

Docket Nos. TV-170038 and TV-170039
(Consolidated) - Vol. IV

In the Matter of the Investigation of MVP
Moving and Storage, LLC

November 22, 2019



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

206.287.9066

www.buellrealtime.com

Olympia | **360.534.9066** Spokane | **509.624.3261** National | **800.846.6989**

email: info@buellrealtime.com



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

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the) DOCKETS TV-170038 and
Investigation of) TV-170039 (Consolidated)

MVP MOVING AND STORAGE LLC)

For Compliance with WAC)
480-15-560 and WAC)
480-15-570)

In the Matter of the Penalty)
Assessment Against)

MVP MOVING AND STORAGE LLC)

In the amount of \$6,100)

BRIEF ADJUDICATIVE PROCEEDING, VOLUME IV

Pages 100-144

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

November 22, 2019

1:30 p.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

Buell Realtime Reporting, LLC
1325 Fourth Avenue, Suite 1840
Seattle, Washington 98101
(206) 287-9066 | Seattle
(360) 534-9066 | Olympia
(800) 846-6989 | National
www.buellrealtime.com

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

APPEARANCES

ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON

FOR COMMISSION STAFF:

JEFF ROBERSON
Assistant Attorney General
P.O. Box 40128
Olympia, Washington 98504
(360) 664-1188
jeff.roberson@utc.wa.gov

FOR MVP MOVING AND STORAGE:

JASON GARCIA
Owner

ALSO PRESENT:

JASON SHARP
Motor Carrier Safety Supervisor

LISA WYSE
Records and Tariffs Manager

* * * * *

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

EXAMINATION INDEX

| JASON GARCIA | PAGE |
|---------------------------------------|------|
| Examination by Mr. Roberson. | 115 |
| JASON SHARP | |
| Examination by Mr. Roberson. | 127 |
| Examination by Judge Pearson. | 135 |
| Examination by Mr. Garcia. | 137 |

EXHIBIT INDEX

| EXHIBITS FOR ADMISSION | PAGE |
|----------------------------------------------|------|
| JG-1 Safety Management Plan | 107 |
| JG-2 Safety Management Plan Violation Review | 107 |

1 LACEY, WASHINGTON; NOVEMBER 22, 2019

2 1:30 P.M.

3 --o0o--

4 P R O C E E D I N G S

5
6 JUDGE PEARSON: Let's go ahead and be on the
7 record. Before we get started, Mr. Roberson, I don't
8 see Mr. Garcia in the hearing room yet today. Have you
9 spoken to him?

10 MR. ROBERSON: Mr. Garcia called me about 25
11 minutes ago and represented that he would be about 10 to
12 15 minutes late.

13 JUDGE PEARSON: Okay. Thank you. We'll be
14 in recess until Mr. Garcia arrives, then.

15 (A break was taken from
16 1:30 p.m. to 1:38 p.m.)

17 JUDGE PEARSON: So let's go ahead and be on
18 the record. We're convened today for a hearing on the
19 Commission's notice of intent to deny MVP Moving and
20 Storage LLC's application for reinstatement of its
21 household goods permit in consolidated Dockets TV-170038
22 and TV-170039.

23 My name is Rayne Pearson. I'm the
24 administrative law judge presiding over today's hearing,
25 and today is Friday, November 22, 2019, and the time is

1 approximately 1:40 p.m.

2 So we were last here on May 16th in 2019, at
3 that time to hear Staff's renewed motion to cancel MVP
4 Moving's household goods permit for failure to comply
5 with Order 04 in this docket. Order 04 was entered on
6 June 7th, 2018.

7 Following the hearing six months ago, the
8 Commission entered Order 05, which cancelled the
9 company's household goods permit because the company
10 violated Order 04 by committing repeat violations of
11 critical safety regulations, failing to submit a safety
12 management plan that was acceptable to Staff, and
13 failing to attend Commission-sponsored household goods
14 trainings in the manner prescribed by Order 04.

15 On June 20th, 2019, MVP -- MVP Moving filed
16 an application for reinstatement of its household goods
17 carrier permit, and on September 23rd, the Commission
18 issued the notice of intent to deny application for
19 reinstatement and a notice of opportunity for hearing.
20 And the notice explained that the Commission intends to
21 deny the company's application for reinstatement for
22 several reasons.

23 First is that the company has not submitted
24 an acceptable safety management plan; second, that the
25 company has not explained how the violations were

1 allowed to occur and has failed to provide proof that it
2 has corrected the violations at issue; and finally, that
3 only two of the company's nine employees have attended
4 Commission-sponsored household goods training.
5 Additionally, Staff's position is that MVP Moving is not
6 eligible for reinstatement because Order 05 also denied
7 the company the application for permit of authority.

8 So today, MVP Moving will have an
9 opportunity to respond to the allegations set forth in
10 the notice of intent to deny, and we will begin by
11 taking appearances beginning with Mr. Roberson.

12 MR. ROBERSON: Good afternoon, Judge
13 Pearson. Jeff Roberson, AAG, appearing on behalf of
14 Commission Staff.

15 JUDGE PEARSON: Thank you.

16 And Mr. Garcia?

17 MR. GARCIA: Jason Garcia, MVP Moving.

18 JUDGE PEARSON: Okay. Can you spell your
19 last name for the court reporter, please?

20 MR. GARCIA: G-a-r-c-i-a.

21 JUDGE PEARSON: Okay. And do we have
22 current contact information for you?

23 MR. GARCIA: I believe so.

24 JUDGE PEARSON: Address and telephone and
25 email?

1 MR. GARCIA: I sent an email of an updated
2 PO Box with my name and address.

3 JUDGE PEARSON: Okay.

4 MR. GARCIA: So I -- I hope that was listed
5 on there.

6 MR. ROBERSON: As far as I know.

7 JUDGE PEARSON: Okay. All right. So when I
8 call on each party to testify, I will swear you in just
9 like I did last time, so anything that you tell the
10 court reporter [sic] will be under oath and is
11 considered sworn testimony. And for the court
12 reporter's benefit, please speak slowly and clearly and
13 make sure that you're using the microphone on the table
14 in front of you.

