

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Request of Trux :
Transportation, Inc., for : Case No. 13-1168-TR-CVF
an Administrative Hearing.:

- - -

PROCEEDINGS

before Ms. Mandy Willey Chiles, Attorney Examiner, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-D, Columbus, Ohio, called at
1 p.m. on Tuesday, October 1, 2013.

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APPEARANCES:

Mike DeWine, Ohio Attorney General
By Mr. William L. Wright, Section Chief
Public Utilities Section
Mr. Devin Parram,
Assistant Attorney General
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

Mr. Donald M. Carpenter

On his own behalf.

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Staff Exhibit	Identified	Admitted
1 Driver/Vehicle Examination Report	10	28
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Trux Exhibit	Identified	Admitted
1 Metal Bar With Two Hooks	31	50
2 Stamp on the Binder	32	50
3 Binder Chain Specifications	35	50

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1 Tuesday Afternoon Session,
2 October 1, 2013.

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4 EXAMINER CHILES: The Public Utilities
5 Commission of Ohio has called for hearing at this
6 time and place Case No. 13-1168-TR-CVF, being in the
7 Matter of the Request of Trux, that's T-R-U-X,
8 Transportation, Inc., for an Administrative Hearing.

9 I am Mandy Chiles, and I am the Attorney
10 Examiner assigned by the Commission to hear this
11 case.

12 We will begin by taking appearance of the
13 parties. On behalf of staff.

14 MR. PARRAM: Good afternoon, your Honor.
15 On behalf of staff of the Public Utilities Commission
16 of Ohio, Ohio Attorney General Mike DeWine by
17 Assistant Attorney General Devin D. Parram, 180 East
18 Broad Street, Columbus, Ohio, 6th Floor, 43215.

19 EXAMINER CHILES: Thank you. And,
20 Mr. Carpenter, would you please state your name, the
21 name of the company you are here representing, and
22 the address of the company.

23 MR. CARPENTER: Yes. My name is Donald
24 M. Carpenter. I'm the president of Trux
25 Transportation. We're at 580 Mayer Street,

1 Bridgeville, PA 15017.

2 EXAMINER CHILES: Thank you.

3 Mr. Carpenter, I am just going to ask you a few
4 questions on the record before we continue so I would
5 like to swear you in at this time. If you could
6 please raise your right hand.

7 (Witness sworn.)

8 EXAMINER CHILES: Thank you. You can
9 have a seat. We spoke about this prior to going on
10 the record today, but just to be clear on the record
11 could you please tell me your position at Trux.

12 MR. CARPENTER: I'm the president of Trux
13 Transportation, Inc.

14 EXAMINER CHILES: Okay. And how long
15 have you been president of Trux?

16 MR. CARPENTER: Since the beginning, I
17 think in 1986.

18 EXAMINER CHILES: Okay. Are you a
19 regular salaried employee of Trux?

20 MR. CARPENTER: Not at present.

21 EXAMINER CHILES: Okay. And do you have
22 authority to represent Trux in this matter today?

23 MR. CARPENTER: Yes, I do.

24 EXAMINER CHILES: All right. Thank you.
25 And I also want to clarify on the record, we talked

1 about this before going on the record today, you are
2 aware that Trux could be represented by counsel today
3 if it so chose?

4 MR. CARPENTER: I am.

5 EXAMINER CHILES: But Trux is choosing to
6 go forward without counsel; is that correct?

7 MR. CARPENTER: Correct.

8 EXAMINER CHILES: Thank you. And, again,
9 just going to give a very brief description of the
10 process we are going to follow today so it is on the
11 record. Staff will go first, and staff has the
12 burden of proof. Once staff has finished presenting
13 its witnesses and finished you will have the
14 opportunity to come up here and put on your case.
15 And then at the conclusion of the hearing I will
16 permit each side to make a brief closing statement if
17 you so wish.

18 Mr. Parram, you can proceed when you're
19 ready.

20 MR. PARRAM: Yes, your Honor. I have
21 just one preliminary matter. I spoke with
22 Mr. Carpenter beforehand, and it's my understanding
23 that we -- he is not contesting the actual forfeiture
24 amount which I believe is \$100 in the case so staff
25 would like to recognize that on the record that

1 we're -- Mr. Carpenter is not contesting the \$100
2 amount. We will not be putting on a witness as
3 relates to the forfeiture amount.

4 EXAMINER CHILES: Is that correct,
5 Mr. Carpenter?

6 MR. CARPENTER: That is correct.

7 EXAMINER CHILES: Okay. Thank you very
8 much.

9 MR. PARRAM: Your Honor, I would like to
10 call Inspector Goins to the stand.

11 - - -

12 INSPECTOR JACK W. GOINS

13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Parram:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. Would you please state your full name for
20 the record.

21 A. Jack W. Goins.

22 Q. And where are you employed?

23 A. I'm a Commercial Motor Carrier
24 Enforcement Inspector with the State Highway Patrol
25 here in Ohio.

1 Q. And how long have you been in that
2 position?

3 A. Right at about 13 years.

4 Q. And what are some of your duties?

5 A. Our duties involve stopping all
6 commercial traffic if -- if we do have the authority
7 to do so and checking the driver as far as being a
8 valid driver, not suspended, medical -- medical
9 cards, make sure that they are physically able
10 according to doctors to be driving a vehicle as well
11 as their logbooks for hours of operation, and then
12 the safety of the equipment that they are operating.

13 Q. Okay. And you say you've been in this
14 position for approximately 13 years?

15 A. Again, right at 13 years.

16 Q. About how many inspections do you do
17 every year?

18 A. Usually between 1,000 and 1,100 a year.

19 Q. And what qualifications or certifications
20 do you have in your position?

21 A. We have to go through the initial classes
22 which is the North American Standard for Log Issues.
23 That's a class pertaining to logbooks only. And then
24 North American Standard Level I Inspections which
25 is -- Level I Inspection is the most thorough

1 inspection that we do which involves the driver with
2 the safety of the equipment around it, the loads,
3 underneath, the brakes. And then also have all the
4 Hazmat certifications which would be bulk, nonbulk,
5 cargo tank, cylinders, and as well as PUCO
6 certification for the State of Ohio.

7 Q. And I think you touched on this, but you
8 said there is different levels of inspections. For a
9 level II inspection, what exactly is that?

10 A. Level II would just involve the driver
11 again for, you know, to make sure he does have a
12 valid license to be operating the vehicle as well as
13 medically and logbook if it pertains to such and then
14 the safety of the equipment as a walk-around
15 inspection, not going underneath and checking the
16 brakes. It's pretty much the load with anything that
17 you can walk around and visually see without going
18 underneath of it.

