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APPEARANCES:

Michael DeWine, Ohio Attorney General  
By Steven L. Beeler, Esq.  
Assistant Attorney General  
30 East Broad Street, 16th Floor  
Columbus, Ohio 43215

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

William B. Ketchum  
11440 Columbiana Canfield Road  
Canfield, Ohio 44406

Appearing pro se.

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Tuesday morning,  
August 15, 2017.

- - -

ATTORNEY EXAMINER SHEETS: The Public Utilities Commission of Ohio has set for hearing at this time and place Case No. 17-591-TR-CVF in the matter of William B. Ketchum. My name is Kerry Sheets. I'm an attorney examiner for the Commission, and I've been assigned to hear this case.

May I now have the appearances of the parties, please, starting with Staff.

MR. BEELER: Thank you, Your Honor. On behalf of the Staff of the Public Utilities Commission of Ohio, Ohio Attorney General Mike DeWine, I'm Assistant Attorney General Steven Beeler. My address is 30 East Broad Street, 16th Floor, Columbus, Ohio 43215. Thank you.

ATTORNEY EXAMINER SHEETS: Thank you.  
Now, Mr. Ketchum, would you please give your name and address.

THE RESPONDENT: William B. Ketchum, and my address is 11440 Columbiana Canfield Road, Canfield, Ohio.

ATTORNEY EXAMINER SHEETS: Thank you.

1 Do we have any preliminary matters to take  
2 care of this morning?

3 MR. BEELER: No, Your Honor.

4 ATTORNEY EXAMINER SHEETS: Do you have  
5 any witnesses to call?

6 MR. BEELER: Yes, Your Honor. The  
7 Staff would call Inspector Maffitt to the stand.

8 (Witness sworn.)

9 ATTORNEY EXAMINER SHEETS: Be seated.

10 - - -

11 GLEN L. MAFFITT,  
12 called as a witness, being first duly sworn,  
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BEELER:

16 Q. Good morning. Could you state your  
17 full name for the record.

18 A. My name is Glen L. Maffitt. That's  
19 Glen with one N.

20 Q. Okay. Where are you employed?

21 A. I work for the State of Ohio State  
22 Highway Patrol. I work with the motor carrier  
23 enforcement up in Warren, Ohio.

24 Q. Okay. And what is your exact position?

25 A. I work in motor carrier enforcement.

1 Q. Okay. And do you have a title? Motor  
2 carrier inspector?

3 A. Motor carrier enforcement inspector.

4 Q. Okay. How long have you been with the  
5 patrol?

6 A. In November, it will be 28 years.

7 Q. Okay. And for that eight years, have  
8 you been in this same position the entire time?

9 A. No. I've been in this position since  
10 probably 2000, 2001.

11 Q. Okay. What are your duties in your  
12 capacity as a motor carrier inspector?

13 A. I inspect commercial motor vehicles,  
14 trucks, busses.

15 Q. Okay.

16 A. Inspect drivers' logbooks. If there's  
17 a crash, we get called out and do an inspection, see  
18 if we determine if there were any defects prior to  
19 the crash or not.

20 Q. Okay. What sort of training do you  
21 have for your position?

22 A. We had to go to Part A and Part B  
23 school. We've been to hazmat class. We are  
24 certified in different types of hazardous materials,  
25 bulk, nonbulk, other buck, tankers, and motor

1 coaches.

2 Q. Okay. And that's an initial training  
3 that you take. Do you also take ongoing training  
4 for your job?

5 A. Yes.

6 Q. Okay. Just generally, would you -- you  
7 would say that motor carrier inspections are  
8 conducted to protect the safety of the traveling  
9 public in Ohio, correct?

10 A. Yes.

11 Q. How many inspections do you perform on  
12 average per year?

13 A. Oh, anywhere from 1,000 to 1,300  
14 inspections.

15 MR. BEELER: Okay. May I approach the  
16 witness, Your Honor.

17 ATTORNEY EXAMINER SHEETS: You may.

18 MR. BEELER: I would ask to be marked  
19 as Staff Exhibit 1 -- this is the driver examination  
20 report that is with an inspection date of  
21 October 10, 2016.

22 (Staff Exhibit 1 was marked for  
23 identification.)

24 BY MR. BEELER:

25 Q. Do you recognize this document?

1           A.     Yes.  The format's a little different  
2  than what we print out, but it's got all the same  
3  information on there.

