

Docket No. TV-210170 - Vol. I

In the Matter of: Jake Theis d/b/a Royal Moving

May 11, 2021



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Page 1

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the) DOCKET TV-210170
Investigation of)
)
JAKE THEIS D/B/A ROYAL)
MOVING)
)
For Compliance with WAC)
480-15-555, WAC 480-15-560,)
and WAC 480-15-570)
)
)

BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
Pages 1-40
ADMINISTRATIVE LAW JUDGE SAMANTHA DOYLE

May 11, 2021
9:30 a.m.

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

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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Page 2

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21 ALSO PRESENT:
22
23 SANDRA YEOMANS
24 JASON SHARP
25 GUS MANSOUR

Page 3

1 EXAMINATION INDEX
2 SANDRA YEOMANS PAGE
3 By Mr. Roberson. 7
4
5 JASON SHARP
6 By Mr. Roberson. 25, 33
7
8 EXHIBIT INDEX PAGE
9 EXHIBITS FOR ADMISSION PAGE
10 SY-1 Compliance Report 11
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 4

1 LACEY, WASHINGTON; MAY 11, 2021
2 9:30 A.M.
3 --oOo--
4 PROCEEDINGS
5
6 JUDGE DOYLE: Good morning. This is Docket
7 TV-210170, which is captioned In the Matter of the
8 Investigation of Jake Theis, doing business as Royal
9 Moving for Compliance with Washington Administrative
10 Code Chapter 480-15.
11 My name is Samantha Doyle, and I'm the
12 administrative law judge presiding over today's brief
13 adjudicative proceeding.
14 Today is Tuesday, May 11th, 2021, and the
15 time is approximately 9:30 a.m.
16 On April 2nd, 2021, the Commission issued a
17 notice of intent to cancel permit notice of brief
18 adjudicative proceeding setting time for oral
19 statements. The Commission issued the notice of intent
20 to cancel following a compliance review conducted by
21 Commission Staff between February and March 2021, which
22 resulted in a proposed conditional safety rating for
23 Royal Moving.
24 And as we just discussed off the record, I
25 will be consolidating this docket with TV-210171 so we

Page 5

1 can address the reasons the company has for requesting
 2 mitigation of the penalty.
 3 And let's first take an appearance from
 4 Commission Staff.
 5 Mr. Roberson?
 6 MR. ROBERSON: Good morning. This is Jeff
 7 Roberson, Assistant Attorney General, representing
 8 Commission Staff. My contact information is on file in
 9 the docket. With me at counsel table are the motor
 10 carrier safety supervisor, Jason Sharp, and special
 11 investigator, Sandra Yeomans.
 12 JUDGE DOYLE: Great. And I'm going to pause
 13 one moment here. Bear with me. Thank you for holding
 14 on a moment there. It looked like -- I thought the
 15 court reporter was trying to contact me separately.
 16 Okay. Thank you for taking that brief
 17 pause, and for the company, please state your name and
 18 address for the record, spelling your last name for the
 19 court reporter.
 20 MR. THEIS: Jake Theis, T-h-e-i-s, and
 21 23009 - 29th Avenue West, Brier, Washington 98036.
 22 JUDGE DOYLE: And can you also give your
 23 phone number and email address, please.
 24 MR. THEIS: 425-350-3386 and Jaketheis, my
 25 first and last name, royals, r-o-y-a-l-s, @gmail.com.

Page 6

1 JUDGE DOYLE: When I call on each party to
 2 testify, I will swear you in with the oath of witness so
 3 that anything you tell the Court will be under oath and
 4 can be considered sworn testimony. For the court
 5 reporter's benefit, please speak slowly and clearly.
 6 Once you are sworn in, you can present your testimony
 7 and call witnesses, provide the Commission was notified
 8 about -- provided the Commission was notified in advance
 9 as the rules require.
 10 You can also introduce any exhibits you
 11 prefiled, and I will rule on the admissibility of each
 12 of those.
 13 Let's first have Staff address the
 14 investigation report of proposed safety rating.
 15 Following Staff's presentation, the company will have
 16 the opportunity to ask Staff's witnesses any questions
 17 and then you may present testimony. At that time, you
 18 can address the violations in the penalty assessment.
 19 Once you are done testifying, Staff's attorney may have
 20 some questions for you, and then Staff will make a
 21 recommendation on the penalty.
 22 Do you have any questions before we get
 23 started?
 24 MR. THEIS: No.
 25 JUDGE DOYLE: Thank you.

Page 7

1 Mr. Roberson, you may proceed with the issue
 2 of the company's safety rating and Staff's investigation
 3 when you're ready.
 4 MR. ROBERSON: Thank you, Your Honor. And
 5 I'm going to call Investigator Yeomans to the stand, but
 6 before I do so, just I will be referring to one exhibit,
 7 which is the prefiled exhibit from Staff. I was hoping
 8 everyone could take a moment to download that from the
 9 website or at least bring it up on a browser so it's
 10 handy.
 11 And with that, Staff calls Sandra Yeomans.
 12 MS. YEOMANS: Good morning.
 13 JUDGE DOYLE: And, Ms. Yeomans, will you
 14 please raise your right hand.
 15 (Sandra Yeomans sworn.)
 16 JUDGE DOYLE: Thank you.
 17 Go ahead, Mr. Roberson.
 18
 19 EXAMINATION
 20 BY MR. ROBERSON:
 21 **Q. Good morning. Would you please state your name**
 22 **and spell your last name for the record?**
 23 A. My name is Sandra Yeomans, Y-e-o-m-a-n-s.
 24 **Q. Who employs you?**
 25 A. I am employed by Washington State Utilities and