15 Do you have any questions before we get
16 started?

17 MR. GARCIA: Just that you received my
18 updated safety management plan.

19 JUDGE PEARSON: Yes.

20 MR. GARCIA: And I have three copies that
21 was provided if anyone wants a copy.

22 JUDGE PEARSON: Okay. And that was actually
23 my first question for you is that I saw those documents
24 that you submitted. One was called the proposed safety
25 management plan, and then there was a second document

1 entitled "Safety Management Plan Violation Review." So
2 would you like to have those documents admitted into the
3 record?

4 MR. GARCIA: Yes.

5 JUDGE PEARSON: Okay. And, Mr. Roberson, do
6 you have any objection to that?

7 MR. ROBERSON: No objection, Your Honor.

8 JUDGE PEARSON: Okay. Then I will go ahead
9 and admit those and mark them as JG-1, Safety Management
10 Plan, and JG-2, Safety Management Plan Violation Review.

11 (Exhibits JG-1 and JG-2 admitted.)

12 JUDGE PEARSON: Okay. So why don't I go
13 ahead and swear you in, and then we can walk through the
14 allegations in the notice of intent to deny and give you
15 an opportunity to respond to those, okay?

16 MR. GARCIA: Okay.

17 JUDGE PEARSON: So please stand and raise
18 your right hand.

19 (Jason Garcia sworn.)

20 JUDGE PEARSON: Okay. Please be seated.

21 MR. GARCIA: Thank you.

22 JUDGE PEARSON: Okay. So let's just go
23 through each of the allegations.

24 The first was that you failed to submit an
25 acceptable safety management plan. And so just to

1 clarify, the safety management plan that we just
2 admitted into the record and marked as Exhibit JG-1,
3 that's different than the safety management plan that
4 you submitted with your application for reinstatement?

5 MR. GARCIA: Yes.

6 JUDGE PEARSON: Okay. So the allegations
7 related to the safety management plan include the
8 company failing to take responsibility for the
9 violations, failing to explain how the violations
10 occurred, and failing to provide proof that the
11 violations were corrected. So do you want to respond to
12 those allegations?

13 MR. GARCIA: You want me to respond to each
14 one?

15 JUDGE PEARSON: Mm-hmm.

16 MR. GARCIA: Okay. So as far as the safety
17 management plan goes, I updated it very thoroughly, and
18 I'm going over each checklist after my three or four
19 training courses. I've fine-combed each situation I've
20 had. As of right now, I only have one employee, which
21 is Carlos Molina. It's been him and I for the last five
22 months. We have done zero household goods moves. We've
23 only just been strategizing on what we're going to do
24 moving forward if we're given the opportunity again.

25 And right now, I'm -- I'm another employee,

1 but I'm -- you know, I'm the owner of the company, so I
2 don't have myself on file there, but I have my DOT
3 medical card, I have everything. So as of right now,
4 Carlos and I are completely applicable [sic] to proceed
5 if given that opportunity.

6 JUDGE PEARSON: Okay. And the new safety
7 management plan that you submitted, does it include
8 language taking responsibility for the violations and
9 explaining how the violations occurred?

10 MR. GARCIA: Yeah, I 100 percent take the
11 responsibility. I -- you know, to -- to add to that, I
12 might have been thinking about, like I said, past -- I
13 was thinking about how many jobs I can do, growth versus
14 safety management, and not doing anything for the last
15 five months has just taught me that that's not
16 important. What's important is public safety and
17 following all the regulations that the UTC provides.

18 JUDGE PEARSON: Okay. And did you provide
19 proof in the safety management plan that the violations
20 were corrected?

21 MR. GARCIA: I did.

22 JUDGE PEARSON: Okay. And of course we'll
23 allow Staff to -- to speak to that in a little bit.

24 So the second allegation was that you failed
25 to require all employees to attend household goods

1 trainings.

2 MR. GARCIA: At that point, I -- I brought
3 three employees, Carlos Molina, David Morrow, and
4 myself. Everybody else that morning, we discussed about
5 how I let everybody go, but at that time, we were doing
6 contract delivery for Ferguson, and I should have got a
7 common carrier's permit to support that versus having
8 the household goods permit. And so that's the only
9 reason why he was pulled over at that weigh station.
10 And so --

11 JUDGE PEARSON: I'm sorry, who was pulled
12 over?

13 MR. GARCIA: It was Mike Lazinski, I
14 believe. Because at the time, I -- there was a training
15 course, I had a full -- I rescheduled all my jobs, I
16 told everyone to be there at 7 o'clock, they didn't show
17 up. It was a paid day, it was paid that, and that just
18 showed the lack of respect that they had for me and what
19 I was trying to do for them. And so at that point, I --
20 I -- I no longer employed them. It's just been Carlos
21 Molina and myself.

22 JUDGE PEARSON: Okay. And you're saying
23 that Carlos has attended trainings?

24 MR. GARCIA: Mm-hmm. I think he's attended
25 two of them, I believe.

1 JUDGE PEARSON: Two of them, okay.

2 So as of right now, both of the company
3 employees, you and Mr. Molina, have attended household
4 goods trainings?

5 MR. GARCIA: That's correct.

6 JUDGE PEARSON: Okay. All right. So the
7 notice also states that the application for
8 reinstatement is moot because the Commission denied the
9 company's application for permanent authority in
10 addition to cancelling the company's provisional
11 authority. So what is your response to Staff's
12 position?