19 Q. Okay. So part of a level II inspection
20 is looking at the equipment on the vehicle.

21 A. Yes. It would be any load that they
22 would have for securing.

23 MR. PARRAM: Your Honor, I would like to
24 have marked for purposes of identification Staff
25 Exhibit 1 which is the Driver/Vehicle Examination

1 Report from inspection date January 7, 2013.

2 EXAMINER CHILES: So marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MR. PARRAM: May I approach the witness,
5 your Honor?

6 EXAMINER CHILES: You may.

7 Q. Inspector Goins, I am handing you what
8 has been marked as Staff Exhibit 1 which is a
9 Driver/Vehicle Examination Report which is at issue
10 in this case. Inspector Goins, have you seen this
11 document before?

12 A. Yes, sir.

13 Q. And what is this document?

14 A. This is a copy of an inspection report
15 that I did on it looks like January 7 of 2013 on Trux
16 Transportation or involving Trux Transportation.

17 Q. And this is actually a PUCO printout
18 version of the inspection report that you prepare
19 while you're performing your actual inspection; is
20 that correct?

21 A. Right. It states in there the location
22 where the inspection was done or performed and then
23 all violations listed as such.

24 Q. Okay. When exactly did you prepare it,
25 the report?

1 A. January 7, 2013, and it looks like it was
2 done at the Interstate Route 71 North Northbound
3 Scale House, and it was about 12:18, 12:18 p.m.,
4 right around lunchtime.

5 Q. And you actually recall preparing this
6 report?

7 A. Yes, I do.

8 Q. Now, I would like to talk about some of
9 the details in the report. If you go to the very top
10 of the report, there is a section that indicates the
11 inspection date. Do you see where I'm at there?

12 A. Uh-huh.

13 Q. And when was the inspection date listed
14 on there?

15 A. 1-7-2013.

16 Q. Okay. And if you go down, it says
17 "Inspection Level" -- "Inspection Level II." Is this
18 a type of level II inspection that we were talking
19 about before?

20 A. Right. I did a level II walk-around
21 inspection.

22 Q. And if you go down to the next section,
23 there are some names listed there. One of the names
24 on -- to the left-hand side of the document is Trux
25 Transportation and then there's a name for the driver

1 Larry Aynes. If you could tell me who is Trux
 2 Transportation and who is Mr. Larry Aynes?

3 A. Trux Transportation is the company that
 4 the inspection pertains to, and Mr. Larry Aynes would
 5 have been the driver of the vehicle at that time.

6 Q. When you say the company, are you
 7 referring to the carrier?

8 A. The carrier itself, yes.

9 Q. How do you determine who the carrier is?

10 A. The DOT number issued to them is their
 11 actual operator's or that's -- their operation
 12 authority is obtained through the DOT numbers there.

13 Q. And is that DOT number indicated on this
 14 document?

15 A. It is.

16 Q. And what is that number?

17 A. 235032.

18 Q. Okay. And if you go down to the "Vehicle
 19 Identification," you see that section of the
 20 document?

21 A. I do.

22 Q. Could you please explain to me what that
 23 information indicates.

24 A. Vehicle identification states in there
 25 that unit 1 is or would be a -- or was a tractor,

1 truck tractor, which is a tow unit and it's a
2 Kenworth 2004 model. It looks like it's registered
3 or would have been or was registered through the
4 State of Pennsylvania. The second one would be the
5 semitrailer, Benson, the truck was pulling. And it
6 also was registered out of the State of Pennsylvania.

7 Q. And there is a -- it indicates in the
8 Vehicle Identification section GVWR. What does that
9 stand for?

10 A. That's the gross vehicle weight rating.
11 It's what that vehicle is rated to haul full.

12 Q. So for the tractor-trailer the gross
13 vehicle rating would have been how much?

14 A. Well, you have the combination. You have
15 the truck which is rated for 50. The trailer was
16 rated for 100, but lawwise through the State of Ohio
17 80,000 pounds would be their limit as far as running
18 equipment without a special hauling permit.

19 Q. And I skipped over something here. If
20 could you jump back into the section right above
21 that. There is a section that indicates "Cargo."
22 Can you see where I'm at on there?

23 A. Uh-huh.

24 Q. What was this trailer hauling? What was
25 the cargo?

1 A. It looks like the load was picked up in
2 Ghent, Kentucky, and it was through or from a shipper
3 North American Stainless and it was hauling a metal
4 coil, one metal coil.

5 Q. Now, I would like to jump down to the
6 middle section of the document that indicates
7 "Violations." Do you see where I'm at?

8 A. Yes.

9 Q. What were the violations that you
10 indicated in this report?

11 A. 392.9(a)(1) in the Federal regs clearly
12 states that when you're hauling a metal coil or
13 multiple coils, load securement would have to be half
14 of -- or a working load of half of what that weight
15 of that object being hauled is.

16 In this particular case with the
17 392.9(a)(1) it was insufficient approximately, just
18 looking at it without a calculator, doing it in my
19 head, about 600 pounds.

20 Q. And I'm -- I want to ask you, your notes
21 indicate a metal coil weighing around 44,530 pounds.
22 What exactly are you referring to there in the
23 violation?

24 A. In the "Violation" section?

25 Q. Yes.

1 A. The coil that was being transported on
2 this trailer weighed 44,530 pounds.

3 Q. Okay. And it indicates secured to --

4 A. Right. If -- if you look at that section
5 in the regs, it says it's got to be secured to half
6 of that weight. Half of that weight of that coil
7 would have been 22,265 pounds. With the chains and
8 the binders that he had on there securing the coil
9 you could see the difference between the 22,265 and
10 21,600 is approximately 625 pounds so he does not --
11 or would have been insufficient with securement there
12 by that 625 pounds.

13 Q. Okay. And so just to be clear, the way
14 you calculate the 21,600 pounds is by adding up all
15 the different chains or?

16 A. Right. You go with -- depending on what
17 they are securing, it could be nylon cords; it could
18 be steel cables; it could be chains. In this
19 particular instance here was chains.

20 I have notes over there. I don't want to
21 say something wrong. If I could get my notes, if
22 that would be permitted.

23 MR. PARRAM: Your Honor, may I approach?

24 EXAMINER CHILES: You may.

25 A. Okay. Yeah. With what he had -- what

1 the driver had that day he had two 5/16" G-70 chains
2 and two 3/8" G-70 chains.

3 Q. And let me stop you there actually
4 because maybe we are getting ahead of ourselves.
5 Let's go down and if you return to the Staff Exhibit
6 1.

7 A. Okay.

8 Q. Let's go down to the next session where
9 it indicates "Inspection Notes." Do you see that
10 section of the document?

