

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of :
Chad Harra, Notice of : Case No. 15-111-TR-CVF
Apparent Violation and :
Intent to Assess Forfeiture :

- - -

PROCEEDINGS

Before James M. Lynn, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 8:53
a.m. on Wednesday, April 15, 2015.

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ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-4620
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 Michael DeWine, Ohio Attorney General
3 By Katie Johnson, Esq.
4 Assistant Attorney General
5 180 East Broad Street, 6th Floor
6 Columbus, Ohio 43215

7 On behalf of the Staff of the PUCO.

8 Chad Harra
9 310 Shot Lane
10 Waterford, Ohio 45786

11 Pro se.

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Wednesday Morning Session,
April 15, 2015.

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ATTORNEY EXAMINER LYNN: Let's go on the record at this time. The Public Utilities Commission of Ohio has assigned for hearing at this time and place Case No. 15-111-TR-CVF, In the Matter of Chad Harra, Notice of Apparent Violation and Intent to Assess Forfeiture. I'm Jim Lynn. I'm the Attorney Examiner assigned to hear this case.

At this time we'll have the appearances of the parties. We'll begin with the Ohio Attorney General's Office.

MS. JOHNSON: Thank you, your Honor. Katie Johnson, on behalf of the Staff of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215.

ATTORNEY EXAMINER LYNN: Thank you.

Mr. Harra, could state your name and address, please. You don't have to stand right now.

MR. HARRA: Chad Harra, 310 Shot Lane, Waterford, Ohio 45786.

ATTORNEY EXAMINER LYNN: Thank you, Mr. Harra.

At this point, then, I'll indicate we'll

1 proceed first with the Staff and Ms. Johnson, and
2 then we'll hear from Mr. Harra.

3 MS. JOHNSON: Can we go off the record
4 for just a moment, please?

5 ATTORNEY EXAMINER LYNN: Yes.

6 (Discussion off the record.)

7 ATTORNEY EXAMINER LYNN: Back on the
8 record.

9 Ms. Johnson, I believe you have a
10 witness.

11 MS. JOHNSON: Yes. I would like to call
12 to the stand Inspector Anthony Lester.

13 ATTORNEY EXAMINER LYNN: Inspector
14 Lester, if you would come up to the witness stand,
15 please. Raise your right hand.

16 - - -

17 INSPECTOR ANTHONY R. LESTER,
18 being first duly sworn, as prescribed by law, was
19 examined and testified as follows:

20 ATTORNEY EXAMINER LYNN: Thank you.
21 Have a seat.

22 Go ahead, Miss Johnson.

23 DIRECT EXAMINATION

24 BY MS. JOHNSON:

25 Q. Good morning, Mr. Lester.

1 A. Morning, ma'am.

2 Q. Could you please state your full name
3 for the record.

4 A. Anthony R. Lester.

5 Q. And who are you employed by?

6 A. The Ohio State Highway Patrol.

7 Q. And how long have you been employed by
8 the Ohio State Highway Patrol?

9 A. May 17th of '97.

10 Q. And what is your position at the Ohio
11 State Highway Patrol?

12 A. I'm one of the Motor Carrier Enforcement
13 Inspectors.

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

15 A. Seventeen years, May of '98, somewhere
16 in that area.

17 Q. And what are your duties in your
18 capacity as a motor carrier enforcer?

19 A. I inspect commercial motor vehicles for
20 safety regulations, driver qualifications.

21 Q. Have you held any other positions with
22 the Ohio State Highway Patrol?

23 A. My first year I was a maintenance
24 worker.

25 Q. Could you please describe your

1 educational background?

2 A. I got a -- several certifications. One
3 deals with driver qualifications, hours of service,
4 and then another one in basic vehicle inspections,
5 hazardous material regulations, cargo tank
6 inspections, and motor coach inspections as well.

7 Q. Can you explain the type of training
8 that you've had, if you've had any training?

9 A. Those are the trainings, yes. Each one
10 of those are different certifications that I carry
11 with the FMCSA.

12 Q. And were you trained to enforce the
13 Federal Motor Carrier Safety Regulations?

14 A. Yes, ma'am.

15 Q. And what is your jurisdiction?

16 A. Jurisdiction is on any interstate
17 carrier above 10,001 gross vehicle weight rating
18 crossing state lines, passenger carriers with greater
19 than 16 passengers, or hazardous material carriers
20 that require a placard.

21 Q. And could you just try to speak up a
22 little bit, please? It's a little hard to hear.

23 A. It echos right here. I think I'm too
24 loud.

25 ATTORNEY EXAMINER LYNN: We can go off

1 the record.

2 (Discussion off the record.)

3 ATTORNEY EXAMINER LYNN: Back on the
4 record.

5 BY MS. JOHNSON:

6 Q. Were you within your jurisdiction when
7 you stopped Mr. Harra?

8 A. Yes, ma'am, I believe I was.

9 Q. And were you on duty when you stopped
10 Mr. Harra?

11 A. Yes.

12 Q. Now, without getting into this specific
13 violation yet, could you please just describe the
14 motor vehicle inspection process generally?