13 MR. GARCIA: Could you just explain what
14 that exactly means?

15 JUDGE PEARSON: I'll let Mr. Roberson
16 explain.

17 MR. ROBERSON: So Mr. --
18 Should I explain to Mr. Garcia or to the
19 Bench?

20 JUDGE PEARSON: Mr. Garcia.

21 MR. ROBERSON: Okay. So, Mr. Garcia, when
22 you were originally given a permit, it was a provisional
23 permit, which allows you to operate for a limited period
24 of time while the Commission evaluates your operations.
25 At the end of that period, the Commission decides

1 whether or not to grant a permanent certificate that
2 would allow you to operate kind of perpetually. If you
3 do not make sufficient progress towards obtaining your
4 permanent permit within your probationary or provisional
5 period, the Commission just denies the application and
6 you need to come back with a new application. That's
7 what happened here. The Commission decided that you
8 hadn't satisfactorily shown your fitness to hold a
9 permit and denied your application for permanent
10 authority.

11 MR. GARCIA: Okay. I understand that.

12 JUDGE PEARSON: So I think what
13 Mr. Roberson -- what Staff's position is, is that your
14 application should be considered as a new application
15 for household goods authority rather than a
16 reinstatement for previously held authority --

17 MR. GARCIA: Okay.

18 JUDGE PEARSON: -- because your application
19 was --

20 MR. GARCIA: When I originally submitted the
21 application in 2014, from that point to when I'm trying
22 to reinstate it, that's when it's held as no
23 improvement; is that correct in a way?

24 MR. ROBERSON: That's what Order 05 says,
25 yes.

1 MR. GARCIA: Okay. Okay.

2 JUDGE PEARSON: So --

3 MR. GARCIA: Then I -- I guess I don't
4 understand, so I just have to submit a new application?
5 Because I didn't think -- I felt like if I sent a new
6 application I was going to be denied 100 percent. So I
7 was only carrying on the reinstatement because it's been
8 within 30 days. So that was my -- am I off?

9 MR. ROBERSON: And I if might here, Your
10 Honor.

11 JUDGE PEARSON: Yes, please.

12 MR. ROBERSON: He is correct. His -- he's
13 not eligible for even a provisional permit because his
14 permit has been involved heavily -- revoked within the
15 last year. And so Mr. Garcia would need to wait until
16 that one-year period has expired before he could apply
17 for a new permit.

18 JUDGE PEARSON: Okay. So that's what
19 Staff's position is, then?

20 MR. ROBERSON: Yes.

21 JUDGE PEARSON: That he was not eligible for
22 reinstatement, and therefore, are you considering this
23 as an application for new authority?

24 MR. ROBERSON: So Staff does not believe
25 he's eligible for reinstatement, and therefore, his

1 application is barred as a new application until the
2 one-year period has passed.

3 JUDGE PEARSON: Okay. So does that make
4 sense to you?

5 MR. GARCIA: It does. It does. And my only
6 response to that is, you know, Erik Hawkins and I were
7 business partners, and we had our first incident with
8 this in 2016, I believe. We carried a \$6100 penalty.

9 JUDGE PEARSON: 2017, you mean?

10 MR. GARCIA: Was it 2017?

11 JUDGE PEARSON: Mm-hmm.

12 MR. GARCIA: Sorry. And then the next time
13 I received an audit, it was only \$500. I felt like that
14 was a huge improvement because it was only me running
15 the company, not Erik and I. And Erik was the gentleman
16 that handled this, I was only in sales and sending crews
17 out. So that administration part is definitely
18 something that I felt I took pride in, and I -- I -- I
19 missed a few things, but it wasn't \$6100 worth of fines.
20 It was only 550 maybe, I think. So I felt like that was
21 improvement. It's just the third time that it came out,
22 it was still \$500. So I -- I just carry that as an
23 improvement from my standpoint, but I understand. I get
24 it.

25 JUDGE PEARSON: Okay. Mr. Roberson, do you

EXAMINATION OF GARCIA / ROBERSON

1 have any questions for Mr. Garcia?

2 MR. ROBERSON: I do indeed.

3

4 EXAMINATION

5 BY MR. ROBERSON:

6 **Q. So, Mr. Garcia, you just testified that you've**
7 **only had three employees since basically June of this**
8 **year; yourself, Mr. Molina --**

9 A. That's correct.

10 **Q. -- and Mr. Morrow?**

11 A. That's correct.

12 **Q. On June 20th --**

13 A. That's not -- not Mr. Morrow. That was the only
14 attendees of the training program.

15 **Q. I'm sorry, my mistake.**

16 **So do you just have two employees?**

17 A. That's correct.

18 **Q. Okay. On June 20th, which is five months ago,**
19 **you submitted an application that listed nine employees**
20 **other than yourself. Why did you submit that**
21 **application if they didn't work for you?**

22 A. I sent that because on my -- on one of the -- I
23 don't have it in front of me, but that was -- I had nine
24 background checks, and it said I only submitted two
25 background checks of the nine employees. So I think

EXAMINATION OF GARCIA / ROBERSON

1 that is why it carried over. I do -- I --

2 **Q. But you do --**

3 A. I do not have --

4 **Q. -- you listed them on the application as**
5 **employees, correct?**

6 A. It's been Carlos and I since the day we -- I got
7 my permit taken away.

8 **Q. Okay. So if I represented to you that your**
9 **application contains a page that's entitled "Current**
10 **Employees of MVP Moving" and which listed nine people**
11 **other than yourself, those people weren't your employees**
12 **when you submitted that page?**

13 A. No. I think my intention was just to show you
14 the nine employees I have the background checks on
15 because I was missing those nine employees during one of
16 the dockets that you mentioned.

17 **Q. Okay.**

18 A. So I think that's why I included that, because
19 if I was missing two of the nine, I submitted that to
20 Watchdogs, and I -- I just paid it to make sure I had
21 it.