4           Q.     So it's substantially the same as the  
5  document that you print out?

6           A.     Yes.

7           Q.     Is this document a patrol record?

8           A.     I would say, the way this is formatted,  
9  this would be for PUCO.

10          Q.     Okay.

11          A.     But with it having all the same  
12  information, yeah, it's an official document.

13          Q.     Okay.  And it's kept in the ordinary  
14  course of business of the patrol?

15          A.     Yes.

16          Q.     And it's the practice, when you make  
17  these stops, to make a report on each stop, correct?

18          A.     Correct.

19          Q.     And you report on matters observed  
20  pursuant to a duty imposed by law as to which there  
21  was a duty by you to report, correct?

22          A.     Yes.

23          Q.     Was the reason for preparing this  
24  report an inspection of the motor carrier vehicle  
25  operated by Murray Trucking, Inc.?



1 A. Yes.

2 Q. Do you remember this inspection?

3 A. For the most part, yes.

4 Q. Okay. Who's the driver listed on the  
5 report?

6 A. It would be William B. Ketchum.

7 Q. Is Mr. Ketchum here today?

8 A. Yes. He's sitting over there.

9 Q. Does the driver get a copy of the  
10 report at the stop?

11 A. Yes.

12 Q. And you gave him that copy?

13 A. Correct.

14 Q. Okay. Is there a violation noted on  
15 this report?

16 A. Yes. It would be for the seat belt.

17 Q. Okay. And that would be a violation  
18 for failure to use seat belt, and that is  
19 49 CFR 392.16(a). That's correct?

20 A. The section that we use is 392.16 of  
21 the Federal Motor Carrier Safety regulations.

22 Q. Okay. You observed Mr. Ketchum not  
23 wearing his seat belt; is that correct? When you  
24 observed him?

25 A. Well, when I saw Mr. Ketchum, I was in

1 the crossover watching eastbound traffic. And when  
2 he went past, I did not see his seat belt over top  
3 of his shoulder like I would want I would want to  
4 see.

5 So I stopped Mr. Ketchum, and I asked him --  
6 I said, "How come you weren't wearing your seat  
7 belt?" At that point in time, it looked like he had  
8 no seat belt on.

9 Q. When you approached the cab, it didn't  
10 look like he -- it still didn't look like he had a  
11 seat belt on, correct?

12 A. Correct.

13 And he said, "Look." And he opened the door  
14 or I looked in, and he says, "I've got my seat  
15 belt -- lap belt under." And he showed me that he  
16 did have it on.

17 And then I said, "Well, how come you don't  
18 have your shoulder harness over top your shoulder  
19 and you seem to be wearing it underneath?"

20 And he said, "Well, I'm a short person, and  
21 if I wear it over top of my shoulder here, it rubs  
22 my neck, and it's very uncomfortable for me to do  
23 that."

24 Q. Okay. There are some inspection notes  
25 on this report, Staff Exhibit 1. Could you just

1 read those inspection report for the record -- or  
2 the inspection notes.

3 A. "Driver was eastbound on Interstate  
4 Route 80, and I was stopped in the crossover and  
5 watched the driver driving without his seat belt on.  
6 When stopped and asked why was he driving without  
7 his seat belt on, driver said he was adamant about  
8 wearing his seat belt and wears the shoulder strap  
9 under his left arm because he is short and it rubs  
10 his neck."

11 Q. Okay. And you completed these notes  
12 contemporaneously on the day of the stop, correct?

13 A. Yes. Before he got his copy.

14 Q. Okay. So going back up to the  
15 violations box on the -- on Staff Exhibit 1, there's  
16 a violation description there. So the first part of  
17 that violation, the "failing to use seat belt while  
18 operating a CMV" before that colon there, that  
19 just -- when you put that violation in, that's  
20 automatic, right?

21 A. Right. It automatically comes up, and  
22 then you add description to it.

23 Q. So the rest, the stuff that's in all  
24 caps, that's notes that you added, right?

25 A. Correct.

1 Q. Could you read that?

2 A. It says: "Driver had a teal shirt, and  
3 the truck had a gray seat belt."

4 Q. Okay. And you complete that note  
5 contemporaneously at the stop as well, correct?

6 A. Yes.

7 Q. Okay. Why did you put that note in  
8 there? Teal shirt, gray seat belt.

9 A. Because it helps people understand what  
10 took place, what I was seeing.

11 Q. Okay. So you --

12 A. It was a contrasting color. If it was  
13 a black seat belt on a black shirt, it may have been  
14 harder to see.

15 Q. Okay.

16 A. A white shirt to black seat belt is  
17 more of a contrasting color, and it would be easier  
18 to spot.

19 Q. Okay. So you look for different colors  
20 across the chest, correct?

21 A. Correct.

22 Q. Okay. And when you observed  
23 Mr. Ketchum, you didn't see -- all you see was teal  
24 shirt. Did not see any contrasting colors, correct?