15 A. It's just a general walk-around
16 inspection we were doing that day. It's the lights,
17 the tires, wheels, rims, the outside of the vehicle,
18 everything you can basically see without going
19 underneath the vehicle, is typical what we do on this
20 Level II inspection, and also the driver
21 qualifications, the medical card, hours of service,
22 the license, and any restrictions that may be on the
23 license.

24 Q. And what are the reasons for these
25 inspections?

1 A. This one here -- well, there are several
2 reasons. This one here was a random inspection or --
3 this one was uniform statistical selection program.
4 It's just a routine inspection. Okay. There's other
5 reasons that we stop the trucks, obvious violations,
6 company safety ratings, so on and so forth. This was
7 just a very routine, walk-around inspection, is all
8 it was.

9 Q. So what type of a document do you create
10 when you pull someone over for an inspection?

11 A. The ASPEN report format that's given to
12 us by the Federal Motor Carrier.

13 Q. And what kind of information does that
14 report contain?

15 A. Well, date and time, carrier
16 information, driver information, the vehicles that
17 were being driven or pulled at the time, and then any
18 violations that may be listed.

19 Q. And did you generate a report during
20 your inspection of Mr. Harra?

21 A. Yes, ma'am.

22 MS. JOHNSON: Your Honor, may I
23 approach?

24 ATTORNEY EXAMINER LYNN: Yes.

25 MS. JOHNSON: I'd like to mark this

1 document as Staff Exhibit No. 1.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Mr. Lester, do you have a pen up there,
4 if you can write a one on top of Staff Exhibit No. 1.

5 A. Yes.

6 Q. Thank you. Mr. Lester, what is this
7 document?

8 A. That is the ASPEN report that was
9 prepared on the day of inspection.

10 Q. Who prepared this report?

11 A. I did.

12 Q. And does this report contain information
13 on matters that you observed directly?

14 A. Yes.

15 Q. When did you prepare the report?

16 A. At the conclusion of the mechanical side
17 of the inspection.

18 Q. Do employees of the Highway Patrol make
19 and keep this type of record in the ordinary course
20 of business?

21 A. Yes.

22 Q. And is this report the same or
23 substantially the same as the inspection report that
24 you generated when you pulled Mr. Harra over?

25 A. Yes. The format is just a little bit

1 different, but all the information is correct.

2 Q. Where do you send this report after the
3 vehicle inspection?

4 A. My understanding is it's uploaded to the
5 Federal Motor Carrier, and then the Federal Motor
6 Carrier has the information available to the Public
7 Utilities Commission, and they download it at that
8 time.

9 Q. Now I'm going to ask you to take a look
10 at the document.

11 A. Yes.

12 Q. What is the report number on the
13 inspection report?

14 A. This one here is going to be
15 OH3269010761.

16 Q. And what is the date on that inspection
17 report?

18 A. 10/22/2014.

19 Q. And what is the license number on the
20 inspection report?

21 A. Sam David 540806.

22 Q. And by "Sam David" you mean SD?

23 A. SD, yes, ma'am.

24 Q. SD540806. And whose license number does
25 that represent?

1 A. Chad A. Harra.

2 Q. And how did you -- did you look at Mr.
3 Harra's license?

4 A. Yes, ma'am.

5 Q. Do you see Mr. Harra in the hearing
6 room?

7 A. Yes, ma'am. Right there he sits.

8 Q. What was the origin and destination of
9 Mr. Harra's trip?

10 A. It looks like he was headed to Beaver,
11 Ohio, coming from Belpre, Ohio, and he was empty at
12 the time of the inspection.

13 Q. Where did you pull Mr. Harra over?

14 A. Vinton County at Mile Post 1 on State
15 Route 32.

16 Q. Now, the report has a number of
17 violations listed on it. Could you please read the
18 violation description for code -- Violation Code
19 391.11B4?

20 A. That is for, "Driver not physically
21 qualified - driver not using corrective lenses as
22 required on license and medical card. Medical card
23 expires 8/9/15," and then there's a note there to
24 "see notes." You want me to go on with the notes?

25 Q. Yes, if you could go ahead and please

1 read the notes.

2 A. The notes that were stated on that
3 violation was, "Driver's glasses were found on the
4 floorboard of the sleeper compartment inside a black
5 case."

6 Q. Okay. What is meant by the term
7 "corrective lenses"?

8 A. Contacts or glasses.

9 Q. And could you just explain to me
10 generally why some drivers have to wear corrective
11 lenses while driving?

12 A. If their vision doesn't meet certain
13 standards set aside by FMCSA, they've got to wear
14 corrective lenses or contacts to meet their minimum
15 standards while they're driving a commercial motor
16 vehicle.

17 Q. And who determines whether the driver
18 has to wear corrective lenses?

19 A. Their doctor, optometrist, whatever the
20 term.

21 Q. And how are you made aware if the driver
22 has to wear corrective lenses?

23 A. If they're required to have that, it's
24 written on their medical card as well as their
25 license in some cases.

1 ATTORNEY EXAMINER LYNN: Inspector
2 Lester, when you say "their license," you mean their
3 Commercial Driver's License?

