

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of : Case No.

Howard M. Henry : 15-1932-TR-CVF

- - -

PROCEEDINGS

Before Nicholas Walstra, Attorney Examiner, held
at the offices of the Public Utilities
Commission of Ohio, 180 East Broad Street,
Hearing Room 11-C, Columbus, Ohio, on Friday,
February 19, 2016, at 10:00 A.M.

- - -

Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 Mr. Werner L. Margard
3 Assistant Attorney General
4 180 East Broad Street
Columbus, Ohio 43215

5 On behalf of the Staff of the
6 Public Utilities Commission
of Ohio.

7
8 Mr. Howard M. Henry
3561 Truman Road, Lot 337
9 Perrysburg, Ohio 43551

10 Appearing Pro se.

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1 Friday Morning,
2 February 19, 2016.

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4 ATTORNEY EXAMINER: The Public
5 Utilities Commission of Ohio has called for
6 hearing at this time and place Case No.
7 15-1932-TR-CVF being in the Matter of Howard M.
8 Henry, Notice of Apparent Violation and Intent
9 to Assess Forfeiture.

10 May name is Nick Walstra, the
11 Attorney Examiner assigned by the Commission to
12 hear this case. I will begin taking the
13 appearances on behalf of the parties. On behalf
14 of the Staff.

15 MR. MARGARD: Thank you, Your Honor.
16 On behalf of the Transportation Staff of the
17 Public Utilities Commission of Ohio, Mike
18 DeWine, Attorney General, William Wright,
19 Section Chief, Public Utilities Section, by
20 Assistant Attorney General Werner L. Margard,
21 180 East Broad Street, Columbus, Ohio.

22 ATTORNEY EXAMINER: Thank you. Mr.
23 Henry.

24 MR. HENRY: Yes, sir.

25 ATTORNEY EXAMINER: You can sit at

1 the table if you would like. And if you would
2 state your name and address.

3 MR. HENRY: Howard M. Henry, 3561
4 Truman Road, Perrysburg, Ohio 43551.

5 ATTORNEY EXAMINER: Thank you. I
6 will kind of explain how this is going to work,
7 Mr. Henry, but first are there any procedural
8 matters?

9 MR. MARGARD: There are none. Thank
10 you, your Honor.

11 ATTORNEY EXAMINER: Okay. Mr.
12 Henry, the Staff will present their case, they
13 have to prove their case. You will have an
14 opportunity to ask questions of their witnesses.

15 When they rest their case I will
16 give you a chance, you can take the stand, I
17 will swear you in, and you can state the facts
18 as you see them. And then Mr. Margard will have
19 a chance to ask you questions as well.

20 Then we will conclude. The
21 transcript, everything here is being recorded,
22 it will be typed up, it will be online, then
23 the Commission will review the case and issue an
24 order sometime in the future. Any questions?

25 MR. HENRY: No.

1 ATTORNEY EXAMINER: Okay. At this
2 point you may begin.

3 MR. MARGARD: Thank you, Your Honor.
4 Staff would call Trooper Phillip Melicant,
5 please.

6 (WITNESS SWORN)

7 - - -

8 TROOPER PHILLIP MELICANT
9 called as a witness, being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Margard:

13 Q. Sir, will you first begin by telling
14 us your name and business address?

15 A. My name is Phillip John Melicant.
16 And currently I am employed by the Ohio State
17 Highway Patrol at the Cleveland District on West
18 140th Street.

19 Q. In what capacity are you employed by
20 the Patrol?

21 A. I act as an Ohio State Trooper,
22 which enforces the laws and aid and assist
23 motorists in Ohio. I also act as a Commercial
24 Motor Vehicle speaking Trooper.

25 Q. How long have you been performing

1 this job?

2 A. As Trooper, I have almost 23. And
3 as a Commercial Vehicle inspector for five.

4 Q. Do you have any special
5 certifications or trainings to perform your job?

6 A. I do. I received training at the
7 Ohio State Highway Patrol Academy for
8 the Trooper aspect of it. And at the same
9 Highway Patrol Academy for the CMV aspect of it,
10 Part A, Part B, and hazardous material.

