

Docket No. TV-190294 - Vol. I

In the Matter of: Can't Stop Moving, LLC

June 6, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the)	
Proper Carrier Classification of,)	
and Complaint for Penalties)	DOCKET TV-190294
against:)	
)	
CAN'T STOP MOVING, LLC)	
)	
)	

VERBATIM REPORT OF PROCEEDINGS BEFORE
NELLI DOROSHKIN, ADMINISTRATIVE LAW JUDGE

June 6, 2019
Pages 1 through 34

Held at:
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW, Room 206
Olympia, Washington

A P P E A R A N C E S

FOR THE COMMISSION: MR. NASH CALLAGHAN
Assistant Attorney General

FOR THE CARRIER: MR. ERIC MICHELSON
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(REPORTER'S NOTE: Original exhibits retained by ALJ Doroshkin and are not affixed hereto.)

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

2 Thursday, 9:30 a.m.

3 --ooOoo--

4
5 JUDGE DOROSHKIN: Let's be on the record.

6 This is the brief adjudicative proceeding in docket
7 TV-190294 in the matter of determining the proper
8 classification of and complaint for penalties against
9 Can't Stop Moving, LLC.

10 This proceeding concerns the Commission's complaint
11 against the company for alleged safety violations and the
12 consideration of the company's application - (Brief
13 interruption.) And that is the testing of our line here -
14 and the consideration of the company's application for
15 reinstatement of its household goods carrier permit.

16 My name is Nellie Doroshkin, and I'm the administrative
17 law judge presiding over this proceeding.

18 The purpose of this hearing is to determine whether the
19 Commission should, one, grant or deny Can't Stop Moving,
20 LLC's application for reinstatement of a provisional
21 household goods carrier permit; and, two, whether to assess
22 penalties for safety violations alleged in Commission
23 Staff's compliance review concluded March 19th, 2019.

24 By way of background, Can't Stop Moving has previously
25 held a provisional -- or permit dating back to 2009, which

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1 had been suspended or canceled several times due to
2 insufficient proof of insurance.

3 On April 15th, 2019, the company's provisional
4 household goods permit was canceled due to insufficient
5 proof of insurance. The company applied for reinstatement
6 of the permit on April 22nd, 2019.

7 Earlier, on March 19th, 2019, Commission Staff
8 completed a compliance review documenting 36 safety
9 violations by Can't Stop Moving.

10 Some instructions for today's proceeding. Because this
11 is a Commission-initiated action, Staff will speak first
12 today. Following Staff's presentation, the company will
13 have the chance to ask Staff questions and then the company
14 can present testimony. Once you are done testifying,
15 Staff's attorney may have questions for you.

16 When I call on each party to testify, I will swear you
17 in with the oath of witness so that you can tell the court
18 reporter -- so that anything that you tell the Court will be
19 under oath and can be considered sworn testimony. For the
20 court reporter's benefit, please speak slowly and clearly.
21 Also, please be sure to use the microphone on the table in
22 front of you. Once you are sworn in, you can present your
23 testimony.

24 So we'll begin by taking appearances beginning with
25 Commission Staff.

1 MR. CALLAGHAN: Thank you, Your Honor.
2 Nash Callaghan, Assistant Attorney General on behalf of
3 Commission Staff.

4 JUDGE DOROSHKIN: For the company?

5 MR. MICHELSON: Eric Michelson, owner of
6 Can't Stop Moving.

7 JUDGE DOROSHKIN: Okay. Can you please provide
8 your business address, phone, and email?

9 MR. MICHELSON: Business address is 4044 23rd
10 Avenue West, Seattle, Washington 98199. Phone number is
11 425/577-1524. Email is Info@Can'tStopMoving.com.

12 JUDGE DOROSHKIN: And could you please also spell
13 your name for the record?

14 MR. MICHELSON: E-R-I-C, M-I-C-H-E-L-S-O-N.

15 JUDGE DOROSHKIN: And do we have anyone on the
16 line? (No response.) Hearing nothing, then we will begin
17 with Staff.

18 Mr. Callaghan, you may proceed when ready.

19 MR. CALLAGHAN: Thank you, Your Honor. I do have
20 an exhibit I'd like to pass around. It's the only exhibit.
21 It should be Proposed Exhibit WG-1.

22 JUDGE DOROSHKIN: Okay.

23 MR. CALLAGHAN: May I approach?

24 JUDGE DOROSHKIN: Yes.

25 MR. CALLAGHAN: (Handing out copies of exhibit.)

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1 Thank you, Your Honor.