4 THE WITNESS: Yes, sir.

5 Q. Did Mr. Harra's Commercial Driver's
6 License state that he had to wear corrective lenses?

7 A. Yes, ma'am.

8 Q. And did his medical card state that he
9 had to wear corrective lenses?

10 A. Yes, ma'am.

11 Q. Now, if a driver is required to wear
12 these corrective lenses and he does not, is that --
13 that is a violation of Commercial Motor Vehicle
14 Regulations?

15 A. Yes, under the section we just
16 discussed.

17 Q. Is it an out-of-service violation?

18 A. Yes, ma'am, it is.

19 Q. Could you please look again at the
20 Examination Report in the line that has Violation
21 Code 391.11B4? There's a column titled "OOS." What
22 does OOS mean?

23 A. That column right there, if it meets the
24 out-of-service criteria that we're mandated to go by,
25 we mark it with a "Y," and that is the case with

1 this. If we run across a driver that does not have
2 their glass on and they're supposed to and it meets
3 that criteria, we put them out of service until they
4 obtain the glasses.

5 Q. Now, when you stopped Mr. Harra, did he
6 have his glasses on?

7 A. When I got to the truck, he did not.

8 Q. Was he wearing contacts?

9 A. It didn't look like it to me. When he
10 looked straight ahead, you can usually see the edge
11 of the contacts.

12 Q. Did he say anything to you about whether
13 he was wearing contacts?

14 A. No.

15 Q. Where were Mr. Harra's glasses when you
16 asked him about them?

17 A. As the note stated, it was in the right
18 side floorboard in the sleeper compartment, behind
19 the passenger side seat.

20 Q. Now, could he reach those glasses
21 without taking off his seat belt or anything?

22 A. Well, you'd have to have your seat belt
23 off. May I demonstrate? He had to reach over like
24 this and pull the glasses up, and that's when they
25 were taken out of the case (indicating).

1 ATTORNEY EXAMINER LYNN: So, Inspector
2 Lester, you're saying to reach the glasses, the case,
3 where it was placed in the cab of the vehicle, he
4 would have had to unbuckle his seat belt?

5 THE WITNESS: In my opinion, yes.

6 ATTORNEY EXAMINER LYNN: All right.
7 Please continue.

8 BY MS. JOHNSON:

9 Q. Did he reach for his glasses while you
10 were observing him?

11 A. He got his glasses I believe when I was
12 reviewing the report with him and was stating that,
13 you know, driving a truck you gotta have your
14 glasses.

15 Q. Okay. Where does a driver typically
16 keep his glasses?

17 A. Ninety-nine percent of them that I run
18 into, if they don't have their glasses on, they're
19 laying right around this area (indicating), you know,
20 up on the dash or over on the passenger side of the
21 seat, you know. I mean, it's very typical to stop a
22 driver and they'd be laying right in front of him.
23 I'll look at the medical and I'll say where's your
24 glasses, and they go right there (indicating).

25 Q. Now, once Mr. Harra took the glasses out

1 of the case, what was the condition of the glasses?

2 A. They were bent, and the right side lens
3 had some type of debris or something on it. The
4 glasses were actually setting like this when he put
5 them on because they were bent, and I remember them
6 gold frame, too, or a brass-type glasses.

7 ATTORNEY EXAMINER LYNN: You're
8 indicating when he put them on they were crooked,
9 because they were bent?

10 THE WITNESS: Right.

11 ATTORNEY EXAMINER LYNN: In your
12 opinion?

13 THE WITNESS: Yes. They looked like
14 they hadn't been worn for a while.

15 ATTORNEY EXAMINER LYNN: Okay.

16 BY MS. JOHNSON:

17 Q. So can you to describe to me, what was
18 on the right lens of the glasses?

19 A. I think it was dust or something.

20 Q. And in your opinion, how easy would it
21 be to see out of that right lens?

22 A. I wouldn't want to be wearing them. I
23 wear reading glasses, and if I -- my own self, if I
24 would have put them on, I would have immediately
25 cleaned them.

1 Q. So, again, could you just describe what
2 the glasses looked like when they were on his face?

3 A. Sideways, they were bent (indicating).

4 Q. Now, did you tell Mr. Harra that he had
5 to wear glasses again --

6 A. Yes.

7 Q. -- before he started driving?

8 A. Yes. I believe I also mentioned that he
9 needs to continue to wear them because he's under a
10 federal out-of-service order at this point, so I
11 didn't need to be running into him, or something to
12 that effect, after that without the glasses on.

13 MS. JOHNSON: One moment, your Honor.

14 (Discussion off the record.)

15 MS. JOHNSON: Your Honor, at this time I
16 have no further questions for Inspector Lester, but I
17 would like to reserve Mr. Lester for rebuttal,
18 please, and I would also like to move for the
19 admission of Staff Exhibit No. 1 into the record.