11 Q. And in fact you are a trainer
12 yourself?

13 A. I am, yes.

14 Q. Trooper Melicant, were you on duty
15 on September 5th, 2015?

16 A. I was.

17 Q. And that would have been Saturday.
18 Does that correspond to your recollection?

19 MR. HENRY: Wouldn't that have been
20 Sunday morning?

21 ATTORNEY EXAMINER: He is asking him
22 the questions.

23 MR. HENRY: Oh.

24 Q. Do you recall which day of the week
25 it is?

1 A. I don't recall exactly.

2 Q. It's not particularly relevant.

3 Were you on duty that date?

4 A. Yes.

5 Q. And what was your job assignment at
6 that time?

7 A. Acting as an Ohio State Trooper and
8 CMV inspector.

9 Q. And did you have occasion to inspect
10 a vehicle that was being operated by the
11 Respondent, Mr. Henry, on that date?

12 A. Yes, I did.

13 Q. Where was the vehicle when you first
14 observed it?

15 A. It was traveling on the turnpike,
16 Ohio Turnpike, right at the mile marker 170 in
17 Cuyahoga County.

18 Q. Where was your vehicle?

19 A. I was parked in the median on the
20 turnpike.

21 Q. And how did you happen to inspect
22 this vehicle?

23 A. As the truck went by it brought my
24 attention as I was looking at both the truck and
25 trailer combined. It went by and what appeared

1 to be a cage bolt sticking out of the brake
2 chamber of the trailer. It would be the front
3 axle driver's side, left side of the vehicle.

4 When I seen the vehicle go by I saw
5 that cage bolt sticking out of the brake
6 chamber. That is when I pulled out, got up
7 close to the vehicle, and indeed noticed that it
8 was true that there was a cage bolt sticking out
9 of the brake chamber.

10 So I pulled up close to the cab, ran
11 the DOT number. And at that point the DOT
12 number was high in spec, it was 98. And at that
13 point I just backed off, let the driver go by a
14 little bit and pulled in behind him and I
15 activated my lights.

16 Q. You are testifying from independent
17 recollection. Do you remember this inspection?

18 A. Absolutely I do.

19 Q. Now, you indicated you pulled him
20 over. Did you pull him over into a safe place
21 for the inspection?

22 A. Right. Towpath Plaza on the Ohio
23 Turnpike.

24 Q. And did you happen to prepare a
25 report as a result of your inspection?

1 A. I did. A report, the Aspen report.

2 MR. MARGARD: May I approach, your
3 Honor?

4 ATTORNEY EXAMINER: You may.

5 (EXHIBIT MARKED FOR PURPOSES OF
6 IDENTIFICATION)

7 Q. Trooper Melicant, I have handed you
8 a document that I have marked for purposes of
9 identification as Staff Exhibit No. 1. Is this
10 a copy of the report that you prepared?

11 A. It is.

12 Q. This was prepared by you at the time
13 of your inspection; is that correct?

14 A. That's correct.

15 Q. Does this report accurately contain
16 the findings and conclusions you made at the
17 time of your inspection?

18 A. Yes.

19 Q. Will you describe for us how the
20 inspection occurred? What happened during the
21 inspection?

22 A. Initially, like I said, I pulled the
23 vehicle over. We pulled into the rest area.
24 And as soon as I called the radio, or called
25 dispatch, and told them of the stop, I went

1 ahead and made contact with the driver.

2 And I told the driver why, the
3 reason why I stopped him, you know, safety
4 inspection. And I noticed that the brake
5 chamber on the trailer was caged. And at that
6 point I asked him for his driver's license,
7 medical certificate and log book.

8 As soon as I obtained the driver's
9 driver's license, once I verified that his
10 address was correct so that I enter the correct
11 address into the Aspen program.

12 Then I review the driver's medical
13 certificate. As long as I know, A, the medical
14 certificate matches the driver that I am
15 actually dealing with.

16 B, that it's valid and current.
17 And, C, if there is any restrictions on the
18 medical certificate.

19 Once I review those I hand the
20 driver immediately back the medical certificate,
21 and then I get the information that I need
22 pertaining to the truck and trailer, I get his
23 logbook.