22 **Q. Okay. Why didn't you just submit an application**
23 **that says I only have two employees and here are their**
24 **background checks?**

25 A. I misunderstood.

EXAMINATION OF GARCIA / ROBERSON

1 **Q. Okay.**

2 A. I was just trying to carry over and answer all
3 the fails that I -- trying to accept.

4 **Q. Fair enough.**

5 **I'd like to talk about I think what's been**
6 **marked as -- is it JG-2, which is your safety management**
7 **plan violation review?**

8 A. Okay.

9 **Q. I'm looking on page 5, there's discussion about**
10 **the violation about a lapse in a DOT medical card?**

11 A. Was that for Carlos Molina?

12 **Q. Yeah.**

13 **So part of a safety management plan is basically**
14 **accepting responsibility and explaining how the**
15 **violations won't happen again, and you just explained**
16 **that you did that, but I notice here that you basically**
17 **denied the violation occurred.**

18 A. There's a 24-hour window of the DOT medical
19 card, and so on the date of when I was fined for Carlos
20 working a job without a DOT medical card.

21 **Q. From what I remember, that's consistent with**
22 **your testimony last time, but here you seem to be saying**
23 **that that's not actually what happened because**
24 **Mr. Molina wasn't actually the driver.**

25 A. That's what it was -- so that -- if you -- if

EXAMINATION OF GARCIA / ROBERSON

1 you look at the report and you look at the calendar, he
2 wasn't working on that day, but he was fined for that
3 day.

4 **Q. Okay. Let's talk about that.**

5 **Did you present that argument to Mr. Garcia when**
6 **he gave you the closing letter? Sorry. Mr. Sharp, two**
7 **Jasons. It was Ms. Yeomans who was there.**

8 **When Ms. Yeomans sat with you at the closing**
9 **conference and said we found this violation, did you**
10 **protest it, did you say that didn't happen?**

11 A. I -- I believe I did, but I can't be 100 percent
12 right now. I just know that we looked at it, and I
13 honestly was happy it wasn't \$6100 of fines because I
14 was looking for an improvement.

15 **Q. So basically there's no record that you've ever**
16 **denied this violation until the safety management plan**
17 **is what you're telling me?**

18 A. I believe so.

19 **Q. Okay. Okay. Another thing that jumps out at me**
20 **when reviewing Exhibit JG-2 is in many places you talk**
21 **about how you're automating -- you know, you're**
22 **calendar appointments so that you don't miss them.**

23 A. That's correct.

24 **Q. Do you remember the last time you were at the**
25 **Commission testifying?**

EXAMINATION OF GARCIA / ROBERSON

1 A. I did say that, and you agreed on that was
2 acceptable, and I let you down and --

3 **Q. Do you --**

4 A. -- I'm sorry.

5 **Q. Do you remember testifying basically that the**
6 **calendaring -- calendaring hadn't worked out, that**
7 **violations were still occurring?**

8 A. That -- that's correct.

9 **Q. Critical violations?**

10 A. I had an issue with my G Suite account. Not an
11 excuse, but Erik Hawkins, when he left the company, he
12 was the admin of the G Suite account for Google, and I
13 can't -- he deleted it. It -- it -- it caused a lot
14 of -- because he was on that account, and so I had to
15 start a whole -- another one.

16 **Q. Okay.**

17 A. And I lost some information.

18 **Q. Have you submitted copies of the new calendar to**
19 **Staff? Did you bring copies with you today?**

20 A. I don't have copies with me today, but I
21 provided it in my safety management plan that was
22 denied, and I have a copy of it right here. I just
23 don't have it --

24 **Q. Okay.**

25 A. -- in this form, my updated one.

EXAMINATION OF GARCIA / ROBERSON

1 **Q. Let's also talk about that.**

2 **So with your application for reinstatement, you**
3 **submitted a safety management plan and then you updated**
4 **the safety management plan and it's considerably**
5 **different. Why did you submit such a different safety**
6 **management plan?**

7 A. I had five months to complete it, and with that
8 five months, I was in a really heavy busy season, and it
9 was very unfortunate I couldn't operate. So I wanted to
10 make sure that it got done correctly and it wasn't just
11 something I did to please the UTC. I wanted to do it to
12 be able to operate and have a successful plan.

13 **Q. Okay. So where did you -- did you type it out**
14 **yourself?**

15 A. Carlos and I did it.

16 **Q. You guys --**

17 A. We both hammered it out.

18 **Q. Did you -- did you investigate resources or is**
19 **this just something that you and Carlos came up with?**

20 A. There was -- there was resources involved.

21 **Q. Okay. Where did you find those resources?**

22 A. His background. His dad owns a trucking
23 company, so he has years of experience within the Idaho
24 regulations, and we just got together and wanted to make
25 sure we provided a good safety management plan that was

EXAMINATION OF GARCIA / ROBERSON

1 really thorough and --

2 **Q. Okay.**

3 A. -- that we could follow and read and...

4 **Q. Mr. Molina worked with you at the time of the**
5 **last hearing, right?**

6 A. Correct.

7 **Q. So between the order revoking your certificate**
8 **and the submission of the first safety management plan,**
9 **why didn't you work with Mr. Molina to produce what you**
10 **eventually produced?**

11 A. I didn't want to involve him at the time. My
12 name was the only name that was on the company. He was
13 just an employee. So it was -- it was only me that
14 produced it, and at that time, I -- I didn't know that
15 he had that much knowledge on -- on creating and helping
16 and -- and so...

17 **Q. Did you reach out to any other resources before**
18 **you submitted -- did you look for any other help or**
19 **resources before you submitted that first --**

20 A. No.

21 **Q. -- safety management plan?**

22 A. The only other resources I looked at was the
23 previous ones Erik Hawkins submitted.

24 **Q. The ones that were --**

25 A. They were accepted, but then business partners

EXAMINATION OF GARCIA / ROBERSON

1 clash, and we had our disagreements, and he took what he
2 had and I had to find what I had.