11 A. Yep.

12 Q. And generally what is the "Inspection
13 Notes" for?

14 A. Anything we find that for -- well,
15 actually for this particular case if we go to
16 hearings on them, then we've got reference notes to
17 reflect back on because this, you know, happened in
18 January. That's several months back. That way if we
19 come to a hearing and ask questions, then we've got
20 something to reflect back on to know exactly what we
21 had dealt with that particular day.

22 Q. Okay. And so in Staff Exhibit 1, you do
23 have some "Inspection Notes" there. Before we get
24 into the details of -- did you prepare these notes
25 contemporaneously with your inspection, at the same

1 time you did your inspection?

2 A. Before I print these inspection reports
3 to give a copy to the driver, yes, I put all my notes
4 in the notes section, and then I print it out, print
5 a copy out to give to the driver. And to my
6 knowledge the drivers do not get a copy of the
7 "Notes" section. That's strictly for us.

8 Q. So you prepare these notes pretty much at
9 the same time that you are doing your inspection; is
10 that correct?

11 A. Yes, at the same time before the
12 inspection is complete.

13 Q. And if you could just read the
14 "Inspection Notes" on Staff Exhibit 1 for me, please.

15 A. First sentence states in there the
16 "driver added another chain to properly secure coil."
17 I put that in there because anything -- well, I don't
18 want to get ahead of things, but anyway it states in
19 there the driver had another chain to properly secure
20 the coil. Going on it says "the driver was
21 transporting a metal coil weighing 44,530 pounds.
22 The coil was to be secured" -- or "was secured with
23 two 5/16" G-70 chains and two 3/8" G-70 chains. The
24 binders securing the chains has a working load of
25 5,400 pounds. The coil was" -- "the coil for proper

1 securement would be a total working load limit" -- or
2 "working load weight of 22,265 pounds. The coil was
3 only secured to 21,600 pounds" so, therefore, it
4 would have been "insufficient."

5 Q. Okay. And we'll start at the top where
6 you say "driver added another chain to properly
7 secure coil." What does that mean there?

8 A. Any time I find any violations like this
9 that is a safety issue -- and we go through
10 in-services for different things and coils. We have
11 been through several in-services on coils where the
12 companies are not informing the drivers or the
13 drivers not knowing the proper way to secure coils.
14 So any time especially with the coils when I find
15 something like this, I show it to the drivers,
16 explain to the drivers, you know, the coil weighs
17 this. This is what you should be securing that to
18 and show them how to properly secure anything that
19 they are hauling.

20 So when I do that, the driver adds -- or
21 have the driver add another chain, binder, whatever
22 the case may be and then that's how I know I let the
23 driver know and show the driver my violations there
24 and explain it to them and then they can properly
25 secure the thing -- properly secure the item to

1 transport.

2 Q. And you are referring to chains and
3 binders. Could you explain what the binder is.

4 A. Yeah. All a binder is is the chain that
5 in this particular instance that they used to secure
6 that item, the chain hooks to one side of the
7 trailer, it goes through the coil or the eye of the
8 coil, and then a binder is hooked to the other side
9 of the trailer and to the chain. And what it does it
10 kind of cinches down that chain to make the chain
11 tight against the object that it is transporting.

12 Q. Now, when in your "Inspection Notes" you
13 indicate that the coil was secured with two 5/16"
14 G-70 chains and two 3/8" G-70 chains, explain what
15 you mean by that.

16 A. Okay. We have in the regs, it's also in
17 the Federal regs, that 5/16" G-70 chain, that's a
18 high tension chain, and two 5/16" chains -- or a
19 5/16" G-70 chain is rated for 4,700 pounds. The 3/8"
20 chains being G-70 would be rated for 6,600 pounds
21 each.

22 Q. And in the next section where you say
23 "the binders securing the chains has a working load
24 of 5,400 pounds," how many binders are you talking
25 about?

1 A. Four binders.

2 Q. Four binders. And when you -- I guess
3 let me ask it this way, when I say a binder, the
4 rating of the binder, what do you understand that to
5 mean?

6 A. It's this particular one is rated for
7 5,400 pounds.

8 Q. Okay.

9 A. So that's a tinsel strength of when that
10 binder could potentially break.

11 Q. And how do you know what a particular
12 binder is rated at?

13 A. Most generally the binders that we check
14 and usually is out there today has a -- these
15 particular binders were a dropped-forged-type metal
16 and working load is actually a raised number that
17 appears on the handle of the binders.

18 Q. You said something dropped forged?

19 A. Yeah. It's metal. It's just a forged
20 piece of metal.

21 Q. Okay. So the way I can tell the rating
22 of a particular binder is because it is actually
23 stamped on the side of the binder.

24 A. Right.

25 Q. In this particular case was the rating

1 stamped on the side of the binder?

2 A. Right, 5,400 pounds.

3 Q. And in this particular inspection how
4 many people were -- well, who was the driver again?
5 I'm sorry, Mr. Larry Aynes?

6 A. The driver would be Larry Aynes.

7 Q. Was there anyone else out there when you
8 did this inspection?

9 A. No, just myself and the driver.

10 Q. It was just Mr. Aynes and yourself?

11 A. Right.

12 Q. Okay. Now, did you take any photographs
13 during your inspection?

14 A. I did.

15 MR. PARRAM: Your Honor, I would like to
16 have marked for purposes of identification as Staff
17 Exhibit 2, Staff Exhibit 3, Staff Exhibit 4 which are
18 all photographs taken during the inspection.

19 EXAMINER CHILES: So marked.

20 (EXHIBITS MARKED FOR IDENTIFICATION.)

21 MR. PARRAM: May I approach the witness,
22 your Honor?

23 EXAMINER CHILES: You may.

24 Q. And, Inspector Goins, I have set in front
25 of you three sets of photographs -- three different

1 photographs marked Staff Exhibit 2, Staff Exhibit 3,
2 and Staff Exhibit 4. Do you have those?

3 A. I do.

4 Q. Starting with Staff Exhibit 2, did you
5 take this photograph?

6 A. I did.

7 Q. And I have the same question for Staff
8 Exhibit 3 and Staff Exhibit 4. Did you take those
9 photographs too?

10 A. Yes, I did.

11 Q. And when did you take these photographs?

12 A. It would have been January 7, 2013.

13 Q. And for Staff Exhibit 2, Staff Exhibit 3,
14 and Staff Exhibit 4, do they all accurately reflect
15 what you saw during your inspection?

16 A. They do.

17 Q. So starting with Staff Exhibit 2, what is
18 this a picture of?

19 A. That's a picture of the side of the truck
20 that shows the name of the trucking company as well
21 as their operating -- or DOT operating for their
22 company.

23 Q. Okay. And I'm going to just jump to
24 Staff Exhibit 4. Do you have Staff Exhibit 4 in
25 front of you?

1 A. I do.

2 Q. What is this a picture of?

3 A. That's a picture of a bill of lading or
4 shipping papers for the load he was transporting.

5 Q. Okay. There's a light handwritten circle
6 around a number. It's a little bit hard to tell on
7 here but if you could explain to me what exactly
8 that's supposed to be marking on this picture.

