

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of:)	
SEI Logistics, LLC)	Case No. 21-922-TR-CVF
and)	21-923-TR-CVF
Cary Stultz)	
)	
Intent to Assess)	
Forfeiture.)	

- - -

PROCEEDINGS

Before James Lynn, Attorney Examiner, held for the Public Utilities Commission of Ohio, 180 East Broad Street, Hearing Room 11-D, Columbus, Ohio, via WebEx, on Monday, April 18, 2022, at 10:00 A.M.

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-4620
(614)224-9481

APPEARANCES

- - -

Mr. Thomas Shepherd
Assistant Attorney General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
Thomas.Shepherd@ohioattorneygeneral.Gov

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

Mr. Colin Maher
Maher Law Firm
1335 Dublin Road
Suite 214A
Columbus, Ohio 43215
help@columbusdefensefirm.com

On behalf of SEI Logistics, LLC and Cary
Stultz

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO WITNESSES

- - -

DIRECT CROSS REDIRECT RECROSS

STAFF'S WITNESSES

Andrew Powley	06-16	15-24	23-06
Rod Moser	25-17		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXHIBITS		
- - -		
STAFF EXHIBITS	ID	ADM
1 - Driver Examination Report	08-12	25-07
2 - Photographs	10-04	25-07
3 - Notice of Preliminary Determination	26-17	28-13
4 - Notice of Preliminary Determination	27-03	28-13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Monday, April 18, 2022

10:00 a.m.

- - -

ATTORNEY EXAMINER: Public Utilities Commission of Ohio has assigned for hearing at this time two cases. They are 21-922-TR-CVF, in the matter of SEI Logistics, apparent violation and intent to assess forfeiture and 21-923, in the matter of Cary Stultz, C-a-r-y, Stultz, notice of apparent violation, intent to assess forfeiture.

I'm Jim Lynn. I'm the Attorney Examiner assigned to hear this case and at this time we'll have the appearances of the parties. We will begin with the Ohio Attorney General's Office.

MR. SHEPHERD: Thank you, Your Honor. On behalf of the staff of the Public Utilities Commission of Ohio, Dave Yost, Attorney General of Ohio, John Jones Section Chief, Public Utilities Section, by Assistant Attorney General Thomas Shepherd, 30 East Broad, 26th floor, Columbus, Ohio.

ATTORNEY EXAMINER: Thank you, Mr. Shepherd. And for the responding parties, SEI Logistics and Cary Stultz, Mr. Maher?

MR. MAHER: Thank you, Your Honor. Colin Maher, Supreme Court number 0084567 on behalf of both.

1 ATTORNEY EXAMINER: Thank you. All right.
2 Mr. Shepherd, we can start with you. If you would like to
3 go ahead with your first witness, please and who will that
4 be?

5 MR. SHEPHERD: Thank you. Staff at this time
6 calls Andrew Powley to the stand.

7 ATTORNEY EXAMINER: Mr. Powley, hopefully if
8 you would unmute your microphone and if you would raise
9 your right hand, please.

10 - - -

11 ANDREW POWLEY,
12 being first duly sworn, as provided by law, was examined
13 and testified as follows:

14 ATTORNEY EXAMINER: All right. Go ahead.

15 DIRECT EXAMINATION

16 BY MR. SHEPHERD:

17 Q. Good morning, Mr. Powley. How are you?

18 A. Good.

19 Q. Would you please state your name for the
20 record?

21 A. Andrew William Powley.

22 Q. And how do you spell your last name?

23 A. P as in Paul O-w-l-e-y.

24 Q. Okay. And where are you employed?

25 A. The Ohio State Highway Patrol.

1 Q. And what is your position with the Highway
2 Patrol?

3 A. I'm a motor carrier enforcement investigator.

4 Q. And how long have you been in that role?

5 A. Right around two-and-a-half years.

6 Q. Right. What are your duties in your capacity
7 in that job?

8 A. I inspect commercial motor vehicles traveling
9 either interstate or intrastate, for hire private carriers
10 and do inspections.