3 **Q. Fair enough.**

4 **So you have no other employees?**

5 A. Nope.

6 **Q. Okay. I noticed that the first safety**
7 **management plan came in on June 20th, which is 31 days**
8 **after the order was entered to revoke MVP's permit. Did**
9 **you read that order?**

10 A. I did.

11 **Q. Okay. And at the bottom of the order where it**
12 **said you had 30 days to submit an application for**
13 **reinstatement, did you read that?**

14 A. That's correct.

15 **Q. And I guess my question then becomes, why did**
16 **the application come in a day after the deadline?**

17 A. I mailed it out -- I just thought I mailed it
18 out before the 30th day.

19 **Q. Okay. I gave you some exhibits, one of them is**
20 **a page that's a copy of an envelope. It's marked LW-1.**
21 **So this is the envelope -- I'll represent to you that**
22 **this is the envelope that you submitted your request for**
23 **hearing in. Did you have any reason to dispute that?**

24 A. Well, the postage says 30 days, but the stamp
25 says 31. So I don't understand that. It says 10/21 and

EXAMINATION OF GARCIA / ROBERSON

1 then it says 10/22.

2 **Q. Yeah, so the notice had your request for hearing**
3 **due to be filed on 10/21, correct?**

4 A. That's correct.

5 **Q. So you went to the post office on the day the**
6 **notice had to be in and you purchased one-day mail,**
7 **correct?**

8 A. That's correct.

9 **Q. So you knew at the time you went to submit this**
10 **that it wasn't going to be timely, correct?**

11 A. I didn't -- no, I thought that just because the
12 date that I went and mailed it to you it was going to be
13 within the time frame.

14 **Q. Okay. Did you read the order cancelling your**
15 **certificate?**

16 A. Yeah.

17 **Q. I guess, actually, it was the notice of intent**
18 **to deny where it said if you -- you want to -- maybe --**
19 **it was Order 05. No, it was the notice. You had to**
20 **submit a request for a hearing, it had to be filed by**
21 **October 21st at 5:00 p.m., correct?**

22 A. That's correct.

23 **Q. So on October 21st, you went to the post office**
24 **and you went to submit your request for a hearing,**
25 **correct?**

EXAMINATION OF GARCIA / ROBERSON

1 A. That's correct.

2 **Q. And you would have known at that time there was**
3 **no way the Commission was going to get it by 5:00 p.m.,**
4 **correct?**

5 A. The problem I had is I thought I was going to
6 deliver it to you guys, to be honest with you, and I ran
7 into a situation. So I went straight to the post office
8 and I tried to mail it out to you. I did not see the
9 5:00 p.m., though. I just thought it was the date.

10 **Q. Okay. Well --**

11 A. So if you have it there, then that's my mistake.

12 **Q. If you turn it over on the back, the post office**
13 **marked it with an expect- -- expected delivery date of**
14 **October 23rd, correct?**

15 A. I didn't see that. I don't...

16 **Q. Okay. What was the unexpected event that**
17 **prevented you from bringing your --**

18 A. Right now, we --

19 **Q. -- request for hearing?**

20 A. -- Carlos and I, we -- sorry. Right now, Carlos
21 and I, we are contracted through Ryder delivering Ashley
22 Furniture, and I had the docket on me thinking I was
23 going to get a shift over in this area, and I was just
24 going to come in here and hand it to you guys.
25 Unfortunately, it didn't work out that way.

EXAMINATION OF GARCIA / ROBERSON

1 **Q. Okay. So we've talked a lot about your**
2 **calendaring. Say you have an event calendared and an**
3 **event like this comes up, does the Commission have any**
4 **confidence that you will comply with the rules and**
5 **perform the calendared event?**

6 A. I hope so.

7 **Q. Why should the Commission have that confidence**
8 **given that something came up and you couldn't even**
9 **timely request this hearing?**

10 A. Well, I sent it, and I've attended every single
11 training for the last year. I've --

12 **Q. Okay. Are -- are you aware that the Commission**
13 **literally could have denied you this hearing and just**
14 **denied your application for reinstatement because it was**
15 **untimely?**

16 A. 100 percent, and at that point --

17 **Q. But that didn't motivate you enough to get the**
18 **request for hearing in on time?**

19 A. I'm motivated.

20 **Q. I guess, what objective evidence is there of**
21 **your motivation? That's my question.**

22 A. Just everything thus far, still showing up,
23 talking to you guys, trying to fix every single issue
24 that I have. If I'm off by 24 hours, I'm -- I'm trying
25 my best, and if you look at the stamp here, they're all

EXAMINATION OF GARCIA / ROBERSON

1 being submitted.

2 **Q. True, they're being submitted, but by my**
3 **account, the last two significant events for you were**
4 **the application for reinstatement and the request for a**
5 **hearing, and they're both untimely, right?**

6 A. Based on the postage and that, that's correct.

7 **Q. Okay. And given that those affect whether or**
8 **not you would have a permit and therefore seem like**
9 **significant events, I guess, why should the Commission**
10 **have any confidence that you will discharge your**
11 **obligations if you can't comply with those deadlines?**

12 A. I just wish you could consider my efforts thus
13 far, attending everything, submitting all the documents,
14 and proving from a ten-page to a 32-page and showing up
15 to every single hearing and calling you if I'm ten
16 minutes late. You know, I'm a -- I'm trying.

17 **Q. Fair enough.**

18 MR. ROBERSON: I don't have any other
19 questions, Your Honor.

20 JUDGE PEARSON: Okay. So let's turn to
21 Staff's witnesses.

22 MR. ROBERSON: It seems like Mr. Garcia has
23 stipulated to the envelope, so I don't know that
24 Ms. Wyse needs to testify.

25 JUDGE PEARSON: Okay.

EXAMINATION OF SHARP / ROBERSON

1 MR. ROBERSON: If Mr. Garcia has any
2 questions.

3 She was just going to testify about
4 receiving the envelope from you.

5 MR. GARCIA: Okay.

6 MR. ROBERSON: If you have any questions.

7 MR. GARCIA: I don't have any questions.

8 MR. ROBERSON: Then otherwise, I would just
9 ask that she be excused so she can return to work.

10 JUDGE PEARSON: Okay. You're excused,
11 Ms. Wyse.

12 MR. ROBERSON: And at this time, Staff would
13 call Mr. Sharp.

14 JUDGE PEARSON: Okay. Please stand and
15 raise your right hand.

16 (Jason Sharp sworn.)

