

Docket No. TV-150223 - Vol. I

**In re the Application of: Five Stars Moving & Storage,
LLC**

June 24, 2015

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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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1 OLYMPIA, WASHINGTON; JUNE 24, 2015
2 9:00 a.m.
3 -o0o-
4

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

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

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

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.

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

2 (Pages 5 to 8)

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

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

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

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

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:

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?**

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 --

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.

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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

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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

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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**

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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

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,

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

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?

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.

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

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

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

A. That's correct.

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

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

Apparently, based on what I know, has a

DR. MICHAEL O'CONNELL - DIRECT EXAMINATION
may have been a mistake in the scoring of the scoring tool back in 2004, or whenever it was he was released, and that there was a -- a mistake made in leveling him as a level 2 rather than a level 1, even by the tool and the rules of the tool that should have applied at the time.

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

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

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

DR. MICHAEL O'CONNELL - DIRECT EXAMINATION
social life, has a family, he's invested in a job, the sort of things that are referred to as desistance from crime, and this -- this goes back to a theory about juvenile delinquency, and a lot of juvenile delinquents age out of their antisocial and, you know, criminal behavior, that as they mature, as they have investment in a job or a family or a position in the community, they have other things that they devote their energy and attention to, and things they don't want to lose by messing up and getting in trouble.

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

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

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

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

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tool.

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

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

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

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

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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

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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

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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

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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

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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

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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

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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

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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

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 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**

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 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

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 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

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 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.

10 (Pages 37 to 40)

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

A. I've got them here.

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

Do you have a copy of those, your Honor?

JUDGE FRIEDLANDER: I don't.

MR. WALL: May I?

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

MR. WALL: Yes, your Honor.

JUDGE FRIEDLANDER: Okay. Thank you.

BY MR. WALL:

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

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

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

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

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

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

A. I see that.

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

A. Yes.

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

MR. WALL: Thank you, your Honor.

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

A. I see that.

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

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

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

JUDGE FRIEDLANDER: Mr. Wall?

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

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

BY MR. WALL:

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

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

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

A. I have.

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

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

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

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

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

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

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

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

(Exhibit 13 admitted into evidence.)

BY MR. WALL:

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

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 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.

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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**

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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**

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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

12 (Pages 45 to 48)

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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

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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

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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

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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.

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.

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

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 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

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.

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.

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 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

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,

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**

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, 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**

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?**

WILLIAM TRICK - DIRECT EXAMINATION

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

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

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

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

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

WILLIAM TRICK - DIRECT EXAMINATION

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

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

MR. WALL: Correct

JUDGE FRIEDLANDER: -- that was sent out?

MR. WALL: Correct.

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

MR. WALL: SP-2.

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

JUDGE FRIEDLANDER: Yes.

MR. O'CONNELL: Okay.

BY MR. WALL:

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

A. Okay. I'm very familiar.

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

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

WILLIAM TRICK - DIRECT EXAMINATION

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

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

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

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

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

A. B&Z Moving.

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

A. Okay.

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

JUDGE FRIEDLANDER: Which exhibit is this?

WILLIAM TRICK - DIRECT EXAMINATION
goods permit application for B&Z Moving LLC.

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

A. I did.

Q. What was the outcome of that hearing?

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

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

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

JUDGE FRIEDLANDER: Okay.

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

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

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

JUDGE FRIEDLANDER: Okay. Continue, then.

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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 --**

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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**

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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.

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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.

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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?**

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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,

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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.**

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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

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**

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

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**

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?**

20 (Pages 77 to 80)

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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**

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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

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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**

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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

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

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

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

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

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.

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 not sure.
 25 I mean, there was a lot.

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?**

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,

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,

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**

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 --**

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.

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 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

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 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?**

WILLIAM TRICK - CROSS EXAMINATION

A. I did.

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

A. It was a man both times.

Q. And you're sure?

A. I'm positive.

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

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

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

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

Q. Mr. Trick --

A. Yes.

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

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

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

WILLIAM TRICK - CROSS EXAMINATION

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

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

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

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

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

JUDGE FRIEDLANDER: Thank you. Do you

WILLIAM TRICK - CROSS EXAMINATION

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

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

MR. WALL: Asked and answered.

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

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

BY MR. O'CONNELL:

Q. When did you work for these companies?

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

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

A. Not each of them. One of them.

Q. Which one?

A. Adams Moving & Delivery.

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

WILLIAM TRICK - RECROSS EXAMINATION

have any redirect?

