

PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Yohannes Berhe :  
Notice of Apparent Violation : Case No.  
and Intent to Assess Forfeiture. : 21-983-TR-CVF

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PROCEEDINGS

Before Jim Lynn, Attorney Examiner, held at the  
offices of the Public Utilities Commission of  
Ohio, 180 East Broad Street, Hearing Room 11-D,  
Columbus, Ohio, on Tuesday, May 24, 2022,  
at 10:00 A.M.

- - -

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- - -

APPEARANCES:

Mr. Yohannes G. Berhe  
1113 Lancaster Street  
Durham, North Carolina 27701

Appearing Pro se.

Ms. Jodi Bair  
Assistant Attorney General  
30 East Broad Street, 26th Floor  
Columbus, Ohio 43215

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

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1 Tuesday Morning Session,  
2 May 24, 2022.

3 - - -

4 ATTORNEY EXAMINER: The Public  
5 Utilities Commission of Ohio has assigned for  
6 hearing at this time Case No. 21-983-TR-CVF,  
7 Yohannes Berhe, Notice of Apparent Violation and  
8 Intent to Assess Forfeiture.

9 I am Jim Lynn, the Attorney Examiner  
10 assigned to hear this case. And at this time we  
11 will have the appearances of the parties and  
12 will begin with the Ohio Attorney General's  
13 office.

14 MS. BAIR: Thank you, your Honor.  
15 On behalf of the Staff of the Public Utilities  
16 Commission of Ohio, Jodi Bair, Assistant  
17 Attorney General, 30 East Broad Street,  
18 Columbus, Ohio 43215.

19 ATTORNEY EXAMINER: And, Mr. Berhe,  
20 if you would provide your name and address,  
21 please.

22 MR. BERHE: My name is Yohannes  
23 Berhe. My current address is 1113 Lancaster  
24 Street, Durham, North Carolina.

25 ATTORNEY EXAMINER: Thank you.

1 MR. BERHE: You are welcome. Yes,  
2 sir.

3 ATTORNEY EXAMINER: As far as  
4 the order or our proceedings, we will start with  
5 the Ohio Attorney General's office and we will  
6 go to you later, Mr. Berhe.

7 MR. BERHE: Yes, your Honor.

8 ATTORNEY EXAMINER: Ms. Bair, would  
9 you like to go go forward with your first  
10 witness?

11 MS. BAIR: Thank you. Staff calls  
12 Officer Johnson to the stand, please.

13 (WITNESS SWORN)

14 MS. BAIR: Your Honor, may I  
15 approach?

16 ATTORNEY EXAMINER: You certainly  
17 can. Thank you.

18 - - -

19 INSPECTOR WILLIAM JOHNSON  
20 called as a witness, being first duly sworn,  
21 testified as follows:

22 DIRECT EXAMINATION

23 By Ms. Bair:

24 Q. And do you recognize the document  
25 before you?

1 A. Yes.

2 Q. Could you please tell me what that  
3 is?

4 A. This is an inspection report.

5 Q. Would you please state your name and  
6 spell it for the record?

7 A. My name is William Johnson.

8 W-I-L-L-I-A-M- J-O-H-N-S-O-N.

9 Q. And by whom are you employed and in  
10 what capacity?

11 A. I am employed by the State of Ohio  
12 as a Motor Carrier Enforcement Investigator.

13 Q. And how long have you had that  
14 position?

15 A. Since 2016.

16 Q. Okay. And can you just give us a  
17 brief description of what your job is?

18 A. My job is to do inspections on  
19 trucks for mechanical issues, and violations.  
20 And along with drivers and their log books and  
21 their paperwork.

22 Q. Do you have special training in that  
23 area?

24 A. Yes, ma'am.

25 Q. Could you tell me about that?

1           A.    I have taken the North American  
2    classes.  There is a Part A and a Part B which  
3    goes over -- it's a Federal test and classes  
4    that it's for standardization so that the way I  
5    inspect a truck or a driver is the same as  
6    somebody in Utah would inspect a driver and a  
7    truck also.  So it's a uniform system of  
8    training.

9           Q.    Is there any ongoing training?

10          A.    Once a year we have an ongoing  
11   training that we will come up to Columbus up to  
12   the Academy and it will be one to three days  
13   worth of training.

14          Q.    Thank you.  And I am getting back to  
15   the document that I have just handed you.  And  
16   how did you describe that, was is that document?

17          A.    It's a typical inspection report.

18          Q.    Is this document in the same  
19   condition or substantially as it was when you  
20   created it?

21          A.    Yes, ma'am.

22          Q.    What is the reason for you producing  
23   this report in the inspection of Mr. Berhe's  
24   motor vehicle?

25          A.    Well, this would have been prepared



1 after I had stopped him and chose a vehicle to  
2 stop to do the inspection. And this is the  
3 items that I found that were wrong.

4 Q. What was the date of the inspection?

5 A. 6-17 of '21.

6 Q. And what time did it occur?

7 A. It started at 10:05 A.M.

8 Q. Who is the driver listed on this  
9 report?

10 A. Yohannes G. Berhe.

11 Q. And does the driver get a copy of  
12 this report at the stop?

13 A. Yes, ma'am.

14 Q. Is there a violation or violations  
15 noted in this report?

16 A. Yes.

17 Q. Could you tell me about those  
18 violations?

19 A. The first one is the ELD was turned  
20 off or malfunctioning.

21 The second one was the tractor  
22 didn't have any registration paperwork at the  
23 time of stop.

24 And then there was no instruction  
25 sheets for the ELD. The driver had no blank log

1 sheets at the time of inspection.

2 And then there is a hours of service  
3 violation where he had been declared out of  
4 service in another state prior to this for not  
5 having an ELD or paper logs.

6 MS. BAIR: Your Honor, may I  
7 approach the witness?

8 ATTORNEY EXAMINER: Yes, you may.  
9 Go ahead.

10 Q. Do you have this from Kentucky?

11 A. Yes.

12 Q. Okay. Thank you.

13 MS. BAIR: And I would like to mark  
14 that as Staff Exhibit 2, if I may.

15 (EXHIBIT HEREBY MARKED FOR  
16 IDENTIFICATION PURPOSES)

17 Q. What is Staff Exhibit 2?

18 A. This is the inspection from  
19 the State of Kentucky that their inspector did  
20 the same job that I do and he did an inspection  
21 and found that the driver didn't have an ELD  
22 turned on and he didn't have any paper logs.

23 Q. Anything else listed in that report?

24 A. He didn't have a copy of his medical  
25 card. No periodic inspection, didn't have

1 insurance card. Driver's license wasn't in his  
2 possession. And he an IFTA violation.

3 Q. So then he would have been placed  
4 out of service in Kentucky; is that correct?

5 A. Correct.

6 Q. And then he moves on to Ohio.

7 A. Correct.

8 Q. And we didn't see any ELD, no log  
9 books. So there was no way to verify that he  
10 had done his out of service time. Is that what  
11 we are talking about?

12 A. Well, in order to become legal when  
13 you are put out for not having an ELD and paper  
14 logs, you have to serve your 10 hours, yes, but  
15 then you have to become legal to move on, which  
16 you either have to have your ELD turned on and  
17 fixed, or your paper logs, and filling them out  
18 as you are going. Without that you can't move.

19 Q. And he had neither of those?

20 A. Correct.

21 MS. BAIR: Okay. I have no further  
22 questions of this witness, your Honor.

23 ATTORNEY EXAMINER: Okay.

24 EXAMINATION

25 By the Attorney Examiner:

1           Q.    Inspector Johnson, a question.    Did  
2   this driver have in his vehicle and ELD that  
3   could have been turned on?