17 JUDGE PEARSON: Okay. Please be seated.

18

19 EXAMINATION

20 BY MR. ROBERSON:

21 **Q. Good afternoon. Could you please state your**
22 **name and spell it for the record?**

23 A. Jason Sharp, S-h-a-r-p.

24 **Q. And who is your employer?**

25 A. The Washington Utilities and Transportation

EXAMINATION OF SHARP / ROBERSON

1 Commission.

2 **Q. And what position do you hold at the Commission?**

3 A. I am the motor carrier safety supervisor.

4 **Q. And how long have you been the motor carrier**
5 **safety supervisor?**

6 A. Just over two years.

7 **Q. And could you describe your duties as a -- the**
8 **motor carrier safety supervisor?**

9 A. My duties entail assigning motor carrier
10 investigations to our motor carrier investigators,
11 reviewing the work that they submit, and also issuing
12 recommendations based on the findings of those
13 investigative reports.

14 **Q. And can you describe any training that you've**
15 **had that enables you to carry out your duties?**

16 A. Yes. In addition to being a supervisor of
17 investigators, I also am a certified investigator,
18 receive federal training through CVSA, the national
19 training center, and am qualified to conduct compliance
20 investigations. I also have two years of on-the-job
21 training reviewing investigative reports and issuing
22 recommendations and evaluating safety plans.

23 **Q. And are you familiar with the statutes and rules**
24 **governing the licensing and operations of household**
25 **goods carriers?**

EXAMINATION OF SHARP / ROBERSON

1 A. Yes, I am familiar.

2 **Q. And you're familiar with MVP's background here**
3 **at the Commission?**

4 A. Yes, I am.

5 **Q. And you're familiar that at one time MVP held**
6 **operating authority issued by the Commission?**

7 A. Yes.

8 **Q. And does MVP still hold a permit?**

9 A. Not at this time.

10 **Q. And could you explain why not?**

11 A. Because the Commission issued Order 5 cancelling
12 its provisional authority.

13 **Q. I am handing you what's been marked as Exhibit**
14 **JS-1. Can you identify that?**

15 A. Yes, this is Order 5 from Docket TV-170039 and
16 170038 consolidated.

17 **Q. And is that a true and accurate copy of Order**
18 **05?**

19 A. Yes, it appears to be.

20 MR. ROBERSON: At this point, Staff would
21 move to admit Exhibit JS-1.

22 JUDGE PEARSON: Okay. I'm not going to
23 admit it, but I will take official notice of it.

24 MR. ROBERSON: Good enough.

25 BY MR. ROBERSON:

EXAMINATION OF SHARP / ROBERSON

1 **Q. In Order 05, does the Commission explain why**
2 **it's cancelling MVP's household goods carrier permit?**

3 A. Yes, it does.

4 **Q. And are those reasons basically what Judge**
5 **Pearson summarized at the start of the hearing?**

6 A. They are.

7 **Q. And those are, for the record?**

8 A. That the carrier failed to work with Staff in
9 submitting a safety management plan, and the carrier
10 failed to have all of its employees attend household
11 goods training provided by the Commission, and also the
12 carrier incurred repeat violations of critical
13 regulations at the last safety investigation.

14 **Q. Do the Commission's rules allow a carrier whose**
15 **permit's been cancelled to apply for reinstatement?**

16 A. Yes, they do.

17 **Q. And what must a carrier do before applying for**
18 **reinstatement?**

19 A. My understanding is that in order to be
20 considered upon reinstatement, the carrier would have to
21 correct each deficiency that led to its cancellation.

22 **Q. And did the order cancelling MVP's certificate**
23 **set out that same procedure?**

24 A. Yes.

25 **Q. Did MVP apply for reinstatement?**

EXAMINATION OF SHARP / ROBERSON

1 A. Yes, they did.

2 **Q. And that happened on June 20th, 2019?**

3 A. That -- that sounds right, yes.

4 **Q. Do you know if that application was timely?**

5 A. According to the order, that application should
6 have been in the day prior to the Commission receiving
7 it.

8 **Q. Okay. And did MVP submit anything else along**
9 **with its application for reinstatement?**

10 A. Yes, it did. With its application, the company
11 submitted a statement justifying reason for
12 reinstatement as well as a what appears to be like a new
13 hire onboarding checklist as well as a list of current
14 employees of the company and dates for future review of
15 files and maintenance.

16 **Q. Is it fair to say that those documents are**
17 **essentially an attempt at a safety management plan?**

18 A. That's how I interpret it.

19 **Q. Would that safety -- well, does that safety**
20 **management plan meet the criteria for acceptance to --**
21 **to Staff's satisfaction?**

22 A. You know, I guess what I would say is, I could
23 recognize that there is a lot of things that were
24 submitted in the application that would help the company
25 be compliant with its safety program, such as dates that

EXAMINATION OF SHARP / ROBERSON

1 Mr. Garcia referenced earlier for future maintenance,
2 review of files and whatnot. But as far as a safety
3 management plan goes, no, this doesn't address the
4 violations that were discovered and covered in Order 1
5 of this docket as ordered in Order 4. So I -- I guess I
6 take this as, you know, just a -- maybe not so much a
7 safety management plan, but a desire to show improvement
8 in its safety systems.

9 **Q. So is it fair to say that what MVP submitted**
10 **with its application would not have corrected the cause**
11 **of the Commission's -- well, one of the causes of the**
12 **Commission's cancellation of its certificate?**

13 A. That would be a correct statement, yes.

14 **Q. Okay. And you saw the exhibits that Mr. Garcia**
15 **filed last week, which have been marked as Exhibits I**
16 **believe JG-1 and JG-2?**

17 A. Yes, I've had the chance to review them.

18 **Q. And are those -- is it fair to call those the**
19 **safety management plan collectively?**

20 A. Between the -- the two documents, you could
21 state that it's a safety management plan, sure.

22 **Q. And does this safety management plan satisfy**
23 **Staff?**

24 A. It does not. The reason being is, it appears
25 that the safety management plan only addresses repeat

EXAMINATION OF SHARP / ROBERSON

1 violations from two separate investigations. It doesn't
2 necessarily address what was ordered.