2 I do want to clarify that Staff is seeking penalties
3 only in the event that the application for reinstatement is
4 granted. Other than that, Your Honor, I don't feel like an
5 opening statement is necessary. The complaint lays out the
6 allegations, and I would just ask to be calling witnesses.

7 JUDGE DOROSHKIN: Okay. And do you want to move
8 for the admission of this exhibit?

9 MR. CALLAGHAN: Yes, Your Honor.

10 JUDGE DOROSHKIN: Okay. Mr. Michelson, do you
11 have any objections to admitting this exhibit?

12 MS. MICHELSON: No, Your Honor.

13 JUDGE DOROSHKIN: Okay. And Exhibit WG-1 is
14 admitted.

15 Go ahead and call your witness.

16 MR. CALLAGHAN: Thank you, Your Honor. I'd like
17 to call Wayne Gilbert.

18 JUDGE DOROSHKIN: Mr. Gilbert, can you please
19 stand and raise your right hand.

20 Do you swear or affirm that the testimony that you give
21 today is the truth, the whole truth, and nothing but the
22 truth?

23 THE WITNESS: I affirm.

24 JUDGE DOROSHKIN: Go ahead, Mr. Callaghan.

25 MR. CALLAGHAN: Thank you, Your Honor.

1 EXAMINATION

2 BY MR. CALLAGHAN:

3 Q Good morning, Mr. Gilbert.

4 A Good morning.

5 Q What is your current occupation?

6 A Currently, motor carrier safety investigator.

7 Q All right. And what are your duties in that position?

8 A My duties in that position are to investigate companies for
9 safety compliance, is the primary -- primary reason for my...

10 Q And how long have you held that position?

11 A Four years now.

12 Q And were you assigned to conduct a compliance review of
13 Can't Stop Moving in March of this year?

14 A Yes, I was.

15 Q Was that compliance review pursuant to a Commission order in
16 a previous docket?

17 A Yes, it was.

18 Q And did you write a report summarizing your review?

19 A That I did.

20 Q All right. I am showing you what has been admitted as
21 Exhibit WG-1.

22 A (Perusing.) Yes.

23 Q Mr. Gilbert, do you recognize this document?

24 A That I do.

25 Q What is this document?

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1 A This is the CAPRI report that is completed upon every motor
2 carrier safety investigation.

3 Q And you completed this report?

4 A I did.

5 Q What -- is the information contained in this exhibit true and
6 correct, to the best of your knowledge?

7 A To the best of my knowledge, yes, it is.

8 Q And are there any changes that you would like to make to this
9 exhibit?

10 A No.

11 Q Prior to March of 2019, have you ever had an assignment
12 related to Can't Stop Moving?

13 A Yes, I have. I've had two assignments related -- two
14 previous assignments related to Can't Stop Moving. One was
15 in 2017, was the very first one, and then again in 2018.

16 Q All right. And what do you recall from those assignments?

17 A Both times both assignments resulted in conditional ratings
18 with some critical violations.

19 Q All right. And when you conducted your compliance review in
20 March of 2019, what did you discover?

21 A Pretty much the same pattern that I had discovered on both
22 other occasions, one critical violation, some of the same
23 critical violations with additional minor violations.

24 Q And these are safety violations; is that correct?

25 A Correct.

1 Q And what is a critical violation?

2 A A critical violation is basically a serious enough violation
3 that the company needs to raise attention to it or correct it
4 as soon as possible.

5 Q And what's an acute violation?

6 A Acute violation is one step above critical. It is a very
7 serious -- or what the regulations consider a very serious
8 safety violation that needs to be corrected ASAP.

9 Q And in total, how many violations did you find in your
10 review?

11 A Total number of violations were nine separate state
12 violations during this one.

13 Q And does that -- does that include multiple instances of
14 violations?

15 A Correct, multiple occurrences of each violation.

16 Q All right. So those are the violations -- separate types of
17 violations?

18 A Correct.

19 Q And based on the violations you found in your review, what
20 safety rating did Can't Stop Moving receive?

21 A Can't Stop Moving received in March of 2019 another
22 conditional safety rating, proposed safety rating.

23 Q And what was that safety rating based on?

24 A The safety rating is based on several factors. It's based on
25 the number of acute and critical violations, and then it

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1 could also be based on the number of accidents the company's
2 had or the number of out-of-service vehicles the company
3 could have.

