

FILE

# PUCO EXHIBIT FILING

Date of Hearing: 5/1/19

Case No. 19-183-TA-CVF

PUCO Case Caption: John Shiner

## List of exhibits being filed:

STATE - 1, 2 and 3

Respondent - A, B, C, D, E, F, G, No H and I

PUCO

2019 MAY 28 PM 3:10

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Reporter's Signature: [Signature] Date Submitted: 5/28/19

MAY 28 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of John M. Shirey :  
Notice of Apparent Violation : Case No.  
and Intent to Assess : 19-183-TR-CVF  
Forfeiture. :

- - -

PROCEEDINGS

Before Anna Sanyal, Attorney Examiner, held at  
the Public Utilities Commission of Ohio, 180  
East Broad Street, Hearing Room 11-D, Columbus,  
Ohio, on Wednesday, May 1, 2019, at 10:00 A.M.

- - -

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2019 MAY 28 PM 3:10  
PUCO

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

- - -

Staff Ex.1

## DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio  
180 East Broad Street  
Transportation Department  
Columbus, OH 43215  
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3233010037  
Inspection Date: 10/14/2018 Certification Date: 11/14/2018  
Time Started: 14:42 Time Ended: 17:15  
Inspection Level: II - Walk-Around  
HM Inspection Type: No HM Inspection

CAL-ARK INTERNATIONAL INC

PO BOX 990

MABELVALE, AR 72103-0990

USDOT #: 00546354

Phone #: (501)407-3388

MC/MX #: 270827

Fax #:

State #:

Driver: SHIREY, JOHN M

License #: 137723786

State: TN

Date of Birth: 11/8/1966

Location: ROADSIDE

MilePost: 217

Highway: IR71

Origin: SPRINGFIELD, OH

Bill of Lading: 96343

County: MEDINA

Destination: LAREDO, TX

Cargo: OTHER (EMPTY RACKS)

Shipper: INTERNATIONAL TRUCK &amp; ENGINE CORP

## VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TT	KW	2017	TN	B838HZ	8159	1XKYD49X3HJ153321	52,000			Y
2	ST	UTIL	2007	TN	U309127	2881	1UYVS25347P241531	65,000			Y

BRAKE ADJUSTMENTS: No brake measurements recorded.

## VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
392.5A2-POS	392.5(a)(2)	D	Y		N	N	Driver having possession of alcohol while on duty, or operating, or in physical control of a CMV: BEER CANS FOUND IN THE CAB OF THE TRUCK AT THE CRASH LOCATION.
393.207A	393.207(a)	1	Y		U	Y	**Axle positioning parts defective/missing: FRONT AXLE BROKE LOOSE FROM THE CMV
393.65C	393.65(c)	1	Y		U	Y	**Improper securement of fuel tank: FUEL TANK IS BROKE LOOSE FROM THE CMV AND IS LEAKING FUEL.
393.75A3	393.75(a)(3)	1	Y		U	U	Tire-flat and/or audible air leak: #2 LEFT TIRE LOOSE ON RIM 0 PSI.
393.60C	393.60(c)	1	N		N	Y	**Damaged or discolored windshield: CRACKED NUMEROUS LOCATION.
393.75A3	393.75(a)(3)	2	Y		U	U	Tire-flat and/or audible air leak: #4 RIGHT INSIDE AND OUTSIDE TIRES LOOSE ON RIM 0 PSI OF MAX PRESSURE 110 PSI
393.75A3	393.75(a)(3)	2	Y		U	U	Tire-flat and/or audible air leak: #5 RIGHT INSIDE AND OUTSIDE TIRES LOOSE ON RIM 0 PSI OF MAX PRESSURE 110 PSI

\* N - Non-OOS or Driver OOS Violation; U - Unknown

\*\* Y - The violation occurred because of the crash; U - Unknown

HazMat: No HM Transported.