20 ATTORNEY EXAMINER LYNN: Mr. Harra, do
21 you have any objection to admitting Staff Exhibit 1
22 into the record?

23 MR. HARRA: No.

24 ATTORNEY EXAMINER LYNN: He indicates
25 no, so that will be admitted into the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 ATTORNEY EXAMINER LYNN: You have to
3 further questions at this time?

4 MS. JOHNSON: No more further questions
5 for Mr. Lester.

6 ATTORNEY EXAMINER LYNN: Mr. Lester, if
7 you can take your seat. I may have additional
8 questions for you as well after Mr. Harra speaks and
9 you will still be under oath at that time, so thank
10 you.

11 THE WITNESS: So I can be excused?

12 ATTORNEY EXAMINER LYNN: Yes. You can
13 head back to your seat.

14 (Witness excused.)

15 MS. JOHNSON: At this time I would like
16 to call Staff witness Jonathan Frye.

17 ATTORNEY EXAMINER LYNN: All right.

18 MS. JOHNSON: I'm sorry, your Honor, if
19 Mr. Harra would like to cross-examine.

20 ATTORNEY EXAMINER LYNN: My apologizes.

21 Mr. Harra, do you have questions for
22 Inspector Lester?

23 MR. HARRA: Not right now.

24 ATTORNEY EXAMINER LYNN: Not at the
25 moment. Okay. Well, then perhaps later.

1 MS. JOHNSON: Sorry about that.

2 ATTORNEY EXAMINER LYNN: Yes. Thank
3 you.

4 - - -

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

8 ATTORNEY EXAMINER LYNN: Thank you.
9 Take a seat, please.

10 DIRECT EXAMINATION

11 BY MS. JOHNSON:

12 Q. Good morning, Mr. Frye.

13 A. Good morning.

14 Q. Could you please state your name for the
15 record.

16 A. Jonathan Frye, F-r-y-e.

17 Q. And where are you employed?

18 A. Public Utilities Commission of Ohio.

19 Q. And how long have you been in that
20 position? Or, I'm sorry, how long have you been
21 employed with the Public Utilities Commission?

22 A. Since 1990.

23 Q. What is your position with the Public
24 Utilities Commission Ohio?

25 A. I'm the Chief of the Compliance

1 Division.

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

4 A. Approximately 12 years.

5 Q. Could you explain your duties in your
6 position?

7 A. I review the assessments that are done
8 by the Compliance staff to ensure that the fines are
9 assessed correctly.

10 Q. What is your educational background?

11 A. I have a bachelor's degree, a law
12 degree, and a master's degree.

13 Q. And what type of training have you
14 received?

15 A. North American Out of Service Training,
16 general hazmat training, bulkhead training,
17 radioactive training.

18 Q. And what types of certifications do you
19 have?

20 A. I don't have any certifications.

21 Q. How does the staff of the Transportation
22 Department receive information about a violation from
23 an inspector?

24 A. The inspector will upload the
25 information to the federal government. That

1 information gets downloaded into our division, our
2 agency.

3 Q. When that information is downloaded in a
4 report and the staff creates a report, is the format
5 of that report the same, exactly the same as it is as
6 what the inspector sends?

7 A. Yes.

8 Q. And what kind of notification do you
9 send to the Respondent to let them know of the
10 violations they have been charged with?

11 A. We send them a Notice of Apparent
12 Violation and Intent to Assess Forfeiture letter.

13 Q. And then what happens next in the
14 process?

15 A. It gives the -- after the letter is
16 sent, it provides them with information on how to
17 make payment of the violation, and it also provides
18 them with information on how to request a settlement
19 conference to discuss the particular violation.

20 Q. Okay. If a settlement is not reached,
21 then is there another document that's sent to the
22 Respondent?

23 A. Yes. In the event that we're unable to
24 reach a settlement, we will issue a letter of -- a
25 Notice of Preliminary Determination letter, and that

1 letter will provide information on how to make
2 payment or how to make a request for an
3 Administrative Hearing to pursue it further.

4 MS. JOHNSON: Your Honor, I would like
5 to mark this document as Staff Exhibit No. 2. It's a
6 Notice of Preliminary Determination issued to Mr.
7 Harra. May I approach?

8 ATTORNEY EXAMINER LYNN: Yes.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 BY MS. JOHNSON:

11 Q. Mr. Frye, what is this document?

12 A. It is the Notice of Preliminary
13 Determination letter that we issued on this
14 particular case.

15 Q. Now, does the Staff of the Public
16 Utilities Commission keep these type of records in
17 the ordinary course of business?

18 A. Yes.

19 Q. And was it made by someone with personal
20 knowledge of the case and inspection report?

21 A. Yes.

22 Q. Was this document made close in time or
23 contemporaneously to when the staff member reviewed
24 the inspection report?