24 And then I go back, enter
25 the information into the Aspen program. And

1 then I conduct the inspection after that.

2 Q. Now, in the course of your
3 inspection you noted a couple of violations; is
4 that correct?

5 A. I did, yes.

6 Q. Now, Trooper Melicant, we are not
7 going to discuss the brake violation, that is
8 not at issue here today. But I would like to
9 direct your attention on Staff Exhibit 1 to the
10 first violation that you noted there. "The
11 driver not physically qualified."

12 Could you tell me what information
13 you put into this Aspen system in order to note
14 this violation?

15 A. Under the FMCSR, the 319.11 (b) (4),
16 the driver not physically qualified. And then I
17 added my dissertation to that. "And the driver
18 was driving a CMV without corrective lenses as
19 indicated on the driver's medical certificate."

20 Q. Now, how is it that you determined
21 that Mr. Henry was driving without his glasses?
22 Did you observe him as he was driving without
23 glasses?

24 A. No.

25 Q. How then did you determine that he

1 was in violation?

2 A. Initially when I made my contact
3 with the driver I always ask the driven if I
4 could open the door, for officer safety and I
5 can actually see inside the vehicle.

6 And then at that point I can
7 ascertain the gross vehicle weight of
8 the vehicle that I am actually inspecting. So
9 it serves multiple purposes for officer safety
10 and for information.

11 Once I open the door I ask the
12 driver if, after reviewing his medical
13 certificate, if he has contact lenses in. And
14 he said no, he doesn't. Then I ask him where
15 are your glasses? And he said that he left them
16 in his pickup truck in the yard prior to the
17 trip.

18 MR. HENRY: No, I didn't.

19 Q. And in the yard, do you have any
20 idea physically what location that was?

21 A. No, I don't.

22 Q. But he did not have any glasses with
23 him in the truck?

24 A. He did not have glasses whatsoever.

25 Q. He never produced for you a pair of

1 eyeglasses?

2 A. He did not, no.

3 Q. Was there anything else significant
4 about this inspection that you think the
5 Commission needs to know in order to issue a
6 decision in this case?

7 A. Other than the fact that the driver
8 did not have glasses in his possession period,
9 and he stated that he did not wear contact
10 lenses. Outside that, no.

11 MR. MARGARD: I have nothing
12 further, Trooper. Thank you.

13 ATTORNEY EXAMINER: Thank you. Mr.
14 Henry, you will still have your chance to give
15 your side of the case when they rest, but do you
16 have any questions for Mr. Melicant now?

17 MR. HENRY: Yes, I do.

18 CROSS-EXAMINATION

19 By Mr. Henry:

20 Q. I sure do. You say you observed
21 that bolt hanging out of that brake chamber?

22 A. Yes.

23 Q. I don't believe so. I believe you
24 may have seen a new brake chamber in there
25 because you came up to the back, my left-hand

1 side of my trailer, and rode there for almost
2 two hours looking underneath that trailer.

3 MR. MARGARD: Your Honor --

4 MR. HENRY: Now, wait a minute.

5 MR. MARGARD: If you will instruct
6 the Respondent, please --

7 MR. HENRY: Now, wait a minute.
8 We are going to get to all this here.

9 Q. You rode beside that trailer for
10 almost two miles before you ever stopped me.
11 You pulled me over into the service plaza.

12 ATTORNEY EXAMINER: Do you have a
13 question?

14 Q. And then you tell me that you come
15 up and checked with me, after about 10 minutes
16 you come up and checked with me after the
17 Patrolman come up and met with you.

18 ATTORNEY EXAMINER: Is there a
19 question, Mr. Henry? You will have a chance to
20 testify as you see things. Do you have a
21 question for him?

22 MR. HENRY: Yes. I will just ask
23 him.

24 Q. How in the hell did he see that
25 brake chamber with a bolt in it? That thing

1 ain't no bigger than my little finger. You must
2 have some super good eyes. That is the only
3 thing I can say, especially when it's setting
4 underneath there, complete air foil and axle
5 chamber and axle hangers. I don't think you
6 seen them.