Placard: NA Cargo Tank:

## Special Checks:

- ☐ Alcohol/Controlled Substance Check  
☐ Conducted by Local Jurisdiction  
☐ Size and Weight Enforcement  
☐ EScreening

- ☐ Traffic Enforcement  
☐ PASA Conducted Inspection  
☐ Drug Interdiction Search

- ☒ Post Crash Inspection  
☐ PBBT Inspection  
Arrests:

## Inspection Notes:

Report Prepared By:

T M GATESMAN

Badge #:

3233

Copy Received By:

SHIREY, JOHN M

Page 1 of 2



OH3233010037

# DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio  
180 East Broad Street  
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Phone #: (614)466-0429 Fax #: (614)752-9274

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CAL-ARK INTERNATIONAL INC  
PO BOX 990  
MABELVALE, AR 72103-0990

USDOT #: 00546354  
MC/MX #: 270827  
State #:

Phone #: (501)407-3388  
Fax #:

Driver: SHIREY, JOHN M  
License #: 137723786 State: TN  
Date of Birth: 11/8/1966

## Special Study Fields:

Special Study1:	Special Study6:
Special Study2:	Special Study7:
Special Study3:	Special Study8:
Special Study4:	Special Study9:
Special Study5:	Special Study10:

## Locally Defined Fields:

For-Hire Carrier: Y; Driver Address: 500 KIZER LN; Driver City: SAULSBURY; Driver State: TN; Driver Zip: 380677324; Photos Taken (Y/N): Y; Co-Investigator #: 1865; Reason Code: CRAS; FMCSA Credentials Verified-Y/N: Y; CDL Verified (Y/N): Y; FMCSA OOS Order Issued(Y/N): N; Crash Report #: 52-1132-52; ISS Score: 60

I hereby declare JOHN M. SHIREY "Out of Service". This driver MAY NOT DRIVE any commercial motor vehicle nor may any carrier permit or require this driver to drive any commercial motor vehicle until: 24 CONSECUTIVE HOURS

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio, T ASD - 4th floor, 180 E Broad St, Columbus, OH 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000. If you have any questions, please contact (614) 466-0429.

Signature of Carrier Official: X Date: \_\_\_\_\_

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

## \*\*\*\*\* POSSIBLE CDL DISQUALIFICATION \*\*\*\*\*

If this roadside inspection identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If the PUCO finds you committed a violation of any of these regulations, the violation will be treated as a conviction for the purposes of federal and state law and notice of such conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is in addition to sanctions imposed by the Public Utilities Commission of Ohio (PUCO). 177.804(b)(1), 177.804(b)(2), 177.804(b)(3), 177.804(c), 4901.2-5-07D, 383.23(a)(2), 383.51(a), 383.51A-NSIN, 383.51A-NSOUT, 383.51A-SIN, 383.51A-SOUT, 383.91(a), 383.93(b)(1), 383.93(b)(2), 383.93(b)(3), 383.93(b)(4), 383.93(b)(5), 391.15(a), 391.15A-NSIN, 391.15A-NSOUT, 391.15A-SIN, 391.15A-SOUT, 392.10(a)(1), 392.10(a)(2), 392.10(a)(3), 392.10(a)(4), 392.11, 392.12, 392.4(a), 392.5(a)(2), 392.5A2-UI, 392.5(c)(2), 392.80(a), 392.82(a)(1), 395.13(d), 396.9(c)(2).

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Repairer: X Facility: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:

T M GATESMAN

Badge #:

3233

Copy Received By:

SHIREY, JOHN M

Page 2 of 2



X

X

OH3233010037





OHIO DEPARTMENT OF PUBLIC SAFETY  
OHIO STATE HIGHWAY PATROL

VEHICLE INVENTORY / CUSTODY REPORT

Page 1 of 1

Initial Court Date 10/29/18

CAD# P18101400001988

REPORT NO. <u>52-1132-52</u>		DATE / TIME <u>10/14/18</u>		LOCATION <u>I 71 @ MP 217</u>		REASONS FOR CUSTODY  <input type="checkbox"/> Pretrial Retention <input type="checkbox"/> # <u>      </u> OVI <input type="checkbox"/> DUS <input type="checkbox"/> Wrongful Entrustment <input type="checkbox"/> Forfeiture Eligibility <input type="checkbox"/> Abandoned - Hazardous <input type="checkbox"/> Abandoned - 48 hours <input type="checkbox"/> Evidence <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Crash <input type="checkbox"/> Rent / Lease / Borrowed <input type="checkbox"/> Owner Unverified <input type="checkbox"/> Other <u>                    </u>
VYR <u>2017</u>	VMA <u>KW</u>	VMO <u>T680</u>	VST <u>SEM</u>	VCO <u>BLUE</u>	ODOMETER	
VIN <u>1XKY049X3HJ153321</u>			LIC <u>B838HZ</u>		STATE <u>TN</u>	
DRIVER LAST NAME <u>SHEREY</u>		DRIVER FIRST NAME / MI <u>JOHN</u>			WORK NO.	
ADDRESS <u>500 KIZER LANE, SALSBURY, TN, 38067</u>					HOME / CELL NO.	
OWNER (IF SAME AS DRIVER, WRITE "SAME") <u>ARKANSAS EQUIPMENT LEASING</u>					WORK NO.	
ADDRESS (IF SAME AS DRIVER, WRITE "SAME") <u>15614 HWY 13 SOUTH, HURRICANE, TN, 37078</u>					HOME / CELL NO.	

LOCATION P1 - Front Pass. P2 - Rear Pass. G - Glove Box T - Trunk / Cargo E - Engine C - Center Console	<input type="checkbox"/> GPS Device <input type="checkbox"/> Radar Detector <input type="checkbox"/> CB <input type="checkbox"/> Stereo <u>      </u> / <u>      </u> # CD's / DVD's	<input type="checkbox"/> CD / DVD <input type="checkbox"/> Laser Detector <input type="checkbox"/> Cell Phone	Total Keys <u>      </u> Key-Ignition <u>      </u> Key-Trunk <u>      </u>	CIRCLE DAMAGE 	Condition <u>WRECKED</u> Seats <u>Wheels</u> Glass <u>Undercarriage</u> <input checked="" type="checkbox"/> Photos <input type="checkbox"/> Drivable
---	---	---	---	-------------------	---

LOC	INVENTORY / REMARKS	LOC	INVENTORY / REMARKS
P1	YETI COFFEE MUG, COCA-COLA 2L, HOODIE, MILLER LITE BEER, V8 JUICE, TRASH, HEADSET, PAPERS		
T	MANUFACTURING RACKS IN 53' TRAILER		

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 PUCO

ARRESTING / INVENTORY OFFICER <u>Trp. HARRISON</u>		UNIT NO. <u>1865</u>	DATE / TIME <u>10/14/18 @ 1545</u>	Wrecker Company <u>Rick's</u>
SUPERVISOR REVIEW <u>Det. A-M. DODD</u>		UNIT NO. <u>85</u>	DATE / TIME <u>10/16/18</u>	Vehicle Stored At <u>MIDDLEBURG HHS OH</u>
OWNER NOTIFICATION PRINT OWNER'S NAME <u>ARKANSAS EQUIPMENT LEASING</u>		UNIT NO. <u>837</u>	DATE / TIME <u>10/14/18</u>	Tow Driver Signature <u>X FORBOD TO SIGN</u>
Relationship if not the owner <u>                                    </u>		Owner Request <input type="checkbox"/>		
RELEASE OF PROPERTY				CONDITIONS FOR RELEASE
<input type="checkbox"/> Plates	SIGNATURE <u>X</u>	UNIT NO.	DATE / TIME <u>      </u> / <u>      </u> / <u>      </u>	<input checked="" type="checkbox"/> No Hold
<input type="checkbox"/> Vehicle	SIGNATURE <u>X</u>	UNIT NO.	DATE / TIME <u>      </u> / <u>      </u> / <u>      </u>	<input type="checkbox"/> Hold
				<input type="checkbox"/> HP-60 Required
				<input type="checkbox"/> Court Release
				<input type="checkbox"/> Other <u>                                    </u>



# Public Utilities Commission

Asim Z. Haque, Chairman

## Commissioners

M. Beth Trombold  
Thomas W. Johnson  
Lawrence K. Friedman  
Daniel R. Conway

01/04/2019

OH3233010037D  
Frank Leonetti, III  
101 West Prospect Ave, Ste 1400  
Cleveland, OH 44115-1093