25 A. Yes.

1 Q. What is the case number on this Notice
2 of Preliminary Determination?

3 A. It is OH3269010761D, as in David.

4 Q. And to whom was the letter sent?

5 A. Chad Harra, H-a-r-r-a.

6 Q. What was the address written on the
7 Notice?

8 A. 310 Shot Lane, Waterford, Ohio 45786.

9 Q. And on what date was the Notice sent?

10 A. December 30th, 2014.

11 Q. And what violations does the Notice
12 list?

13 A. Code No. 391.11B4, "Driver not
14 physically qualified - driver not using corrective
15 lenses as required on license and medical card."

16 Q. And what group number is that violation
17 assigned to?

18 A. Group 4.

19 Q. And what was the total forfeiture amount
20 for the violation?

21 A. \$250.

22 Q. Mr. Frye, does the Staff of the Public
23 Utilities Commission keep a fine schedule for
24 violations?

25 A. Yes.

1 Q. And was this fine calculated in
2 accordance to that fine schedule?

3 A. Yes.

4 MS. JOHNSON: Your Honor, at this time I
5 have no further questions for Witness Frye, but I
6 would like to reserve him for rebuttal. At this time
7 I'd like to move for the admission of Staff Exhibit
8 No. 2.

9 ATTORNEY EXAMINER LYNN: All right.

10 And, Mr. Harra, do you have any
11 objection to the admission of the Notice letter?

12 MR. HARRA: No.

13 ATTORNEY EXAMINER LYNN: We'll also
14 admit Staff Exhibit No. 2 into evidence.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 ATTORNEY EXAMINER LYNN: Mr. Harra, do
17 you have any questions for Mr. Frye?

18 MR. HARRA: Not right now.

19 ATTORNEY EXAMINER LYNN: Miss Johnson,
20 do you have any more questions for Mr. Frye?

21 MS. JOHNSON: No more questions.

22 ATTORNEY EXAMINER LYNN: Thank you. You
23 may step down.

24 (Witness excused.)

25 ATTORNEY EXAMINER LYNN: Miss Johnson,

1 do you have any more witness to bring forward?

2 MS. JOHNSON: No more witnesses.

3 ATTORNEY EXAMINER LYNN: Mr. Harra,
4 would you like to come up here, please? Raise your
5 right hand, please.

6 - - -

7 CHAD A. HERRA,
8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 ATTORNEY EXAMINER LYNN: Thank you.
11 Have a seat, please, and make sure you speak loud
12 enough for the court reporter to hear.

13 Mr. Harra, you requested a hearing, so
14 I'm sure you have your perspective on the alleged
15 violation. What would you like to tell us?

16 DIRECT TESTIMONY

17 MR. HARRA: On this violation I had to
18 get up out of the seat and reach over, because I
19 leave my passenger door locked on my truck, and there
20 is a center console in my truck that I set my glasses
21 and case on. Do you want -- I got --

22 ATTORNEY EXAMINER LYNN: Keep going.

23 MR. HARRA: The sleeper, the add-on
24 sleeper is right against the seat. It's a short
25 sleeper truck. I was hauling frac sand. My truck

1 was covered in frac sand. Inside the truck was not
2 sealed good. I no longer work for that -- well, that
3 frac sand place is out of business. EPA shut them
4 down, it's that dusty down there, Southern Ohio Sand.

5 ATTORNEY EXAMINER LYNN: So you're
6 indicating that -- then are you trying to say that
7 the glasses and the -- you had the glasses in a case?

8 MR. HARRA: The case was open like this.
9 It fell -- I have not cleaned the truck since I quit
10 hauling frac sand.

11 ATTORNEY EXAMINER LYNN: Let's go back
12 to where the glasses were. They were in the case?

13 MR. HARRA: They was in the case. The
14 case was opened. I knocked it off my center console.
15 I got a tower in the center of the truck for PTO,
16 date, and everything.

17 ATTORNEY EXAMINER LYNN: All right. And
18 what are your thoughts about wearing them or not?

19 MR. HARRA: I wear them.

20 ATTORNEY EXAMINER LYNN: Well, with not
21 having them on at that time.

22 MR. HARRA: I was stopped along the side
23 of the road and I just put them in my case. He
24 knocked on the passenger door. He didn't come up the
25 driver's side, so I had to get up and open the

1 passenger door.

2 ATTORNEY EXAMINER LYNN: So if I'm
3 understanding you correctly, you're saying that you
4 had them on?

5 MR. HARRA: I took them off.

6 ATTORNEY EXAMINER LYNN: But took them
7 off when the vehicle was stopped?

8 MR. HARRA: Yes, and laid -- yes.

9 ATTORNEY EXAMINER LYNN: You laid them
10 in the case, but when you reached over to --

11 MR. HARRA: I had to get up out of the
12 seat to reach over the passenger door.

13 ATTORNEY EXAMINER LYNN: So the officer
14 approached you on the passenger side?

15 MR. HARRA: Yes, on the passenger side.

16 ATTORNEY EXAMINER LYNN: Okay. And the
17 lenses that you're required to wear by your physical
18 exam and is also on your Commercial Driver's License
19 is glasses?