11 Q. And what specific training do you have in this
12 area?

13 A. I have part A, part B, as far as level ones
14 where I can do brakes. We can check the brakes, the
15 drives, steers, the trailer lights, markings, electronic
16 log book devices, basically anything that has to do with
17 that truck I'm certified to inspect.

18 Q. Do you have any sort of continuing education
19 that you refresh every once in awhile?

20 A. Yeah, we are constantly -- I'm not exactly
21 sure how many times I have been to Columbus this year, but
22 it is multiple times a year for different trainings.

23 Q. Thank you. Are motor carrier inspections
24 conducted to protect the safety of the Ohio traveling
25 public?

1 A. Absolutely.

2 Q. How many inspections on average would you say
3 you perform in a year and you can estimate?

4 A. A thousand.

5 Q. A thousand. Thank you.

6 MR. SHEPHERD: Your Honor, I would have like
7 to have marked as Staff Exhibit 1 the driver/vehicle
8 examination report that I circulated on Friday.

9 ATTORNEY EXAMINER: All right. We'll mark
10 that as Staff Exhibit 1. Please continue.

11 - - -

12 (Staff Exhibit 1, was marked for
13 purposes of identification.)

14 - - -

15 BY MR. SHEPHERD:

16 Q. Mr. Powley, do have the driver examination
17 report in front of you?

18 A. Yes, I do.

19 Q. And you recognize this document?

20 A. Absolutely.

21 Q. Is this a document -- is this document a
22 record of the patrol?

23 A. Yes.

24 Q. And it is kept in the ordinary course of
25 business?

1 A. Yes.

2 Q. Is the information contained in this report
3 the type that you are required by law to report?

4 A. Yes.

5 Q. And is the information in this document an
6 accurate reflection of the report you filled out on June
7 3rd, 2021 following the inspection of the vehicle driven
8 by Mr. Cary Stultz and operated by SEI Logistics?

9 A. Yes.

10 Q. And did you prepare this report because of the
11 inspection of the vehicle driven by Mr. Stultz?

12 A. Yes.

13 Q. Does the driver get a copy of the report when
14 you inspect the vehicle?

15 A. Yes, as long as they are there but, yes.

16 Q. Do you remember conducting this particular
17 inspection?

18 A. Yes.

19 Q. Do you remember why you initiated the
20 inspection?

21 A. No company name or DOT numbers on the driver's
22 side of the vehicle in passing.

23 MR. SHEPHERD: Your Honor, I would like to
24 have marked as Staff Exhibit 2 the document containing
25 three photos that I circulated on Friday.

1 ATTORNEY EXAMINER: All right. We'll mark
2 that as Staff Exhibit 2.

3 - - -

4 (Staff Exhibit 2, was marked for
5 purposes of identification.)

6 - - -

7 BY MR. SHEPHERD:

8 Q. Mr. Powley, do you have Staff Exhibit 2 in
9 front of you?

10 A. Yes.

11 Q. Okay. Is this how you determined -- can you
12 briefly explain using the photos what you were saying
13 about no DOT numbers?

14 A. Right, so obviously when he was heading -- he
15 was heading west, so I could see the driver's side. You
16 could look at the picture of the driver's side of the
17 truck, trailer, windows. There is no company name or DOT
18 number on the F350.

19 Q. Okay. And what was Mr. Stultz transporting
20 that day?

21 A. I believe it was a generator. I don't know if
22 there is anything else, but I believe it was just a
23 generator.

24 Q. We are going to turn back to Staff Exhibit 1,
25 which is the examination report and what I'm going to have

1 you do, kind of go one by one with the violation.

2 Can you briefly describe what the violation is
3 and how you came to the conclusion that the violation
4 occurred. So we will start with the one that says 391.41
5 (A) through (F) and if you can just kind of describe what
6 that violation is?

