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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In Re: Application of:)
)
FIVE STARS MOVING & STORAGE,) Docket No. TV-150223
LLC,)
)
for a permit to operate as a)
motor carrier of household)
goods.)

Volume I

Hearing Held Before
MARGUERITE E. FRIEDLANDER
Administrative Law Judge

Pages 1 - 264

9:00 a.m. - 3:24 p.m.

June 24, 2015

1300 South Evergreen Park Drive S.W., Room 206
Olympia, Washington

Mary M. Paradise, CSR 2469

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A P P E A R A N C E S

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MARGUERITE E. FRIEDLANDER, Administrative Law Judge

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FOR FIVE STARS MOVING & STORAGE, LLC:

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FOR WASHINGTON UTILITIES AND TRANSPORTATION

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E X A M I N A T I O N I N D E X

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3 WITNESS: DIRECT CROSS REDIRECT RECROSS

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7 William Trick 50 87 100 101

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10 Susie Paul 155 212 231, 233

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13 E X H I B I T I N D E X

14 NUMBER: PAGE

15 1 - 3 Official Notice Taken 12

16 13 Admitted into Evidence 43

17 SP-1 Admitted into Evidence 158, 175, 231

18 SP-6 - 9 Admitted into Evidence 182

19 SP-4 Admitted into Evidence 183

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1 OLYMPIA, WASHINGTON; JUNE 24, 2015

2 9:00 a.m.

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5 JUDGE FRIEDLANDER: All right. Let's go
6 on the record. Good morning. My name is
7 Marguerite Friedlander. I'm the administrative law
8 judge for the Washington Utilities and
9 Transportation Commission.

10 We're going to start out with opening
11 statements, but before we do that, let's go ahead
12 and take quick appearances. Just go ahead and
13 state your name, spelling your last name, and who
14 you represent. Beginning with Five Stars,
15 Mr. Wall.

16 MR. WALL: Good morning, your Honor. My
17 name is Christopher Wall. Wall is W-a-l-l.

18 JUDGE FRIEDLANDER: I'm not sure your
19 microphone is on. Do you see a red dot?

20 MR. WALL: I don't. How's that?

21 JUDGE FRIEDLANDER: Perfect.

22 MR. WALL: My name is Christopher Wall.
23 Wall is W-a-l-l, on behalf of Five Stars Moving &
24 Storage.

25 JUDGE FRIEDLANDER: Thank you. And

0005

1 Mr. O'Connell.

2 MR. O'CONNELL: Thank you, your Honor. My
3 name is Andrew J. O'Connell, O, apostrophe,
4 C-o-n-n-e-l-l. I'm an assistant attorney general
5 for the state of Washington, and I represent
6 commission staff in this matter.

7 JUDGE FRIEDLANDER: Thank you. Okay. And
8 everybody knows -- the parties know, I should say,
9 that there are opening statements, are limited to
10 five minutes each. So we'll begin with Five Stars.

11 MR. WALL: Thank you, your Honor.

12 JUDGE FRIEDLANDER: You can remain seated.
13 That's fine.

14 MR. WALL: Okay. Your Honor, this is a
15 case about redepmtion. Mr. Trick has been working
16 in the household goods moving industry for nearly a
17 decade now, and he's lawfully performed thousands
18 of labor only in-home moves.

19 The evidence will show that the UTC does
20 not regulate labor only moves, and that Mr. --
21 Mr. Trick is allowed to be in homes, boxing up
22 household goods and packaging them, as long as he
23 doesn't put them on his own truck. We'll talk
24 about the WAC provisions involved there.

25 Over the past 16 years, Mr. Trick has a

0006

1 demonstrated record of safety and no re-offenses in
2 the home move settings. We'll talk about
3 Mr. Trick's rehabilitation. We'll learn about the
4 factors that mitigate the risk of recidivism.
5 Mr. Trick is in a stable marriage with Ashley
6 Trick, and they have two young children, Damien and
7 Mackenzie.

8 Mr. Trick is an example of success of the
9 criminal justice and rehabilitation system. He's
10 gone through intensive rehabilitation programs.
11 While incarcerated, he obtained higher education
12 certificates in information technology and
13 multimedia. He also served as a facilitator for
14 the Alternative to Violence and Non-Violent
15 Communication programs.

16 We'll hear about the UTC's rationale in
17 coming to an intent to deny Five Stars Moving &
18 Storage's permanent application. Of the 13
19 statutory criteria, we'll hear that the single
20 reason for the UTC's notice of intent to deny was
21 Mr. Trick's now 16 year old criminal conviction.

22 The rationale is not unpersuasive at a
23 surface level. It's that Mr. Trick has a criminal
24 conviction for a sexual offense. He's currently
25 leveled at a level 2 on a King County web site.

0007

1 The King County web site says that that means that
2 he's at a moderate risk of recidivism. Movers are
3 in people's homes, and so the rationale is that if
4 he's a risk and in people's homes, then there's a
5 risk to the public, and granting the permit is not
6 in the interests of the public.

7 But the evidence will show that Mr. Trick
8 is actually not at a risk of recidivism. The
9 evidence will show that Mr. Trick's level was set
10 in 2004 when he was released, and he's not since
11 been re-leveled. That's not been re-examined
12 since.

13 The score, as it was calculated in 2004,
14 does not predict recidivism. We'll also learn that
15 under the legislature's direction, the Washington
16 Institute for Public Policy, has studied the system
17 that was used to study Mr. Trick and found that,
18 quote, the notification levels determined by the
19 ESRC, the End of Sentence Review Commission, do not
20 classify offenders in groups that accurately
21 reflect their risk for re-offending and that the
22 notification consideration score has, quote, little
23 or no accuracy in predicting offender recidivism.
24 And we'll learn that these findings have led to a
25 revamping of that classification system to better

0008

1 predict recidivism.

2 We'll also hear that the UTC's conclusion
3 was based on several erroneous factual premises
4 that were gleaned off the King County Sheriff's web
5 site, which suggested that Mr. Trick was a coach
6 and a child care volunteer. Those are simply not
7 accurate, and we'll hear about those facts.

8 And there's also a Google Plus listing
9 that was referenced that made it look like
10 Mr. Trick had been authorizing -- advertising full
11 service moves without a permit, which was also not
12 the case.

13 Finally, the -- implicit in the UTC's
14 conclusion was that granting the permit will
15 increase Mr. Trick's presence in the home. In
16 fact, the opposite is true. Currently, his primary
17 role is as an in-home mover. If the permit were to
18 be granted, Mr. Trick would move into a more
19 managerial role, where he'll be overseeing
20 employees, handling insurance, making sure that the
21 equipment is functioning properly, working on
22 advertising, working on communications with
23 customers, and it will actually take him out of the
24 home.

25 So I think to summarize, essentially, two

0009

1 flawed premises; one, that Mr. Trick is at a
2 moderate risk of recidivism. We'll see that that's
3 not actually true, and number two, the premise that
4 granting the permit would also increase his
5 premises in the home, and that's also not accurate.

6 JUDGE FRIEDLANDER: Thank you.

7 Mr. O'Connell.

8 MR. O'CONNELL: Thank you, your Honor.

9 The evidence presented here today will show three
10 facts. Five Stars' application is misleading.

11 Mr. Trick has misled staff in the past, and
12 Mr. Trick's felony conviction for sexually
13 molesting two seven-year old girls will interfere
14 with proper operation of Five Stars Moving &
15 Storage.

16 Staff recommends the denial of Five Stars
17 application for these reasons: The three main
18 issues in this matter all revolve around Mr. Trick.
19 The evidence staff will present today will show
20 Five Stars did not include in its application any
21 information about Mr. Trick's criminal history. It
22 did not include any information about Mr. Trick's
23 business related legal proceedings.

24 The lack of disclosures in Five Stars'
25 application reminds staff of another application

0010

1 they received two years ago that concerned
2 Mr. Trick. In that application, it was not
3 disclosed that Mr. Trick was a part owner of the
4 household good moving company.

5 The Commission found that that -- that
6 that application was misleading. This application
7 in this case is also misleading. The evidence
8 presented will show that Mr. Trick has a conviction
9 for sexually molesting two seven-year old girls.
10 The nature and extent of this crime is despicable,
11 and it will interfere with the operation of the
12 household good moving company. No evidence
13 presented today will change these things.

14 I want to talk briefly about the rules
15 that govern the decision of whether to deny a
16 permit for a household good mover. To earn an
17 authorization, applicants must meet the fitness
18 requirements contained in the Washington
19 Administrative Code, or WAC, sections 480-15-302
20 and 305 for provisional and for permanent
21 authority.

22 These rules provide that the Commission is
23 to deny a permit if the application contains any
24 indication of fraud, misrepresentation or erroneous
25 information. They also provide that an application

0011

1 is to be denied if the applicant or any employee
2 has been convicted of a crime involving sexual
3 misconduct more than five years ago and the
4 Commission determines that the nature and extent of
5 that crime will likely interfere with the proper
6 operation of a household good moving company.

7 It is not staff's position that a
8 conviction for an offense, any one of the several
9 listed in the rule, creates a permanent bar from
10 receiving a permit. Instead, the rule requires the
11 Commission to conduct an analysis considering the
12 nature and extent of the crime and whether it is
13 likely to interfere with operating the household
14 good moving company.

15 In this case, staff believes it does.
16 Staff will present its evidence through Ms. Susie
17 Paul, who will testify to staff's investigation of
18 the application, the application's deficiencies,
19 the household good moving industry, the nature and
20 extent of Mr. Trick's crime of sexual molestation,
21 and the exhibits that support the notice of intent
22 to deny.

23 At this time, Commission staff would offer
24 Exhibit 1, the application materials submitted by
25 Five Stars Moving; Exhibit 2, the notice of intent

0012

1 to deny, and Exhibit 3, the request for a hearing,
2 and we would ask that the Commission take official
3 notice of these documents pursuant to Washington
4 Administrative Code, or WAC, as I'll refer to it,
5 480-07-495. Thank you, your Honor.

6 JUDGE FRIEDLANDER: Thank you. Is there
7 any objection to taking official notice?

8 MR. WALL: No objection, your Honor.

9 JUDGE FRIEDLANDER: We will take official
10 notice of those three documents.

11 (Exhibits 1 through 3 taken official
12 notice.)

13 MR. O'CONNELL: And your Honor, I have
14 copies for your Honor. Should I present those to
15 you when you take notice, so if any evidence that's
16 offered --

17 JUDGE FRIEDLANDER: Well, I actually have
18 your pre-filed exhibit list and the exhibits. So
19 why don't we go ahead and deal with the exhibits
20 themselves one at a time when Ms. Paul sponsors
21 them through testimony.

22 MR. O'CONNELL: Sure.

23 JUDGE FRIEDLANDER: All right. It is 9:10
24 right now. I haven't heard a click to indicate
25 that Mr. -- I'm sorry, Dr. O'Connell is on the

0013

1 line yet, but I would imagine that shortly, he
2 would be. So we'll briefly go off the record while
3 we wait for that. Very briefly. So we'll go back
4 on the record. Dr. O'Connell, are you on the line?

5 DR. O'CONNELL: Yes, I am.

6 JUDGE FRIEDLANDER: And we are having some
7 difficulties with the conference bridge. It
8 sounds -- you sound very -- the volume is very low.
9 So if we could maybe have you -- I don't want you
10 to shout, but we'll need you to speak up a bit.

11 DR. O'CONNELL: Okay. I'll make a point.

12 JUDGE FRIEDLANDER: Thank you so much.

13 And also, we are having this proceeding
14 transcribed, so if you can make sure to speak
15 clearly and slowly, that would help our court
16 reporter immensely.

17 DR. O'CONNELL: I'll make a point.

18 JUDGE FRIEDLANDER: Thank you. Before we
19 begin, let me go ahead and swear you in. I can't
20 see you, but I you have to assume that you are
21 standing and that you are raising your right hand.

22 DR. O'CONNELL: I am now.

23 JUDGE FRIEDLANDER: Okay. Thank you.

24 Whereupon, MICHAEL A. O'CONNELL,
25 was duly sworn and testified as follows:

0014

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 JUDGE FRIEDLANDER: Okay. Thank you.

3 Please be seated. Mr. Wall, you can begin.

4

5 DIRECT EXAMINATION

6 BY MR. WALL:

7 Q. Thank you, your Honor.

8 Good morning, Mr. O'Connell.

9 A. Good morning.

10 Q. Would you state your name and spell it for
11 the record?

12 A. Michael A. O'Connell. The last name is O,
13 apostrophe, capital C-o-n-n-e-l-l.

14 Q. And would you tell us about your
15 educational background, starting with college?

16 A. I have a bachelor of science from the
17 University of Pennsylvania. I have a master of
18 social work from the University of Washington, and
19 a PhD in counseling psychology from the University
20 of Washington.

21 Q. Can you tell us about the training that
22 you have, both from your education and in your
23 professional experience?

24 A. The relevant training, I began my career
25 in the social services with a -- with a focus on --

0015

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 on correctional administration and treatment, moved
3 into treatment over time, did work in the substance
4 abuse field, which is -- was the major focus of my
5 master of social work training at the University of
6 Washington School of Social Work.

7 I began a private practice treating --
8 mostly treating people with behavioral -- sexual
9 behavior problems and sex offenders, beginning in
10 1981. I returned to school in 1986, completed a
11 PhD in counseling psychology at the University of
12 Washington, while continuing to run a private
13 practice, and did my dissertation at the University
14 of Washington on using polygraph testing to discern
15 the deviant sexual histories of sex offenders.

16 That -- that dissertation won an -- an
17 international award from the Association for the
18 Treatment of Sexual Abusers, the national-
19 international professional organization.

20 Q. And how many years experience in the field
21 do you have?

22 A. Let's see. I guess it's 34 years.

23 Q. Would you also speak briefly about some of
24 your -- the professional capacities in which you
25 served?

0016

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 A. I have been involved in the Association
3 for the Treatment of Sexual Abusers and the
4 Washington state chapter. Washington state had the
5 first state chapter of that organization. I was a
6 two term president of that -- of the state chapter.
7 I've been a board member before and since. I'm a
8 current board member.

9 I've been involved in the -- the larger
10 organization, participating in some -- in some
11 special function groups, including the group that
12 set up standards and reviewed the process for
13 implementing the standards for professional
14 practice.

15 Q. Thank you. I'd like to ask you about the
16 predictors of recidivism and how you predict
17 recidivism. What are the most important factors to
18 consider when determining someone's risk for
19 recidivism?

20 A. What we know about the likelihood of
21 recidivism best studies are what I call meta-
22 analytic studies which -- which collapse a number
23 of studies together. There have been two large --
24 two large studies, one in 1999 and 2004, by Karl
25 Hanson out of the correctional services of Canada.

0017

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 You know, many, many studies collapsed them
3 together, and there were a number of findings.

4 The most compelling is that the -- what we
5 know about the measureable factors, there are two
6 that stand out as increasing risk of recidivism.
7 One is deviant sexual interests; somebody who is
8 sexually interested and aroused to kids or
9 fetishistic behavior or coercive sex, that's
10 deviant sexual interest, and the other is a history
11 of antisociology that's best measured by a measure
12 of psychopathy.

13 So those are the two major predictors of
14 sexual recidivism. In recent years, there have
15 been some additional studies looking at time in the
16 community and at risk, meaning not in custody, not
17 under 24-hour supervision. And there have been a
18 number of studies.

19 Most recently, it was Hanson and Harris
20 and several others published last year, that showed
21 -- that actually reinforced earlier results that
22 showed that people who are in the community for a
23 long time and at risk who have not re-offended,
24 that -- that risk of recidivism drops off pretty
25 quickly over the first 1 to 5 years, and after 10

0018

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 or 12 years, flattens out.

3 So that even high risk people, people who
4 are on actuarial instruments or seem to be at high
5 risk, if they haven't offended after 15 years, are
6 essentially at the same risk of somebody coming out
7 of prison not having been convicted of a sex
8 offense, and the likelihood of them committing a
9 sexual offense in the future.

10 So summarizing my answer, sexual --
11 deviant sexual interest, antisociology and
12 psychopathy, and time back in the community after
13 incarceration and not re-offending are the most
14 powerful predictors of -- of recidivism.

15 Q. Okay. And to drill down on that a little
16 further, can you talk more about the time frame
17 from the date of release from prison, what is the
18 significance of the one year mark, the five year
19 mark, the ten year mark?

20 A. Actually, sex offenses are like other
21 offenses, in that people who come out of prison are
22 most likely to recidivate in, actually, the first
23 several months, certainly the first year. It drops
24 off, you know, between the first and second year.
25 It drops off further. There's another sort of

0019

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 drop-off at five years.

3 And in fact, when -- back in 2004, when I
4 was part of establishing a model policy for the
5 Seattle Police Department on reviewing notification
6 levels, helping -- you know, just giving Seattle
7 Police Department a -- a format for thinking about
8 reducing -- considering reducing a level 3 to a
9 level 2, and a level 2 to a level 1, we looked at
10 the early 2003 studies that showed, you know, the
11 drop-off in recidivism over time, and we determined
12 that a five year drop-off was a -- you know, at
13 that point, there was a significant reduction, and
14 that they would begin considering reducing risk
15 levels for notification.

16 Q. So after 10 or 11 years without any
17 re-offenses, can you draw any conclusions about a
18 person's risk of recidivism?

19 A. Well, for somebody who is low risk to
20 begin with, or moderate risk to begin with, at that
21 point, it's essentially the same as somebody who
22 has never committed a sex offense, but who went to
23 prison for some other non-sex offense crime.

24 Q. So if I understand what you're saying,
25 someone who went to prison for some non-sex offense

0020

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 crime, that could be any crime that you could be
3 incarcerated for, is that what you're saying?

4 A. That's right.

5 Q. So you're saying, even that person without
6 a history of recidivism is at some risk of
7 recidivism?

8 A. Nobody's at no risk of -- nobody's at no
9 risk of sexual offense, even somebody who has never
10 committed a sex offense or has never been convicted
11 of a sex offense is at some risk. So there is
12 never no risk, but we're talking about, you know,
13 somebody who went to prison for -- for car theft or
14 writing bad checks, we don't usually think of them
15 as being at a meaningful risk of committing a sex
16 offense, and that's the level at which somebody who
17 had a low or moderate risk level coming out of
18 prison at 10 or 11 years would be seen as the same
19 as that.

20 Q. From your experience in the field, are
21 there any persistent myths about sex offenders?

22 A. Well, there's a couple. One of which is
23 there's nothing can be done about sex offenders,
24 that it's an incurable condition. Once a sex
25 offender, always a sex offender, and that was -- I

0021

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 confess to having been part of a -- a --
3 communicating to -- to policy makers in the public
4 at large early on, to making that point.

5 35 years ago, sex offenses were not on
6 many people's radar. In fact, when I completed my
7 master of social work program at the University of
8 Washington in 1977, there was no mention of -- of
9 child abuse or sexual abuse that came up in any of
10 my coursework. So it just wasn't on the -- you
11 know, it wasn't on the radar for most people.

12 And when I started working in this field,
13 one of the first -- one of the first clinics that
14 did outpatient treatment in Washington, we would
15 often see -- not often, but it was not uncommon
16 that I would see a grandfather molesting a
17 grandkid, and it was the third generation of a
18 victim. He had molested younger siblings as a
19 teenager. He had molested his kids and their
20 friends, you know, in his 20s and 30s, and nothing
21 had really been done.

22 There was -- maybe somebody would take him
23 in to a priest, the principal may have talked to
24 him in the back as a teenager. This was a -- you
25 know, a person who mowed his lawn, paid his taxes,

0022

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 was kind to his neighbors. They weren't considered
3 dangerous or high risk folks. And we were saying,
4 yes, look at the history.

5 The point we made was, yes, you know, this
6 was something that just because a guy is pro-social
7 or doesn't look -- you know, he doesn't look seedy,
8 it doesn't mean that he doesn't present a risk, I
9 think that -- that over-hyped and over-learned, and
10 the idea that there was nothing that could be done,
11 and somebody who has committed a sex offense is
12 bound and determined and will inevitably re-offend
13 has, you know, kind of got baked into the social
14 consciousness.

15 So the idea that nothing can be done is
16 not true. There are many studies that show that
17 collapsing a lot of studies into a broad-based
18 summary, that state-of-the-art treatment programs
19 basically reduce the likelihood of recidivism in
20 half, all things being equal. So that yes,
21 something can be done.

22 Q. You mentioned state-of-the-art treatment
23 programs. Can you talk specifically about
24 Washington's treatment program, and how does it
25 stack up to other treatment programs?

0023

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 A. So I assume you're talking about the
3 in-prison program at the -- through the Department
4 of Corrections?

5 Q. Yes.

6 A. And it's -- it's actually a fairly good
7 program, as these go. It's a cognitive behavioral
8 program, which is one of the elements that is --
9 that's what's referred to as -- as state-of-
10 the-art. It isn't -- it isn't doing psychodynamic
11 or looking at self-esteem.

12 It's looking at the cognition, and people
13 use the justifications and rationalizations and the
14 excuses people use, and the behavioral interests
15 that they bring into -- into their offending
16 behavior and the lead-up to that.

17 And I was a member of their advisory
18 committee for a number of years, so I'm pretty
19 familiar with that program. I've worked with a
20 number of people coming out of that program. I've
21 worked with a number of people who went from that
22 program to the civil commitment program for
23 sexually violent predators who said, gee, this is
24 more intense, but boy, I learned -- this is -- most
25 of what I'm learning here is a repeat of what I

0024

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION
2 learned at -- at Twin Rivers, which is the, you
3 know, the foundational program for the state
4 Department of Corrections program. A very good
5 program.

6 Q. Okay. Thank you. You've been retained in
7 this case to testify, and also, to evaluate
8 Mr. Trick. Have you had a chance to evaluate
9 Mr. Trick?

10 A. I had a telephone consultation with
11 Mr. Trick in the last week. I went over a -- it
12 was a kind of a quick and dirty quality about this.
13 I got some background information. I heard about
14 his offense, you know, the elements of the offense,
15 and -- and what he learned in treatment.

16 And I did some -- I went through the
17 actual risk tool that he would have been -- would
18 have been applied to him back in his release, I
19 guess, was 2004. So yes, I've done that.

20 I have not had access to the official
21 records. I have not had an opportunity to talk to
22 collateral contacts to support, you know, what he
23 says about his -- you know, his -- his adjustment
24 to the community since he got out of prison.

25 Q. Let me -- let me back up for a minute.

0025

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 You said, I think, if I heard you right, the tool
3 that would have been applied to him at the time of
4 his release. Can you -- can you explain for us who
5 are unfamiliar with this system, when is a person's
6 offender level determined?

7 A. Generally speaking, if a person has been
8 in prison, the -- the End of Sentence Review
9 Committee would review them and use a scoring tool
10 that was created initially in the mid '90s, and
11 then revised in '99, and that's the initial, and
12 oftentimes, the only actuarial like risk assessment
13 that was done.

14 Q. And so the End of Sentence Review
15 Committee sets that level at the time a person is
16 released from prison, is that what you're saying?

17 A. That's correct.

18 Q. Okay. After your evaluation of Mr. Trick,
19 have you reached any tentative conclusions?

20 A. Well, there's -- there's two tentative
21 conclusions that I have come up with. Number one
22 is the fact that he has been in the community and
23 -- and off supervision for a considerable amount of
24 time.

25 Apparently, based on what I know, has a

0026

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 social life, has a family, he's invested in a job,
3 the sort of things that are referred to as
4 desistance from crime, and this -- this goes back
5 to a theory about juvenile delinquency, and a lot
6 of juvenile delinquents age out of their antisocial
7 and, you know, criminal behavior, that as they
8 mature, as they have investment in a job or a
9 family or a position in the community, they have
10 other things that they devote their energy and
11 attention to, and things they don't want to lose by
12 messing up and getting in trouble.

13 So you know, that's -- you know, that
14 seems to be at work, from what I know about
15 Mr. Trick.

16 The other thing that I did is when I went
17 through -- I'm rambling on here, and I think the
18 question is, what -- what was the outcome of my
19 assessment of Mr. Trick, is that what we're talking
20 about here?

21 Q. Correct. Have you had a chance to -- have
22 you reached any tentative conclusions regarding
23 Mr. Trick?

24 A. Yes. And the other thing that I -- that I
25 came up with was that it looks to me as if there

0027

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 may have been a mistake in the scoring of the
3 scoring tool back in 2004, or whenever it was he
4 was released, and that there was a -- a mistake
5 made in leveling him as a level 2 rather than a
6 level 1, even by the tool and the rules of the tool
7 that should have applied at the time.

8 Q. Okay. Let's go ahead and dive into that
9 topic, then. What can you tell us about what tool
10 was in place in 2004 in Washington when Mr. Trick
11 was released from prison?

12 A. The tool was -- it's a mouthful, so I've
13 got to get the -- get the tool in front of me here.
14 Where did it go? Here it is. It's the Washington
15 State Sex Offender Risk Level Classification,
16 Revised 1999. I'll say that again. Washington
17 State Sex Offender Risk Level Classification,
18 Revised 1999.

19 That was a revision of an earlier tool
20 that was put together. Washington was one of the
21 first states to do classification and community
22 notification, based on the Community Protection Act
23 of 1990, I believe it was. And the legislature had
24 the Washington Associates -- Association of
25 Sheriffs and Police Chiefs come up with a scoring

0028

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 tool.

3 They originally came up -- they originally
4 used the Minnesota Sex Offender Screening Tool,
5 MMSOST. And then they revised it in 1999 and
6 included a -- a -- in addition to that scoring
7 tool, which was the state-of-the-art actuarial tool
8 at the time. And then at the end, they added what
9 were called notification considerations, which
10 were, on the face of it, reasonable, but basically,
11 subjective judgments, which were -- which the --
12 whatever the scoring tool could add to sort of
13 override.

14 So it was a -- for the time, a state-of-
15 the-art empirically based actuarial tool, and then
16 a kind of subjective override that was thrown in at
17 the end.

18 Q. So for those of us who are unfamiliar with
19 this field, what -- what is the difference between
20 -- what is an actuarial method and what is a
21 notifications method?

22 A. So the actuarial process is the same
23 process that insurance companies go through when
24 they decide whether to, you know, write an
25 insurance -- a life insurance or decide how much to

0029

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 charge you for auto insurance. There's -- they
3 have developed a database which shows that, you
4 know, a 16-year-old boy driving a Corvette is at
5 much higher likelihood of getting into an accident
6 and causing an insurance claim than a 45-year-old
7 woman driving a Saturn.

8 And they accumulate this data, and they
9 predict statistically -- not each individual, but,
10 you know, in the aggregate, what's the likelihood
11 of some unfortunate events. So the unfortunate
12 event we're talking about here is a likelihood of
13 sexual re-offense.

14 And there are a number of -- of, you know,
15 data points that -- that load highly on the two
16 factors I was mentioning; antisociality, problems,
17 arrests, convictions, a number of -- a diversity of
18 criminal behavior and, you know, deviant sexual
19 interests. So that was the Minnesota scoring tool.
20 So that's the empirical, just -- just the numbers
21 basis of the Minnesota scoring tool.

22 And then the subjective notification
23 considerations are things like, was this behavior
24 of a predatory nature? Was there a particularly
25 vulnerable victim? These are things, that on the

0030

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 surface, give people the willies, raise concerns
3 about the injustice of it all, but really have not
4 proven to be predictive of sexual re-offense.

5 So there were -- there were four of those
6 things that were thrown in at the end of the -- of
7 the tool that -- what's a particularly predatory
8 behavior? Well, that's a -- that's a subjective
9 decision in its own right, and -- and then it was
10 -- we now know, and I'm guessing you're going to be
11 asking me questions about the outcome of that, it
12 -- it takes the predictive value of the scoring
13 tool and diminishes it.

14 Q. So do the notification scores have any
15 predictive value of recidivism?

16 A. They really don't have any predictive
17 value. In fact, they -- they take away predictive
18 value from the empirically based part of the
19 scoring tool.

20 Q. Okay. So I want to ask you a little bit
21 more about that in just a moment here. When we
22 talk about notification considerations, would
23 whether or not the convict groomed their victims,
24 would that be a notification consideration?

25 A. That -- I've actually seen that used in

0031

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 the past. It isn't an obvious -- it's not -- it's
3 not something obviously that ought to be
4 considered, if you read these things at face value.

5 But I actually do remember a client that I
6 worked with a number of years ago who was out in
7 the community, he had been out for, you know, a
8 couple, three years. The King County Sheriff's
9 Department finally got around to scoring him. He
10 didn't go to prison. So this was -- this was a
11 scoring procedure that should have been done by the
12 local law enforcement agency.

13 And I remember that the -- the sheriff's
14 detective in this case leveled him at a higher
15 level, because they were kind of offended at the --
16 the amount of grooming that went into the offending
17 against the victim in this case.

18 Q. Okay. Based on your evaluation of
19 Mr. Trick, what is your tentative conclusion
20 regarding Mr. Trick's current risk of recidivism?

21 A. Well, it looks, based on just my talking
22 to him over the phone and -- and, you know, the
23 information available to me, that he looks like he
24 ought to be a level 1 guy, and that the -- his
25 connections to the community and the things that he

0032

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 is doing to keep himself busy would seem to -- you
3 know, he looks like a low risk guy who, you know,
4 needs not to get drunk and -- and, you know, put
5 himself in a situation like where he was in --
6 after a party where, as he described it, a couple
7 of kids in the family were -- were sleeping with
8 him, but I do not see any -- any red flags about --
9 about him being predatory or him having a deviant
10 sexual interest or him being antisocial in a way
11 that, you know, if there are no rules, stuff
12 happens, and this is among the things that can
13 happen.

14 Q. Okay. Let me clarify. When you say
15 sleeping with him, are you talking literally
16 sleeping with him? Not having sex with him?

17 A. Oh, yes, that was -- that was the case.
18 The kids came in and were sleeping with him as he
19 was -- as he was -- as he described it, you know,
20 kind of sleeping off having consumed a lot of
21 alcohol at a party.

22 Q. So in order to make a full and final
23 conclusion, what more analysis do you need to do?

24 A. In order to give a -- you know, a more
25 definitive conclusion, I would want to do a, you

0033

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 know, more thorough evaluation and risk assessment,
3 which would involve, you know, getting some, you
4 know, official records, doing some more testing,
5 doing some collateral contacts with other people
6 who could confirm what he's told me about his --
7 his involvement in the community and with his
8 family.

9 Q. So, essentially, verifying the facts?

10 A. As he told them to me, yes.

11 Q. Okay. And do you have any plans to
12 conduct those types of further evaluations?

13 A. I -- I understand that he intends to
14 undergo an evaluation, that he wants to retain me
15 to do that, and I'm prepared to do that.

16 Q. You testified previously that the End of
17 Sentence Review Committee sets people's levels at
18 the end of their incarceration. Is that the final
19 say in what their level is? Is it what the End of
20 Sentence Review Committee says?

21 A. That's the final say, unless the
22 individual appeals to the law enforcement agency
23 and asks for a reconsideration, and so it's
24 entirely dependent on the individual. There's no
25 -- there's no automatic or built-in review of these

0034

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 things over the years.

3 So yes, somebody could come out at high
4 risk and -- well, we've been at this for 30 years
5 now. So 30 years later, you know, they could have
6 the same -- the same risk score that they
7 originally were released from prison with, and no
8 built-in review of -- of that.

9 Q. So the End of Sentence Review Committee
10 does not redo people's levels from time to time, is
11 that what you're saying?

12 A. No. In fact, if it's redone, it will be
13 done by the law enforcement agency where they
14 register.

15 Q. And is there any other entity besides the
16 ESRC, the End of Sentence Review Committee, that
17 sets people's levels?

18 A. For people who don't go to prison, and
19 there are people who are -- like, for example
20 there's a sex offender -- a special sex offender
21 alternatives where they don't go to prison, they do
22 some jail time, they have a lengthy period of
23 community supervision and they participate in
24 treatment.

25 In that case, the risk levels are set by

0035

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 whatever -- whatever law enforcement agency does
3 the registration for the -- you know, wherever they
4 happen to be residing. And there's -- there's a
5 lot of variability there. Some counties and some
6 cities are -- are a lot more inclined to level
7 people up. Let's just make a statement, we don't
8 want sex offenders living in this county, and so
9 we'll -- we'll level 1 at a level 2, we'll level 1s
10 and 2s at a level 3, and that will send a message
11 that they're not welcome here.