MR. WALL: Just one question on redirect.

JUDGE FRIEDLANDER: Thank you.

REDIRECT EXAMINATION

BY MR. WALL:

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

A. Yes.

Q. Have you also done work on your own?

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

MR. WALL: Thank you.

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

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

RECROSS EXAMINATION

BY MR. O'CONNELL:

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

1 **WILLIAM TRICK - RECROSS 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 - RECROSS 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

1 **WILLIAM TRICK - RECROSS 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

1 **WILLIAM TRICK - RECROSS 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

1 WILLIAM TRICK - RECROSS 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

1 **WILLIAM TRICK - RECROSS 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 underage 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

1 WILLIAM TRICK - RECROSS 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**

1 WILLIAM TRICK - RECROSS 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?

1 WILLIAM TRICK - RECROSS 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 - 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 - RECROSS 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 wreckless 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

1 WILLIAM TRICK - RECROSS 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

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

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

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

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

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

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

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,

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:

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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

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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?**

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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?**

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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.

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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

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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

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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**

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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.

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.

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

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 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

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

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?**

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

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.

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

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

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.

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 pedophilia. 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 pedophilia. 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

1 DR. MICHAEL O'CONNELL - JUDGE'S INQUIRY
2 pedophilia, 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

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

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 --

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,

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:

1 DR. MICHAEL O'CONNELL - RECROSS EXAMINATION
2 paraphilic disorders, which is the larger sexual
3 behavior problems, and there is a section on
4 pedaphilia 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 pedaphilic or pedaphilia
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

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

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

1 DR. MICHAEL O'CONNELL - RECROSS 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 - RECROSS 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

1 DR. MICHAEL O'CONNELL - RECROSS 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

1 DR. MICHAEL O'CONNELL - RECROSS 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 - RECROSS 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

1 DR. MICHAEL O'CONNELL - RECROSS 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 pedaphilia?

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

1 DR. MICHAEL O'CONNELL - RECROSS 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, pedaphilia 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 - RECROSS 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 pedaphilia. 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

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?

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?

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.

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

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**

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 **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.**

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?**

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

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?

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**

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

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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

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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

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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

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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

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**

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

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?**

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

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.

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.

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 god permit application.

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,

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?

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

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.

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

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.

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.

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.)

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.

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**

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.

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?**

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?**

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

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**

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

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?**

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?**

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?**

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A. It means that the company is willing and able to perform the services proposed and to conform to applicable laws and rules. The company must be in the interest of the public. They must be able to pass a background check, and the application must be complete and no false or misleading statements provided.

Q. Okay. But what is expected of a household goods mover?

A. To be a household good mover, you have to be trustworthy. You are going into people's homes and handling customers' personal property, often with very little oversight from the owner.

It also means the company must pass background checks, and they also must request background checks on any employees. And they are trusted to hire employees with a satisfactory background. They're trusted to correctly document hours on the job, employees' breaks, travel rates, minimum hour rates.

There's just so many documents that are required to successfully perform a household goods move. And household good movers are trusted to interact not only with the customer, but with any

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would not know that.

Q. But they're capable of going on line and searching, correct?

A. If they had a desire to do so and if they knew the person's name fully.

Q. Okay. I want to talk about whether -- I want to ask you about whether Mr. Trick's conviction would interfere with the proper operation of a household good moving company. What is Mr. Trick's role with Five Stars Moving?

A. Mr. Trick's role is as the president and CEO of the company.

Q. And who is listed in the materials that Five Stars submitted as the primary company contact?

A. Mr. Trick.

Q. Do the materials Five Stars submitted indicate whether Mr. Trick would be in homes moving things?

A. Yes, it does.

Q. What does it say?

A. It says that he will fill in for all and any roles, as needed, for the company.

Q. You testified earlier that Five Stars has

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friends and family that may be present, and that may include children.

Q. So what is the significance of the Commission granting a permit for someone to be a household good mover?

A. It means that the company has met the safety standards and service standards, and also, that they have adequate insurance. It means that they have an acceptable background.

And for the customer, really, it's a stamp of approval that the Commission has thoroughly looked at this company and they say, yes, it's good to hire this company. And the customer feels secure in hiring a permitted household good company.

In fact, UTC not only issues the permits for household good carriers, but they also provide training. Advertising by the UTC always says, hire a permitted company only for your own personal safety and the safety of your belongings.