9 A. That would be the weight of the coil that
10 they were transporting.

11 Q. Okay. And what exactly was that weight?

12 A. It's 44,530 pounds.

13 Q. Okay, okay. Now, let's go to Staff
14 Exhibit 3. What is Staff Exhibit 3?

15 A. That's the four chains that they used
16 to -- or the driver would have used -- or did use to
17 secure the coil.

18 Q. And can you indicate for me which one of
19 the chains are 5/16"?

20 A. No. You can't depict that from the
21 picture because of the depth or angle of the picture.
22 Some chains appear smaller than others, but 5/16"
23 would have been smaller in diameter.

24 Q. Okay. And are there any binders on this
25 particular photograph?

1 A. No, there is not.

2 Q. Where are the binders?

3 A. The binders would have been on the other
4 side.

5 Q. So I can get an understanding of how the
6 binders are supposed to -- how the binders work,
7 where would they be if they were on this particular
8 photograph?

9 A. They would have been on the other side,
10 but in reference to how they would have attached to
11 the vehicle if you look at the bottom or on the bed
12 of the trailer, there's an anchor point. One side of
13 that binder or one hook of that binder would hook to
14 the anchor point of the trailer and go up towards the
15 coil and hook to a link on the chain coming through
16 the coil. And then you cinch the binder down and
17 tighten the chain.

18 Q. When you say an anchor point, there is a
19 photo of it looks like a civil -- silver piece of
20 metal that is in the picture to the right-hand side
21 of Staff Exhibit 3. Is that the anchor point you are
22 referring to?

23 A. No. That looks like it's some type of
24 chalk or wheel chalk or some kind of chalk device to
25 prevent it from rolling.

1 Q. So when you took Staff Exhibit 3, the
2 binders weren't removed, were they?

3 A. No, no.

4 Q. They were just on the other side?

5 A. It was on the other side, that's correct.

6 Q. And if the binders -- you've indicated
7 the binder has a -- the rating of each particular
8 binder was stamped onto the binder.

9 A. Uh-huh.

10 Q. If the binder was 6,000 pounds, would you
11 have noticed that?

12 A. Right. If it would have been 6,000
13 pounds, that would have been sufficient load
14 securement.

15 Q. And do you recall if the binder was --
16 binders were rated at 6,000 pounds?

17 A. No. There again, that's why I make notes
18 on my reports. I don't -- I don't -- it's just a way
19 of not forgetting what you are dealing with every
20 inspection.

21 Q. And so based upon your determination, the
22 binders were rated -- based on the fact that you saw
23 that the binders were rated 5,400 pounds, you
24 concluded that the -- that the vehicle was in
25 violation of -- there was insecurement -- there was

1 an insufficient securement in this case, right?

2 A. Right. If -- or, excuse me, the binder
3 was rated for 5,400 pounds and being 5,400 pounds
4 that's a working load of 21,600 pounds which would
5 have been 625 pounds less than what would have been
6 the proper securement.

7 MR. PARRAM: That's all I have, your
8 Honor.

9 EXAMINER CHILES: Thank you.

10 - - -

11 EXAMINATION

12 By Examiner Chiles:

13 Q. Just have a couple of questions for you.
14 Forgive me if you have already answered these. I
15 just want the -- I just want the record to be very
16 clear, you calculated this number, the 21,600 pounds,
17 by adding together the rating that was stamped on the
18 binders?

19 A. Right.

20 Q. Okay, right.

21 A. Any time we -- any time we check for load
22 securement we have to check -- we go from the
23 attachment points to the chains to the binders and
24 you have to calculate the weakest link of whatever
25 they are attaching or securing the binders to and the

1 binders in this case would have been the weakest
2 link.

3 Q. Okay. So basically what you are saying
4 the 21,600 number, that wasn't taking into
5 consideration the weight that the chains themselves
6 were rated for, just the binders, because that was
7 the lowest rating here?

8 A. Right. The binder was the weakest link
9 because of it having a working load of 5,400 pounds.
10 The chains when they was added together would have
11 been sufficient had the binders been a heavier
12 workload.

13 Q. Okay. And you know the weight of the
14 binders that were in this truck because you looked at
15 the stamp that was on them.

16 A. Right, that's correct.

17 Q. Okay. Did you actually get up in the
18 truck to look at the stamp?

19 A. This particular one wasn't covered
20 because they had the coil -- a lot of times when they
21 are hauling coils, they will take a tarp and have to
22 cover them. The shippers don't want water and stuff
23 getting on them so they have to protect them because
24 there's stains. This one was covered this way so the
25 binders was on the other side, and you can actually

1 stand behind the vehicle and see them.

2 EXAMINER CHILES: Okay. I have no other
3 questions. Thank you very much. You may step down.

4 All right. Mr. Parram, do you want to
5 move your exhibits into evidence?

6 MR. PARRAM: Yes, your Honor. I would
7 like to move for the admission of State's Exhibits 1,
8 2, 3, 4.

9 EXAMINER CHILES: Staff Exhibits 1, 2, 3,
10 and 4 will be admitted.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 EXAMINER CHILES: Does that conclude the
13 presentation of your case?

14 MR. PARRAM: I would like to reserve time
15 for rebuttal, your Honor.

16 EXAMINER CHILES: Yes, of course. You
17 can do that.

18 All right. Mr. Carpenter, if you wish to
19 present your case now, you can come up here to the
20 witness stand. Please take any documents with you
21 that you would like to refer to. I'll also remind
22 you you are still under oath.

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DONALD M. CARPENTER

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

DIRECT EXAMINATION

EXAMINER CHILES: You can go ahead and begin and if you refer to a document, just let me know. We'll mark those as we go along.

THE WITNESS: Well, to start with the coil that -- that is in question here as far as this securement is -- was 44,320 pounds. And on the statement it is 43,000 -- or 44,000 I believe 520. I think that there's a difference in the weight of the actual coil.

EXAMINER CHILES: Okay.

THE WITNESS: I wanted to note that the next thing is that the securement of the trailer, you know, I was going to bring this up because the pictures that are shown in the exhibits are the chains that secure the trailer -- or the load itself.

ATTORNEY EXAMINER: Let the record reflect Mr. Carpenter is referring to Staff Exhibit 3.

THE WITNESS: Now, we don't carry any 5/16" chain, No. 1; and No. 2 is, you know, I agree

1 with the officer that you cannot tell the difference
2 in a 5/16" and a 3/8" chain from that exhibit. So, I
3 mean, we are in agreement there.

