

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of :
Markeith Spriggs Notice : Case No.
of Apparent Violation : 22-136-TR-CVF
and Intent to Assess : 22-931-TR-CVF
Forfeiture. :

- - -

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 Thursday, April 20, 2022, at
10:00 A.M.

- - -

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

- - -

1 APPEARANCES:

2 Mr. Markeith Spriggs
3 6147 Saint Regis Road
4 Baltimore, Maryland 21206

5 Appearing Pro se.

6 Ms. Ashley Wenk
7 Assistant Attorney General
8 30 East Broad Street, 16th Floor
Columbus, Ohio 43215

9 On behalf of the Staff of the
10 Public Utilities Commission
11 of Ohio.
12
13
14

15 - - -
16
17
18
19
20
21
22
23
24
25

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		
- - -		
STAFF WITNESSES	DIRECT	CROSS
Trooper Jeffrey A. Lauper	6	
Trooper Daniel J. Harrison	22	
Bradley Long	30	
RESPONDENT'S WITNESSES		
Markeith Spriggs	42	51
- - -		

INDEX TO EXHIBITS

- - -

STAFF EXHIBITS

MARKED ADMT

1	Driver/Vehicle Examination Report	9	63
2	Copies of Photographs of Trailer and Vehicle	--	63
3	Driver/Vehicle Examination Report	25	63
4	Notice of Apparent Violation and Intent to Assess Forfeiture	39	63
5	Notice of Preliminary Determination	40	63
6	Copy of Salesforce Document	34	63

- - -

1 Thursday Morning,
2 April 20, 2023.

3 - - -

4 ATTORNEY EXAMINER LYNN: The Public
5 Utilities Commission of Ohio has assigned for
6 hearing at this time cases 22-136-TR-CVF and
7 22-931-TR-CVF, Markeith Spriggs Notice of
8 Apparent Violation and Intent to Assess
9 Forfeiture.

10 I am Jim Lynn, the Attorney Examiner
11 assigned to hear this case. And at this time we
12 will have the appearances of the parties. We
13 will start with the Ohio Attorney General's
14 office. State your name and address, please.

15 MS. WENK: Good morning. I am
16 Ashley Wenk on behalf of the Transportation
17 Staff of the Public Utilities Commission of
18 Ohio. Attorney General Dave Yost. Our office
19 is 30 East Broad Street, Columbus, Ohio.

20 ATTORNEY EXAMINER LYNN: Thank you.
21 And, Mr. Spriggs, your name and address, please.

22 MR. SPRIGGS: Markeith Spriggs.
23 My address is 6147 Saint Regis Road, Baltimore,
24 Maryland 21206.

25 ATTORNEY EXAMINER LYNN: Thank you.

1 All right. We will start with the case brought
2 by the Attorney General's office. And Ms. Wenk,
3 who do you want to have as your witness first?

4 MS. WENK: Thank you. I would like
5 to have Trooper Lauper, please.

6 (WITNESS SWORN)

7 - - -

8 TROOPER JEFFREY A. LAUER
9 called as a witness, being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 By Ms. Wenk:

13 Q. Mr. Lauper, could you please state
14 your full name for the record?

15 A. Yes. Trooper Jeffrey A. Lauper.

16 Q. Where are you employed?

17 A. I work out of general headquarters.
18 98 is where it is, Post 98, but it's actually
19 the District 4 assignment. So I work out of the
20 Warren District which covers the seven counties
21 in District 4.

22 Q. What was your position prior to this
23 one?

24 A. Before I worked here I was a Road
25 unit at the Ravenna Highway Patrol Post which is

1 also in 4, Post 67.

2 Q. And what are your duties and
3 responsibilities with the Ohio State Patrol?

4 A. Currently I am a commercial motor
5 vehicle inspector through the State Patrol. I am
6 still a Trooper, so I still do the normal road
7 things, but I am a commercial motor vehicle
8 certified. So I inspect trucks on the side of
9 the road.

10 Q. Thank you. What training do you
11 have in that area?

12 A. I have been through all
13 the trainings in Part A, Part B and hazmat
14 courses to be certified to do roadside
15 inspections on commercial motor vehicles.

16 Q. Could you say that again, how long
17 you have been with the Patrol?

18 A. On the 11th of April this year it
19 was 21 years.

20 Q. Thank you. I want to direct your
21 attention to November 24th, 2021. I am sorry.
22 Were you on duty that day?

23 A. Yes, I was.

24 Q. And are motor carrier inspections
25 conducted to protect the safety of the Ohio

1 traveling public?

2 A. Yes, they are.

3 Q. About how often do you perform
4 inspections in a year? Or how many on average?

5 A. For the total for the entire year is
6 approximately a thousand give or take depending
7 on the year and other training they send us to.

8 Q. Do you complete an examination
9 report when you do an inspection?

10 A. Yes, we do. Any commercial motor
11 vehicle inspection we do here in Ohio we do
12 what's called an Aspin Report. And it's a
13 separate thing on our computer where we go in
14 and we enter all the vehicle information, driver
15 information.

16 And then depending on what level of
17 inspection we are doing, or why we are doing
18 the inspection, we enter in the notes from the
19 violations that may occur during that
20 inspection.

21 Q. On November 24th, 2021 did you have
22 the opportunity to inspect a vehicle that was
23 being operated by Markeith Spriggs?

24 A. Yes.

25 Q. Do you have an independent

1 recollection of this inspection?

2 A. I have a copy of it in front of me,
3 and I do remember the inspection.

4 Q. And with regard to that copy in
5 front of you, that is the copy Marked Staff
6 Exhibit 1, correct, the inspection from --

7 A. It's the one that you sent me.

8 MS. WENK: Thank you. And if I
9 could, your Honor, if I could distribute that
10 exhibit.

11 ATTORNEY EXAMINER LYNN: Certainly.

12 MS. WENK: Thank you. Along with
13 that exhibit I would like to distribute the
14 other exhibits I will be using today for
15 purposes of ease.

16 ATTORNEY EXAMINER LYNN: Thank you.

17 Q. And then bringing your attention to
18 that report, there are several violations cited.
19 Could you explain the reason that you came into
20 contact with Mr. Spriggs?

21 A. Yes. At the date of this stop I was
22 actually assigned to the Mahoning County area.
23 The way it works in my district is actually we
24 are low manned right now, that we have, each
25 Trooper is assigned a county out of the seven

1 counties for the day. During that time frame
2 each Trooper works that general area,
3 whatever county you are assigned. And you have
4 specific areas.

5 We have what's called high crash
6 areas in Mahoning County. So on this day I was
7 working in the Mahoning County which is the
8 Austintown Corp area.

9 I stopped Mr. Spriggs for a speed
10 violation first. When I pulled up he had -- I
11 set stationary. So when Mr. Spriggs passed my
12 location at the time I had been using laser to
13 check speed and radar. And then as he passed he
14 had a violation on the trailer that was what we
15 call an obvious violation, a noticeable
16 violation that can be seen by the human eye
17 as, you know, as I set stationary there.