4 Q After you completed your review, did you give the company
5 notice of the results?

6 A I did.

7 Q All right.

8 MR. CALLAGHAN: No further questions, Your Honor.

9 JUDGE DOROSHKIN: Mr. Michelson, do you have any
10 questions for Mr. Gilbert based on what he said?

11 MR. MICHELSON: No, Your Honor.

12 JUDGE DOROSHKIN: Okay.

13 So in the event that the application is granted,
14 Mr. Gilbert, do you have -- does Staff have a recommended
15 penalty amount?

16 MR. GILBERT: I will defer that question to
17 Counsel and Mr. Sharp.

18 JUDGE DOROSHKIN: Do you have a second witness?

19 MR. CALLAGHAN: I was -- Staff had intended to
20 address that through Mr. Sharp, Your Honor.

21 JUDGE DOROSHKIN: Okay. You can go ahead and
22 call Mr. Sharp if you want.

23 MR. CALLAGHAN: Thank you, Your Honor. I'd like
24 to call Jason Sharp.

25 JUDGE DOROSHKIN: Please stand and raise your

1 right hand.

2 Do you swear or affirm that the testimony you give
3 today is the truth, the whole truth, and nothing but the
4 truth?

5 THE WITNESS: Yes, I do.

6 JUDGE DOROSHKIN: Have a seat.

7

8

9

EXAMINATION

10 BY MR. CALLAGHAN:

11 Q Good morning, Mr. Sharp.

12 A Good morning.

13 Q Would you please state your name and spell your last name for
14 the record.

15 A Jason Sharp, S-H-A-R-P.

16 Q And Mr. Sharp, where do you work?

17 A At the Utilities and Transportation Commission.

18 Q What's your position there?

19 A I am a motor carrier safety supervisor.

20 Q And how long have you held that position?

21 A A little over a year and a half.

22 Q All right. And what are your duties in that position?

23 A My responsibilities are overseeing the work of the motor
24 carrier investigators, reviewing their investigative reports,
25 and recommending enforcement actions based off of those

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1 findings.

2 Q During your time at the Commission, have you ever worked on
3 compliance issues for Can't Stop Moving?

4 A Yes, I have.

5 Q All right. And are you aware of Can't Stop Moving's
6 enforcement history with the Commission?

7 A Yes.

8 Q Prior to 2018, did the company ever have its permit as a
9 household goods carrier canceled or suspended?

10 A Yes, it has.

11 Q All right. And was that in 2014 and '15?

12 A Yes. The permit was suspended in 2014 and canceled in 2015,
13 due to lack of insurance on file.

14 Q And does the company also have a history of safety
15 violations?

16 A Yes.

17 Q Has the Commission ever imposed penalties on Can't Stop
18 Moving for violating safety regulations?

19 A Yes, it has. Following the initial household goods
20 provisional investigation conducted in 2017, the Commission
21 issued a penalty of I believe \$51,900, which was later
22 mitigated to just over \$25,000, with a suspended portion of
23 that I believe just north of 15,000 for a period of two years
24 on the condition that the company remains in compliance with
25 the safety rules.

1 Q And those penalties were based on over 500 safety violations;
2 is that correct?

3 A Over 500 occurrences of those violations, yes.

4 Q All right. And in 2018, did Commission Staff discover safety
5 violations during their compliance review?

6 A Yes, they did.

7 Q All right. And did the Commission impose the suspended
8 penalties based on those violations?

9 A Yes, based on the findings following the compliance
10 investigation in 2018, Staff discovered repeat critical
11 violations, which triggered the suspended penalty from the
12 2017 investigation.

13 Q In the 2018 case, did Staff initially recommend cancellation
14 of the company's permit?

15 A Yes.

16 Q And did Staff work with the company to develop a safety
17 management plan that would help the company avoid future
18 safety violations?

19 A Yes. Following Staff's notice of intent to cancel following
20 the findings of the 2018 investigation, Staff worked with
21 Can't Stop Moving in developing a safety management plan in
22 which the company displayed that it understood the
23 regulations and has corrected each violation that Staff
24 discovered during that 2018 investigation. With that, Staff
25 accepted the safety management plan and recommended that the

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1 Commission not cancel the company's permit at that time for
2 good cause.

