

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Faruk :
Kacar, Notice of Apparent :
Violation and Intent to : Case No. 16-766-TR-CVF
Assess Forfeiture. :
- - -

PROCEEDINGS

before Mr. Bryce McKenney, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 10:17
a.m. on Monday, October 17, 2016.

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1 APPEARANCES:

2 Mike DeWine, Ohio Attorney General
3 By Mr. William L. Wright, Section Chief
4 Public Utilities Section
5 Mr. John Jones,
6 Assistant Attorney General
7 30 East Broad Street, 16th Floor
8 Columbus, Ohio 43215

9 On behalf of the Staff of the PUCO.

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Monday Morning Session,

October 17, 2016.

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EXAMINER McKENNEY: Let's go on the
record.

Good morning. The Public Utilities
Commission of Ohio calls for hearing at this time and
place Case No. 16-766-TR-CVF, being In the Matter of
Faruk Kacar, Notice of Apparent Violation and Intent
to Assess Forfeiture.

My name is Bryce McKenney. I'm the
Attorney Examiner assigned by the Commission to hear
this case at this time. I would like to take the
appearance of the parties.

Mr. Jones.

MR. JONES: Thank you, your Honor. Good
morning. On behalf of the Commission Staff, Ohio
Attorney General Mike DeWine, Assistant Attorney
General John Jones, 30 East Broad Street, Columbus,
Ohio 43215.

EXAMINER McKENNEY: Thank you. Also like
to note Mr. Kacar is not here at this time, and the
time I have is about 10:18.

Mr. Jones.

MR. JONES: Thank you, your Honor. Your

1 Honor, we would like to call our witness Officer
2 Phillip Melicant to go ahead and introduce the
3 exhibits we want to put into the record today.

4 EXAMINER McKENNEY: All right. Thank
5 you.

6 (Witness sworn.)

7 EXAMINER McKENNEY: Thank you. Please be
8 seated.

9 - - -

10 PHILLIP MELICANT

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

13 DIRECT EXAMINATION

14 By Mr. Jones:

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

17 A. Phillip John Melicant.

18 Q. And where are you employed?

19 A. By the Ohio State Highway Patrol.

20 Q. And how long have you been employed
21 there?

22 A. 23 years.

23 Q. And what's your qualifications for
24 holding that position?

25 A. State Trooper and Motor Carrier Safety

1 Commercial Vehicle Trooper as well.

2 Q. What training have you had?

3 A. My training consisted of training down at
4 the Ohio State Highway Patrol Academy for FMCSA, the
5 FMCSR regulations.

6 Q. And what's your jurisdiction?

7 A. The State of Ohio.

8 Q. Okay. And did you have an occasion to
9 conduct an inspection on December 24, 2015, involving
10 a driver of Faruk Kacar?

11 A. I did.

12 Q. Okay. And I have before you what's
13 marked as Staff Exhibit 1. Could you please identify
14 that exhibit, please.

15 A. It's a -- excuse me. It's a
16 Driver/Vehicle Examination Report put on by the
17 Public Utilities Commission of Ohio.

18 Q. And can you tell us where the inspection
19 occurred?

20 A. It occurred on Interstate 76 Mile Marker
21 5 in Wadsworth, Ohio.

22 Q. Okay. And what -- as a result of
23 conducting an inspection, what violations did you
24 discover?

25 A. On the defendant -- at the time of the

1 inspection he didn't -- he was unable to furnish a
2 logbook.

3 Q. Okay. And as a result of discovering
4 that violation, what action did you take?

5 A. I placed the subject out for 10
6 consecutive hours for not having a logbook, logbook
7 at all.

8 Q. Okay. And is your violation reflected in
9 your report?

10 A. It is, yes.

11 Q. Okay. Could you please reference that
12 area and describe that violation.

13 A. It's the center -- here it's the center
14 of the page. The violation code is 395.8A, Section
15 395.8A, assigned to the driver, out of service, yes.
16 There's no verification or no crash involved and the
17 violation description was no driving record on -- of
18 duty status, no log on December 24, 2015.

19 Q. So on that date during your inspection,
20 you requested Mr. Kacar to produce his record of duty
21 status, and he could not produce that record?