3 **Q. And before you go on, a safety management plan**
4 **needs to address all the violations, correct?**

5 A. Right. So the safety management plan, it must
6 address each violation, identify why the violations were
7 permitted to occur, discuss any corrective actions that
8 were taken to correct the deficiencies identified. With
9 this, the plan must include actual documentation of
10 corrective action, outline any actions taken to ensure
11 future compliance with the regulations, and if -- if
12 something is unable to be identified at that time, then
13 relaying what future actions they want to take. And
14 then the company must also certify that their -- that
15 their safety program is in compliance with the CFRs in
16 Part 385.5 and 385.7, so and that would be certified by
17 a company official.

18 **Q. And for clarity in the record, so this second**
19 **safety management plan doesn't satisfy those criteria?**

20 A. It does not.

21 **Q. Okay. I'd like to move on and discuss MVP's**
22 **safety history, and you testified that one of the**
23 **reasons the Commission cancelled MVP's permit was its**
24 **safety record, correct?**

25 A. The reason, to my understanding, that the permit

EXAMINATION OF SHARP / ROBERSON

1 was cancelled was for failing to comply with Commission
2 orders. The company has received three safety
3 investigations; one of them being a rated and then two
4 follow-up nonrateds.

5 **Q. And thank you for that clarification.**

6 **So in the rated review, did MVP achieve a**
7 **satisfactory rating?**

8 A. No, the company received an unsatisfactory
9 rating, which was later upgraded to conditional.

10 **Q. And one of the criteria for passing out of**
11 **provisional permit status into permanent permit status**
12 **is the achievement of a satisfactory rating, correct?**

13 A. Yes.

14 **Q. And so the one rated review does not have a**
15 **satisfactory rating; is that fair to say?**

16 A. Yes.

17 **Q. So -- okay. Fair enough.**

18 **I guess I'd like to move on to your**
19 **recommendation because it sounds like we don't need to**
20 **talk about household goods training.**

21 **What is Staff's recommendation for how the**
22 **Commission should deal with the application for**
23 **reinstatement?**

24 A. Just based on the company not satisfying every
25 requirement to be reinstated, I believe Staff's position

EXAMINATION OF SHARP / PEARSON

1 would remain the same, that we deny the application for
2 reinstatement.

3 MR. ROBERSON: And that's all I have for
4 Mr. Sharp, Your Honor.

5 JUDGE PEARSON: Okay. Thank you. I just
6 have a couple of follow-up questions.

7

8 EXAMINATION

9 BY JUDGE PEARSON:

10 **Q. So can you just give me a quick specific list of**
11 **the deficiencies that you see in this updated safety**
12 **management plan that was submitted a week ago, JG-1 and**
13 **JG-2.**

14 A. Submitted into exhibits, yes. The safety plan
15 as it's presented, one of them seems like a really good
16 framework for a company's operations. Has a lot of
17 policies and whatnot. The -- there is a couple things I
18 noticed that had we worked together, if the company had
19 asked for any assistance, there's some minor paperwork
20 stuff as far as their employment application is
21 considered for their drivers. It's missing the company
22 name and address that's required by CFR 391.21. Again,
23 it's a paperwork violation, but it would be something
24 that we would identify as a violation.

25 Looking at the plan violation review, for one,

EXAMINATION OF SHARP / PEARSON

1 it doesn't address each violation. It was combining
2 repeat violations between different investigations. It
3 was somewhat hard to follow for me. I was able to
4 derive what was being stated within it, but it didn't
5 identify each violation, and with that, we didn't have
6 any proof of corrective action included with that plan.
7 Meaning, you know, working with Staff, we would have
8 identified -- we would have liked to have seen a driver
9 qualification file for an example of being able to show
10 that they are in compliance and understand the rules.

11 **Q. So then also, was there also no explanation of**
12 **how the violations were allowed to occur?**

13 A. To some degree, I would -- I would say that --
14 pardon me, Your Honor. Let -- let me just --

15 **Q. No worries.**

16 A. -- look real quick. So looking at a couple of
17 examples here, what I do see is identifying the
18 violation, the corrective action, and then a prevention
19 that the company states they put in place to prevent
20 reoccurrence. So I would say that no, it -- each of
21 them likely does not involve that.

22 **Q. It doesn't have --**

23 A. Why it happened.

24 **Q. Okay. And then I guess my last question has to**
25 **do with I know Order 04 instructed the company to work**

EXAMINATION OF SHARP / GARCIA

1 with Staff to develop a safety management plan. Did the
2 company work with Staff to develop either the plan that
3 was submitted with its application for reinstatement or
4 these documents that were submitted in advance of the
5 hearing?

6 A. To my knowledge, I know that I haven't received
7 any communication from the company as far as submitting
8 a safety plan, and to my knowledge, Investigator Yeomans
9 has not either since the order came out. Staff had
10 reached out, as previously documented, to try and get
11 that information. We have had no interactions regarding
12 this plan, no.

13 JUDGE PEARSON: Okay. Thank you.

14 Mr. Garcia, do you have any questions for
15 Mr. Sharp?

16

17 EXAMINATION

18 BY MR. GARCIA:

19 **Q. My only question would be, do you have Ms. Sandy**
20 **Yeomans' report after she sends me her report when I**
21 **have to respond to each correction?**

22 A. I do, yes.

23 **Q. Does that at all answer the things that I'm**
24 **missing?**

25 A. It does not qualify as a safety management plan.

EXAMINATION OF SHARP / GARCIA

1 Some of your responses that I have seen, what we call a
2 15-day letter, are you familiar with that term?

3 **Q. Thank you.**

4 A. Within that, what you -- what we ask of you to
5 submit is identifying the violations and what you've put
6 into place to correct it. It doesn't constitute in and
7 of itself a safety management plan. So I would say no,
8 it does not.