3 Q And was the company in agreement with those conditions?

4 A Yes.

5 Q And in the Commission's 2018 order, was Staff directed to
6 conduct a compliance review within one year?

7 A Yes.

8 Q And pursuant to that order, was a compliance review conducted
9 in March of 2019?

10 A Yes.

11 Q And are you the supervisor of the Commission Staff member who
12 conducted the compliance review?

13 A Yes, I'm Investigator Gilbert's supervisor.

14 Q All right. And what were the results of that review?

15 A The results of the findings of that review resulted in a
16 conditional safety rating.

17 Q All right. And based on that outcome, what did you decide
18 was the appropriate enforcement response?

19 A Looking at the history of the company in its totality, the
20 fact that we've extended its provisional authority on two
21 occasions, taking into consideration that the company owner
22 has attended Commission-sponsored household goods training on
23 two separate occasions, we provided technical assistance,
24 completed three safety compliance investigations, accepted a
25 safety management plan, and yet again we were back at another

1 conditional rating. The fact that the company has yet to
2 satisfy the requirements to become a permanent household
3 goods carrier, Staff recommended again a notice of intent to
4 cancel the certificate.

5 Q And given the company's history, would any other enforcement
6 mechanism have been sufficient to guarantee compliance with
7 safety regulations?

8 A Unfortunately, Staff has exhausted its tools for trying to
9 encourage compliance of the company. We've imposed
10 significant penalties against the company, suspended a large
11 portion of it, still wasn't effective in bringing the company
12 into compliance.

13 Q And since the review in March, have there been other
14 compliance issues with the company?

15 A Yes. The company has violated and missed payments as part of
16 its penalties that have been enforced previously, whether
17 they be untimely or not made at all.

18 Q And was the company's permit canceled for failure to provide
19 proof of insurance on April 16th of this year?

20 A Yes.

21 Q All right. And was Commission Staff preparing to file a
22 complaint to cancel their certificate prior to the
23 cancellation do to insurance issues?

24 A Yes. Staff was actually notified the day that we were filing
25 on April 16th that the company was canceled for lack of

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1 insurance on file.

2 Q All right. And based on all of those considerations, do you
3 believe it would be in the public interest to grant
4 Can't Stop Moving's application for reinstatement?

5 A Unfortunately, no.

6 MR. CALLAGHAN: Nothing further, Your Honor.

7 JUDGE DOROSHKIN: Okay. Mr. Michelson, do you
8 have any questions for Mr. Sharp based on what he has said
9 here?

10 MR. MICHELSON: No, Your Honor.

11 JUDGE DOROSHKIN: So, then, Mr. Sharp, does Staff
12 have a recommended penalty amount in the event that the
13 application is granted?

14 MR. SHARP: Staff would seek the maximum
15 enforceable penalty due in the Commission enforcement
16 policy.

17 JUDGE DOROSHKIN: Which is?

18 MR. CALLAGHAN: It would be \$1,000 per violation,
19 Your Honor.

20 JUDGE DOROSHKIN: Okay. I think 36 violations
21 are documented, but for one Staff is not seeking a penalty.

22 MR. CALLAGHAN: That is correct.

23 JUDGE DOROSHKIN: So that would be 35,000?

24 MR. SHARP: Yes.

25 JUDGE DOROSHKIN: Okay.

1 If nothing further, Mr. Michelson, are you ready to
2 speak?

3 MR. MICHELSON: Yes, I am.

4 JUDGE DOROSHKIN: Okay. Would you please stand
5 and raise your right hand and I'll swear you in.

6 Do you swear or affirm that the testimony that you'll
7 give today is the truth, the whole truth, and nothing but
8 the truth?

9 MR. MICHELSON: Yes, I do, Your Honor.

10 JUDGE DOROSHKIN: You may sit.

11 So you may proceed with responding to Staff's complaint
12 -- or the Commission's complaint whenever you are ready.

13

14

15 RESPONSE BY MR. ERIC MICHELSON

16

17 MR. MICHELSON: Okay. I do apologize, this isn't
18 something that I'm comfortable with, so I hope that I don't
19 ramble with anything here.

20

21 First off, regarding the lack of insurance on file,
22 that is something that personally I do take responsibility
23 for, for not following up. I do have an insurance binder
24 documenting that we did have proof of insurance. We
25 switched carriers, and after we signed on with this company,
our agent on file at that company left and did not pass on

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1 the task of filing with the state or federal government
2 anything. I do have the documented proof that we did have
3 continuous insurance as of March 12th.

4 Also, in regards to Mr. Sharp with the missed payments,
5 we were extended an option for making a lump sum payment
6 within 10 days of receiving an updated payment plan. Three
7 of the four payments were made, and I do have a check
8 receipt for a fourth payment that I show was never cleared.
9 It was sent in. And I do have that here.