4           A.    Possibly.

5           Q.    Possibly.

6           A.    Because they are typically on their  
7   phones, and then there is a box that plugs into  
8   the OBT port so then they Bluetooth and talk to  
9   each other.

10          Q.    So it's not really a device that's  
11   like in the cab itself or something else?

12          A.    Yes.   There is a box that talks to  
13   the computer on the truck.   And then you can  
14   easily download and buy a program for your cell  
15   phone or tablet or a hard wired product.

16          Q.    So, you don't really know if the  
17   driver even had an ELD?

18          A.    Correct

19          Q.    At the time?

20          A.    And according to what I wrote on  
21   here it says ELD turned --

22          Q.    Not turned on?

23          A.    Not turned on or malfunctioning.  
24   So he probably had it on his phone or a tablet  
25   of some sort.   It just wasn't turned on being

1 used.

2 ATTORNEY EXAMINER: Okay. Mr.  
3 Berhe, do you have any questions for Inspector  
4 Johnson?

5 MR. BERHE: I have disagreements,  
6 but not questions.

7 ATTORNEY EXAMINER: Okay. Then we  
8 will wait for your testimony then.

9 MR. BERHE: Yes, sir.

10 ATTORNEY EXAMINER: Ms. Bair, you  
11 said you have no more questions for your witness  
12 then?

13 I will mention this. Staff Exhibit  
14 1 then is the Driver/Vehicle Inspection report  
15 that Inspector Johnson prepared. Am I right  
16 then? Staff Exhibit 1 is the Examination or  
17 inspection report that Inspector Johnson  
18 prepared; right?

19 MS. BAIR: Yes.

20 ATTORNEY EXAMINER: Okay. You are  
21 indicating that Staff Exhibit 2 will be this  
22 examination report from the Kentucky State  
23 Police.

24 MS. BAIR: Yes. And I messed up on  
25 the numbering. So I would appreciate it if you

1 would mark that on yours.

2 ATTORNEY EXAMINER: I just wanted to  
3 keep everything straight.

4 MS. BAIR: Sorry about that.

5 ATTORNEY EXAMINER: No problem. I  
6 just want to keep it all straight. Okay.

7 With that in mind then, Inspector,  
8 you can resume your seat for the time being.  
9 You will still be under oath if any other  
10 questions come up. Excuse me. And, Ms. Bair,  
11 you have one other witness then?

12 MS. BAIR: Yes, your Honor. I call  
13 Mr. Rod Moser to the stand, please

14 (WITNESS SWORN)

15 - - -

16 ROD MOSER  
17 called as a witness, being first duly sworn,  
18 testified as follows:

19 DIRECT EXAMINATION

20 By Ms. Bair:

21 Q. Please state your full name for the  
22 Court and spell it.

23 A. My name is Rod Allen Moser. Last  
24 name is M-O-S-E-R.

25 Q. And by whom are you employed?

1           A.    I am employed by the Transportation  
2 Department of the Public Utilities Commission of  
3 Ohio.

4           Q.    And what is your position there?

5           A.    I am the Chief of the Compliance and  
6 Registration sections.

7           Q.    How long have you been there?

8           A.    A little over five years.

9           Q.    And what are your duties as Chief?

10          A.    Specifically related to this, my  
11 duty is to administer the civil forfeiture  
12 process for the Transportation Department.

13          Q.    And before you did that what was  
14 your background?

15          A.    I spent nearly 30 years with  
16 the Ohio State Highway Patrol. My last position  
17 with them was the District 6 Commercial  
18 Enforcement Coordinator. I have training in  
19 North American Standards Parts A and B, cargo  
20 tank, hazmat, and general, and bulk hazmat and  
21 also motor coach.

22          Q.    Okay. And could you please take a  
23 look at what has been marked as Staff Exhibit 2?

24                Do you recognize this document?

25          A.    I do, yes.

1 Q. What is it?

2 A. It is what we refer to as an NPD.  
3 It's formally called a Notice of Preliminary  
4 Determination.

5 ATTORNEY EXAMINER: Let me step in  
6 here for a moment. I believe that should be  
7 Staff Exhibit 3 then.

8 MS. BAIR: It's Staff Exhibit 3. I  
9 am sorry.

10 ATTORNEY EXAMINER: It's the Notice  
11 of Preliminary Determination.

12 MS. BAIR: Sorry.

13 (EXHIBIT HEREBY MARKED FOR  
14 IDENTIFICATION PURPOSES)

15 Q. Did you review this document in  
16 preparation for the hearing?

17 A. I did, yes.

18 Q. Is this document kept in the regular  
19 Commission records?

20 A. Yes, it is.

21 Q. Can you explain how the civil  
22 forfeiture in this case was derived?

23 A. Sure. All violations that are  
24 listed on inspections are once they are uploaded  
25 they come into our system. Our system is



1 automated for non-hazmat inspections and  
2 non-hazmat violations.

3 So in this case it was not a hazmat  
4 inspection. These violations were handled by  
5 the quote-unquote computer.

6 Our violations are broken down into  
7 different groups depending upon the severity of  
8 the violation. For mechanical violations they  
9 are divided into groups 0, 1, 2 and 3. Zero  
10 Group violation never get a fine.

11 Groups 1, 2 and 3 get a fine if they  
12 are marked as out of service violations.

13 And then Group 4 violations are  
14 driver behavior violations along with insurance  
15 and authority related violations.

16 In this particular inspection there  
17 were two violations that were assessed against  
18 the driver. The 395.13 for violating an out of  
19 service order always has a fine amount of  
20 \$3,174, considered a very serious violation.

21 And the 395.8A ELD since it was  
22 marked as out of service on the inspection, that  
23 generated a \$100 fine which is the amount it  
24 generates on every inspection when it's marked  
25 as such.

1           Q.    And is this penalty consistent with  
2   the recommended fine schedule and recommended  
3   civil penalty procedure adopted by the  
4   Commercial Motor Vehicle Alliance?

5           A.    Yes, it is.

6           Q.    And what is the total forfeiture  
7   amount?

8           A.    The total amount is \$3,274.

9           Q.    And do you believe this is a correct  
10   forfeiture amount for this case?

11          A.    I do, yes.

12          Q.    Would you recommend this amount to  
13   the Commission?

14          A.    I would.  And I would also add that  
15   that particular violation, violating the out of  
16   service, that fine amount is specifically  
17   enumerated in the Federal Motor Carrier Safety  
18   regulations.  It's not -- that is the amount  
19   that we have to fine somebody for that  
20   violation.

21          Q.    In other words, it's applied  
22   uniformly?

23          A.    It is.  Not just uniformly applied  
24   within Ohio, but that is the fine for anybody  
25   who has a violation anywhere in the country.

1 MS. BAIR: Thank you. I have no  
2 further questions.

3 ATTORNEY EXAMINER: Okay. Mr.  
4 Moser, just a follow-up question again. The  
5 \$100 fine, that was for what in particular?

6 THE WITNESS: For not having an  
7 ELD, no record of duty status. And that is  
8 considered a Group 1 violation when it's marked  
9 out of service on the inspection.