18 The license plate on the trailer was
19 actually mounted in an improper location
20 especially when there is a load on the vehicle.
21 It was -- almost all states have a law on
22 visibility of a license plate or registration
23 plate. They have to be visible to the -- like
24 when you are driving or when you are stationary
25 up to a certain amount of feet.

1 When this went by this vehicle was
2 actually -- and vehicles on board and the plate
3 was mounted up underneath the vehicles on
4 the frame rail that's under the trailer in
5 between the two ramps. It was not on the rear
6 of the trailer where it's supposed to be mounted
7 with a license plate light.

8 Q. Thank you. And is there a code on
9 this report that indicates that it was an
10 obvious?

11 A. When you go down throughout my
12 report you will see there is four violations
13 listed. The first one was the speed I was just
14 talking about. I list in my report usually what
15 section from not only the CFR 49 but also the
16 Ohio Revised Code.

17 So the speed violation would have
18 been 4511.21D4, which is for 70 mile an hour
19 speed limit.

20 And then the license plate was the
21 bottom violation on the actual inspection
22 report. And that is 4503.21 which is a failure
23 to display registration plate and in the proper
24 location.

25 It's also a 392.2. Both of those

1 violations fall under 329.2 traffic section of
2 CFR 49.

3 Q. Thank you. And then after Mr.
4 Spriggs was pulled over what was the type of
5 inspection that took place?

6 A. We did a Level 3 inspection. And
7 that's where we check -- so Mr. Spriggs can
8 provide us with his logs. We ask for the logs,
9 we ask for the registrations of both vehicles,
10 their inspection reports for the annual, meaning
11 that they check their vehicle for the annual for
12 the company. That kind of thing.

13 And then we ask for the log books,
14 registration for the vehicles, we ask for the
15 driver's license, their medical card. Just to
16 make sure they have all their stuff up to date.

17 And then when we run it through the
18 system we verify everything that's on the
19 paperwork they gave us with what we find when we
20 run all the information for the vehicles and
21 the driver's license.

22 Q. Thank you. Going back to the first
23 page, I am looking at a violation that appears
24 to be in bold, 395.8A-NON-ELD. Could you
25 describe that violation, please?

1 A. Yes. That's an ELD violation or an
2 hours of service violation. 395.8 covers
3 the different sections within anything that has
4 to do with hours of service for some one that is
5 operating a commercial motor vehicle for
6 commerce on highways.

7 At this time Mr. Spriggs was
8 operating from a cellular device and I wrote in
9 there that he was using what's called a Keep
10 Trucking app. That no longer exists, it's now
11 called Motive. It's a different -- it's the
12 same company, they have changed their name
13 recently, their software.

14 But at the time he had the logbook
15 on his phone, but it was non-operational at the
16 time. He at that time was logged into what's
17 called an electronic logging book which is the
18 same as having a paper log book. That means
19 everything is done manually.

20 So it means it's not operating
21 like -- so it's not connected to the vehicle
22 itself. So, and I believe at that time he had
23 two separate -- I think he might of had both of
24 them on his phone; that he was logged into the
25 wrong one the day of the stop.

EXAMINATION

By Attorney Examiner Lynn:

Q. I just want to clarify Trooper, so when you say both of them on the phone, what are you referring to again?

A. The ELD, the application for at that time it was called Keep Trucking. So then there is two different versions of Keep Trucking at the time.

You can get a manual version which is an electronic logbook, and then you can get the ELD which is the one that actually connects to the interface that is mounted under the dash that actually monitors. So even if Mr. Spriggs is using a truck for personal use it will monitor mileage and all that. Then it will be his responsibility to, you know, clarify that he is off duty.

Q. Now, on the inspection report it says ELD not required. So, and I will note for the record that's electronic logging device, I believe.

A. Yes.

Q. Okay. So, you are telling me that Mr. Spriggs was not using an ELD which would

1 automatically log what he was doing.

2 A. Correct.

3 Q. He was using what was it called
4 again?

5 A. It's still Keep Trucking is the
6 company name, but it's still an electronic log
7 book.

8 Q. Which he could enter things in
9 manually.

10 A. Yes. So mileage has to be entered
11 in by the driver, the location has to be. If
12 it's done by an electronic logging device which
13 is hooked into the interface of the vehicle
14 actually tracks GPS location in a 10-digit grid.

15 Q. So the issue with Mr. Spriggs here
16 was then that, help me out again, he was
17 using --

18 A. An electronic logbook which is the
19 same --

20 Q. Should be using an electronic
21 logging device.

22 A. Correct.

23 Q. I was a little confused because it
24 said here on the inspection ELD not required.
25 It sounds as though really, under the

1 circumstances he was operating the vehicle and
2 the ELD was used.

3 A. Correct.

4 Q. So that part of the inspection
5 report is a little unclear. But you are saying
6 ELD was needed, he should not have been using a
7 logging -- electronic logbook where he enters
8 the information manually?

9 A. Correct. Because he is outside 150
10 air miles from the start location and all of
11 that.

12 ATTORNEY EXAMINER LYNN: Go ahead,
13 Ms. Wenk, please.

14 FURTHER DIRECT EXAMINATION

15 By Ms. Wenk:

16 Q. So that is bolded on your report.
17 And I see in the center at the top of the
18 violation section there is an OOS. Can you
19 explain the OOS, and then the significance of
20 the Y?

21 A. You mean on page 2, ma'am?

22 Q. I am looking at the I think it's
23 Page 1 of the violation report, the Vehicle
24 Examination Report?

25 A. Yes. OOS. I see what you mean.

1 The column. So the OOS column means that
2 the violation is considered an out of service
3 violation.

4 Q. Thank you. And the Y there next to
5 the --

6 A. That just means, yes, that the
7 driver, not the vehicle, let me clarify, Mr.
8 Spriggs, was out of service, not his truck and
9 trailer.

10 Q. Thank you. So would it be correct
11 to say that on November 24th at 1:50 P.M. Mr.
12 Spriggs was out of service?

13 A. Yes.

14 Q. He was a driver placed out of
15 service?

16 A. Yes. Mr. Spriggs was actually
17 escorted to a Love's truck stop. So this
18 traffic stop, as I stated at the beginning, was
19 in Mahoning County, which is one county away
20 from where he was placed out of service. He was
21 actually moved across the county line on
22 Interstate 76 to a brand new Love's truck stop
23 at State Route 225. And that's where he was
24 parked for his 10 hour out of service.

25 Q. Thank you. So just to confirm, he

1 was escorted to Love's with the understanding
2 that he would cease driving at that point in
3 time.

4 A. Yes. He was placed out. We do not
5 make a habit of placing someone out on the side
6 of the road due to the obviously safety. And we
7 also need to make sure that before placing
8 someone out of service whether they have
9 livestock or anything else that they have a
10 place to use a restroom and a safe place to
11 sleep in their vehicle.

12 Q. Thank you. And how long was Mr.
13 Spriggs placed out of service?

14 A. If you flip to Page 2, it's an out
15 of service violation for a log, it's for ten
16 hours.

17 Q. What was your communication to Mr.
18 Spriggs regarding this violation?

19 A. I use the same communication on
20 every single person. So, when I escort them,
21 Mr. Spriggs was very cooperative with me
22 the entire time. He was not -- he did not give
23 me a hard time, nothing like that.