12 And other agencies, other law enforcement
13 agencies are much more committed to -- to using the
14 empirical tools faithfully.

15 Q. Let's talk about the old system of
16 leveling versus the current system. How, if at
17 all, has the offender leveling system changed since
18 2004?

19 A. The basic level, the idea of 1, 2 and 3,
20 and you know, level's 1s being low risk and level
21 3s being high risk, that remains the same. In --
22 gosh, it was a couple of years ago. The fact that
23 this Washington state risk tool, which was
24 originally devised in the mid '90s, and then
25 revised again in '99, was still being used -- you

0036

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 know, finally resulted in the legislature telling
3 the Washington Association of Sheriffs and Police
4 Chiefs to use a new empirically derived tool that
5 was up to speed.

6 And they started using the STATIC 99,
7 which actually by that time was the -- was getting
8 superseded by a revised version. So the new tool
9 that's being used is that -- is that STATIC 99, and
10 the -- the Association of Sheriffs and Police
11 Chiefs is involved in a process right now of
12 updating that.

13 Q. How many revisions have there been since
14 2004?

15 A. So there has been -- the original STATIC
16 99. There was a STATIC 99 revised in '03, and
17 there's been two revisions in the last five years.

18 Q. What's the effect of those revisions?

19 A. The interesting thing that -- well,
20 there's been a couple of revisions -- a couple of
21 effects. One is that more evidence has come in
22 about how age effects the likelihood of recidivism.
23 And they -- they fine-tuned the -- the --
24 originally, the STATIC 99 had an under 25, over 25,
25 and there was just a very small reduction of risk

0037

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 by being over 25.

3 The new tool has an under 35, 35 to 60,
4 and over 60, and you get a substantial reduction in
5 risk if you're -- if you're over 35 and over 60,
6 because evidence shows that people who are older,
7 all things being equal, have a substantial
8 unlikelihood of sexually recidivating. So that's
9 -- that's one major change.

10 The other major change is the risk
11 prediction scores. The early -- the early tools,
12 the ones in the early and mid '90s, had much higher
13 predicted levels of recidivism than the new -- the
14 new -- essentially, the same tool, but they predict
15 much lower recidivism. And the consensus seems to
16 be that the atmosphere that the social and
17 community and political atmosphere has changed so
18 that people who have convictions for sex offenses
19 are, generally speaking, under more scrutiny, they
20 are -- they know to take things more seriously,
21 they are more likely to have been in treatment, and
22 so the likelihood of them re-offending is much
23 lower than it was 20 years ago.

24 Q. I'm going to ask you to assume a scenario.

25 If I were to take someone released from prison

0038

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 today and apply the notification and actual --
3 actuarial methods that were in place in 2004 and
4 set that person's level based on those tools, would
5 that raise any ethical concerns for you?

6 A. Well, it would -- it would show them to be
7 at higher risk than updated research would -- would
8 predict. So it would -- it would overrate their --
9 their likelihood at re-offense.

10 Q. I want to circle back to your evaluation
11 of Mr. Trick, because I believe you testified that
12 you concluded that there was likely a mistake, but
13 I don't think I fully understand. What is that
14 conclusion based on?

15 A. I -- I talked with Mr. Trick about what he
16 knew about the process, and he talks -- he talked
17 about -- talking with Detective Matt Gordon about
18 his leveling some years ago. Detective Gordon was
19 on the sex offender and kidnapping detail in the
20 Seattle Police Department, and he was actually a
21 member of the End of Sentence Review Committee back
22 at the time that Mr. Trick was released.

23 So he was actually probably involved in
24 the scoring -- at least the review of the scoring
25 of -- of his -- of his leveling decision. And

0039

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 Mr. Trick said that -- that what made the
3 difference, what caused him to be at a level 2 was
4 the fact that he had an unrelated victim.

5 And it looks like, you know, I'm -- I'm --
6 I'm taking some logical, you know, leaps here
7 without talking to Detective Gordon or having the
8 risk tool. It looks that, as I scored the risk
9 tool, the way that those scores get translated into
10 notification levels is that an assessment score of
11 46 or less is -- is -- is determined to be a level
12 1.

13 And Mr. -- Mr. Trick's score, as I did
14 it, came out to a 20 -- what was it? A 24. So
15 considerably under that -- that level. But you
16 could be a level 2 if you had a less score of 46 or
17 less, and one or two of these notification
18 considerations. And there was one item on one of
19 the notification considerations. It actually used
20 another risk score, being Rapid Risk Assessment for
21 Sex Offenders, which was actually a predecessor to
22 the STATIC 99, and one of the -- one of the
23 questions there is relationship to the victim, only
24 related victims, any non-related victims.

25 So he -- he got one point for a non -- for

0040

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION
2 a non-related victim. But the score, he only
3 should have gotten a -- a notification
4 consideration if the score on that -- on that
5 instrument was a 4 or 6. He got a 1. So even
6 using the -- the notification considerations that
7 were in place at the time, it looks to me like
8 that's the -- that that was a mis-scoring of it.

9 That yes, he had an unrelated victim, but
10 that shouldn't have triggered a -- a notification
11 consideration which would have pushed him up to a
12 level 2.

13 Q. That notification consideration of an
14 unrelated victim, does that have any predictive
15 value for future risk of of recidivism?

16 A. It actually does. Now, it's a small
17 predictive value, and the idea is that -- the
18 theoretical explanation for that is that somebody
19 who is roaming far and wide to find child victims
20 is more likely to re-offend than somebody who is
21 living with a victim, and boundaries break down.

22 So yes, that -- you know, that is a --
23 that is a consideration, but -- but the way in
24 which it appears to have been applied in this case
25 gave it far more weight than it should have.

0041

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 Q. Okay. The -- I sent you a couple of
3 exhibits in my prior communications with you.
4 Could you take a look at those?

5 A. I've got them here.

6 Q. Specifically, Exhibit K, which in our
7 submissions here, is Exhibit 13.

8 Do you have a copy of those, your Honor?

9 JUDGE FRIEDLANDER: I don't.

10 MR. WALL: May I?

11 JUDGE FRIEDLANDER: Yes. Thank you. And
12 I take it, too, you'll be filing these in our
13 records center?

14 MR. WALL: Yes, your Honor.

15 JUDGE FRIEDLANDER: Okay. Thank you.

16 BY MR. WALL:

17 Q. So I'm looking at what we have labeled
18 here as Exhibit 13, and what you have as Exhibit K.
19 It's a copy of the Washington State Institute for
20 Public Policies Sex Offender Sentencing?

21 A. Right. And what was the date on that one?

22 Q. Let me take a look. The top, it's dated
23 December 2005.

24 A. Okay. Because there's two -- there's two
25 of those that you gave me.

0042

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 MR. O'CONNELL: Your Honor, if I may break
3 in here. Staff objects. This document is from
4 2005. The objection is relevancy.

5 JUDGE FRIEDLANDER: Mr. Wall?

6 MR. WALL: If I may respond, this document
7 is an analysis of the 2004 tool that was in place
8 used to level Mr. Trick. I'm happy to lay the
9 foundation with this witness.

10 JUDGE FRIEDLANDER: I would appreciate it,
11 thank you. Objection is overruled.

12 BY MR. WALL:

13 Q. Dr. O'Connell, are you familiar with the
14 Washington State Institute for Public Policy?

15 A. Yes, I am. It is the -- it's the
16 organization that the legislator -- legislature
17 created and the legislature asked it to do research
18 on issues of interest to the legislature.

19 Q. And have you had a chance to review this
20 document that we're looking at?

21 A. I have.

22 Q. It's dated December 2005. What tool is it
23 analyzing? What sex offender leveling tool is it
24 analyzing?

25 A. It is -- it is doing an analysis of the

0043

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 tool we were talking about before, the sex offender
3 tool, revised 1999. So that -- that would have
4 been the one that was used to -- to screen and
5 level Mr. Trick when he got released in 2004.

6 Q. Okay. Looking at the first page of this
7 document and the gray box that says summary on the
8 right-hand side?

9 A. I see that.

10 Q. Down towards the bottom where it says, key
11 findings?

12 A. Yes.

13 JUDGE FRIEDLANDER: That just means
14 someone else has come on the line. Please
15 continue.

16 MR. WALL: Thank you, your Honor.

17 Q. The second bullet point, the notification
18 levels determined by the ESRC do not classify sex
19 offenders into groups that accurately reflect their
20 risk for re-offending.

21 A. I see that.

22 Q. Would you, in your professional opinion,
23 would you agree with that conclusion?

24 A. Yes, that's -- that's very consistent with
25 what I said earlier in this testimony.

0044

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 Q. And are you aware, did that conclusion
3 lead to any action on behalf of the Washington
4 legislature or the Washington Institute for Public
5 Policy?

6 A. Yes. You know, the -- the later report
7 recommended a change of the tool, and the
8 legislature later told Washington Association of
9 Sheriffs and Police Chiefs to come up with another
10 tool, which they -- which they have.

11 MR. WALL: Your Honor, I'd move to admit
12 Exhibit 13.

13 JUDGE FRIEDLANDER: And aside from the
14 relevance objection, do you have any objection,
15 Mr. O'Connell?

16 MR. O'CONNELL: No, still the same thing
17 that it's from 2005, and we've heard testimony that
18 there's a new system now.

19 JUDGE FRIEDLANDER: Right. And because
20 this was the -- it's detailing the basis of the
21 initial classification of Mr. Trick, I'm going to
22 allow it.

23 (Exhibit 13 admitted into evidence.)

24 BY MR. WALL:

25 Q. Let's go ahead and take a look at one of

0045

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 those later reports that you referenced. Would you
3 turn to what I believe you have as Exhibit L? For
4 us following along here, it's Exhibit 14.

5 A. That's the January 2006 report?

6 Q. That's correct.

7 A. Yes, I have that.

8 Q. And have you had a chance to review this
9 document?

10 A. I have.

11 MR. O'CONNELL: Your Honor, staff has the
12 same objection for relevancy.

13 JUDGE FRIEDLANDER: Mr. Wall?

14 MR. WALL: And again, I'm happy to lay the
15 foundation. This is analyzing the same tool that
16 was used to level Mr. Trick. There is a new tool
17 in place, and the point is that -- that the new
18 tools, which more accurately predict recidivism,
19 have never been applied to Mr. Trick.

20 JUDGE FRIEDLANDER: So I'm confused. Does
21 this address the new tool or the old tool?

22 MR. WALL: This addresses the old tool
23 that was used in 2004 to level Mr. Trick.

24 JUDGE FRIEDLANDER: All right. I'll allow
25 it.

0046

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 BY MR. WALL:

3 Q. Thank you, your Honor. Again, here, the
4 key findings in the summary box --

5 A. Yes.

6 Q. -- I'd like to take a look at the first
7 and second bullet points. It says here, the
8 notification consideration score has little or no
9 accuracy in predicting sex offender recidivism.
10 Would you agree with that conclusion?

11 A. And that's consistent with what I said
12 earlier and what the earlier report said.

13 Q. And the second bullet point, the risk
14 assessment score has little or no accuracy in
15 predicting sex offender recidivism, would you agree
16 with that conclusion as well?

17 A. Yes. I mean, in -- in -- to some extent,
18 it's -- it's the extension of the earlier argument,
19 if this -- the notification considerations are --
20 are clouding the -- the actuarial score. And as it
21 turns out, they show in the -- in the analysis, in
22 the body of the report, that as it turns out, as
23 you apply this tool and then follow people along,
24 it doesn't predict recidivism very accurately.

25 Q. Okay. And to clarify this, for those of

0047

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 us who aren't psychologists, who aren't as familiar
3 with all of this, when you apply the 2004 tool to
4 Mr. Trick, the actuarial tool -- now, the actuarial
5 tool does have predictive value, is that right?

6 A. Yes. And in that second bullet point, it
7 says it does have -- it does predict felony sexual
8 recidivism with moderate accuracy.

9 Q. And that's referring to the actuarial
10 portion of the tool?

11 A. That's correct.

12 Q. So I believe it was your testimony that
13 when you applied the actuarial tool, you scored him
14 as a 26?

15 A. As a 24, yes.

16 Q. A 24. And in order to be at a level 2, he
17 would have needed to score a 46?

18 A. That's correct.

19 Q. So that was using the actuarial
20 instrument, and based on solely the actuarial
21 portion of the test, your conclusion was that his
22 risk was what, high, moderate or low?

23 A. Low.

24 Q. Low. Then the notification consideration
25 score, which this document says has little or no

0048

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 accuracy in predicting recidivism, I believe it was
3 your testimony that that's what would have made him
4 a level 2?

5 A. That's what I have -- have -- have
6 assumed. That's the only explanation for how he
7 gets to a level 2.

8 MR. O'CONNELL: Your Honor, if I may, I'd
9 just like to note that it is currently five until
10 10:00 o'clock.

11 MR. WALL: Yes, and I. --

12 JUDGE FRIEDLANDER: So Dr. O'Connell, you
13 were only going to be testifying -- I know you have
14 another patient at 10:00 o'clock, so are you
15 needing to leave the bridge line right now?

16 A. I'm going to need to leave here pretty
17 quickly.

18 JUDGE FRIEDLANDER: Okay. Well, then let
19 me just ask, because we haven't really finished
20 with direct, and we still have cross-examination
21 and possible redirect, and I have some
22 clarification questions as well, if you would call
23 back, I believe you're available at noon today?

24 A. That's right.

25 JUDGE FRIEDLANDER: Okay. If you would

0049

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION
2 call back at noon, that would be much appreciated.

3 A. Okay. I'll plan on doing that.

4 JUDGE FRIEDLANDER: Okay, thank you.

5 MR. O'CONNELL: And your Honor, I
6 apologize. One thing before Mr. -- sorry,
7 Dr. O'Connell leaves us. I understand that your
8 Honor has already ruled on the relevancy of his
9 testimony, and I think it's clear that he is
10 providing relevant testimony.

11 I would just like to note for the record
12 that staff had no awareness that -- that
13 Dr. O'Connell was going to be testifying until two
14 days ago.

15 JUDGE FRIEDLANDER: Is that true,
16 Mr. Wall?

17 MR. WALL: As soon as I identified Mr. --
18 Dr. O'Connell, I -- I don't -- I don't know that it
19 was two days ago, but as soon as I identified him,
20 I updated -- sent a communication to your Honor and
21 to counsel, updating my witness list.

22 JUDGE FRIEDLANDER: Can I ask why you
23 didn't ask for a continuance?

24 MR. O'CONNELL: Your Honor, I don't
25 believe a continuance is needed. I think that we

0050

1 DR. MICHAEL O'CONNELL - DIRECT EXAMINATION

2 can go forward with the case. I don't think -- my
3 objection is not based upon the relevancy of
4 Dr. O'Connell's testimony, but based upon the short
5 time for notice. That's all.

6 JUDGE FRIEDLANDER: Right. What I'm
7 asking is, do you need additional time to prepare
8 for your cross-examination?

9 MR. O'CONNELL: I do not think so, your
10 Honor.

11 JUDGE FRIEDLANDER: All right. Then
12 we'll --

13 MR. O'CONNELL: I just wanted it noted for
14 the record.

15 JUDGE FRIEDLANDER: All right. Thank you.
16 We'll go ahead and -- and have Mr. -- I'm sorry,
17 Dr. O'Connell call us back around noon today. If
18 you would, that would be much appreciated.

19 A. I'll do that.

20 JUDGE FRIEDLANDER: Okay. Thank you so
21 much for your testimony.

22 A. I'll do that. Bye-bye.

23 JUDGE FRIEDLANDER: Bye-bye. It's a
24 little bit unorthodox, but we'll have him brought
25 back before us. It's understandable that he has

0051

1 WILLIAM TRICK - DIRECT EXAMINATION

2 other patients.

3 MR. WALL: Thank you.

4 JUDGE FRIEDLANDER: Why don't we continue
5 with your case? Do you want to call your next
6 witness?

7 MR. WALL: Could we take a short recess
8 before that?

9 JUDGE FRIEDLANDER: Yes, absolutely.

10 MR. WALL: Thank you.

11 JUDGE FRIEDLANDER: And we're on break.

12 MR. O'CONNELL: Thank you, your Honor.

13 (A short recess was then taken.)

14 JUDGE FRIEDLANDER: We'll go back on the
15 record. Mr. Wall, if you want to finish.

16 MR. WALL: Thank you, your Honor. Five
17 Stars calls Mr. William Trick.

18 JUDGE FRIEDLANDER: Then we'll have you on
19 the witness stand over here.

20 Whereupon,

21 WILLIAM TRICK,

22 Was duly sworn and testified as follows:

23 JUDGE FRIEDLANDER: Mr. Wall, you can
24 continue.

25 DIRECT EXAMINATION

0052

1 WILLIAM TRICK - DIRECT EXAMINATION

2 BY MR. WALL:

3 Q. Mr. Trick, I'd like to talk about your
4 professional background a little BIT. Could you
5 tell us about your experience in the household
6 goods moving industry?

7 A. Sure. My experience in the household good
8 moving industry started some time ago, almost a
9 decade. I -- at the time, I was -- I was working
10 -- I was working some construction and I decided to
11 get a side job moving. As I began to move, I -- I
12 started getting really good at it.

13 I started making it more often, meaning I
14 was doing moving more than I was doing
15 construction, whether it was a labor only move, a
16 house -- a full service household moving gig or an
17 office or a commercial move, I just -- you know,
18 what started off as, like, a weekend side job
19 turned out to be, at some point, seven days a week.

20 Q. Was there some -- when you say you got to
21 be really good at it, are there some technical
22 skills that are involved in it?

23 A. Sure. Keep in mind that when you go on a
24 household goods moving gig, meaning in somebody's
25 home, you have to understand a couple things.

0053

1 WILLIAM TRICK - DIRECT EXAMINATION

2 Number one, you're a complete stranger walking into
3 somebody's home, so you're moving their memories,
4 not their stuff. Yes.

5 And -- and anybody I've ever worked with
6 or for, we try to instill that in them, that
7 there's -- there's in's and out's of moving things,
8 you know. People's things are very valuable to
9 them, both sentimentally sometimes and somebody
10 moving into a brand new house, and they're proud of
11 this brand new furniture they finally could afford,
12 and you want to take that couch through this
13 narrow, narrow doorway without busting it up.

14 So -- or -- or, you know, a lot of houses
15 these days just aren't mover friendly, so I had to
16 -- over the years, made it a point to really
17 sharpen my skills, to be able to maneuver and know
18 how to do that, when I have less experienced guys.
19 So I kind of -- when I was asked to go on a move, I
20 kind of took the leadership role and just kind of
21 took over and -- and, you know, to a relief to an
22 owner of a company, for somebody who could pack a
23 truck and get in there and do customer service,
24 handle money, handle the employees, keep the ball
25 rolling.

0054

1 WILLIAM TRICK - DIRECT EXAMINATION

2 Keep in mind that I've never been on a
3 moving gig where it wasn't by the hour. Nobody
4 likes a slow mover, but at the same time, nobody
5 likes a careless mover.

6 Q. Can you talk about your interaction with
7 other workers on the job?

8 A. Sure. I -- I learned right away that as I
9 was -- as I began moving and doing household good
10 moving, I -- I caught on right away, and I -- I
11 really -- you know, I really took to it, and I
12 started taking that leadership role early on, using
13 common sense and watching as these guys were --
14 these guys that have been doing it for a while were
15 packing a truck.

16 So eventually, it wasn't long before these
17 guys were sending me on moves with these
18 unexperienced guys, and they looked to me for the
19 mentorship. And then hey, what do we get now?
20 What do we do now? What do we do now? So yes.

21 Q. How did you get to the point where you
22 wanted to start your own household goods moving
23 company?

24 A. It was pretty simple. As -- I became, you
25 know, really, really versed in moving and learning

1 WILLIAM TRICK - DIRECT EXAMINATION

2 the in's and out's of moving. I -- I made it a
3 point and a goal to say, you know, I'm going to do
4 this for myself. This is a -- this would be a --
5 not only do I get a different boss every day, not
6 only do I get to -- I believe that the crew makes
7 the team, and I believe in teamwork.

8 I can't do a move by myself. Never have,
9 never will. And it -- you know, getting to go
10 travel all over the state doing different moves,
11 getting to see people that live on the water. I've
12 moved people with water planes out back, and
13 people, when I walk into their house, they have
14 pictures of Danny DeVito and Arnold Schwarzenegger.
15 You know, there's a lot of different aspects. I
16 said, man, how could you beat this? Not to mention
17 it makes a great living.

18 Q. This company, Five Stars Moving & Storage,
19 what is your role in the company?

20 A. So my role, number one, obviously, aside
21 from being a mover, it is a lot more managerial.
22 So making sure the ship stays on queue and make
23 sure that I'm in compliance with the Commission,
24 making sure that our insurance is up to date,
25 making sure that I have safe equipment for my

0056

1 WILLIAM TRICK - DIRECT EXAMINATION

2 workers, making -- doing in-home estimates with
3 customers, communicating with customers,
4 communicating with employees, which inevitably will
5 take me out of the homes a lot more.

6 By all means, it won't take me out
7 completely, but I'll -- as opposed to what I've
8 been doing, it will take me -- it will -- it will
9 take me out of the homes significantly more.

10 Q. Do you feel like there's going to be a
11 leap between what you previously have been doing,
12 whether teaching less experienced workers and what
13 you're going to be doing at Five Stars?

14 A. Oh, absolutely. It's -- it's going from
15 application to talking about application and, you
16 know, convincing and -- and letting these guys know
17 that -- making it a place where they want to work,
18 where it's not just a job. It's -- it's -- I'm
19 going to take care of you and your family, and as
20 long as you take care of me, and -- and, you know,
21 when you go into somebody's house and you show the
22 same enthusiasm that I do for each and every move.

23 That, you know, when somebody is excited
24 or nervous or stressed, you know, you get in there
25 and, like, oh, my gosh, thank God you guys are

0057

1 WILLIAM TRICK - DIRECT EXAMINATION

2 doing good. You know, that's a relief to people.

3 That's our job, taking the uncertainty out of

4 moving.

5 Q. Okay. I'd like to talk about your

6 conviction.

7 A. Okay.

8 Q. You entered into a plea agreement, is that

9 right?

10 A. That's correct.

11 Q. And how did you decide to do that, as

12 opposed to contesting the charges?

13 A. Sure. It was early on when I was first

14 arrested on July 7th of 1999. I found myself in

15 the Kitsap County Jail. I was in the regular

16 population where everybody is waiting, talking to

17 attorneys and prosecutors, and things like that.

18 And they made -- they made me aware that

19 -- without asking me if I was guilty or innocent,

20 they asked -- they let me know, they said, well,

21 you know, if you take this to trial, you're going

22 to put two little girls on the stand and, you know,

23 I -- I had to really look at myself and say, is

24 that really what I want to do? And because I knew

25 I was guilty. I was just not talking about it.

0058

1 WILLIAM TRICK - DIRECT EXAMINATION

2 And the fact that these little girls have
3 already been poked and prodded and asked questions
4 that were severely uncomfortable, I wasn't going to
5 add to it. So at that point, I told my attorney, I
6 said, okay, let's talk about, you know, the plea
7 agreement.

8 Q. And I understand that this is a difficult
9 thing to talk about, but if you would, I think it's
10 important. Could you tell us about the sentencing
11 hearing?

12 A. Sure. It's a -- it's a day I'll never
13 forget, ever. Number one, I walked into the
14 courtroom chained to about 20 other men with
15 various crimes, and the -- I saw -- I saw the --
16 the mother and father of -- of my victims, and you
17 know, when the -- when the judge came up and asked
18 me if I had anything to say, and I turned around
19 and I addressed the parents, and I said to them,
20 you know, I -- I can't -- I can't undo what I did.
21 I can't. Because believe me, I would.

22 And keeping in mind that at the time,
23 before pre-treatment, obviously, the impact that I
24 had on those -- on those children, I had no idea.
25 But I couldn't turn back the clocks. I couldn't --

1 WILLIAM TRICK - DIRECT EXAMINATION

2 I couldn't undo what I did, and I told them that I
3 would -- you know, I promised them that I would do
4 what I could to learn and -- you know, do treatment
5 to understand what -- what the thoughts and the
6 feelings and behaviors that led to this offense
7 behavior. And -- and then, you know, I turned back
8 around, and the judge sentenced me.

9 Q. Let's talk a little bit about your
10 rehabilitation. What -- what rehabilitation
11 program or programs did you undergo when you were
12 incarcerated?

13 A. Okay. There was about -- I -- the program
14 that was the sex offender treatment program at Twin
15 Rivers in Monroe was the one I did about 18 months
16 prior to my release, and it was a very intensive
17 five days a week, three hours a day, lay it all out
18 on the table.

19 We had groups, and it went over cognitive
20 thinking, cognitive behavior. Basically, what it
21 did was it taught me a lot about myself and the
22 thoughts, feelings and behavior that I experienced,
23 and -- and the little lies I told myself to break
24 down a barrier to be able to offend against a
25 child.

0060

1 WILLIAM TRICK - DIRECT EXAMINATION

2 And -- and they gave me quite a few tools
3 that I can use to not only learn more about myself,
4 but also, to -- to not re-offend. Things that I
5 could use both in prison and outside that I can
6 apply to my every day life.

7 Q. Do you have any other activities or
8 involvements that you were -- while you were in
9 prison?

10 A. Yes, sir. So in my opinion, there are two
11 types of -- there are two types of prisoners. You
12 have the guy that -- whether it's a sex offense, a
13 murder, a burglary, he stole something, he gets
14 inside and he -- he keeps stealing, he keeps
15 fighting, he gambles, he tatts himself up, and
16 things like that. And eventually, when he gets
17 out, he's just a hardened criminal. That's all he
18 was.

19 And then you've got the guy that takes
20 advantage of every program the Department of
21 Correction had to offer. Now, I didn't take
22 advantage of every single program, that's next to
23 impossible, but while I was in there, I earned two
24 degrees. I facilitated an Alternative to Violence
25 program as well as a Non-Violent Communication

0061

1 WILLIAM TRICK - DIRECT EXAMINATION

2 program. These classes were very important to me,
3 because it allowed me to open up to people and
4 learn how to listen and to communicate to people in
5 a way that I'm heard, and that's what I did.

6 I figured that the only and best advantage
7 that I would have of getting out and having to
8 start over would be to be educated and try to keep up
9 with the times. Whereas, when you step foot in
10 prison, time stops. Nothing ever changes. You're
11 in the same routine every day. Breakfast, lunch,
12 dinner. They tell you when you go outside. They
13 tell you when you go to the gym.

14 Outside just keeps evolving, so I figured
15 my best chance would be to get as educated as I
16 could. So between community college, Ohio
17 University, and some programs that they offered
18 within the prison system, I took, and they
19 definitely helped me when I got out.

20 Q. What motivated you to do all of that?

21 A. I -- I -- it was obvious the decisions
22 that I had made -- this -- this decision that got
23 me put in prison, which was horrible, just
24 unrelenting horrible, that the impact that had on
25 so many people, I didn't ever want to, you know,

0062

1 WILLIAM TRICK - DIRECT EXAMINATION

2 have to put anybody through that again, and I was
3 going to do whatever I could to not do that, to
4 change myself.

5 I had five years, and I mapped out my five
6 years once I started the programs, and I said,
7 okay, I'm going to do this, this, this, this, then
8 this. I mapped it out to where I was in class the
9 day before I was released from prison, and which --
10 and then, of course, once I was released, I just
11 put all those to the test, and -- yes.

12 Q. So just so I understand the factual
13 background, obviously, this was a serious crime,
14 and it involved two counts of child molestation?

15 A. Yes.

16 Q. That arose out of a single incident, is
17 that correct?

18 A. Yes.

19 Q. And you hadn't had any prior contact with
20 the victims before that?

21 A. No, I didn't.

22 Q. The contact didn't involve the use of
23 threats?

24 A. No, it didn't.

25 Q. Were you a teacher or a coach with regard

0063

1 WILLIAM TRICK - DIRECT EXAMINATION

2 to those individuals?

3 A. No.

4 Q. Tell me whether you felt remorse for that,
5 or the extent to which you felt remorse?

6 A. Oh, I'll try to give you the shorter
7 answer, but it -- the remorse, regret, the feelings
8 I had, especially after treatment, once I truly
9 realized and understood what I put those little
10 girls through, both during the offense and after
11 the offense -- now that I have a daughter of my
12 own, who will be two next month, I -- I couldn't
13 imagine -- I just couldn't imagine.

14 I try putting myself in those parents'
15 shoes. I try having empathy, and I -- I -- it was
16 just unbearable. I -- I -- it would have put every
17 class I ever took to the test to allow authorities
18 to handle that kind of situation, but it just -- I
19 couldn't -- I couldn't believe how many people I
20 affected by my actions and how many people I hurt,
21 and I ensured, and still to this day ensure that
22 that's not going to happen again.

23 Q. Turning to the UTC application in this
24 case, the application for household goods moving
25 permit, can you talk about the background in

0064

1 WILLIAM TRICK - DIRECT EXAMINATION

2 preparing that application?

3 A. Sure. So I was very familiar with the
4 application, as I was part of the application
5 process with another moving company, B&Z Moving.
6 So I was very aware of how in-depth they were with
7 the application, and to the best of my ability, did
8 not try to deceive or -- in the application, as I
9 knew that -- you know, they -- they -- they do
10 their homework once you turn that in.

11 So from getting in sync with all the
12 proper government agencies, like Labor &
13 Industries, Unemployment, this and that, we paid a
14 considerable lot of money for insurance, a brand
15 new truck -- not brand new. It was a 2008. A
16 moving truck, new to me. A wrap for it, web sites,
17 business cards, flyers, uniforms. Just getting
18 everything set up, the payroll accounts.

19 It was not only a considerable amount of
20 money, but time, effort and stress, just trying to
21 get all my ducks lined up so that I can present
22 this to the UTC knowing that, you know, they're
23 going to -- they're going to look at this.

24 Q. And did you personally handle the
25 preparation of the application?

0065

1 WILLIAM TRICK - DIRECT EXAMINATION

2 A. For the most part, yes. I did have a
3 little help from Tom Cook.

4 Q. Was there some -- any part of the
5 application that you were confused by or --

6 A. There was. And there's actually a couple
7 that -- some I just got clarification on, like
8 insurance things. And there was a specific
9 question that I did call the UTC. It says right on
10 the front page of the application, the cover page,
11 where it shows everything you'll be having to have.
12 So that if you have any questions, call the little
13 -- the number on there, and questions could be
14 answered.

15 So I did that, and I talked to a man named
16 Michael, I believe was his name, and I asked him --
17 there was a question on the application that
18 stated, have you or anybody on this named
19 application, named or whatever, said -- violated
20 state law or Commission rules? And I wasn't sure
21 what they meant, so I -- I already knew that, you
22 know, they knew about my prior conviction.

23 And so I wanted to -- I called the
24 Commission, I said, well, hey, does this mean,
25 like, traffic violations, things like that? I

0066

1 WILLIAM TRICK - DIRECT EXAMINATION

2 said -- and I specifically told them, I said, I
3 have a reckless driving, is that -- does that
4 count? And he specifically said, no, this question
5 pertains to laws based around Commission rules.

6 And I said, for example -- and he said,
7 have you tried advertising Five Stars Moving &
8 Storage without a household goods permit? And I
9 said, okay, no, I have not. And he goes, well, put
10 no on the application, then. So I did.

11 Q. When you say, they knew about your prior
12 conviction, who is they?

13 A. The folks involved in the last hearing.
14 So the judge, Ms. Wallace, Ms. -- Rayne Pearson,
15 those -- the Commission. The Commission that does
16 the evaluating and the investigating.

17 Q. When you say the prior application, what
18 company was that?

19 A. B&Z Moving.

20 Q. And so let's go ahead and talk about that
21 for a minute.

22 A. Okay.

23 Q. Let's see here. This is -- I'd like to
24 hand you an exhibit, if I could.

25 JUDGE FRIEDLANDER: Which exhibit is this?

0067

1 WILLIAM TRICK - DIRECT EXAMINATION

2 MR. WALL: This is SP-1. This is the UTC
3 staff's exhibit. I'm sorry. This is mislabeled
4 here. What I'm looking for is the SP-2. I'm
5 sorry.