Q. So when someone in the community hires a household good mover, how would they know if a mover was a level 2 sex offender?

A. Almost in all cases, I would say they

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a president, a vice president, a director of operations and a lead laborer -- or will hire a lead laborer and an apprentice laborer.

From the materials that Five Stars submitted, did you make any conclusion about which roles Mr. Trick would be filling in for?

A. Yes, he indicated that he will fill in for all of those roles.

Q. Do the materials Five Stars submitted indicate whether Mr. Trick would be responsible for interacting with the community and establishing credibility?

A. Yes, Mr. Trick made numerous statements on his -- in his business plan, and one of them is, we are here for the moving needs of every customer, big or small. He also said, as we discussed, that the president will fill in for all or any roles, as needed.

He indicated that it's his job to make every customer feel comfortable with complete strangers moving their memories, and that lots of companies are more interested in immediate revenue as opposed to a personal relationship that they should have with each customer.

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Q. Does the application identify who in the company will be responsible for ensuring compliance with state laws and Commission rules?

A. Yes. That's William Trick.

Q. Are there regular filings that household good movers are expected to submit to the Commission?

A. Yes, household good movers are expected to submit annual reports.

Q. And what is the Commission's expectations about the contents of those filings?

A. Well, the Commission depends on those reports to determine the regulatory fees. Household good movers are required to submit maybe how many moves they have made, how many trucks they have. There's just a lot of information that is required from the company to send in.

Q. Does the Commission rely upon those reports being truthful and forthcoming?

A. Yes, it absolutely needs to be truthful.

Q. So who, telling from Five Stars' application and materials, would be responsible for submitting the annual reports and filings like that with the Commission?

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and possibly young children that may be present, and there is very little oversight. It's hectic on a move. You know, the owners are -- are moving around.

Mr. Trick has a history of using a position of trust. He developed a work relationship, and abused this woman's children. He uses a position of trust to get close to his victims. If granted a household goods permit, it would offer Mr. Trick numerous opportunities to develop relationships, and he would be in a position of trust.

It's also a concern that he did marry a woman months after his release from supervision when he was to not have contact with minors, which it shows that he has some poor decision making and maybe some unclear judgment on who he develops relationships with. He again married another woman, also with a small child.

The Navy and Mr. Trick, an other than honorable discharge, and they have banned him from the base forever. He can't go on there. And yet, Mr. Trick expects the Commission to grant him an application to go into people's homes, be around

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A. William Trick.

Q. Does that concern staff in this case?

A. Well, it does. Because Mr. Trick has been misleading to the Commission on this permit application and on the previous application in 2013 for B&Z Moving.

Q. Okay. I want to -- I want to come back to B&Z Moving in a little bit. Who would be making the hiring decisions for Five Stars Moving?

A. Mr. Trick.

Q. Who would be deciding what jobs to take?

A. Mr. Trick.

Q. So Ms. Paul, how does Mr. Trick's felony conviction in 1999 for sexually molesting two seven-year-old girls interfere with him operating Five Stars Moving as a household good moving company?

A. First of all, he is a level 2 sex offender with a moderate risk of re-offending, as shown on the King County web site, and there is no time limit on that risk level.

The concerns are that household good movers are trusted to go -- to interact not only with customers, but with their family and friends,

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families and children, and unsupervised.

What's really concerning is that Mr. Trick attempted to hide his -- his identity, really, with B&Z Moving. The application was submitted and did not include any information about him, and he did not disclose any of his convictions on his current application.

Q. Okay. Let me come back to B&Z Moving in just a moment. Is it your understanding that Mr. Trick could apply to have his risk level reduced?

A. I'm sorry, can you -- can you say that again?

Q. Is it your understanding that Mr. Trick could have his sex offender level reduced, lowered?

A. Well, Mr. Trick testified today that he could.

Q. What is your understanding of that process?

A. It's actually the End of Sentence Review Committee assigns the risk level before the offender is released from prison, and then -- but it is a recommendation, and the law enforcement can alter that risk level.

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Q. And when someone wants to have the risk level reduced, who makes that determination?