24 He was very cooperative. I escorted
25 him to Love's, I explained to him that, you

1 know, after the 10 hours he was free to leave.
 2 So once the ten hours was up, the 10 hours goes
 3 from the last date that is listed right at the
 4 top of the inspection report where it says end.
 5 You have ten hours from that time. Once that
 6 ten hours is over you are free to go and
 7 continue on with the load you have.

8 Q. And for the record could you repeat
 9 that time, please?

10 A. The top of this report is end at
 11 1:50, meaning the inspection reported ended at
 12 1:50. That's when I terminated the inspection.
 13 And then from that point he has 10 hours from
 14 that point to continue on.

15 EXAMINATION

16 By Attorney Examiner Lynn:

17 Q. Trooper, I have a question for you.
 18 You said after the ten hours that Mr. Spriggs
 19 can continue on his way with his load. And
 20 under those circumstances then he would be
 21 permitted I suppose until he delivered the load,
 22 finishes, to use his electronic logbook?

23 A. Well, he can use the paper logbook
 24 if it qualifies. But after the 10 hours, during
 25 this time he knew what the different -- those

1 two different apps.

2 Q. What I am asking is this. Continue
3 after the 10 hours, what sort of logging is he
4 supposed to use?

5 A. He has to fix it during the 10
6 hours, and then you can continue on with an
7 electronic logging device.

8 Q. So, therefore, for the remainder of
9 his trip, or at least until he delivers the load
10 he was supposed to, somehow get the ELD working?

11 A. Right. And if that is unable to get
12 the ELD he can continue until the end of
13 the load he currently had. Once that load is
14 delivered that paper log cannot be used. He has
15 to get an 8-day exemption from Federal Motor
16 Carrier showing that after 8 days if there is
17 like some kind of malfunction that it wasn't
18 working for Mr. Spriggs he has to have a letter
19 showing that he is authorized to go on paper.

20 ATTORNEY EXAMINER LYNN: Thank you.
21 That gives me a better idea of what all was
22 happening. Thank you.

23 FURTHER DIRECT EXAMINATION

24 By Ms. Wenk:

25 Q. Is there anything else important to

1 note that we have not discussed that you would
2 like the Commission to note for the record?

3 A. I was told later in the day that he
4 was stopped a second time within the 10-hour
5 window that he was supposed to be out of
6 service.

7 And then as just when I was
8 reviewing the inspection report, what I do is
9 during an inspection I will go through and check
10 like previous history for that driver to see if
11 they have repeat offenses. And the only thing
12 he had, Mr. Spriggs, he had a violation for
13 license plate prior I believe it was in
14 Pennsylvania where he received a violation for
15 the same license plate violation that I had
16 spoken to him about.

17 I did give him a warning on it
18 the day I stopped him. I didn't feel it was
19 necessary as a traffic citation. So actually I
20 believe if you look at my report he was given a
21 warning on everything except for the mandatory
22 out of service.

23 MS. WENK: Thank you. Your Honor,
24 nothing further. I would like to reserve Mr.
25 Lauper for rebuttal.

1 ATTORNEY EXAMINER LYNN: Certainly.

2 And, Mr. Spriggs, did you have any questions for
3 Mr. Lauper? You can ask questions if you wish.

4 MR. SPRIGGS: Do I get to go up
5 there and talk as well? I am sorry.

6 ATTORNEY EXAMINER LYNN: You can ask
7 questions from your seat. You will have an
8 opportunity to go up and testify later.

9 MR. SPRIGGS: Okay. No questions.

10 ATTORNEY EXAMINER LYNN: No
11 questions then. Okay. All right. You can take
12 your seat, Trooper, for the time being.

13 Ms. Wenk, I believe you have a
14 second witness.

15 MS. WENK: Thank you, your Honor.
16 I would like to call Trooper Harrison, please.

17 (WITNESS SWORN)

18 - - -

19 TROOPER DANIEL J. HARRISON
20 called as a witness, being first duly sworn,
21 testified as follows:

22 ATTORNEY EXAMINER LYNN: Thank you.
23 Go ahead, Ms. Wenk.

24 MS. WENK: Thank you.

25 DIRECT EXAMINATION

1 By Ms. Wenk:

2 Q. Would you please state your full
3 name for the Court?

4 A. Trooper Daniel J. Harrison.

5 Q. Thank you. And what is your current
6 position?

7 A. I am with District 3 LCS, commercial
8 unit as a Trooper.

9 Q. For how long have you been in that
10 role?

11 A. Just over four years.

12 Q. And what training have you received
13 for that position?

14 A. I went through Part A, Part B,
15 hazmat, and passenger vehicle, school bus, and
16 weights and measures.

17 Q. How long have you been with the Ohio
18 State Patrol?

19 A. Over nine years. Getting close to
20 ten, but I am still not there yet.

21 Q. And prior to that? Where were you
22 employed?

23 A. Prior to being a Trooper?

24 Q. Yes.

25 A. I was in the U.S. Army.

1 Q. Thank you for your service.

2 A. Thanks for the support.

3 Q. Are motor vehicle inspections
4 conducted to protect the safety of the Ohio
5 traveling public?

6 A. Yes.

7 Q. About how many inspections on
8 average do you perform in a year?

9 A. 750. Sometimes less due to
10 scheduling.

11 Q. I want to direct your attention to
12 November 24th, 2021. Were you on duty that day?

13 A. Yes.

14 Q. And do you recall what your
15 assignment duties were that day?

16 A. I was just stopping commercial
17 trucks and respond to calls if I was the closest
18 since I still am a law enforcement officer.

19 Q. Did you have the opportunity to
20 inspect a vehicle that was being operated by Mr.
21 Spriggs?

22 A. Yes.

23 Q. Do you have an independent
24 recollection of that?

25 A. Yes.

1 MS. WENK: I know that an inspection
2 report was distributed, and I would like to
3 reference that as Exhibit 2.

4 ATTORNEY EXAMINER LYNN: It's
5 Exhibit 3.

6 MS. WENK: I apologize. Marked as
7 Exhibit 3.

8 ATTORNEY EXAMINER LYNN: Thank you.

9 Q. And what caused you to stop Mr.
10 Spriggs?

11 A. I saw the vehicle go by. I say an
12 ID lamp out on the trailer. There was a couple
13 other things which I noted in the notes. But
14 the window tint was heavy. And I also didn't
15 see the license plate.

16 Q. Did you take any photographs that
17 day?

18 A. I should have.

19 Q. And what occurred following the stop
20 for the license plate or --

21 A. I just did a Level 3 inspection
22 since we were on the side of the road, and it
23 was sort of in a bad spot, so I didn't want to
24 do a full walk-around of the truck.

25 So I just did a Level 3 inspection

1 and while doing the Level 3 I saw that he had
2 already be placed out of service by another
3 Trooper that day.

4 Q. And turning your attention to Staff
5 Exhibit 3. You mentioned the driver only
6 inspection. Could you elaborate on what that
7 entails?

8 A. A level 3 driver only inspection is
9 just checking credentials, logbooks, operating
10 authority, things that are not physical to the
11 truck's equipment.