10 ATTORNEY EXAMINER: Thank you. Mr.  
11 Berhe, any questions for Mr. Moser?

12 MR. BERHE: No, sir.

13 ATTORNEY EXAMINER: All right.  
14 Thank you. All right. Ms. Bair, I believe you  
15 have no more witnesses then.

16 MS. BAIR: No. And I would like to  
17 move No. 1, the Driver Exhibit 1, the Driver  
18 Examination report.

19 No. 2, the Kentucky paperwork as 2.  
20 And then 3 which would be the Notice of  
21 Preliminary Determination.

22 ATTORNEY EXAMINER: And, Mr. Berhe,  
23 you may disagree with the violations, but do you  
24 have any objection to admitting the documents  
25 into evidence?

1 MR. BERHE: Yes, your Honor, I do.

2 ATTORNEY EXAMINER: You do? You  
3 have a different perspective on the violation,  
4 but these as far as being records of say the  
5 roadside inspections and all. Do you have any  
6 objection to that?

7 MR. BERHE: My objection is, yes, I  
8 do have an objection. I am sorry. Are you  
9 asking me do I have any objections as to the  
10 statements that officer --

11 ATTORNEY EXAMINER: I am sure you  
12 have a different perspective on the alleged  
13 violations, I just wanted to know do you have  
14 any objections to these particular documents  
15 that were prepared at the inspection site?  
16 That is the record as far as what the inspector  
17 believed to be true.

18 MR. BERHE: Yes, your Honor, I do  
19 have an objection.

20 ATTORNEY EXAMINER: Okay. Well, why  
21 don't you come up here and be on the witness  
22 stand then, okay? Come up here.

23 MR. BERHE: Yes, your Honor.

24 (WITNESS SWORN)

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YOHANNES BERHE

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

DIRECT TESTIMONY

ATTORNEY EXAMINER: Well, Mr. Berhe,  
then go ahead and explain any disagreements you  
have with what the alleged violations are, or  
why you think they are not violations.

MR. BERHE: My objection is -- my  
perspective as I state to the facts, when I  
initially got pulled over -- so this incident  
began in Kentucky, and began with the officer  
doing a roadside inspection.

During the inspection I did lack  
documents in regards to my IFTA, my insurance,  
registration. That was because the company said  
they were going to e-mail it to me because they  
had just begun the company and I just began  
working with them as well.

So during the inspection I was asked  
for these documents. I did not have them. But  
I said I could have the company send it via  
phone. But he was not willing to accept that.  
I understood.

Then went on to my out of service

1 documents, proof of my drive time. I told him  
2 that my ELD system is not currently working,  
3 it's malfunctioning. And my company advised me  
4 that I can use my log for 15 days until they fix  
5 the ELD system.

6 EXAMINATION

7 By the Attorney Examiner:

8 Q. Did they advise you to use the  
9 logbook? You mean paper logbook?

10 A. Yes. So, unfortunately, the State  
11 Trooper blatantly lied and said I did not have  
12 logbook, which I do and I have it on me today as  
13 well.

14 Your Honor, I know maybe it's hard  
15 to swallow, maybe it's hard to believe a citizen  
16 over a State Trooper, but the State Trooper did  
17 blatantly lie and say that I did not have the  
18 logbook when in fact that I did have the logbook  
19 to show him where I came from, and where I was  
20 going.

21 But, he said that I did not have a  
22 logbook. And I did.

23 Q. You are describing what's going on  
24 in Kentucky?

25 A. Yes. Because this grew to -- and I

1 am sorry if I am not supposed to do that. If  
2 you want me to just stay --

3 Q. No, that is okay. So you are  
4 describing, I am looking at the Kentucky  
5 inspection report that started at 6:00 P.M. and  
6 ended at 7:30 p.m.

7 A. That's correct.

8 Q. So you have addressed the matter of  
9 the -- you are saying that when you were in  
10 Kentucky then actually with paper logbooks?

11 Q. Yes.

12 Q. You had completed?

13 A. Yes.

14 Q. And that wasn't taken into account.  
15 Okay.

16 A. That is correct. Yes, sir.

17 Q. Okay. All right. And really  
18 the other violation on here that was of  
19 significance as far as Kentucky it says driver  
20 failed to retain previous seven days record of  
21 duty status, no log, not current.

22 And again you are indicating you did  
23 have a current log and it was a paper log?

24 A. Yes, I did, your Honor.

25 Q. Okay. Then I am assuming also that

1 since this inspection ended at 7:30 p.m. that  
2 finished your day, you didn't proceed after  
3 that. I am correct?

4 A. That is correct. And, your Honor, I  
5 brought today with me, basically you are able to  
6 see exactly my being put out of service. I did  
7 my 10 hours, and you will see on the logbook  
8 that there is no way that I can make it to see  
9 him the next day unless I did 10 hours. It  
10 takes four hours and 45 minutes to go from  
11 London, Kentucky to Butler, Ohio where I was  
12 pulled over.

13 You have to do 10 hours in order to  
14 make it to Butler, Ohio. In other words, I did  
15 my 10- hours, did my paper log. And the same  
16 incident occurred with him. He pulled me over.

17 Q. You are referring to Inspector  
18 Johnson in Ohio?

19 A. That is correct, yes. When I saw  
20 him as well it was the same matter. He claimed  
21 that I don't have a logbook when I in fact that  
22 I did have a logbook.

23 Your Honor, they were after me, just  
24 to let you know, they were after me. For  
25 whatever this is worth, I must say that I



1 understand we must stay on the facts, but I just  
2 want to let you know this was an intentional  
3 premeditated thought on their behalf.

4 And I say that because the minute  
5 that I was pulled over in Kentucky the State  
6 Trooper made a comment saying that he said you  
7 have several violations in the past for out of  
8 service. And he said it's always the same  
9 excuse, ELD malfunctioning.

10 And, your Honor, I do have several  
11 violations in the past. And I want to let you  
12 know there has never been an intention to drive  
13 more, or rather be bullied by companies to keep  
14 going and to my arm being twisted at times and  
15 having to use logbook, ELD and not having enough  
16 knowledge to conduct myself throughout my six  
17 years of driving.

18 So I racked up those violations. I  
19 am just being truthful. But nevertheless on  
20 this particular incident the State Trooper was  
21 motivated by the several past violations to put  
22 me off the road as if I was, No. 1, doing it  
23 intentionally. No. 2, this particular day I had  
24 everything proper. I had my logbook, I had  
25 everything that was needed for him not to put me

1 out of service in regards to my driving hours.

2 And I brought my logbook, the same  
3 logbook with me that I had with him and also  
4 with the State Trooper Johnson here today as  
5 well. So I just want to let you know there was  
6 a motive behind this action.

7 But nevertheless, I just want to let  
8 you know I had my logbook in Kentucky, I had my  
9 logbook in Ohio. And there is no way that I can  
10 make it to Ohio without doing 10 hours. As you  
11 can see the time line, I did ten hours and met  
12 Mr. Johnson at 10:00 A.M. the next morning.

13 Q. So what you are telling me again is  
14 that you are admitting that your electronic or  
15 ELD was not operating, was not working either in  
16 Kentucky or Ohio?

17 A. That's correct.

18 Q. And you are saying that you did  
19 though at the recommendation of your employer  
20 have a paper logbook when you were in Kentucky  
21 as well as when you traveled through Ohio?