A. That would be the law enforcement agency. So it would be King County --

Q. And --

A. -- or Mr. Trick.

Q. -- do you know what tools they would use in assessing that reduction?

A. I believe they use the same tools, the Minnesota -- I forgot the name. Minnesota Sex Offender tool and the STATIC 99.

Q. And those are the current tools --

A. Yes.

Q. -- that the state uses?

A. Yes.

Q. So you mentioned it a couple times. So I want to ask you about B&Z Moving.

A. Okay.

Q. Is staff familiar with Mr. Trick from other applications for a household good moving company?

A. Yes, staff became aware of Mr. Trick in 2013 through B&Z Moving.

Q. And how was Mr. Trick connected with that

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permit. However, though, Mr. Trick would not be allowed to have any part of the company.

Q. Can I have you turn to what's been marked for identification as Exhibit SP-2? It's been discussed in prior testimony.

A. Okay.

Q. Will you please identify that document?

A. Yes. This is the notice of intent to deny application for permanent authority for Five Stars Moving & Storage LLC.

Q. Have you reviewed this as part of your investigation?

A. Yes, I have.

Q. Okay. So Ms. Paul, how does this order affect staff's recommendation in this case?

A. Well, the attempt to mislead is -- is still present by Mr. Trick, because he did not disclose his felony offense. He did not disclose his driving under the influence, which was amended to a reckless driving. He did not disclose his business related legal proceeding. It was just obvious that he -- he does not want Commission staff to be aware of his background.

MR. O'CONNELL: Your Honor, staff would

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A. Well, staff discovered B&Z Moving was operating as a household good company without the required permit. Staff set up a move, and Mr. Trick responded and e-mailed staff confirming the move, and identified himself as one of the company owners.

Staff sent a cease and desist order to B&Z Moving and told them to cease operations as a household goods mover until they came in and got the appropriate permit to operate.

The application did come in, and staff found it to be misleading, because there was no mention of Mr. Trick at all. It was filled out by Zack Gripp, and the staff determined that Mr. Trick was attempting to hide his involvement with the company.

There was a hearing, and the Commission determined that B&Z did stand for Billy Trick and Zack Gripp, and that the Commission noted a lack of integrity on the application for not being truthful on the application. The permit was denied because of the attempt to mislead staff of ownership, and Mr. Gripp was told that he could reapply for the

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ask that the Commission take official notice of the administrative order that Ms. Paul has just identified, pursuant to Washington Administrative Code 480-07-495, subsection 2, about taking official notice of administrative orders.

MR. WALL: I have no objection to taking notice of it for purposes of Ms. Paul's investigation. I'd only note that it's not precedential or binding on this.

JUDGE FRIEDLANDER: Right. And just so I can clarify, because I think you may have referenced this as the notice of intent to deny, and this is actually the initial order denying application for permanent authority in docket TV-130259, in re: The Application of B&Z Moving LLC, is that correct?

MR. O'CONNELL: I am referring to the order from B&Z Moving. The docket number that you cited is correct. The -- the numbering issue with the exhibits, I apologize for. I thought it was SP-2.

JUDGE FRIEDLANDER: Yes.

MR. O'CONNELL: Okay. That is the --

JUDGE FRIEDLANDER: Yes, but I think

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 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

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 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.

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 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.

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 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?**

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A. No.

Q. I want to look back at that SP -- I believe it's SP-2. I'm looking at the initial order denying the application for a permanent authority in B&Z Moving.

A. SP-2. Okay.

Q. And if you turn to page 4, paragraph 18, the second sentence says, however, because Mr. Trick subsequently decided to prioritize his career options as a union construction laborer, Mr. Gripp is now pursuing the moving business as a sole proprietor.

Were you aware of that?

A. I -- I see that in the report, yes.

Q. And then if you skip on to page 6, paragraph 29, disqualifying criminal record. There's a discussion about whether Mr. Trick's criminal record disqualifies the company, and then if you see the block quote there, and that's the last paragraph on the page, and that's a quotation of the Commission rules.

It says, the Commission will not grant provisional authority if any named person has, within the past five years, italicized, been

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absolute bar?

A. No, it can go longer than five years, I believe. I'd have to look at the rule. I think it's 480-15-302, but I don't have it in front of me.

Q. I don't have 480-15-302 in front of me either, but would it sound accurate to you that if a crime had been -- one of the specified crimes had been committed within the last five years, the UTC will deny authority?

A. Yes.

Q. And if it's been longer, then they will only deny authority when they determine that it would likely interfere with the proper operation of a household goods moving company?