12 Q. And what did you find as a result of
13 the Level 3 inspection?

14 A. That he had recently been placed out
15 of service.

16 Q. And specifically how did you find
17 that information?

18 A. In the FMCSA portal where you
19 actually run the driver's information there is a
20 past inspections hyperlink. You click on the
21 link and bring up the driver's previous
22 inspections within the last year. And there was
23 one from Trooper Lauper.

24 Q. And do you recall the day of that
25 inspection?

1 A. I believe it was November 24th,
2 2021.

3 Q. That's correct. Thank you. And
4 referring to Staff Exhibit 3, what was the time
5 of your stop?

6 A. I have it in front of me. Was it
7 3:31 P.M?

8 Q. Yes, it was. And what was your
9 understanding as to the violation that he
10 received from Mr. Lauper?

11 A. That he was placed out of service at
12 the Love's for having no ELD.

13 Q. And how long was he placed out of
14 service?

15 A. Out of service manual says 10 hours
16 from the end time of the inspection.

17 Q. And when you advised Mr. Spriggs of
18 your findings through the portal what was his
19 reaction?

20 A. If I recall correctly he said that
21 he was letting him go home for the holidays, but
22 I believe the next day was Thanksgiving. So
23 I -- do you want me to continue?

24 Q. Yes, please.

25 A. So just because I could -- just to

1 make sure that was true I ended up calling
2 Trooper Lauper. I think he was off duty at the
3 time, but he did answer. And I advised him of
4 the situation, and he said, no, he placed him
5 out of service at the Love's for 10 hours.

6 Q. So, could you discuss your violation
7 on Staff Exhibit 3?

8 A. So, because he had already been --
9 had all those other violations on the previous
10 inspection I just did the state code for driving
11 after being declared out of service.

12 Q. Thank you. And what code section is
13 that?

14 A. 2-5 -- I don't have the inspection
15 in front of me. I just use to the drop-down
16 arrow to find the correct one.

17 Q. And are your forms consistent with
18 other inspection forms where OOS designates out
19 of service?

20 A. Yes. We all use the Aspin report
21 which OOS is out of service.

22 Q. And Y indicates yes?

23 A. Yes. That designates, yes, out of
24 service.

25 MS. WENK: Your Honor, may I

1 approach the witness with the Exhibit 3?

2 ATTORNEY EXAMINER LYNN: Yes. Go
3 ahead.

4 Q. I just want to call your attention
5 to the first page, the State Information from
6 the middle of the page where it indicates a
7 reason for the stop. And could you explain what
8 that reason is there?

9 A. The OBVI is the abbreviation that we
10 use for obvious violations. So when the truck
11 had passed I saw the obviously required lamp
12 that burned out. That is why I put it as
13 the code.

14 However, I did not write
15 the violation because I only did a Level 3.
16 It was just a verbal warning.

17 Q. Thank you. Is there anything
18 additional that you would like the Commission to
19 know?

20 A. No, ma'am.

21 MS. WENK: Nothing further. I would
22 like to reserve for rebuttal.

23 ATTORNEY EXAMINER LYNN: Sure.
24 Okay. Again, Mr. Spriggs, you have the
25 opportunity to question Trooper Harrison.

1 MR. SPRIGGS: No questions.

2 ATTORNEY EXAMINER LYNN: No
3 questions then. All right. Thank you.
4 Trooper, you can take your seat for the time
5 being. Ms. Wenk, I believe you have one final
6 witness.

7 MS. WENK: Yes. Thank you, Your
8 Honor. I would like the call Mr. Long.

9 (WITNESS SWORN)

10 - - -

11 BRADLEY LONG
12 called as a witness, being first duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 By Ms. Wenk:

16 Q. Would you please state your name?

17 A. It's Brad Long.

18 Q. And where are you currently
19 employed, Mr. Long?

20 A. The Public Utilities Commission of
21 Ohio.

22 Q. How long have you been in that role?

23 A. Since November of 2019.

24 Q. What are your duties?

25 A. The Assistant Chief of Compliance in

1 the Transportation section. My duties are to
2 oversee the compliance section officers. I am
3 in charge of enforcement and also shepherding
4 cases through the civil forfeiture process.

5 Q. Thank you. And what are your
6 qualifications for this work?

7 A. Prior to joining the Public
8 Utilities Commission I spent 26 years as an Ohio
9 State Trooper. Ten years of that was in the
10 crash reconstruction and analysis unit where I
11 had several training courses on commercial
12 braking, commercial enforcement and
13 reconstruction courses.

14 After that I spent two years with
15 Patrol License Commercial Standards unit where I
16 was trained in North American Standards Part A,
17 Part B, hazmat, other bulk, passenger, school
18 bus, cargo tank.

19 And upon arriving at the Public
20 Utilities Commission I spent seven months on
21 on-the-job training.

22 Q. Could you please describe how
23 forfeitures are calculated for violations of the
24 Motor Carrier Safety regulations?

25 A. Sure. For non-hazmat violations,

1 once a roadside inspection is completed they
2 upload that into a system, that system then
3 returns that inspection to our Salesforce
4 program. So it pulls it out of Safety Net into
5 Salesforce.

6 Once it recognizes that it's a
7 non-hazmat violation it breaks down the
8 violations into one of five groups. Zero
9 through 4.

10 These groups are based on the
11 potentiality of causing a crash, severity based.
12 Those groups zero, 1, 2, 3 are all equipment or
13 minor violations.

14 1 through 3 are most likely to cause
15 a crash, in reverse order. So one being more
16 severe, most likely to result in a traffic
17 crash, 3 being less severe.

18 Group 4 violations are usually
19 driver behavior violations or out of service
20 violations, authority violations, insurance
21 violations.

22 So once our system sees what
23 violation it is it puts it in one of those
24 groups. If it's a group zero it never receives
25 a fine. If it's a Group 1 through 3 it only

1 receives a fine if it's marked out of service by
2 a roadside inspector.

3 This is a Group 4 violation. Group
4 4 violations always receive a fine. And those
5 are based on the severity of the violation.

6 Those violations are also based off
7 of recommendations by the CSA, Commercial Safety
8 Alliance.

9 Q. Thank you. Does the Commission
10 apply this process uniformly to everyone?

11 A. We do.

12 Q. Thank you. And how did you
13 determine the amount of forfeiture for this
14 case?

15 A. Again, it came into the system,
16 recognizes it was a Group 4 violation and
17 applied the recommended forfeiture amount to it.
18 And it was verified.

19 So \$3,174 is the recommended
20 violation amount for the violation of an out of
21 service order.

22 Q. I want to call your attention to Mr.
23 Lauper's report and the violations assessed by
24 Mr. Lauper. What was the result of that
25 violation within the Commission?

1 MS. WENK: Your Honor, may I
2 approach the witness with State's Exhibit 6?

3 ATTORNEY EXAMINER LYNN: Yes. Go
4 ahead, please.

5 MS. WENK: Thank you.

6 A. The first inspection generated a
7 forfeiture amount based off of the out of
8 service and what was found to be a Group 1
9 violation at the time for the ELD violation. He
10 was assessed a \$100 forfeiture amount. That
11 case went through and was paid and processed
12 closing that case effectively.