7 A. This is the medical card violation. For
8 anybody crossing interstate lines, they have to have a DOT
9 physical card that they keep with them that is good for
10 two years depending on if they have a medical issue or
11 not. I just lost my -- hold on a second. I just lost my
12 report here. Hello.

13 ATTORNEY EXAMINER: You are still on.

14 THE WITNESS: I'm not sure what happened here.
15 I just lost everything.

16 ATTORNEY EXAMINER: We can still hear you.

17 THE WITNESS: The report went down.

18 ATTORNEY EXAMINER: Okay.

19 BY MR. SHEPHERD:

20 Q. Take your time.

21 A. Yeah. I got it now. Yeah, so the medical
22 card they are good for two years for a normal driver. I
23 don't remember him having anything, but that's what this
24 would be for.

25 Q. And when you did the inspection, there was no

1 medical card provided?

2 A. Correct, correct.

3 Q. Moving to the second one that says 395.8 (A),
4 if you could describe that violation?

5 A. This is operating a commercial motor vehicle
6 with no ELD and/or log books. In this instance, I
7 determined it was not required to have the ELD because he
8 was less than eight days in a rolling 30-day period. So
9 just no log books were on the driver at the time of the
10 inspection.

11 Q. Okay. Thank you. Moving to the next one
12 383.23 (A) (2)?

13 A. This is the CDL. Driver needed a CDL with the
14 tow vehicle weight rating over 26,001 for a class A
15 needed, which the driver did not have.

16 MR. SHEPHERD: Okay. Moving -- and I will
17 just note for the record that those first three violations
18 are ones contained in case number -- I'm sorry. It's the
19 driver violation. So those three are with the driver
20 violation and not the carrier violation.

21 ATTORNEY EXAMINER: All right. Thank you.

22 BY MR. SHEPHERD:

23 Q. Moving forward, so this will be -- these are
24 the carrier violations starting now. If we can move to
25 396.17 (C)?

1 A. Not having an annual vehicle inspection report
2 in the CME, which in this case was the truck.

3 Q. How did you determine that?

4 A. I asked the driver. I asked him upon
5 inspection for those or look for the stickers. He did not
6 have those.

7 Q. That's a standard thing you do?

8 A. Absolutely. It is part of the inspections.

9 Q. Thank you. 393.95 (A)?

10 A. Ask for the fire extinguisher. It's, again,
11 something we do on every inspection. Didn't have a fire
12 extinguisher on in the truck or trailer.

13 Q. So you asked and he wasn't able to --

14 A. Correct.

15 Q. Thank you. 393.95 (F)?

16 A. No safety triangles. Each driver has to have
17 the three on them when they are operating. He did not
18 have them as well. That is part of our practice as well.

19 Q. Sorry to repeat myself, but you did ask and
20 they were --

21 A. Yes.

22 Q. -- unable to provide?

23 A. Yes.

24 Q. 390.21 (B)?

25 A. That's the reason for the stop, no company

1 name or DOT number on either side of the commercial motor
2 vehicle.

3 Q. We went over that with the photos, correct?

4 A. Correct.

5 Q. 393.75 (A)?

6 A. This would be the flat tire. Be the 4, number
7 4 axle on the right side. No measurable air pressure,
8 which means when I check it it didn't move at all.

9 Q. Thank you. And 393.43?

10 A. The break away, which is not the brake system,
11 it is just the break away to where if the trailer were to
12 come off in a crash, it would lock up the brakes on the
13 trailer. In this case the battery was not allowing the
14 break away to work.

15 Q. Is it your professional opinion that the
16 seven, I'm sorry, the violations we just went over are
17 accurate and did occur on June 3rd, 2021?

18 A. Yes.

19 Q. Thank you. I'm going to switch gears and ask
20 you a few different questions and then I will be done with
21 you.

22 A. Okay.

23 Q. Can you tell me briefly how you came to the
24 conclusion that there was compensation provided for this
25 move?

1 A. Within the -- within our interview I had with
2 the driver, how we got to it, I asked what their duties
3 are usually just to get the story. In this case, the
4 gentleman told me he was receiving money to his church
5 from the gentleman and the company and this is what he
6 would do for him.