10 JUDGE DOROSHKIN: Okay. Mr. Michelson, do you
11 have copies of any of these documents that you brought with
12 you?

13 MR. MICHELSON: I do not. I can provide you with
14 these, if you'd like.

15 JUDGE DOROSHKIN: Okay. I would like to make
16 copies for Staff, as well. But please continue. We can do
17 that later.

18 MR. MICHELSON: I do apologize.

19 And then, furthermore, something that I discussed with
20 Mr. Gilbert at the time of our last compliance visit, I
21 unsuccessfully tried to set up an automatic bill pay for
22 these monthly payments, which I did make as of April 10th,
23 was the first payment. So, moving forward, and this is
24 something that I did explain as well when we had the
25 discussion about making our payments, is that from this

1 point forward and ever since this had happened our payments
2 have been made in a timely fashion and will continue to do
3 so if we are given the opportunity.

4 JUDGE DOROSHKIN: That's April 10th of this year?

5 MR. MICHELSON: April 10th of 2019, yes,
6 Your Honor.

7 To address the violations, the one and only acute
8 violation that did occur is something that I will take
9 direct responsibility for. We had our insurance renewal and
10 I made a mistake; I did not renew it. It went through the
11 weekend and it took me two days. It was something that was
12 immediately rectified as soon as I realized it, but that is
13 something that has been taken care of immediately.

14 As far as the second violation of appropriately
15 preparing the record of duty statuses, it was something --
16 and we had gone over this, we had been incorrectly filling
17 out our drivers' timecards and not showing a start and end
18 time, just their total hours worked. At our last compliance
19 review, it was something that was brought to my attention.
20 I did approach it with my employees. I thought that it was
21 fixed. And again I will take this upon myself. I did not
22 follow up and do a good enough job of watching for these,
23 and there was one employee who was not filling out his
24 timecards properly.

25 I did find after the fact some records where he was

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1 filling them out. According to Mr. Gilbert, they didn't
2 match up perfectly with his timecards that I had shown as
3 evidence or as his proof of time and were inadmissible. It
4 is something again I do take responsibility for, and in the
5 future this is something that should never happen again, and
6 it is something that I have been following up with with our
7 employees and hasn't happened since.

8 The third critical violation with the DOT inspections
9 has been probably the most difficult one for us. We were
10 working with a mechanic who we can no longer use anymore
11 because they became unresponsive to our needs and being able
12 to take care of our issues. We have since switched
13 mechanics. We have gotten two of our four trucks through
14 the shop and are in the process of getting the other two
15 done. We have also been using rental trucks in the meantime
16 to ensure that we are using compliant vehicles.

17 Going beyond that, the majority of the rest of these
18 involve clerical tasks, and it was something that
19 Mr. Gilbert and I had discussed is not my strong suit. We
20 started this business with, honestly, zero knowledge and
21 just trying to do the right thing, and it has taken us a lot
22 of time to get to where we are in this process.

23 I hired a human resource manager, which in hindsight
24 was not the person that should have been doing this job. I
25 thought that by bringing her to the UTC training and going

1 through and trying to teach all of these things I could, the
2 majority of these issues happened prior to her arrival, but
3 even then it was something that we have struggled with and
4 we are working very diligently to fix.

5 In the meantime, what we have done is try to rectify
6 the situation and take it out of human control. We are in
7 the process of signing on with a new payroll company and
8 using a human resources suite, which does allow for the
9 automatic tracking of any driver qualifications, employee
10 records, medical cards. All of those things would be
11 automated and we would receive alerts to know when all of
12 these things are coming due and again take any of the human
13 error out of it.

14 Again, this is not one of my strengths, and I am trying
15 to delegate to the best of my ability for that.

16 And I believe lastly was the preventative maintenance,
17 which falls into the same category of the clerical work, not
18 having a clear and concise written plan for our maintenance
19 records, something that we had done just after our last
20 compliance meeting. We did sign up for GPS tracking
21 location in our trucks, which does come with maintenance
22 schedules built into the program, as well as maintenance
23 logs and recordkeeping for that.

24 One thing -- and I understand everything that the prior
25 two witnesses have stated is true and accurate. I would

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1 like to argue that it is in the greater public good for us
2 to continue to operate. Everything that we have done since
3 we have been in business is for the greater good. We have
4 tried everything in our power to please every customer that
5 we have. We try to make every one of our employees' lives
6 better on a day-to-day basis, whether it's paying above
7 industry averages. We offer benefits to these employees.
8 We do truly treat them like family.