6 JUDGE FRIEDLANDER: So you're referring to
7 the notice of intent to deny application --

8 MR. WALL: Correct

9 JUDGE FRIEDLANDER: -- that was sent out?

10 MR. WALL: Correct.

11 MR. O'CONNELL: Your Honor, if I may, I
12 believe Mr. Wall has indicated Exhibit SP-2?

13 MR. WALL: SP-2.

14 MR. O'CONNELL: And that that is on
15 staff's exhibit list listed as order 01 in docket
16 TV 130259.

17 JUDGE FRIEDLANDER: Yes.

18 MR. O'CONNELL: Okay.

19 BY MR. WALL:

20 Q. Take a -- take a minute to look over that.

21 A. Okay. I'm very familiar.

22 Q. All right. And what -- what is that
23 document?

24 A. This is a document for the initial order
25 to intent to deny our application -- our household

0068

1 WILLIAM TRICK - DIRECT EXAMINATION

2 goods permit application for B&Z Moving LLC.

3 Q. What was the -- did you attend the hearing
4 here at the UTC?

5 A. I did.

6 Q. What was the outcome of that hearing?

7 A. The outcome of that hearing, at the -- at
8 the end of the hearing, the judge said --

9 JUDGE FRIEDLANDER: I'm sorry, I have to
10 stop you for a second. What hearing are you
11 referring to?

12 MR. WALL: There was a prior application
13 under a company called B&Z Moving.

14 JUDGE FRIEDLANDER: Okay.

15 MR. WALL: And Mr. Trick was a part of
16 that company and was -- attended the hearing for
17 that application.

18 JUDGE FRIEDLANDER: Okay. And how is that
19 relevant to the current denial?

20 MR. WALL: I believe that the staff
21 intends to -- well, in counsel's opening statement,
22 he said that Mr. Trick had a history of not being
23 forthcoming with the UTC. He's going to question
24 him about that.

25 JUDGE FRIEDLANDER: Okay. Continue, then.

0069

1 WILLIAM TRICK - DIRECT EXAMINATION

2 Thank you.

3 BY MR. WALL:

4 Q. I was asking, what was the outcome of that
5 hearing?

6 A. The outcome of that hearing -- the outcome
7 of that hearing was that the judge ordered Zack
8 Gripp to go ahead and reapply, and it -- it wasn't
9 stated at the hearing, but in the paperwork, it
10 said that I was to have no -- nothing -- that the
11 application -- that the permit was approved, but
12 under the condition that I had no -- nothing to do
13 with the business at all.

14 Q. So Mr. Gripp was allowed to proceed with
15 the business, but you didn't participate?

16 A. That's correct. I was told not to, so I
17 don't have much choice.

18 Q. So at that point, what did you do?

19 A. Well, I -- being that I couldn't work with
20 him, I still had to have an income, and so I
21 continued doing labor only moves. I continued
22 working with different moving companies, doing full
23 service moves, and I also did some construction,
24 and things like that, to supplement my income.

25 Q. Okay. I want to go back and talk about --

0070

1 WILLIAM TRICK - DIRECT EXAMINATION

2 you said you had a reckless driving conviction?

3 A. That's correct.

4 Q. Is that -- do you have any other
5 convictions? We've talked about this sex offense
6 and reckless driving. Do you have any other
7 convictions?

8 A. No, I don't.

9 Q. Okay. What -- what happened with the
10 reckless driving?

11 A. So about -- I don't know, it's -- it's
12 almost three years ago, because it drops off here
13 in November, but I was out bowling with some
14 friends, and we had a few drinks, and I thought
15 that I had waited long enough after we were done to
16 drive home, and I got pulled over, and I -- the end
17 result of that was a reckless driving.

18 Q. What have you done, if anything, since
19 that time with regard to alcohol consumption?

20 A. I don't even take the chance anymore. I
21 don't -- I don't really even drink anymore. I'll
22 have wine with dinner occasionally, if my wife and
23 I go out to eat, but it's only one of us. So if I
24 -- if I have a glass of wine, she drives home.

25 Q. So with regard to driving, if you are in a

0071

1 WILLIAM TRICK - DIRECT EXAMINATION

2 social setting and having a few drinks --

3 A. -- I always have a designated driver. You
4 know, there's -- there's no debate.

5 Q. If I may, SP-1 -- this is Staff Exhibit
6 SP-1. Are you familiar with that document?

7 A. I am.

8 Q. And what is that document?

9 A. This is the intent to deny Five Stars
10 Moving & Storage LLC.

11 Q. And that document makes reference to a
12 company Better Than The Rest?

13 A. Yes.

14 Q. Can you tell us what is the company Better
15 Than The Rest? Are you familiar with it?

16 A. I am.

17 MR. O'CONNELL: Your Honor, I apologize.
18 Can I butt in just for a moment? I'm a little
19 confused about what we're looking at. Mr. Wall,
20 you stated this was SP-1.

21 MR. WALL: Correct.

22 MR. O'CONNELL: But Mr. Trick has
23 testified that it's a notice of intent to deny. So
24 I just want to make sure we're looking at the right
25 thing.

0072

1 WILLIAM TRICK - DIRECT EXAMINATION

2 MR. WALL: Let's take a look.

3 A. It does.

4 MR. WALL: You're right. Maybe I do have
5 the wrong document here. What I'm looking for is
6 the staff memorandum. The wrong page. This is
7 SP-1.

8 A. Oh.

9 JUDGE FRIEDLANDER: Okay. Now, I'm
10 confused. What memorandum are you talking about?

11 MR. WALL: I'm sorry. This is SP-1. This
12 is the staff exhibit, which is a memorandum written
13 by the staff, which was the staff's recommendation.

14 JUDGE FRIEDLANDER: I -- I don't think it
15 is. I think it's Five Stars Moving's application.

16 MR. O'CONNELL: Your Honor, I believe I
17 need to make some clarification about the numbering
18 of staff's exhibits.

19 JUDGE FRIEDLANDER: Okay.

20 MR. O'CONNELL: The first three exhibits
21 are labeled number 1, 2 and 3. Those are the
22 application, the notice of intent to deny, and the
23 request for a hearing that your Honor has already
24 accepted into the record.

25 JUDGE FRIEDLANDER: Right.

0073

1 WILLIAM TRICK - DIRECT EXAMINATION

2 MR. O'CONNELL: And those are already in
3 the record.

4 JUDGE FRIEDLANDER: Right.

5 MR. O'CONNELL: Then staff started
6 renumbering its exhibits and had an S and a P in
7 front of them for -- the initials stands for
8 Ms. Paul.

9 JUDGE FRIEDLANDER: All right. And the
10 tabs don't, so they continue to use the 1
11 through --

12 MR. O'CONNELL: Right. So that's, I
13 believe, where the confusion is coming in, and I
14 apologize.

15 JUDGE FRIEDLANDER: Okay.

16 MR. WALL: Okay. And I apologize if I'm
17 confused.

18 JUDGE FRIEDLANDER: So this is a
19 memorandum dated February 26, 2015.

20 MR. WALL: That's what I'm trying to get
21 at. I apologize.

22 JUDGE FRIEDLANDER: Got you. Got you.

23 BY MR. WALL:

24 Q. Have you had a chance to review that
25 document?

0074

1 WILLIAM TRICK - DIRECT EXAMINATION

2 A. Yes, I have.

3 Q. What I wanted to ask you about was the
4 reference to Better Than The Rest in that document.

5 A. Sure. And until -- until Ms. Wallace
6 called me a few months ago asking me about it, I
7 had no idea that it even existed still.

8 Q. Back up a second, though, because what is
9 -- what is Better Than The Rest?

10 A. Better Than The Rest Moving was the name
11 that Zack Gripp and I had originally came up with
12 before we shortened it to B&Z Moving. So a little
13 naive in the business world, we -- a company
14 contacted us, recognized our company and said, hey,
15 we'll put you on the front page of Google and this
16 and that, and we'll make you a web site.

17 So we jumped, and of course, they -- they
18 made us this really -- it was horrible. It was a
19 horrible web site. It was a one to two-page web
20 site, and it had nothing that we had wanted on it,
21 other than a few things I wanted phrased out for
22 him, and he even did that wrong. So quickly -- it
23 was a monthly charge, so after one month, we cut it
24 off.

25 Zack and I got together and said, hey,

1 WILLIAM TRICK - DIRECT EXAMINATION

2 this -- the name was just too long, and we came to
3 that conclusion when we went to go get the -- we
4 were going to get the truck wrapped, and they said,
5 this is going to cost you a fortune. Do you guys
6 want to reconsider the name? So B for Bill and Z
7 for Zack and an ampersand in the middle, and that's
8 what we did. And I never had any kind of
9 correspondence with this company. I couldn't get
10 ahold of them, or anything. So I thought it was
11 just gone.

12 Q. So the memorandum makes reference to a
13 Google Plus listing?

14 A. Right, which I had no knowledge of. In
15 fact, I mentioned it to you, and I had written
16 several e-mails to Google Plus. And then you also
17 sent an e-mail and informed me that -- that they
18 had, on the -- on the page, when you bring it up
19 now, it says that this company no longer exists or
20 is closed permanently.

21 Q. Okay. So --

22 MR. O'CONNELL: Your Honor, I'm going to
23 have to object. I think Mr. Trick has made clear
24 that he doesn't have any personal knowledge about
25 entering -- any interactions with Google Plus.

0076

1 WILLIAM TRICK - DIRECT EXAMINATION

2 MR. WALL: I don't think that was his
3 testimony. He just said that he asked me to remove
4 the listing.

5 A. Right. I -- and that is what I said. I
6 -- I didn't contact Google Plus to advertise Better
7 Than The Rest Moving. And so when it came to my
8 knowledge that I did, I let my attorney know, and
9 he then informed me that the ad had been taken down
10 after several e-mails and correspondence to Google
11 Plus.

12 JUDGE FRIEDLANDER: Does that satisfy your
13 objection?

14 MR. O'CONNELL: The objection is about the
15 content of the e-mails and the correspondence.
16 Mr. Trick has testified he doesn't have any
17 personal knowledge about what's in there.

18 JUDGE FRIEDLANDER: Okay. Back up.
19 E-mails and correspondence, what you are you
20 talking about?

21 MR. O'CONNELL: Mr. Trick has testified
22 that his counsel contacted Google Plus.

23 A. As did I.

24 MR. O'CONNELL: And Mr. Trick is
25 testifying as to the communications between

0077

1 WILLIAM TRICK - DIRECT EXAMINATION

2 Mr. Wall and Google Plus.

3 A. I'm confused.

4 JUDGE FRIEDLANDER: I don't think he is.

5 I honestly -- I -- what I'm hearing Mr. Trick say,
6 and you can correct me if I'm wrong, he's just
7 informing the Commission that he had contacted an
8 attorney to take the web site down. And his
9 attorney is actually the one that contacted Google
10 Plus. Is that correct, Mr. Wall?

11 MR. WALL: That's correct.

12 JUDGE FRIEDLANDER: All right. I think
13 we're on the same page.

14 MR. O'CONNELL: Okay.

15 BY MR. WALL:

16 Q. Mr. Trick, did you ever make any effort
17 with regard to Google Plus to remove the listing?

18 A. I did. I sent several e-mails, and I
19 searched and searched, and there was, like -- no
20 matter what phone number they give, it never led me
21 to anybody that did any good.

22 Q. Were those efforts successful?

23 A. No.

24 Q. Did you take any other action or ask
25 anyone else to take any action with regard to

0078

1 WILLIAM TRICK - DIRECT EXAMINATION

2 Google Plus?

3 A. Yes, I made you aware that I couldn't get
4 this down, and you let me know that you had some
5 correspondence and some e-mails with them, and that
6 they sent you something back, or -- or when you go
7 look at it now, it clearly states that the business
8 is closed permanently, that there's no -- there's
9 nothing there.

10 Q. Okay. Okay. And to the best of your
11 knowledge, is that what the Google Plus listing
12 currently reflects with regard to Better Than The
13 Rest?

14 A. Yes, you can look at it now, and it says
15 that that business is permanently closed.

16 Q. Just to clarify -- I apologize if I'm
17 beating a dead horse here, but with regard to
18 Better Than The Rest, after you decided to change
19 the name, did you have any further business
20 operations under the name Better Than The Rest?

21 A. No, we did not. We didn't even have a
22 bank account with that name. That's how quickly we
23 got rid of it.

24 Q. I want to ask you about -- and I hope I
25 don't fall into the same numbering problem, but I

0079

1 WILLIAM TRICK - DIRECT EXAMINATION

2 want to ask you about the King County web site
3 where it has your registration details.

4 A. Sure.

5 Q. Let me just -- Mr. O'Connell, I certainly
6 welcome your input in navigating through this.

7 JUDGE FRIEDLANDER: I believe that's SP-4,
8 is that correct, Mr. O'Connell?

9 MR. O'CONNELL: Yes, your Honor.

10 A. Yes, I've got it right here.

11 BY MR. WALL:

12 Q. Okay. SP-4, can you tell us, what is that
13 document?

14 A. Yes, this document is the -- is a copy of
15 the page of the King County Sheriff's sex offenders
16 site that pops up when you type my name in.

17 Q. And that information -- that page -- that
18 page says -- has some information about coaching
19 and volunteering in day cares and child overseas
20 services. Could you read that for us?

21 A. Sure. It says, William Trick sexually
22 assaulted two seven-year-old females. Trick was
23 acquainted with the victim's mother through their
24 employment. Trick had a history of volunteering at
25 daycares and children overseas services. He had

0080

1 WILLIAM TRICK - DIRECT EXAMINATION

2 also served as a soccer and wrestling coach. If
3 you have any questions or concerns, please contact
4 the King County Sheriff's Office registered sex
5 offender unit at, and then the phone number.

6 Q. Okay. So I want to ask you about that.
7 Soccer coach, were you ever a soccer coach?

8 A. Never a soccer coach.

9 Q. What involvement, if any, did you have
10 with soccer?

11 A. From -- as long as I can remember, I've
12 always played soccer, whether it was junior high,
13 high school, whatnot. I refereed soccer as a high
14 school person and junior high person. We were
15 offered -- they had a recreational league called
16 the Beaver Creek Soccer Association out where I'm
17 from in Ohio, and for a couple bucks, you could
18 referee games, and that's -- that's the extent of
19 that.

20 Q. When you say for a couple bucks, do you
21 mean you had to pay to referee games?

22 A. No, no, I got three or four bucks a game.

23 Q. All right. And it also said something
24 about a wrestling coach. What involvement did you
25 ever have in wrestling?

0081

1 WILLIAM TRICK - DIRECT EXAMINATION

2 A. Okay. So again, I was a pretty avid
3 wrestler from about sixth, seventh grade, all the
4 way up. Even in my naval career, I wrestled All
5 Navy and All American Armed Forces.

6 As far as coaching goes, the only coaching
7 I ever did was I kind of helped the junior -- when
8 I was -- when I was in high school, I helped as a
9 junior high coach that -- you know, the junior high
10 guys, because we practiced at two different times,
11 and sometimes two different places. So I would
12 assist there and help. As far as after high
13 school, I had no involvement in any type of
14 wrestling coaching.

15 Q. After your conviction in 1999, did you
16 have any involvement in soccer or wrestling
17 coaching or anything?

18 A. No.

19 Q. There's a statement there about
20 volunteering in a daycare. Have you ever
21 volunteered in any daycare?

22 A. I've never volunteered at any daycare
23 ever.

24 Q. There's something about children's
25 overseas services. Do you have any idea where the

1 WILLIAM TRICK - DIRECT EXAMINATION

2 web site may have gotten that idea?

3 A. I have -- I have no idea. From initial
4 interviews from me, when we talked a little bit
5 about my past and sports and things like that, I --

6 Q. So when you were in the Navy, can you tell
7 us about your experiences in the Navy?

8 A. Sure. This -- this was something that,
9 you know, when -- when we were overseas -- the only
10 time I was overseas -- number one, I mean, it
11 claims that I was -- what does it say? Volunteer
12 in overseas children's services. Yes, I've been
13 overseas with the Navy, and we were only in port
14 for no more than three to seven days at a time,
15 number one.

16 Number two, the only time that I really
17 interacted with the locals in any country I've been
18 to, whether it was in Australia, Southeast Asia,
19 things like that, was a program that MWR put on
20 through the Navy. It's called -- it stands for
21 Morale Recreation and Welfare, and it was the
22 opportunity that they provided sailors -- and they
23 do this for all branches of the military -- to be
24 able to see different parts of the country that
25 they may not otherwise see in that short a period

0083

1 WILLIAM TRICK - DIRECT EXAMINATION

2 of time, and you pay a little bit of money, and
3 they do this, whether it's a bike riding tour or a
4 scuba diving tour.

5 So -- but they also had a program called
6 -- it was kind of -- you -- you sign up and you get
7 to -- a local family may get to meet -- meet a
8 military person for -- for a couple days while
9 they're there, and the way it worked is you sign
10 up, you apply, and you give them -- when you get
11 out onto the pier, when you pull in to port,
12 there's a big billboard, and you pull out the card,
13 that you find your -- the letter to your last name,
14 and you pull it out, and if a family left their
15 contact information, you try to contact them, and
16 they come and get you and show you the town.

17 So I did that when I was in Hong Kong and
18 Singapore, and one -- in one -- in Singapore, there
19 was never anything there. But in Hong Kong, I did
20 get some correspondence, but I was never able to
21 get ahold of them, and so nothing ever happened.
22 As far as the extent of any kind of interaction
23 with anybody overseas, other than that, it was all
24 military I hung out with.

25 Q. So if I understand your testimony, you

0084

1 WILLIAM TRICK - DIRECT EXAMINATION

2 volunteered for this cultural exchange program?

3 A. Yes.

4 Q. And through that cultural exchange
5 program, did you ever end up interacting with any
6 families?

7 A. No. No.

8 Q. Okay. And just so that the record's
9 clear, what years were you in the Navy?

10 A. I was in the Navy from June 5th, 1996 to
11 July 7th, 1999.

12 Q. Okay. So have you taken any steps or
13 asked anyone to take any steps with regard to the
14 information on the King County web site?

15 A. I did. I called the recorder's office or
16 -- you know, first, I called the King County
17 Sheriff's Office and asked them, I said, hey, the
18 information on the web site is wrong, and it
19 clearly states -- and it's not shown on here, but
20 if you have a discrepancy with what's written, you
21 can call, and they will do an investigation, which
22 takes a lengthy period of time due to -- basically,
23 they're going to do an investigation and look
24 through every piece of paper that you ever had in
25 your case to make sure it doesn't say these things

0085

1 WILLIAM TRICK - DIRECT EXAMINATION

2 or, you know, any proof.

3 So mine's under investigation, but I've
4 heard nothing. And as much as I've tried to figure
5 it out, they -- they haven't said anything yet.

6 Q. Okay. I'd like to talk a little bit about
7 your current support network.

8 A. Okay.

9 Q. Could you tell us about your relationship
10 with your wife?

11 A. Sure. My wife, Ashley, we've been
12 together since 2011. She's an amazing woman. I
13 love her very much, an incredible person to talk
14 to, very supportive. She -- her and I are great
15 parents together. We're a great team. She knows
16 pretty much everything about me -- I mean, not to
17 say everything, but quite a bit about me, and we're
18 on the same page with a lot of things, and she's
19 just a great person.

20 Q. Could you tell us about your kids, Damien
21 and Mackenzie?

22 A. Sure. Damien, who is my stepson, is six.
23 He'll be seven in the October, and I have a
24 daughter with Ashley, who will be two on July 23rd.
25 Just amazing kids. Every -- every -- parenting is

0086

1 WILLIAM TRICK - DIRECT EXAMINATION

2 something I take very serious, and to get the
3 reaction, whether I'm picking them up from daycare,
4 or whatever it is, it's always running to me.

5 And when we get home, we kind of have a
6 routine. We get up in the morning. We -- we do
7 breakfast. We pick out clothes. It's fun watching
8 my daughter doing that. I hold outfits up, and she
9 -- you know, she gets to pick her own clothes. We
10 get ready for school. We understand the importance
11 of school, and I instill that in my kids, the
12 importance of safety while you're at school.

13 So they go to school, and then they come
14 home, and we -- we talk about their day. We play.
15 We do homework, if it's necessary. We pack our
16 lunches the night before. Both kids help me cook
17 dinner, being that my wife -- she -- she gets off
18 work -- she works at Children's Hospital, so she
19 gets off a little later. So, you know, we handle
20 the -- we hold down the house until she gets home,
21 and then include her in dinner, and we all sit down
22 together.

23 We're very, very family oriented. My kids
24 are very important to me, and the success of my
25 kids are very important to me. Hence, why I'm

0087

1 WILLIAM TRICK - DIRECT EXAMINATION

2 trying to further my career, to give them every
3 possible opportunity to succeed in a world that is
4 very tough, sometimes, to -- to make it in. So I
5 want to give them the best chance.

6 Q. Could you talk about your relationship
7 with your family?

8 A. Yes. So my mom and dad, who still
9 currently live in Ohio --

10 MR. O'CONNELL: Objection, your Honor.
11 I'm not sure of the relevance of this line of
12 questioning.

13 MR. WALL: Your Honor, the central issue
14 in this proceeding is the extent to which Mr. Trick
15 is a risk to the public, and we've heard testimony
16 today that stability of family relationships and
17 support network are important factors in mitigating
18 the risk of recidivism, and I am asking Mr. Trick
19 about his support networks.

20 JUDGE FRIEDLANDER: I'm going to allow it.
21 You'll have a chance to obviously cross-examine
22 Mr. Trick and -- and -- about these social
23 networks. Please go ahead.

24 A. Okay. So my mom and dad, and I have two
25 brothers that also live in -- live in Ohio. My mom

0088

1 WILLIAM TRICK - DIRECT EXAMINATION

2 and dad, while they obviously don't condone or
3 agree with what I've done, they have held me
4 accountable 110 percent of the way, but also stood
5 strong to let me know that they're still my mom and
6 dad and they're always there.

7 They -- they have never -- we corresponded
8 while I was inside prison, as well as my brothers,
9 to let me know that I have some support out here.
10 They would send me, you know, pictures of family
11 functions, you know, let me know that people miss
12 me.

13 And they have been a great support, and
14 also, played a big part in my rehabilitation, as
15 talking to them and giving them full disclosures as
16 to what I did, why I did it, and how my cycle in
17 offending affects my lifestyle and how I can
18 protect myself and others from myself. You know,
19 so -- so they have just been an amazing support
20 group. They're awesome.

21 Q. The last question I would like to ask you
22 about is your business partner, Tom Cook and his
23 role in your life?

24 A. Sure. Tom Cook has been around all my
25 life. Tom Cook is my mom's brother. Tom Cook -- I

0089

1 WILLIAM TRICK - DIRECT EXAMINATION

2 have a lot of gratitude towards that man. Always
3 wanted to be like him. He's an incredible
4 businessman. He's my mentor. He's one of my best
5 friends. He just -- he gave me a chance. I asked
6 him, obviously, months ago, before I submitted an
7 application or started writing a business plan, I
8 said, hey, I -- I want a moving company. I want to
9 do this.

10 And he goes, okay. He goes, we have
11 nothing to talk about without a business plan. So
12 he's very business right away, right off the get.
13 And he taught me a lot of things along the way
14 about what it takes to run a successful business.
15 And he -- he financially backed me through all
16 this, and I've thanked him several times for
17 believing in me.

18 This is something I'm passionate about.
19 It's not just a job. It's not just a career. It's
20 my life. It's -- it's what's going to provide for
21 me and my family. And he -- he believed in that,
22 and he trusts me. And believe me, he and I have
23 had lengthy conversations about this very thing,
24 and he -- he is just -- his part in the business is
25 -- is going to be a lot of admin.

0090

1 WILLIAM TRICK - CROSS EXAMINATION

2 He'll take care of all the payroll
3 accounts, payroll, anything admin. He'll also be
4 going over some strategy with me to enhance the
5 profitability of the company. He definitely has
6 the staff to do it, and he -- his -- his line to me
7 was, you know, I have 3,700 employees already, a
8 couple more is not going to hurt. He -- he's just
9 an amazing man, and I love him very much. And the
10 fact that he afforded me the opportunity to be here
11 today, I mean, I'm just -- I'm very grateful.

12 MR. WALL: Thank you, your Honor.

13 JUDGE FRIEDLANDER: Thank you.

14 Mr. O'Connell.

15 CROSS EXAMINATION

16 BY MR. O'CONNELL:

17 Q. I have a few questions. Mr. Trick, you
18 don't deny that you sexually molested two seven-
19 year-old girls, do you?

20 A. I don't.

21 Q. Did you groom these girls?

22 A. No, I did not.

23 Q. Did you abuse them long term?

24 A. No.

25 Q. Did you know these girls very long?

0091

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. No.

3 Q. You worked with their mother, though,
4 right?

5 A. I did.

6 Q. Did you use threats to trick these girls?

7 A. No, I didn't.

8 Q. So this was an isolated incident?

9 A. Isolated, you mean -- I'm not -- I'm not
10 sure what you mean by it's an isolated incident.
11 Like, it was a one time thing? Was it a -- what do
12 you mean?

13 Q. Was it a one-time incident?

14 A. Yes, yes.

15 Q. It was just a short time that you had
16 known these girls?

17 A. Right. That night.

18 Q. How did you end up in bed with these
19 girls?

20 A. Sure. As the evening progressed -- this
21 is more or less -- I'm not sure if you know the
22 background of the evening, but it was -- it was a
23 party I was invited to by the mother, and there was
24 probably 50, 60, 70 people there. I'm note sure.
25 I mean, there was a lot.

0092

1 WILLIAM TRICK - CROSS EXAMINATION

2 And as the night progressed -- you know, I
3 had already had a long day. I was tired, and I
4 kept trying to influence the four guys I came with
5 to, hey, you know, let's maybe think about maybe
6 heading back to base. And that's when the father,
7 Darryl, said, well, hey, if you guys want to hang
8 out, I'd be happy to -- you guys can just crash
9 here, and I'll give you a ride to base in the
10 morning, as the base was only about five, six
11 minutes away by driving.

12 I said okay. I talked to the mother, I
13 said, hey, I'm just tired. Is there someplace, you
14 know -- there was just so many people and it was
15 loud, and I was, like, is there any place I can
16 just lay down for a few minutes, or for a while?
17 And this was about, I don't know, 1:00, 2:00 in the
18 morning.

19 So I laid down, and it wasn't very long
20 that her daughters, who I was introduced to earlier
21 in the night, came in and -- at first, we were
22 talking. They were sitting on the edge of the bed.
23 Then they got -- one laid down, and the other one
24 laid down on the other side of me, and it was --
25 and I didn't really -- we didn't talk about a lot,

0093

1 WILLIAM TRICK - CROSS EXAMINATION

2 and I -- that's when I did it.

3 Q. So the parents trusted you to be in their
4 home?

5 A. They did.

6 Q. Did you mistake these girls for your
7 girlfriend?

8 A. No, I didn't.

9 Q. Okay. So you're required to register on a
10 regular basis with the sheriff's office, is that
11 correct?

12 A. Yes.

13 Q. And you do that, correct?

14 A. I -- I do -- when you say a regular basis,
15 I'm assuming you mean whenever I switch my location
16 of my house. That's the only time I register.

17 Q. Okay. Can I direct your attention to what
18 Mr. Wall showed you as SP-4? It's the King County
19 Sheriff's office web site?

20 A. Sure.

21 MR. WALL: Do you have another copy, so I
22 could follow along?

23 MR. O'CONNELL: You can have my copy.

24 A. Let me flip through this here. I'm very
25 familiar. You can go ahead and ask your question,

0094

1 WILLIAM TRICK - CROSS EXAMINATION

2 though.

3 BY MR. O'CONNELL:

4 Q. Okay. You're aware that the sheriff's
5 office keeps is an on-line database of registered
6 sex offenders, right?

7 A. Oh, yes.

8 Q. And on this document, that is a photo of
9 you, right?

10 A. Yes, it is. Yes.

11 Q. Do you recall having this photo taken?

12 A. Well, I mean, I don't know which photo it
13 was. I've had several taken, so -- but I don't
14 remember --

15 Q. When was the most recent one that you had
16 taken?

17 A. The most recent one was actually not too
18 long ago. It was -- there was a detective that
19 comes to the house about every -- twice a year to
20 make sure that I live where I say I live, and it's
21 up to them to update photos, and things like that,
22 so that the public has a clear picture of what I
23 look like now. And so he took one in front of my
24 house just a couple months ago.

25 Q. Okay. So --

0095

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. I don't know if this is that one, but --

3 Q. All right. It's your testimony that some
4 of the information on this web site is incorrect,
5 right?

6 A. It is.

7 Q. When is the last time you visited this web
8 page?

9 A. I visited this web page when I got this
10 information from the Commission and this paperwork.
11 I didn't -- I had -- so there's different ways that
12 I can look myself up. So if I just Google myself,
13 you can actually -- it doesn't take you to the King
14 County web site. It takes you to wherever Google,
15 you know, may show my picture.

16 So I had never seen this before. So I had
17 actually not been on the King County Sheriff's web
18 site until they -- until they brought it up, and I
19 looked at it, and that's when I told my attorney, I
20 said, hey -- and I immediately called a detective
21 who used to check up on me, and say, hey, how do I
22 fix this.

23 Q. Let me get back do that. Let me back up
24 just a second. So do you remember more
25 specifically when the first time you noticed

0096

1 WILLIAM TRICK - CROSS EXAMINATION

2 something was incorrect on this web site?

3 A. Yes. It was when I got the paperwork from
4 the Commission.

5 Q. Was that --

6 JUDGE FRIEDLANDER: I'm sorry. What
7 paperwork are you referring to?

8 A. The intent -- the intent to deny, or --

9 JUDGE FRIEDLANDER: Okay. The notice of
10 intent to deny the permit?

11 A. Right. Right.

12 JUDGE FRIEDLANDER: Okay.

13 A. And it didn't show this. It just had a
14 paragraph stating that I -- like, this paragraph.

15 JUDGE FRIEDLANDER: Right. I was just
16 wondering what paperwork you meant that you had
17 received from the Commission.

18 A. Okay. Yes, so it was part of the
19 paperwork for the intent to deny. It was part of
20 the background part, which you have somewhere in
21 here. I saw it when we were looking before.

22 BY MR. O'CONNELL:

23 Q. So can you give me a ballpark date on the
24 first time you noticed something was incorrect?

25 A. What is this, June? So they -- sure.

0097

1 WILLIAM TRICK - CROSS EXAMINATION

2 Let's just look at the date on this, because I got
3 it thereafter. I would say close to the end of
4 February.

5 Q. Okay. So you hadn't looked at the King
6 County Sheriff's Office's web site until then?

7 A. That's correct. That's correct.

8 Q. Okay. And when did you call to correct
9 the inconsistencies?

10 A. Soon after. Well, when I consulted with
11 the attorney, with my attorney, I -- you know, we
12 were going over a lot of things, and I -- I may
13 have waited, I don't know, three weeks, a month,
14 because he asked about it. And when I brought it
15 to his attention and said, what do we need to do,
16 and that's when I got on the ball and started,
17 like, hey, obviously, you guys found something you
18 didn't like in there, and I want to make sure it's
19 at least accurate.

20 So when I called them, they told me that
21 the process could take up to four months or --
22 three to four months for the investigation. It
23 depends on how backlogged they are. It's not a
24 high priority is basically what she told me.

25 Q. Did you call in June?

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. No, I called in -- I called at the end of
3 April-ish. Ish. That's rough. It could have been
4 May, April, but somewhere in there.

5 Q. And so have you applied to have your sex
6 offender level changed?

7 A. So yes and no. So it's not something that
8 they just come to me with and say, hey, do you want
9 your level changed? It's something that I had been
10 talking to a detective that comes to my house, and
11 I said, hey, what do I need to do about getting my
12 level lowered? Because the thing that brought this
13 up -- because before, I really didn't -- I didn't
14 look at it that much.

15 Okay. I'm a level 2 registered sex
16 offender, but up to that point, it really hadn't
17 affected me much, other than, yes, it's an
18 inconvenience when I get fliers put out so the
19 surrounding neighborhood knows. My fear isn't that
20 they know. My fear is that they retaliate. So I
21 have children. So if you've ever read any of the
22 horror stories that happen; people's houses get
23 burned down, people have drive-by shootings. I
24 don't want my kids to be a victim of that.

25 So I started really inquiring when my wife

1 WILLIAM TRICK - CROSS EXAMINATION

2 and I recently were going to buy a house, and I
3 wondered what the process was, so that when we
4 moved into a new neighborhood, I wouldn't have
5 immediate fears before we even got in debt.