22 A. Which is legal, yes, sir.

23 Q. And did you show the paper logbook  
24 to Inspector Johnson here in Ohio?

25 A. (Nods head).

1           Q.    Did you show the paper logbook to  
2   Inspector Johnson here when you were inspected  
3   in Ohio?

4           A.    Yes, sir, I did.

5           ATTORNEY EXAMINER:   Okay.   All  
6   right.   Ms. Bair, I am sure you may have some  
7   questions.

8           MS. BAIR:   Yes, I have a couple.

9           CROSS-EXAMINATION

10          By Ms. Bair:

11               Q.    So, it's your testimony that both  
12   of these officers just plain out lied.   Like you  
13   showed them the logbooks and then they wrote  
14   down here "Driver states his ELD malfunctioned.  
15   Has no paper logs."

16           A.    Yes.

17           ATTORNEY EXAMINER:   Which inspection  
18   are you looking at, Ms. Bair?

19           MS. BAIR:   The Kentucky.

20           ATTORNEY EXAMINER:   Kentucky.   Where  
21   is that on the paper?   I am still looking.

22           MS. BAIR:   Page 2

23           ATTORNEY EXAMINER:   Page 2.   Okay.

24           MS. BAIR:   Inspection note above the  
25   big empty kind of box.

1 ATTORNEY EXAMINER: All right.

2 MS. BAIR: Did you find it?

3 ATTORNEY EXAMINER: Yes, I did.

4 Thank you.

5 Q. And then you are saying that our  
6 officer here today did the exact same thing that  
7 that officer did. You showed your logbooks to  
8 him and then he said you didn't have them?

9 A. Yes, ma'am. Just like the blatant  
10 lie. Blatant lie, yes, ma'am. That is all I  
11 can say.

12 Q. It seems unusual it happened twice  
13 in one day.

14 A. Can I say something?

15 Q. Sure.

16 A. As I mentioned, this was an  
17 orchestrated act on both of them, I believe. I  
18 don't have proof, I do not have proof that they  
19 were in cahoots, but I do believe that they were  
20 working together because I was pulled over in  
21 Kentucky, did my 10 hours. They was standing on  
22 the side of the highway. There was several  
23 trucks behind, several trucks behind me, in  
24 front of me. I was in the middle.

25 He intentionally went around all

1 those trucks, came behind me. I make this  
2 statement to give it a ground. I am making this  
3 statement to give it a stable ground as to my  
4 belief that they were in cahoots.

5 So just to answer your question  
6 plainly, he lied, the other State Trooper lied.

7 Q. Even though he works for Ohio and  
8 the other gentleman works for Kentucky; right?

9 A. What do you mean by that?

10 Q. Is it correct that the first officer  
11 works for Kentucky, he was a Kentucky State  
12 Patrolman?

13 A. That is correct. DOT officer, yes,  
14 ma'am.

15 Q. And this officer here works for  
16 the State of Ohio, not Kentucky; is that  
17 correct?

18 A. That is correct. They work for two  
19 different states. I have a question.

20 ATTORNEY EXAMINER: I think you  
21 answered that question. Ms. Bair just wanted to  
22 confirm that the first inspection was done by an  
23 inspector in Kentucky and the second inspection  
24 was done by an inspector in Ohio. That's what  
25 she wanted to get confirmed, and you are saying

1 that is true.

2 THE WITNESS: Yes. Was she  
3 insinuating they cannot communicate to one  
4 another? When you say they are from two  
5 different states they cannot communicate with  
6 one another?

7 Q. I was just asking you.

8 A. Yes. I answered your question.  
9 Yes, I do recognize they are two different  
10 states.

11 ATTORNEY EXAMINER: Did you have any  
12 further questions?

13 MS. BAIR: No, but I would like to  
14 call Mr. Johnson on rebuttal.

15 ATTORNEY EXAMINER: Okay. Mr.  
16 Berhe, I have no more questions. You can resume  
17 your seat.

18 MR. BERHE: Yes, sir.

19 FURTHER EXAMINATION

20 By the Attorney Examiner:

21 Q. Wait. Before you go, you said you  
22 had the paper logbook. Do you have any other  
23 documentation at all today?

24 A. I have all the documents. As I  
25 mentioned to you as far as no registration, the

1 company being new, by the way, the company new,  
2 they was just getting their stuff together, but  
3 I made a statement saying I lacked a few  
4 documents, but I just want it to be known they  
5 had a registration, they had insurance, they had  
6 everything that was needed.

7 The case against me in Kentucky was  
8 dismissed, and I brought that document as well.  
9 That was dismissed because I was able to prove  
10 that the truck had insurance, had a logbook, and  
11 that sort -- I brought every document to prove  
12 as to what I am saying with regards to my  
13 logbook, in regards to the insurance, in regards  
14 to -- so everything was good on the truck and on  
15 my hours of service that day, your Honor. And I  
16 brought all the documents needed.

17 ATTORNEY EXAMINER: Well, let's  
18 pause for a moment. Let's go off the record  
19 just for a minute.

20 (DISCUSSION OFF THE RECORD)

21 Q. Mr. Berhe, you said you had  
22 the paper logbooks?

23 A. Yes.

24 Q. And you are saying what neither  
25 inspector in either state wanted to see

1 the logbooks even though you offered them to the  
2 inspector.

3 A. They saw the logbook, but they did  
4 not -- they saw the logbook is what I am saying.  
5 And I know in my heart they blatantly lied, your  
6 Honor.

7 Q. Now, you are also saying that there  
8 was some sort of letter from the State of  
9 Kentucky that wiped the slate clean and even  
10 though you had a violation in Kentucky during  
11 that inspection?

12 A. That is correct, yes, sir. Yes.  
13 The charge that the initial officer, I had to go  
14 to court for that in London, Kentucky. I was  
15 able to show proof and the case was dismissed.

16 Now I stand with you again to plead  
17 my case and to let you know whatever may be  
18 needed in regards to my -- and I want to let you  
19 know, your Honor, I am not here trying to beat  
20 any system, I am trying to -- I just want you to  
21 know the officer blatantly lied in regards to me  
22 having a logbook.

23 Now, as to their -- as to why they  
24 would be unprofessional that way, I cannot  
25 answer for that. All I know is, your Honor, I



1 had my logbook in both incidents. Did my 10  
2 hours and you will -- if you will see, if I did  
3 not have a logbook would I do 10 hours?

4 In other words, I say that to say I  
5 did my 10 hours and you will see I have also  
6 brought a Google map that shows how far it is  
7 from A to B, and that there is no way that I can  
8 make it to see him the next day without having  
9 to do ten hours.

10 In other words, if I am a falsifier  
11 why would I wait 10 hours and not just go on?  
12 Does that make sense?

13 Q. I understand what you are saying.

14 A. So do you believe when I tell you --

15 Q. I would say we have to weigh all the  
16 evidence.

17 A. Do you want to see my documents, by  
18 the way?

19 ATTORNEY EXAMINER: Let's go off the  
20 record for a moment.

21 (RECESS TAKEN)

22 ATTORNEY EXAMINER: Mr. Berhe, I  
23 have no more questions at this point in time.  
24 Okay. You can -- well, actually one other.  
25 Do you have any other documentation you felt

1 would support what you are saying?

2 MR. BERHE: I just have one more  
3 comment.

4 ATTORNEY EXAMINER: Okay. What's  
5 your comment?

6 MR. BERHE: What I just showed you,  
7 I should be taken seriously in regards to  
8 the conclusion of this matter. And not just  
9 observe both of them as well as they are  
10 calculating whether I have time to do 10 hours.  
11 And I don't know what they came up with.

12 But I just want to let you know that  
13 I have nothing to hide. This should be taken  
14 into consideration in regards to if somebody  
15 practices falsifying documents they would not  
16 wait 10 hours. And did I wait 10 hours is the  
17 question.