25 A. Correct.

1 Q. So commonly, as part of your job in  
2 your 1,000 to 1,300 inspections a year, you commonly  
3 look for drivers not wearing their seat belts,  
4 correct?

5 A. Yes.

6 Q. The reason code on your inspection is  
7 OBVI. That means obvious, correct?

8 A. Yes, it does.

9 Q. So because you witnessed, observed  
10 Mr. Ketchum without a seat belt, you pulled him over  
11 because of that, correct?

12 A. That's correct, yes.

13 Q. The stop was at -- at least it started  
14 at 8:50 in the morning; is that correct?

15 A. Yes.

16 Q. Okay. No rain that day that you  
17 remember?

18 A. Not that I recall. I think it was --  
19 from what I remember, it was a clear day.

20 Q. Okay. And the truck was heading  
21 eastbound on I-80 --

22 A. Yes.

23 Q. -- according to your notes. That's  
24 correct? So the sun wouldn't have been an issue for  
25 you?

1 A. No. I use the sun to my advantage.

2 Q. Yeah. So the sun --

3 A. If he's driving east into the sun, a  
4 lot of times, the sun will light up the inside of  
5 the cab, and that it makes very easy to see things.

6 Q. It illuminates the cab, correct?

7 A. Yes.

8 Q. So as a result of your observation, you  
9 then cited Mr. Ketchum with the violation, correct?

10 A. Yes.

11 Q. I know you said that Mr. Ketchum was  
12 adamant about wearing his seat belt under his arm  
13 because he is short and it rubs his neck. Is that a  
14 proper way to wear the seat belt?

15 A. Well, let me explain if this helps.  
16 Mr. Ketchum says he's adamant in wearing his seat  
17 belt, and then he said that he wears the shoulder  
18 harness. He said -- he wasn't adamant about wearing  
19 his shoulder harness under his arm. He did say the  
20 seat belt specifically he was adamant about wearing  
21 like that.

22 Q. Okay. So wearing a shoulder harness  
23 under your arm, in your professional opinion, is not  
24 the proper way to wear the -- to use the seat belt  
25 assembly, correct?

1           A.     Well, if I may say, it's not my  
2     opinion.  It's the way the rules are worded.  But  
3     when we see violations that are in black and white  
4     and then we stop the truck, we have a legitimate  
5     violation.

6           Q.     But you are a motor carrier inspector.  
7     It is your professional opinion here --

8           A.     Yes.

9           Q.     -- that that was a violation because --

10          A.     Yes.

11          Q.     -- the seat harness was not worn  
12     properly, correct?

13          A.     Yes.  I enforce the rules.

14          Q.     Okay.  The seat belt assembly was all  
15     one piece, correct?  It wasn't two separate pieces,  
16     one for the shoulder, one for the waist, correct?

17          A.     It was one piece.  That's correct, yes.

18          Q.     Similar to most cars today, right?

19          A.     I would say yes.

20          Q.     So from your testimony, again, when you  
21     observed him on the road, you didn't see -- you  
22     didn't see a seat belt; but then, when you  
23     approached the truck and opened the door, he --  
24     Mr. Ketchum still had the shoulder harness under his  
25     arm, correct?

1           A.     Correct, yes.

2           Q.     So you observed that as you approached  
3 the truck, right?

4           A.     Yes.

5           Q.     Okay. So it's your testimony -- with  
6 all that, it is your testimony here today that  
7 Mr. Ketchum was in violation of the regulation,  
8 correct?

9           A.     Yes.

10          Q.     Okay. Anything else that you can think  
11 of that would be important for the examiner to know  
12 or the Commission to know here today that we didn't  
13 talk about?

14          A.     Not that I can think of. That pretty  
15 much covers it.

16                   MR. BEELER: Okay. No further  
17 questions for this witness, Your Honor.

18                   I would move Staff Exhibit 1 into the  
19 record or ask for it to be moved into the record  
20 subject to any cross-examination from Mr. Ketchum.

21                   ATTORNEY EXAMINER SHEETS: Okay. I'll  
22 admit Staff Exhibit 1 into the evidence.

23                   (Exhibit admitted into evidence.)

24                   ATTORNEY EXAMINER SHEETS: Mr. Ketchum,  
25 do you have any questions for this witness?



1 THE RESPONDENT: Yes.

2 ATTORNEY EXAMINER SHEETS: If you do,  
3 come up here, please.

4 Go ahead and you can ask your question.  
5 You've got to -- you have to ask questions now.  
6 Then you get an answer. Then you go on. That's the  
7 way we conduct the hearing: question and answers.