RE: **NOTICE OF PRELIMINARY  
DETERMINATION**

Case No. OH3233010037D

Dear Sir or Madam:

On 10/14/2018, a vehicle operated by CAL-ARK INTERNATIONAL INC, and driven by JOHN M SHIREY, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified JOHN M SHIREY (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.5A2-POS	4	Driver having possession of alcohol while on duty, or operating, or in physical control of a CMV	250.00
		Total of Group 4	250.00

TOTAL AMOUNT DUE: \$250.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against JOHN M SHIREY in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.5A2-POS	4	Driver having possession of alcohol while on duty, or operating, or in physical control of a CMV	250.00

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
www.PUCO.ohio.gov





# Public Utilities Commission

Asim Z. Haque, Chairman

## Commissioners

M. Beth Trombold  
Thomas W. Johnson  
Lawrence K. Friedeman  
Daniel R. Conway

Total of Group 4

250.00

TOTAL AMOUNT DUE: \$250.00

Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Rod Moser, Chief of Compliance  
Transportation Department

Compliance Officer: Cheryl Streets



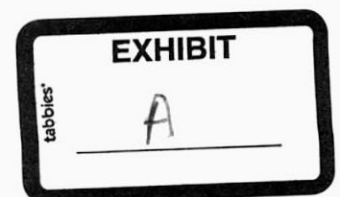
STATE OF TENNESSEE )  
)  
)  
)

**AFFIDAVIT**

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PUCO

I, John Shirey being first duly sworn and having personal knowledge of the facts set forth hereinafter depose and state as follows:

1. That I currently reside at 500 Kizer Lane, Saulsbury, Tennessee, 38067.
2. That on October 14, 2018 at approximately 1:50 p.m. I was involved in a motor vehicle collision on I-71 while northbound in Medina County, Ohio.
3. That at the above date and time I was driving a tractor-trailer on behalf of Cal-Ark International in the far right lane.
4. That at the above date and time a reddish brown car passed me in the center lane and then suddenly moved to the right lane approximately one car length ahead of my commercial vehicle and abruptly slowed before I had the opportunity to establish an assured clear distance.
5. The actions of the reddish brown car caused me to lose control of the above described tractor-trailer as I attempted evasive action.
6. I was hospitalized at Metro Health Medical Center from October 14, 2018 until October 19, 2018 with four fractured ribs on the left side, three fracture ribs on the right side, a head injury with a loss of consciousness, and difficulty breathing.
7. That I received a citation from the Public Utilities Commission of Ohio following the incident alleging that I had the possession of alcohol while on duty while operating a commercial motor vehicle.



8. That I hereby deny the charge that I possessed alcohol in the cab of a commercial motor vehicle while on duty. Attached as exhibit A is a copy of the Page 24 from my medical records from Metro Health Medical Center in Cleveland with the lab results from my hospitalization demonstrating that no alcohol was detected in my system.

9. That I do not drink alcohol and did not possess any alcohol in the cab of the commercial motor vehicle that I was operating at the time of the incident.

10. That I have no knowledge of the origin, source, or owner of the cans of beer that allegedly were found near the vehicle I was operating following the incident. It should be noted that the force of impact was so great that the cab of my unit completely separated from the frame of the unit.

11. That following the incident I suffered what I have been told is a stroke so that I am no longer able to walk without assistance or drive a vehicle. For this reason, I am unable to travel from Saulsbury, Tennessee to Columbus, Ohio for the Public Utilities Commission Hearing scheduled for May 1, 2019 for the citation of possession of alcohol while on duty or operating a commercial motor vehicle. For this reason, my counsel is submitting this Affidavit in lieu of my personal appearance.

  
By: John Shirey

Sworn to and subscribed as true before me, this 19th day of April, 2019.