4 No. 2 is I do not carry any securement as
5 far as binders and these are -- these are ratchet
6 binders which are -- they are not snap binders.
7 There is a difference in securement type of binders.
8 In my opinion being in the business for 50 years that
9 we -- we pay very close attention on how to secure
10 and what to secure products with and not only from a
11 safety standpoint, as far as guarding the material
12 itself. In our -- I took pictures of the binders
13 that were in question here and this is what they
14 considered a ratchet binder.

15 EXAMINER CHILES: I am just going to stop
16 you momentarily. Let's mark these photographs, I
17 think we all have a copy of these, if you could hold
18 the photographs up one at a time, you can tell me
19 what they are and we can mark this.

20 THE WITNESS: This is a ratchet binder.

21 EXAMINER CHILES: Okay. Let's go ahead
22 and mark this as Trux Exhibit 1 and let the record
23 reflect just in laymen's terms this is a photo. It
24 looks like it has two hooks with something attached
25 to it.

1 THE WITNESS: Right.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 EXAMINER CHILES: We will call that Trux
4 Exhibit 1. Do you want to go ahead and tell me what
5 Trux Exhibit 1 is? You said it's a ratchet binder?

6 THE WITNESS: That's a ratchet binder.

7 EXAMINER CHILES: And that's the only
8 type of binder you use in your business?

9 THE WITNESS: That is correct on all our
10 securement loads. Now, we have different types of
11 securement, but as far as coils are concerned or any
12 heavy material, that's what we use.

13 EXAMINER CHILES: Okay.

14 THE WITNESS: In addition to that all of
15 our ratchet binders are -- and I took a copy of the
16 handle of it because, again, the officer is correct
17 that all the ratchet binders are stamped with the
18 load limits that they are -- that they perform.

19 EXAMINER CHILES: Are these remaining two
20 photographs, are they of the same stamp then? They
21 are just two different photos?

22 THE WITNESS: They could be. I'm not
23 sure.

24 EXAMINER CHILES: It looks like they say
25 the same thing.

1 THE WITNESS: Right.

2 EXAMINER CHILES: Let's just mark the one
3 that looks like it's complete here as Trux Exhibit 2.
4 It looks like it says 2,600 pounds toward the end of
5 the photo. We will mark that as Trux Exhibit 2.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER CHILES: It is the one that's
8 complete. Just to clarify on the record this photo
9 is the stamp. Could you describe what this photo is
10 of.

11 THE WITNESS: That's the load securement
12 that you are -- it holds on each chain.

13 EXAMINER CHILES: And was this stamp
14 taken from the binder that's pictured in Trux Exhibit
15 1?

16 THE WITNESS: Exactly.

17 EXAMINER CHILES: Okay. Could you just
18 read the weight rating that's stamped in that photo.

19 THE WITNESS: It's 6,600 pounds.

20 EXAMINER CHILES: Okay.

21 THE WITNESS: Now, in addition to that
22 the securement on the trailer in this particular case
23 the officer said you could see this from the ground.
24 You cannot see it from the ground on my trailers. I
25 have all-sided trailers so you would have to actually

1 get up inside of the trailer to see any of the
2 securement that is going on in a trailer, so, unless
3 the truck -- the driver would tear down the tarps and
4 the sides, et cetera, et cetera.

5 So in addition to that the -- there are
6 hooks inside of the trailer that are rated for 6,900
7 pounds a piece so each chain is hooked on to a
8 6,900-pound piece, to a 6,600-pound chain, to a
9 6,600-pound binder.

10 EXAMINER CHILES: Okay.

11 THE WITNESS: Okay? So if you take the
12 600 and you take it four -- four times, okay, it's
13 over half of the weight of the actual coil that was
14 under question as far as this securement is
15 concerned.

16 In addition to that the securement, it
17 was disputed and I think about 600 pounds is
18 basically -- and from the driver's notes that we kept
19 the securement was disputed because of the binders
20 and not because of the binders, because of there
21 were -- there were two different-sized binders in the
22 trailer on the load, okay? It doesn't matter with
23 the binders what size they are, what the dimensions
24 are of them. They are all the same length, the
25 forging is, but they are all 6,600 pounds.

1 That, you know, was the dispute. The
2 dispute was because he had two on that were smaller
3 and two on that were bigger there was an issue with
4 it. And our -- my statement is all the binders are
5 rated the same at 6,600 pounds. They are ratchet
6 binders.

7 EXAMINER CHILES: Okay. So you're
8 stating in this trailer that was the subject of this
9 violation there were four ratchet binders.

10 THE WITNESS: Four ratchet binders at
11 6,600 pounds each.

12 EXAMINER CHILES: At 6,600 pounds.

13 THE WITNESS: The chains were 3/8" at
14 6,600 pounds. The tie downs are rated at 6,900
15 pounds so you can secure the load. So the load
16 was -- and the difference in the actual load that,
17 you know, was approximate, he had -- the officer had
18 600 pounds, and I believe it was less than that
19 because the weight of the coil was less, a little bit
20 less. But the dispute was only 300 pounds. Now, the
21 fine was because it was 600 pounds over which is
22 pretty close, you know. You know, I'm not sure
23 whether that 600 pounds would be -- made a huge
24 difference in the safety of that coil but especially
25 if all the chains were tied down correct.

1 I have another exhibit here, your Honor,
2 that explains all the securement

3 EXAMINER CHILES: Okay. Let's pause here
4 for a moment. Looking at an exhibit that has a title
5 at the top that says "Binder Chain Specifications," I
6 am going to mark this as Trux Exhibit 3.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 EXAMINER CHILES: Do you want to explain
9 what this is?

10 THE WITNESS: This explains all the
11 different chains, all the different binders,
12 everything that you can buy on the open market that
13 secures loads and this explains each one of them and
14 tells you exactly what the ratings are and what you
15 could do with them and even -- you could even go to
16 this company and they will tell you how to secure
17 different things. So this is basically, you know, an
18 exhibit of all the specifications that a chain and
19 binder has.

20 EXAMINER CHILES: This may sound very
21 repetitive but I just want to make sure it's clear in
22 the record so how do you know that all of the binders
23 that were in the truck -- the trailer that was
24 subject to this violation had this rating? Did you
25 get on the truck and look at the stamp on all of

1 them?

2 THE WITNESS: We don't buy anything other
3 than that.

4 EXAMINER CHILES: So all the binders used
5 in your business are rated --

6 THE WITNESS: The chains -- the binders
7 that the officer talked about, we have deleted those
8 years ago off of all of our trucks.

9 EXAMINER CHILES: Okay. So everything
10 that you were using in your business at the time of
11 this inspection took place, all the binders were
12 rated at 6,600 pounds.