18 And the proof is in the pudding that  
19 there is no way that I can meet up with him  
20 the next day unless I had done 10 hours. And as  
21 you can see the Google map that I pulled up  
22 shows exactly, precisely, precisely without a  
23 shadow of a doubt that I did 10 hours to be at  
24 the scene the next day. Exactly as 10 hours.

25 So, I just wanted to make that last

1 comment and say please take that into  
2 consideration with regards to the conclusion of  
3 this matter

4 ATTORNEY EXAMINER: All right. Thank  
5 you. Please take your seat.

6 MR. BERHE: Yes, your Honor. Thank  
7 you.

8 ATTORNEY EXAMINER: You are welcome.  
9 And, Inspector Johnson, come back up here. You  
10 have already been sworn in. So Ms. Bair, please  
11 continue.

12 - - -

13 INSPECTOR WILLIAM JOHNSON  
14 being previously duly sworn, testified further  
15 as follows:

16 REDIRECT EXAMINATION

17 By Ms. Bair:

18 Q. When you pulled over Mr. Berhe did  
19 you ask him if he had the logbooks?

20 A. Yes, ma'am.

21 Q. And what was his response?

22 A. No, he doesn't

23 Q. Did he show anything?

24 A. No, ma'am.

25 Q. What did he say about his ELD?

1           A.    He said it was -- I think I wrote on  
2           there that it was either turned off or  
3           malfunctioning.

4           Q.    Okay.  That is what it says in the  
5           report, turned off or malfunctioning.

6                    Do you call State Troopers in  
7           Kentucky?

8           A.    I don't even know any State Troopers  
9           in Kentucky.

10          Q.    So you have never contacted a State  
11         Trooper in Kentucky?

12         A.    No, ma'am.

13          Q.    Has a State Trooper in Kentucky  
14         contacted you?

15         A.    No, ma'am.

16                   MS. BAIR:  Thank you.  I have  
17         nothing further.

18                                 EXAMINATION

19         By the Attorney Examiner:

20          Q.    Inspector Johnson, I have a question  
21         for you.

22         A.    Yes.

23          Q.    You indicated here, and, of course,  
24         the major fine is driving after being declared  
25         out of service.

1                   Help me out. When you conducted  
2 the inspection in Ohio then you placed the  
3 driver, Mr. Berhe, out of service because he did  
4 not have -- am I correct you placed him out of  
5 service because he did not have either an  
6 electronic or paper logbook.

7                   Am I right? Or what was the reason  
8 for placing him out of service just so I  
9 understand?

10                  A. In Kentucky he was placed out of  
11 service for not having an ELD or paper logs.  
12 So, with that being said, you have to take your  
13 10-hour break, and then you can deliver the load  
14 he is on, which was running from somewhere in  
15 South Carolina to Hebron, Kentucky, according to  
16 the Kentucky report.

17                  Then you cannot drive again until  
18 you have an ELD.

19                  Q. Or paper log?

20                  A. No, no.

21                  Q. You have to have an ELD?

22                  A. Because he was driving without an  
23 ELD or paper logs in Kentucky. You are allowed  
24 to deliver the load you are on.

25                  Q. After doing out of service in

1 Kentucky.

2 A. Ten hours, you can deliver the load.  
3 And then you are out of service again until you  
4 get an ELD.

5 Q. Until an ELD or some other form of  
6 logbook?

7 A. No.

8 Q. It's required now --

9 A. That is an ELD required truck. So  
10 when he got to Hebron, Kentucky and delivered  
11 his Amazon load he had to stay there until his  
12 ELD was working again.

13 He then left Amazon in Hebron and  
14 was heading to the Amazon in Monroe, Ohio to  
15 pick up another load. So at that point he can't  
16 be on the road. And that is part of the ELD  
17 hours of service violation that he is placed out  
18 for.

19 Q. Okay. Now I understand. So you are  
20 indicating that when he traveled into Ohio and  
21 you did the inspection --

22 A. That entire time he could not be  
23 driving without an ELD.

24 Q. And you confirmed that by checking,  
25 during the inspection you found no ELD?

1           A.     Correct.

2           Q.     Okay.  Be it on his cell phone or  
3 anywhere else?

4           A.     Correct.

5           ATTORNEY EXAMINER:  Okay.  Mr.  
6 Berhe, you had a question?

7           MR. BERHE:  Yes, your Honor.

8                   He just blatantly contradicted  
9 himself.  He said initially, when he was on the  
10 stand before, he said once a person is put out  
11 of service, after that their option is to either  
12 have a working ELD or have a logbook.

13                   And now he is saying they can only  
14 have an ELD.  So I just wanted to insert that in  
15 there.

16                   He blatantly said, I believe, said,  
17 do you remember when he said that?  I don't know  
18 how you can rewind and looking back, but he said  
19 the person can have a logbook or ELD.

20                   So I am asking a question as to why  
21 is he contradicting himself?

22           ATTORNEY EXAMINER:  Mr. Johnson, can  
23 you respond to that?

24           THE WITNESS:  I am not  
25 contradicting myself.  That is a completely

1 different kind of out of service. If you are  
2 placed out of service for certain things you  
3 have to comply with certain rules.

4 When it's an ELD out of service for  
5 not having it, at the end of it you can drive on  
6 paper logs to your very next delivery, the one  
7 that you are currently on. You can't go  
8 further. You have to have an ELD after that.  
9 After you made your delivery.

10 ATTORNEY EXAMINER: Okay. But you  
11 are indicating that is because the kind vehicle  
12 it is?

13 THE WITNESS: No. It's because of  
14 the type of out of service he was placed on.  
15 Because he was placed out of service initially  
16 for not having an ELD or paper logs.

17 Because if you have a malfunctioning  
18 ELD you can drive 8 days in a 30-day period.  
19 But he chose not to go that route.

20 Initially if he had been stopped in  
21 Kentucky with paper logs he can have them for 8  
22 days in a 30-day period. And he has to mark on  
23 there saying malfunctioning ELD. And then his  
24 company would also send him his previous seven  
25 days.



1                   ATTORNEY EXAMINER: Previous seven  
2 days on paper, I assume?

3                   THE WITNESS: Via e-mail of or some  
4 sort so that he would had have proof saying this  
5 is what I have done in the past. And then from  
6 that point he can do 8 days on paper.

7                   But he never did any of that. He  
8 just either it was turned off or was  
9 malfunctioning ELD and driving without a paper  
10 log at all.

11                  ATTORNEY EXAMINER: So when he got  
12 to you, to the inspection in Ohio, he needed to  
13 have an ELD that operated?

14                  THE WITNESS: Correct.

15                  ATTORNEY EXAMINER: And you are  
16 saying at that point paper log wouldn't have  
17 been enough?

18                  THE WITNESS: It wouldn't have been  
19 an option. It had to have been an ELD.  
20 Because he had already made his delivery from  
21 the previous day where he was placed out of  
22 service.

23                  MR. BERHE: I have one more  
24 question.

25                  ATTORNEY EXAMINER: Mr. Berhe.

1 MR. BERGE: If possible.

2 ATTORNEY EXAMINER: Do you have a  
3 question?

4 MR. BERGE: Yes.

5 CROSS-EXAMINATION

6 By Mr. Berhe:

7 Q. In regards to never having  
8 communication with other State Troopers, you say  
9 you never contacted, spoke to any Kentucky State  
10 Troopers; correct?