9 JUDGE PEARSON: Okay.

10 A. And I'm unable to derive between multiple
11 documents --

12 BY MR. GARCIA:

13 **Q. Right.**

14 A. -- that it still satisfies that.

15 **Q. Okay. I'm -- I guess I'm just confused, when I**
16 **have the 15-day letter and then I write down each**
17 **violation and I write down how it happened, what I did**
18 **to fix it, and what I'm going to do to continue**
19 **business, and from what you're saying is I -- I didn't**
20 **do that or it's not acceptable?**

21 A. I would say that if you had had those questions,
22 you could have reached out to us at any time on how to
23 submit a plan that's acceptable to Staff. What I see in
24 the documents that you've submitted during the follow-up
25 to the investigations would not constitute what needs to

EXAMINATION OF SHARP / GARCIA

1 be involved in a safety management plan.

2 **Q. Okay. In the last two years, I think I've sent**
3 **four safety management plans. I'm sending them, I just**
4 **get a no, that it's not acceptable. So am I supposed to**
5 **ask directly, can you please tell me what I'm missing**
6 **and whatnot or am I sending these and I'm just getting**
7 **kind of the no answer? I -- I guess I'm**
8 **misinterpreting --**

9 A. Is that question directed to me?

10 **Q. I -- I'm just -- I guess I'm just saying it to**
11 **everybody.**

12 A. Mr. Garcia, I would say that Staff has made
13 themselves available to you on multiple occasions. When
14 we have received your safety management plans, they've
15 been after deadlines for us to even interact with you
16 during that process. Had you sent -- submitted a safety
17 management plan to me within the 30-day window of your
18 cancellation, I could have worked with you or we could
19 have had Staff work with you in clarifying any of those
20 issues. We had no communication from you during that
21 period of time whatsoever.

22 We also didn't have any communication with you
23 from the time that we sent you a reminder letter
24 basically that was submitted to the docket in August of
25 2018 reminding you that you needed to submit a safety

EXAMINATION OF SHARP / GARCIA

1 management plan. You were reminded of that when we came
2 out to do the follow-up investigation in early 2019,
3 okay?

4 When that happened, we still didn't get that
5 safety management plan until after Investigator Yeomans
6 spoke with you. And at that point, what you sent me was
7 so illegible for the most part through a scan that I
8 even -- I even told you we would accept your submittal,
9 but I needed you to send me a clearer version so that we
10 could review that. And in your email response, you
11 stated you would, and I never heard another thing from
12 you until I saw you at the hearing.

13 So I'm -- I guess I return the question, what
14 should Staff do for you beyond what we have?

15 **Q. I would just say in -- in response to that, if**
16 **I've sent four safety management plans, maybe just**
17 **highlight what I'm missing, kind of like what's happened**
18 **in this report, and respond with, Jason, this isn't**
19 **acceptable. I -- I feel like I'm submitting them, but**
20 **I'm only getting the no in a hearing or in court, so**
21 **I -- I'm misinterpreting the support.**

22 A. I would say that submitting them in an
23 application or an exhibit prior to contacting Staff is
24 likely not going to be the best route moving forward if
25 you're trying to get Staff to approve a plan, because we

EXAMINATION OF SHARP / GARCIA

1 have no interaction in the process with you to correct a
2 final product that basically is what I -- I see this
3 being, right, you submit a plan in your application that
4 was incomplete, and you submit a plan as an exhibit here
5 that is incomplete. At no point did Staff have any
6 interaction with you, because you failed to reach out
7 and seek that assistance.

8 **Q. So just to clarify, before I submit it, I just**
9 **send it and have you guys preapprove it in a way?**

10 A. I believe that's what Order 4 alluded to as
11 well.

12 **Q. Okay.**

13 **JUDGE PEARSON: Order 04 was very specific**
14 **that you were to work with Staff to develop a safety**
15 **management plan that was acceptable to Staff and gave**
16 **you specific instructions on what the safety management**
17 **plan must include. So to me, I -- you know, you've been**
18 **given multiple opportunities to develop and submit a**
19 **safety management plan. And like Mr. Sharp was saying,**
20 **it's either not done or it's done at the 11th hour when**
21 **it's too late for Staff to work with you and help you**
22 **out.**

23 **So is there anything else that we need to**
24 **talk about today while we're here?**

25 **MR. ROBERSON: Not from Staff's perspective.**

1 JUDGE PEARSON: Okay. Mr. Garcia, did you
2 have anything else you wanted to say?

3 MR. GARCIA: I guess my only question now
4 would be for my common carrier, do I work with this
5 department or is this a totally different department?

6 JUDGE PEARSON: You would work with them,
7 yes.

8 MR. GARCIA: Okay. So for that, I need to
9 send you my safety management plan on behalf of my
10 common carrier?

11 MR. SHARP: Your Honor, we -- motor carrier
12 Staff does not have safety regulation over common
13 carriers.

14 JUDGE PEARSON: That's right. I'm sorry.
15 You'd need -- do you have your motor carrier
16 permit or did you still need to obtain the permit?

17 MR. GARCIA: I do have my common carrier
18 permit.

19 JUDGE PEARSON: Okay. So Washington State
20 Patrol does the safety for common carriers.

21 MR. GARCIA: Okay.

22 MR. SHARP: And, Mr. Garcia, if you have any
23 questions about that, I'd be happy to -- to speak with
24 you either on or off the record.

25 MR. GARCIA: Okay.

1 JUDGE PEARSON: Okay. So thank you for
2 coming here today. I will be issuing an order within
3 ten business days reflecting my decision. And is -- it
4 sounds like there's nothing else from either party, so
5 we are adjourned. Thank you.

6 (Adjourned at 2:28 p.m.)
7
8
9
10
11
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

CERTIFICATE

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand
Reporter in and for the State of Washington, do hereby
certify that the foregoing transcript is true and
accurate to the best of my knowledge, skill and ability.

Tayler Garlinghouse, CCR 3358