6 Q. So Mr. Trick, when did you apply to have
7 your sex offender level changed?

8 A. I -- I talked to the detective, and the
9 detective -- they told me that they're currently
10 not lowering anybody's level due to training and a
11 procedure that they're going through, and things
12 like that. So I had no opportunity.

13 Q. Have you filled out any form?

14 A. There is no form. There's -- there's a --
15 it's something that they take you through, and --
16 and whatnot, which now, I'm going to do through
17 Dr. O'Connell. I'm going to -- he -- he actually
18 sits with the same people I talk to at the End of
19 Sentence Review Committee to lower the levels.

20 Q. So at this time, you haven't applied to
21 have your sex offender level reduced?

22 A. That's correct.

23 Q. When did you get married to Ms. Brandy
24 Cunningham?

25 A. Brandy Barnes. Brandy Cunningham is her

0100

1 WILLIAM TRICK - CROSS EXAMINATION

2 name now. She got remarried. I got married on
3 December 1st of 2007.

4 Q. And she had minor children already when
5 you married her, correct?

6 A. She did. She had a four and six old, or a
7 five and seven. I'm not exactly sure how old they
8 were.

9 Q. When did you first meet Ms. Brandy
10 Cunningham -- Brandy Barnes?

11 A. I met her, actually, on a -- on a
12 construction job.

13 Q. And when was that job?

14 A. Late 2005.

15 Q. Now, did you put your reckless driving
16 conviction on the application?

17 A. I did not.

18 Q. Did you put your 1999 conviction for child
19 molestation on the application?

20 A. No, I did not.

21 Q. You testified that you called and talked
22 to staff about the application?

23 A. I did.

24 Q. And you stated that you talked to someone
25 named Michael?

0101

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. I did.

3 Q. Could it have been a person named Megan
4 that you actually spoke to?

5 A. It was a man both times.

6 Q. And you're sure?

7 A. I'm positive.

8 Q. Okay. I have one more question I want to
9 ask you about. On the application, you stated you
10 had nine years of moving experience?

11 A. Roughly, eight, nine years. I refer to it
12 as nearly a decade, so to be more specific.

13 Q. Who have you worked for in the household
14 good moving industry?

15 A. I have moved with a couple labor only
16 companies. Big Foot Moving --

17 Q. Mr. Trick --

18 A. Yes.

19 Q. Could you slow down, please, for the
20 stenographer?

21 A. Okay. Companies like Big Foot Moving, I
22 Heart Moving, Adams Moving & Delivery, A-Ray's
23 Moving Solutions.

24 Q. And do you know, do those companies
25 conduct background checks on their employees?

0102

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. I don't know if they do, but Adams Moving
3 & Delivery, as well as A-Ray's Moving Solutions
4 both know about the past.

5 Q. But you don't know whether they conducted
6 a background check?

7 MR. WALL: Asked and answered.

8 JUDGE FRIEDLANDER: Let's go ahead and
9 have the witness answer that one.

10 A. I don't know. I did fill out an
11 application with all my information, so if they did
12 do a background check, I don't know.

13 BY MR. O'CONNELL:

14 Q. When did you work for these companies?

15 A. Anywhere from 2006, '7 -- '6, '5, '6.
16 It's rough. I'm not sure of the exact start date.
17 All the way up to now. They're all -- they're all
18 off and on due to construction schedule. So --

19 Q. Okay. So do you still do work with each
20 of these companies?

21 A. Not each of them. One of them.

22 Q. Which one?

23 A. Adams Moving & Delivery.

24 Q. When -- can you give me a ballpark, dates,
25 years when you worked for the other companies?

0103

1 WILLIAM TRICK - CROSS EXAMINATION

2 A. Sure. So initially, I worked for Adams
3 first. That's when I met Alex White, who is the
4 owner of A-Ray's Moving Solutions. He branched out
5 and got his own company roughly -- I -- I wouldn't
6 be able to give you an accurate date.

7 I -- it's just something I don't think
8 about. I worked for them for a significant amount
9 of time. Especially A-Ray's, not as much Adams.
10 But I mean, if you want to guess, I will. I would
11 say between 2007 and present.

12 Q. And you don't recall the dates for the
13 other companies either, I'm guessing?

14 A. Those are -- those are kind of individual.
15 So I -- whenever he needed help, he'd say, hey,
16 Billy, are you available to work? And I would say
17 yes or no. So it was very spotty. It could be one
18 day a month. It could be four days a month. It
19 could be no days. Sometimes, I have to tell these
20 guys that I am working six or seven days a week.
21 Currently, I work seven days a week between
22 construction and moving.

23 MR. O'CONNELL: Your Honor, I don't have
24 any more questions.

25 JUDGE FRIEDLANDER: Thank you. Do you

0104

1 WILLIAM TRICK - RECROSS EXAMINATION

2 have any redirect?

3 MR. WALL: Just one question on redirect.

4 JUDGE FRIEDLANDER: Thank you.

5 REDIRECT EXAMINATION

6 BY MR. WALL:

7 Q. Counsel asked you about the work that
8 you've done for other moving companies?

9 A. Yes.

10 Q. Have you also done work on your own?

11 A. I have, where I have done labor only
12 moves, where I -- I don't supply the truck. I just
13 supply the labor. So I go in and basically load
14 their truck up, and then we -- we go over to the
15 drop-off, and I unload their stuff into their new
16 house. I've done -- if you want me to give a
17 ballpark, I would say 800 of those, roughly 800.

18 MR. WALL: Thank you.

19 MR. O'CONNELL: Your Honor, can I ask a
20 follow-up based on that?

21 JUDGE FRIEDLANDER: Okay. That's quite
22 unorthodox. Yes, go ahead. Go ahead.

23 RECROSS EXAMINATION

24 BY MR. O'CONNELL:

25 Q. Mr. Trick, on those moves where you do

0105

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 labor only, do you go into people's homes?

3 A. Yes. Yes, I do.

4 MR. O'CONNELL: That is all, your Honor.

5 JUDGE FRIEDLANDER: Thank you.

6 MR. WALL: Nothing further.

7 JUDGE FRIEDLANDER: Thank you. I have
8 just a couple clarification questions.

9 A. Sure.

10 INQUIRY

11 BY JUDGE FRIEDLANDER:

12 Q. Just give me a moment. Okay. So when you
13 were talking about your support network and then
14 your parents specifically, you mentioned that you
15 learned from your thoughts -- and I can have the
16 court reporter read it back. I was a little
17 confused as to what you meant. Through your
18 parents' support and the rehabilitation, you
19 learned from your thoughts, behaviors and offense.

20 A. Oh, got you.

21 Q. I'm not sure what thoughts you're talking
22 about.

23 A. Okay. So in a cycle of offending, as I
24 was taught in treatment, there are thoughts,
25 feelings and behaviors and circumstances that lead

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 to an offense behavior. Part of rehabilitation is
3 talking to support people about what happened. So
4 sometimes I can get a different perspective from
5 another person.

6 So if I were to give you a full disclosure
7 and I were to give my attorney a full disclosure,
8 you would perceive it differently and say, okay,
9 you really didn't hold yourself accountable there.
10 I'm going to hold you accountable. So that's kind
11 of the feedback I got from my family. Where you're
12 taught -- I was taught how to not minimize the
13 crime, because that's -- that's horrible. You did
14 it. I did it, and so --

15 Q. But I guess, specifically -- yes,
16 specifically, what I was trying to get at was what
17 thoughts of yours that took place at the time or
18 the offense took place or that you were having at
19 the time the offense took place, what thoughts were
20 you trying to rehabilitate?

21 A. Right. Sure. So during that process --
22 so the little time that I had interaction with the
23 children during the offense, thoughts like -- like
24 identifying what my body was doing. So I was very
25 anxious. My heart was racing. Obviously, I knew

0107

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 it was wrong, and I didn't want to get caught, and
3 so I -- my thoughts were, like, what did I tell
4 myself to make it okay?

5 These are also called little white lies,
6 also known as distortions. So I had to learn and
7 think about the thoughts that I had that I broke
8 down -- I broke down my barriers and my walls to
9 allow myself to offend, and so that's specifically
10 what I'm talking about.

11 Q. Okay. Thank you. The other thing was you
12 took classes in -- while you were incarcerated?

13 A. I did.

14 Q. And you received two different degrees?

15 A. Yes, certificates.

16 Q. Certificates?

17 A. Yes, ma'am.

18 Q. Why did you decide not to pursue
19 employment in those fields?

20 A. It's quite simple. For two reasons. One,
21 there was no work, first of all. And two, when I
22 first got out, I was restricted as to who and what
23 -- where I could work. So one of the conditions
24 that the Department of Corrections had with me is
25 anyplace that I worked, I had to give a full

0108

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 disclosure as to what happened at the time of the
3 interview.

4 So I didn't want to waste my skills in
5 that sense, so I wanted to wait until I was off
6 probation where I didn't have to disclose that, and
7 if it came up, then I could talk about it. But I
8 didn't want to just -- my life is nobody's business
9 if it doesn't affect them, in my opinion, as far as
10 employment.

11 If I am not -- I just -- I felt that if I
12 disclosed that, you know, it might hinder my chance
13 of employment. When I first got out, I put in over
14 200 applications -- I was putting in 100
15 applications a day, whether it was on line or in
16 person, before I finally got hired at Jiffy Lube.

17 And it was -- and once I got a job at
18 Jiffy Lube, it wasn't enough to support myself, so
19 I continued and continued and continued and
20 continued. I was sleeping on average four hours a
21 day. I was looking for another job, and finally, I
22 was hired at QFC. QFC made me aware that I was the
23 first sex offender they had ever hired, and that was
24 at the Capital Hill Harvard Market QFC.

25 During the interview, I gave him a full

0109

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 disclosure. He told me, he said, well, you sold
3 yourself to me. He goes, don't tell anybody,
4 because when you do, it will -- it will go through
5 162 people in an hour, and it did when it
6 eventually happened.

7 So as I continued my employment, and
8 moving up in the world, those certificates kind of
9 went -- went kind of on the back burner. So that's
10 why I didn't -- I didn't pursue a career in
11 information technology, IT, or interactive
12 communication multimedia. So in retrospect --
13 commercials, things like that, I stay out of the --
14 I try to, you know, stay out of the limelight a
15 little bit.

16 Q. And so you mentioned there were --
17 initially, when you were released, there were
18 restrictions on where you could work?

19 A. Not where I could work, but there were
20 restrictions -- so they would say -- yes. Yes. I
21 mean, obviously, don't go apply to a daycare.
22 Don't go apply at a school. Don't go apply at a
23 YMCA. You know what I mean? I could have no
24 direct contact with minors.

25 The only contact with minors I was allowed

0110

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 to have was if I were to go into a restaurant, I'd
3 say a fast food and order, I could order if the
4 person across the counter was under 18. That's
5 what they call paper and plastic. Decide. Pick
6 and choose your battle.

7 So if I'm in a grocery store and I go down
8 the aisle and there's kids running around, choose a
9 different aisle. I mean, it's real simple. If you
10 couldn't get along with the Department of
11 Corrections afterwards, you have a problem. You're
12 looking for problems. So --

13 Q. So those restrictions, are they still in
14 place?

15 A. No. I have no restrictions, other than I
16 can have no contact with my victims.

17 Q. And are you currently on parole --

18 A. No.

19 Q. -- or probation, or anything like that?

20 A. I am not. I was released from probation
21 in 2007.

22 Q. Okay. And as much as I don't want to get
23 into the details of what happened --

24 A. Sure.

25 Q. -- I do need to know a little bit more

0111

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 about the circumstances.

3 A. Okay. You ask the question, and I'll
4 answer it for you, and then --

5 Q. Okay. That's fine. So you were
6 intoxicated when this occurred?

7 A. I -- I was -- I was feeling good, yes. I
8 don't necessarily know that I was obliterated drunk,
9 because I was conscious in my decisions, where --
10 where my decisions were impulsive, and obviously,
11 not to, you know, par, yes, of course. The alcohol
12 affected my decisions a little bit.

13 Q. Had you had any kind of contact of this
14 nature, meaning of a sexual nature, with children
15 or underaged people before this?

16 A. In -- as far as, like, a --

17 Q. I'm not talking charged. I'm talking just
18 right now, under oath, had you ever done anything
19 like this prior?

20 A. No. I -- I did, during treatment, admit
21 to -- and what I now understand it as curious play,
22 is how my treatment provider put it -- put it,
23 sorry -- I had admitted to, if you will, fooling
24 around with a cousin at a birthday party. She was
25 -- I was 12 or 13, and she was 9 or 10, 8 or 9, and

0112

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 that happened on -- with -- with two different
3 cousins. It was the same party. So --

4 Q. This was not while intoxicated?

5 A. No, no. I was 12 or 13.

6 Q. Okay. And since your arrest -- I should
7 say, since the incident that occurred with these
8 two girls, have you since had any similar
9 interactions with other children?

10 A. No, I have not. No. No.

11 Q. But you do still drink?

12 A. I drink on occasion. I don't -- I've
13 pretty much cut alcohol out of my life, other than,
14 like I said, if I were to go to dinner with my wife
15 or -- or we're at Costco, and there's a nice
16 cabernet, you know, we'll -- we'll buy a bottle,
17 and I'll have -- that bottle will last a minute.
18 So no, I don't drink regularly, and I can't
19 remember the last time I was intoxicated.

20 MR. WALL: I'm sorry, if I could just jump
21 in. When you say last a minute, I think you
22 mean --

23 A. Oh, that the bottle lasted a month.

24 MR. WALL: You were using that in, like,
25 the vernacular sense?

0113

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 A. Sure, sure. Right. Right.

3 MR. WALL: Not that the bottle was
4 immediately gone?

5 A. And just so you know, once you open a
6 bottle, it's not very good after a month.

7 CONTINUING INQUIRY

8 BY JUDGE FRIEDLANDER:

9 Q. So let me just go through my notes again
10 and see if I have any further clarification
11 questions.

12 A. Okay.

13 Q. With regard to the reckless driving --

14 A. Yes, ma'am.

15 Q. -- you said that was about two or three
16 years ago, is that right?

17 A. Correct. It was -- in fact, I'm not sure
18 how they came up with the three year thing, but I
19 have to file an SR 22 for up to three years, and
20 that ends on November 22nd of this year.

21 Q. So were you intoxicated at that time?

22 A. No. I -- we -- we had a few beers, two or
23 three, and I just -- I had gotten a phone call from
24 Ashley, who -- we weren't married at the time, and
25 asked me if I could, you know, cut it a little --

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 she asked me if we were done bowling, and whatnot.

3 And I said, yes, we're kind of BS-ing a little bit.

4 And she goes, okay.

5 And I had to work the next day, and so I

6 just told the guys, hey, I'm going to take off.

7 Hence, I hang out with pretty much married guys

8 with kids, so I believe that we're very responsible

9 in that way, and it was a -- it was a bad judgment

10 call on my part, and I -- I -- when I got on the

11 highway and headed north, I got pulled over.

12 Q. And why were you pulled over?

13 A. I was pulled over because I was on my cell

14 phone. I was talking to my wife, letting her know

15 that I was on my way, and I got pulled over.

16 Q. So the cell phone usage is what

17 constitutes the reckless driving misdemeanor?

18 A. No.

19 Q. Okay. So what --

20 A. They -- they pulled me over for that.

21 Then when they pulled me over, they asked me if I

22 had been drinking, and I said yes. They did a

23 field sobriety test, which I don't know if that's a

24 pass/fail. They didn't really say anything. I did

25 blow into their little breathalyzer on site and

0115

1 WILLIAM TRICK - RECROSS EXAMINATION

2 also over at the UW.

3 Because I did get pulled over right before
4 520, Interstate 520, the floating bridge, heading
5 north on I-5. So it was right there, and I did
6 blow over the legal limit and -- originally, and so
7 they arrested me for driving under the influence,
8 and the end result of that was 40 hours of
9 community service and a reckless driving.

10 Q. Do you remember what the exact calculation
11 of the -- the intoxication level?

12 A. Right. Right. It was either a .09 or a
13 .10. It wasn't as high -- and the officer -- I
14 remember his name. Officer -- State Trooper
15 DeFrang, who is the guy who later told me, you
16 know, I'm the one who trains people for this, and
17 he told me, he goes -- you know, I cooperated with
18 him. I didn't hide it. You know, he said, hey,
19 unfortunately, you're just about a half a beer or a
20 beer too much. He goes, you should have waited.

21 And then through that process, I learned
22 quite a bit about that, because they make you go
23 through a victims impact panel, where people kill
24 people, and I -- I got to talk with mothers who
25 lost their kids due to drunk drivers. And that's

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 when I said, you know, it's time to change a little
3 something about this.

4 So now, it doesn't matter if I have a sip
5 of beer or a glass of wine, I don't drive. That's
6 it. My wife very rarely drinks at all either. So
7 we're kind of in cahoots with that and, you know,
8 she wasn't too happy when I got home, so she pretty
9 much gave me an ultimatum. So if this ever happens
10 again -- you know, she has a six year old son. I
11 completely agree. So it's not okay.

12 JUDGE FRIEDLANDER: Okay. And that's --
13 that really is all of the clarification questions
14 that I have.

15 A. Okay.

16 JUDGE FRIEDLANDER: So thank you for your
17 testimony, and you're excused.

18 A. Okay.

19 JUDGE FRIEDLANDER: Thank you. So I don't
20 know if we want to take a short recess, and then
21 Mr. O'Connell, you'll present Ms. Paul, and we'll
22 follow from there.

23 MR. O'CONNELL: Well, your Honor, I expect
24 that Ms. Paul's testimony will take more than the
25 40 minutes we have until Dr. O'Connell is scheduled

0117

1 WILLIAM TRICK - RE-CROSS EXAMINATION

2 to testify. My preference would be to not cut her
3 off on the stand.

4 Is it -- can we arrange it so that we can
5 take a break until Dr. O'Connell's testimony, and
6 then have Ms. Paul after Dr. O'Connell?

7 JUDGE FRIEDLANDER: Why don't we do that?
8 We'll take an early lunch, and when we come back at
9 noon, we'll have Dr. O'Connell finish his
10 testimony. And following that, we'll have staff's
11 case. All right. We are in recess until noon.
12 Thank you.

13 MR. O'CONNELL: Thank you, your Honor.

14 MR. WALL: Thank you, your Honor.

15 (A recess was then taken.)

16 JUDGE FRIEDLANDER: So we'll go back on
17 the record. We are going to proceed with the
18 continuation of Dr. O'Connell's examination.

19 However, I wanted to address Five Stars'
20 motion for lead to file its brief, a legal brief.
21 I am going to deny the motion. I've given the
22 parties a couple of opportunities to express their
23 legal views in both opening and closing statements,
24 and in addition, I don't view this case as having
25 legal issues that are sufficiently complex to

0118

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION
2 warrant legal briefing.

3 So that, along with the declaration that I
4 ruled on over the last couple of days that were
5 denied, will -- will be my ruling.

6 I believe, Dr. O'Connell, are you on the
7 line?

8 THE WITNESS: That's correct.

9 JUDGE FRIEDLANDER: Okay. Thank you. We
10 are back on the record. Mr. Wall, I believe you
11 were examining -- or finishing up your direct
12 examination. And you are still under oath. I just
13 wanted to remind you.

14 THE WITNESS: Okay.

15 JUDGE FRIEDLANDER: Thank you.

16 Whereupon,

17 MICHAEL A. O'CONNELL,
18 having been previously duly sworn, testified
19 further as follows:

20 CONTINUING DIRECT EXAMINATION

21 BY MR. WALL:

22 Q. Thank you for calling back in,
23 Dr. O'Connell. I think that we had just talked
24 about the Washington Institute of Public Policy and
25 its findings regarding the notification levels and

0119

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION

2 how that consideration score has little or no
3 accuracy in predicting recidivism.

4 I wanted to ask you -- I think this is
5 probably the last topic. If you could turn to --

6 JUDGE FRIEDLANDER: Mr. Wall, do you have
7 your mike on?

8 MR. WALL: Yes. Sorry.

9 JUDGE FRIEDLANDER: Very good. Great.

10 MR. WALL: I'll speak into it more.

11 JUDGE FRIEDLANDER: Thank you.

12 BY MR. WALL:

13 Q. If you could turn to the exhibits that I
14 sent you labeled I and J? And for those of us
15 following along here, they are Exhibits 11 and 12.
16 And I'm not sure if your copy of Exhibit 11 got cut
17 off, but apparently, in making the PDF, I just
18 realized that the exhibit got cut off.

19 So we'll focus on Exhibit 12, then. Are
20 you familiar with the Certificate of Restoration of
21 Opportunities Act, which is pending in the
22 legislature?

23 A. Yes, you brought that to my attention.

24 Q. And do you know, what is -- what is your
25 understanding of it? Have you had an opportunity

0120

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION

2 to read about it?

3 A. I -- I read through it, and I'm familiar
4 with it as part of a larger public policy
5 initiative where there is a sort of a growing
6 appreciation that -- making it impossible for
7 people who have committed offenses in the past to
8 get employed, to get licenses, and whatnot, has --
9 is coming to be seen as a -- as an overreach as one
10 that gets in the way of people sort of
11 rehabilitating themselves and pursuing that line of
12 desistance that I talked about earlier, you know,
13 talking about getting -- getting rooted in the
14 community and having, you know, attachments that
15 makes them want to behave well and have
16 responsibilities that they're -- they're committed
17 to doing.

18 And I think the City of Seattle has
19 recently -- they have led an ordinance, and I know
20 the state of Georgia and a couple of other
21 jurisdictions have made it a requirement that
22 employers cannot ask about and rule out job
23 candidates based on their criminal history at the
24 first level. So that, you know, you get to -- a
25 job applicant gets to at least have an interview

0121

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION

2 before the issue of their criminal history comes up
3 and gets -- gets factored into a hiring decision.

4 Q. If you look at page 2 of what you have as
5 Exhibit J, what we have as Exhibit 12, and it has a
6 summary of the bill explaining that if you --

7 A. This is the house bill report?

8 Q. Right.

9 A. Right.

10 Q. On page 2, the summary of the substitute
11 bill?

12 A. Yes.

13 Q. It's talking about a Certificate of
14 Restoration of Opportunity, what's abbreviated
15 CROP. So as I understand it, that's a mechanism
16 that people with a conviction can apply for. If
17 they obtain a CROP, then it says, no state, county
18 or municipal department essentially will deny a
19 permit or a license based solely on the applicant's
20 criminal history, if the applicant meets all the
21 other statutory and regulatory requirements?

22 JUDGE FRIEDLANDER: I'm going to stop you
23 right there. Is this still -- has this been
24 enacted or signed?

25 MR. WALL: It has not. It's pending at

0122

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION
2 the legislature.

3 JUDGE FRIEDLANDER: What is the relevance
4 of this?

5 MR. WALL: The relevance, I think, is that
6 there's a growing awareness -- and I would like to
7 Dr. O'Connell about this. A growing awareness in
8 the professional field, but also, within the
9 legislature, that the denial of licenses for people
10 pursuing their chosen profession is
11 counterproductive to their rehabilitation and
12 reintegration into society.

13 JUDGE FRIEDLANDER: Mr. O'Connell?

14 MR. O'CONNELL: May I be heard, your
15 Honor?

16 JUDGE FRIEDLANDER: Yes, please.

17 MR. O'CONNELL: Staff does have an
18 objection on relevancy. You think see on the
19 bottom of the first page of this, it says it's not
20 part of a bill that's been passed. It's not part
21 of an analysis. It's not part of legislation.

22 I think Mr. Wall is free to ask
23 Dr. O'Connell his questions, but I don't think
24 there's still -- this court should consider.

25 MR. WALL: Your Honor, just to make clear,

0123

1 DR. MICHAEL O'CONNELL - CONT. DIRECT EXAMINATION

2 I'm not -- I'm not offering it as a binding legal
3 authority for the UTC or anything, but I think that
4 it does represent a policy, and I think that policy
5 arguments should be considered, in addition to
6 legal arguments.

7 JUDGE FRIEDLANDER: Right. And I have no
8 problem with you asking questions about it, but I
9 don't think we need to get into the substance of
10 it, including the CROP, because this isn't even
11 part of our legislative scheme right now, and I --

12 MR. WALL: Right.

13 JUDGE FRIEDLANDER: -- I do take
14 Mr. O'Connell's point, that this would not become
15 an exhibit.

16 MR. WALL: Okay.

17 Q. Dr. O'Connell, do you -- in your
18 professional opinion, is there -- do you perceive
19 some irony in this area with professional licenses?

20 A. I'm not -- I'm not -- I'm not sure of the
21 point that you're -- you're asking about, the irony
22 piece.

23 Q. Let me try and ask -- let me ask a better
24 question. How can the denial of a license affect
25 someone's rehabilitation and reintegration into

0124

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 society?

3 A. Well, licenses, in general, and -- and

4 employment opportunities, in particular, are -- do

5 get in the way of people, you know, moving along

6 with their lives, establishing, you know,

7 connections to the community and promoting that

8 process of desistance, which is a, you know,

9 rehabilitative factor for most people who once

10 committed offenses and then go on to leave -- go on

11 to live law abiding responsible lives.

12 On the other hand, there are certain

13 perfectly reasonable restrictions on people who

14 abuse children being in positions of authority,

15 people who embezzle working in banks, that sort of

16 thing.

17 MR. WALL: Thank you, Dr. O'Connell. I

18 don't have any further questions for you at this

19 time.

20 JUDGE FRIEDLANDER: Thank you.

21 Mr. O'Connell, do you have any cross exam?

22 MR. O'CONNELL: I do, your Honor.

23 JUDGE FRIEDLANDER: Okay.

24 CROSS EXAMINATION

25 BY MR. O'CONNELL:

0125

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 Q. Dr. O'Connell, can you hear me?

3 A. Yes, I can hear you fine.

4 Q. Okay. Can you tell me if you've met with
5 Mr. Trick?

6 A. I have just talked with him over the
7 phone.

8 Q. When did you speak with him?

9 A. It was in the last couple of days.

10 Q. Okay. So that was last week or this week?

11 A. You know, it -- it -- it may have been
12 yesterday. In fact, I think it was yesterday.

13 Q. How long did you speak?

14 A. I guess it was Monday. And it was --
15 well, let me see. I did make a note of that. I
16 made -- 2.1 hours. But that also included a
17 follow-up consultation with -- with Attorney Wall.
18 So it was -- it was certainly over an hour, maybe
19 an hour and a half.

20 Q. Did you speak with him only that one time
21 on the telephone?

22 A. That's right.

23 Q. Okay. Were you given any materials as
24 collateral for your evaluation?

25 A. I was -- I was provided with the judgment

0126

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 and sentence, the -- the posting on the King County
3 web site, the registration details and the notice
4 of intent to deny the -- the license in this case.

5 Q. Okay. And do you normally receive
6 collateral information when you make evaluations?

7 A. I'm sorry?

8 Q. Do you normally receive collateral
9 information when you're making an evaluation?

10 A. Oh, yes. I -- I would -- just to be
11 clear, what I'm -- what I'm testifying to is a
12 first impression, not a definitive assessment.

13 Q. So your testimony today is limited only to
14 a preliminary determination on your behalf?

15 A. That's right.

16 Q. So you would like to have more information
17 and more time in order to make an evaluation, is
18 that -- my understanding correct?

19 A. In order to make a more definitive
20 evaluation, I would want more information and more
21 time to process it.

22 Q. So to make a full evaluation of
23 Mr. Trick's risk level and the risk that he
24 presents for re-offense, you would like more
25 information, is that correct?

0127

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 A. That's correct.

3 Q. And the only copy of court documents that
4 you received was the judgment and sentence for
5 Mr. Trick's 1999 conviction?

6 A. That's correct.

7 Q. Have you seen the pre-sentence
8 investigation report from Mr. Trick's 1999
9 conviction?

10 A. I have not.

11 Q. Have you seen the information or the
12 certificate of probable cause for his conviction?

13 A. No.

14 Q. Did you look up Mr. Trick on the sex
15 offender registration web site?

16 A. I didn't. Mr. Wall provided me the
17 information that was downloaded from that. The --
18 the -- and there's a not lengthy comment section.

19 Q. Okay. And so I guess my question for you
20 is, going forward in your evaluation, would you
21 like to be given all these documents with more
22 information in order to make your evaluation?

23 A. Oh, absolutely, yes.

24 Q. Okay. Are you aware that Mr. Trick was on
25 supervised release after prison?

0128

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 A. That's what I understand.

3 Q. All right. Can you tell me exactly what
4 Mr. Trick told you about his offense?

5 A. I did not make extensive notes about that,
6 so part of what I'm going to be saying in response
7 to your question is going to be sort of my memory
8 and impressions.

9 He was arrested in July of '99. He was --
10 and I do have some notes here, so I'm -- I'm using
11 that as a -- as a -- to jog my memory. He was in
12 the Navy. He was stationed on an aircraft carrier.
13 It was at drydock. He had a -- he had a side job
14 working at a pizza place. A co-worker at that
15 pizza place was having a party. He went to a party
16 at her house off base. It was a large party, 50 or
17 more people there, a fair amount of drugs and
18 alcohol.

19 He got pretty intoxicated. He was invited
20 to stay rather than drive back. He was sleeping in
21 a bedroom. Twin seven and a half year old girls
22 came in and slept with him. We didn't talk much
23 about the specifics of the -- of the details that
24 happened there. The girls -- he was alone with
25 them, and the door was closed. He got aroused.

0129

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 He made excuses to himself, and molested
3 the -- the girls, and I have a note here that said,
4 and including that I orally raped them, having oral
5 sex with them. I don't think it was the next
6 morning. Several months later, he was contacted by
7 police and was charged.

8 So that's just a once -- that was a brief
9 discussion we had about the offense.

10 Q. So you didn't really receive a lot of
11 details about the nature and extent of the crime,
12 is that correct?

13 A. Nor did I ask for them at the time.

14 Q. Is that information that you would like to
15 have in making your evaluation?

16 A. Yes. That would be -- that would be a
17 normal part of the evaluation process.

18 Q. Okay. In your experience, do sex
19 offenders often minimize their crime?

20 A. Quite often. More likely than not.

21 Q. Do they try to hide their crime?

22 A. Well, by definition, it's something they
23 -- you know, at the time, they're -- they're
24 hiding. And part of the evaluation and treatment
25 process is to break down the barriers to be able to

0130

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 talk morbidly and candidly about that, so others
3 know about their potential risks and they can see
4 them more clearly themselves.

5 Q. So in your experience, are sex offenders
6 good manipulators?

7 A. Well, they often are. It's sort of a
8 requirement of the -- of being in that situation.

9 Q. What about child molesters, in your
10 experience, are they good at manipulating people?

11 A. Well, it's -- it's difficult to make
12 generalizations, but they are often good
13 manipulators. Again, by the nature of the
14 requirements of the situation.

15 Q. In your experience, would you say that
16 children are more or less vulnerable to
17 manipulation than adults?

18 A. Oh, more.

19 Q. So I want to go back to Mr. Trick being on
20 supervised release after prison. I'm guessing,
21 since you knew about that, he shared that
22 information with you?

23 A. I -- I was aware of it, and we talked
24 about it briefly. And he also talked about being
25 in the follow-up community-based treatment program

0131

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 while on supervision.

3 Q. Are you aware of what Mr. Trick's
4 conditions were during his supervised release?

5 A. We didn't talk about them specifically. I
6 -- I could make a guess about what they were, and I
7 made certain assumptions about what they were, but
8 we didn't talk about them.

9 Q. Okay. Well, if I told you that one of his
10 conditions was that he have no contact with minor
11 children, and that a few months after his
12 supervision ended, he married a woman with minor
13 children, would that raise any red flags to you?

14 A. We actually did talk about the fact that
15 he had -- I believe it was a marriage with
16 children, and I -- and I said -- we talked about
17 how that could create complications, and he needed
18 to be thinking about that.

19 So I mean -- so yes, simplifying my
20 answer, you know, being -- being in contact and
21 having, you know, control over children is a risk
22 factor that needs to be taken seriously.

23 Q. Okay. So I want to make sure I understand
24 you. You are saying that you would be concerned
25 about a convicted child molester seeking out

0132

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 situations with greater exposure to children?

3 A. Having access to potential victims is a
4 risk factor.

5 Q. So in your experience, would you say that
6 sex offenders are very truthful and forthcoming?

7 MR. WALL: I'm going to object to the
8 question. It calls for generalizations.

9 MR. O'CONNELL: Your Honor, Mr. Wall and
10 Five Stars Moving has put forward Dr. O'Connell as
11 an expert in psychology. I think he's qualified to
12 give his opinion based on his experience.