11 A. Correct.

12 Q. I wanted to ask you how is that  
13 possible? When DOT stations, and I am just  
14 asking -- first I want to mention, all DOT are  
15 Federal police officer -- State Troopers. And  
16 having driven six years and every year there is  
17 an event that you guys conduct, which is  
18 periodically to check for drivers on the road.

19 And are you saying that you -- a  
20 next door neighbor state, you never had any --  
21 you never had any -- you never conducted any  
22 operation with other DOT inspectors?

23 A. Other DOT inspectors, yes, but never  
24 from another state.

25 Q. Okay. Is it because it's not legal

1 or just not a custom?

2 A. Because it's another state.

3 Q. Is it bazaar or abnormal to contact  
4 another State Trooper in another state? You are  
5 adamant in saying never contacted anybody in  
6 Kentucky.

7 A. I would have no reason to contact  
8 another state.

9 MR. BERGE: I have no further  
10 questions, sir. Thank you.

11 ATTORNEY EXAMINER: Any further  
12 questions, Ms. Bair?

13 MS. BAIR: Nope. Just want to make  
14 sure I get my three exhibits moved into  
15 evidence.

16 ATTORNEY EXAMINER: We will do  
17 that. Mr. Berhe, I will admit Staff exhibits  
18 into evidence. You may disagree with whether  
19 there was a violation, but this was the  
20 perspective of the Staff at the time the  
21 inspection was made. And any determination  
22 about whether there truly was a violation will  
23 be determined after looking at all the evidence,  
24 and I will summarize that and send it to our  
25 five Commissioners who will actually look at the

1 case record itself.

2 So, we will admit Staff Exhibits 1,  
3 2 and 3 into evidence.

4 (EXHIBITS ADMITTED INTO EVIDENCE)

5 ATTORNEY EXAMINER: Go off -- stay  
6 on the record, actually. Mr. Berhe, as far as  
7 these logbooks that you produced for June 16 and  
8 17 in 2021, is there any way -- is there any  
9 indication on here about when you actually  
10 completed these? That is, they truly were  
11 completed on the 16th and 17th?

12 MR. BERHE: I am sorry, your Honor.  
13 What was your question?

14 ATTORNEY EXAMINER: Do you have  
15 paper logbooks here?

16 MR. BERHE: Yes.

17 ATTORNEY EXAMINER: You wanted them  
18 to support your case.

19 MR. BERHE: Yes, sir.

20 ATTORNEY EXAMINER: Is there sort of  
21 confirmation about whether they were actually  
22 filled in on the 16th or 17th, whether you did  
23 it after the fact?

24 MR. BERHE: I did not do it after  
25 the fact. Those are the exact documents that I

1 had on the 16th and on the 17th.

2 And to answer your question in a  
3 better way, that is why I brought the Google map  
4 to support, to support my hours of existence, or  
5 support the facts.

6 In other words, if one is practicing  
7 falsifying documents would I have waited ten  
8 hours?

9 ATTORNEY EXAMINER: All right. We  
10 understand, you emphasized that.

11 MR. BERGE: So, yes, sir. So but  
12 that is the original documents, it was not after  
13 the fact. There is no reason for me to make it  
14 up after the facts. You see it as it is.  
15 There is no way around it.

16 If I did not do ten hours, there is  
17 no way around it. And not just the 10 hours.  
18 I had my documents. The State Troopers  
19 blatantly lied. I cannot answer as to why a  
20 professional State Trooper would lie, but they  
21 lied.

22 And I know I am just a civilian,  
23 wouldn't expect anybody just to believe me, but  
24 I am telling you the truth.

25 This gentleman and that officer as

1 well blatantly lied and are lying today as well  
2 and blatantly saying this gentleman did not have  
3 a logbook.

4 ATTORNEY EXAMINER: Inspector  
5 Johnson, and I know I asked this previously,  
6 just to make sure, so, when Mr. Berhe actually  
7 got into Ohio he needed had to have an ELD that  
8 was operating? In other words, continue to  
9 operate on paper logs wouldn't have been  
10 sufficient at that point because you are saying  
11 he had already done his delivery in Kentucky.  
12 Am I correct about that?

13 INSPECTOR JOHNSON: Yes, sir.

14 ATTORNEY EXAMINER: I see. Okay.  
15 So, and even if Mr. Berhe had shown you paper  
16 logs he still would have been considered to be  
17 driving after being declared out of service  
18 because by the time he got to you there was no  
19 ELD operating?

20 INSPECTOR JOHNSON: Yes, sir.

21 ATTORNEY EXAMINER: I see. Okay.

22 Mr. Berhe, it's your contention  
23 really there was no violation at all as far as  
24 not having a log, and, therefore, as I  
25 understand it's your contention that the fine is

1 incorrect and you shouldn't be fined at all;  
2 am I right?

3 MR. BERHE: That is my contention,  
4 yes, sir, that I did have all the proper  
5 documents to show my hours of service by my  
6 logbook.

7 ATTORNEY EXAMINER: Okay. I will  
8 ask a question here. Ms. Bair, you indicated  
9 you had -- you turned down the opportunity, and  
10 not saying you should have taken  
11 the opportunity, to see any documents that Mr.  
12 Berhe had. Is that still your perspective? I  
13 am not saying you should look at them, I am just  
14 asking.

15 MS. BAIR: No. I don't need to look  
16 at them. Thank you for the offer.

17 ATTORNEY EXAMINER: Okay. We will  
18 go off the record for a moment.

19 (RECESS TAKEN)

20 ATTORNEY EXAMINER: Ms. Bair, do  
21 you have any additional questions for any of  
22 your witnesses?

23 MS. BAIR: I have no additional  
24 questions. Thank you, your Honor.

25 ATTORNEY EXAMINER: Thank you. We

1 have admitted Staff Exhibits 1, 2 and 3 into  
2 evidence.

3 I will admit Mr. Berhe's exhibits  
4 into evidence as well, but we will take into  
5 account certainly the testimony of Staff. Yes.

6 MS. BAIR: What exhibits are you  
7 putting into the record on his behalf?

8 ATTORNEY EXAMINER: The logbooks.

9 MS. BAIR: Then we would like to  
10 take a look at those.

11 ATTORNEY EXAMINER: Fine. I will  
12 say this.

13 MS. BAIR: Because, I mean, are they  
14 self-authenticating? I mean, they could be  
15 created at who knows what time, when, where.

16 ATTORNEY EXAMINER: That is  
17 something that --

18 MS. BAIR: And I didn't realize they  
19 were going to become part of the record.

20 ATTORNEY EXAMINER: We will see.

21 (RECESS TAKEN)

22 ATTORNEY EXAMINER: I will note  
23 earlier you weren't interested in seeing them.

24 MS. BAIR: I didn't know they were  
25 going to be part of the record.



1                   ATTORNEY EXAMINER: They may or may  
2 not be. Please ask your questions.

3                   MS. BAIR: I will ask the questions  
4 of Mr. Berhe.

5                   ATTORNEY EXAMINER: And, actually,  
6 you are both looking at the same copies? I  
7 have copies here.