7 Q. Okay. So it was your understanding at the
8 time of the stop that the property he was moving was not
9 his?

10 A. Correct, yeah. Neither the truck, trailer, or
11 the property were any of his.

12 Q. Okay. And so just to confirm, there was
13 compensation provided for him transporting the equipment?

14 A. As far as he told me, yes.

15 Q. Thank you.

16 MR. SHEPHERD: Your Honor, I have no further
17 questions. I reserve the witness for possible rebuttal,
18 but subject to cross-examination I would move for Staff
19 Exhibits 1 and 2 to be admitted into the record.

20 ATTORNEY EXAMINER: We'll move to then,
21 Mr. Maher. Mr. Maher, any questions for the witness?

22 MR. MAHER: Yes. Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. MAHER:

25 Q. All right. Do you prefer Trooper Powley,

1 Mr. Powley?

2 A. Mr. Powley. I'm not a trooper. I'm a motor
3 carrier.

4 Q. All right. What makes vehicles subject to
5 your examination?

6 A. Depending on if it is an interstate versus
7 intrastate move. In this case I would say this is an
8 interstate move. Any vehicle rated over 10,001 GVWR is
9 subject to inspection if they are for hire or private
10 carriers.

11 Q. Okay. And how did you determine whether or
12 not this was for hire or a private carrier?

13 A. Are you talking about as far as it going past
14 me or once I got up to the truck?

15 Q. Once you were there and on the scene and you
16 did your investigation?

17 A. It is whenever we do our interview and talk,
18 whose vehicle, whose trailer, what items are being hauled,
19 where from and where to. In this case, nothing belonged
20 to the driver. Everything was the company and that's
21 where I came up with the -- he was rated -- I can't
22 remember the rating on here, but it was over 10,001
23 GVWR.

24 Q. You indicated the driver was Mr. Stultz,
25 correct?

1 A. Yes, the gentleman that was driving, yes.

2 Q. Okay. And you indicated that he had said
3 there was a donation going to his church in exchange
4 for --

5 A. Yes, yes.

6 Q. Do you know if the company also attends that
7 same church?

8 A. From what he told me it was the company owner
9 and him. That's all I knew.

10 Q. That they both attended the same church?

11 A. Yes. Mr. Stultz told me he was the preacher,
12 priest, whichever capacity he was at and it was his church
13 or he was in charge of it.

14 Q. Okay. But through your investigation, you
15 were able to determine that money was going to the church,
16 not to Mr. Stultz himself; is that correct?

17 A. Yes, his employer.

18 Q. Okay. As far as the weight rating, you
19 indicated that the vehicle had to be over 10,000 pounds?

20 A. 10,001 pounds interstate commerce to be
21 inspected, yes, sir.

22 Q. And how did you determine that this was
23 interstate or intrastate?

24 A. The move was from Ohio to Texas. That would
25 make it the interstate move.

1 Q. Subject to that 10,000 pounds?

2 A. 10,001, yes.

3 Q. Okay. Now, if it were just the truck itself,
4 would that be subject to inspection?

5 A. Yes, sir. It is 12,400. I'm looking on the
6 report, if you look next to the truck, 12,400. So the
7 truck alone would have been inspectable.

8 Q. Okay. Now, without the trailer, would you
9 have found any violations on that truck?

10 A. Yes, sir.

11 Q. And what violations would those be?

12 A. Everything would have been a violation other
13 than where you see unit 2, those would not be on there.
14 The driver would not have needed a CDL and the other ones
15 would have been -- they would have all been accurate.

