to the service area.
12 They didn't have to be repaired, so they didn't
13 repair them.

14 Your Honor, I don't think my client
15 operated this vehicle when it was out of service. In
16 his mind and his belief, the lights were working
17 properly according to what the service manager said.
18 He secured the equipment that was hanging out that he
19 was required to in the inspection report. It doesn't
20 say in your inspection report that he needs to get
21 this bodywork done on the side of the roadway; that's
22 not what the requirements are. He just needs to
23 secure it and that's exactly what he did.

24 Thank you.

25 EXAMINER FULLIN: Thank you for your

1 closing argument.

2 I will bring this hearing to a close.

3 Thank you.

4 (Thereupon, the proceedings concluded at
5 11:37 a.m.)

6 - - -

7
8
9
10 CERTIFICATE

11 I do hereby certify that the foregoing is a
12 true and correct transcript of the proceedings taken
13 by me in this matter on Thursday, June 23, 2011, and
14 carefully compared with my original stenographic
15 notes.

16
17 _____
18 Carolyn M. Burke, Registered
19 Professional Reporter, and
20 Notary Public in and for the
21 State of Ohio.

22 My commission expires July 17, 2013.

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in

Case No(s). 10-2493-TR-CVF

Summary: Transcript Transcript of Dimitri Ivanov hearing held on 06/23/11 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Kin, Sandra Ms.