  
NOTARY PUBLIC



## History and Physical Notes (continued)

H&amp;P by Prunty, Megan, MD at 10/14/2018 3:17 PM (continued)

Version 1 of 1

Rheumatologic:[MP.1] Positive - hx gout[MP.3]  
 Allergic/ Immunologic:[MP.1] Negative[MP.3]  
 Significant positives:[MP.1] above[MP.3]

## BASIC LABS:[MP.1]

Results for orders placed or performed during  
the hospital encounter of 10/14/18

## COMPLETE BLOOD COUNT W/DIFF

Result	Value	Ref Range
WBC	15.2 (H)	4.5 - 11.5 K/uL
RBC	5.03	4.50 - 5.90 M/uL
Hemoglobin	16.0	13.9 - 16.3 g/dL
Hematocrit	46.6	41.0 - 53.0 %
MCV	93	80 - 100 fL
MCH	31.8	26.0 - 34.0 pg
MCHC	34.3	32.0 - 35.9 g/dL
Platelet	272	150 - 400 K/uL
RDW-CV	13.7	11.5 - 14.5 %
MPV	11.3	8.5 - 11.5 fL
Neutrophils	74.3	31.0 - 76.0 %
Lymphocytes	16.3 (L)	24.0 - 44.0 %
Monocytes	8.6	2.0 - 11.0 %
Eosinophil	0.5	0.1 - 4.0 %
Basophils	0.3	<=1.9 %
Neutrophil #	11.30 (H)	1.50 - 8.00 K/uL
Lymphocytes #	2.47	1.00 - 4.80 K/uL
Monocyte #	1.30 (H)	0.20 - 1.00 K/uL
Eosinophil #	0.08	0.00 - 0.70 K/uL
Basophil #	0.05	0.00 - 0.20 K/uL

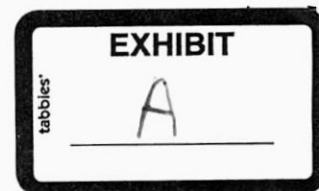
## ETHANOL, SERUM

Result	Value	Ref Range
Ethanol	<5	None Detected mg/dL

## PARTIAL THROMBOPLASTIN TIME

Result	Value	Ref Range
aPTT	21 (L)	24 - 37 sec

## LACTIC ACID





EXHIBIT

tabbles®

C





EXHIBIT

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EXHIBIT

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E



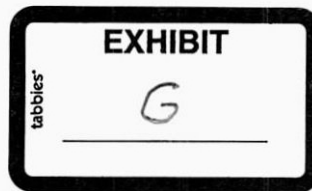
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EXHIBIT

F



Claim Photo



CIA File #: 060-014043  
Customer Claim #: 111800292  
Insured/Owner: CAL-ARK International

Date of Loss: 10/14/2018  
Adjuster: Robert Egan

Photo #: 19

Date Taken:  
10/14/2018

Taken By:  
Robert Egan

Description:  
Additional view of  
damage



Photo #: 20

Date Taken:  
10/14/2018

Taken By:  
Robert Egan

Description:  
hazardous waste  
from the accident



**PUCO**  
**Request for Additional Information**

Inspection Report #: OH3233010037      Carriers Name: Cal-Ark International Inc

Inspection Date: 10-14-18      Inspector ID: 3233 (Gatesman)

Compliance Officer: Streets

Today's Date: 11-8-18      Date by which Information is Needed: 11-15-18

---

Request for Additional Information: YES

Is there an attachment with this message: YES – Inspection report, crash report

**Details:**

The carrier is questioning the violation for possessing alcohol in a CMV. The inspection gives little detail on the offense other than to say there were beer cans in the truck cab. Not even if they were full or empty. The crash report likewise does not mention the beer cans. Also the crash report we have does not contain OH-3s. Can we please get more detail on where in the cab, full/empty, etc....? Photos if available would help also.

**RESPONSE (112018 1450):** No change. Per the inspector: During my CMV Inspection unfortunately I was focused on vehicle violations I did forget to take pictures of the Beer cans around the CMV and in the cab of the CMV. The cab of the CMV did have an overwhelming smell of alcohol. The driver had already been taken to the hospital before I arrived on the scene. I am not sure if the driver had alcohol in his system or not. OSHP Units 1865, 503 and 837 along with all the fire fighters and tow truck drivers all did see alcohol at the scene also.





EXHIBIT

B

