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Armstrong & Okey, Inc., Columbus, Ohio (614) 224-9481

1 APPEARANCES:

2 Michael DeWine, Ohio Attorney General  
3 By Steven S. Beeler  
4 Assistant Attorney General  
5 30 East Broad Street, 16th Floor  
6 Columbus, Ohio 43215

7 On behalf of the Staff of the Public  
8 Utilities Commission of Ohio.

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Thursday afternoon,  
February 9, 2017.

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THE ATTORNEY EXAMINER: The Public  
Utilities Commission of Ohio has called for hearing  
at this time and place Case No. 16-1880-TR-CVF,  
being in the matter of Tony Ford, notice of apparent  
violation and intent to assess forfeiture. My name  
is Nick Walstra. I'm the attorney examiner assigned  
by the commission to hear this case.

We'll begin by taking appearances.

MR. BEELER: Thank you, Your Honor. On  
behalf of the Staff of the Public Utilities  
Commission of Ohio, Ohio Attorney General Mike  
DeWine, Steven Beeler, assistant attorney general,  
30 East Broad Street, 16th floor, Columbus, Ohio  
43215.

THE ATTORNEY EXAMINER: Thank you.  
I'll note for the record that Mr. Ford, the  
respondent, is not present. It's a little -- it's  
1:10 p.m. now. At this point, we will just proceed.

Mr. Beeler.

MR. BEELER: Thank you, Your Honor.  
The Staff of the Public Utilities Commission in this  
case would move for a default judgment, and that's

1 according to OAC Rule 4901:2-7-14(E), which states  
2 that "a respondent who has requested an  
3 administrative hearing and fails to appear for the  
4 evidentiary hearing shall be in default. A  
5 respondent in default shall be deemed to have  
6 admitted the occurrence of the violation and waived  
7 all further right to contest liability for the  
8 forfeiture proposed in the notice of preliminary  
9 determination or to contest the making of the  
10 compliance order described in the notice of  
11 preliminary determination."

12 And, Your Honor, I would note that today we  
13 have -- we do have a correction to the driver  
14 examination report and the notice of preliminary  
15 determination. We were going to delete one of the  
16 violations.

17 THE ATTORNEY EXAMINER: Okay.

18 MR. BEELEER: So I'm going to put my  
19 witnesses on to just describe that correction, and  
20 then I will move for default judgment on the balance  
21 of the -- with the change. So the balance of the  
22 case, I'll move for default judgment.

23 THE ATTORNEY EXAMINER: That sounds  
24 good. Call your first witness.

25 MR. BEELEER: Thank you. At this time,

1 Staff will call Inspector Schneider to the stand.

2 - - -

3 MICHAEL SCHNEIDER,  
4 called as a witness, being first duly sworn,  
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BEELEER:

8 Q. Good afternoon.

9 A. Afternoon.

10 Q. Please state your full name for the  
11 record.

12 A. Michael Schneider, S-C-H-N-E-I-D-E-R.

13 Q. Where are you employed?

14 A. I'm employed at the Ohio State Highway  
15 Patrol, Warren District headquarters.

16 Q. And, now, what is your position within  
17 the highway patrol?

18 A. I am a motor carrier supervisor.

19 Q. How long have you been in that  
20 position?

21 A. In this position? Seven years.

22 Q. How long have you been with the patrol?

23 A. 38.

24 Q. Okay. What are your duties in your  
25 current capacity?

1           A.     My job is to supervise the motor  
2 carrier enforcement personnel in the Warren  
3 District.

4           Q.     Okay. What sort of training do you  
5 have in that area?

6           A.     I received my NAS training, my North  
7 American Standards training, back in October of  
8 1992, both Part A and Part B. I went through  
9 recertification school in '98, and I became a motor  
10 supervisor in 2001. I'm an NAS instructor -- Part  
11 A, Part B, and PVI.

12          Q.     And then you do continuing, yearly  
13 re-education courses, correct?

14          A.     Yes. We do yearly in-service.

15          Q.     Okay. Just quickly, are your motor  
16 carrier inspections conducted to protect the safety  
17 of Ohio's traveling public?

18          A.     Yes, they are.

19          Q.     How many inspections do you think you  
20 perform in a year?

21          A.     About 400.

22                 MR. BEELEER: Okay. May I approach the  
23 witness?

24                 THE ATTORNEY EXAMINER: You may.

25                 (Staff Exhibit 1 marked for identification.)

1 BY MR. BEELER:

2 Q. I have what's marked as Staff  
3 Exhibit 1. This is the driver/vehicle examination  
4 report with an inspection date of April 1, 2016.  
5 Just take a quick look at that.

6 Do you recognize this document?

7 A. Yes, sir.

8 Q. Is this document a patrol record?

9 A. Yes, it is.

10 Q. And is it kept in the ordinary course  
11 of the business of the patrol?

12 A. Yes, it is.

13 Q. And it's the practice of the patrol to  
14 make the report?

15 A. Yes, it is.

16 Q. And you prepare this report on matters  
17 observed pursuant to a duty imposed by law, which  
18 there was a duty to report by you, correct?