13 THE WITNESS: That's correct. Now, the
14 other issue was according to my notes the driver said
15 that the officer couldn't find a marking on some of
16 the binders. But they -- all the ones that we looked
17 at and I had him set aside, all the chains and
18 binders that we used in the securement of this and
19 they were all the same and all the binders and chains
20 that we have are all marked as far as I could see.

21 And we have -- we don't have that many
22 trucks so I was able to go up in the trucks, not only
23 this truck, because, you know, we are going down the
24 road. We don't want to have an issue of securement,
25 that's for sure. I mean, because if one of these

1 coils come off of one of those trucks, believe me it
2 can cause a lot of problems and it could hurt the
3 people, kill them, and we know that. This driver,
4 and I'm sure the officer will testify to this, I
5 mean, he was a seasoned driver.

6 He is not -- he was -- didn't just come
7 on to the scene. This man has worked for me for 19
8 years. So he has hauled a lot of coils out of Ghent,
9 Kentucky, ever since they opened the doors in Ghent,
10 Kentucky, so this is not an issue where we haul these
11 every once in awhile. We haul them daily just about
12 and we understand the safety that is required to haul
13 these and we try to adhere to all the safety
14 regulations and I think the officer also would
15 testify that the truck was in pretty good shape.

16 EXAMINER CHILES: Okay. Do you have
17 anything else to add?

18 THE WITNESS: I do not.

19 EXAMINER CHILES: All right. Mr. Parram,
20 do you have any questions?

21 MR. PARRAM: Yes, just a few questions.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Parram:

25 Q. Mr. Carpenter, you indicate you were not

1 there during the inspection; is that correct?

2 A. That is correct. I didn't indicate that,
3 but I'm telling you I was not.

4 Q. Okay. Well, thank you for clearing that
5 up for me. And Mr. Larry Aynes is the driver?

6 A. That is correct.

7 Q. He -- after the inspection did Mr. Aynes
8 get in touch with you, contact you?

9 A. He was in touch with me during the
10 inspection.

11 Q. Okay. So you were on the telephone with
12 him during the inspection?

13 A. Uh-huh.

14 Q. And after the inspection, what did
15 Mr. Aynes do? Did he come back to drop -- actually
16 make his delivery, or did he come back to the shop
17 afterwards?

18 A. He went directly to the delivery point
19 which is in Brookfield, Ohio, delivered the coil, and
20 then came to the shop.

21 Q. Okay.

22 A. Our office.

23 Q. So about how long was it before -- from
24 the inspection until the time he returned to the
25 office?

1 A. He was back the next morning.

2 Q. The next morning, okay. And for Trux
3 Exhibit 1 and Trux Exhibit 2, who took these
4 photographs?

5 A. My son.

6 Q. So you didn't take these photographs?

7 A. No. I was there when they were taken.

8 Q. Was Mr. Aynes there?

9 A. Correct.

10 Q. Let's look at Trux Exhibit 1. Do you
11 have that in front of?

12 A. No, but I can get it.

13 EXAMINER CHILES: 1 is this photo right
14 here.

15 THE WITNESS: All right.

16 Q. Where did you take this photograph?

17 A. Well, I brought it in from the trailer
18 and laid it on the desk and took it on the desk in
19 the office.

20 Q. So this wasn't actually on the truck?
21 This was taken in your office on --

22 A. I took it off the back of the trailer,
23 brought it into the office, and took the picture.

24 Q. Right. This photograph is not being
25 taken on the truck itself.

1 A. No.

2 Q. And Trux Exhibit 2, where was this
3 picture taken?

4 A. Same thing.

5 Q. Okay. So this is laying the binder out
6 on a desk?

7 A. Correct, so we could -- you could clearly
8 see it. Up in a trailer where they have sides and,
9 et cetera, we take pictures in this, you couldn't see
10 it.

11 Q. Okay. And you indicated that currently
12 all the binders you have are rated at 6,600.

13 A. That is correct.

14 Q. But you indicated at one time you had
15 other binders that were rated differently; is that
16 correct?

17 A. Probably at least ten years ago. I don't
18 know. There's been changes in the securement laws
19 and I think the most that could be issues have come
20 up in probably the last couple of years as far as the
21 ratings of chains, binders, et cetera. They've --
22 the enforcement of it has become a lot more in recent
23 years than it has in the past.

24 Q. Okay. And you have been -- you say you
25 have been in business for how long?

1 A. 50 years.

2 Q. Okay. So over the period of time there's
3 been -- the regulations have become more stringent as
4 it relates to the requirements for binders, waiver
5 requirement?

6 A. Well, regulations itself has become more
7 stringent overall.

8 Q. So when you previously had binders that
9 were of a different rating, what were those ratings
10 at for the whole binders?

11 A. The 3/8" chains where it's clearly
12 written right here, the 5/16" were 5,400 pounds
13 and -- or 3,900 pounds in the grade 43 and the grade
14 70s they were 4,700 pounds. And the 3/8" are 6,600
15 pounds.

16 Q. So when you did have binders of -- so at
17 one point in time you did have binders that were
18 5,400-pound ratings; is that correct?

19 A. I'm sure. That's all they -- that's
20 pretty much what they made in that period.

21 Q. Okay. So you used to have those.

22 A. Used to have those.

23 Q. How many trucks do you have?

24 A. Right now, we are running three.

25 Q. You have three trucks, okay. And they

1 are all out of the same location?

2 A. Correct.

3 Q. What did you do with the binders, the old
4 binders?

5 A. Well, I mean, like anything else, I mean,
6 they become obsolete and you just get rid of them.
7 They can break. You know, I mean there's a zillion
8 reasons we get rid of them. And if they didn't meet
9 the requirements, we got rid of them.

10 Q. Okay. Is there a copy of Staff
11 Exhibit --

12 MR. PARRAM: Can you hold on for one
13 second, your Honor?

14 Q. Staff Exhibit 1 which is the Staff
15 Report.

16 A. Yeah, I have that.

17 Q. There's a section "Vehicle
18 Identification." Do you see where I'm at there on
19 this report? It's sort of --

20 A. Correct.

21 Q. And it indicates there are so two types
22 of vehicles. There's the tractor-trailer and then I
23 guess that would be the trailer. And for the actual
24 tractor-trailer it's a 2004 Kenworth?

25 A. Correct.

1 Q. Okay. And then for -- I'm sorry. What's
2 the trailer?

3 A. Semitrailer, I'm sorry, that's 1998.

4 Q. 1998. That's the actual binders and
5 chains that would be in the semitrailer; is that
6 correct?

7 A. Well, I mean, he could carry them in the
8 truck, but basically generally they carry them in the
9 trailer, that is correct.