16 Q. Even if he was just driving the power unit
17 itself, correct?

18 A. Yes, sir.

19 Q. Would you agree that you aren't to use a
20 weight rating of a power unit if it is not towing another
21 vehicle?

22 A. I didn't hear you.

23 Q. Would you agree that if the truck wasn't
24 towing a trailer, then it would not be subject to
25 inspection?

1 A. No, sir.

2 Q. You would say that it is?

3 A. Yes, sir.

4 Q. Okay. How did you determine the weight of the
5 truck?

6 A. Looked on the door.

7 Q. Okay. Do you have any verification, any
8 photo, anything showing what that weight rating is?

9 A. No, sir. I can get -- we can run the VIN
10 through our salvage department if you need verification.
11 It will give us that off of the manufacturer's line there.
12 They will have everything documented, but I did not take
13 pictures of it, no, sir.

14 Q. Okay. How long have you known about this
15 hearing?

16 A. Maybe a month.

17 Q. Okay.

18 A. I mean, it has not been a terribly long time.
19 I would say a month.

20 Q. Okay. And you would agree the burden is on
21 you to prove that there is a violation?

22 A. Yes, sir.

23 Q. Do you think it would be prudent to have the
24 manufacturer's weight rating and proof of that?

25 A. To have --

1 MR. SHEPHERD: That calls for a legal
2 conclusion.

3 MR. MAHER: I'll move on.
4 BY MR. MAHER:

5 Q. Do you have any confirmation of a weight
6 rating of the trailer itself?

7 A. Other than the report I have here, no, sir.

8 Q. Okay. Was there any sort of a manufacturer's
9 certificate or anything that was marked on the trailer to
10 show what the weight rating was?

11 A. Yes, sir. There is a VIN tag, would have been
12 on the driver's side up by the goose neck. It is either
13 inside or on the outside of the goose neck is where they
14 are and that's where we get the VIN and the gross vehicle
15 weight rating.

16 Q. Okay. It would have had the vehicle weight
17 rating printed on that?

18 A. Yes, sir.

19 ATTORNEY EXAMINER: And Mr. Maher, I'll just
20 step in for a moment for our court reporter. VIN is
21 V-I-N. It is vehicle identification number.

22 Before we go further too, I wanted to know,
23 Trooper Powley, could you again, explain the payment
24 arrangement? Who is paying who and who owns the vehicle
25 and so forth?

1 THE WITNESS: So what is my driver's name?

2 ATTORNEY EXAMINER: The driver is Mr. Stultz,
3 yes.

4 THE WITNESS: Mr. Stultz told me he was the
5 preacher or whatever capacity would be at the church. The
6 gentleman owned SEI, which I don't know his name, donated
7 money to his church through the church and that was
8 Mr. Stultz's employer, the church at that time. And
9 that's when I called the company to see and verify that
10 and talked to a lady.

11 ATTORNEY EXAMINER: So Mr. Stultz then did not
12 own the vehicle? Did not own -- looks like a Ford pickup
13 truck or the trailer. He did not own the -- it was not
14 his possession this generator that he was towing?

15 THE WITNESS: Correct.

16 ATTORNEY EXAMINER: He was doing this because
17 whoever owns SEI Logistics apparently had this generator
18 that they wanted transported from Ohio to Texas and the
19 payment was made to Mr. Stultz's church for that
20 transportation?

21 THE WITNESS: Yes, sir.

22 ATTORNEY EXAMINER: Okay. Just wanted to make
23 clear what was happening.

24 Back to you, Mr. Maher.

25 MR. MAHER: Thank you.

1 BY MR. MAHER:

2 Q. Back to the certificate on the trailer or
3 the -- is it usually a plate or a sticker?

4 A. It is a sticker, yes, sir. And depending on
5 the model they could be a plate, but nine times out of ten
6 it is a sticker.

7 Q. Did you take a photo of that sticker?

8 A. No, sir.

9 Q. Now, in regards to the trailer itself, you
10 indicated there was a generator on there?

11 A. Yes, sir.

12 Q. And how was that generator attached?

13 A. There was a -- I'm trying to pull up a
14 picture. It had a tie-down strap on there.

15 Q. Okay. Was it bolted to the trailer?

16 A. No, sir, it was strapped onto it.

17 Q. There was no type of permanent fixture?

18 A. No, sir, it was strapped on there.

19 Q. Okay. Any way to tell how long those straps
20 had been attached?

21 A. No, I don't think anybody could tell you
22 that.

23 MR. MAHER: Nothing further.

24 ATTORNEY EXAMINER: All right. Mr. Shepherd,
25 do you have any questions given that the cross-examination

1 has already taken place?