20 MR. HARRA: Yes.

21 ATTORNEY EXAMINER LYNN: You typically
22 wear glasses?

23 MR. HARRA: I typically wear glasses.

24 ATTORNEY EXAMINER LYNN: You don't have
25 contact lenses?

1 MR. HARRA: No. I can't. I've got too
2 much stuff in -- to keep my eyes --

3 ATTORNEY EXAMINER LYNN: I just wanted
4 to be sure your standard procedure is to wear
5 glasses. Okay.

6 MR. HARRA: Yes. There's too much stuff
7 to get in my eyes in what we do.

8 ATTORNEY EXAMINER LYNN: All right.
9 Thank you.

10 Miss Johnson, questions?

11 MS. JOHNSON: Your Honor, may we have a
12 moment?

13 ATTORNEY EXAMINER LYNN: Sure.

14 (Discussion off the record.)

15 THE WITNESS: I also have pictures of
16 the inside of the truck, if you want to look at them.

17 ATTORNEY EXAMINER LYNN: We'll let them
18 finish, and then we'll give you that opportunity.

19 MR. HARRA: The glasses have never been
20 bent (indicating).

21 (Discussion off the record.)

22 ATTORNEY EXAMINER LYNN: Valerie, you
23 can go back on the record, and, Miss Johnson, before
24 you ask your questions, I think Mr. Harra had a few
25 more remarks. What were you mentioning there?

1 MR. HARRA: These glasses have never
2 been bent. You can inspected them. You can do what
3 you want. They've never been bent (indicating).

4 ATTORNEY EXAMINER LYNN: And what else
5 did you -- you had some other remark. I can't recall
6 what it was.

7 MR. HARRA: Less than three weeks later
8 I was stopped in Athens by the other one that runs
9 down there. He did not do nothing. The first thing
10 out of his mouth was whether I was wearing my
11 glasses, and that's all he tried to get me for. All
12 he done was a drive around. He didn't get out of the
13 vehicle or nothing.

14 ATTORNEY EXAMINER LYNN: That was a
15 separate stop altogether?

16 MR. HARRA: Yeah, but I'm just saying it
17 seems to me they're just --

18 ATTORNEY EXAMINER LYNN: Well --

19 MR. HARRA: That's all they want to get.

20 ATTORNEY EXAMINER LYNN: Okay. I have
21 no more questions at this time.

22 Miss Johnson, please go ahead.

23 MS. JOHNSON: Thank you, your Honor.

24 CROSS-EXAMINATION

25 BY MS. JOHNSON:

1 Q. Mr. Harra, when Inspector Lester pulled
2 you over, your glasses were on the floor behind the
3 passenger seat, weren't they?

4 A. No. They was on the floor right behind
5 where my lunchbox sits. My lunchbox sits in the
6 middle of the truck. It hit my lunchbox and it went
7 off the center console. I have pictures of the
8 interior of that truck.

9 Q. So where were the glasses? Where are
10 you saying the glasses were?

11 A. They was on the floor in the center of
12 the truck, right there where they fell off. They
13 were not behind the passenger seat.

14 ATTORNEY EXAMINER LYNN: When you say
15 "they fell off," that was off of the center console?

16 THE WITNESS: Yeah, off of my shift
17 tower for running dump buckets.

18 ATTORNEY EXAMINER LYNN: Mr. Harra, you
19 indicated you have some pictures and --

20 THE WITNESS: They're just on my phone.
21 I got no way to print them off.

22 ATTORNEY EXAMINER LYNN: All right.
23 Miss Johnson, do you want to confer with -- off the
24 record for a minute, please.

25 MS. JOHNSON: Yes. Thank you, your

1 Honor.

2 (Discussion off the record.)

3 MS. JOHNSON: Your Honor, at this time I
4 have no further questions for Mr. Harra.

5 ATTORNEY EXAMINER LYNN: We can go off
6 the record again.

7 (Discussion off the record.)

8 ATTORNEY EXAMINER LYNN: We'll go back
9 on the record.

10 EXAMINATION

11 BY ATTORNEY EXAMINER LYNN:

12 Q. So, Mr. Harra, what you're indicating
13 is, one more time just to be clear, you're indicating
14 the glasses, you had been wearing them when you were
15 driving?

16 A. Yes, sir.

17 Q. You took them off when the vehicle was
18 stopped?

19 A. (Witness nods head.)

20 Q. You're telling me that they were put
21 into the case and the case was set down next to you?

22 A. The case was not closed either.

23 Q. The case was not closed. Tell me again
24 where you put that case. You put the glasses in the
25 case and it was --

1 A. I set them on my shifting tower right
2 there beside the seat.

3 Q. Beside the driver's seat?

4 A. Right beside the driver's seat. It's
5 up -- almost level with where I run the seat at. At
6 the bottom of the seat runs all my controls for what
7 I'm pulling.