7 ATTORNEY EXAMINER: Do you have some
8 questions about the --

9 MR. HENRY: Yes.

10 Q. Here is the pair of glasses, buddy,
11 that I wear when I am --

12 MR. MARGARD: Your Honor, with all
13 due respect, I appreciate the Respondent's
14 desire to tell his side of the story, and he
15 will have that opportunity, but I ask that he be
16 directed to ask questions.

17 Q. I got my pair of glasses here that I
18 wear when I am at home. The glasses that I wear
19 in the truck are right here. And they are
20 exactly the same pair of glasses that I put on
21 when you asked me if I had my glasses. They are
22 the same, exact pair of glasses that set in this
23 case at all times, and this case goes to work
24 with me at all times.

25 Because I have to have my ID to get

1 into the post offices at all times.

2 ATTORNEY EXAMINER: Do you have a
3 specific question for him?

4 MR. HENRY: Yea, I do. Why did he
5 say that I didn't have my glasses when I
6 produced my glasses right at the time he
7 opened -- he did not open my door on the truck.
8 I opened it myself, got out, checked the brake
9 chamber that he was telling me about. And I
10 told him then the brake chamber was only on the
11 parking brake side.

12 ATTORNEY EXAMINER: Do you have a
13 specific question for him?

14 MRS. HENRY: You will get to talk.

15 MR. HENRY: Yes, I got a question
16 for you.

17 Q. The law you told me about these
18 glasses supposed to be on at all times, show it
19 to me in the book. Show me that law in the
20 safety book. There is two safety books here.
21 Don't say nothing about having to wear them
22 glasses 24-7, only when I am driving that
23 vehicle.

24 And I had those glasses on when I
25 pulled in that rest area, bud, and they were

1 laying on top of my pop case when you approached
2 me at the truck, whatever you think.

3 ATTORNEY EXAMINER: Any other
4 questions?

5 MR. HENRY: No.

6 ATTORNEY EXAMINER: Any response?

7 MR. MARGARD: Just briefly, your
8 Honor.

9 REDIRECT EXAMINATION

10 By Mr. Margard:

11 Q. Trooper Melicant, as you testified
12 today, you indicated you had an independent
13 recollection of this inspection; correct?

14 A. I did, yes.

15 Q. And do you have a recollection, do
16 you recognize the Respondent?

17 A. Yes, I do, for sure.

18 Q. And a number of representations were
19 made regarding the production of a pair of
20 glasses. In fact, did he ever produce a pair of
21 glasses to you?

22 A. He did not at the time of the stop.
23 Until I pulled away he didn't, no.

24 Q. At no time during your inspection
25 did you ever see he wore a pair of glasses or

1 did he ever show you a pair of glasses?

2 A. No. He told me he left them in the
3 yard. That is it.

4 MR. MARGARD: I have nothing
5 further, your Honor.

6 ATTORNEY EXAMINER: Thank you.
7 Thank you. You may step down.

8 MR. MARGARD: Your Honor, Staff will
9 call Mr. Jonathan Frye.

10 (WITNESS SWORN)

11 - - -

12 JONATHAN FRYE

13 called as a witness, being first duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Margard:

17 Q. State your name and business
18 address, please.

19 A. Jonathan Frye, 180 East Broad
20 Street, 4th Floor, Columbus, Ohio 43215.

21 Q. And by whom are you employed and in
22 what capacity, please?

23 A. Public Utilities Commission of Ohio,
24 Transportation Department, and I am the Chief of
25 the Compliance Division.

1 Q. And what are your duties as Chief of
2 Compliance?

3 A. To review the fines that are
4 assessed against drivers, shippers and carriers.

5 Q. Can you tell me how fines are
6 determined in civil forfeiture cases such as
7 this?

8 A. Sure. For each violation of
9 the Federal Motor Carrier Safety regulation
10 there is a -- we break the violation into one of
11 four groups, and based upon the severity of
12 the violation a monetary value is assigned to
13 the violation.

14 Q. And is the procedure that you
15 describe and the dollar amounts that you
16 described consistent with those recommended by
17 the Commercial Vehicle Safety Alliance?