8 THE RESPONDENT: Okay.

9 ATTORNEY EXAMINER SHEETS: So go ahead.

10 THE RESPONDENT: I'm no attorney, but I  
11 drove three hours for this.

12 ATTORNEY EXAMINER SHEETS: Speak up,  
13 will you, please.

14 THE RESPONDENT: Okay.

15 - - -

16 CROSS-EXAMINATION

17 BY THE RESPONDENT:

18 Q. My first question is: When I passed  
19 you on Route 80 going eastbound, you're sitting in  
20 the middle in the medium [sic] just west of the  
21 Hubbard exit, correct?

22 A. Yes.

23 Q. Okay. When I went past you, you said  
24 that you seen I had no seat belt on, correct?

25 A. I didn't see the shoulder harness.

1 Q. You didn't see the shoulder harness.

2 A. Correct.

3 Q. You didn't see the seat belt.

4 A. Correct.

5 Q. You did not see the seat belt.

6 A. You mean your lap belt?

7 Q. You didn't see the seat belt at all,  
8 correct?

9 A. Are you referring to the lap belt or  
10 the shoulder harness, sir?

11 Q. No. I'm asking you if you seen my seat  
12 belt off.

13 A. Okay. I would say no because the seat  
14 belt would be your lap belt, and that would be down  
15 below the window, and I did not see that.

16 Q. Okay. You didn't see that. Okay.

17 When I went past you and you pulled out, you  
18 were probably two miles west of the Hubbard exit,  
19 correct? Because it's right after Belmont Avenue.  
20 I've already went up and measured it.

21 A. Somewhere around there.

22 Q. Okay. When you drove up, why did you  
23 drive beside me for at least one mile with one hand  
24 on the wheel, leaning over with your passenger  
25 window open, looking up at me? Because you didn't

1 know if I had my seat belt on because you couldn't  
2 see it, correct?

3 ATTORNEY EXAMINER SHEETS: You can't  
4 supply the testimony now. You have to ask  
5 questions. Okay?

6 THE RESPONDENT: Okay.

7 BY THE RESPONDENT:

8 Q. But why did you drive beside me for so  
9 long looking out your window?

10 A. For two reasons. And I don't look out  
11 my window for so long.

12 I pull up beside the driver. Okay? And  
13 when I get right up and just a little bit past the  
14 cab, I turn real quick and I look back like this  
15 because now my line of vision is looking back at you  
16 like this rather than straight across. If I look  
17 straight across, the seat belt could be back into  
18 the cab area where I'm not able to see if you're  
19 wearing it or not.

20 Q. Yes.

21 A. Okay? So I pull slightly forward, and  
22 I turn and look a little bit back to my right. Then  
23 I can clearly see the driver's shoulder without any  
24 obstructions to see whether he has it in the right  
25 location or not. That's why I do that.

1 Q. Okay. And you're driving the SUV?

2 A. That's correct.

3 Q. You can look back and see.

4 A. Absolutely.

5 Q. But you weren't leaning over, looking  
6 out the window at me?

7 A. No. I looked like this. And about  
8 like that, I can tell. I have to pay attention and  
9 watch where I'm going so I don't run into things.

10 Q. Yeah. Because you were on the dotted  
11 line, I was on the white line, and you pulled me  
12 over. Do you think it is correct to pull someone  
13 over right in front of the barrels in a construction  
14 loan which -- I have 8 foot of lumber on my  
15 trailer -- blocking the whole flashing sign at the  
16 merge point, which I sat in my truck while you was  
17 in your car --

18 ATTORNEY EXAMINER SHEETS: You have to  
19 ask questions now.

20 BY THE RESPONDENT:

21 Q. I mean, do you think that's a safe  
22 procedure to pull me over right there?

23 A. Does that have to do with why I pulled  
24 you over for the seat belt?

25 Q. No. I'm asking if that's a safe

1 procedure because I felt unsafe parking there. And  
2 then when you asked for registration, is it --

3 ATTORNEY EXAMINER SHEETS: Okay. We  
4 have to let him give an answer now.

5 THE RESPONDENT: Okay.

6 THE WITNESS: Okay. Where I stopped  
7 you was at the widest point in the road, was it not?  
8 Was it right there on the Hubbard exit, where we had  
9 that extra right lane for safety purposes, away from  
10 the higher speed traffic? Yes, it was. That's why  
11 we stopped there. Okay?