8                   MS. BAIR: Well, do you have copies?

9                   ATTORNEY EXAMINER: I made some  
10 copies upstairs.

11                  MS. BAIR: Yes, I need a copy.

12                  ATTORNEY EXAMINER: Fine.

13                  MS. BAIR: So would we like Mr.  
14 Berhe to take the stand and Mr. Johnson be  
15 dismissed?

16                  ATTORNEY EXAMINER: Okay. You can  
17 step down, Mr. Johnson. Thank you.

18                  Mr. Berhe, if you can come back up,  
19 please, and you have your original copy with  
20 you?

21                  MR. BERHE: Yes, your Honor.

22                  ATTORNEY EXAMINER: Please bring  
23 those up. Thank you.

24                  Ms. Bair, go ahead.

25                  MS. BAIR: Thank you, your Honor.

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- - -

YOHANNES BERHE

called as a witness, being previously duly  
sworn, testified further as follows:

RECROSS-EXAMINATION

By Ms. Bair:

Q. I am looking at your Driver's Daily  
Log book from 6-16. Do you have that there with  
you?

A. Yes, ma'am.

Q. Okay. And it looks like you began  
driving at 7:00 o'clock.

No. Switching back to the Kentucky  
report. Do you have one up there with you?

A. The Kentucky report? I can grab  
it.

Q. I can give it to you.

A. Thank you.

MS. BAIR: Your Honor, I might need  
to stand up for a minute.

ATTORNEY EXAMINER: Please go ahead.  
No problem.

Q. Could you please tell me what time  
that inspection was over?

A. This inspection says it was over at

1 7:30 p.m.

2 Q. So you would of had to have done --  
3 that's all I needed. Thank you.

4 So you would of had to have done 10  
5 hours after that for out of service; right?

6 A. That is correct, yes.

7 Q. So what time would that put you  
8 driving again?

9 A. So after 10 hours 5:00 A.M. the next  
10 morning.

11 Q. 7:30 it would be 5:30; wouldn't it?

12 A. I am sorry.

13 Q. If you had to be out of service for  
14 10 hours, 7:30 would take you to 5:30 that you  
15 are supposed to be out of service; correct?

16 A. That is correct. Correct. That day  
17 that I was pulled, I did my documents as  
18 presented with my hours, with my clock. I don't  
19 know what clock he used, but my clock, I  
20 recorded my record by my clock, and I was  
21 finished at 7:00 P.M. with him.

22 Q. Why does it say 7:30?

23 A. Are you talking about his document;  
24 correct?

25 Q. Yes.

1           A.    I do not know what his clock said,  
2   ma'am. My clock said 7:00 P.M. so I put exactly  
3   7:00 P.M.

4           Q.    So you are claiming that he didn't  
5   tell the truth about looking at your log books  
6   and he also didn't tell the truth about  
7   completing his own report that the thing ended  
8   at 7:30?

9           A.    No. As to why he put 7:30, no.  
10   Are we fighting over 30 minutes?

11          Q.    I am not fighting, I am just asking  
12   why does it say 7:30?

13          A.    Because I don't know, maybe his  
14   clock reads 30 minutes past mine. I don't know.  
15   But I just know this: I was finished at 7:00  
16   with him, and I did my ten hours properly.

17          Q.    What time did you get to Hebron?

18          A.    Hebron, Kentucky?

19          Q.    Yes.

20          A.    London, Kentucky? I was pulled over  
21   in London, Kentucky. Roadside inspection,  
22   London, Kentucky.

23          Q.    Right. And your destination was  
24   Hebron, Kentucky; right?

25          A.    That is correct, yes.

1 Q. What time did you get there?

2 A. So as you can see on my documents,  
3 it says coworker came and exchanged trailer  
4 because I was put out of service, a coworker  
5 came, took my trailer, and I was given an empty  
6 trailer.

7 So when I met up with him as you can  
8 see on the document I had an empty trailer.  
9 I had a loaded trailer with the Kentucky one,  
10 but I had an empty trailer with him.

11 ATTORNEY EXAMINER: With him you are  
12 referring to Inspector Johnson in Ohio?

13 THE WITNESS: That's correct, yes,  
14 sir.

15 ATTORNEY EXAMINER: Okay.

16 Q. Okay. Speaking of this log, the  
17 one on the 16th, when did you complete that log?

18 A. I am sorry. I am sorry.

19 Q. When did you complete the log on  
20 6-16 regarding that day? When did you write  
21 this?

22 A. When did I write --

23 Q. This.

24 A. The same day.

25 Q. You did that on 6-16?

1           A.     Just to make sure I understand your  
2 question, are you asking me -- say that question  
3 again. I am sorry. I didn't understand the  
4 question.

5           Q.     Okay. This Driver's Daily Log book  
6 that we are discussing, and it says 6-16-2021, I  
7 am just curious when you created this?

8           A.     To answer the question, this was  
9 done on the 16th as you can see the document.  
10 It's a Federal document.

11          Q.     Okay. And did you present this to  
12 this officer when you were stopped?

13          A.     Yes. To both of the out of state  
14 officers who lied today, yes, ma'am.

15          Q.     And also not only have they lied  
16 today, you are saying, but they also have  
17 inaccurately completed their reports, in other  
18 words?

19          A.     If that is what the conclusion is,  
20 yes, ma'am.

21          Q.     Could I ask you please to look at  
22 Staff Exhibit 1? That is the Driver's  
23 Examination report.

24          A.     May I grab it?

25                 MS. BAIR: I got it.

1           Q.    What time did this inspection start?  
2   The upper right-hand corner.

3           A.    I just want to see.  So this is the  
4   inspection with Mr. Johnson?

5           Q.    Yes.

6           A.    The inspection started at 10:05 A.M.

7           Q.    Okay.  And you would agree with me  
8   that down on the 17th when you did your logbook  
9   you accurately showed that you were not driving  
10   at 10:00 o'clock?  Would you agree with me?

11          A.    I am sorry.

12          Q.    Okay.  On your logbook on page  
13   6-17-21 you indicate that you were not driving  
14   from 10 to 11; is that correct?

15          A.    On the 17th?

16          Q.    Yes.

17          A.    I didn't understand the question.  
18   I am so sorry.  Please, what's your question so  
19   I can understand it?

20          Q.    Okay.  Happy to repeat it.

21          A.    Okay.

22          Q.    When you look at the 17th --

23          A.    Right.

24          Q.    Maybe it's 10:15.  When do you  
25   indicate that you are on duty, not driving?

1     What time is that? You have drawn it down and  
2     across. What time is that?

3             A.     On the 17th?

4             Q.     Yes.

5             A.     So, it's my understanding and  
6     experience that, especially when an officer  
7     pulls you over, you go to the nearest dock  
8     because how the time line is set in your  
9     logbook.

10            Q.     Yes, I get it. So what time does it  
11    look like you were on duty, not driving, in that  
12    10:00 o'clock hour to you as you interpret your  
13    own logbook?

14            A.     Yes, ma'am. So as recorded on my  
15    logbook, I stated that I was driving to 10:15,  
16    and went, started the road inspection at 10:15,  
17    and that is only because that logbook does not  
18    give me a 1 or 2, 3, 4-minute time line to  
19    indicate, only gives you an option of 15  
20    minutes, 30 minutes, 45 minutes. So you have to  
21    go to the nearest minute. Does that make sense?

22            Q.     Okay. When did your ELD stop  
23    functioning?

24            A.     So, when I started with this  
25    company, the same day that I was pulled over, I



1 am sorry, in Kentucky, I was just starting in  
2 Charlotte, North Carolina that day. When I  
3 started with them, when I started with them, I  
4 got in the truck and they had the proper plugs  
5 for the truck.

6 Never the less, as I was given the  
7 truck, I was given the proper plugs, but the  
8 plugs were not working or connecting. So when  
9 I started with them the plugs were not working.

10 So just to start over again, I am  
11 sorry, I didn't know if you were listening to  
12 me.

13 Q. I heard you.

14 A. Yes, ma'am. So when I began, the  
15 day that I began with this company, they were  
16 proper plugs, the black box as well, to connect  
17 to the truck.