10 Q. So the actual equipment would be in the
11 semitrailer, right?

12 A. Correct.

13 Q. Okay.

14 A. The securement on the load was on the
15 trailer.

16 Q. When you say trailer, semitrailer or
17 tractor-trailer?

18 A. The trailer itself.

19 Q. Okay.

20 A. Which -- which -- which brings a point to
21 since you are bringing that up what I don't
22 understand -- and I understand the picture of the
23 securement of the chains that they dispute and the
24 officer's dispute was on the binders but I don't
25 know. I don't understand why there wasn't a picture

1 taken of the binders in there if that was the dispute
2 and the rating of them on the binders because that
3 was clearly the dispute that the driver gave me and
4 that's all -- everything that was done and everything
5 was taken except for those binders that are in
6 dispute at this time.

7 Q. Okay. And you heard Inspector Goins
8 testify that the binders were on -- I believe you are
9 referring to Staff Exhibit 3; is that correct?

10 A. Uh-huh.

11 Q. That the binders were on the other side
12 of the coil?

13 A. It doesn't matter. The coil is in the
14 center. You can walk on both sides of the coil. So
15 the chains could -- the chains go through one side
16 and come out the other so you can be on this side or
17 you can be on that side. It doesn't matter. You can
18 be on either side of that trailer and take pictures
19 on both sides.

20 Q. All right. My question really was just
21 you heard him say that --

22 A. Yes.

23 Q. -- you testified. Okay. So in looking
24 at Staff Exhibit 3, there were binders, they could be
25 on the other side, correct?

1 A. Well, they definitely would be on the
2 other side.

3 Q. Okay. So if there were binders on the
4 other side of the coil in Staff Exhibit 3, you
5 wouldn't necessarily see it, correct?

6 A. Who wouldn't see it?

7 Q. By looking at Staff Exhibit 3, you
8 wouldn't necessarily see the binders in this picture,
9 but they could be on the other side.

10 A. Oh, they were definitely on the other
11 side. There is no question about that.

12 Q. That's all that I am trying --

13 A. I don't dispute that. I mean, what my
14 dispute is why -- if that was in question, why
15 weren't the -- rather than taking a picture of
16 chains, why wasn't the picture taken of the binders
17 that clearly shows the rating of the individual
18 binders? That's my question.

19 Q. Okay. And I guess if he had the -- based
20 upon this picture, he had the ability to go around to
21 the other side and take a look at the binders?

22 A. Oh, yes.

23 Q. Like physically he could just walk over
24 there and view them so you're not disputing the fact
25 that he could look at the binders and see what the

1 actual rating was on that binder, are you?

2 A. No.

3 Q. Okay. You're just disputing why didn't
4 he take the picture?

5 A. If that was the problem, yes.

6 Q. Okay.

7 A. Yes. I mean, because taking a picture of
8 the chains clearly you couldn't -- believe me, and I
9 am telling you you cannot tell a difference in a 3/8"
10 chain and 5/16" chain here. I mean, it's impossible
11 in a picture. 3/8" and 5/16," you know, you can do
12 the math. So you can't really tell the difference
13 but you can tell if there's two different-sized
14 binders which there legally was two different-sized
15 binders. But the rating, it doesn't matter the size
16 of the binder. It's the rating of the binder, and
17 the binder clearly states that it was 6,600 pounds.

18 Q. Yeah. We are on the same page.

19 A. Okay.

20 Q. The issue is the binder.

21 A. Correct.

22 Q. Not the chains.

23 A. Correct.

24 Q. Okay. And I was just trying to clarify,
25 you made a statement that you needed to be able -- if

1 you were going to take a look at the binders and see
2 what the rating was, you would have to be up on the
3 trailer itself?

4 A. Correct.

5 Q. And just from looking at this photograph,
6 Inspector Goins would be able to walk around and look
7 at that binder and see what the rating was. I
8 understand we are disputing what the rating was.

9 A. As long as he was up in the trailer, yes,
10 that's correct.

11 Q. Okay.

12 A. He could not see it from the ground.

13 MR. PARRAM: Your Honor, that's all I
14 have.

15 EXAMINER CHILES: Thank you.

16 Mr. Carpenter, based on the questions
17 that Mr. Parram asked you, is there anything you
18 would like to add to your testimony?

19 - - -

20 REDIRECT EXAMINATION

21 THE WITNESS: I mean, you know, I mean,
22 I -- I have been doing this for many years, 50 years,
23 and believe me, I am -- I'm probably more stringent
24 than the officer when it comes to safety because I've
25 seen just about everything you can possibly see out

1 there. And knock on wood in 50 years I've never had
2 a fatality in a trucking business. And, believe me,
3 I put millions and millions and millions of miles on
4 trucks so I'm well aware of safety issues and I'm a
5 very -- I'm a big proponent in making sure of things
6 that are safe and especially not only for the public
7 safety but my drivers themselves.

8 I mean, it's you have a driver out there.
9 I mean, this is a very difficult job today. This is
10 not just your average go to work 8 to 10 -- or 8 to 5
11 and go home. I mean, this is a very difficult job
12 and more and more responsibility is coming on the
13 driver.

14 So as an owner, I'm -- I'm very cognizant
15 of what surrounds him and what goes on in his life so
16 I try to protect him as much as I can and make sure
17 that they have the proper stuff to go out there and
18 work safely with. And, you know, I know on behalf of
19 the inspection people the inspection people out there
20 are educated people. They go through months and
21 months of training, and you have a truck driver out
22 there that gets very little.

23 So, I mean, he is -- he is outdone before
24 he ever gets started so, you know, it's a tough life
25 and, you know, all I'm saying is I try to protect

1 them. I try to do the right thing. That's the
2 reason the fine is \$100, I think, or whatever it was.
3 That's the reason I am here today.

4 EXAMINER CHILES: Thank you. Before you
5 leave, Mr. Parram, do you have any recross?

6 MR. PARRAM: I did have one question on
7 this, hasn't been marked as an exhibit, your Honor,
8 the extra picture.

9 EXAMINER CHILES: Mr. Carpenter, did you
10 want to mark this extra picture as an exhibit?

11 THE WITNESS: They are both the same.

12 EXAMINER CHILES: Since they are both the
13 same we can maybe leave this one out.

14 MR. PARRAM: Your Honor, no further
15 questions.

16 EXAMINER CHILES: No further questions?

17 I have no further questions. Thank you,
18 Mr. Carpenter. You may step down.

19 THE WITNESS: Do you need these?

20 EXAMINER CHILES: No. You can hold on to
21 those. I have a copy.

22 THE WITNESS: You have got a copy.

23 EXAMINER CHILES: Each of your photos,
24 would you like to move these into evidence and make
25 them a part of the record?

1 MR. CARPENTER: That's fine. Yes, your
2 Honor.

3 EXAMINER CHILES: Mr. Parram, do you have
4 any objections to the submission of Trux Exhibits 1,
5 2, or 3?

6 MR. PARRAM: No, your Honor.

7 EXAMINER CHILES: Trux Exhibits 1, 2, and
8 3 will be admitted.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER CHILES: Mr. Parram, would you
11 like to present rebuttal?