13 Q. So that case was closed. The
14 initial inspection and stop by Mr. Lauper and
15 the forfeiture amount was paid, and that is
16 closed.

17 Is it your understanding that when a
18 forfeiture amount is paid the case is closed?

19 A. That's correct.

20 MS. WENK: Your Honor, I would like
21 to mention Ohio Administrative Code Section
22 4901.2-7-22 B, it's our understanding that when
23 the forfeiture is paid that that is the result
24 of an admission. And it's the Commission's
25 belief that payment is proof of admission.

1 Q. Mr. Long, if I could direct you to
2 the violation there that was paid, that
3 particular forfeiture. What was that violation
4 that was admitted to and paid?

5 A. That was the out of service, no ELD
6 violation. That's the only Group 1 violation on
7 the inspection.

8 ATTORNEY EXAMINER LYNN: Mr. Long,
9 that was the violation that was the \$100 fine?

10 THE WITNESS: That is the one that
11 was paid.

12 MS. WENK: So the \$100 fine for
13 being out of service was paid. And we would
14 like to make it clear on the record that it is
15 our opinion that the payment does constitute an
16 admission of that first inspection, the first
17 violation, pursuant to Ohio Administrative Code
18 4901.2-7-22 B.

19 Q. So, Mr. Long, just to wrap up here,
20 it's your understanding that that initial
21 inspection, that was an admission and that case
22 is closed?

23 A. Yes, it was paid and closed.

24 ATTORNEY EXAMINER LYNN: I have a
25 question as far as the exhibits go. Is there an

1 exhibit that indicates, says Notice of Apparent
2 Violation or Notice of Preliminary Determination
3 for a \$100 fine?

4 MS. WENK: There is not an exhibit
5 for that in particular because it was paid. I
6 can let Mr. Long elaborate on that.

7 But it is our position that we are
8 here today to discuss what we are going to bring
9 in next, Notice of Apparent Violation and the
10 NPD for this. We mentioned this -- Exhibit 6
11 was our indication that this was paid and
12 admitted.

13 ATTORNEY EXAMINER LYNN: I just
14 wanted to clarify for the record. That is all.

15 EXAMINATION

16 By Attorney Examiner Lynn:

17 Q. Mr. Long, because that \$100 fine was
18 paid you are saying that was for the violation
19 not having the right kind of logbook.

20 It actually was paid as part of
21 the process at the Commission where there isn't
22 even I guess a Notice of Apparent Violation.
23 Am I correct?

24 A. Well, a Notice of Apparent
25 Violation with an intent to assess forfeiture is

1 the very first letter that goes out, and that is
2 what informs them of the amount to pay.

3 Q. So there would have been a letter
4 sent?

5 A. It would have been generated.

6 Q. For this particular violation?

7 A. Yes.

8 ATTORNEY EXAMINER LYNN: I see.
9 All right. Please go ahead then.

10 FURTHER DIRECT EXAMINATION

11 By Ms. Wenk:

12 Q. Then moving towards today's
13 proceeding, at issue here is driving when out of
14 service, so we want to establish that Mr.
15 Spriggs was out of service.

16 And then with regard to the current
17 proceeding, what is Staff's procedure if you
18 could, Mr. Long, to advise respondents of a
19 forfeiture?

20 A. So, initially after the inspection
21 is brought in and the case gets assessed by
22 the system, then a NIF letter is what we it, the
23 Notice of Apparent Violation and Intent to
24 Assess Forfeiture letter gets sent out to the
25 Respondent.

1 If there is no contact with them
2 after 30 days the system will generate what's
3 called a NIFG. It's the exact same letter that
4 went out the first time, only with the words
5 second notice put above it.

6 If nothing is done then they proceed
7 through the system into what we call show cause
8 eligible. However, if at any point in time
9 after that first letter is sent out they either
10 pay the forfeiture that closes the case, or if
11 they write in because that letter gives them
12 instructions if they wish to request a
13 conference, contest it or set up a payment plan
14 they can contact the PUCO and we will set those
15 things up.

16 On this case I believe there was a
17 conference request submitted, conference was set
18 up, they spoke with one of the compliance
19 officers, because that is the process that has
20 to happen before we get to the administrative
21 hearing step.

22 If nothing is agreed on the
23 conference then we send them what's called a
24 Notice of Preliminary Determination letter.
25 That letter again explains what the forfeiture

1 amount is and gives them another option to
2 request an administrative hearing, or pay the
3 fine.

4 In this case obviously a request for
5 administrative hearing was received, case was
6 set for a hearing.

7 MS. WENK: Thank you. Taking a step
8 back, may I approach the witness with Staff
9 Exhibit 4, please?

10 ATTORNEY EXAMINER LYNN: Sure. Go
11 ahead, please.

12 Q. You mentioned the Notice of
13 Apparent Violation. Is that what that appears
14 to be to you?

15 A. That is correct. It's the Notice of
16 Apparent Violation and Intent to Assess
17 Forfeiture, for the NIF letter.

18 Q. Thank you. Were these documents
19 sent to the Respondent?

20 A. Yes.

21 Q. And this is a standard form of the
22 Ohio Public Utilities Commission?

23 A. Yes, it is.

24 MS. WENK: Thank you. And then,
25 your Honor, may I approach with Exhibit 5?

1 ATTORNEY EXAMINER LYNN: Certainly.

2 Q. When is the Notice of Preliminary
3 Determination, when is that inform utilized by
4 the Commission?

5 A. That form is sent out after a
6 conference summary, after a conference with a
7 compliance officer.

8 Q. And was this form sent to Mr.
9 Spriggs?

10 A. Yes.

11 Q. And this is a Public Utilities
12 Commission form, standard form that is familiar
13 to you?

14 A. It is.

15 Q. And then following the receipt of
16 this form, could you explain then the next
17 steps? You mentioned the request for hearing.

18 A. After we send out the Notice of
19 Preliminary Determination, then it's really then
20 the Respondent takes over the process from
21 there. If they request a hearing, they send a
22 written request, the case gets scheduled for a
23 hearing.

24 Then we go through what's called a
25 pre-hearing conference, a telephone conference.

1 Again, it's another option or availability to
2 try to work out a settlement on the case.

3 Nothing is settled, then the Hearing
4 Examiner is notified and they set the case for
5 hearing.

6 Q. Now I want to pull your attention on
7 this particular form, the Notice of Preliminary
8 Determination.

9 What is the code section on the left
10 there?

11 A. 2-5-07 D as in David.

12 Q. And that is a violation for?

13 A. For operating a vehicle after being
14 declared out of service.

15 Q. Was it your understanding that the
16 full payment regarding the out of service
17 violation was an admission that he was operating
18 out of service with regard to the prior
19 inspection?

20 A. It was my understanding that once he
21 paid that he did not contest that initial
22 violation. That's correct.

23 MS. WENK: So, he was sent on
24 February 2nd the Notice of Preliminary
25 Determination that he had committed this

1 violation.