2 MR. SHEPHERD: Just a couple, Your Honor, if I
3 may.

4 ATTORNEY EXAMINER: Okay.

5 REDIRECT EXAMINATION

6 BY MR. SHEPHERD:

7 Q. Mr. Powley, can you describe what you do in a
8 typical situation when you do go check the weight of a
9 vehicle, just kind of the process of what you do?

10 A. Yes, since this one was roadside, I opened the
11 driver's door. And usually on the B pillar, which is the
12 one between the driver and the rear, normally there on the
13 side there will be the VIN sticker, vehicle identification
14 number there with the GVW rating there or it would be on
15 the driver's side door.

16 I take that number, write it down and then I
17 go to the trailer, find it, which I said would be up near
18 the goose neck and then take the GVWR that the
19 manufacturer gives and write that down as well with the
20 VIN. And that's how we get the number.

21 Q. So when you do this, do you have a clipboard
22 or any kind of --

23 A. Just a note pad, just a little note pad we
24 use.

25 Q. So you are looking at the sticker or plate and

1 then you write it down immediately?

2 A. Yeah, write it down to verify what it is.

3 Q. That's what we would be looking at on Staff
4 Exhibit 1 where it says 12,400 and 18,300?

5 A. Right. And then specifically for this one, I
6 wouldn't have had to weigh him because it was obviously --
7 it obviously wouldn't weigh 26,001 because he has only
8 obviously got a very small load.

9 MR. SHEPHERD: That's all I have got. Thank
10 you.

11 ATTORNEY EXAMINER: Okay. And I believe you
12 had made a motion we admit Staff's Exhibits 1 and 2 into
13 evidence?

14 MR. SHEPHERD: Yes.

15 ATTORNEY EXAMINER: Which we will.
16 Mr. Shepherd, you had discussed on this inspection report
17 not only driver's violation, but -- well, carrier
18 violations as well.

19 Did you have any other additional exhibits,
20 like perhaps one for the carrier?

21 MR. SHEPHERD: Well, all the -- my
22 understanding is all the violations from both the carrier
23 and the driver are on this.

24 ATTORNEY EXAMINER: They are on the same one?
25 Let me check. I might be mistaken. You know, we'll go

1 off the record for a moment.

2 - - -

3 (Discussion was held off record.)

4 - - -

5 ATTORNEY EXAMINER: Back on the record,
6 Donna.

7 Yes, we'll admit Staff's Exhibits 1 and 2 into
8 evidence and we'll go on to your next witness then.

9 MR. SHEPHERD: Thank you. Staff at this time
10 calls Mr. Moser to the stand.

11 - - -

12 ROD MOSER,
13 being first duly sworn, as provided by law, was examined
14 and testified as follows:

15 ATTORNEY EXAMINER: Go ahead, please.

16 DIRECT EXAMINATION

17 BY MR. SHEPHERD:

18 Q. Good morning, Mr. Moser. Could you please
19 state your full name and who you are employed by for the
20 record?

21 A. Sure. My name is Rod Allen Moser. Last name
22 is M-o-s-e-r. I'm the chief of the compliance and
23 transportation sections for the -- I'm sorry, compliance
24 and registration sections for the Transportation
25 Department of the Public Utilities Commission of Ohio.

1 Q. And how long have you been in that position?

2 A. A little over five years.

3 Q. What are your duties in that capacity?

4 A. Related to this instance or this case here, it
5 is the -- basically the administration of the civil
6 forfeiture process for the Transportation Department.

7 Q. Thank you. And did you have an opportunity to
8 review the Commission's file in this case prior to today's
9 hearing?