12 MR. PARRAM: Just very briefly, your
13 Honor.

14 EXAMINER CHILES: You can have a seat,
15 Mr. Carpenter.

16 MR. PARRAM: I would like to call
17 Inspector Goins back to the stand for rebuttal.

18 EXAMINER CHILES: Okay. Mr. Goins, I
19 will remind you you are still under oath.

20 THE WITNESS: Yes, ma'am.

21 MR. PARRAM: Your Honor, may I approach
22 the witness?

23 EXAMINER CHILES: You may.

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INSPECTOR JACK W. GOINS

being previously duly sworn, as prescribed by law,
was examined and testified on rebuttal as follows:

DIRECT EXAMINATION

By Mr. Parram:

Q. Inspector Goins, I am handing you a document that has now been marked as Trux Exhibit 2. Do you have that in front of you?

A. Yes.

Q. Have you -- it's been represented this was the binder that was on the vehicle which is the subject of inspection in this case. Do you recall seeing that?

A. No. The binders that were on the truck had 5,400 pounds on them. This one, it could have been on the truck but could not have been in use at that time. Those trucks when they are going down the road, they have all kinds of binders and chains and everything hooked to the back of the truck and in the trailer and everything so this could have come off the truck but wasn't the one in use that day, no.

Q. And for this vehicle and this specific inspection, do you recall seeing a number of binders on the semitrailer?

1 A. That I could not answer.

2 Q. And just to be clear, thank you, I am
3 handing you Staff Exhibit 3 which is a photograph
4 which you took during your inspection which is of the
5 coil and chains --

6 A. That's correct.

7 Q. -- and the semitrailer. We may have
8 covered this already but this was a picture -- where
9 did you take this photograph?

10 A. It was on the trailer taken of the side
11 of the coil. It showed that there was, in fact, four
12 chains securing the vehicle -- or securing the coil
13 and pictures of the binders. You know, I could have
14 taken them and not come out during the upload process
15 because we upload and they could have not came out.
16 I always take them just simply because four chains is
17 what my notes had and the binders, four binders.

18 Q. Okay. And where exactly were the binders
19 in relation to this photograph?

20 A. The binders would have been on the other
21 side of the coil, on the other side or the open side
22 of the trailer.

23 Q. And to determine what the rating was on
24 those binders, how did you do that?

25 A. You look at the -- as the picture

1 Exhibit -- Exhibit Trux Exhibit 2, the handles of all
2 those binders, irregardless of what kind of binders
3 they are, when they are metal like this, the weight
4 rating is stamped in the handles, whether it be a
5 binder or a ratchet type, either one.

6 Q. And were you able to walk over and see
7 exactly what those binders were?

8 A. I did.

9 Q. And what did the binders indicate?

10 A. It was 5,400 pounds.

11 MR. PARRAM: That's all I have, your
12 Honor. Thank you.

13 EXAMINER CHILES: All right. I have no
14 further questions for you, Inspector. You may step
15 down.

16 As I stated earlier, I would like to give
17 the parties an opportunity to make a brief closing
18 statement.

19 Mr. Carpenter, would you like to make a
20 brief closing statement?

21 MR. CARPENTER: Well, just briefly, you
22 know, I don't understand -- I mean, we do not carry
23 5,400-pound binders in the trailers. They are all
24 rated at 6,600 pounds. And, I mean, and that's the
25 dispute here, I think. I mean, we're actually

1 talking, and the officer can maybe clarify this, but,
2 you know, the difference in the weight was almost --
3 less than 500 pounds. If you put the right way to
4 the coil -- the wrong way to the coil was put on,
5 No. 1. No. 2 is, you know, he is correct in that
6 it's half of the weight of the -- of whatever the
7 coil weight is. If it's 44,000 pounds, it has to be
8 secured at 22,000 pounds. That's basically the law.

9 Okay. And the driver knew that law, and
10 he put four chains and four binders on there with a
11 securement of 6,900 pounds on the outside,
12 6,600 pounds on the chain, and 6,600 pounds on the
13 binders. And the dispute is he's saying it's an
14 argument whether I am correct in saying that there
15 are 6,600 pounds and he is saying that he saw them at
16 the other weight.

17 I just don't understand that. I'm not
18 sure how that computes out. You know, I just don't
19 understand it.

20 EXAMINER CHILES: Thank you,
21 Mr. Carpenter.

22 Mr. Parram, would you like to make a
23 brief closing statement?

24 MR. PARRAM: Yes, your Honor. First of
25 all, I would like to thank Mr. Carpenter for being

1 here today.

2 Just really boils down to what exactly
3 was the rating of the binder. Inspector Goins took
4 detailed notes regarding the rating of the chains,
5 the rating of the binders. He took photographs of
6 the chains, and he testified and indicated in his
7 notes which is evidence in the record as it relates
8 to what exactly was the rating of the binder.

9 He testified specifically that it's
10 relatively easy to look at the binder and because
11 it's stamped on hard metal what exactly the rating
12 is, and he testified under oath as an inspector that
13 the -- that the rating was 5,400.

14 Mr. Carpenter himself had testified that
15 at one point in time the company did have binders
16 that were 5,400 pounds, and as Inspector Goins
17 indicates, a lot of times these trucks, semitrailers
18 do have a number of different binders in the back of
19 the truck.

20 Mr. Carpenter has come here with a couple
21 of different photographs today. The photographs were
22 not taken immediately after the inspection. The
23 photographs were not taken on the truck with the
24 binders on the actual coil. And as Inspector Goins
25 testified, there may be a different number on the

1 vehicle, and as Mr. Carpenter acknowledged the fact
2 at one point in time his business did have
3 5,400-pound binders, it's reasonable to conclude that
4 they may have hooked up a binder in this case that
5 was the wrong rating. We can't -- we can't just take
6 Mr. Carpenter's word for it because he wasn't there.
7 The driver who actually hooked up the coil is not
8 here testifying.

9 All we know is what Mr. Carpenter has
10 been told and all we know is what Inspector Goins
11 testified to under oath and put in his inspection
12 report; and, therefore, the violation should stand.

13 EXAMINER CHILES: Thank you, Mr. Parram.
14 Is there anything further to come before
15 us today?

16 MR. PARRAM: No, your Honor.

17 EXAMINER CHILES: All right. Hearing
18 nothing we are adjourned. A Commission decision will
19 be forthcoming and thank you for being here today.

20 (Thereupon, the hearing was concluded at
21 2:14 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, October 1, 2013, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5763)

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Summary: Transcript in the matter of Trux Transportation, Inc. hearing held on 10/01/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.