2 I have nothing further at this time.

3 I would like to reserve for rebuttal.

4 ATTORNEY EXAMINER LYNN: All right.

5 Thank you very much. Mr. Long, you can take
6 your seat.

7 I am sorry, Mr. Spriggs. Any
8 questions?

9 MR. SPRIGGS: No, sir.

10 ATTORNEY EXAMINER LYNN: Okay. I
11 didn't mean to short cut you there. Mr. Long,
12 you can take your seat.

13 All right. Mr. Spriggs, you can come
14 up here and testify.

15 (WITNESS SWORN)

16 - - -

17 MARKEITH SPRIGGS

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

20 EXAMINATION

21 By Attorney Examiner Lynn:

22 Q. Mr. Spriggs, what can you say about
23 any of the discussion that has taken place so
24 far today? It's been indicated that you did pay
25 a \$100 violation for being placed out of

1 service.

2 So, I am assuming you don't have any
3 objection to that one.

4 A. That was for the second one from
5 this Officer right here that pulled me over. I
6 believe that is what I paid it for.

7 Q. Well, okay. So you paid the \$100.
8 You are saying that you thought that was for the
9 inspection that occurred by the second officer?

10 A. I received two separate tickets on
11 the same day.

12 Q. Right. Okay. And when you paid the
13 \$100 you are saying that you felt that \$100 was
14 for which of the two tickets as you call the
15 inspection?

16 A. Honestly I am not sure what ticket
17 it was for.

18 Q. So you paid 100 and just figured --

19 A. Then I saw a balance of 31 for
20 another ticket.

21 Q. 3,174. So you paid 100, you weren't
22 quite sure which inspection it applied to?

23 A. Yes, sir.

24 Q. You did pay 100, and the 3,174,
25 that's when you said that you wanted a hearing.

1 A. Correct.

2 Q. Okay. You were placed out of
3 service on November 24th of 2021. And Trooper
4 Lauper indicates that you were told at that time
5 that you were out of service, you have to stay
6 where you are for ten hours.

7 Did you understand those
8 instructions? Are you familiar with what out of
9 service requirements are?

10 A. At that particular time I was fairly
11 new to the trucking industry because I had just
12 started my business. I was probably like a
13 couple months in. Not long at all.

14 But if he did tell me that I had to
15 stay right there and I was out of service, he
16 didn't make it clear. Because when he pulled
17 off at the Love's gas station five minutes later
18 me and Officer Lauper had a second encounter.

19 He pulled over on the shoulder by
20 the highway, I pulled over on the shoulder on
21 the highway behind him after the initial
22 inspection.

23 He got out of the State Trooper
24 vehicle, he walked to my vehicle. I said are
25 you sure I am okay to leave. He said get home

1 safe to your family. And I pulled off.

2 Q. Okay. So let me see if I understand
3 this right. You were stopped because Trooper
4 Lauper indicated I believe because of tail
5 lights on the vehicle and so on. And you went
6 the Love's truck stop.

7 A. He escorted me there.

8 Q. He took you there. And that's where
9 apparently he wrote up the inspection report or
10 examination report?

11 A. Yes. Love's gas station was the
12 initial inspection.

13 Q. And then at the end of the
14 inspection at Love's what do you recall -- what
15 occurred at the end of that inspection?

16 A. So it wasn't that I wasn't running
17 my ELD, it was that I was running but I wasn't
18 running it proper. So, the Officer gave me the
19 chance to fix it right there on-site, which I
20 did. It's called Keep Trucking and I fixed it
21 on-site. And that was that.

22 Q. So, you are saying that the Trooper
23 explained that you didn't have the right kind of
24 logging?

25 A. Yes. He was telling me that I

1 wasn't running it the proper way.

2 Q. And then you are telling me that you
3 made the correction so that you did have what
4 electronic logging device was working at the
5 time that you left Love's?

6 A. Yes. The way that he said that it
7 needs to be ran, yes.

8 Q. So you are indicating that he took
9 you to Love's, did the inspection and informed
10 you what needed to be done.

11 A. Yes.

12 Q. And then you corrected things so
13 that you did have an ELD working.

14 A. Yes.

15 Q. But do you recall, did he -- do you
16 recall him mentioning, well, when you get it
17 working again properly, but you are out of
18 service for ten hours?

19 A. I don't.

20 Q. Any instruction like that? Okay.
21 And you said you were fairly new to the trucking
22 industry. You were working for, apparently the
23 name of the carrier was International
24 Enterprise. Was that your own company?

25 A. Yes, that is my own company.

1 Q. All right. Well, so at any rate you
2 are indicating you got the ELD working.

3 A. Yes.

4 Q. You left the truck stop.

5 A. Yes.

6 Q. And you are saying that you were --
7 were you on the highway or more like on the
8 entrance ramp to the --

9 A. Like after the initial inspection?

10 Q. Right. Talking about the initial
11 inspection, you went to Love's, or he escorted
12 you to Love's, you corrected the logging issue.

13 A. Yes.

14 Q. And then you are saying you began
15 to -- you exited Love's.

16 A. He left, after I sat there maybe
17 five minutes, at the most. Just putting away my
18 paperwork and stuff from the -- we just did an
19 inspection, put everything away. And just left.

20 Q. So you got back on the highway then.

21 A. As soon as I left out the Love's I
22 made a left and then a quick right, like between
23 two tables, quick right, and that would be
24 the entrance going back onto the highway. And
25 he was sitting on the shoulder of that ramp.

1 Q. The ramp going on to Interstate 76?

2 A. Yes. Get back on the highway.

3 Q. And you are telling me that you --

4 A. I pulled over behind him.

5 Q. Went over to talk to him?

6 A. Never got out of my truck. Yes, he
7 got out of his.

8 Q. And go on. So you are saying --

9 A. It was brief. Are you sure I am
10 okay? Go home and see your family. Again, this
11 Officer was very cool. Like I said, he said I
12 ain't giving you no problems. He was very cool.

13 Q. All right. Well, so got back on the
14 highway, you resumed your trip. And then
15 Trooper Harrison stopped you.

16 A. Yes, sir.

17 Q. And at that point in time do you
18 recall how that discussion went? Trooper
19 Harrison stopped you, and from what is indicated
20 on the examination report or inspection report
21 he told you, well, you were driving while you --
22 during the out of service period of time. He
23 informed you of that?

24 A. The second one?

25 Q. The second Officer.

1 A. Did he inform me of that? He said
2 that, yes, he did say that.

3 Q. Okay. So at that point in time then
4 did you I guess stop driving for the remainder
5 of the ten hours, or do you recall?

6 A. I don't recall exactly what
7 happened. He didn't really do an inspection,
8 the second Officer. I told him, I am like, hey,
9 look, I just got pulled over maybe like an hour
10 ago. And he was like, oh, well. Right here.
11 Let's see the ticket. I showed him the ticket.
12 That's when he told me, the second one.

13 So he said I am going to call, I
14 guess he called him. I was standing outside the
15 vehicle, he rolled his window up, he said
16 whatever he said, he rolled his window back
17 down, he said, look, you are out of service.

18 I said okay. It was the day before
19 Thanksgiving. I said, if I get stuck up here, I
20 am stuck. I had an empty trailer. So he was
21 being nice. He followed me like an hour away
22 to Copeland so I could pick my load up. The
23 second Officer, he followed me an hour away.