19 A. Yes.

20 Q. Okay. Is this document in the same  
21 condition as when you originally prepared it?

22 A. Yes, it is.

23 Q. Okay. So I understand you have some  
24 corrections to make to this report today; is that  
25 correct?



1 A. Yes.

2 Q. What is that correction?

3 A. I'd like to remove the violation of  
4 391.15A-NSIN from the report, which is driving under  
5 suspension.

6 Q. Okay. And why are you deleting that?

7 A. I have no proof that at that time he  
8 was under suspension.

9 Q. Okay. So you were mistaken that the  
10 day of the -- the day of this -- of the stop --

11 A. Yeah.

12 Q. -- at least as of today?

13 A. Yes.

14 Q. Okay. But the remainder of the other  
15 two violations, which is failing to wear a seat belt  
16 while operating a CMV and operating a motor vehicle  
17 without carrying a valid medical certificate --  
18 those two violations are still valid?

19 A. Yes, sir, they are.

20 MR. BEELER: Thank you. No further  
21 questions, Your Honor.

22 THE ATTORNEY EXAMINER: Thank you.

23 MR. SCHNEIDER: Thank you.

24 MR. BEELER: At this time, Staff would  
25 call its second witness, Alan Martin.

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ALAN MARTIN,  
called as a witness, being first duly sworn,  
testified as follows:

DIRECT EXAMINATION

BY MR. BEELER:

Q. Please state your name for the record.  
A. It's Alan A-L-A-N; Martin, M-A-R-T-I-N.  
Q. Where are you employed?  
A. Public Utilities Commission of Ohio.  
Q. And what is your position?  
A. I'm a deputy director.  
Q. How long have you been in that  
position?  
A. 14 years.  
Q. What are your duties in that position?  
A. I oversee the Motor Carrier Safety  
Assistance Program for the state. I also oversee  
the Civil Forfeiture Division and the Registration  
Division of the Transportation Department.  
Q. What sort of training and continuing  
education do you have in this area?  
A. Overall, I have a master's degree in  
public administration. I've taken the Part A  
course. I've taken a variety of hazmat courses so

1     that I have general understanding and awareness of  
2     how the process works -- the inspectors and how they  
3     do their job.

4                   MR. BEELER:   May I approach Your Honor?

5                   THE ATTORNEY EXAMINER:   You may.

6                   (Staff Exhibit 2 marked for identification.)

7     BY MR. BEELER:

8                   Q.     I have what's been marked as Staff  
9     Exhibit 2, which is the notice of preliminary  
10    determination sent to the respondent, Tony Ford, on  
11    August 1, 2016.  Do you recognize this document?

12                  A.     Yes, I do.

13                  Q.     What is it?

14                  A.     It's a notice of preliminary  
15    determination.  It's sent to the carrier once we've  
16    had an opportunity to review the case and offer the  
17    respondent an opportunity for a conference.

18                  Q.     Did you review this document in  
19    preparation for today?

20                  A.     Yes, I did.

21                  Q.     And is this document a commission  
22    record?

23                  A.     Yes, it is.

24                  Q.     Kept in the ordinary business of the  
25    commission?

1 A. Yes.

2 Q. And it's the practice of the commission  
3 to make this report; is that correct?

4 A. Correct.

5 Q. So I understand that a change is  
6 made -- one of the violations is deleted, according  
7 to Inspector Schneider. Can you please tell me,  
8 with that change, how does that affect this report?

9 A. Yes. So the first violation that's  
10 listed on here, driving a CMV while disqualified,  
11 would be deleted from the violations listed.

12 Q. Okay.

13 A. And what would remain are two \$100  
14 violations for 391.14A-F and 392.16. These are what  
15 we call Group 4 violations, and they stand on their  
16 own with the dollar amount as listed on here. So  
17 the total would go from a \$300 total fine to a \$200  
18 total fine.

19 Q. So -- yeah. So with the change, we're  
20 essentially just going from \$300 to \$200, correct?

21 A. Correct.

22 Q. All right. So that \$200 penalty -- is  
23 that consistent with the recommended fine schedule  
24 and recommended civil penalty procedure adopted by  
25 the Commercial Motor Vehicle Alliance?

1           A.     Yes.

2           Q.     And would you recommend the \$200 as the  
3 correct amount to the commission?

4           A.     Yes.

5           MR. BEELER:  No further questions.  
6 Thank you.

7           THE ATTORNEY EXAMINER:  Thank you.

8           MR. BEELER:  At this time, Your Honor,  
9 Staff would move for the admission of Staff  
10 Exhibit 1 and Staff Exhibit 2 into the record.

11          THE ATTORNEY EXAMINER:  They will both  
12 be admitted.

13          (Exhibits admitted into evidence.)

14          MR. BEELER:  And, again, Staff would  
15 renew its motion for default judgment for the  
16 balance of the remaining \$200 and the remaining two  
17 violations from the report in this case.

18          THE ATTORNEY EXAMINER:  The commission  
19 will take that under advisement.

20          MR. BEELER:  Nothing further.

21          THE ATTORNEY EXAMINER:  All right.  
22 Thank you.  We're adjourned.

23          (Thereupon, the hearing was concluded at  
24 10:18 a.m.)

25                               - - -

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the proceedings  
taken by me in this matter on Thursday, February 9,  
2017, and carefully compared with my original  
stenographic notes.

Heather A. Piper, Registered  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires October 29, 2020.

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 16-1880-TR-CVF**

Summary: Transcript In the Matter of Tony R. Ford, hearing held on February 9,2017.  
electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Piper,  
Heather A. Ms.