

FILE

PUCO EXHIBIT FILING

Date of Hearing: 2/28/12

Case No. 11-5517-TN-CVF

PUCO Case Caption: ELITE EXPRESS, LLC and  
John Menden

PUCO

RECEIVED-DOCKETING DIV  
2012 MAR 20 PM 3:09

List of exhibits being filed:

- STAFF Exhibits  
1 - DRIVER/VEHICLE EXAMINATION REPORT  
2 - NOTICE OF PRELIMINARY DETERMINATION  
3 - NOTICE OF PRELIMINARY DETERMINATION

PUCO

RECEIVED-DOCKETING DIV  
2012 MAR 20 PM 3:05

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician [Signature] Date Processed 3-20-12

Reporter's Signature: [Signature]  
Date Submitted: 3/20/12

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of: :  
Elite Express, LLC and : Case No. 11-5517-TR-CVF  
John Mercer. :

- - -

PROCEEDINGS

before Scott Farkas, Hearing Examiner, at the Public  
Utilities Commission of Ohio, 180 East Broad Street,  
Room 11-C, Columbus, Ohio, called at 10:00 a.m. on  
Tuesday, February 28, 2012.

- - -

ARMSTRONG & OKEY, INC.  
222 East Town Street, 2nd Floor  
Columbus, Ohio 43215  
(614) 224-9481 - (800) 223-9481  
Fax - (614) 224-5724

- - -

# DRIVER/VEHICLE EXAMINATION REPORT

Public Utilities Commission of Ohio  
180 East Broad Street  
Transportation Department  
Columbus, OH 43215  
Phone #: (614)466-0429 Fax #: (614)752-9274  
robert.leader@puc.state.oh.us

Report Number: OH3258002704  
Inspection Date: 1/12/2011 Certification Date:  
Time Started: 14:45 Time Ended: 17:51  
Inspection Level: II - Walk-Around  
HM Inspection Type: No HM Inspection

ELITE EXPRESS LLC  
9140 ANGOLA RD  
HOLLAND, OH 43528  
Phone #: (419)868-8485 Fax #:  
USDOT #: 1788233 MC/MX #: 653185  
State #:

Driver: MERCER, JOHN  
License #: RQ889289 State: OH  
Date of Birth: 11/02/1974

Location: BOWLING GREEN SCALES MilePost: 175  
Highway: IR75 Origin: BALTIMORE, MD Bill of Lading: 40173  
County: WOOD Destination: TAYLOR, MI Cargo: STEEL  
Shipper: FRITZ ENTERPRISES

## VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	Issued Decal#	Existing Decal#	OOS Stkr.#
1	TT	MACK	1996	OH	PVG9735	700	1M1AA14Y8TW063579	0			Y
2	ST	TRLR	2009	OH	TPC5235	700A	1K9SD34289K226774	0			Y

**BRAKE ADJUSTMENTS:** No brake measurements recorded.

## VIOLATIONS :

Section Code	St	Unit	OOS	Lvl 6	Citation #	Verify*	Crash	Violation Description
392.2		D	N	N	142496	N	N	Excessive Weight violation - Driver cited by Wood Co Sheriff Deputy Panning U#44
392.2	X	D	N	N		N	N	By-passing fixed scale location - Driver received a warning for bypassing scales
390.21(b)		1	N	N		N	N	Carrier name and/or USDOT Number not displayed as required - Carrier name and DOT# on side of truck not visible, part of DOT# missing, Letters "DOT" missing
393.9(a)		1	N	N		N	N	Inoperable required lamp - LF marker lamp inop
393.9(a)		1	N	N		N	N	Inoperable required lamp - RF marker lamp inop
396.3(a)(1)		1	N	N		N	N	Inspection, repair and maintenance of parts - Axle 3R - shock broken
393.75(h)		1	N	N		N	N	Under inflated tire - Axle 2 R inside - flat; due to overweight (tires expanded) cannot get valve stem off to get PSI
392.2	X	1	N	N		N	N	Failure to display valid vehicle registration papers - Tractor has no registration papers.
393.81		1	N	N		N	N	Horn inoperative
393.207(a)		1	Y	N		U	N	Axle positioning parts defective/missing - 1 L axle - All the bolts that hold spring hanger to the frame are loose by hand pressure and the axle is shifting
396.17(c)		2	N	N		N	N	Operating a CMV without periodic inspection - Expired
393.75(h)		2	N	N		N	N	Under inflated tire - Axle 5 L inside - flat; due to overweight (tires expanded) cannot get valve stem off to get PSI
396.5(b)		2	N	N		N	N	Oil and/or grease leak - Wheel seal leaking Axle 5L
393.75(c)		2	N	N		N	N	Tire-other tread depth less than 2/32 of inch - Axle 4R inside - tread at 0/32" in 3+ locations
393.75(a)(2)		2	Y	N		U	N	Tire sidewall separation - Axle 5L - buldge in sidewall indicating separation
392.2	X	1	N	N		N	N	Operating out of service vehicle - Carrier was made aware of 393.207A violation on 12/23/10 inspection # OH3229007789
396.9(d)(2)		1	N	N		N	N	Failure to correct defects noted on previous inspection-Carrier made aware of 390.21B & 393.81 violations on inspections MICMAN000937 & MD00FP009475 NOT CORRECTED
393.75(c)		1	N	N		N	N	Tire-other tread depth less than 2/32 of inch - Axle 2L inside - tread at 0/32" in 3+ locations
393.9(a)		1	N	N		N	N	Inoperable required lamp - L tail lamp inop