24 Q. Trooper Harrison. So, you are
25 saying that he --

1 A. He did whatever he did, it was at a
2 weigh station. We pulled into a weigh station
3 on the side of the highway.

4 Q. And you pulled into a weigh station,
5 and he informed you that you were operating
6 while out of service?

7 A. Yes. He told me that the first
8 Officer had put me out of service. That I was
9 unaware of. I wasn't aware of it. Because if I
10 was I never would have been driving.

11 Q. All right. And then, just again for
12 the record, is that what happened after he
13 informed you of that? You are saying he
14 escorted you to some --

15 A. Yes. Escorted me to -- I can't
16 remember where the address was because I am not
17 familiar with the area. It was definitely like
18 an hour ride.

19 Q. And that's where you say --

20 A. That's where I shut down at after I
21 picked my load up. Yes, sir.

22 Q. Okay. All right. So, you are
23 indicating now although you had been placed out
24 of service that it was not made clear to you and
25 that under those conditions that is why you

1 continued to drive again.

2 A. Yes, sir.

3 Q. You are saying that when you
4 reentered Interstate 76 you encountered Trooper
5 Lauper again and he indicated it was okay for
6 you to proceed.

7 A. Yes, sir.

8 ATTORNEY EXAMINER LYNN: All right.
9 Ms. Wenk, I assume you have some questions for
10 the witness. Go ahead.

11 MS. WENK: Thank you.

12 CROSS-EXAMINATION

13 By Ms. Wenk:

14 Q. After you encountered Trooper Lauper
15 and he made you aware of the violation, were you
16 given anything by Mr. Lauper?

17 A. Given anything like what? Give me a
18 piece of paper.

19 Q. Fines?

20 A. He gave me a paper printout.

21 Q. Did you receive the examination
22 report?

23 A. If I did I probably didn't know what
24 it was. To be honest, again, I was fairly new
25 to the trucking industry.

1 Q. So what did you receive from Mr.
2 Lauper specifically?

3 A. A piece of paper, like paper, I
4 guess stating that I was pulled over and things
5 like that.

6 Q. It's practice to hand the Respondent
7 an examination report. So I will turn your
8 attention to Exhibit 1 on Page 2.

9 A. Do you have a copy?

10 MS. WENK: May I approach?

11 THE WITNESS: Thanks.

12 MS. WENK: I would like to reference
13 this as what Mr. Lauper had given Mr. Spriggs.

14 Q. And turning our attention to the
15 second page, at the top of the page I see it's
16 highlighted by Mr. Lauper. "This driver may not
17 drive any commercial motor vehicle, nor any
18 carrier permit or require this driver to drive
19 any commercial motor vehicle until driver OOS
20 for ten hours."

21 Do you dispute that you were made
22 aware of this 10 hour requirement?

23 A. If this was the type of paper the
24 Trooper gave me on that day, I didn't read it.
25 I mean, I am being honest with you.

1 Q. Okay.

2 A. So I am not saying I didn't see it,
3 I am not saying I did. I didn't read it.

4 Q. Okay. Did you pay any forfeiture
5 amounts?

6 A. I paid \$100. Honestly, I don't
7 remember what I paid the \$100 for.

8 Q. But you did make the payment to the
9 Ohio Public Utilities Commission?

10 A. Correct.

11 Q. For a forfeiture that had been
12 assessed due to a violation?

13 A. Again, I don't know what that \$100
14 was for. I know it had something dealing with
15 this. I don't know exactly what it was for
16 though.

17 Q. And could you again state what you
18 were told by Trooper Lauper regarding driving?

19 A. After he did the inspection, initial
20 inspection at the Love's station, we had a
21 second encounter. He was on the shoulder of the
22 highway. I pulled my truck behind him with my
23 trailer with vehicles on it.

24 I said am I okay? He said get home
25 to your family safely.

1 Q. Did he mention the words out of
2 service?

3 A. No.

4 ATTORNEY EXAMINER LYNN: And, Mr.
5 Spriggs, do you recall when you were at the
6 Love's station and Trooper Lauper provided that
7 examination report to you, do you recall him
8 saying anything about that you had to be out of
9 service for ten hours?

10 THE WITNESS: I honestly don't. I
11 remember him allowing me to fix the problem and
12 I fixed it right there on-site.

13 ATTORNEY EXAMINER LYNN: Ms. Wenk.

14 Q. You were provided with a report from
15 Mr. Lauper. And that is true?

16 A. Yes.

17 Q. Then you mentioned that you did pay
18 an amount?

19 A. Yes.

20 MS. WENK: Of money. Nothing
21 further, your Honor.

22 ATTORNEY EXAMINER LYNN: All right.
23 Thank you. Mr. Spriggs, I believe you can take
24 your seat for the time being. Thank you for
25 your testimony.

1 THE WITNESS: Yes, sir.

2 ATTORNEY EXAMINER LYNN: Trooper
3 Lauper, I have a question. You do not need to
4 come back up here. It's a fairly small
5 courtroom, I think everyone can hear you quite
6 well.

7 - - -

8 TROOPER JEFFREY LAUPER
9 recalled as a witness, being previously duly
10 sworn, testified as follows:

11 EXAMINATION

12 By Attorney Examiner Lynn:

13 Q. After escorting Mr. Spriggs to
14 the Love's truck stop, and you did the
15 inspection there, what's your response to his
16 comments that as he left the truck stop with
17 reentering Interstate 76 that he encountered you
18 again, and that he pulled over, had a discussion
19 with you and so on. What are your responses to
20 that?

21 A. First, this inspection was actually
22 conducted on the side of the road in Mahoning
23 County.

24 Q. My mistake. So the inspection was
25 roadside, but --

1 A. Not to correct you, but just making
2 sure you are aware. This was at mile marker 56
3 on Interstate 76, Mahoning County.

4 Q. My mistake. So then when the
5 inspection was over you escorted him to Love's
6 for the out of service?

7 A. That is correct. I finished up my
8 report. I actually usually when I have an out
9 of service in our area, at that day there was
10 another two guys working with me in that area
11 also doing weights and measurements.

12 I let the supervisor know I was
13 escorting Mr. Spriggs to the Love's at 225
14 because it was outside the assignment county
15 that day. It was inside Portage County.

16 I escorted him to a truck stop in
17 Portage County at 225 and 76. I drove him to
18 the truck stop, I escorted him to a parking
19 space.

20 He was handed a two-page inspection
21 report which was entered as evidence today. I
22 have the same practice for the last six years I
23 have been a commercial Trooper. Any motor
24 vehicle inspection that I hand to any driver no
25 matter who it is, they receive an inspection

1 report with Page 2 and Page 1 there will be
2 highlights.

3 If they have been placed out of
4 service that is highlighted with a yellowish
5 highlighter that I keep in my passenger seat,
6 and then it says "Attention Driver." I also
7 highlight that.

8 And then at the very bottom it says
9 "Motor Carrier Responsibility." I highlight
10 that. 15 days to notify the gentlemen at PUCO
11 with the corrections if they have corrections to
12 the report.