9 JUDGE DOROSHKIN: Okay. Are you done? And I'll
10 give you an opportunity to speak on any concluding
11 statements that you have.

12 MR. MICHELSON: Yes, Your Honor.

13 JUDGE DOROSHKIN: Okay. So one thing to note is
14 that the Commission rules do require us to receive exhibits
15 in advance of the hearing, but I will allow it this time.

16 MR. MICHELSON: Thank you.

17 JUDGE DOROSHKIN: However, we will take a brief
18 recess to make copies prior to the Staff's cross-examination
19 so they can take a look at the documents that you brought
20 with you.

21 So we'll be off the record.

22 MR. CALLAGHAN: Thank you, Your Honor.

23 (Off the record.)

24 JUDGE DOROSHKIN: We'll be back on the record.

25 Mr. Callaghan, do you have any questions for

1 Mr. Michelson?

2 MR. CALLAGHAN: I have a few, Your Honor.

3 Thank you.

4 JUDGE DOROSHKIN: Please proceed.

5

6

7

CROSS-EXAMINATION

8 BY MR. CALLAGHAN:

9 Q Mr. Michelson, how long have you been in business as a
10 household goods carrier?

11 A Just over 10 years.

12 Q All right. And in May 2017, were you penalized for safety
13 violations by the Commission?

14 A Yes, we were.

15 Q All right. And what were those violations?

16 A I couldn't tell you off the top of my head, but there were a
17 number of them that had been repeated.

18 Q All right. And did the company -- what was the penalty
19 amount, if you remember?

20 A The penalty amount was just north of \$50,000, if I recall.

21 Q All right. And after that penalty was assessed, what did you
22 do to ensure compliance with the safety regulations?

23 A After that we worked with Mr. Gilbert on doing what we could
24 to fix them. Some of them were fixed; some of them were not.
25 And there were a number of different issues. And if I had

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1 the list of complaints that we had, and violations, I would
2 be able to go over them in a little more detail, but we did
3 not fix all of them, clearly.

4 Q And what's your understanding of the nature of the safety
5 violations that you had?

6 A I'm sorry, I don't understand.

7 Q Do you -- what were you failing to do at that time? What
8 were the violations for?

9 A The great majority of them were on the clerical end, as far
10 as recordkeeping with employee files, hours of service
11 recorded, things of that nature, and then a couple of them
12 were related to the trucks and also mainly clerical but
13 keeping track of records. The one critical that I can recall
14 off the top of my head was not having the vehicles DOT
15 inspected.

16 Q All right. And these violations, you characterized them as
17 clerical. What do you mean by that?

18 A A lot of them were in regards to recordkeeping. So we did
19 not have proper records for many of our employees, which was
20 a number of the violations. I believe on the first one that
21 you referenced with I believe it was Mr. Sharp was over 500
22 occurrences, if I recall, over 400 of those were in regards
23 to timecards.

24 Q Have you ever participated in the Commission's household
25 goods training?

1 A Yes, I have.

2 Q All right. And in that training, do you learn about the
3 importance of keeping these records?

4 A Yes, you do.

5 Q All right. And what's your understanding of why these
6 records are important for maintaining safety?

7 A Well, in essence, it's to show that we are I guess complying
8 with safety in the ways that were set out by the state in
9 regards to hours of service, making sure that the trucks are
10 safe to be on the roads, making sure that our drivers are
11 safe to be in a customer's home, and also legally allowed to
12 work not only in the United States but also for us as a
13 household goods moving company.

14 Q All right. So is it fair to say these records document that
15 the company is doing things in order to maintain the bare
16 minimum safety requirements?

17 A I'm sorry, could you repeat that?

18 Q These records document that the company is doing what it
19 needs to do to maintain the bare minimum safety requirements?

20 A Yes.

21 Q All right. And Mr. Michelson, do you remember the 2018 case,
22 in which the Commission Staff found again a significant
23 number of violations?

24 A Yes.

25 Q All right. And the company was again fined a substantial

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1 amount; is that correct?

2 A Yes, it is.

3 Q All right. At that point what actions did you and your
4 company take to remedy those compliance issues?

5 A At that point we hired two new staff members who were ideally
6 going to be in charge of all human resources activities,
7 which again are a great number of the violations we've had in
8 the past. Something that I addressed to the judge earlier is
9 that I made poor choices of who I brought in.

10 We had tried on three separate occasions to hire
11 somebody to assist me with this, because clearly it's not
12 something that I do well. And I tried to delegate these
13 tasks, and I have struggled to find somebody, which at this
14 point is why, moving forward, we're looking to automate this
15 process to a company that deals directly with these items.