13 MR. WALL: My objection is specifically
14 about the specific --

15 JUDGE FRIEDLANDER: Could you move your
16 mike closer?

17 MR. WALL: I apologize.

18 JUDGE FRIEDLANDER: Thank you.

19 MR. WALL: I apologize. My objection was
20 about the specific relevance of the question asked.
21 It calls for a generalization, and not specifically
22 applicable to Mr. Trick or his circumstances.

23 JUDGE FRIEDLANDER: And actually, you'll
24 have a chance to respond on redirect to any
25 generalizations, so I'm going to allow it.

0133

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 Based on your experiences, Dr. O'Connell,
3 you can answer the question.

4 A. And could you restate the question?
5 Because I got lost in the back and forth there.

6 BY MR. O'CONNELL:

7 Q. Yes, I can. In your experience,
8 Dr. O'Connell, would you say that sex offenders are
9 truthful and forthcoming?

10 A. Well, again, if you're doing something
11 you're not supposed to be doing, you're hiding it
12 and you're -- and you're denying it when -- when
13 challenged, one of the sort of core objectives of
14 -- of specific sex offender treatment is to break
15 through that level of -- of denial and resistance,
16 and become more open and self-disclosing and
17 transparent about that.

18 So it's -- it's -- it's a -- it's a --
19 it's a need and a problem that needs to be
20 addressed.

21 Q. Okay. I want to talk briefly about the
22 End of Sentence Review Committee, the risk levels
23 that are established, how they're established, and
24 I want to ask you a couple questions about the
25 testimony that you gave earlier.

0134

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 A. Okay.

3 Q. Would it be a fair characterization to say
4 that at the time Mr. Trick was released from
5 prison, his risk level was assessed with the
6 current and up-to-date methods of the time?

7 A. With the tool that was being used at the
8 time -- actually, the -- by 2004, that tool had
9 been sort of overtaken by events and was a sort of
10 a remnant of -- of an earlier -- it was not the
11 latest and greatest at the time.

12 It was -- it was -- it was a fair -- it
13 was a fair attempt at doing an empirical
14 assessment. And Washington state, at the time, was
15 doing lots better than most other jurisdictions,
16 but in retrospect, we know it was -- it -- it had
17 some -- it had some flaws.

18 Q. So at the time, it was -- as Washington's
19 tool and Washington being a state that was doing
20 more than other states, it was state of the art?

21 A. It's -- it's too much to say it was state
22 of the art, but it was a -- it was a reasonably
23 good attempt at -- at a -- a fair and -- and
24 accurate risk assessment.

25 Q. And you'd agree that as we've gone on in

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 time, we have tried to improve the tools that we
3 use, including --

4 A. That's correct.

5 Q. -- this tool?

6 A. That's correct.

7 Q. And likewise, do you think that the state
8 of Washington has improved its treatment that it
9 offers over time?

10 A. Over time, the treatment has improved.

11 Q. So the treatment today that a sex offender
12 would receive is better than the treatment that
13 they would have received back in 2004?

14 A. I would guess that it -- that it is, but
15 it was pretty good back then.

16 Q. So Dr. O'Connell, are you aware how the
17 End of Sentence Review Committee now assigns
18 offender levels?

19 A. It's -- my understanding is that they're
20 using the STATIC 99.

21 Q. Are you aware of whether they're using any
22 other tool?

23 A. I know that there are other tools under
24 development. I know there was a tool being
25 developed by DOC specific to Washington state, but

0136

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 I am not -- I'm not sure of more than that.

3 Q. Have you ever been part of an End of
4 Sentence Review Committee?

5 A. I have not.

6 Q. Okay. Are you familiar at all with the
7 Minnesota Sex Offender screening tool?

8 A. Yes, I am.

9 Q. Would it surprise you if the End of
10 Sentence Review Committee used that, also?

11 A. Well, the Minnesota Sex Offender Screening
12 tool was embedded in the Washington State Sex
13 Offender Risk Classification tool, and -- and had
14 been from the beginning of there being a -- you
15 know, an empirically-based tool back in the mid
16 '90s.

17 Q. Are you aware that the Minnesota Sex
18 Offender Screening tool was updated in 2012?

19 A. I am aware of that.

20 Q. Dr. O'Connell, in your experience, do you
21 know, can sex offenders apply for their offender
22 level to be reduced?

23 A. It's my understanding that that gets done
24 to the law enforcement jurisdiction that is -- you
25 know, where they're registered, where they're

0137

1 DR. MICHAEL O'CONNELL - CROSS EXAMINATION

2 residing. It doesn't go through the End of
3 Sentence Review Committee. It's done on a, you
4 know, county by county or jurisdiction by
5 jurisdiction basis.

6 Q. Okay. Can a sex offender apply to have
7 their level reduced?

8 A. It can be done. I've been involved in
9 cases where that's happened.

10 Q. Okay. I have one last topic I want to ask
11 you about. Dr. O'Connell, is it your opinion that
12 Mr. Trick presents no risk to re-offend?

13 A. No, I'm not saying that.

14 Q. So you would agree with me if I said that
15 the risk that Mr. Trick will re-offend is somewhere
16 above zero?

17 A. And I would say that anybody, even
18 somebody who has never been convicted of a sex
19 offense, has a percentage of risk of greater than
20 zero. He would -- he would be somewhat higher than
21 that, but yes, he's more than zero.

22 Q. Are you able to quantify exactly what the
23 risk is that Mr. Trick will re-offend?

24 A. No. And in fact, nobody can. And these
25 risk tools do not give a precise risk factor for

0138

1 DR. MICHAEL O'CONNELL - REDIRECT EXAMINATION

2 any particular person. All it can do is -- is
3 compare somebody to a pool of people who are -- who
4 have similar characteristics.

5 Q. Okay. I just wanted to clarify one thing
6 with you. You are aware that Mr. Trick's crime
7 involved the offense against two seven-year-old
8 children?

9 A. That's right.

10 MR. O'CONNELL: Okay. I have no more
11 questions, your Honor.

12 JUDGE FRIEDLANDER: Thank you. Redirect?

13 MR. WALL: Thank you, your Honor.

14 REDIRECT EXAMINATION

15 BY MR. WALL:

16 Q. Dr. O'Connell, I believe your testimony
17 was that you spoke Monday with Mr. Trick for
18 something less than 2.1 hours, is that right?

19 A. That's correct. That's correct.

20 Q. And then I think you testified that you'd
21 like more information to verify the facts.
22 Assuming -- but you testified previously as well
23 that you were able to reach a tentative conclusion,
24 is that right?

25 A. Yes. I mean, it's a -- it's a first

0139

1 DR. MICHAEL O'CONNELL - REDIRECT EXAMINATION

2 impressions based on the information I had
3 available.

4 Q. And would the further information that you
5 need, would that consist largely of verifying the
6 facts, as they were given to you?

7 A. And adding, you know, any additional
8 information that may not have come up in our
9 initial conversations.

10 Q. Okay. And assuming that the facts that
11 you -- as they were presented to you were -- if you
12 were able to verify them, and in gathering
13 additional information, no new red flags came up,
14 would your assessment, then, be in a position to be
15 finalized?

16 A. Oh, I could -- I could make a more
17 definitive assessment. These things are never rock
18 solid. They're always, as I was saying in the --
19 in the last round of questioning, it's always --
20 he's in a pool of people who look like this.

21 Q. Counsel asked you about Mr. Trick's
22 marriage to a woman with minor children. If
23 someone with a conviction for a sex offense has
24 access to potential victims but does not re-offend,
25 what does that tell you about that person?

0140

1 DR. MICHAEL O'CONNELL - REDIRECT EXAMINATION

2 A. It -- it -- that's consistent with the
3 other piece of information we've been talking
4 about, about time in the community and at risk
5 without re-offending. So any time you have a
6 period of time, you know, being in the community is
7 -- is -- it provides more opportunities for
8 mischief than being in prison.

9 And being in a family situation with kids
10 provides more opportunity than that. And someone
11 who has been in those situations without
12 re-offending provides some additional information
13 that suggests lower risk.

14 Q. Have you had experience with people with
15 criminal convictions minimizing their offenses?
16 Have you experienced that in interviews with people
17 who were convicted?

18 A. Absolutely.

19 Q. When you were speaking, can you recognize
20 when someone is doing that?

21 A. One never knows for sure, but I didn't --
22 I didn't have a sense of that with Mr. Trick. In
23 fact, he was -- my sense was he was very open in
24 disclosing and was providing me, if anything, more
25 information than I needed under the circumstances.

0141

1 DR. MICHAEL O'CONNELL - REDIRECT EXAMINATION

2 Q. And just to clarify, you said, I think,
3 that it would take you approximately six to eight
4 weeks to conduct the further analysis that you need
5 to finalize your conclusions?

6 A. That's right.

7 Q. Okay. And you do, in fact, have plans to
8 do that?

9 A. I understand Mr. Trick would like me to do
10 that, and plans to follow through.

11 Q. Okay. I just want to ask you one last
12 question about the -- you were asked about the
13 Minnesota Sex Offender Screening tool, which you
14 said was embedded in the 2004 test, is that right?

15 A. That's correct.

16 Q. And is the Minnesota Sex Offender
17 Screening tool the actuarial tool you were
18 referring to when we spoke previously about the
19 2004 test?

20 A. That's correct.

21 Q. And that's the test that you, in fact,
22 used with Mr. Trick, is that right?

23 A. Yes. That was the one that yielded the
24 score of 24 that we talked about earlier.

25 Q. Okay. And that's the tool that has the

0142

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY
2 level 46 that we talked about earlier, where you
3 need a 46 to be considered a level 2?

4 A. That's right.

5 MR. WALL: Okay. Thank you.

6 JUDGE FRIEDLANDER: Thank you.

7 INQUIRY

8 BY JUDGE FRIEDLANDER:

9 Q. Dr. O'Connell, please stay on the line for
10 just a moment, because I do have a couple of
11 questions for you, just clarification questions,
12 based on what you've -- the information you've
13 provided to both counsels.

14 A. Yes.

15 Q. So I take it that risk factor would equate
16 to recidivism rate?

17 A. I'm not sure the context of risk factor
18 that you're -- that you're referring to.

19 Q. Okay. Sure. So you're using the
20 vernacular risk factor, and I guess, in legal
21 parlance, we use recidivism rate or re-offense
22 rate. Is it pretty much the same thing?

23 A. Okay. So risk -- when I'm using the term
24 risk factors, I'm talking about elements that add
25 up to a -- a predicted recidivism rate.

0143

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY

2 Q. Okay. That makes sense. So what is the
3 recidivism rate, if you know it, for level 2
4 offenders?

5 A. Boy, I don't have that information at my
6 fingertips. I could give you a -- you know, a
7 seat-of-the-pants guess of somewhere around 18
8 percent.

9 Q. And that's for level 2?

10 A. That's just a guess. Yes. And I'm -- and
11 I'm -- it's -- it's been a while since I've -- I've
12 looked at that, but --

13 Q. And I understand it's just a guess. Maybe
14 what --

15 A. Right.

16 Q. -- would be helpful is if, when we're done
17 here, and obviously, when you have a chance, maybe
18 sometime today, if it turns out -- maybe you can
19 let counsel, Mr. Wall, know what the actual number
20 is.

21 A. Okay.

22 Q. And then if you would also provide the
23 recidivism rate for level 1 offenders at that time?

24 A. That, I know is under 10 percent.

25 Q. Okay. And is that after one year? After

0144

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY

2 two years? After five years?

3 A. I think -- I think it's five years, but
4 again, I would need to -- to do a little digging
5 and get that information.

6 Q. Sure. Just a couple of other
7 clarification questions. So I'm going to take
8 advantage of your -- your knowledge -- your much
9 greater knowledge of psychology than I have as an
10 attorney.

11 Since you were -- well, you didn't -- you
12 didn't treat Mr. Trick. Since Mr. Trick received
13 treatment, would this be classified as a disorder,
14 his conduct, or the symptom of a disorder?

15 A. It could be, but it's not -- I mean, the
16 disorder that you're probably referring to is
17 pedaphilia. And if, indeed, his only sexual acting
18 out or -- or sexual -- sexually driven behavior was
19 one incident, it wouldn't meet the criteria for
20 pedaphilia. You need a pattern of behavior that
21 causes problems for more than six months.

22 Now, I don't know enough about his --
23 about his -- about his larger presentation than
24 this limited information I have, but it -- it
25 occurs to me that he may not meet the criteria for

0145

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY
2 pedaphilia, and that sexual interest in children,
3 you know, was not a significant factor in the
4 offense. It may be just a situational opportunity,
5 you know, boundaryless behavior with disinhibiting
6 effects of alcohol that may have been the, you
7 know, the driving force. And youth and immaturity
8 and lack of, you know, just managing his life in a
9 more structured and mature way.

10 Q. So the alcohol may have played a factor in
11 his decision to commit the crime?

12 A. It may have been a factor.

13 Q. Okay. And then also -- but there are
14 multiple factors that may have went into it?

15 A. There usually are.

16 Q. Okay. You had mentioned that individuals
17 never have a no risk, that there's no such thing as
18 a no risk individual. What I got a little bit
19 confused about was that you also said that there's
20 no such thing as an incurable individual.

21 So can you kind of explain the difference
22 here between not having -- not having a no risk
23 individual, and yet, also being able to potentially
24 cure someone?

25 A. Right. And actually, cure is not a useful

0146

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY

2 construct for thinking about this. And the -- the
3 model that's more useful for thinking about how to
4 respond to somebody who has acted out sexually, so
5 think in terms of, like, substance abuse.

6 There are some people who are
7 physiologically addicted to certain substances,
8 let's say alcohol and, you know, if they take one
9 drink, they can't stop. There are other people who
10 have misused alcohol and who have, you know, caused
11 problems for themselves or others, and a person who
12 has, you know, engaged in that behavior can't say,
13 I'm cured, I can -- you know, I never have to think
14 twice about use of alcohol again.

15 It's more useful to think about them as
16 managing their life better. If they have a
17 physiological addiction, to structure their life so
18 they don't put themselves into contact with
19 alcohol, build social structures so that they avoid
20 the social occasions where someone is going to hand
21 them a drink and they're going to feel social
22 pressure to do that.

23 So -- so managing -- managing of potential
24 risks, rather than cure, is the more useful way to
25 think about this. So the fact that somebody --

0147

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY

2 that you can't cure somebody who has been -- who
3 has engaged in sexual misbehavior and committed a
4 sex offense does not mean that that person is
5 irredeemable and can never be trusted to be
6 outside, you know, the walls of a prison.

7 Q. Right. But if I'm understanding
8 correctly, it's kind of a maintenance is a lifelong
9 issue?

10 A. That's correct.

11 Q. Okay. Okay. And you mentioned
12 potentially needing to talk to collateral contacts.
13 What would that entail? What do you mean by
14 collateral contacts?

15 A. Well, other people who -- who know this
16 person, evaluating in a different way than I do.
17 So spouse, co-workers, family friends, that sort of
18 thing.

19 Q. Okay. When you were mentioning the
20 variability of the levels assigned, you indicated
21 that some law enforcement agencies or -- or
22 departments in different counties might look at
23 someone and assess them higher if they essentially
24 don't want this person in their community.

25 You're not saying that that's what

0148

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY

2 happened here, though?

3 A. I'm not saying that's what happened here.

4 Q. Okay. Okay. You also mentioned the
5 possibility, in a further evaluation, of conducting
6 a polygraph. Is that typical?

7 A. It is -- it -- it's very typical in
8 Washington. We -- we have -- well, this gets back
9 to counsel's point about you can't always take what
10 a person who is convicted of a sex offense says at
11 face value, and the polygraph testing to
12 corroborate their self-report of sexual behavior,
13 and -- and -- and whatnot, is a -- a useful
14 additional source of information.

15 Q. Are -- are there any other tests that
16 could use -- could be used by professionals to
17 indicate the veracity of what's being said?

18 A. Nothing as good as a polygraph, which has
19 its own limitations. The other potential sources
20 of -- of test information would be plethysmograph
21 testing to test sexual arousal, or there's a couple
22 of other instruments that measure sexual interest.
23 So that's a way of either confirming or ruling out
24 a deviant sexual interest as a driving force, both
25 in the offending behavior and in -- and, you know,

0149

1 DR. MICHAEL O'CONNELL - RECROSS EXAMINATION

2 for the predicting of future risk.

3 So somebody who is -- so somebody who is
4 sexually interested in children, who is much more
5 aroused to children than to adults, is -- you know,
6 that's a risk factor. And in fact, it's one of the
7 -- you know, the two primary sources of recidivism
8 risk that probably -- you know, in the meta-
9 analysis studies.

10 JUDGE FRIEDLANDER: Right. Okay. I think
11 that -- that pretty much concludes the
12 clarification questions that I had. If there's
13 nothing further for the witness, I want to -- oh,
14 I'm sorry. I'm getting an indication from
15 Mr. O'Connell that there might be something
16 further.

17 MR. O'CONNELL: I just -- you brought up
18 the issue of the DSM -- sorry, of the disorder, and
19 I was wondering if I could ask a couple of follow-
20 up questions.

21 A. Go ahead.

22 JUDGE FRIEDLANDER: Yes, that's -- that's
23 fine. I have no problem.

24 RECROSS EXAMINATION

25 BY MR. O'CONNELL:

0150

1 DR. MICHAEL O'CONNELL - RECROSS EXAMINATION

2 Q. Okay. Dr. O'Connell, do you use the DSM-V
3 in your psychological evaluations?

4 A. I generally don't.

5 Q. Is it widely used in the psychological
6 industry?

7 A. It's -- it's -- it's used in some
8 situations. In -- in the field of, you know,
9 sexual offending, it's more likely -- it's most
10 likely to be used in civil commitment proceedings,
11 where there needs to be a mental abnormality or a
12 personality disorder as one of the qualifying
13 conditions for civil commitment.

14 Q. And Dr. O'Connell, for the record, can you
15 just tell us what the DSM and the DSM-V is?

16 A. DSM is the Diagnostic and Statistical
17 Manual. The five is the fifth edition, which just
18 came out about a year ago. It's the -- it's the
19 publication by the American Psychiatric
20 Association, which lays out the criteria for
21 diagnosing, mostly from symptoms, different mental
22 health conditions.

23 Q. Does it contain a section on pedaphilic
24 disorder?

25 A. There is a -- there is a section on

0151

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION
2 paraphilic disorders, which is the larger sexual
3 behavior problems, and there is a section on
4 pedophilia specifically.

5 Q. Did you use the DSM-V in your evaluation
6 of Mr. Trick?

7 A. I did not.

8 Q. Would you, in further evaluations?

9 A. Probably not as such. I was -- I was
10 referring to the -- to this based on the -- the
11 judge's question about a disorder.

12 Q. Okay. Would the DSM-V contain criteria
13 and a definition of what paraphilic or pedophilia
14 disorder is?

15 A. It does, yes.

16 MR. O'CONNELL: Your Honor, I have with me
17 a copy of the DSM-V, and I have copies that I can
18 distribute to the parties. I didn't expect this to
19 be brought up in testimony, which is why I'm only
20 bringing it forward now. And I would remind the
21 Court that I found out about Dr. O'Connell
22 testifying on Monday.

23 MR. WALL: Your Honor, I'd object to this
24 exhibit, in that we haven't seen it. Counsel also
25 supplemented his exhibit list previously, and I'd

0152

1 DR. MICHAEL O'CONNELL - RECROSS EXAMINATION

2 further like to point out that Mr. Trick did
3 undergo a polygraph and a plethysmograph, and there
4 was never any diagnosis of pedaphilia made. So the
5 those analyses have already been run through. He
6 does not have pedaphilia.

7 So I mean, putting that aside, reading
8 into the record a bunch of stuff and admitting
9 exhibits on pedaphilia don't have any relevance to
10 this, as he's already been through the diagnosis
11 process.

12 JUDGE FRIEDLANDER: When was he tested?

13 MR. WALL: In 2004.

14 A. I -- sorry.

15 JUDGE FRIEDLANDER: No, go ahead. If
16 you're correcting your counsel, please go ahead.

17 MR. TRICK: Sure, I was actually tested
18 twice. Once during the treatment program, where I
19 underwent a plethysmograph. I also underwent one
20 when I went for the SOSSA evaluation.

21 And now that I think about it, upon
22 release, and from my treatment provider, who also
23 labeled me as not having pedaphilia. I mean, it
24 was updated and then updated again.

25 JUDGE FRIEDLANDER: So where are these

0153

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION

2 records? Do you have them?

3 MR. WALL: I don't have them.

4 MR. TRICK: Nor do I. I can -- I mean, if
5 I were to contact the records department for the
6 treatment program at Twin Rivers, I can get it. I
7 -- I used to have regular contact with my treatment
8 provider inside the Twin Rivers unit, the -- for
9 the sex offender treatment program and, you know,
10 she's -- if I asked her, I can -- I can probably
11 get copies of it, but -- which would also give you
12 a treatment summary demonstrating I completed the
13 program, and progress along the way. Things like
14 that.

15 MR. WALL: And your Honor, I'd like to add
16 that I did submit a public records request to the
17 Department of Corrections, but I have not -- I have
18 received an acknowledgment that they received it,
19 but I haven't received any of the documents. I did
20 attempt to obtain Mr. Trick's file in that regard.

21 MR. TRICK: As did I. I called Monroe
22 Correctional Complex on this case. I asked for all
23 my -- well, it's not public. I have to request it,
24 or law enforcement can -- can pull it, or a doctor,
25 for the reason of -- like a proceeding, or

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION

2 something like that.

3 So all I can do is request it. He can
4 request it, but they won't give it to him, unless
5 it's on my behalf. So there might have been --
6 needed a consent form, or something like that.
7 That's kind of the way she explained it to me.

8 She says it's kind of a process, because
9 it also -- it goes from the correctional complex,
10 also through King County Sheriff's Department, who
11 has things -- you guys can't see anyway. So it's
12 not public record.

13 MR. WALL: And I'll just add, that's the
14 first that I learned of that. But yes, I submitted
15 a request for his criminal file and any records
16 pertaining to it from the DOC. I'm not sure -- I
17 wasn't aware if there was something that I wouldn't
18 get back from that.

19 MR. O'CONNELL: Thank you, your Honor.
20 From what I'm hearing from counsel and Mr. Trick,
21 it sounds like they have requested this
22 information, and that they would agree it's
23 relevant.

24 I would just note that the Rules of
25 Evidence for an administrative hearing like this

0155

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION

2 state that all relevant evidence is admissible, and
3 I -- it is -- it's relevant, so I would like to
4 proceed.

5 MR. WALL: Your Honor, if I may. While
6 relevant evidence is admissible, in this case,
7 introducing additional evidence on pedophilia, a
8 diagnosis and a disease that Mr. Trick does not
9 have, is more unfairly prejudicial than it is
10 probative.

11 JUDGE FRIEDLANDER: Well, we don't -- we
12 don't have anything before us that says he doesn't
13 have it. Until we do, I think I'm going to allow
14 the examination, but I expect both of you to come
15 up with the paperwork to indicate that he has been
16 tested, and there has been a negative diagnosis, or
17 he has -- he has passed the tests, so to speak.

18 MR. WALL: Yes, your Honor.

19 MR. TRICK: He had mentioned that he had
20 -- or they brought up the -- and I wasn't sure if
21 it was the doctor or Mr. O'Connell, that had the --
22 I guess, both the pre-sentence investigation report
23 as well as the SSOSA evaluation. Do you have that?

24 MR. O'CONNELL: I did not bring up that I
25 have it. I do not have a pre-sentence

0156

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION
2 investigation report. I believe that will come up
3 later in testimony.

4 MR. TRICK: Oh, okay.

5 JUDGE FRIEDLANDER: You don't have them?
6 But I take it that this was during the questioning
7 of Dr. O'Connell, the cross-examination.

8 MR. O'CONNELL: Yes, I wanted to know
9 if --

10 JUDGE FRIEDLANDER: You were asking if he
11 had looked at these documents, and if he has them,
12 is that correct?

13 MR. O'CONNELL: Yes, and I apologize for
14 interrupting.

15 JUDGE FRIEDLANDER: That's fine. So when
16 does counsel or Mr. Trick think that these
17 documents would be available? Because is a BAP
18 proceeding. Obviously, we are trying to do this on
19 a much shorter time frame.

20 I would -- knowing that this is going to
21 take a bit of time, I guess it's maybe beneficial
22 now to ask that the parties waive the ten-day rule
23 or statute, because it does not look like we'll be
24 getting an order out within ten days.

25 MR. TRICK: So when I talked to

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION

2 Dr. O'Connell about that very thing, and he asked
3 me who did my SSOSA evaluation, which is the
4 alternative to prison, doing the six month in jail
5 and then the intensive outpatient treatment with
6 supervision.

7 He told me that the chance that Dr. Judd,
8 who was the doctor that did mine, having a 20 year
9 old file maybe not existed. So unless it's with
10 the King County's Sheriff's Office in the
11 pre-sentence investigation to my sentencing, then I
12 don't know -- I don't know if we can even get that
13 paperwork.

14 JUDGE FRIEDLANDER: But you indicated that
15 you had been tested twice, and then a third time as
16 well as a follow-up. So would one of those be
17 available?

18 MR. TRICK: I -- I honestly don't know.
19 It -- it seems like it's been an arm and a leg to
20 get anything, as far as that kind of treatment. I
21 mean, three months ago, I questioned about getting
22 my treatment paperwork, and I -- I've had no
23 success getting it, even when talking to the
24 recorder's office over in Twin Rivers for the
25 treatment and the files and everything. I can't

0158

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION

2 get anything.

3 The only thing I could have gotten, if I
4 still had it, is I had a copy of it upon my release
5 from prison, and moving from place to place and
6 shuffling, it's gone.

7 JUDGE FRIEDLANDER: Well, then how about
8 we set a date certain to either have this in place
9 at the Commission or a status on the availability
10 of it at all. How long do you think would be
11 necessary?

12 MR. WALL: I don't know, but I -- I would
13 add that Dr. O'Connell has informed me that his
14 evaluation would take six to eight weeks, and to
15 the extent that that includes the same tests and
16 analyses, if -- if we're unable to obtain the
17 information from the Department of Corrections,
18 that information could be offered in its stead.

19 JUDGE FRIEDLANDER: And Dr. O'Connell,
20 would it be the same evaluation and the same, I
21 guess, pedophilia diagnostic tests that you would
22 be performing on Mr. Trick?

23 A. I -- I could do that. I wouldn't
24 ordinarily do that, because a polygraph and sexual
25 history would probably, you know, cover the same

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION
2 territory. So if he's not -- if he's not engaging
3 in sexual behavior or using sexual fantasies
4 involving minors, then there's really no need to do
5 that other diagnostic stuff, since that pretty much
6 rules it out as a current condition.

7 JUDGE FRIEDLANDER: Based on statements of
8 Mr. Trick himself, or additional information?

9 A. Well, and then corroborated by polygraph
10 testing.

11 JUDGE FRIEDLANDER: I see. So it sounds
12 like you wouldn't be performing, necessarily, the
13 same diagnostic tests as you would -- as one would
14 for the disorder of pedophilia?

15 A. Unless there's reason to -- unless there's
16 evidence that suggests it's worth pursuing.

17 JUDGE FRIEDLANDER: Obviously, you're his
18 doctor. That's up to you. I'm not trying to make
19 a medical determination or even request a medical
20 test from you. That's -- that's your purview, not
21 mine. And it's completely up to counsel and his
22 client whether or not they want to go through with
23 that.

24 I would, however, like them to attempt to
25 get at least one of the prior tests that Mr. Trick

0160

1 DR. MICHAEL O'CONNELL - RE-CROSS EXAMINATION
2 has taken, and the results from the -- the test.

3 MR. TRICK: Can I talk to the doctor?

4 JUDGE FRIEDLANDER: Yes, please.

5 MR. TRICK: Dr. O'Connell, you know, I had
6 mentioned -- and once I remembered who did my SSOSA
7 evaluation, what do you think the odds are of being
8 able to get ahold of that?

9 JUDGE FRIEDLANDER: Actually, let's do
10 this. Because while Dr. O'Connell is still under
11 oath, we don't typically have the -- the -- one of
12 the parties, who is not a counsel, questioning the
13 doctor. So let's go off the record and discuss
14 some of these specifics and see when we can get the
15 results, maybe. So we're off the record.

16 (Discussion off the record.)

17 JUDGE FRIEDLANDER: We'll go back on the
18 record. And with that indication -- and I should
19 summarize, that you're now not interested in
20 pursuing the line of questioning about the
21 Diagnostic and Statistical Manual V definition of
22 pedophilia. So with that, do you have any other --

23 MR. O'CONNELL: I have no other questions.

24 JUDGE FRIEDLANDER: No other questions.

25 Thank you. And I have no other clarification

0161

1 SUSIE PAUL - DIRECT EXAMINATION

2 questions, Dr. O'Connell, so I would thank you for
3 your testimony very much, and you are dismissed.

4 A. Okay. Thank you.

5 JUDGE FRIEDLANDER: Thank you.

6 A. Bye.

7 JUDGE FRIEDLANDER: So Counsel, Mr. Wall,
8 does that conclude your case?

9 MR. WALL: It does. Yes, your Honor.

10 JUDGE FRIEDLANDER: All right. Thank you.
11 Mr. O'Connell, your witness.

12 MR. O'CONNELL: Staff would call Ms. Susie
13 Paul.

14 JUDGE FRIEDLANDER: Great. If you want to
15 come over here.

16 Whereupon,

17 SUSIE PAUL,
18 was duly sworn and testified as follows:

19 JUDGE FRIEDLANDER: You can be seated.
20 Mr. O'Connell.

21 DIRECT EXAMINATION

22 BY MR. O'CONNELL:

23 Q. Thank you, your Honor. Good afternoon.
24 Would you please state your name and spell it, for
25 the record?

0162

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Yes. My name is Susie Paul, and the last
3 name is P-a-u-l.

4 Q. And what is your occupation, Ms. Paul?

5 A. I'm an investigator with the Washington
6 Utilities and Transportation Commission.

7 Q. How long have you been in that position?

8 A. Just over two years.

9 Q. And what are your duties?

10 A. I investigate the business practices of
11 regulated utility or transportation companies, and
12 as part of those duties, I investigate the business
13 practices of household good carriers.

14 Q. What is your education and experience and
15 training?

16 A. I have a bachelors degree in criminal
17 justice, and I have ten years experience as an
18 investigator with the state of Washington in a
19 regulatory capacity.

20 My training is I attended the Washington
21 State Investigator training that's required of
22 state investigators, and also, the advanced
23 training, and I'm a member of the Pacific Northwest
24 License and Tax Fraud Association that provides
25 continuing education for Washington investigators.

0163

1 SUSIE PAUL - DIRECT EXAMINATION

2 Q. So do you receive regular trainings?

3 A. Yes, I do.

4 Q. How are you involved in the matter
5 regarding Five Stars Moving?

6 A. I was assigned as the investigator.

7 Q. Have you reviewed the application by Five
8 Stars Moving?

9 A. Yes, I have.

10 Q. So when someone makes an application to
11 operate as a household good mover, in general, what
12 does staff look at in its evaluation?

13 A. We look to see if they're willing and able
14 to conform to the proposed services, and that they
15 can follow the applicable laws and rules, whether
16 the company is in the interest of the public,
17 whether a background check has been conducted, and
18 whether the application is complete, and that the
19 answers are truthful.

20 Q. And it's staff's recommendation in this
21 case that the Commission deny the application of
22 Five Stars Moving, is that correct?

23 A. Yes, that's correct.

24 Q. Can you please turn to what has been
25 marked for identification as SP-1?

0164

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Do I dare take this clip off? Okay.

3 Q. Would you please identify this document?

4 A. Yes. This is a memo from Sharon Wallace,
5 assistant director of the consumer protection and
6 communications, to Dave Pratt, assistant director
7 of transportation safety, and it's a research and
8 recommendation regarding Five Stars Moving &
9 Storage LLC's application for household goods
10 permit.

11 Q. Have you reviewed this document?

12 A. Yes, I have.

13 Q. Does it provide a summary of staff's
14 recommendations?

15 A. Yes, it does.

16 MR. O'CONNELL: Staff offers Exhibit SP-1.

17 MR. WALL: No objection, your Honor.

18 JUDGE FRIEDLANDER: Okay. So admitted.

19 Thank you.

20 (Staff Exhibit SP-1 admitted into
21 evidence.)