A. Yes.

Q. Do you have any firsthand knowledge as to why the UTC enacted that -- and with a differentiation there? Do you have any understanding of what the difference is between conviction within the last five years or an older conviction?

MR. O'CONNELL: Objection, relevance.

MR. WALL: I think it's the -- it goes to

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convicted of any crime involving theft, burglary, sexual misconduct, identity theft, et cetera, et cetera, et cetera. And that's a citation, if you look at footnote 8 to 480-15-3028.

Then it goes on to say, the Commission will not grant permanent authority if any employee has, within the past five years, been convicted of a crime. And actually, that's the provisional and the permanent authority.

Are you aware of the difference in the UTC rules between convictions within the last five years and convictions that are longer out than five years?

A. Yes. This order came out in 2013, and since then, the rule has been changed.

Q. In the current iteration of the UTC rules, is there a differentiation between convictions in the last five years and convictions longer than five years?

A. Yes. It says that some -- some criminal history is basically exempt from getting a permit, depending on the nature and extent of the crime.

Q. Do you have -- within -- if a crime has been committed within the first five years, it's an

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the heart of the issue here, which is whether the conviction will likely interfere with the proper operation of a household goods moving company, and the statute contemplates that older convictions be treated differently.

MR. O'CONNELL: And your Honor, what does Ms. Paul's personal recollection of the rules changing have to do with that?

MR. WALL: I'm asking her about her understanding of the rules and how they apply in this case to her determination that a conviction would interfere with the proper operation.

MR. O'CONNELL: I believe I just objected to the form of the question, because that's not what I believe Mr. Wall was asking.

JUDGE FRIEDLANDER: Why don't you rephrase?

MR. WALL: Thank you, your Honor.

Q. How does it affect your determination about whether a crime will likely interfere with the proper operation of a household goods moving company when the crime is older than five years?

A. Well, I looked at the nature and extent of the crime and, you know, I -- I reviewed that. I

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 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**

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 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 **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**

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

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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

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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 --

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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.

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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:

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Q. When you were present today in connection with this proceeding and learned that Mr. Trick has been around children for many years now without any incident of recidivism, correct?

A. I do not know that.

Q. But you were present when the testimony was that he's been present around children --

A. Yes.

Q. -- without any recidivism? Does that in any way effect your conclusion with regard to Mr. Trick's risk of recidivism?

A. The red flag for me is that Mr. Trick has continued to place himself in a risky position. Months after his release from supervision, when he had no contact with minors, he did marry a woman with small children, and then he again married a woman with small children -- with a small child.

Q. So the risks that you've identified him placing himself into were getting into long term committed relationships, is that correct?

A. Yes, that he has placed himself in situations of potential risk.

Q. Are you aware that a committed long term relationship is actually a mitigating factor in

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offender, which was assigned by End of Sentence Review Committee, and also upheld by King County law enforcement. And it's not my role to assign a risk level for any sex offender.

Q. If a new evaluation were done with more accurate predictive value, would that in any way affect your assessment?

A. Again, it would be reviewed -- if Mr. Trick's level changed and he reapplied for a permit, that would be reviewed just as this permit was reviewed, and the nature and extent of any criminal history would be reviewed in detail.

Q. I understand that it would be reviewed. My question was whether it would change your assessment?

A. I can't answer that until, you know, the situation arises.

Q. We looked at this -- at this memorialization of a phone call that was had --

A. Yes.

Q. -- with Mr. Trick to UTC staff. And that memorialization confirmed that Mr. Trick did, in fact, call the UTC to ask about his reckless driving?

SUSIE PAUL - CROSS EXAMINATION
recidivism?

MR. O'CONNELL: Objection. Your Honor, Ms. Paul has already testified that she doesn't have any expertise in recidivism and how levels are set.

MR. WALL: I'm asking what she's aware of. She did some investigation into the sex offender leveling system, and I'm asking if she's aware of it. If she's not, she's not.

JUDGE FRIEDLANDER: I'll allow it.

A. I did not look into recidivism as the scope of my investigation.

BY MR. WALL:

Q. You were present in the courtroom when Dr. O'Connell stated that committed long term relationships are mitigating factors in the risk of recidivism, correct?

A. I was present, yes.

Q. Did that new information in any way affect your determination of Mr. Trick's risk of recidivism?

A. No.

Q. Why not?

A. As I've stated, Mr. Trick is a level 2 sex

SUSIE PAUL - CROSS EXAMINATION

A. Yes.

Q. So although he didn't disclose it in written form, he did disclose it orally over the phone, is that right?

A. He asked if he should disclose it, and he was told that he should provide as much information as possible, and he chose not to disclose it to the Commission.