22 A. That's correct.

23 Q. Okay. And did you serve anybody a copy
24 of this report?

25 A. I did.

1 Q. Who?

2 A. Mr. Faruk Kacar.

3 Q. And on that date were you on duty?

4 A. Yes.

5 Q. And were you -- how were you dressed?

6 A. In the uniform I am wearing right now.

7 Q. And the cruiser?

8 A. It was a marked Ohio State Trooper, you
9 know, patrol cruiser.

10 Q. And so this record before you, Staff
11 Exhibit 1, is this an accurate representation of the
12 report that you issued to Mr. Kacar that day?

13 A. It is, yes.

14 MR. JONES: Okay. Your Honor, I have no
15 further questions of this officer and would move the
16 admission of Staff Exhibit 1.

17 EXAMINER McKENNEY: Thank you. I have no
18 questions. You can return to your seat.

19 Staff Exhibit 1 will be admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 MR. JONES: Your Honor, at this time I
22 would also like to have marked as Staff Exhibit 2 the
23 Notice -- Notice of Preliminary Determination that
24 was issued February 25, 2016, and I guess I could
25 call our staff witness briefly, John Frye, just to

1 verify that.

2 - - -

3 JONATHAN FRYE

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

6 DIRECT EXAMINATION

7 By Mr. Jones:

8 Q. Would you please state your name for the
9 record, please.

10 A. Jonathan Frye, F-R-Y-E.

11 Q. And where are you employed?

12 A. Public Utilities Commission of Ohio,
13 Transportation Department, 180 East Broad Street,
14 Columbus, Ohio 43215.

15 Q. And did you have occasion to review the
16 record of the Examination Report here that was issued
17 to Mr. Faruk Kacar?

18 A. Yes.

19 Q. Okay. And did you also review a Notice
20 of Preliminary Determination in this case?

21 A. Yes, yes.

22 Q. And I have up there marked as Staff
23 Exhibit 2. Can you please identify that document,
24 please.

25 A. Yes. It's the Notice of Preliminary

Determination letter that's sent to Respondent when we are unable to reach a resolution of a case, and it provides them with information on how to pay a fine and also how to make a request for administrative hearing.

Q. Okay. And how much is that forfeiture here in this case?

A. \$100.

Q. And is that what you're recommending for the Commission to assess in this case?

A. Yes.

Q. Okay. And the address that this was sent to for Mr. Kacar, is that noticed here on the --

A. Yes, it is.

Q. -- correspondence?

A. Yes.

Q. And what is that address?

A. 3725 Enfield Avenue, Skokie, Illinois, 60076.

MR. JONES: Your Honor, I have no further questions of Mr. Frye, and I would like to move for the admission of Staff Exhibit 2.

EXAMINER McKENNEY: Thank you, Mr. Frye. I have no questions.

Staff Exhibit 2 is so admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 MR. JONES: Your Honor, after the fact
3 that we've been hear now for 25 minutes after 10 on
4 the date that the hearing was scheduled to begin and
5 Mr. Kacar not being present, I would also move for
6 default judgment on the fact in the Ohio
7 Administrative Code there is a provision that allows
8 for such a motion to be asked for, and I ask for that
9 in this case since he was served the Notice of
10 Preliminary Determination. He did serve -- he did
11 receive notice of the entry that set this hearing for
12 the date. In fact, I think, if my memory serves me
13 correctly, Mr. Kacar had requested this date for his
14 hearing and he is not here today and I would ask for
15 default judgment on that basis.

16 EXAMINER McKENNEY: Thank you. Your
17 motion is taken under advisement. The Commissioners
18 of the Public Utilities Commission will rule on that
19 motion.

20 Anything further?

21 MR. MAYES: Nothing further, your Honor.

22 EXAMINER McKENNEY: We are adjourned.
23 Let's go off the record.

24 (Thereupon, at 10:25 a.m., the hearing
25 was concluded.)

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Monday, October 17,
2016, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6260)

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This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 16-0766-TR-CVF

Summary: Transcript In the Matter of Faruk Kacar, Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on October 17, 2016. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.