16 Q And with respect to the insurance issue, what's your
17 understanding of what a household goods carrier is required
18 to do in order to demonstrate to the Commission that they
19 have the required insurance?

20 A To the best of my knowledge, the insurance agent is supposed
21 to be filing the appropriate paperwork. I don't know the
22 name of it off the top of my head, but with the proper
23 agencies at the state and federal level to ensure that we are
24 compliant with the minimum insurance needs.

25 Q All right. And so it's the carrier's responsibility to make

1 sure the Commission has documented proof of insurance?

2 A Yes.

3 Q All right.

4 MR. CALLAGHAN: No further questions, Your Honor.

5 JUDGE DOROSHKIN: Okay. I have a few questions
6 for you, Mr. Michelson.

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EXAMINATION

10 BY JUDGE DOROSHKIN:

11 Q One, you mentioned that you had switched mechanics. When did
12 that happen?

13 A That would have been about four months ago.

14 Q So --

15 A Or three months ago. I'm sorry.

16 Q March? February?

17 A I would say around March.

18 Q Okay. And then you also switched to rental trucks, I believe
19 I heard. And when did that happen?

20 A We have been using rental trucks off and on just while we
21 have a truck in the shop and we were also during our slow
22 season. Basically, it was on an as-needed basis while we're
23 trying to get our other trucks run through for the DOT
24 inspection.

25 Q Okay. So -- and since what time period, approximately, have

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1 you been using rental trucks?

2 A I would say that that started probably the middle of March.

3 Q Okay. And then you said that you had intended to bring your
4 HR manager to the UTC training. Did you in fact do so?

5 A I did bring our HR manager to the UTC training. She is no
6 longer with the company.

7 Q Okay. And when was this UTC training?

8 A I can't recall the date.

9 Q Okay. What month? What year?

10 A I honestly can't recall. I believe it was the end of 2018.

11 Q Do you currently employ a safety manager or HR manager, for
12 that matter?

13 A We are in the process of trying to find another one. But our
14 previous manager who did attend the training with me was our
15 HR and safety manager, and she left the company about one and
16 a half, two months ago.

17 Q Okay. And so your intent on hiring the HR manager is for
18 them to be responsible for safety as well?

19 A Correct.

20 Q Okay. So currently there is no safety manager at Can't Stop
21 Moving?

22 A Currently I'm taking that role.

23 Q Okay. So you're currently taking that role.

24 And what have you done to stay informed of safety and
25 insurance requirements? (Interruption by telephone.) Pause.

1 Don't answer that yet.

2 (Off the record.)

3 JUDGE DOROSHKIN: We can be back on the record.

4 Q (By Judge Doroshkin) All right. So I had asked you the
5 question, what have you done to stay informed of the
6 Commission's safety and insurance requirements since you are
7 the person currently responsible for that?

8 A I also attended with our previous HR and safety manager the
9 UTC training period.

10 Q And that was at that time the end of 2018?

11 A I believe so.

12 Q Okay. Have you done anything else to ensure compliance, the
13 company's compliance with safety regulations, insurance
14 requirements?

15 A I have been working to fix the issues that have come up in
16 this last compliance investigation.

17 Q Okay. And then I see that the insurance document says the
18 effective date of coverage is March 12th, 2019. Did the
19 company have effective insurance prior to that date?

20 A Yes, we did.

21 Q Okay. Continuously up to that date?

22 A That is correct, yes, we did switch carriers on that date.

23 Q Okay. Then I don't have any more questions.

24 JUDGE DOROSHKIN: Mr. Callaghan, do you have any
25 concluding remarks?

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1 MR. CALLAGHAN: I do, Your Honor. Thank you.

2 I think it's important when evaluating the public
3 interest in this case to look at the history and in
4 particular the last case, the order 04/02 in docket 170293
5 and 180319. This is essentially the same kinds of things
6 that the Commission has heard from this company a year ago,
7 essentially that they were working on resolving these
8 issues, that they were willing to pay penalties and to work
9 to resolve these issues, and again within that year it's
10 extremely concerning that this has not been resolved and
11 that the same kinds of violations are being found, and this
12 is essentially the same issue that keeps happening.

13 And these are bare minimum safety requirements. They
14 are requirements that every household goods carrier has to
15 meet in order to safely operate. And at this point,
16 Your Honor, the Commission has used every other enforcement
17 mechanism. Commission Staff and the Commission uses
18 enforcement to ensure compliance. In this case all of the
19 enforcement mechanisms have been tried and the company is
20 still not able to be compliant with the bare minimum safety
21 requirements here.