18 A. Yes.

19 Q. And the procedures are the same for
20 all carries and individuals?

21 A. That's correct.

22 Q. Now, in the course and scope of your
23 duties and in preparing for your testimony today
24 did you have an opportunity to review the
25 Commission's file in this case?

1 A. Yes.

2 Q. Including the report of inspection
3 that has been previously marked as Staff Exhibit
4 No. 1?

5 A. Yes.

6 Q. Can you describe for us how the
7 assessment was made in this case?

8 A. Yes. It's again the violations are
9 broken up into one of four groups based upon
10 the types of violation that is discovered. And
11 based upon the matrix that we utilize, the
12 Respondent was assessed a fine based upon the
13 matrix.

14 MR. MARGARD: May I approach, your
15 Honor?

16 ATTORNEY EXAMINER: You may.

17 (EXHIBIT HEREBY MARKED FOR
18 IDENTIFICATION PURPOSES)

19 Q. Mr. Frye, I have handed you a
20 document that I have marked for purposes of
21 identification as Staff No. Exhibit 2. Can you
22 identify that document for me, please?

23 A. Yes. It's the Notice of Preliminary
24 Determination. It's a letter that's sent to the
25 Respondent after the conclusion of a conference

1 that we have here with a member of our staff.

2 Q. Is this document part of the
3 Commission file for this case that you reviewed
4 in preparation for your testimony today?

5 A. Yes.

6 Q. And this document contains a
7 forfeiture amount of \$250?

8 A. That's correct.

9 Q. And have you determined that that is
10 the correct assessment in this case?

11 A. Yes, it is correct.

12 Q. And in your opinion that is a
13 reasonable assessment for this violation?

14 A. Yes.

15 Q. Mr. Frye, are you able to tell me
16 whether the Respondent was served with all
17 required notices?

18 A. Yes. He was served with this
19 notice. It was sent on November the 5th, 2015.
20 And we know that it was sent because the
21 Respondent is here today. It gives
22 the Respondent information on how to contest the
23 violation at the administrative hearing level.

24 MR. MARGARD: Thank you. Your
25 Honor, I have no further questions for Mr. Frye.

1 ATTORNEY EXAMINER: Thank you. Mr.
2 Henry, do you have questions for Mr. Frye?

3 MR. HENRY: Yes.

4 CROSS-EXAMINATION

5 By Mr. Frye:

6 Q. The first time I ever got that
7 notice was on 9-9 of 2015. Here it is. You
8 said it was September the 15th?

9 A. The Notice of Preliminary
10 Determination letter was sent on November 5th,
11 2015.

12 Q. Is that when I had the phone
13 conference with Cheryl Sheets?

14 A. That's correct.

15 Q. I don't have that one with me.
16 Possibility that I did get it on the 15th. The
17 one I got was the same thing you got here which
18 is showing 11-5, showing it at 9-09.

19 A. Yes. Those are two separate
20 letters.

21 MR. HENRY: Okay. That is all I got
22 for you, bud.

23 MR. MARGARD: Just for
24 clarification, your Honor.

25 REDIRECT EXAMINATION

1 By Mr. Margard:

2 Q. You indicate the two separate
3 letters are sent. What is the first letter that
4 is sent?

5 A. The first letter is a Notice of
6 Apparent Violation and Intent to Assess
7 Forfeiture. It's the initial letter that's sent
8 advising the Respondent of the fine and
9 providing him with an opportunity to either pay
10 or to make a request for a telephone conference
11 or an in person conference, informal-type of
12 conference to try to resolve the issue.

13 Q. This is the letter that resulted in
14 the telephone conference with Ms. Sheets that
15 the Respondent alluded to?

16 A. That's correct.

17 Q. And it was subsequent to that
18 conference that Staff Exhibit No. 2 was sent to
19 the Respondent?

20 A. That's correct. Exhibit No. 2 is
21 the letter that's sent in the event that we are
22 unable to reach a resolution by way of
23 telephone.