\* N - Non-OOS or Driver OOS Violation; U - Unknown

HazMat: No HM Transported.

Placard: NA Cargo Tank:

Report Prepared By:  
M Kurtz

Badge #:  
3258

Copy Received By:  
MERCER, JOHN

Page 1 of 3

2704(Ä)

OH3258002704

X

X

# DRIVER/VEHICLE EXAMINATION REPORT

Public Utilities Commission of Ohio  
180 East Broad Street  
Transportation Department  
Columbus, OH 43215  
Phone #: (614)466-0429 Fax #: (614)752-9274  
robert.leader@puc.state.oh.us

Report Number: OH3258002704  
Inspection Date: 1/12/2011 Certification Date:  
Time Started: 14:45 Time Ended: 17:51  
Inspection Level: II - Walk-Around  
HM Inspection Type: No HM Inspection

ELITE EXPRESS LLC  
9140 ANGOLA RD  
HOLLAND, OH 43528  
Phone #: (419)868-8485 Fax #:  
USDOT #: 1788233 MC/MX #: 653185  
State #:

Driver: MERCER, JOHN  
License #: RQ889289 State: OH  
Date of Birth: 11/02/1974

Special Checks: ☐ Alcohol/Controlled Substance Check ☒ Traffic Enforcement ☐ Post Crash Inspection  
☐ Conducted by Local Jurisdiction ☐ PASA Conducted Inspection ☐ PBBT Inspection  
☒ Size and Weight Enforcement ☐ Drug Interdiction Search Arrests:

Inspection Notes: Driver confirmed address.

This truck and another truck from same carrier was stopped by Wood Co Sheriff, after observing several violations and being on a route that is used to by-pass the scales, we were called to inspect the vehicles. Escorted trucks back to scales on I-75 MP 175.

When asked why he was driving a truck that had several violations from previous inspections that were not corrected his reply was "If I don't drive it someone else will."

Placed tractor and trailer OOS at NB I-75 scales.

I apologize for the unorganized order the violations, hard to keep track of that amount.

## Special Study Fields:

Special Study1:	Special Study6:
Special Study2:	Special Study7:
Special Study3:	Special Study8:
Special Study4:	Special Study9:
Special Study5:	Special Study10:

## Locally Defined Fields:

For-Hire Carrier: Y; Driver Address: 6946 SOUTH AVE; Driver City: HOLLAND; Driver State: OH; Driver Zip: 43528; Photos Taken (Y/N): Y; Reason Code: OBVI; FMCSA Credentials Verified-Y/N: Y; CDL Verified (Y/N): Y; FMCSA OOS Order Issued(Y/N): N

Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio-TASD; 180 E. Broad St.; Columbus, OH; 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official: X

Date: \_\_\_\_\_

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000

Report Prepared By:  
M Kurtz

Badge #:  
3258

Copy Received By:  
MERCER, JOHN

Page 2 of 3

12704(Ä

X

X

OH3258002704

# DRIVER/VEHICLE EXAMINATION REPORT

Public Utilities Commission of Ohio

180 East Broad Street

Transportation Department

Columbus, OH 43215

Phone #: (614)466-0429 Fax #: (614)752-9274

robert.leader@puc.state.oh.us

Report Number: OH3258002704

Inspection Date: 1/12/2011 Certification Date:

Time Started: 14:45 Time Ended: 17:51

Inspection Level: II - Walk-Around

HM Inspection Type: No HM Inspection

ELITE EXPRESS LLC

9140 ANGOLA RD

HOLLAND, OH 43528

Phone #: (419)868-8485

Fax #:

USDOT #: 1788233

MC/MX #: 653185

State #:

Driver: MERCER, JOHN

License #: RQ889289

State: OH

Date of Birth: 11/02/1974

Signature of Repairer:

X

Facility:

Date:

Report Prepared By:

M Kurtz

Badge #:

3258

Copy Received By:

MERCER, JOHN

Page 3 of 3

12704(Ä

X

X

OH3258002704



**Public Utilities  
Commission**

John R. Kasich, Governor  
Todd A. Snitchler, Chairman

Commissioners  
Paul A. Centolella  
Cheryl Roberto  
Steven D. Lesser  
Andre T. Porter

September 23, 2011

MS. BONNIE OSTRANDER  
AGENT ELITE EXPRESS LLC  
PO BOX 106  
HOLLAND, OH 43528-0106

RE: NOTICE OF PRELIMINARY DETERMINATION

Case No. OH3258002704C

Officer: CS

Dear MS. OSTRANDER:

On January 12, 2011, a vehicle operated by ELITE EXPRESS LLC, and driven by JOHN MERCER, was inspected within the State of Ohio. As the result of discovery of the following apparent violations the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amount:

Code	Violation
393.207A	Axle positioning parts defective/missing - 1 L axl
393.75A2	Tire sidewall separation - Axle 5L - buldge in sid
390.21B	Carrier name and/or USDOT Number not displayed as
396.9D2	Failure to correct defects noted on previous inspe

Total Forfeiture Assessed : \$290.00

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)



**Public Utilities  
Commission**

John R. Kasich, Governor  
Todd A. Snitchler, Chairman

Commissioners  
Paul A. Centolella  
Cheryl Roberto  
Steven D. Lesser  
Andre T. Porter

September 23, 2011  
MS. BONNIE OSTRANDER  
AGENT ELITE EXPRESS LLC  
OH3258002704C

PAGE -2

As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against ELITE EXPRESS LLC in the following forfeiture:

Code	Violation
393.207A	Axle positioning parts defective/missing - 1 L axl
393.75A2	Tire sidewall separation - Axle 5L - buldge in sid
390.21B	Carrier name and/or USDOT Number not displayed as
396.9D2	Failure to correct defects noted on previous inspe

Total Forfeiture Agreed : \$290.00

Please include a certified check or money order for the total forfeiture Agreed, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 4th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director  
Transportation Department  
Public Utilities Commission of Ohio

**Public Utilities  
Commission**

John R. Kasich, Governor  
Todd A. Seltchler, Chairman

Commissioners  
Paul A. Centolella  
Cheryl Roberto  
Steven D. Lesser  
Andre T. Porter

September 23, 2011

MS. BONNIE OSTRANDER  
AGENT  
PO BOX 106  
HOLLAND, OH 43528-0106

RE: NOTICE OF PRELIMINARY DETERMINATION  
Case No. OH3258002704D  
Officer: CS

Dear MS. OSTRANDER:

On January 12, 2011, a vehicle operated by ELITE EXPRESS LLC, and driven by JOHN MERCER, was inspected within the State of Ohio. As the result of discovery of the following apparent violation the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amount:

Code	Violation
2-5-07D	Operating out of service vehicle - Carrier was mad

Total Forfeiture Assessed : \$1000.00

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)



# Public Utilities Commission

John R. Kasich, Governor  
Todd A. Snitchler, Chairman

Commissioners  
Paul A. Centolella  
Cheryl Roberto  
Steven D. Lesser  
Andre T. Porter

September 23, 2011  
MS. BONNIE OSTRANDER  
AGENT  
OH3258002704D

PAGE -2

As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against JOHN MERCER in the following forfeiture:

Code	Violation
2-5-07D	Operating out of service vehicle - Carrier was mad

Total Forfeiture Agreed : \$1000.00

Please include a certified check or money order for the total forfeiture Agreed, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 4th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director  
Transportation Department  
Public Utilities Commission of Ohio