22 The Commission and Commission Staff a year ago were
23 willing to give the company a last opportunity to get into
24 compliance. The company represented to the Commission that
25 it was taking substantial steps to get into compliance with

1 these safety regulations and, unfortunately, that hasn't
2 happened.

3 The reality here is that there is no condition, there
4 is no penalty that would give the Commission Staff
5 confidence that the company will come into compliance with
6 these bare minimum requirements, and so, for that reason,
7 Your Honor, we believe it would not be in the public
8 interest to grant reinstatement. Thank you.

9 JUDGE DOROSHKIN: And does Staff have any changes
10 to its penalty recommendations in light of the testimony?

11 MR. SHARP: No, Your Honor.

12 JUDGE DOROSHKIN: Okay. Mr. Michelson, is there
13 anything that you'd like to say in conclusion?

14 MS. MICHELSON: Yes, Your Honor.

15 I don't deny anything that has been said, and I do
16 understand that it comes off as either myself lying or
17 paying lip service to the fact or coming across that we do
18 not care. I also don't want to downplay the seriousness of
19 any of these violations that we've had. They have been
20 lowered each and every time. I understand that with the
21 last review that we had I was supposed to come in here and
22 there should not have been the book this thick with the
23 violations that have occurred.

24 I can assure you we are working on this. This company
25 means the absolute world to myself and my business partner,

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1 and we have worked to build this and done whatever we could
2 to do this the right way. I understand that that hasn't
3 been the case and that with all the efforts that we've made
4 we have made mistakes. We have tried to bring in somebody
5 that can help us resolve these. We have tried to do these
6 things on our own. We went to the last UTC training review.
7 What I'm asking for is one more chance.

8 I do realize that the Commission as well as this
9 hearing has granted us leniency in the past. I am asking
10 for one more chance to prove that we are a company that does
11 deserve to be here, that we are in the best interest of the
12 public and the state of Washington to be able to operate.

13 And if there is anything that we can do -- one thing
14 that Mr. Gilbert had mentioned initially prior to this that
15 we thought we could avoid by hiring a manager is finding a
16 moving consultant that could get us on the path and could
17 tell us exactly what we need to do and work with us to do
18 this. We are willing to do anything that is necessary to
19 get one more chance to prove that we do belong here and we
20 can right this ship. And I would truly like to ask that we
21 are given this one last chance to make things right,
22 Your Honor.

23 JUDGE DOROSHKIN: Okay. One more thing. Would
24 you like to have the documents that you brought entered as
25 an exhibit so it can be part of the record?

1 MR. MICHELSON: Yes, please, Your Honor.

2 JUDGE DOROSHKIN: Okay. Does Staff have any
3 objection to that?

4 MR. CALLAGHAN: No objection, Your Honor.

5 JUDGE DOROSHKIN: Then I will enter in these
6 three documents, the insurance document and the payment
7 document, and designate them as EM-1.

8 In conclusion, I will take this matter under advisement
9 and issue an order. I do want the parties to be aware that
10 I may need to wait until the transcript is available to
11 issue the order, and so the order may be issued in more than
12 10 calendar days.

13 Is there anything else?

14 MR. SHARP: No.

15 JUDGE DOROSHKIN: Okay. Then we are adjourned.

16 MR. CALLAGHAN: Thank you, Your Honor.

17 MR. MICHELSON: Thank you, Your Honor.

18 (Concluded at 10:20 a.m.)

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1 C E R T I F I C A T E

2
3 I, PAMELA J. NELSON, the undersigned Washington Court
4 Reporter pursuant to RCW 5.28.010 authorized to administer oaths
5 and affirmations in and for the State of Washington, do hereby
6 certify that the foregoing proceedings were reported by me and
7 thereafter transcribed by me by means of computer-aided
8 transcription;

9 I further certify that the said transcript of proceedings,
10 pages 1 to 34, as above transcribed, is a full, true and correct
11 transcript of the aforementioned matter and prepared pursuant to
12 Washington Administrative Code 308-14-135, the transcript
13 preparation format guideline;

14 I further advise you that as a matter of firm
15 policy, the stenographic notes of this transcript will be
16 destroyed three years from the date appearing on this Certificate
17 unless notice is received otherwise from any party or counsel
18 hereto on or before said date;

19 DATED and SIGNED this 14th day of June 2019.

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21

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24 PAMELA J. NELSON
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