Q. At the time that he was speaking over the phone, though, in that -- in the course -- just in the context of that conversation, he disclosed it, correct?

A. Yes.

Q. Let's take a look at the Five Stars application. That's what's been taken judicial notice of, or it's a --

A. I think I have it. I have it here.

Q. Thank you. Let me see if I have it.

A. It's Exhibit 1.

Q. I don't have it. My Exhibit 16. The questions that are at issue, I believe, are on page 6 of the application. Would you turn to that page?

A. I'm there.

Q. At the top of the page, it says, do you

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 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

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.**

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?**

SUSIE PAUL - REDIRECT EXAMINATION

A. I wouldn't know, unless he was arrested.

Q. Okay. Did you review the entirety of the cord of documents before us today as part of your investigation into the nature and extent of Mr. Trick's 1999 conviction?

A. Yes, I did.

Q. And does that inform your recommendation to the court -- to the Commission?

A. Yes.

Q. I want to talk briefly about this issue of what cite means.

A. Okay.

Q. On the application, it asks -- it asks, as Mr. Wall read, I believe, has any person named in this application been cited for violation of state laws or Commission rules. Prior to today, have you reviewed the definition of cite?

A. Yes, I did.

Q. And in your review, what does cite mean?

A. It was a notification of a violation and/or legal proceeding requesting presence -- requesting the person's presence.

Q. And do you recall where you read that?

A. I read that in a law book, Black's Law

SUSIE PAUL - JUDGE'S INQUIRY

Q. You mentioned that in 2013, staff became aware of a company conducting illegal moves --

A. Yes.

Q. -- or unauthorized moves, I should say, called B&Z?

A. Yes.

Q. And I thought I heard you testify that Mr. Trick himself was involved?

A. Yes. He testified in the hearing at B&Z that he had been the person that had been operating, and sent staff e-mails on a setup move, identified himself as owner of the company.

Q. Do you know if he participated in the move itself?

A. Well, it was set up, so the move never happened.

Q. I see. Okay.

A. It was undercover --

Q. Got you.

A. An undercover move.

Q. I'm a little fuzzy on the time frame about -- regarding staff's knowledge of the reckless driving conviction. When did staff first become aware of the reckless driving conviction?

SUSIE PAUL - JUDGE'S INQUIRY

book, I believe.

MR. O'CONNELL: Your Honor, at this time, I guess -- it's inappropriate to ask Ms. Paul the definition of a legal court, because she's not a lawyer. I would ask that the Commission and your Honor and your legal training take official notice of the definition of the word cite.

MR. WALL: Your Honor, I don't have any objection to taking legal notice of the definition of the word cite, as stated in Black's Law Dictionary. It's quoted in my brief, so if your Honor is inclined to take notice of it, I'd just ask that it be the definition that's in -- a current, up to date version of Black's Law Dictionary.

JUDGE FRIEDLANDER: That's fine. Thank you.

MR. O'CONNELL: And with that, your Honor, I don't have any more questions for Ms. Paul.

INQUIRY

BY JUDGE FRIEDLANDER:

Q. Okay. Thank you. I just have maybe one or two.

A. Okay.

SUSIE PAUL - JUDGE'S INQUIRY

A. When I received the background check. It was listed on both the watch report from the Washington State Patrol and on the comprehensive report that we are now using from LexisNexis.

Q. Okay. So did staff know about the reckless driving conviction at the time of recommendation to deny the permit application --

A. No.

Q. -- went out?

A. No.

Q. Okay. So it was after that?

A. Right.

JUDGE FRIEDLANDER: Okay. Okay. That's all the questions that I have.

A. Okay.

JUDGE FRIEDLANDER: So unless there's anything further, you are excused. Thank you for your testimony.

A. Okay.

JUDGE FRIEDLANDER: Now, does staff have any other witnesses that it wishes to offer?

MR. O'CONNELL: No, staff rests, your Honor.

JUDGE FRIEDLANDER: I believe we had

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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 previously 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

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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.

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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

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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

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.

1 WILLIAM TRICK - RE-CROSS 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,

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

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

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,

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

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

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

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 conceal 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

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

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.

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.

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

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.)
22
23
24
25

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

CERTIFICATE

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



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