13 Once I do that I hand the report as
14 well as all the paperwork. If I take photos on
15 the side of the road I will take them there.
16 If I am taking him to a safe location sometimes
17 I will take them at that location.

18 When I am finished with all that I
19 gave all that information to Mr. Spriggs, and
20 told him he was out of service. He says he
21 doesn't recollect that. I don't make a habit of
22 not telling drivers that. I have been doing
23 this for quite a long while.

24 He was told ten hours out of
25 service. And he was told he could make repairs

1 to the Keep Trucking app because it's a simple
2 fix. If they have the wrong software that they
3 are using, which now is called Motive as we
4 stated earlier, but it's Keeping Trucking app.

5 Keep Trucking, if you call the 1-800
6 hot line and there is an issue and it's just
7 software issue they will fix the problem for you
8 right there on the side of the road.

9 That is after we put them out of
10 service. That ten hours is still in effect even
11 if those logs were out of service at the time of
12 inspection. You have ten hours from that time
13 at 1:50 when my report ended.

14 That, in reference to the second, I
15 have no recollection of ever speaking to Mr.
16 Spriggs again after. The reason why I state
17 that is because as I stated earlier I was in
18 Mahoning County that day. So he is stating he
19 got on from 225 and turned headed west on 76.
20 I would have actually been going in the opposite
21 direction back to Mahoning County where I was
22 assigned.

23 Q. Okay. All right. At any rate
24 though when you placed Mr. Spriggs out of
25 service, in addition to providing him with the

1 examination report you also, you are saying you
2 typically tell drivers, and you did tell Mr.
3 Spriggs, that you are out of service for ten
4 hours?

5 A. Yes, sir, that's correct. And I
6 showed him on the paper, and it's very well lit
7 with highlighter.

8 Q. And then you are saying as far as
9 any second encounter to your recollection there
10 was no second encounter?

11 A. No, sir.

12 Q. You were actually after the Love's
13 truck stop, you headed back to a different
14 county?

15 A. I can tell you exactly where I
16 headed back to. I went to Dunkin Donut with two
17 other units at Bailey Road of 76 in Mahoning
18 County, and when I left there to head at the end
19 of my shift towards my residence Mr. Harrison,
20 Trooper Harrison, actually contacted my cell
21 phone to tell me that he was on a stop in the
22 Wadsworth area, I believe it was the Wadsworth
23 scales, correct.

24 And we had a little conversation at
25 that point. I explained to him the stop I had,

1 he explained he stopped him for similar. And we
2 ended our phone conversation because Mr.
3 Harrison knew that I was actually off duty at
4 that time, which in our job it doesn't
5 necessarily matter, but I was pulling into my
6 driveway.

7 ATTORNEY EXAMINER LYNN: All right.
8 Thank you. Let's see. Ms. Wenk, I believe you
9 made a motion to admit your exhibits into
10 evidence.

11 MS. WENK: Yes, your Honor.

12 ATTORNEY EXAMINER LYNN: Okay.

13 MS. WENK: I make a motion to admit
14 these exhibits into evidence as well as closing,
15 just like to, you know, close with he was
16 stopped at 12:50, placed out of service,
17 admitted that violation through payment.

18 Was stopped again at 3:31 P.M., less
19 than 10 hours after 12:50 for driving out of
20 service.

21 ATTORNEY EXAMINER LYNN: All right.
22 Thank you. And, Mr. Spriggs, do you have any
23 objections to these exhibits?

24 MR. SPRIGGS: Yes. That officer
25 just raised his right hand. He is lying. He is

1 making this story up. My life is in shambles
2 right now.

3 ATTORNEY EXAMINER LYNN: We can go
4 off the record for a moment.

5 (DISCUSSION OFF THE RECORD)

6 ATTORNEY EXAMINER LYNN: With that
7 in mind, I will offer Ms. Wenk the opportunity,
8 which you don't have to take, or Mr. Spriggs, to
9 prepare a brief.

10 Mr. Spriggs, a brief is just a
11 written summary of the arguments a party makes.
12 It doesn't really add anything new to what was
13 said here today. It's like a summary, I guess,
14 of the perspective the parties have on the
15 matter.

16 Again, it does not have to be done.
17 I will offer the opportunity to either of you.
18 If that is the case, we will set a date for
19 submitting in writing the briefs. And reply
20 briefs if necessary.

21 But, Ms. Wenk, do you have any
22 interest in submitting a brief?

23 MS. WENK: I will defer to the Court
24 on that, your Honor. And I will speak with my
25 client, but we would -- thank you for that

1 opportunity. I don't want to turn that down
2 right now, but I would like to discuss further
3 with the client. But if that is what the court
4 would like.

5 ATTORNEY EXAMINER LYNN: I am only
6 offering it because some of the Staff attorneys,
7 or I should say Attorney Generals, want to do
8 that. It certainly isn't required though.

9 If you need a moment to confer with
10 your client that is fine. But, it is not
11 mandatory at all. If you feel what was done
12 today is sufficient, that is fine.

13 MS. WENK: Thank you. I may have to
14 get back with you on that. Would you like to
15 know now?

16 ATTORNEY EXAMINER LYNN: Usually
17 what we do, yes, is put it into the record,
18 indicate a date for submitting the briefs.

19 MS. WENK: We will submit a brief
20 then.

21 ATTORNEY EXAMINER LYNN: Fine.

22 MS. WENK: Thank you for that
23 opportunity.

24 ATTORNEY EXAMINER LYNN: The
25 transcript is usually ready maybe about two

1 weeks from now, or so. So the transcript will
 2 be ready for this case in about two weeks.
 3 That would be approximately like available end
 4 of the first week of May. Why don't we say that
 5 the brief will be available say May 26th. That
 6 is the beginning of Memorial weekend. And any
 7 reply brief will be a couple weeks after that.
 8 Say June 9th.

9 Again, what we want to do mostly was
 10 get that into the record so if the parties have
 11 any questions on what the deadlines are that is
 12 already there.

13 But, again it's not mandatory at
 14 all. And, Mr. Spriggs, likewise, you don't have
 15 to submit anything in writing if do you don't
 16 want to do so.

17 We will admit the exhibits into
 18 evidence.

19 (EXHIBITS ADMITTED INTO EVIDENCE)

20 ATTORNEY EXAMINER LYNN: Okay.

21 Thank you. With that in mind, I want to thank
 22 everyone for being here today. In addition to
 23 Mr. Spriggs, of course, we had our two Troopers
 24 travel from within the State. But nonetheless
 25 they were traveling to Franklin County.

1 So, thanks for making the trip,
2 and, Ms. Wenk, for having all the exhibits and
3 all the preparation and so on ready to go.

4 With that in mind, we will close up
5 the proceedings for today. And thank you for
6 being here. And I will speak with Mr. Spriggs
7 before he leaves.

8 Thank you. Have a good morning.

9 (At 11:15, A.M. the hearing was
10 concluded)

11 - - -

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on April
20, 2023, and carefully compared with my
original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

- - -

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

5/9/2023 10:12:17 AM

in

Case No(s). 22-0136-TR-CVF, 22-0931-TR-CVF

Summary: Transcript April 20th 2023 In the Matter of Markeith Spriggs 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..