10 A. Yes, I did.

11 MR. SHEPHERD: Your Honor, I would like to
12 mark a couple of exhibits.

13 First, it is the notice of preliminary
14 determination, that has Case Number OH3239002062D. I
15 would like to have that marked as Staff Exhibit 3.

16 - - -

17 (Staff Exhibit 3, was marked for
18 purposes of identification.)

19 - - -

20 ATTORNEY EXAMINER: Yes, we'll do that.

21 MR. SHEPHERD: And marked as Staff Exhibit 4,
22 document that says notice of preliminary determination
23 case number OH3239002062C.

24 ATTORNEY EXAMINER: Okay. That will be Staff
25 Exhibit 4.

1 Thank you. Go ahead.

2 - - -

3 (Staff Exhibit 4, was marked for
4 purposes of identification.)

5 - - -

6 BY MR. SHEPHERD:

7 Q. Mr. Moser, do you recognize the documents that
8 I have marked as Staff Exhibits 3 and 4?

9 A. Yes, I do.

10 Q. Can you briefly explain what each of these
11 documents is?

12 A. Sure. The nature of the documents is the
13 same. They are sent to Respondents following an
14 unsuccessful attempt to resolve issues or discrepancies
15 related to a roadside inspection with a telephone
16 conference with the assigned case officer.

17 Q. And notices of this type are required to be
18 sent by Commission rules?

19 A. Yes, sir.

20 Q. And based on your review of the Commission's
21 file, which contains these two documents, both the driver
22 respondent and the carrier respondent received all notice
23 required by Commission rules?

24 A. Yes, sir, they did.

25 MR. SHEPHERD: Thank you. And I'll note for

1 the record that counsel for the parties have conferred
2 prior to today's hearing and agreed to stipulate into --
3 stipulate to the amount of the forfeiture listed on these
4 two documents. So I won't be questioning the witness as
5 to how they were calculated.

6 ATTORNEY EXAMINER: All right. That's fine.
7 Given that statement, I guess, Mr. Maher, you have no
8 questions for the witness?

9 MR. MAHER: That is correct.

10 ATTORNEY EXAMINER: Certainly speeds things
11 up. I don't believe I have any other questions at this
12 time.

13 So we'll admit Staff Exhibits 3 and 4 in
14 evidence as well.

15 Mr. Maher, I don't believe you have a witness,
16 but you did submit an exhibit prior to the hearing. You
17 submitted that late last week. With that being said,
18 we'll have Mr. Maher step in and apparently you had some
19 comments to make on behalf of your witness.

20 MR. MAHER: Your Honor, at this time I don't
21 know that I really need to call a witness. This is a
22 great time for argument. I don't even know that we need
23 the exhibit at this point.

24 ATTORNEY EXAMINER: In other words, you just
25 wanted to make some oral comments on behalf of your

1 client?

2 MR. MAHER: Correct, Your Honor.

3 ATTORNEY EXAMINER: Well, go ahead then.

4 MR. MAHER: Your Honor, we would just indicate
5 for the Court that there has been no showing of any
6 compensation. Certainly there was an indication that
7 there would be a donation to a church. My understanding
8 is the church is one that they both were attendees, one
9 apparently pastor or minister.

10 Additionally, there has been no evidence
11 submitted of the actual weight of the vehicle and the
12 trailer. There has also been no evidence admitted of the
13 manufacturer's weight rating.

14 We have the officer who generated this report
15 put the weights in the report, but there is no -- it would
16 have been very easy just to take a photo of those
17 manufacturer's plates or stickers, whatever they are, to
18 show that it would be actually classified as a commercial
19 motor vehicle. Per the definition, it would have to be
20 over 26,000 pounds, which the officer indicated that, you
21 know, that it was, in fact, there was no reason to weigh
22 it because it wouldn't have been 26,000 pounds.

23 Essentially that's the crux of our argument.

24 ATTORNEY EXAMINER: All right. Okay. So you
25 are indicating from your client's perspective that any

1 compensation actually went to the church that
2 Mr. Stultz worked for, not to Mr. Stultz himself.