8 Q. Okay. And then you're saying that when
9 you reached over to unlock the passenger door --

10 A. I had to up out of the seat.

11 Q. You had to get out of the driver's seat
12 and unbuckle your seat belt. I assume you have a
13 belt buckle --

14 A. Yeah.

15 Q. -- reached over to open the passenger
16 door, and at that point you knocked the glasses from
17 this console?

18 A. Yes.

19 Q. Onto the floor. I see. But you're
20 telling me, then, that the glasses were not at any
21 time, for example, behind the seat?

22 A. No, they was not behind the seat.

23 Q. Mr. Harra, why did you take off the
24 glasses when the vehicle was stopped?

25 A. I always do. It's just my habit.

1 Q. Okay. So those are glasses you only
2 wear when driving?

3 A. Yes, sir. I don't need them to read or
4 nothing else.

5 ATTORNEY EXAMINER LYNN: Miss Johnson,
6 any additional questions?

7 (Discussion off the record.)

8 MS. JOHNSON: No further questions, your
9 Honor.

10 ATTORNEY EXAMINER LYNN: No further
11 questions. Off the record just for a minute.

12 (Discussion off the record.)

13 ATTORNEY EXAMINER LYNN: Mr. Harra, you
14 can take your seat.

15 (Witness excused.)

16 ATTORNEY EXAMINER LYNN: And Inspector
17 Lester, you can come back up here where the reporter
18 can hear you a little bit better.

19 Miss Johnson, you had some additional
20 questions for Inspector Lester.

21 MS. JOHNSON: Yes.

22 - - -

23 INSPECTOR ANTHONY R. LESTER,
24 being previously duly sworn, as prescribed by law,
25 was examined and testified further as follows:

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REDIRECT EXAMINATION

BY MS. JOHNSON:

Q. Inspector Lester, could you please describe again where were the glasses when you pulled Mr. Harra over? Where were his glasses?

A. When he retrieved the glasses, he reached over behind the passenger side seat on the floorboard between the driver's compartment and the sleeper.

Q. And were those glasses in a case?

A. Yes, a black case.

Q. And was the case open or was it closed?

A. When I saw the case, it was closed. He opened them up, put them on, and that's when I observed them being in poor condition.

MS. JOHNSON: Your Honor, at this time we have no further questions.

EXAMINATION

BY ATTORNEY EXAMINER LYNN:

Q. Inspector, I have a question for you. When you approached the vehicle on this particular inspection, which side of the vehicle did you approach on?

A. I always approach on the passenger side

1 of the vehicle unless there's a reason not to.

2 Q. Just a couple additional questions.

3 Were you able to observe Mr. Harra in the sense that
4 he had to unbuckle himself or reach over to open the
5 passenger door?

6 A. Yes.

7 Q. Did you see that?

8 A. That's very common.

9 Q. And did you -- let's see. You said you
10 stopped him. It was just a -- this was what, a
11 typical random stop?

12 A. Yes. It was a No. 4 local carrier
13 stop --

14 Q. I see.

15 A. -- on that section of the road.

16 Q. Okay. And were you able to observe him
17 while he was still driving the vehicle as he
18 approached you?

19 A. I observed him, but from my position on
20 the roadway, I was observing the passenger side of
21 the vehicle, so I didn't get a real good look at him
22 as he was driving the vehicle. I was actually
23 sitting stationary.

24 Q. So you did see him each across, open the
25 passenger door, but you were not able to actually get

1 a good view of him as he drove the vehicle?

2 A. Correct. That is correct.

3 Q. And you're indicating, then, that the --
4 I know it's in the record. Just tell me one more
5 time. The glasses were in the case that was closed,
6 and that was actually, you're saying, behind the
7 passenger seat in the sleeper car?

8 A. It's in an area right on the line
9 between the passenger area and the sleeper
10 compartment.

11 Q. I see. Okay.

12 A. It wasn't like they were back on the
13 sleeper. That's not what I'm saying.

14 Q. Right. But it's behind the passenger
15 seat?

16 A. Right there in the transition.

17 Q. In front of the -- did it look as
18 though -- let's see. You're indicating that the
19 glasses were not in good condition. The case was
20 closed. Did the case appear as though it had been
21 there for quite some time? Was there a lot of debris
22 on the case? How did it look?

23 A. I just remember it being black. That's
24 all I --

25 Q. The case was black?

1 A. Yeah.

2 Q. And the glasses you're indicating were
3 bent? One of the lenses was not in good condition?

4 A. The right-side lens. It didn't sit
5 square on his face. It was leaning at an angle
6 towards the right side.

7 Q. And when you spoke to Mr. Harra, did you
8 look around at any other part of the cab? You know,
9 was there any other indication of any other glasses
10 there?

11 A. No.

12 Q. Okay.

13 A. No.

14 Q. Thank you. I have no further questions.
15 Miss Johnson, any other questions on
16 your part?

17 MS. JOHNSON: No further questions.

18 ATTORNEY EXAMINER LYNN: Mr. Harra, do
19 you have any more questions for the inspector?

20 CROSS-EXAMINATION

21 BY MR. HARRA:

22 Q. Does this look like the glasses case
23 that -- you push it together, and it springs right
24 back open. That's the same glasses case. They've
25 never been -- that's the same one from that time, and

1 my glasses have never been straightened or touch.