12 BY THE RESPONDENT:

13 Q. So it's safe the pull a truck over and  
14 block the flashing light.

15 A. It's safer right there at the wider  
16 spot of the road than it would be at the narrower  
17 part. That's why we do it that way.

18 Q. Are you aware of how many accidents in  
19 the construction zone in the Youngstown  
20 680/76/Route 80 area? Are you aware that there's an  
21 accident on the news every night in that  
22 construction zone, just about?

23 A. Well, they do give us overtime because  
24 it's what you call a high crash area.

25 Q. Okay. And -- but when you walked up to

1 my truck and you looked in the truck, this thing  
2 that you're saying I said, that I put it under my  
3 arm -- you said that I told you I put it under my  
4 arm, correct?

5 A. According to what the notes said,  
6 that's what you told me.

7 Q. Okay. Questions.

8 Okay. Isn't it true that I told you almost  
9 one year to the day that you pulled me over -- I  
10 told you the story. I got a seat belt violation for  
11 having it under my arm because it rubs my neck. I  
12 explained that to you. You told me I need to buy a  
13 thing to put on there.

14 A. I said you're welcome to check with the  
15 manufacturer if you wanted to do --

16 Q. Okay. But --

17 A. -- something like that. Sometimes  
18 there are --

19 Q. Didn't I explain to you what happened  
20 to me and I told you that I had the seat belt under  
21 my arm and I got a ticket for it?

22 A. Would you let me finish the answer?

23 Q. Okay.

24 A. You were talking about sometimes it  
25 rubs your neck. I explained to you that you could

1 put something on there that would be a softer  
2 product --

3 Q. Yeah, I know that.

4 A. -- that maybe wouldn't do that as an  
5 option for you. I'm not telling you that you had to  
6 do that. That's your business.

7 Q. But didn't I say to you that I got  
8 picked up, I have a seat belt violation because I  
9 had it on incorrect? I had it under my arm. I  
10 explained that to you.

11 A. I don't remember that.

12 ATTORNEY EXAMINER SHEETS: Okay. We've  
13 asked that question now about three times. He's  
14 given an answer.

15 THE WITNESS: I don't remember that.

16 THE RESPONDENT: Okay.

17 ATTORNEY EXAMINER SHEETS: So you're  
18 going to another question.

19 BY THE RESPONDENT:

20 Q. So you're driving beside me to see.  
21 And you say that you seen when you were parked in  
22 the middle, in the medium strip. I was going east,  
23 and you had seen that I had no seat belt on.

24 A. I'm saying you didn't have your  
25 shoulder harness where it belonged, yes.

1 Q. Okay. Then, if I didn't have it on  
2 when you pulled out, why didn't you pull me over  
3 then?

4 A. Because I had to catch up to you first.  
5 There's two lanes there. Okay?

6 Q. Correct.

7 A. There's two lanes, and it's better for  
8 both of us for me to stop you where we have that  
9 extra third lane where traffic is slower for the  
10 exit and we have more room between us and the faster  
11 traffic.

12 Q. Yeah, the two lanes. So it's standard  
13 procedure for you to drive up and ride beside me for  
14 a mile before you back out of it, get behind me,  
15 then turn your lights on? That's normal procedure?

16 A. I don't know about procedure, but  
17 sometimes I do that. That's not uncommon.

18 Q. Is it true that you were riding beside  
19 me looking because you didn't know if I had my seat  
20 belt on?

21 A. No, but --

22 MR. BEELER: Objection. I think he's  
23 answered that before.

24 THE RESPONDENT: But that's what he was  
25 doing.



1                   ATTORNEY EXAMINER SHEETS: We've  
2 covered it before.

3                   THE RESPONDENT: Okay. Then I have  
4 nothing further.

5                   ATTORNEY EXAMINER SHEETS: No more  
6 questions? Okay.

7                   THE RESPONDENT: But I had to --

8                   ATTORNEY EXAMINER SHEETS: You'll have  
9 the chance to testify in a minute.

10                  MR. BEELER: Can I have just one  
11 second, Your Honor?

12                  ATTORNEY EXAMINER SHEETS: Go ahead.

13                  MR. BEELER: No further questions, Your  
14 Honor.

15                  ATTORNEY EXAMINER SHEETS: You're  
16 excused.

17                  MR. BEELER: At this time, Your Honor,  
18 I would reserve Inspector Maffitt for rebuttal if  
19 necessary.