3 And you are also indicating that as far as the
4 applicability of the Motor Carrier Safety Rules to --
5 excuse me, the pickup truck and trailer, you are saying
6 well, there is no photographic evidence of the plates that
7 contained the gross weight, that indicated gross weight
8 for either vehicle?

9 MR. MAHER: That is correct.

10 ATTORNEY EXAMINER: All right. Thank you,
11 Mr. Maher.

12 Mr. Shepherd, do you have any additional
13 comments?

14 MR. SHEPHERD: I would just respond to the
15 assertion that there is no evidence. There is not a photo
16 of the sticker, but the information contained in the
17 report is evidence itself. So I would just rebut that.

18 ATTORNEY EXAMINER: All right. Thank you. I
19 always at this point give the parties a chance to submit a
20 brief, which is not absolutely essential or required for
21 that matter, but I'll give that opportunity to you.

22 And with that in line, I'll be picking a
23 calendar date too.

24 Mr. Shepherd, is your client interested in
25 having a brief submitted?

1 MR. SHEPHERD: Could I take just one second
2 and confer with my client?

3 ATTORNEY EXAMINER: Sure. Thank you. No
4 problem.

5 MR. SHEPHERD: Your Honor, we would like to
6 file a post hearing brief.

7 ATTORNEY EXAMINER: Okay. Well, with that in
8 mind, I will take another look at my calendar. I believe
9 that Donna, our court reporter, I believe that the brief
10 will be filed by say the first week in May, am I right
11 about that, roughly two weeks?

12 REPORTER: Yes.

13 ATTORNEY EXAMINER: Well, with that in mind,
14 Mr. Shepherd, what would you say to having the brief
15 finished by let's say -- the brief or, excuse me, the
16 transcript is submitted into the docket by May 6th.

17 Do you want to have May 20th, for example, as
18 your deadline for the brief? Would that be appropriate?

19 MR. SHEPHERD: Yep.

20 ATTORNEY EXAMINER: Okay. And then
21 Mr. Maher, you could do the same, if you wish, by May
22 20th.

23 And then would it be suitable for you for a
24 reply brief, if one is to be filed, by June the 3rd?

25 Mr. Maher, would that work for you?

1 MR. MAHER: Certainly.

2 ATTORNEY EXAMINER: All right. Thank you.
3 Okay. And Mr. Maher, just to clarify this too. So you
4 are indicating that the document that you provided late
5 last week, you are actually -- you are not actually -- you
6 are not actually asking that that be admitted into
7 evidence; am I right? Doesn't have to be. I just wanted
8 to be sure for the record.

9 MR. MAHER: No, I don't think it is needed at
10 this point, Your Honor.

11 ATTORNEY EXAMINER: All right. Then I'll note
12 for our court reporter that the only documents that will
13 be part of the evidence for this case are Staff Exhibits 1
14 through 4 and there will not be any exhibits on behalf of
15 the two Respondents, SEI Logistics and Cary Stultz.

16 I want to thank everyone for participating
17 this morning. For Trooper Powley for working through the
18 technical difficulties and Micah Smith, our innovation
19 technology expert getting things up and running as usual.
20 Also to Donna Chafins, our court reporter.

21 Please everyone stay safe and stay well. Have
22 a good week and have a good rest of the day. Take care
23 everybody. Bye-bye.

24 MR. SHEPHERD: Thank you, Your honor.

25 - - -

(Hearing concluded at 10:38 a.m.)

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, April 18, 2022, and carefully compared with my original stenographic notes.

Donna D. Chafins, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires November 8, 2026.

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

5/2/2022 10:36:07 AM

in

Case No(s). 21-0922-TR-CVF, 21-0923-TR-CVF

Summary: Transcript April 18th 2022 In the Matter of: SEI Logistics, LLC and Cary Stultz Intent to Assess Forfeiture. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Chafins, Donna