18 When they gave me the truck they  
19 gave me the box, and as I attempted to operate  
20 it it wouldn't work through my phone. And they  
21 used Key Tracking App. So they gave me  
22 everything I needed, but it wouldn't work.

23 So I called my boss. I said it does  
24 not work. What should I do? So, via phone he  
25 attempted to try to fix it.

1           After attempting to try to fix it we  
2       concluded, me and him concluded, that it's not  
3       working. But I do have a load for you, you are  
4       legally able to use logbook until we fix the  
5       ELD.

6                               EXAMINATION

7       By the Attorney Examiner:

8           Q.     If I can stop you for a minute, sir.  
9       When you say your employer gave you the box, you  
10      are referring to the ELD device?

11          A.     Yes.

12          Q.     Okay. And you are saying that you  
13      had difficulty plugging it in or getting this  
14      ELD device, getting it to operate and connected  
15      into the cab.

16                You are also saying that you  
17      attempted to get the equivalent of this box,  
18      this ELD box, on your cell phone and that didn't  
19      work either.

20          A.     That is correct. It would not  
21      operate properly.

22          Q.     And you are saying that after  
23      knowing all that your employer authorized you to  
24      go ahead and start to carry a load anyway.

25          A.     Legally, correct. By using a

1 logbook that I have today with me.

2 Q. Okay.

3 A. And it's my understanding as well  
4 that we can use a logbook.

5 Q. When your employer authorizes you to  
6 do that, then were you recording on paper logs,  
7 or what were you doing exactly?

8 A. The minute that I began my load, my  
9 new load, I started my logbook from Charlotte.

10 Q. So you are referring to this was on  
11 June 16th of 2021?

12 A. That is correct, yes, sir.

13 ATTORNEY EXAMINER: Ms. Bair.

14 MS. BAIR: I don't have anything  
15 else. Wait a minute. I do.

16 ATTORNEY EXAMINER: All right. Go  
17 ahead. Thank you. We will wait.

18 FURTHER RECROSS-EXAMINATION

19 By Ms. Bair:

20 Q. How many days worth of logs are you  
21 required to keep?

22 A. Seven days.

23 Q. Okay. Do you have any that are  
24 prior to this?

25 A. That day I did. I did not bring

1 today, but, yes, ma'am, I did. I showed it to  
2 the State Trooper.

3 MS. BAIR: Okay. All right. I  
4 don't have any other questions. Thank you.

5 ATTORNEY EXAMINER: Thank you.

6 MR. BERHE: Yes

7 ATTORNEY EXAMINER: Mr. Berhe, you  
8 can take your seat

9 MR. BERHE: Thank you.

10 ATTORNEY EXAMINER: Inspector  
11 Johnson, although you may have taken the stand  
12 multiple times I will ask you a question.

13 - - -

14 INSPECTOR WILLIAM JOHNSON  
15 called as a witness, being previously duly  
16 sworn, testified as follows:

17 FURTHER EXAMINATION

18 By the Attorney Examiner:

19 Q. You are telling me that when you  
20 did the inspection with Mr. Berhe that that  
21 point in his driving he needed to have an  
22 electronic ELD, that a paper one really wouldn't  
23 have been sufficient?

24 A. Correct.

25 Q. I see. And that is because any load

1 that he had been carrying had already been  
2 delivered by the time he got to you?

3 A. Correct.

4 Q. Okay. And I believe you said  
5 earlier someone has been declared out of  
6 service, they can go ahead and deliver the load  
7 and they have was it something like 8 days they  
8 can operate on paper logs or something?

9 A. Kind of. They can deliver that  
10 load, and then they have to be on the ELD again.

11 But, the 8 days is a different  
12 situation. That is you have eight days in a  
13 30-day period that you can be on paper. Because  
14 of you drop your phone, you break it, your ELD  
15 doesn't work for some reason. You can do that.  
16 But only eight days in a 30-day period. That  
17 would be today plus 7 more.

18 Q. And again, did Mr. Berhe attempt to  
19 show you any paper logs?

20 A. He had none. He didn't show me  
21 anything.

22 Q. He didn't show you anything. Okay.  
23 But at any rate, the bottom line from your  
24 perspective is by the time you did  
25 the inspection the load had been delivered,

1       therefore, he needed to be back on an  
2       electronic log?

3               A.     Yes, sir.

4               Q.     All right.

5               A.     And, sir, he said that the load was  
6       taken away from him in London, Kentucky.     So he  
7       should have never left London, Kentucky.

8               Q.     Until he had --

9               A.     Until he had an ELD.

10              ATTORNEY EXAMINER:   All right.   Mr.  
11   Berhe, you had some question, I believe.   Go  
12   ahead

13              MR. BERHE:   I just wanted to say in  
14   regards to why I don't have my seven-day logbook  
15   today is I was just starting my job with this  
16   company that day, and all I had to do was just  
17   put seven days -- seven days not working.

18              So I just wanted to mention that I  
19   didn't bring that today because before Charlotte  
20   I hadn't drove any trucks.   So I do acknowledge  
21   that I am supposed to have 7-day logbook along  
22   with what I have today.

23              ATTORNEY EXAMINER:   All right.  
24   Okay.   Well, let's see.   All right.   Ms. Bair,  
25   thanks for your questions about that.

1 MS. BAIR: Thank you for allowing  
2 them.

3 ATTORNEY EXAMINER: We try to be  
4 complete. We try to be complete.

5 Mr. Berhe, I am -- I am assuming you  
6 want your logs admitted into evidence; correct?

7 MR. BERHE: Absolutely, sir,  
8 please.

9 ATTORNEY EXAMINER: Okay. Ms. Bair,  
10 your thoughts about admitting those logs into  
11 evidence?

12 MS. BAIR: I object based on the  
13 ones especially out of Kentucky. That has  
14 nothing to do with what we are alleging the  
15 violation is here in Ohio.

16 ATTORNEY EXAMINER: Okay. I think I  
17 will admit it into evidence. We will eliminate  
18 the ones from Kentucky. We will take into  
19 account some of the shortcomings with the log  
20 which have already been discussed here.

21 And, as far as his Google map. Any  
22 objections to that?

23 MS. BAIR: I don't object to that.

24 ATTORNEY EXAMINER: Mr. Berhe, we  
25 will admit your we will call it Berhe Exhibit 1,

1 but it will just be the logbook for the 17th of  
2 June when the inspection was actually done.

3 And Berhe Exhibit 2 will be your  
4 Google map itself.

5 EXHIBITS ADMITTED INTO EVIDENCE)

6 ATTORNEY EXAMINER: And I want to  
7 thank everyone for participating. And Mr. Berhe  
8 for making the trip here. And Inspector Johnson  
9 as well.

10 And I believe we have admitted  
11 everything into evidence. And thanks to our  
12 court reporter as well for following all this.

13 I can't add anything more. With  
14 that being said, everyone have a safe rest of  
15 the day and a good rest of the week.

16 MS. BAIR: Thank you.

17 (At 11:40 A.M. the hearing was  
18 concluded)

19 - - -



CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter on May  
24, 2022, and carefully compared with my  
original stenographic notes.

\_\_\_\_\_  
Michael O. Spencer,  
Registered Professional  
Reporter.

- - -

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Summary: Transcript In the Matter of Yohannes Berhe Notice of Apparent Violation and Intent to Assess Forfeiture. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.