22 BY MR. O'CONNELL:

23 Q. I'd like to turn to the application of
24 Five Stars Moving. When was the application for
25 authorization to operate as a household good mover

0165

1 SUSIE PAUL - DIRECT EXAMINATION

2 received?

3 A. That was received February 9th, 2015.

4 Q. And who are the owners?

5 A. The owners are William Trick, as president
6 and CEO, and 50 percent owner of the company, and
7 also, Thomas Cook, who is the vice president and 50
8 percent owner of the company.

9 Q. Who else is in the business?

10 A. The business plan is associated with the
11 application lists Kevin Crocker, who is a director
12 of operations, and then two employees as yet to be
13 hired, which is a lead driver, laborer, and then an
14 apprentice laborer.

15 Q. Can I have you turn to what's already been
16 accepted as Exhibit 1?

17 JUDGE FRIEDLANDER: I assume that you mean
18 the -- it's not technically an exhibit. It's just
19 the document that we've taken official notice of,
20 the application?

21 MR. O'CONNELL: Yes, your Honor, the
22 application.

23 JUDGE FRIEDLANDER: Okay. Thank you.

24 BY MR. O'CONNELL:

25 Q. Ms. Paul, does this contain any additional

0166

1 SUSIE PAUL - DIRECT EXAMINATION

2 information more than the -- just the application?

3 A. Yes, it does.

4 Q. What does it contain?

5 A. It contains a business plan that was
6 submitted with the application for Five Stars
7 Moving.

8 Q. Did Five Stars Moving submit that?

9 A. Yes, they did.

10 Q. So is there anything about the application
11 that raises a concern to staff?

12 A. Yes, there are concerns about the
13 application.

14 Q. What?

15 A. The application did not disclose the
16 felony sex offense or the arrest for the reckless
17 driver -- driving, which was amended from a DUI, or
18 driving under the influence.

19 The statements of support raise some
20 concerns to Mr. Trick's claim that he had nine
21 years experience in the moving industry. And also,
22 he did not disclose a business related legal
23 proceeding.

24 Q. Okay. You mentioned something about
25 statements of support. Let me ask you about that.

0167

1 SUSIE PAUL - DIRECT EXAMINATION

2 Does the application include statements of support?

3 A. Yes, it does.

4 Q. And how many does it include?

5 A. There were three. Statements of support
6 with this application, which is normal.

7 Q. Who was writing the statements of support?

8 A. Kevin Crocker, who is listed in the
9 business plan as a director of operations, provided
10 a statement of support. And he noted that
11 Mr. Trick is trustworthy, reliable and safe.

12 Q. And who else?

13 A. Kim Gripp, who is Mr. Trick's mother-in-
14 law, who also indicated that he is reliable and
15 trustworthy. And then Rachel Hibbs submitted a
16 statement of support and wrote that Billy Trick has
17 been a reputable and upstanding citizen.

18 Q. These statements of support can be from
19 anyone in the community, correct?

20 A. That's correct.

21 Q. What is the concern about having these
22 individuals giving statements of support?

23 A. Well, the concern is that Kevin Crocker is
24 listed as part of the company, and yet, he's
25 providing a statement of support. And also, Kim

1 SUSIE PAUL - DIRECT EXAMINATION

2 Grick -- Kim Gripp, his mother-in-law, would have a
3 prejudice towards Mr. Trick. Probably unfair. And
4 then Rachel Hibbs describes Mr. Trick as
5 upstanding, and it leads to the fact that she may
6 not know Mr. Trick's background.

7 Q. So you also mentioned something about
8 Mr. Trick's experience in the industry. Did
9 Mr. Trick include any information in the
10 application about his amount of experience in the
11 household good moving industry?

12 A. He indicated that he had about nine years
13 experience in the moving industry.

14 Q. And has staff been aware that Mr. Trick
15 has been working in the moving industry for nine
16 years?

17 A. No. Commission staff became aware of
18 Mr. Trick in 2013, and he was associated with
19 Better Than The Rest and with B&Z Moving, both of
20 which were unpermitted companies at the time of his
21 involvement.

22 Q. So does staff know -- aside from those two
23 companies, does staff know, before today, and
24 before Mr. Trick's testimony, who he had been
25 working for?

0169

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. No, we were unaware.

3 Q. Is that concerning to staff?

4 A. It is concerning to staff.

5 Q. Why?

6 A. Well, Mr. Trick does have a felony
7 conviction and a background, and permitted
8 companies are to provide a background check on any
9 of their employees.

10 Q. You also mention something about a
11 business related legal proceeding?

12 A. Yes.

13 Q. So I want to ask you about that. Is there
14 a place on the application for disclosing any
15 business related legal proceeding?

16 A. Yes. There's a question specific to that
17 that asks, have you ever had a business related
18 legal proceeding.

19 Q. And were any disclosed on the application?

20 A. No.

21 Q. Did you investigate into this?

22 A. Yes, I did.

23 Q. Okay. So did staff conduct a background
24 check on Mr. Trick?

25 A. Yes. Staff actually conducted two

0170

1 SUSIE PAUL - DIRECT EXAMINATION

2 background checks on Mr. Trick.

3 Q. Okay. When was the first background
4 check?

5 A. The first background was done in February
6 2015.

7 Q. And when was the second background check?

8 A. June 10th, 2015.

9 Q. Did you request that second background
10 check yourself?

11 A. Yes, I did.

12 Q. Why did you request a second background
13 check?

14 A. Well, the Commission received a new
15 background information system, and it -- we just
16 got it available to us on June 1st.

17 Q. So you got the new system on June 1st, but
18 you didn't request it until June 10th. Why not?
19 Why did you wait so long?

20 A. I was out of the office until June 8th.

21 Q. Did this background check give you more
22 information than the first one?

23 A. Yes, it did.

24 Q. Okay. I'd like to turn -- I'd like you to
25 turn to what's been marked for identification as

0171

1 SUSIE PAUL - DIRECT EXAMINATION

2 Exhibit SP-3.

3 A. Okay.

4 Q. Will you please identify this document?

5 A. Yes, this is the Washington State Patrol
6 identification and criminal history section. It's
7 the criminal history for William A. Trick, and it
8 also is the LexisNexis aggregate for government
9 comprehensive report.

10 Q. So this contains the information from both
11 your first and second background check?

12 A. Yes, it does.

13 Q. And have you reviewed this as part of your
14 investigation?

15 A. Yes, I've reviewed them both.

16 MR. O'CONNELL: Staff offers SP-3.

17 MR. WALL: Your Honor, I have no objection
18 to the first four pages of this document, but the
19 LexisNexis report that goes on for 29 pages seems
20 to contain a lot of information that is not
21 relevant to this proceeding.

22 JUDGE FRIEDLANDER: I don't have anything
23 past page 4.

24 MR. O'CONNELL: May I approach, your
25 Honor?

0172

1 SUSIE PAUL - DIRECT EXAMINATION

2 JUDGE FRIEDLANDER: Yes. Thank you. So

3 Mr. Wall, what is the objection to page --

4 MR. WALL: I think the first four --

5 JUDGE FRIEDLANDER: -- 5 through 33?

6 MR. WALL: Right. I think the first four
7 pages are relevant, but if take a look at the --
8 this was an exhibit that was added later, and so
9 when I reviewed it -- if you look at on the bottom,
10 it says, 1 through 29, or 5 through 33. It seems
11 to have a lot of information that doesn't have any
12 particular relevance.

13 It's not as if there was some additional
14 criminal conviction or citation contained in there.
15 It just seems like a lot of additional paperwork.
16 I don't see what the relevance is.

17 JUDGE FRIEDLANDER: Mr. O'Connell?

18 MR. O'CONNELL: Your Honor, I believe
19 Ms. Paul has testified that this second background
20 check contained more information, and if I'd be
21 allowed a couple more questions, I believe the
22 specific relevance of what Ms. Paul will testify
23 to, and specifically, the additional information
24 will become clear.

25 JUDGE FRIEDLANDER: Okay. I'll allow it

0173

1 SUSIE PAUL - DIRECT EXAMINATION

2 for now. Thank you.

3 BY MR. O'CONNELL:

4 Q. Ms. Paul, in review of the information
5 contained in the second background check, did you
6 discover any business related legal proceedings?

7 A. Yes, I did.

8 Q. What did you discover?

9 A. I discovered a federal tax lien that was
10 cited on April 15th, 2011, and it's against small
11 business owner William A. Trick in the amount of
12 \$31,457.04.

13 Q. Would you please direct us to where in the
14 exhibit this lien is referenced?

15 A. This is in the comprehensive report on
16 page 7.

17 Q. So Ms. Paul --

18 A. It's the second one down on the list.

19 Q. Okay. Ms. Paul, what is the concern
20 related to this business related legal proceeding?

21 A. Well, it is a concern, because it's
22 business related. I confirmed that through the
23 King County Auditor's Office, and Mr. Trick did not
24 disclose this on his application.

25 MR. O'CONNELL: Your Honor, I'd like to

1 SUSIE PAUL - DIRECT EXAMINATION

2 offer exhibit SP-3 again for your consideration.

3 MR. WALL: I would renew my objection on
4 the grounds of relevance. Also, this document was
5 not initially considered by the staff or in the
6 memo or in the UTC in its intent to deny. There is
7 no reference to this, and this is the first that
8 I've -- I've heard of this from opposing counsel.

9 MR. O'CONNELL: May I respond, your Honor?

10 JUDGE FRIEDLANDER: Yes, please.

11 MR. O'CONNELL: I do believe it's relevant
12 to whether a business related legal proceeding was
13 disclosed, and Ms. Paul testified that this system
14 was not available until June 1st. She was out of
15 the office until the 8th. I requested this
16 information on the 10th, noticed that through her
17 investigation of the document, that there was a
18 business related legal proceeding.

19 There's no way that staff could have
20 included this on our exhibit list on -- which was
21 due on June 4th, because we didn't have it. And I
22 would disagree with Mr. Wall, that staff is limited
23 to what is contained in staff's memorandum.

24 MR. WALL: Counsel is assuming that this
25 is a business related legal proceeding, and basing

1 SUSIE PAUL - DIRECT EXAMINATION

2 that on a hearsay phone call with the county
3 auditor's office, but I don't see anything in the
4 application materials that explain what it means to
5 have a business related legal proceeding.

6 To the extent that this is new information
7 that I was not previously provided with, I would
8 request an opportunity to reopen Mr. Trick's
9 testimony to ask him about this, as I had no
10 opportunity -- he wasn't cross examined about it
11 either, and I had no opportunity on direct to ask
12 him about this or what he understood by the term
13 business related legal proceeding, or what this
14 proceeding even was.

15 So I think that the way in which this has
16 been presented leaves me without any opportunity to
17 rebut it.

18 MR. O'CONNELL: Your Honor, I believe
19 you'll find that in the record, on June 12th, staff
20 filed an amended exhibit list containing this
21 information. Mr. Wall was also disclosed this
22 information. Although staff had no obligation to
23 disclose it to him before the brief adjudicated
24 proceeding began, staff wanted to be forthcoming,
25 and in the interest of full disclosure, provided

0176

1 SUSIE PAUL - DIRECT EXAMINATION

2 him with this document. So he did have an
3 opportunity to question Mr. Trick.

4 MR. WALL: Your Honor, if I may, if it's
5 in the interest of full disclosure, if staff has
6 additional bases by which they are asserting that
7 the application should be denied, those were
8 certainly not disclosed to me, other than, you
9 know, buried on page 7 of a 29 page exhibit.

10 JUDGE FRIEDLANDER: Okay. Well, I'm going
11 to allow it. I see that -- that there's a lot of
12 information here about various proceedings, and I
13 will allow you to reopen and further cross -- or
14 further direct examination of Mr. Trick.

15 MR. WALL: Thank you, your Honor.

16 MR. O'CONNELL: Ms. Paul -- your Honor,
17 may I continue?

18 JUDGE FRIEDLANDER: Yes, please.

19 BY MR. WALL:

20 Q. Ms. Paul, about this business related
21 legal proceeding, or the lien that you described --

22 A. Yes.

23 Q. -- what makes you think it's business
24 related?

25 A. It is -- when I contacted the King County

0177

1 SUSIE PAUL - DIRECT EXAMINATION

2 auditor, when they told me that it was business
3 related. It was a federal tax lien from the IRS
4 for self-employed small business, William A. Trick.

5 Q. Did it specifically say small business?

6 A. Yes, it did.

7 Q. I'd like to turn to Mr. Trick's criminal
8 history at this time. Has -- you've already
9 testified that staff completed a background check
10 on Mr. Trick. Did staff conduct a criminal
11 background check on everyone in the application?

12 A. Yes.

13 Q. Does Mr. Trick have any recent charges or
14 convictions?

15 A. Yes. He had a conviction on August 13th,
16 2011 for driving while under the influence, and
17 that was amended to reckless driving.

18 Q. Did you investigate into this offense?

19 A. Yes, I did.

20 Q. What did you discover?

21 A. I discovered that he received 364 days
22 jail time with 360 days suspended. He also
23 received a \$5,000 fine, with 650 suspended, and
24 that he received 24 months supervision.

25 Q. So correct me if I'm wrong, but that means

0178

1 SUSIE PAUL - DIRECT EXAMINATION

2 that he was sentenced to four days in jail, \$350,
3 and received 24 months of supervision?

4 A. That's what the record states, correct.

5 Q. Did Mr. Trick disclose this offense on his
6 application?

7 A. No, he did not.

8 Q. Did he disclose any convictions on his
9 application?

10 A. No, he did not.

11 Q. Is the lack of disclosure of concern to
12 staff in making this recommendation for denial?

13 A. It is a concern. It's a red flag that
14 Mr. Trick is not being forthcoming to the
15 Commission. He is not disclosing his criminal
16 history, and he has not -- he has not disclosed
17 anything on his current application, and he also
18 hid his identity in the B&Z Moving application.

19 Q. Let me come back to the B&Z Moving
20 application in a little bit. Could someone call
21 staff and ask questions about how to fill out the
22 application?

23 A. Yes, they can.

24 Q. Did Mr. Trick call staff to ask about this
25 application?

0179

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Yes, he did.

3 Q. Did he speak with you about the
4 application?

5 A. No, he did not.

6 Q. How do you know that he called, then?

7 A. The investigative team has documentation
8 where we can document phone calls, and there is
9 documentation that Mr. Trick called one of the
10 investigators of our team.

11 Q. Have you seen the notes?

12 A. Yes, I have.

13 Q. What guidance did Mr. Trick receive?

14 A. The call came in in December of 2014 from
15 Mr. Trick, and he asked about a -- whether he
16 needed to disclose a reckless driving offense on
17 the application, and he was told that -- to provide
18 as much information as possible, and that he should
19 disclose as much as he could. The more, the
20 better.

21 MR. O'CONNELL: Your Honor, the testimony
22 I'm about to offer is in direct response to
23 Mr. Trick's testimony about his calling staff. I
24 would like to present Ms. Paul with the notes that
25 she's just now referenced that she viewed, and I

0180

1 SUSIE PAUL - DIRECT EXAMINATION

2 would like permission to do so.

3 MR. WALL: Your Honor, I would object to
4 this exhibit on the basis that it wasn't previously
5 provided. It was previously known to staff that
6 this existed, and is only now being brought forth.

7 It's not solely for rebuttal purposes such
8 that it would not be subject to disclosure, at
9 least being listed on an exhibit list.

10 MR. O'CONNELL: I disagree. It's purely
11 for rebuttal of Mr. Trick's testimony.

12 JUDGE FRIEDLANDER: Mr. Trick did go into
13 the phone call that he made to staff. In fact,
14 that was part of his testimony as to why he filled
15 out the application the way that he did. And he
16 indicated an -- an individual by name that he had
17 spoken to.

18 MR. WALL: And I think the orthodox method
19 of impeachment would, then, be to ask him about
20 this exhibit, but not to substantively admit it.
21 When an exhibit -- even if an exhibit is solely for
22 impeachment purposes, it's not actually admitted
23 into the record.

24 JUDGE FRIEDLANDER: Mr. O'Connell?

25 MR. O'CONNELL: I don't fully understand

0181

1 SUSIE PAUL - DIRECT EXAMINATION

2 Mr. -- Mr. Wall's argument.

3 MR. WALL: Would you like me to restate
4 it?

5 JUDGE FRIEDLANDER: Yes, please do.

6 MR. WALL: Yes. The argument is that when
7 an exhibit is purely for impeachment purposes, as
8 you said it may be read from and discussed, but is
9 not admitted into the record as substantive
10 evidence.

11 MR. O'CONNELL: Your Honor, then I would
12 just ask that I allow Ms. Paul to read from it, as
13 Mr. Wall has indicated.

14 JUDGE FRIEDLANDER: Mr. Wall?

15 MR. WALL: I would -- just the same
16 objection as before, that I was never previously
17 provided with this document, and to the extent that
18 it goes beyond impeachment, I think it's
19 objectionable.

20 JUDGE FRIEDLANDER: And in the BAP, it's
21 unfortunately or fortunately typical where we don't
22 have pre-filed testimony or exhibits, and that's --
23 that's the way things are conducted on a short time
24 frame. So I'm going to allow it to be read into
25 the record. I don't even have a copy of it.

0182

1 SUSIE PAUL - DIRECT EXAMINATION

2 MR. O'CONNELL: I have a copy for you,
3 your Honor. I wanted to apprise Mr. Wall --

4 JUDGE FRIEDLANDER: Absolutely.

5 MR. O'CONNELL: -- and allow you to hear
6 the argument on it.

7 JUDGE FRIEDLANDER: Absolutely, but it
8 will not be entered as -- admitted as an exhibit.
9 I should say, for clarification purposes, that I
10 did rule on SP-3, and that will be admitted in its
11 entirety.

12 (Staff Exhibit SP-3 admitted into
13 evidence.)

14 MR. O'CONNELL: Your Honor, may I
15 approach?

16 JUDGE FRIEDLANDER: Yes, please.

17 A. Read the whole thing? Okay.

18 BY MR. O'CONNELL:

19 Q. Ms. Paul, would you please read the note
20 that you referred to?

21 A. Yes. You want me to read the entire
22 e-mail?

23 Q. I think it would be appropriate for you to
24 give the context, so start at the beginning.

25 A. Okay.

0183

1 SUSIE PAUL - DIRECT EXAMINATION

2 MR. WALL: Your Honor, not to interrupt,
3 but before we begin with this, you know, if this is
4 being read into the record, I'd ask that only the
5 relevant portions be read in, and those that -- the
6 portions that are purely for impeachment as
7 Mr. O'Connell stated.

8 JUDGE FRIEDLANDER: So what are you
9 suggesting be read into the record, then?

10 MR. WALL: Whatever it is Mr. O'Connell is
11 asserting impeaches prior testimony, and not
12 additional information.

13 MR. O'CONNELL: Your Honor, I believe it
14 all impeaches Mr. Trick's prior testimony. There's
15 only two paragraphs.

16 JUDGE FRIEDLANDER: Why don't we go ahead
17 and read it into the record, and you can voice your
18 objection, considering that this is the first time
19 that you've had a chance to look at it.

20 A. Go ahead?

21 JUDGE FRIEDLANDER: Yes, go ahead.

22 A. This is dated December 29th, 2014. Billy
23 called and left me a message asking for a call back
24 to (206)380-6463, as he had questions about
25 household good permit application.

0184

1 SUSIE PAUL - DIRECT EXAMINATION

2 I looked up Billy's number and saw that he
3 was related to B&Z Moving, but he did not receive a
4 permit, only his partner did. I called and left a
5 message with my first name and phone number, and
6 asked for a call back. Billy called me back, and
7 he had questions about his permit application. I
8 transferred him to Tina, but she is out until
9 January 6th.

10 I then went to talk to Suzanne, and Dave
11 Pratt was also there, as Billy had applied for a
12 permit before, but staff had recommended his
13 application be denied. I just let them know that
14 he had application questions. Then he said I could
15 answer his questions and to just respond that he
16 needs to answer fully and thoroughly as possible.

17 I asked them about the CDL requirement,
18 only to have -- only that they have to do drug and
19 alcohol testing in CDL trucks. I then called Billy
20 back and was -- and told him that I will try to
21 answer his questions, as Tina is gone until next
22 week.

23 He wanted to know if he needed to include
24 a reckless driving ticket from three years ago, and
25 I said that he should be as complete as possible,

0185

1 SUSIE PAUL - DIRECT EXAMINATION

2 and it is usually better to give more information.

3 He then asked about the CDL requirement, and I said

4 it was only if CDL trucks, and that I had checked

5 on that.

6 He then also had a question about the

7 applicant name at the end of the application, and

8 he had been told to put his business name and then

9 sign his name. I said that should be fine, but if

10 he is concerned, he can always put his name doing

11 business as business name.

12 He then wanted to know if he was an LLC or

13 a partnership. I said it depended on how he was

14 registered with Washington state. He said he was

15 an LLC. So I said, that is how he's registered, as

16 an LLC. Then he is probably a limited liability

17 corporation, but he should check how he is

18 registered.

19 He then asked about the legal name and

20 trade name on the first page of the application. I

21 said the legal name is how they are registered. I

22 then said the trade name would be anything else

23 they go by.

24 JUDGE FRIEDLANDER: Actually, let me just

25 stop. Is any of this relevant?

0186

1 SUSIE PAUL - DIRECT EXAMINATION

2 MR. O'CONNELL: No, your Honor. And I
3 apologize, that second paragraph does get into
4 irrelevant information.

5 JUDGE FRIEDLANDER: So is there anything
6 in the remaining half of the second paragraph that
7 is relevant to your attempt to impeach Mr. Trick?

8 MR. O'CONNELL: No, I believe that
9 information has already been covered.

10 JUDGE FRIEDLANDER: All right. And
11 Mr. Wall, are you fine with that?

12 MR. WALL: Yes.

13 JUDGE FRIEDLANDER: All right.

14 BY MR. O'CONNELL:

15 Q. Ms. Paul, I want to go back a little bit
16 in your testimony. You mentioned Mr. Trick's 1999
17 conviction. What was that offense?

18 A. 1999 offense was a felony conviction of
19 two counts of child molestation in the first
20 degree.

21 Q. Did you investigate into that offense?

22 A. Yes, I did.

23 Q. Okay. I'd like you to please turn to
24 what's been labeled as Exhibit SP-6 for
25 identification.

0187

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Okay.

3 Q. Are you there?

4 A. Yes.

5 Q. Will you please identify this document?

6 A. This is the Kitsap County Superior Court
7 information and certificate of probable cause for
8 William A. Trick.

9 Q. Is that in connection with Mr. Trick's
10 1999 conviction?

11 A. Yes, it is.

12 Q. Have you reviewed this as part of your
13 investigation?

14 A. Yes.

15 Q. Does this document contain details about
16 the nature and extent of the crime?

17 A. Yes, it does.

18 Q. Okay. I'd like to direct your attention
19 to what's been labeled as Exhibit SP-7 now.

20 A. Okay.

21 Q. Will you please identify this document?

22 A. Yes. This is Kitsap County Superior Court
23 statement of defendant on plea of guilty for
24 William A. Trick.

25 Q. Is this connected to Mr. Trick's 1999

0188

1 SUSIE PAUL - DIRECT EXAMINATION

2 conviction?

3 A. Yes, it is.

4 Q. Have you reviewed it as part of your
5 investigation?

6 A. Yes.

7 Q. Okay. I'd like to direct your attention
8 to what's been labeled as Exhibit SP-8.

9 A. Okay.

10 Q. Can you please identify that document?

11 A. Yes. This is also Kitsap County Superior
12 Court, and it's the plea agreement for William A.
13 Trick.

14 Q. Is that in connection with Mr. Trick's
15 1999 conviction?

16 A. Yes, it is.

17 Q. Have you reviewed it as part of your
18 investigation?

19 A. Yes.

20 Q. Okay. I'd like to direct your attention
21 to what's been labeled for identification as
22 Exhibit SP-9.

23 A. Okay.

24 Q. Will you please identify that?

25 A. Yes. This is Kitsap County Superior

0189

1 SUSIE PAUL - DIRECT EXAMINATION

2 Court, and it's the judgment and sentence for
3 William A. Trick.

4 Q. Is that in connection with Mr. Trick's
5 1999 conviction?

6 A. Yes, it is.

7 Q. Have you reviewed it as part of your
8 investigation?

9 A. Yes.

10 MR. O'CONNELL: Your Honor, staff offers
11 Exhibits SP-6, 7, 8 and 9.

12 MR. WALL: No objection to these exhibits.

13 JUDGE FRIEDLANDER: Okay. So admitted.

14 (Staff Exhibits 6 through 9 admitted into
15 evidence.)

16 BY MR. O'CONNELL:

17 Q. Ms. Paul, I'd also like you to turn to
18 what's been labeled for identification as Exhibit
19 SP-4. It's already been dealt with in prior
20 testimony.

21 A. Okay.

22 Q. Will you please identify that document?

23 A. Yes. This is the King County Sheriff's
24 Office Offender -- Sex Offender web site, and it
25 shows William A. Trick.

0190

1 SUSIE PAUL - DIRECT EXAMINATION

2 Q. Have you viewed that web site as part of
3 your investigation?

4 A. Yes, I have.

5 Q. Does that printout fairly and accurately
6 depict the web page that you viewed?

7 A. Yes.

8 Q. When is the last time you visited that web
9 page?

10 A. I reviewed it this morning.

11 Q. Does this document contain information
12 about the nature and extent of the crime?

13 A. Yes, it does.

14 Q. But it doesn't contain all the details,
15 correct?

16 A. No.

17 Q. Do the other exhibits contain more
18 information?

19 A. Yes, there is more information.

20 MR. O'CONNELL: Your Honor, staff offers
21 SP-4.

22 MR. WALL: No objections.

23 JUDGE FRIEDLANDER: Thank you. So
24 admitted.

25 (Staff Exhibit 4 admitted into evidence.)

0191

1 SUSIE PAUL - DIRECT EXAMINATION

2 BY MR. O'CONNELL:

3 Q. Ms. Paul, I want to ask you about the
4 nature and extent of the crime. Who were the
5 victims?

6 A. The victims were two seven-year-old twin
7 sisters, and they were -- Mr. Trick was acquainted
8 with the girls through their mother, who -- he had
9 a working relationship with their mother.

10 Q. Where did Mr. Trick work?

11 A. Mr. Trick was in the Navy at the time of
12 his offense.

13 MR. WALL: Your Honor, I'm going to object
14 to this line of testimony, only in that it's
15 cumulative, and we've been over this several times
16 previously.

17 JUDGE FRIEDLANDER: Mr. O'Connell?

18 MR. O'CONNELL: I don't understand the bar
19 on not allowing Ms. Paul to testify about her
20 investigation into the details of the crime. I
21 don't think it's cumulative.

22 MR. WALL: The two -- I mean, the two
23 statements just made -- or the two questions just
24 asked were two details that we've already heard
25 previously.

0192

1 SUSIE PAUL - DIRECT EXAMINATION

2 JUDGE FRIEDLANDER: And I'm going to allow
3 it. I think we haven't actually heard about the
4 full details of what happened. I don't think we'll
5 be going into a lot of detail, but I don't think
6 that it's been entirely discussed about what
7 Ms. Paul -- what went into Ms. Paul's investigation
8 and her understanding of the crimes that were
9 committed.

10 MR. O'CONNELL: May I continue, your
11 Honor?

12 JUDGE FRIEDLANDER: Yes, please.

13 BY MR. O'CONNELL:

14 Q. You mentioned that Mr. Trick was in the
15 Navy at the time of the offense?

16 A. Yes.

17 Q. What happened to his naval service after
18 his conviction?

19 A. Mr. Trick received an other than honorable
20 discharge because of the felony sex offense, and
21 he's also listed as RE-4, which means he is not
22 eligible to reapply into the Navy, and also, he has
23 a lifetime ban from entering the base. So --

24 Q. How did you learn this information?

25 A. I contacted the Department of Defense and

1 SUSIE PAUL - DIRECT EXAMINATION

2 talked about Mr. Trick and felony sex offenders,
3 and they said that there is a lifetime ban on
4 Mr. Trick from entering the base, either to or
5 from. So if allowed a permit to perform household
6 goods, he would not be able to go onto the base.

7 Q. Did you ask specifically about Mr. Trick?

8 A. Yes, I did.

9 MR. WALL: Objection, calls for hearsay.

10 JUDGE FRIEDLANDER: How is that hearsay?

11 MR. WALL: I think the question is about
12 the -- well, to the extent that the question calls
13 for hearsay, in that it's asking about what
14 Ms. Paul -- information Ms. Paul elicited from
15 another party that's not -- another entity that's
16 not been called or isn't presenting.

17 JUDGE FRIEDLANDER: Mr. O'Connell?

18 MR. O'CONNELL: Your Honor, I have several
19 responses. First of all, this is an administrative
20 proceeding, and hearsay is permissible.

21 Second, this is offered not only for the
22 truth in the matter asserted, but also, as part of
23 Ms. Paul's investigation into what happened. And I
24 believe it would be admissible even if hearsay was
25 objectionable in an administrative hearing.

0194

1 SUSIE PAUL - DIRECT EXAMINATION

2 JUDGE FRIEDLANDER: I'm going to allow it.

3 Ms. Paul?

4 BY MR. O'CONNELL:

5 Q. Ms. Paul, did you specifically inquire
6 about Mr. Trick?

7 A. Yes, I did.

8 Q. And he's not allowed to go back onto the
9 naval base?

10 A. That is correct.

11 Q. Is this ban still in effect, even though
12 his conviction was 15 years ago?

13 A. Yes. It's their policy to ban a felony
14 sex offender for life from the base.

15 Q. Did Mr. Trick have a history of being
16 around children?

17 A. On the King County web site, yes. It
18 indicates that he had a history of volunteering at
19 daycares and children overseas services, and also,
20 that he served as a soccer and wrestling coach.

21 Q. Did he plead guilty in his 1999
22 conviction?

23 A. Yes, he did.

24 Q. Okay. I'd like you to turn to what's been
25 accepted as Exhibit SP-7. This is Mr. Trick's plea

0195

1 SUSIE PAUL - DIRECT EXAMINATION

2 of guilty.

3 A. Okay.

4 Q. Would you please turn to page 5?

5 A. Okay.

6 Q. Would you please read line 7 at the top of
7 the page?

8 A. I plead guilty to the crime of child
9 molestation in the first degree, two counts, as
10 charged in the information.

11 Q. Would you please move down to the middle
12 of the page where a checked box has an X on it?
13 Would you please read the line next to the checked
14 box?

15 A. Yes. The defendant had previously read
16 the entire statement above, and the defendant
17 understood it in full.

18 Q. I would like you to turn to Exhibit SP-6,
19 the information and certificate of probable cause
20 for Mr. Trick's 1999 conviction.

21 A. Okay.

22 Q. Does this document contain details of the
23 nature and extent of the crime?

24 A. Yes, it does.

25 Q. Would you please turn to the last page?

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Okay. I'm there.

3 Q. I want to draw your attention to the
4 paragraphs in the middle of the page.

5 A. Okay.

6 MR. O'CONNELL: And your Honor, before I
7 do this, I want to address you to explain that I'm
8 going to ask Ms. Paul to read into the record
9 details about the nature and extent of the crime,
10 because I believe it's relevant in a determination
11 as to whether the nature and the extent it will
12 interfere with Mr. Trick's operating a household
13 good moving industry -- company.

14 MR. WALL: Your Honor, to the extent that
15 the exhibit has already been admitted, Ms. Paul
16 reading it into the record is cumulative and
17 unnecessarily revisits this traumatic event, which
18 Mr. Trick has bravely been forthcoming about in
19 this proceeding. I don't think that the details
20 need to be any further explained than they already
21 previously have been.

22 JUDGE FRIEDLANDER: I'm going to agree
23 with that. We've already admitted it into the
24 record. I can certainly read it when I'm
25 formulating my decision.

0197

1 SUSIE PAUL - DIRECT EXAMINATION

2 To the extent that Ms. Paul needs to
3 discuss certain aspects of it in relation to it
4 interfering with -- with operating a household good
5 carrier's business, that's fine, but we don't need
6 to go into this kind of detail.

7 MR. O'CONNELL: Okay. So to be clear,
8 Ms. Paul will be able to address the details if it
9 comes up in her evaluation?