24 Q. And that letter advises the
25 Respondent of his right to a hearing?

1 A. That's correct.

2 MR. MARGARD: Thank you. Your
3 Honor, I have no further questions.

4 ATTORNEY EXAMINER: Thank you, Mr.
5 Frye.

6 MR. MARGARD: Your Honor, I would
7 respectfully move the admission of Staff
8 Exhibits No. 1 and 2.

9 ATTORNEY EXAMINER: They will be
10 admitted.

11 (EXHIBITS ADMITTED INTO EVIDENCE)

12 MR. MARGARD: Thank you, your
13 Honor. I have nothing further.

14 ATTORNEY EXAMINER: Mr. Henry, if
15 you want to take the stand I will swear you in.

16 (WITNESS SWORN)

17 - - -

18 HOWARD M. HENRY
19 called as a witness, being first duly sworn,
20 testified as follows:

21 ATTORNEY EXAMINER: You can state
22 the facts as you see them.

23 MR. HENRY: First off he says he
24 stopped me at the 170 mile stake, which is true.
25 But he noticed me at the 173 as I went to move

1 out of the right lane so traffic could come on
2 the highway.

3 So he noticed me there, followed me
4 two and a half miles before he actually pulled
5 me over. Never once did he come up beside that
6 truck. He stayed at the rear of that truck.

7 If I had hit my brakes he would have
8 been in the back of that truck. Okay. He was
9 just checking underneath my truck, so I figured
10 I an air foil or air lines or whatever. That is
11 what I figured he was looking for because about
12 where he was at. Never did come up beside that
13 truck, like he says, not once.

14 When we pulled in the rest area I
15 sat there ten minutes drinking a cup of coffee
16 before he ever approached the truck after
17 another State Trooper came up there. That was
18 when he approached the truck.

19 And I don't believe this guy here is
20 the one that actually did the inspection,
21 because I don't recall that face, but that's
22 okay. If you say you did it, that's fine.

23 But he claims he did a Level 1
24 inspection. What does a Level 1 inspection go
25 for? Not just the back of the trailer, because

1 you didn't go underneath that truck, and I know
2 you didn't, because you claim I got disk brakes
3 all the way around that truck. Disk brakes on
4 the front axle only, buddy. The back are drums.
5 That is all.

6 I know that for a fact because I
7 drive the same truck all the time. And when you
8 did stop me you did a complete inspection on my
9 truck before you ever asked me for my driver's
10 license and registration or anything else,
11 after you did the complete inspection.

12 So, I was there for almost 35
13 minutes before you ever asked for my driver's
14 license. Well, I didn't find nothing wrong, so
15 give me your driver's license and your medical
16 card, your registration and registration to your
17 trailer, and write it up.

18 Then when I hand you my driver's
19 license and that you say, hey, you wear glasses.
20 And that ain't the way you put it. You said,
21 hey, you got contacts in? And what did I reply?
22 No. Where is your glasses? Sat right here
23 beside me, beside the right side of my seat. My
24 glasses was in that truck and they go with me
25 every day, bub, because I am required to have

1 them when I go into the Post Office to read my
2 bills that come out of the Post Office. And I
3 don't haul mail, I haul Class 1 mail, not
4 mailers.

5 You put the wrong trailer number
6 even on the damn inspection slip. Big old
7 12-inch letters on the back of that trailer.
8 You didn't even get the right trailer number on
9 there.

10 Gave my stuff back, didn't give me
11 the trailer registration, you still got it. You
12 still got the trailer registration and
13 the inspection sticker -- or the inspection slip
14 for that trailer. You have both of them.

15 I had to call the company and get
16 one faxed to me so I could leave there. You
17 asked me if I could remove that bolt and I told
18 you at that time I am not allowed to work on
19 the U.S. Post Office trucks. Them trucks belong
20 to U.S. Post Office. Eagle is running them, but
21 you know what, the trailer belongs to the Post
22 Office.

23 And I know you was never underneath
24 that tractor as far as doing an inspection
25 because you couldn't have gotten underneath

1 there, not with all them fairings hanging down,
2 bud, because I can't even get underneath there,
3 without tearing the fairings off. So, you never
4 got underneath there.

5 But I told you at the time when you
6 asked me about my glasses, no, I am not wearing
7 contacts. I do have glasses in the truck. So I
8 had my glasses there at the truck.