20                  ATTORNEY EXAMINER SHEETS: That's fine.

21                  MR. BEELER: At this time, Staff will  
22 call its second witness, Rod Moser to the stand.

23                                 (Witness sworn.)  
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ROD A. MOSER,  
called as a witness, being first duly sworn,  
testified as follows:

DIRECT EXAMINATION

BY MR. BEELER:

Q. Good morning.

A. Good morning.

Q. Please state your full name for the  
record.

A. My name is Rod Allen Moser.

Q. Where are you employed?

A. With the Public Utilities Commission of  
Ohio, 180 East Broad Street.

Q. Okay. What is your position at the  
Commission?

A. I'm the chief of the compliance section  
within the Department of Transportation.

Q. What are your duties in that position?

A. I review inspections and oversee the  
conference process and the hearing process of the  
administration of forfeiture amounts.

Q. What is your training and  
qualifications to do that job?

A. Well, I worked for the highway patrol

1 for nearly 30 years, primarily in commercial  
2 enforcement. I also am trained in North American  
3 Standards Part A and Part B, and then I had  
4 on-the-job training with a more-experienced person  
5 when I came here.

6 Q. Okay. Just generally, before we get  
7 into the actual violations here, how does the  
8 Commission determine amounts of forfeitures?

9 A. They're generally based on the  
10 Commercial Vehicle Safety Alliance suggested  
11 amounts.

12 Q. Okay. So inspection reports come in  
13 that have violations listed on them. You look at  
14 those violations, and you determine dollar amounts  
15 from a forfeiture system that the Commission has,  
16 correct?

17 A. Yes. Basically, the process is  
18 automated. If the violation carries a fine or a  
19 forfeiture amount, the system will generate a letter  
20 to the individual, to the respondent, advising them  
21 of the violation and what the amount would be.

22 Q. And the Commission applies that process  
23 uniformly to everyone? Carriers? Shippers?  
24 Drivers?

25 A. Yes. No human intervention, just an

1 automated system.

2 MR. BEELER: May I approach the  
3 witness, Your Honor?

4 ATTORNEY EXAMINER SHEETS: You may.

5 MR. BEELER: I would like to have  
6 marked as Staff Exhibit 2 -- this is a notice of  
7 preliminary determination sent to the driver, and  
8 it's dated January 18, 2017.

9 (Staff Exhibit 2 was marked for  
10 identification.)

11 BY MR. BEELER:

12 Q. Do you recognize this document?

13 A. I do.

14 Q. What is it?

15 A. It's a copy of the letter that was sent  
16 to the respondent following a scheduled conference.  
17 The conference actually never took place. And this  
18 is a letter just saying what the Commission's stance  
19 is on this particular case.

20 Q. Okay. And this document is titled a  
21 notice of preliminary determination, correct?

22 A. That's correct.

23 Q. Did you review this document in  
24 preparation for the hearing today?

25 A. I did, yes.

1 Q. Is this a Commission record?

2 A. Yes, it is.

3 Q. Kept in the ordinary course of  
4 business?

5 A. Yes, sir.

6 Q. So explain how the forfeiture was  
7 derived in this case.

8 A. Well, all the violations are divided  
9 into groups depending on the severity of the  
10 violation, who committed the violation, whether it  
11 would be something assigned to a driver or a  
12 carrier.

13 This one happens to be a Group 4 violation,  
14 which is generally a driver violation. That's  
15 always a \$100 fine in our system.

16 Q. Okay. So the forfeiture amount here is  
17 \$100?

18 A. Yes.

19 Q. Is that penalty consistent with the  
20 recommended fine schedule and recommended civil  
21 penalty procedure adopted by the Commercial Motor  
22 Vehicle Alliance?

23 A. It is, yes.

24 Q. And it's a correct amount, correct?

25 A. It is a correct amount.

1 Q. Okay. Would you recommend this amount  
2 to the Commission?

3 A. Yes, sir, I would.

4 Q. Anything else that you can think of  
5 that would be important to note for the examiner or  
6 the Commission?

7 A. No, sir.

8 MR. BEELER: Thank you. No further  
9 questions.

10 At this time, I would move for the  
11 admission of Staff Exhibit 2 subject to  
12 cross-examination by Mr. Ketchum.

13 ATTORNEY EXAMINER SHEETS: I will admit  
14 Staff Exhibit 2 into evidence at this time.

15 (Exhibit admitted into evidence.)

16 ATTORNEY EXAMINER SHEETS: Mr. Ketchum,  
17 do you have any questions for this witness?

18 THE RESPONDENT: No.

19 ATTORNEY EXAMINER SHEETS: You're  
20 excused.

21 MR. BEELER: I believe both Staff  
22 Exhibit 1 and Staff Exhibit 2 have been admitted.  
23 So, at this time, Staff has no further witnesses.