2 A. Those don't look like the glasses you
3 had.

4 Q. Those are the only glasses I have, I can
5 tell you.

6 A. All I'm telling you is they don't look
7 like the glasses you had on that day.

8 Q. These are the only glasses I have.

9 A. That's all I can tell you.

10 ATTORNEY EXAMINER LYNN: Mr. Harra, what
11 were you saying about the glass case springs open or
12 something --

13 MR. HARRA: They won't stay closed.

14 ATTORNEY EXAMINER LYNN: They won't stay
15 closed.

16 MR. HARRA: You push it down, it just
17 springs right back open. They won't stay closed.

18 ATTORNEY EXAMINER LYNN: And that's your
19 only pair of glasses?

20 MR. HARRA: That is my only pair of
21 glasses.

22 ATTORNEY EXAMINER LYNN: And you wear
23 them for driving, but otherwise --

24 MR. HARRA: That's all. I wear them for
25 driving. I do not wear them at home.

1 ATTORNEY EXAMINER LYNN: All right.
2 I'll go off the record and see if I have any other
3 questions.

4 (Discussion off the record.)

5 ATTORNEY EXAMINER LYNN: Back on the
6 record. I don't believe I have any more questions at
7 this time.

8 Inspector Lester, thank you for your
9 comments.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 ATTORNEY EXAMINER LYNN: Mr. Harra, you
13 said you had photographs of the inside of the cab,
14 although it's only on your cell phone. Do you have
15 anything that could actually be admitted into
16 evidence here, any printed photos, any documents,
17 anything like that?

18 MR. HARRA: No. I did not know what
19 kind of hearing this was gonna be.

20 ATTORNEY EXAMINER LYNN: I understand.

21 MR. HARRA: There's no way glasses can
22 be behind that passenger seat, because it sets up on
23 a pedestal. The air conditioner and everything is
24 under the seat. It's an International. It's all
25 boxed up in there.

1 ATTORNEY EXAMINER LYNN: You're saying
2 it couldn't fit behind the passenger seat?

3 MR. HARRA: No. There's a box built
4 into the truck. The air conditioner and then all --
5 it's an '98 International. Air conditioner and
6 heater board and everything is in that box.

7 ATTORNEY EXAMINER LYNN: And then you
8 have a sleeper berth right up against the passenger
9 seat?

10 MR. HARRA: The mattress is right
11 against the back of the seats.

12 ATTORNEY EXAMINER LYNN: And you're
13 saying that's typical of the International?

14 MR. HARRA: That style body
15 International, that short sleeper.

16 ATTORNEY EXAMINER LYNN: All right.

17 MR. HARRA: We don't even use the
18 sleeper in the truck.

19 ATTORNEY EXAMINER LYNN: Okay.

20 MR. HARRA: And I --

21 ATTORNEY EXAMINER LYNN: Go ahead.

22 MR. HARRA: I have certifications. I'm
23 a certified mechanic, associate's degree, diesel
24 mechanic, Mack certified in air conditioning, and I
25 am federally certified for brakes. There is no way

1 it would go back there with the air conditioning
2 there.

3 ATTORNEY EXAMINER LYNN: Miss Johnson,
4 do you have any other questions? Does the Staff have
5 any other inquiries?

6 MS. JOHNSON: We have no further
7 questions.

8 ATTORNEY EXAMINER LYNN: No further
9 questions. Okay. I'd like to thank everyone for
10 attending today, and we'll close the proceedings --
11 I'm sorry. One other thing?

12 MS. JOHNSON: Are you interested at all
13 in a briefing or anything? Do you think that's
14 necessary?

15 ATTORNEY EXAMINER LYNN: I don't think
16 it's necessary. However, you certainly have the
17 option of doing a brief. Would you like to do so?

18 MS. JOHNSON: Staff doesn't think that's
19 necessary. I just wanted to --

20 ATTORNEY EXAMINER LYNN: So you will not
21 be filing --

22 MS. JOHNSON: Hold on one moment.

23 (Discussion off the record.)

24 MS. JOHNSON: Your Honor, Staff is not
25 interested in writing a brief.

1 ATTORNEY EXAMINER LYNN: Mr. Harra, a
2 brief is basically a written summary of your
3 arguments. You don't have to submit them. Do you
4 care to submit anything?

5 MR. HARRA: No.

6 ATTORNEY EXAMINER LYNN: No. Okay.
7 That's fine. In that case, we'll close the
8 proceedings for today. Thank you, everyone, for
9 attending.

10 (Thereupon, the hearing was concluded at
11 9:39 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, April 15,
2015, and carefully compared with my original
stenographic notes.

Valerie J. Sloas, Registered
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires June 8, 2016.
(VJS-78218)

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in

Case No(s). 15-0111-TR-CVF

Summary: Transcript in the matter of Chad Harra hearing held on 04/15/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Sloas, Valerie J. Mrs.