9 So, I don't know where you come off
10 with I didn't have glasses. First place, I have
11 been driving trucks for 45 years just like you
12 have been in your profession, so when I was
13 required to start wearing glasses just this last
14 physical I went to an eye doctor, which is her
15 eye doctor, specialist, she is a diabetic.

16 I had my eyes examined. I am 20/25.
17 What is the law for wearing glasses? 20-40.
18 And I believe I talked to you and you told me I
19 had go to the BMV and get that taken off my
20 license.

21 Do you know how many times I have
22 been at the BMV to try and get that taken off my
23 license, even with the records that my doctor
24 gave me? They say, well, we can't do that. No,
25 because you guys think you are medical people.

1 You are not. She is, but you ain't.

2 And neither was your crummy guy that
3 did my license that time. There was five of us
4 that failed that damn eye exam that day because
5 of the fact there was garbage on that microfiche
6 and all five of us blamed the same thing
7 and told us all just get the hell out, we didn't
8 know what we were talking about.

9 What I should have done was went to
10 a different BMV and refused to take that license
11 from that guy. But I figure I only got 14 more
12 months and I am retired and get out of this
13 business because this business has went to shit.

14 And as far as him, he is a liar.
15 She told me he couldn't even write me out a damn
16 ticket. Are you qualified to write me out a
17 ticket or put me out of service, sir? You stood
18 there and raved how you were going to put me out
19 of service.

20 After you told me that I produced my
21 license. I said right here they lay, bub, they
22 are right here. My glasses was in that truck,
23 they go in that case every day. That is
24 the case I take to work every day. Got a
25 flashlight, got my Post Office ID and everything

1 in it.

2 So, don't tell me my glasses wasn't
3 in there. And as far as you telling that, you
4 are lying. You never came up to the side of
5 that truck, and I know damn well you can't see
6 in that truck because not even long ago, how
7 long ago you guys required Class A vehicles to
8 start getting fluorescent seatbelts put in the
9 damn trucks. And even the green fluorescent so
10 you guys could see if we were wearing our
11 seatbelt.

12 You could never see in that truck.
13 And I still say you can't see in that truck.
14 There is no way in hell you can see in that
15 truck.

16 I was a cop myself for six years and
17 I know what that law says, that I have to have
18 them glasses on when I am driving that vehicle,
19 not when I am around that vehicle as you say and
20 the same as you told me. You was the one that
21 told me it's mandatory for me to wear my glasses
22 24-7, and it's not. It says I only have to wear
23 them when I am driving that vehicle.

24 And when I was sitting in the
25 service plaza, which is a safehaven for me, I

1 can take them glasses off any time I feel like
2 it. That's a safehaven. I do not have to have
3 them on. And as you can see I don't really need
4 them.

5 That is all I got to say. Now, you
6 got anything to say, other than you are going to
7 tell me some more lies?

8 Because you never did come up beside
9 that door, buddy, and I know for a fact you
10 didn't. Come on, let's hear some more lies.

11 ATTORNEY EXAMINER: Mr. Henry, are
12 you done?

13 MR. HENRY: Yes, I am.

14 ATTORNEY EXAMINER: Okay. Questions
15 from Mr. Margard?

16 MR. MARGARD: I don't have any
17 questions for Mr. Henry. Thank you.

18 ATTORNEY EXAMINER: Thank you. You
19 may step down, Mr. Henry.

20 MR. HENRY: Sitting there telling a
21 bunch of damn lies. I never seen a cop so damn
22 worthless as you are.

23 ATTORNEY EXAMINER: That's enough,
24 Mr. Henry. Anything further?

25 MR. MARGARD: Nothing. Thank you,

1 your Honor.

2 ATTORNEY EXAMINER: All right.

3 Thank you all for coming. The Commission will
4 review the evidence, review the transcript, and
5 will come out with a decision as --

6 MR. HENRY: I still won't pay
7 the fine, I can tell you that.

8 ATTORNEY EXAMINER: We are
9 adjourned. Thank you.

10 (At 10:54 A.M. the hearing was
11 concluded)

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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
February 19, 2016, and carefully compared with
my original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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Summary: Transcript In the matter of: Howard M. Henry hearing held on February 19, 2016 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.