24 ATTORNEY EXAMINER SHEETS: You rest?  
25 Okay.

1 Mr. Ketchum, do you want to testify?

2 THE RESPONDENT: Yeah, I guess.

3 (Witness sworn.)

4 ATTORNEY EXAMINER SHEETS: Please be  
5 seated. Go ahead and give your testimony in a  
6 narrative style. Just please be short and concise  
7 and speak up for the reporter.

8 Go ahead. Tell us about the events on the  
9 day of the inspection.

10 - - -

11 WILLIAM B. KETCHUM,  
12 called as a witness, being first duly sworn,  
13 testified as follows:

14 DIRECT TESTIMONY

15 THE RESPONDENT: Okay. The way it  
16 happened is I wouldn't -- I was eastbound on  
17 Route 80. I passed PUCO. And after I went past, I  
18 seen him in my mirror, pulled out. I figured this  
19 was my day for an inspection which -- he never did  
20 no inspection, by the way.

21 And he come up beside me. Like I said, he  
22 was very close to my truck. He had his window  
23 rolled down. He was leaning over, looking up at me  
24 because I even put my hands up like, "What do you  
25 want?" You know? For about a mile at least. Then

1 he backed out of it, got behind me, turned his  
2 lights on, pulled me over.

3           When he walked up to my truck, he went to  
4 the passenger side, and he got up in the truck. He  
5 said, "Why weren't you wearing your seat belt?"

6           I said, "I was wearing my seat belt."

7           And he said, "Well, I need your license,  
8 registration, and I need the registration of that  
9 trailer." The trailer is a company trailer. My  
10 truck, company trailer.

11           I said, "I don't have the registration.  
12 It's on the trailer." So I had to get out, like I  
13 said, in the construction zone, right before the  
14 merge point, and get down beside the trailer and get  
15 the thing out -- the container to get the  
16 registration.

17           I gave it to him. He said, "Have a seat in  
18 your truck. I've got to do a short inspection. It  
19 won't be long." So I sat in my truck and waited.

20           He walked back up, passenger side again.  
21 He opened my door, climbed up in my truck, and  
22 handed me all my stuff back. And that's when I  
23 looked and seen "seat belt."

24           And I told him -- I said, "I had a seat  
25 belt ticket before," I said, "for not wearing it



1 correct." I said, "This time, I had it on correct."  
2 And I know for -- I know that he couldn't tell if I  
3 had it on or he wouldn't have been riding beside me  
4 like that.

5 I'm 55 years old. I've been trucking a  
6 long time. I've got two very good friends that work  
7 for a post pretty close to him -- state patrols. I  
8 know that -- I mean, he didn't want to do an  
9 inspection. I don't know why. Inspect the truck if  
10 you pull me over, but he just decided to write up  
11 seat belt. I think it was to meet his quota or  
12 something.

13 I don't mean to be ignorant or have an  
14 attitude, but I know that I had my seat belt on. I  
15 wouldn't have drove three hours to Columbus today  
16 over \$100, but it's the principle. It goes on my  
17 PSP score. That makes it harder, you know, applying  
18 for a job or anything. I don't need that on my  
19 record, especially knowing that I had it on.

20 That's all I've got to say.

21 ATTORNEY EXAMINER SHEETS: Does that  
22 conclude your testimony?

23 THE RESPONDENT: Yeah, that's it.

24 ATTORNEY EXAMINER SHEETS: Do you have  
25 any questions?

1 MR. BEELER: May I have a moment, Your  
2 Honor?

3 ATTORNEY EXAMINER SHEETS: You may.

4 MR. BEELER: Just a couple, maybe only  
5 one.

6 - - -

7 CROSS-EXAMINATION

8 BY MR. BEELER:

9 Q. You had -- you saw the report that was  
10 issued earlier, and you saw that there were some  
11 notes on there about a teal shirt.

12 A. Yeah.

13 Q. Did you have a teal shirt on that day?

14 A. Yeah. Blue.

15 Q. Blue? Okay. And then --

16 A. My seat belts are black, not gray.

17 Q. Seat belts are black? Okay.

18 A. But that ain't the one I got. I mean,  
19 what you gave me is not what I got.

20 Q. Okay. Yeah, you get the -- yeah. The  
21 printout that you got at the stop was the printout  
22 that comes from the patrol, correct?