10 JUDGE FRIEDLANDER: Exactly. But we don't
11 need to read the entire thing into the record.

12 MR. O'CONNELL: Okay.

13 Q. Ms. Paul, was Mr. Trick sentenced to
14 prison time?

15 A. Yes, he was.

16 Q. How long?

17 A. He received six to seven months for this
18 offense.

19 Q. And when was he released?

20 A. He was released May 21st, 2004.

21 Q. What is his sex offender level?

22 A. He is registered as a level 2 sex
23 offender.

24 Q. Did you investigate what this sex offender
25 level means?

0198

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Yes, I did.

3 Q. What did you do?

4 A. I reviewed the King County Sheriff's web
5 site for definition of sex offender levels.

6 Q. I'd like you to turn to what's been marked
7 as Exhibit SP-5 for identification.

8 A. Okay.

9 Q. Will you please identify this document?

10 A. Yes. This is frequently asked questions.
11 What are the different sex offender levels, and
12 what do they mean.

13 Q. Have you reviewed this web site as part of
14 your investigation?

15 A. Yes, I have.

16 Q. Does this printout fairly and accurately
17 depict the web page that you viewed?

18 A. Yes.

19 Q. When was the last time you viewed this web
20 page?

21 A. I reviewed this web page this morning.

22 Q. So what does a risk level of 2 mean?

23 A. Well, level 2 sex offender risk level
24 means that there is a moderate risk to re-offend
25 and that there is more than one victim. It means

0199

1 SUSIE PAUL - DIRECT EXAMINATION

2 that the offender may use threats to commit the
3 crime. They groom their victims. It's predatory
4 in nature. They use a position of trust to commit
5 the crime. And typically, the offender does not
6 appreciate the damage done to the victims.

7 Q. Did Mr. Trick use a position of trust to
8 commit his crime?

9 A. Yes, he did.

10 Q. How so?

11 A. He was acquainted with the girls' mother,
12 and it was a sense of trust between that
13 relationship.

14 Q. Are you familiar with how sex offender
15 levels in this state are determined?

16 A. Yes, I am.

17 Q. Are you very experienced in this?

18 A. No, I'm not.

19 Q. So you're not an expert on how these sex
20 offender levels are set, correct?

21 A. That is correct.

22 Q. But did you research at all how these
23 levels are set?

24 A. Yes, I did.

25 Q. What did you do?

0200

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. I reviewed statute 72.09.345, which gives
3 the End of Sentence Review Committee the authority
4 to assign sex levels to sex offenders -- or risk
5 levels to sex offenders before the offender is
6 released from prison.

7 MR. O'CONNELL: Your Honor, staff at this
8 time would ask that the Commission take official
9 notice of statute RCW 72.09.345 pursuant to
10 Washington Administrative Code section 480.07.495,
11 subsection 2.

12 MR. WALL: No objections.

13 JUDGE FRIEDLANDER: Okay. So noted.

14 BY MR. O'CONNELL:

15 Q. Ms. Paul, when does that review committee
16 assign the risk level?

17 A. They assign the level before the offender
18 is released from prison.

19 Q. And what records and information do they
20 have access to when they're setting that level?

21 A. According to the statute, they have access
22 to all relevant records, and that includes the
23 pre-sentence investigation report.

24 Q. Okay. As a side note, were you able to
25 obtain the pre-sentence investigation report as

0201

1 SUSIE PAUL - DIRECT EXAMINATION

2 part of your evaluation and investigation?

3 A. No, I was not.

4 Q. Why not?

5 A. It was sealed.

6 Q. But is that a record that the review
7 committee would have access to before assigning a
8 risk level?

9 A. Yes, they would review that before they
10 assign the level.

11 Q. How do you know that they would?

12 A. It says -- it says in the statute that
13 they will review all relevant records.

14 Q. And is the pre-sentence investigation
15 report specifically named in the statute?

16 A. Yes, it is.

17 Q. Do you know anything about what diagnostic
18 tools the review committee uses?

19 A. Yes, I do.

20 Q. What do they they use?

21 A. Since April of 2009, they use the
22 Minnesota Sex Offender tool and the STATIC 99 to
23 assign risk levels to sex offenders prior to
24 offenders being released from prison.

25 Previously, the committee had used an

0202

1 SUSIE PAUL - DIRECT EXAMINATION

2 assessment guide called the Washington State Sex
3 Offender Risk Level Classification, revised 1999,
4 instrument. A big, long name.

5 Q. How did you learn that they used these
6 tools?

7 A. I contacted a Department of Corrections
8 End of Sentence Review Committee member.

9 Q. Do you know when -- do you know anything
10 else about these tools?

11 A. No.

12 Q. Do you know when the Minnesota tool was
13 last updated?

14 A. Yes, that was updated in 2012.

15 Q. Do you know anything else about these?

16 A. No.

17 Q. And Mr. Trick's a level 2 sex offender,
18 correct?

19 A. That is correct.

20 Q. And the review committee assigned that to
21 him?

22 A. The review committee assigned that to him
23 before he was released from prison.

24 Q. Did you have any role in assigning him
25 that risk level?

0203

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. No.

3 Q. Does staff have any say in what his risk
4 level is?

5 A. No.

6 Q. So after Mr. Trick was released from
7 prison, was he on supervised release?

8 A. Yes, he was on supervision for
9 approximately three years. He had been released
10 from prison May 21st, 2004, and he was released
11 from supervision on April 3rd, 2007.

12 Q. Were there conditions on his release?

13 A. Yes, there were conditions.

14 Q. What were they?

15 A. No contact with minors. He is required to
16 complete the sexual offender treatment program.
17 Also, no alcohol or controlled substance abuse,
18 counseling, and to obey all laws.

19 Q. Did Mr. Trick get married after his
20 supervised release ended?

21 A. He did. He was released from supervision
22 in April 2007, and then married a woman with, I
23 believe, two young children months after his
24 release from supervision.

25 Q. Does this timing raise a concern to staff?

0204

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. Yes.

3 Q. Why?

4 A. It appears that Mr. Trick put himself in a
5 position of risk. His supervision for three years
6 had been not to be around minors. And yet, he had
7 a relationship with a woman, in fact, did marry
8 her, and she had small children.

9 Q. We learned today from Mr. Trick that he
10 had met this woman in 2005. Does that contribute
11 at all to your evaluation?

12 A. It really is a concern to Commission
13 staff, because he -- it appears that he had a
14 relationship and was around minor children when he
15 was on supervision and should not have been around
16 children or minors.

17 Q. Do you know for sure that he was around
18 those children during the supervised release?

19 A. No, I don't know for sure. However, he
20 did marry her within months of his supervision.

21 Q. Okay. I want to change gears a little bit
22 and ask you about household good movers.

23 A. Okay.

24 Q. Please tell us, Ms. Paul, what does it
25 mean to properly operate as a household good mover?

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. It means that the company is willing and
3 table to perform the services proposed and to
4 conform to applicable laws and rules. The company
5 must be in the interest of the public. They must
6 be able to pass a background check, and the
7 application must be complete and no false or
8 misleading statements provided.

9 Q. Okay. But what is expected of a household
10 goods mover?

11 A. To be a household good mover, you have to
12 be trustworthy. You are going into people's homes
13 and handling customers' personal property, often
14 with very little oversight from the owner.

15 It also means the company must pass
16 background checks, and they also must request
17 background checks on any employees. And they are
18 trusted to hire employees with a satisfactory
19 background. They're trusted to correctly document
20 hours on the job, employees' breaks, travel rates,
21 minimum hour rates.

22 There's just so many documents that are
23 required to successfully perform a household goods
24 move. And household good movers are trusted to
25 interact not only with the customer, but with any

0206

1 SUSIE PAUL - DIRECT EXAMINATION

2 friends and family that may be present, and that
3 may include children.

4 Q. So what is the significance of the
5 Commission granting a permit for someone to be a
6 household good mover?

7 A. It means that the company has met the
8 safety standards and service standards, and also,
9 that they have adequate insurance. It means that
10 they have an acceptable background.

11 And for the customer, really, it's a stamp
12 of approval that the Commission has thoroughly
13 looked at this company and they say, yes, it's good
14 to hire this company. And the customer feels
15 secure in hiring a permitted household good
16 company.

17 In fact, UTC not only issues the permits
18 for household good carriers, but they also provide
19 training. Advertising by the UTC always says, hire
20 a permitted company only for your own personal
21 safety and the safety of your belongings.

22 Q. So when someone in the community hires a
23 household good mover, how would they know if a
24 mover was a level 2 sex offender?

25 A. Almost in all cases, I would say they

0207

1 SUSIE PAUL - DIRECT EXAMINATION

2 would not know that.

3 Q. But they're capable of going on line and
4 searching, correct?

5 A. If they had a desire to do so and if they
6 knew the person's name fully.

7 Q. Okay. I want to talk about whether -- I
8 want to ask you about whether Mr. Trick's
9 conviction would interfere with the proper
10 operation of a household good moving company. What
11 is Mr. Trick's role with Five Stars Moving?

12 A. Mr. Trick's role is as the president and
13 CEO of the company.

14 Q. And who is listed in the materials that
15 Five Stars submitted as the primary company
16 contact?

17 A. Mr. Trick.

18 Q. Do the materials Five Stars submitted
19 indicate whether Mr. Trick would be in homes moving
20 things?

21 A. Yes, it does.

22 Q. What does it say?

23 A. It says that he will fill in for all and
24 any roles, as needed, for the company.

25 Q. You testified earlier that Five Stars has

0208

1 SUSIE PAUL - DIRECT EXAMINATION

2 a president, a vice president, a director of
3 operations and a lead laborer -- or will hire a
4 lead laborer and an apprentice laborer.

5 From the materials that Five Stars
6 submitted, did you make any conclusion about which
7 roles Mr. Trick would be filling in for?

8 A. Yes, he indicated that he will fill in for
9 all of those roles.

10 Q. Do the materials Five Stars submitted
11 indicate whether Mr. Trick would be responsible for
12 interacting with the community and establishing
13 credibility?

14 A. Yes, Mr. Trick made numerous statements on
15 his -- in his business plan, and one of them is, we
16 are here for the moving needs of every customer,
17 big or small. He also said, as we discussed, that
18 the president will fill in for all or any roles, as
19 needed.

20 He indicated that it's his job to make
21 every customer feel comfortable with complete
22 strangers moving their memories, and that lots of
23 companies are more interested in immediate revenue
24 as opposed to a personal relationship that they
25 should have with each customer.

0209

1 SUSIE PAUL - DIRECT EXAMINATION

2 Q. Does the application identify who in the
3 company will be responsible for ensuring compliance
4 with state laws and Commission rules?

5 A. Yes. That's William Trick.

6 Q. Are there regular filings that household
7 good movers are expected to submit to the
8 Commission?

9 A. Yes, household good movers are expected to
10 submit annual reports.

11 Q. And what is the Commission's expectations
12 about the contents of those filings?

13 A. Well, the Commission depends on those
14 reports to determine the regulatory fees.
15 Household good movers are required to submit maybe
16 how many moves they have made, how many trucks they
17 have. There's just a lot of information that is
18 required from the company to send in.

19 Q. Does the Commission rely upon those
20 reports being truthful and forthcoming?

21 A. Yes, it absolutely needs to be truthful.

22 Q. So who, telling from Five Stars'
23 application and materials, would be responsible for
24 submitting the annual reports and filings like that
25 with the Commission?

0210

1 SUSIE PAUL - DIRECT EXAMINATION

2 A. William Trick.

3 Q. Does that concern staff in this case?

4 A. Well, it does. Because Mr. Trick has been
5 misleading to the Commission on this permit
6 application and on the previous application in 2013
7 for B&Z Moving.

8 Q. Okay. I want to -- I want to come back to
9 B&Z Moving in a little bit. Who would be making
10 the hiring decisions for Five Stars Moving?

11 A. Mr. Trick.

12 Q. Who would be deciding what jobs to take?

13 A. Mr. Trick.

14 Q. So Ms. Paul, how does Mr. Trick's felony
15 conviction in 1999 for sexually molesting two
16 seven-year-old girls interfere with him operating
17 Five Stars Moving as a household good moving
18 company?

19 A. First of all, he is a level 2 sex offender
20 with a moderate risk of re-offending, as shown on
21 the King County web site, and there is no time
22 limit on that risk level.

23 The concerns are that household good
24 movers are trusted to go -- to interact not only
25 with customers, but with their family and friends,

1 SUSIE PAUL - DIRECT EXAMINATION

2 and possibly young children that may be present,
3 and there is very little oversight. It's hectic on
4 a move. You know, the owners are -- are moving
5 around.

6 Mr. Trick has a history of using a
7 position of trust. He developed a work
8 relationship, and abused this woman's children. He
9 uses a position of trust to get close to his
10 victims. If granted a household goods permit, it
11 would offer Mr. Trick numerous opportunities to
12 develop relationships, and he would be in a
13 position of trust.

14 It's also a concern that he did marry a
15 woman months after his release from supervision
16 when he was to not have contact with minors, which
17 it shows that he has some poor decision making and
18 maybe some unclear judgment on who he develops
19 relationships with. He again married another
20 woman, also with a small child.

21 The Navy and Mr. Trick, an other than
22 honorable discharge, and they have banned him from
23 the base forever. He can't go on there. And yet,
24 Mr. Trick expects the Commission to grant him an
25 application to go into people's homes, be around

0212

1 SUSIE PAUL - DIRECT EXAMINATION

2 families and children, and unsupervised.

3 What's really concerning is that Mr. Trick
4 attempted to hide his -- his identity, really, with
5 B&Z Moving. The application was submitted and did
6 not include any information about him, and he did
7 not disclose any of his convictions on his current
8 application.

9 Q. Okay. Let me come back to B&Z Moving in
10 just a moment. Is it your understanding that
11 Mr. Trick could apply to have his risk level
12 reduced?

13 A. I'm sorry, can you -- can you say that
14 again?

15 Q. Is it your understanding that Mr. Trick
16 could have his sex offender level reduced, lowered?

17 A. Well, Mr. Trick testified today that he
18 could.

19 Q. What is your understanding of that
20 process?

21 A. It's actually the End of Sentence Review
22 Committee assigns the risk level before the
23 offender is released from prison, and then -- but
24 it is a recommendation, and the law enforcement can
25 alter that risk level.

0213

1 SUSIE PAUL - DIRECT EXAMINATION

2 Q. And when someone wants to have the risk
3 level reduced, who makes that determination?

4 A. That would be the law enforcement agency.
5 So it would be King County --

6 Q. And --

7 A. -- or Mr. Trick.

8 Q. -- do you know what tools they would use
9 in assessing that reduction?

10 A. I believe they use the same tools, the
11 Minnesota -- I forgot the name. Minnesota Sex
12 Offender tool and the STATIC 99.

13 Q. And those are the current tools --

14 A. Yes.

15 Q. -- that the state uses?

16 A. Yes.

17 Q. So you mentioned it a couple times. So I
18 want to ask you about B&Z Moving.

19 A. Okay.

20 Q. Is staff familiar with Mr. Trick from
21 other applications for a household good moving
22 company?

23 A. Yes, staff became aware of Mr. Trick in
24 2013 through B&Z Moving.

25 Q. And how was Mr. Trick connected with that

1 SUSIE PAUL - DIRECT EXAMINATION

2 application?

3 A. Well, staff discovered B&Z Moving was
4 operating as a household good company without the
5 required permit. Staff set up a move, and
6 Mr. Trick responded and e-mailed staff confirming
7 the move, and identified himself as one of the
8 company owners.

9 Staff sent a cease and desist order to B&Z
10 Moving and told them to cease operations as a
11 household goods mover until they came in and got
12 the appropriate permit to operate.

13 The application did come in, and staff
14 found it to be misleading, because there was no
15 mention of Mr. Trick at all. It was filled out by
16 Zack Gripp, and the staff determined that Mr. Trick
17 was attempting to hide his involvement with the
18 company.

19 There was a hearing, and the Commission
20 determined that B&Z did stand for Billy Trick and
21 Zack Gripp, and that the Commission noted a lack of
22 integrity on the application for not being truthful
23 on the application. The permit was denied because
24 of the attempt to mislead staff of ownership, and
25 Mr. Gripp was told that he could reapply for the

0215

1 SUSIE PAUL - DIRECT EXAMINATION

2 permit. However, though, Mr. Trick would not be
3 allowed to have any part of the company.

4 Q. Can I have you turn to what's been marked
5 for identification as Exhibit SP-2? It's been
6 discussed in prior testimony.

7 A. Okay.

8 Q. Will you please identify that document?

9 A. Yes. This is the notice of intent to deny
10 application for permanent authority for Five Stars
11 Moving & Storage LLC.

12 Q. Have you reviewed this as part of your
13 investigation?

14 A. Yes, I have.

15 Q. Okay. So Ms. Paul, how does this order
16 affect staff's recommendation in this case?

17 A. Well, the attempt to mislead is -- is
18 still present by Mr. Trick, because he did not
19 disclose his felony offense. He did not disclose
20 his driving under the influence, which was amended
21 to a reckless driving. He did not disclose his
22 business related legal proceeding. It was just
23 obvious that he -- he does not want Commission
24 staff to be aware of his background.

25 MR. O'CONNELL: Your Honor, staff would

0216

1 SUSIE PAUL - DIRECT EXAMINATION

2 ask that the Commission take official notice of the
3 administrative order that Ms. Paul has just
4 identified, pursuant to Washington Administrative
5 Code 480-07-495, subsection 2, about taking
6 official notice of administrative orders.

7 MR. WALL: I have no objection to taking
8 notice of it for purposes of Ms. Paul's
9 investigation. I'd only note that it's not
10 precedential or binding on this.

11 JUDGE FRIEDLANDER: Right. And just so I
12 can clarify, because I think you may have
13 referenced this as the notice of intent to deny,
14 and this is actually the initial order denying
15 application for permanent authority in docket
16 TV-130259, in re: The Application of B&Z Moving
17 LLC, is that correct?

18 MR. O'CONNELL: I am referring to the
19 order from B&Z Moving. The docket number that you
20 cited is correct. The -- the numbering issue with
21 the exhibits, I apologize for. I thought it was
22 SP-2.

23 JUDGE FRIEDLANDER: Yes.

24 MR. O'CONNELL: Okay. That is the --

25 JUDGE FRIEDLANDER: Yes, but I think

0217

1 SUSIE PAUL - DIRECT EXAMINATION

2 someone had mentioned that this was the notice of
3 intent to deny in the current docket, and that's
4 not the case.

5 MR. O'CONNELL: Correct. That is not the
6 notice of intent. It is the B&Z Moving case --

7 JUDGE FRIEDLANDER: Right.

8 MR. O'CONNELL: -- initial order.

9 JUDGE FRIEDLANDER: Okay. Then I'll take
10 official notice of that. Thank you.

11 BY MR. O'CONNELL:

12 Q. Ms. Paul, how long ago was B&Z Moving's
13 application denied?

14 A. That was in 2013. So probably just --
15 just over two years.

16 Q. What is the public concern if a household
17 good mover is characterized as misleading or has a
18 lack of integrity?

19 A. It means that the company hides things,
20 that they -- you know, they didn't disclose
21 important information. They're not willing to
22 follow the laws and the rules. It's -- it's like a
23 trust for the company to go into their their homes.
24 It's a potential risk to customers, and the company
25 cannot be trusted to do the right thing at the

0218

1 SUSIE PAUL - DIRECT EXAMINATION

2 right time.

3 Q. Did you use Facebook at all to investigate
4 into Mr. Trick?

5 A. Yes, I did.

6 Q. Mr. Trick had testified today information
7 about his drinking habits. Did you notice anything
8 on Facebook that indicated information to you about
9 his drinking habits?

10 A. Yes, I did. I noticed three different
11 photos of him with alcohol in -- in his hand
12 drinking a beer, and I believe he testified that if
13 he drinks, his wife, Ashley, doesn't drink. But in
14 one of the photos, both of them have a beer in
15 their hand.

16 Q. Okay. Are there any conditions that the
17 Commission could impose on this license to operate
18 that would mitigate the risks that Mr. Trick
19 presents?

20 A. No.

21 Q. Why not?

22 A. Well, Mr. Trick has shown time and time
23 again that he hides things, that he is -- attempts
24 to mislead Commission staff on his background, and
25 that he is not willing or able to follow the rules.

0219

1 SUSIE PAUL - DIRECT EXAMINATION

2 Q. Could staff support a plan where Mr. Trick
3 promised to be involved only as an administrator
4 for the company?

5 A. No.

6 Q. Why not?

7 A. Because he's already stated in his
8 business plan that he will fill in for any and all
9 roles of the company, and it's not a big company.
10 He has, you know, unhired staff and maybe one other
11 person to help him with a move, and if the move is
12 large, in order to have his business successful, he
13 would need to go and go into people's homes and
14 help out with the move.

15 Q. Okay. So Ms. Paul, just let me ask you,
16 why is staff recommending denial of this
17 application?

18 A. Staff is recommending denial because,
19 number one, the nature and extent of the 1999
20 felony conviction of two counts of child
21 molestation in the first degree.

22 Also, that he is a current registered sex
23 offender, a level 2, with a -- with a risk -- a
24 moderate risk to re-offend, and moderate risk is
25 simply just too much risk.

0220

1 SUSIE PAUL - CROSS EXAMINATION

2 And additionally, Mr. Trick has not been
3 willing to disclose his criminal history, and it
4 was surprising, really, on the second application,
5 on the current one for Five Stars, because he knew
6 that we knew about the 1999 sex offense and child
7 molestation, yet he failed to include that on his
8 application.

9 MR. O'CONNELL: Your Honor, I don't have
10 any more questions for Mr. Paul.

11 JUDGE FRIEDLANDER: Thank you. Cross,
12 Mr. Wall?

13 MR. WALL: Thank you, your Honor.

14 CROSS EXAMINATION

15 BY MR. WALL:

16 Q. Ms. Paul, were you involved in the staff
17 recommendation in the B&Z Moving matter?

18 A. No.

19 JUDGE FRIEDLANDER: Could you move -- I'm
20 sorry, could you move your microphone closer to
21 you?

22 MR. WALL: Sure. I apologize.

23 JUDGE FRIEDLANDER: That's okay.

24 BY MR. WALL:

25 Q. I'm sorry, what was your answer?

0221

1 SUSIE PAUL - CROSS EXAMINATION

2 A. No.

3 Q. I want to look back at that SP -- I
4 believe it's SP-2. I'm looking at the initial
5 order denying the application for a permanent
6 authority in B&Z Moving.

7 A. SP-2. Okay.

8 Q. And if you turn to page 4, paragraph 18,
9 the second sentence says, however, because
10 Mr. Trick subsequently decided to prioritize his
11 career options as a union construction laborer,
12 Mr. Gripp is now pursuing the moving business as a
13 sole proprietor.

14 Were you aware of that?

15 A. I -- I see that in the report, yes.

16 Q. And then if you skip on to page 6,
17 paragraph 29, disqualifying criminal record.
18 There's a discussion about whether Mr. Trick's
19 criminal record disqualifies the company, and then
20 if you see the block quote there, and that's the
21 last paragraph on the page, and that's a quotation
22 of the Commission rules.

23 It says, the Commission will not grant
24 provisional authority if any named person has,
25 within the past five years, *italicized*, been

1 SUSIE PAUL - CROSS EXAMINATION

2 convicted of any crime involving theft, burglary,
3 sexual misconduct, identity theft, et cetera, et
4 cetera, et cetera. And that's a citation, if you
5 look at footnote 8 to 480-15-3028.

6 Then it goes on to say, the Commission
7 will not grant permanent authority if any employee
8 has, within the past five years, been convicted of
9 a crime. And actually, that's the provisional and
10 the permanent authority.

11 Are you aware of the difference in the UTC
12 rules between convictions within the last five
13 years and convictions that are longer out than five
14 years?

15 A. Yes. This order came out in 2013, and
16 since then, the rule has been changed.

17 Q. In the current iteration of the UTC rules,
18 is there a differentiation between convictions in
19 the last five years and convictions longer than
20 five years?

21 A. Yes. It says that some -- some criminal
22 history is basically exempt from getting a permit,
23 depending on the nature and extent of the crime.

24 Q. Do you have -- within -- if a crime has
25 been committed within the first five years, it's an

0223

1 SUSIE PAUL - CROSS EXAMINATION

2 absolute bar?

3 A. No, it can go longer than five years, I
4 believe. I'd have to look at the rule. I think
5 it's 480-15-302, but I don't have it in front of
6 me.

7 Q. I don't have 480-15-302 in front of me
8 either, but would it sound accurate to you that if
9 a crime had been -- one of the specified crimes had
10 been committed within the last five years, the UTC
11 will deny authority?

12 A. Yes.

13 Q. And if it's been longer, then they will
14 only deny authority when they determine that it
15 would likely interfere with the proper operation of
16 a household goods moving company?

17 A. Yes.

18 Q. Do you have any firsthand knowledge as to
19 why the UTC enacted that -- and with a
20 differentiation there? Do you have any
21 understanding of what the difference is between
22 conviction within the last five years or an older
23 conviction?

24 MR. O'CONNELL: Objection, relevance.

25 MR. WALL: I think it's the -- it goes to

1 SUSIE PAUL - CROSS EXAMINATION

2 the heart of the issue here, which is whether the
3 conviction will likely interfere with the proper
4 operation of a household goods moving company, and
5 the statute contemplates that older convictions be
6 treated differently.

7 MR. O'CONNELL: And your Honor, what does
8 Ms. Paul's personal recollection of the rules
9 changing have to do with that?

10 MR. WALL: I'm asking her about her
11 understanding of the rules and how they apply in
12 this case to her determination that a conviction
13 would interfere with the proper operation.

14 MR. O'CONNELL: I believe I just objected
15 to the form of the question, because that's not
16 what I believe Mr. Wall was asking.

17 JUDGE FRIEDLANDER: Why don't you
18 rephrase?

19 MR. WALL: Thank you, your Honor.

20 Q. How does it affect your determination
21 about whether a crime will likely interfere with
22 the proper operation of a household goods moving
23 company when the crime is older than five years?

24 A. Well, I looked at the nature and extent of
25 the crime and, you know, I -- I reviewed that. I

0225

1 SUSIE PAUL - CROSS EXAMINATION

2 would review that any time that someone applies for
3 an application and their criminal history is less
4 than stellar.

5 Q. Turning back to SP-2 for a moment, if you
6 look at paragraph 31. It says there's no ambiguity
7 in the Commission's current rule.

8 A. I'm sorry, what page did you say?

9 Q. The same page we were on previously, page
10 7.

11 A. Okay.

12 Q. Paragraph 31.

13 A. Okay.

14 Q. If you just take a moment to read it.

15 A. Okay.

16 Q. There's no ambiguity in the Commission's
17 current rule that bars convicted criminals guilty
18 of specified crimes from receiving household goods
19 permits for only a period of five years.

20 Staff's argument that a sex offender is
21 permanently ineligible to hold a household goods
22 permit or be employed by a moving company is
23 unsupported by the Commission's currently
24 applicable rules.

25 Were you aware that in B&Z, despite the

1 SUSIE PAUL - CROSS EXAMINATION

2 text of the UTC WACs, the staff had taken a
3 position that Mr. Trick should be permanently
4 barred from obtaining a household goods moving
5 permit?

6 MR. O'CONNELL: Objection, relevance.
7 We're here in 2015 talking about this application,
8 not the 2013 rationale by staff.

9 MR. WALL: Your Honor, the B&Z docket was
10 introduced by counsel for staff, and he questioned
11 Ms. Paul about it. I'd like an opportunity to
12 cross-examine on that point.

13 JUDGE FRIEDLANDER: I don't have a problem
14 with that, to the extent that you're dealing with
15 issues and topics that he actually cross examined
16 -- or I'm sorry, examined her on directly. I
17 believe Ms. Paul has already stated that she was
18 not involved in that case.

19 MR. WALL: All right.

20 Q. Is it the staff's position in this
21 proceeding that Mr. Trick cannot be involved in any
22 moving business?

23 A. Yes, that's the recommendation.

24 Q. Is there some point at which the -- some
25 point in time at which, in the staff's view, an old

0227

1 SUSIE PAUL - CROSS EXAMINATION

2 conviction is so old, that there haven't been any
3 re-offenses of that nature, Mr. Trick would be
4 eligible?

5 A. I can't really answer that, because if
6 this permit is denied and Mr. Trick applied again
7 for a household goods permit, it would get the same
8 review as this one had, and staff would look at the
9 nature and extent of the crime and would consider
10 that and how the application is filled out, whether
11 it's complete, whether it's, you know, truthful in
12 its response.

13 Q. You're familiar with the UTC WACs,
14 correct?

15 A. I don't know them by heart, but yes.

16 Q. Are you familiar with the term labor only
17 moves?

18 A. Yes.

19 Q. I'm going to talk to you about WAC
20 480-15-181. These are operations that do not
21 require a permit. It says, a company's operations
22 do not require a permit from the Commission when
23 the company, one, moves commercial or office goods,
24 except with part of a household goods move.

25 Two, transports goods that are packed and

1 SUSIE PAUL - CROSS EXAMINATION

2 loaded on the vehicle and unloaded by the customer.

3 Three, transports goods which are loaded
4 and customer packed and sealed in self-storage type
5 containers in conjunction with storage when no
6 accessorial services are provided by the company.

7 MR. O'CONNELL: Your Honor, I have an
8 objection. We're talking about the denial of a
9 permit. I'm not sure that it's relevant to discuss
10 operations of, you know, labor only moves.

11 MR. WALL: Okay. The objection is
12 relevance? The question that I'd like to ask about
13 are these WACs and their applications to
14 Mr. Trick's business, and the extent to which he's
15 permitted to do the conduct, which the staff is
16 concerned with preventing, which is conducting
17 moves in the home.

18 MR. O'CONNELL: Your Honor, we're here for
19 the denial of a permit.

20 JUDGE FRIEDLANDER: Well, I would ask how
21 this relates, since you've already indicated that
22 this is -- this WAC provision is essentially saying
23 we don't have jurisdiction over these certain
24 moves.

25 MR. WALL: Right. And I'd like to ask

0229

1 SUSIE PAUL - CROSS EXAMINATION

2 about the reasons for the non-assertion of
3 jurisdiction over moves if it -- you know, if it's
4 a concern that Mr. Trick is in the home performing
5 moves, if there is some reason why the UTC doesn't
6 regulate those moves.

7 JUDGE FRIEDLANDER: And I don't know as
8 Ms. Paul would be qualified to answer that, so I'm
9 going to -- I'm going to sustain the objection.

10 BY MR. WALL:

11 Q. Let's turn to SP-4. This is the King
12 County -- I believe, unless I've got the numbering
13 wrong, this the King County Sheriff's --

14 A. Yes, it is.

15 Q. -- listing? Thank you. Where it says
16 that Mr. Trick was a coach and a volunteer, I think
17 you previously testified that you took that into
18 consideration in concluding that Mr. Trick had
19 abused positions of trust, is that accurate?

20 A. Yes, that's accurate.

21 Q. Okay. Did you do anything else to verify
22 the information on the King County Sheriff's web
23 site?

24 A. Well, I don't know what else I could do to
25 verify that. I did call King County and confirmed

0230

1 SUSIE PAUL - CROSS EXAMINATION

2 that this information is as it is, yes.

3 Q. And if we turn to -- I've completely lost
4 it in the numbering, but it's the King County
5 Sheriff's web site frequently asked questions.
6 Let's see. Maybe I can track it down.

7 MR. O'CONNELL: If I can help, that's
8 SP-5.

9 MR. WALL: Thank you.

10 A. Okay.

11 BY MR. WALL:

12 Q. Were there any other documents besides
13 SP-5 that you relied on in determining that a level
14 2 offender is at moderate risk?

15 A. Well, this is the accepted description of
16 level 2 offenders that I took into consideration,
17 yes.

18 Q. So you relied on this document. And my
19 question was, were there any other documents that
20 you relied on?

21 A. No.

22 Q. And I think you testified previously that
23 you don't have any expertise on how these levels
24 are calculated?

25 A. No.

0231

1 SUSIE PAUL - CROSS EXAMINATION

2 Q. And you don't have any expertise
3 predicting the risk of recidivism?

4 A. No, I don't.

5 Q. Other than the on-line research and the
6 phone calls you described, have you done any
7 examination of Mr. Trick to determine his risk of
8 recidivism?