23 A. Yeah.

24 MR. BEELER: No further questions, Your  
25 Honor.

1           ATTORNEY EXAMINER SHEETS: Do you have  
2 anything to say in response to what he just said?

3           THE RESPONDENT: No.

4           ATTORNEY EXAMINER SHEETS: You're  
5 excused.

6           Is there anything further today?

7           MR. BEELER: Nothing further, Your  
8 Honor. However, Staff would request a closing  
9 argument if the examiner would allow -- just a short  
10 closing argument.

11          ATTORNEY EXAMINER SHEETS: You're done?

12          MR. BEELER: I'm done, yes.

13          ATTORNEY EXAMINER SHEETS: Okay. Well,  
14 that said --

15          MR. BEELER: But I would request a  
16 short closing argument, if I could.

17          ATTORNEY EXAMINER SHEETS: Oh. Well,  
18 go ahead.

19          MR. BEELER: And thank you, Your Honor.

20                 In the case here, the evidence shows that,  
21 by the preponderance of the evidence, Mr. Ketchum  
22 was in violation of 49 CFR 392.16(a), failing to use  
23 a seat belt.

24                 Inspector Maffitt has particular expertise  
25 in motor vehicle inspection, prepared a report, and

1 testified that the driver violated that section.  
2 Inspector Maffitt testified, in his professional  
3 opinion, Mr. Ketchum violated that section because  
4 he failed to properly wear his seat belt while  
5 operating a commercial motor vehicle.

6 Inspector Maffitt observed from a  
7 stationary position on a good-weather day that  
8 Mr. Ketchum was in an illuminated cab with a teal  
9 shirt and had no seat belt across his chest. As a  
10 result, Inspector Maffitt pulled the driver over.  
11 The driver stated to him -- and Inspector Maffitt's  
12 notes repeat that, both in the vehicle description  
13 and in the inspector notes -- that Mr. Ketchum  
14 stated to him that the -- Mr. Ketchum wears his  
15 shoulder strap under his left arm because he is  
16 short and it rubs his neck.

17 That is not a proper manner of wearing a  
18 seat belt under the arm. The Commission has held in  
19 the past that wearing the shoulder strap under the  
20 arm is not a proper way to wear the seat belt in  
21 Case Nos. 08-734-TR-CVF -- that's a Lyden Oil  
22 case -- and 08-593-TR-CVF, Gregory Tincher. Where  
23 the seat belt assembly has a shoulder harness, it  
24 must be worn across the chest.

25 So here, Inspector Maffitt observed that

1 the driver was not wearing a seat belt at all in the  
2 first instance. But then, when he approached the  
3 cab, he also, a second time, witnessed when he  
4 opened the door that Mr. Maffitt still had the seat  
5 belt shoulder harness under his arm, and that was an  
6 improper use of the seat belt here. Inspector  
7 Maffitt testified that this violation is a safety  
8 issue that protects Ohio's travelers from accidents  
9 and harm to property and life.

10 Staff witness Moser testified that the  
11 forfeiture was correct in this case and it's  
12 consistent with the recommended fine schedule and  
13 recommended civil penalty procedure adopted by the  
14 Commercial Motor Vehicle Alliance. This is a  
15 nationally recognized system, and Staff applies this  
16 system to everyone.

17 So the Commission should order that the  
18 driver, Mr. Ketchum, violated 49 CFR 392.16(a) and  
19 order that the Mr. Ketchum pay the civil forfeiture  
20 of \$100. Thank you.

21 ATTORNEY EXAMINER SHEETS: Very good.

22 Do you have any remarks, to say in  
23 response?

24 THE RESPONDENT: Yes.

25 ATTORNEY EXAMINER SHEETS: Come up

1 here, please, so the reporter can hear you. Right  
2 here. Go ahead.

3 THE RESPONDENT: When the officer  
4 testified, I don't believe that he said when he  
5 walked to my truck that I had the seat belt under my  
6 arm. I had the seat belt on correctly. He never  
7 said that I had it under my arm. We talked about  
8 that because of a ticket I got for having it on  
9 wrong before.

10 And the simple fact that he admitted that  
11 he had to pull forward to look backwards to see if I  
12 had my seat belt on, for the simple fact -- when  
13 you're beside my truck, I don't care -- illuminating  
14 or not, sometimes the glare off the hood would screw  
15 that up too. So you can argue that.

16 But if he had to look back, that means when  
17 you're beside my truck -- when I passed him -- when  
18 you're beside my truck, the way the post is in an  
19 International -- now, in my Kenworth I used to have,  
20 you can see. This International, the way I sit in  
21 my truck, there ain't no way you can look in and see  
22 the strap because of the post in the window, and I  
23 know that. And I know that's why he was riding  
24 beside me for so long: because he couldn't see if I  
25 had it on or not.



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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, August 15, 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.



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