9 A. No, I haven't.

10 Q. You said that -- and correct me if I'm
11 misstating your testimony, but I believe you
12 testified that based on this web site, which says
13 that a level 2 offender is at moderate risk, I
14 believe you said that moderate risk was too much --

15 A. Yes.

16 Q. -- is that accurate?

17 A. For a household goods permit, I believe
18 that is too much of a risk.

19 Q. How much risk is moderate risk?

20 A. Any risk is too much risk.

21 Q. You were present in the courtroom when
22 Dr. O'Connell testified that no one is at zero risk
23 of offending?

24 A. Yes, I was.

25 Q. But certainly, you don't mean any risk --

1 SUSIE PAUL - CROSS EXAMINATION

2 I mean, if everyone has some risk, then certainly,
3 there's some level of acceptable risk, or else no
4 one would be able to get a permit, right?

5 A. Well, when I reviewed for Mr. Trick, he is
6 registered as a level 2 sex offender, and the
7 definition for level 2 is a moderate risk, and
8 that's what I looked at.

9 Q. My question was, how much risk is moderate
10 risk?

11 MR. O'CONNELL: Objection, lack of
12 knowledge, personal knowledge. Mr. Trick's -- I'm
13 sorry, Mr. Wall is asking Ms. Paul to comment on
14 something she doesn't have any knowledge of how
15 it's set. She doesn't have any role in how it's
16 set. It's an improper question to ask Ms. Paul

17 MR. WALL: The question is not improper.
18 If she doesn't know the answer, she can say, I
19 don't know.

20 JUDGE FRIEDLANDER: I'm going to allow
21 this and allow Ms. Paul to state what she
22 understands a moderate risk to be.

23 A. A moderate risk is that the offender may
24 re-offend.

25 BY MR. WALL:

0233

1 SUSIE PAUL - CROSS EXAMINATION

2 Q. When you were present today in connection
3 with this proceeding and learned that Mr. Trick has
4 been around children for many years now without any
5 incident of recidivism, correct?

6 A. I do not know that.

7 Q. But you were present when the testimony
8 was that he's been present around children --

9 A. Yes.

10 Q. -- without any recidivism? Does that in
11 any way effect your conclusion with regard to
12 Mr. Trick's risk of recidivism?

13 A. The red flag for me is that Mr. Trick has
14 continued to place himself in a risky position.
15 Months after his release from supervision, when he
16 had no contact with minors, he did marry a woman
17 with small children, and then he again married a
18 woman with small children -- with a small child.

19 Q. So the risks that you've identified him
20 placing himself into were getting into long term
21 committed relationships, is that correct?

22 A. Yes, that he has placed himself in
23 situations of potential risk.

24 Q. Are you aware that a committed long term
25 relationship is actually a mitigating factor in

0234

1 SUSIE PAUL - CROSS EXAMINATION

2 recidivism?

3 MR. O'CONNELL: Objection. Your Honor,
4 Ms. Paul has already testified that she doesn't
5 have any expertise in recidivism and how levels are
6 set.

7 MR. WALL: I'm asking what she's aware of.
8 She did some investigation into the sex offender
9 leveling system, and I'm asking if she's aware of
10 it. If she's not, she's not.

11 JUDGE FRIEDLANDER: I'll allow it.

12 A. I did not look into recidivism as the
13 scope of my investigation.

14 BY MR. WALL:

15 Q. You were present in the courtroom when
16 Dr. O'Connell stated that committed long term
17 relationships are mitigating factors in the risk of
18 recidivism, correct?

19 A. I was present, yes.

20 Q. Did that new information in any way affect
21 your determination of Mr. Trick's risk of
22 recidivism?

23 A. No.

24 Q. Why not?

25 A. As I've stated, Mr. Trick is a level 2 sex

1 SUSIE PAUL - CROSS EXAMINATION

2 offender, which was assigned by End of Sentence
3 Review Committee, and also upheld by King County
4 law enforcement. And it's not my role to assign a
5 risk level for any sex offender.

6 Q. If a new evaluation were done with more
7 accurate predictive value, would that in any way
8 affect your assessment?

9 A. Again, it would be reviewed -- if
10 Mr. Trick's level changed and he reapplied for a
11 permit, that would be reviewed just as this permit
12 was reviewed, and the nature and extent of any
13 criminal history would be reviewed in detail.

14 Q. I understand that it would be reviewed.
15 My question was whether it would change your
16 assessment?

17 A. I can't answer that until, you know, the
18 situation arises.

19 Q. We looked at this -- at this
20 memorialization of a phone call that was had --

21 A. Yes.

22 Q. -- with Mr. Trick to UTC staff. And that
23 memorialization confirmed that Mr. Trick did, in
24 fact, call the UTC to ask about his reckless
25 driving?

1 SUSIE PAUL - CROSS EXAMINATION

2 A. Yes.

3 Q. So although he didn't disclose it in
4 written form, he did disclose it orally over the
5 phone, is that right?

6 A. He asked if he should disclose it, and he
7 was told that he should provide as much information
8 as possible, and he chose not to disclose it to the
9 Commission.

10 Q. At the time that he was speaking over the
11 phone, though, in that -- in the course -- just in
12 the context of that conversation, he disclosed it,
13 correct?

14 A. Yes.

15 Q. Let's take a look at the Five Stars
16 application. That's what's been taken judicial
17 notice of, or it's a --

18 A. I think I have it. I have it here.

19 Q. Thank you. Let me see if I have it.

20 A. It's Exhibit 1.

21 Q. I don't have it. My Exhibit 16. The
22 questions that are at issue, I believe, are on page
23 6 of the application. Would you turn to that page?

24 A. I'm there.

25 Q. At the top of the page, it says, do you

0237

1 SUSIE PAUL - CROSS EXAMINATION

2 have or have you ever had a business related legal
3 proceeding against you in Washington or in any
4 other state?

5 A. Yes.

6 Q. Can you point me to the page on this
7 application where it explains what the term
8 business related legal proceeding means?

9 A. Well, any -- no, I can't. I mean, it's a
10 business related legal proceeding. So if Mr. Trick
11 had a business related legal proceeding, he should
12 have disclosed that.

13 Q. So it's your testimony that there is
14 nowhere else on this application where you could
15 find information or a definition of business
16 related legal proceedings?

17 A. No. I can tell you that they should call
18 the Commission if there is any questions about the
19 permit when they fill it out.

20 Q. Going onto the next question, it says, has
21 any person named in this application, within the
22 past five years, been convicted of any crime
23 involving -- there's a number of crimes listed, and
24 one is sexual misconduct, and it asks the applicant
25 to answer yes or no, whether anyone named in the

1 SUSIE PAUL - CROSS EXAMINATION

2 application has been convicted within the past five
3 years.

4 In answering that question, it's true that
5 Mr. Trick would not need to check the yes box for
6 his -- that question was answered accurately,
7 correct?

8 A. His conviction was outside of the five
9 years, yes.

10 Q. Are you aware that a criminal charge can
11 be made and that a person can be convicted of a
12 crime without a citation?

13 A. I believe that a citation is a legal
14 proceeding, whether or not it's before a court.

15 Q. If I were to tell you that -- that, in
16 fact, you can have a criminal charge and a
17 proceeding and all the way to conviction and
18 sentencing without a citation, would that be new
19 information to you?

20 A. Yes.

21 Q. Are you aware that Mr. Trick was, in fact,
22 charged, arrested and pled guilty, but that there
23 was never a citation issued to him?

24 A. For what events?

25 Q. For his sexual misconduct events.

0239

1 SUSIE PAUL - CROSS EXAMINATION

2 A. Mr. Trick went to prison for his 1999 sex
3 offense.

4 Q. And there was never a citation issued to
5 him?

6 A. Okay. But he did go to jail.

7 Q. That's true. The question here asks, has
8 any person named in the application been cited for
9 violation of state laws or Commission rules?

10 A. Yes, it does.

11 Q. You discussed previously that Mr. Trick
12 was the individual named to ensure compliance with
13 the UTC rules and the annual filings?

14 A. Yes.

15 Q. The fact that he is the sole individual
16 named on the application doesn't in any way prevent
17 him from contacting others for assistance, hire an
18 attorney, or consulting with any other individuals
19 who are involved in the business, does it?

20 A. No.

21 MR. WALL: No further questions, your
22 Honor.

23 JUDGE FRIEDLANDER: Okay. Thank you.
24 This might be a good time to take a break. So how
25 about we take a break for five, and then come back

0240

1 SUSIE PAUL - REDIRECT EXAMINATION

2 with redirect.

3 MR. O'CONNELL: Sure. Thank you, your
4 Honor.

5 (A short recess was then taken.)

6 JUDGE FRIEDLANDER: Back on the record.
7 Mr. O'Connell, you were going to continue -- or
8 start your redirect.

9 MR. O'CONNELL: Yes. Thank you, your
10 Honor. At this time, just for the record, staff
11 wanted to offer SP-1, staff's memorandum.

12 MR. WALL: No objection, your Honor.

13 JUDGE FRIEDLANDER: Okay. And you're
14 offering it for admission, not official notice?

15 MR. O'CONNELL: Correct.

16 JUDGE FRIEDLANDER: Okay. And so
17 admitted. Thank you.

18 (Staff Exhibit SP-1 admitted into
19 evidence.)

20 REDIRECT EXAMINATION

21 BY MR. O'CONNELL:

22 Q. Ms. Paul, has Mr. Trick re-offended
23 against any children?

24 A. Not to my knowledge.

25 Q. How would you know if he did?

0241

1 SUSIE PAUL - REDIRECT EXAMINATION

2 A. I wouldn't know, unless he was arrested.

3 Q. Okay. Did you review the entirety of the
4 cord of documents before us today as part of your
5 investigation into the nature and extent of
6 Mr. Trick's 1999 conviction?

7 A. Yes, I did.

8 Q. And does that inform your recommendation
9 to the court -- to the Commission?

10 A. Yes.

11 Q. I want to talk briefly about this issue of
12 what cite means.

13 A. Okay.

14 Q. On the application, it asks -- it asks, as
15 Mr. Wall read, I believe, has any person named in
16 this application been cited for violation of state
17 laws or Commission rules. Prior to today, have you
18 reviewed the definition of cite?

19 A. Yes, I did.

20 Q. And in your review, what does cite mean?

21 A. It was a notification of a violation
22 and/or legal proceeding requesting presence --
23 requesting the person's presence.

24 Q. And do you recall where you read that?

25 A. I read that in a law book, Black's Law

0242

1 SUSIE PAUL - JUDGE'S INQUIRY

2 book, I believe.

3 MR. O'CONNELL: Your Honor, at this time,
4 I guess -- it's inappropriate to ask Ms. Paul the
5 definition of a legal court, because she's not a
6 lawyer. I would ask that the Commission and your
7 Honor and your legal training take official notice
8 of the definition of the word cite.

9 MR. WALL: Your Honor, I don't have any
10 objection to taking legal notice of the definition
11 of the word cite, as stated in Black's Law
12 Dictionary. It's quoted in my brief, so if your
13 Honor is inclined to take notice of it, I'd just
14 ask that it be the definition that's in -- a
15 current, up to date version of Black's Law
16 Dictionary.

17 JUDGE FRIEDLANDER: That's fine. Thank
18 you.

19 MR. O'CONNELL: And with that, your Honor,
20 I don't have any more questions for Ms. Paul.

21 INQUIRY

22 BY JUDGE FRIEDLANDER:

23 Q. Okay. Thank you. I just have maybe one
24 or two.

25 A. Okay.

0243

1 SUSIE PAUL - JUDGE'S INQUIRY

2 Q. You mentioned that in 2013, staff became
3 aware of a company conducting illegal moves --

4 A. Yes.

5 Q. -- or unauthorized moves, I should say,
6 called B&Z?

7 A. Yes.

8 Q. And I thought I heard you testify that
9 Mr. Trick himself was involved?

10 A. Yes. He testified in the hearing at B&Z
11 that he had been the person that had been
12 operating, and sent staff e-mails on a setup move,
13 identified himself as owner of the company.

14 Q. Do you know if he participated in the move
15 itself?

16 A. Well, it was set up, so the move never
17 happened.

18 Q. I see. Okay.

19 A. It was undercover --

20 Q. Got you.

21 A. An undercover move.

22 Q. I'm a little fuzzy on the time frame about
23 -- regarding staff's knowledge of the reckless
24 driving conviction. When did staff first become
25 aware of the reckless driving conviction?

0244

1 SUSIE PAUL - JUDGE'S INQUIRY

2 A. When I received the background check. It
3 was listed on both the watch report from the
4 Washington State Patrol and on the comprehensive
5 report that we are now using from LexisNexis.

6 Q. Okay. So did staff know about the
7 reckless driving conviction at the time of
8 recommendation to deny the permit application --

9 A. No.

10 Q. -- went out?

11 A. No.

12 Q. Okay. So it was after that?

13 A. Right.

14 JUDGE FRIEDLANDER: Okay. Okay. That's
15 all the questions that I have.

16 A. Okay.

17 JUDGE FRIEDLANDER: So unless there's
18 anything further, you are excused. Thank you for
19 your testimony.

20 A. Okay.

21 JUDGE FRIEDLANDER: Now, does staff have
22 any other witnesses that it wishes to offer?

23 MR. O'CONNELL: No, staff rests, your
24 Honor.

25 JUDGE FRIEDLANDER: I believe we had

0245

1 WILLIAM TRICK - REDIRECT EXAMINATION
2 discussed allowing Mr. Trick the very limited
3 opportunity to testify on the comprehensive report
4 and potential business violations --

5 MR. WALL: Right.

6 JUDGE FRIEDLANDER: -- business related
7 information.

8 MR. WALL: Right.

9 JUDGE FRIEDLANDER: So Mr. Trick, if you
10 want to approach the witness stand.

11 A. Yes, ma'am.

12 JUDGE FRIEDLANDER: And you are still
13 under oath, so you can go ahead and be seated.
14 Mr. Wall, if you'll conduct direct.

15 Whereupon,

16 WILLIAM TRICK,
17 having previsouly been duly sworn, testified
18 further as follows:

19 REDIRECT EXAMINATION

20 BY MR. WALL:

21 Q. Thank you, your Honor. You testified
22 previously that you completed Five Stars'
23 application.

24 When you looked at this question of a
25 business related legal proceeding, did you

1 WILLIAM TRICK - REDIRECT EXAMINATION

2 understand that to encompass the IRS?

3 A. I did not. I looked at it as a -- did I
4 own a business that went into some sort of legal
5 case.

6 Q. This was the first that I had learned of
7 it. What happened with the IRS?

8 A. Sure. In 2008 and 2009, my now ex-wife
9 and I made a significant amount of money in what we
10 did, and I wasn't used to making that much money,
11 and therefore, on our -- on our taxes, as we
12 claimed to have taxes withheld, we didn't have
13 enough taken out. So at the end of the year, when
14 would he filed for our taxes, we owed a significant
15 amount of money, and kind of let that go to the
16 next year.

17 It was kind of the same thing. It was
18 half as much, but the IRS states that any debt over
19 \$25,000 requires a tax lien, and so they filed a
20 tax lien on me. And recently -- and it's been
21 removed, because I satisfied the lien by bringing
22 the total down to under \$25,000. So any lien that
23 was in my name, or judgment, has been removed
24 because of that. But there was no business
25 involved.

1 WILLIAM TRICK - REDIRECT EXAMINATION

2 Q. How did you become aware of the lien?

3 A. I became aware, because my wife and I were
4 trying to buy a house, and when my mortgage broker
5 pulled my credit, he said, hey, you know, you have
6 liens against your name. And I said, oh, my gosh.
7 So I called -- immediately called the IRS and asked
8 how much I owed. I said, what do I need to do?
9 She goes, well, you already satisfied the lien.

10 So they e-mailed me a form to fill out,
11 asking to remove the liens. Literally, 10 days
12 later, 12 days later, it was gone, and they were no
13 longer on my credit report. If you look on my
14 credit report now, in any file, it says, tax lien
15 is satisfied.

16 Q. And did you ever have -- was there ever
17 any proceeding? Did you ever have to go to a
18 courtroom --

19 A. No.

20 Q. -- or have a hearing?

21 A. No, I did nothing. All I did was file my
22 taxes, and that was it. I didn't -- I didn't -- I
23 didn't even know I had a lien until they pulled my
24 credit, and they said nobody's going to lend me any
25 money from the IRS -- a tax lien from the IRS. So

0248

1 WILLIAM TRICK - REDIRECT EXAMINATION

2 I took care of it. That was it. That's what that
3 was about.

4 Q. I just have one -- one other question.

5 You were aware that the UTC conducts full
6 background checks, correct?

7 A. Oh, yes.

8 MR. O'CONNELL: Objection, it's outside
9 the scope of the limited amount of questions.

10 MR. WALL: Your Honor, this goes to the --
11 the question, which was brought up for the first
12 time in this new -- newly produced evidence of the
13 phone call record regarding the reckless driving
14 incident.

15 MR. O'CONNELL: I do not believe that is
16 what your Honor's grant of additional testimony was
17 for.

18 MR. WALL: I thought we were here to
19 discuss issues that were related to newly disclosed
20 evidence.

21 JUDGE FRIEDLANDER: Why don't you ask the
22 question, and then I'll decide if it's relating to
23 the limited testimony.

24 BY MR. WALL:

25 Q. Okay. The question was, were you aware

0249

1 WILLIAM TRICK - REDIRECT EXAMINATION

2 that the UTC conducts full background checks of the
3 people listed on the application?

4 JUDGE FRIEDLANDER: What do you mean by
5 full background checks?

6 MR. WALL: You can strike the adjective
7 full. I just mean background checks. Criminal
8 background checks, I guess.

9 JUDGE FRIEDLANDER: Okay. I'll allow it.

10 A. Yes, I do. The first application in --
11 made that very clear. I put my photo
12 identification in there, knowing that they were
13 going to do a background check. There was no
14 hiding.

15 BY MR. WALL:

16 Q. When you called them regarding the
17 reckless driving, was it your intent to conceal
18 that from them?

19 A. No.

20 JUDGE FRIEDLANDER: And actually, that's
21 -- that's beyond the scope.

22 MR. WALL: All right. No further
23 questions. Thank you, your Honor.

24 JUDGE FRIEDLANDER: Okay. Thank you. I
25 have no further questions, so you're dismissed.

0250

1 WILLIAM TRICK - RE CROSS EXAMINATION

2 MR. O'CONNELL: Your Honor, can I ask
3 cross-examination questions of the business related
4 legal proceeding?

5 JUDGE FRIEDLANDER: Very limited,
6 considering there were maybe two answers.

7 MR. O'CONNELL: Sure.

8 RE CROSS EXAMINATION

9 BY MR. O'CONNELL:

10 Q. Mr. Trick, you mentioned you made a lot of
11 money in that year. How much money did you make?

12 MR. WALL: Relevance. What's the
13 relevance of this question?

14 JUDGE FRIEDLANDER: To how much money he
15 made during a certain period of time?

16 MR. O'CONNELL: The IRS tax lien relates
17 directly to how much money he made, and that's what
18 he testified.

19 JUDGE FRIEDLANDER: Except that we're here
20 for a denial of an application.

21 MR. O'CONNELL: Which includes -- I'm
22 sorry, your Honor.

23 JUDGE FRIEDLANDER: No, that's okay. I'm
24 just saying, unless you can state how how much
25 money he made in a particular year directly relates

0251

1 WILLIAM TRICK - RECROSS EXAMINATION

2 to him having various violations or not having
3 various violations of the law and getting his
4 application denied, then I don't see how it's going
5 to be relevant.

6 MR. O'CONNELL: Your Honor, I believe the
7 relevance is that it's a business related legal
8 proceeding that we're talking about.

9 JUDGE FRIEDLANDER: Yes, I'm going to deny
10 it.

11 MR. O'CONNELL: Okay.

12 Q. Mr. Trick, the IRS filed a tax lien
13 against you, is that correct?

14 A. Yes.

15 Q. And you did not disclose that tax lien on
16 the application with the UTC, is that correct?

17 A. That's correct. I --

18 MR. O'CONNELL: I have no more questions,
19 your Honor.

20 JUDGE FRIEDLANDER: All right. Thank you.
21 You're dismissed, thank you. All right. So if I'm
22 correct, that ends all the testimony and we're
23 ready to move into closing.

24 MR. WALL: Yes, your Honor.

25 JUDGE FRIEDLANDER: Mr. Wall? Maximum,

0252

1 five minutes, by the way.

2 MR. WALL: Your Honor, could we take a
3 very brief recess just to collect the notes?

4 JUDGE FRIEDLANDER: Yes. We're off the
5 record.

6 (A short recess was taken.)

7 JUDGE FRIEDLANDER: Back on the record.
8 Mr. Wall, if you want to go ahead and begin with
9 your closing.

10 MR. WALL: Thank you, your Honor. At some
11 point, people with convictions should be able to
12 move on with their lives, earn a living and
13 contribute fully to our society and Washington
14 state's economy. Mr. Trick is one such individual
15 who deserves an opportunity to move on with his
16 life and pursue his chosen career.

17 Mr. Trick was leveled in 2004. We heard
18 from Dr. Michael O'Connell that the tool in place
19 at that time is antiquated, and that it would be
20 unethical to apply it now because it overstates the
21 risk. We heard from Mr. Trick, that there are a
22 number of mitigating factors which reduces risk of
23 recidivism.

24 For example, he's in a stable, long term
25 marriage. He's been around kids for years with no

0253

1 recidivism. He has a job that he's committed to,
2 and the grant of this professional license would
3 only further stabilize his work life and
4 professional scene.

5 The UTC's WACs, 480-15-181 do not regulate
6 labor only moves. Mr. Trick is currently legally
7 allowed to go into someone's home, box up all their
8 things for them, and move them onto a truck, so
9 long as it's not a truck that he owns. He's also
10 allowed to bring his truck, so long as someone else
11 boxes up the stuff.

12 So he can do the moving of the goods and
13 he can do the packing and loading of the goods. He
14 just can't do both. He has been operating in the
15 labor only context for nearly a decade now. He's
16 also been employed by full service move companies,
17 and he's received positive ratings, and he hasn't
18 had any negative incidents.

19 Pursuing this permit and this business is
20 the next logical step in his professional
21 development. There is no risk, as the staff
22 perceived, of him being in a home and having some
23 negative incident, and that's been proven over a
24 nine year track record. He's going to continue to
25 do labor only moves, as he's allowed to do by law,

0254

1 regardless of the outcome of this permit
2 application.

3 I want to come back to a couple of things
4 that counsel has said in his opening. He said that
5 the UTC was supposed to conduct an analysis,
6 conduct an analysis of whether the nature and
7 extent of the crimes would likely interfere with
8 proper operation of a household goods moving
9 company.

10 Here, the analysis was, as Ms. Paul
11 testified, to look at the sheriff's web site, and
12 see that Mr. Trick was leveled as a level 2, to
13 look at the frequently asked questions and see that
14 level 2s are at, quote, moderate risk, and conclude
15 that because movers are in the home and there's a
16 moderate risk, that's too much risk for the public
17 interest.

18 While that analysis is understandable,
19 it's very surface level and cursory. What we're
20 asking for here is a more nuanced, a more
21 individualized exercise of discretion to look
22 specifically at Mr. Trick and his specific
23 circumstances.

24 Counsel also said that it was not the
25 UTC's staff position that Mr. Trick's conviction

0255

1 was, quote, a permanent bar. But then when? When
2 is Mr. Trick going to be able put this behind him
3 and move on with his chosen career? It's been 16
4 years since his conviction. Will it be 20 years?
5 30? 50? At what point does this conviction stop
6 becoming a permanent stain that prevents him from
7 pursuing his chosen application?

8 Counsel also said that Mr. Trick's crime
9 was despicable, and it is a despicable crime.
10 That's exactly what it is. Counsel wants to
11 portray as Mr. Trick as a despicable criminal and
12 nothing more, but the reality is that Mr. Trick
13 made this horrible mistake, as he explained, the
14 inhibitions that normally prevent you and me and
15 everyone else from committing crimes broke down,
16 they failed him in that moment.

17 He made this one horrible, despicable
18 mistake, but that's not all that he is. That's not
19 the man who testified here today. The man who
20 testified here today is a man who is remorseful,
21 who stands here humbled. He's sincere. He's an
22 incredibly hard worker, and it takes a lot of
23 courage. It took a lot of courage for him to admit
24 the extremely delicate and extremely sensitive
25 things openly and honestly, and discuss those

0256

1 things.

2 Dr. O'Connell noted in his analysis,
3 although he's only had an opportunity to conduct a
4 tentative evaluation and come to some tentative
5 conclusions, he noted that Mr. Trick was incredibly
6 forthcoming and incredibly open about these things.
7 I think that takes a lot of courage, and it speaks
8 volumes about Mr. Trick's risk of recidivism, which
9 is really the key issue that I would ask your Honor
10 to analyze in this proceeding.

11 I want to address a few more things. We
12 heard Mr. Trick say that there are two types of
13 prisoners; people who go to prison and become more
14 enmeshed in crime and gangs and come out hardened
15 criminals. And then there are individuals like
16 Mr. Trick, who realize the severity of their crime
17 and face the really difficult reality that they
18 have done something terribly wrong that they have
19 to live with for the rest of their life, and make a
20 commitment to themselves, their families, society,
21 that they are going to use their time in prison to
22 better themselves. And Mr. Trick did that.

23 He obtained two certificates. He was a
24 facilitator for the Alternative Violence and
25 Non-Violent Communication programs. He completed

0257

1 his parole, and he moved his way up from Jiffy Lube
2 and QFC and finally got to the point where he's in
3 a long term stable marriage with kids of his own
4 and wants to start a business, and that's the
5 position that we find Mr. Trick in today, 16 years
6 away from this horrible event.

7 The UTC staff, I think, and counsel
8 portrayed Mr. Trick as being not forthcoming in his
9 application because Mr. Trick checked the wrong box
10 in his application. But Mr. Trick testified that
11 he knew, from his prior B&Z application, that the
12 UTC staff does a full background check. He called
13 and asked, what should I do about my reckless
14 driving? These are not the actions of a man who is
15 trying to conseal something. Did he perfectly fill
16 it out? No.

17 But then again, the UTC's permit
18 application is not perfectly precise in its
19 language. If you look at the phrase, business
20 related proceeding, in this case, there wasn't a
21 proceeding. There was a lien. And it asks about
22 citations for violations of Washington law. In the
23 case at hand, there wasn't a citation. So I think
24 that if we're going to hold people to these legal
25 standards, there needs to be some precision in the

0258

1 language.

2 Finally, I'll just say that with regard to
3 the grant of a permit and a professional license,
4 which allows someone the ability to pursue their
5 chosen career, it is exactly that grant of a
6 license that allows that person to further fulfill
7 their attempts at reintegration, rehabilitation,
8 pursuing their career.

9 We heard testimony from Dr. O'Connell that
10 it's the person's investments in their family and
11 in their jobs that gives them something that's
12 worth losing. Mr. Trick is an individual who is
13 investing in his family, is investing in his
14 career, already has a lot to lose.

15 I would ask your Honor to grant the permit
16 and give him more -- more to live for. Thank you,
17 your Honor.

18 JUDGE FRIEDLANDER: Thank you.

19 Mr. O'Connell?

20 MR. O'CONNELL: Thank you, your Honor.

21 Well, first, Counsel and Mr. Trick have made it
22 abundantly clear that he will continue to operate
23 his business with or without Commission approval in
24 this permit, and all the three things that I
25 mentioned in my opening remain true.

0259

1 Staff is familiar with Mr. Trick. His
2 current application is misleading. He does not
3 disclose a business related legal proceeding, his
4 tax lien by the IRS. He did not disclose his
5 reckless driving on the application. Mr. Wall is
6 making a semantic argument about what it means to
7 be cited for a violation of state law.

8 I think the application was very clear
9 that Mr. Trick should have disclosed his 1999
10 conviction, especially considering that he spoke
11 with staff regarding the application and received
12 the information and the guidance that he should
13 disclose as much information as possible, be as
14 complete as possible.

15 Staff is also familiar with Mr. Trick from
16 the 2013 case, B&Z Moving. And in that
17 application, again, Mr. Trick didn't fail to check
18 the right box in that case. He failed to include
19 himself entirely on that application. This is
20 consistent with staff's experience with Mr. Trick.

21 Dr. O'Connell testified that sex offenders
22 minimize their crime, they try to hide their crime,
23 they're good manipulators. Mr. Trick has been
24 trying to manipulate Commission staff by not
25 disclosing all of this. His 1999 conviction is a

0260

1 despicable act against two seven-year-old girls.

2 That interferes with him properly
3 operating a household good industry. He knew the
4 girls through their mother, whom he worked with.
5 He had a work contact with their mother. Their
6 parents trusted him to spend the night in their
7 home and invited him to stay there. The girls
8 trusted him, after having just met him that
9 evening, and went into the same room and in the
10 same bed with him, and he took advantage of that
11 trust. He had just met these girls, and he used a
12 work relationship to do it.

13 If he is given a permit by the Commission,
14 he will establish many more work relationships as
15 the owner of a household good moving company. That
16 provides him many more opportunities to take
17 advantage of relationships that he forms. The
18 concern is not only for families and children, but
19 also, other vulnerable people in society, because
20 staff's experience with Mr. Trick is that he is not
21 forthcoming, that his ability to be truthful and
22 disclose things fully has not been demonstrated to
23 staff.

24 Dr. O'Connell has met over the telephone
25 with Mr. Trick one time, and it was this Monday.

0261

1 He spoke with him for just over an hour, and by
2 Mr. O'Connell's own testimony, his evaluation is
3 extremely preliminary. He cannot make a definitive
4 evaluation of Mr. Trick. He hasn't had time to.
5 He hasn't had all the court documents. The court
6 documents that were disclosed was only the judgment
7 and sentence. He doesn't have access to the
8 pre-sentence information -- sorry. Pre-sentence
9 investigation report.

10 Staff doesn't even have access to that.
11 Staff is not responsible for Mr. Trick's risk of
12 re-offending. Staff does not have any control in
13 what his risk level is. That is established by the
14 End of Sentence Review Committee. That is
15 established by a legislatively appointed body.
16 That is not staff and not the Commission to
17 determine what Mr. Trick's risk level is.

18 His risk level remains a level 2. That's
19 a moderate risk. He could have done something to
20 have that amended. It appears from his testimony
21 today that he is now taking those steps, and many
22 others, but he has not up to this point, and it's
23 been 11 years since his release.

24 He notes problems with the web site, the
25 King County Sheriff's Office web site, yet he

0262

1 hadn't noted those inconsistencies with the
2 sheriff's office until just a couple months ago.
3 He's had 11 years to do so, and only now does he
4 try to explain that the information in there is
5 incorrect.

6 Staff did its investigation into the
7 nature and extent of Mr. Trick's 1999 conviction,
8 and as demonstrated through the testimony that it
9 will interfere with his operating a household good
10 moving company. In addition, Mr. Trick has a track
11 record with staff of being less than forthcoming,
12 in 2013 with B&Z Moving and with this application
13 today.

14 Staff asks that your Honor denies the
15 application for Five Stars Moving. Thank you.

16 JUDGE FRIEDLANDER: Thank you. Okay. Are
17 there any other procedural issues that we need to
18 address?

19 MR. WALL: No, your Honor.

20 JUDGE FRIEDLANDER: Okay. As I stated off
21 the record, I have requested the parties waive the
22 ten-day order deadline for this BAP proceeding.

23 I would also indicate that I remembered,
24 during the closing statements, that we do still
25 need to hear from Dr. O'Connell on the recidivism

0263

1 rate. He indicated it was approximately 10 percent
2 for level 1, and 18 percent for level 2, but was
3 going to check on that and inform counsel. I would
4 appreciate that information by the end of the week.

5 MR. WALL: Absolutely.

6 JUDGE FRIEDLANDER: And if both parties
7 are amenable, I would prefer that the deadline be
8 waived for this order to be out until ten days
9 after receiving the transcript. Ten business days,
10 I should say.

11 MR. WALL: On behalf of Five Stars, we'll
12 waive the requirement.

13 JUDGE FRIEDLANDER: Thank you.

14 MR. O'CONNELL: Staff waives the
15 requirement as well.

16 JUDGE FRIEDLANDER: Okay. Great. So if
17 there is nothing further, this hearing is
18 adjourned. Thank you.

19 MR. WALL: Thank you, your Honor.

20 MR. O'CONNELL: Thank you, your Honor.

21 (The hearing concluded at 3:24 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Mary M. Paradise, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the final hearing in re: the Application of Five Stars Moving, LLC on June 24, 2015, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of July, 2015.

MARY M. PARADISE, CSR