Page 8

1 Transportation in the motor carrier division.
 2 **Q. How long have you worked for the Commission?**
 3 A. Approximately six years.
 4 **Q. What is your position with the Commission?**
 5 A. I am a special investigator.
 6 **Q. What are your duties as a special investigator?**
 7 A. I investigate the performance of carriers to
 8 assure that they are in compliance with the Federal,
 9 State, and local rules and regulations.
 10 **Q. Have you had any training to enable you to carry**
 11 **out your duties as a special investigator?**
 12 A. Yes, I have all required Federal and State
 13 training for compliance investigation and vehicle
 14 inspection.
 15 **Q. And given that background, are you familiar with**
 16 **the State and Federal rules governing the operation of**
 17 **motor carriers and household goods carriers?**
 18 A. Yes.
 19 **Q. Are you familiar with Mr. Jake Theis who does**
 20 **business as Royal Moving?**
 21 A. Yes.
 22 **Q. How are you familiar with Mr. Theis?**
 23 A. I performed a compliance investigation on his
 24 company that I started on February 23rd of 2021.
 25 **Q. Does Mr. Theis hold a conditional permit**

Page 9

1 authorizing him to engage in business as a household
 2 goods carrier?
 3 A. Yes.
 4 **Q. Does the Commission review the operation of**
 5 **permitted household goods carriers to ensure they're**
 6 **operating safely?**
 7 A. Yes.
 8 **Q. And you reviewed Mr. Theis's operations pursuant**
 9 **to that duty?**
 10 A. Yes.
 11 **Q. And when did you complete your investigation of**
 12 **Mr. Theis's operation?**
 13 A. I closed with Mr. Theis on March 18th, 2021.
 14 **Q. When you finish a compliance review, do you**
 15 **memorialize the findings you make in the course of that**
 16 **review?**
 17 A. Yes.
 18 **Q. How do you do so?**
 19 A. We write a compliance investigation report that
 20 explains all violations that were discovered during the
 21 investigation.
 22 **Q. Do you complete those reports in the ordinary**
 23 **course of business after every inspection?**
 24 A. Yes.
 25 **Q. Do you complete those reports contemporaneously**

Page 10

1 with your inspection?
 2 A. Yes.
 3 **Q. Is it important that those reports are accurate?**
 4 A. Yes.
 5 **Q. And why is that?**
 6 A. The findings of the report can determine if a
 7 carrier is able to continue operation.
 8 **Q. Did you write a report after finishing your**
 9 **compliance review of Mr. Theis's operations?**
 10 A. Yes.
 11 **Q. Would you please turn to the exhibit marked**
 12 **SY-1?**
 13 A. Okay.
 14 **Q. Would you please identify that document?**
 15 A. This is the comple- -- CAPRI report for
 16 Mr. Theis's review.
 17 **Q. And the CAPRI report is your compliance report?**
 18 A. Yes.
 19 **Q. Is that a true and accurate copy of the report**
 20 **that you wrote after your review of Mr. Theis's**
 21 **operations?**
 22 A. Yes.
 23 MR. ROBERSON: Judge Doyle, at this point,
 24 Staff would move to admit Exhibit SY-1.
 25 JUDGE DOYLE: Thank you. SY-1 will now be

Page 11

1 admitted into the record.
 2 (Exhibits SY-1 admitted.)
 3 BY MR. ROBERSON:
 4 **Q. I'd like to turn to your records of duty status.**
 5 **Would you please briefly explain what a record**
 6 **of duty status is?**
 7 A. It's a time record that a driver keeps that
 8 shows their start time, stop time, total time for each
 9 day that they worked.
 10 **Q. When you perform a compliance review, do you**
 11 **review a carrier's records of duty status?**
 12 A. Yes.
 13 **Q. How do you do that?**
 14 A. We -- by inspecting the supporting documents
 15 such as bill of ladings, pay records, and time sheets.
 16 **Q. Did you request Mr. Theis's records of duty**
 17 **status during your investigation?**
 18 A. Yes.
 19 **Q. Did he produce them?**
 20 A. No.
 21 **Q. Did he explain why not?**
 22 A. He just explained that he didn't do them.
 23 **Q. Is the failure to make a record of duty status**
 24 **considered a critical violation?**
 25 A. Yes.

Page 12

1 **Q. And what does it mean that the violation is**
 2 **considered critical?**
 3 A. That's a sign of poor safety control management.
 4 **Q. And are critical violations linked to safety**
 5 **hazards?**
 6 A. Yes.
 7 **Q. I would now like to turn to the MCS-150.**
 8 **Would you please briefly explain what the form**
 9 **MCS-150 is?**
 10 A. The MCS-150 is to update the information that's
 11 associated with your DOT number.
 12 **Q. Do carriers -- are carriers required to update**
 13 **the MCS-150 according to a schedule?**
 14 A. Yeah, they -- yes, they have a biannual schedule
 15 that they need to update.
 16 **Q. When you review a carrier's operations, do you**
 17 **check to make sure that is has updated the MCS-150**
 18 **according to the schedule?**
 19 A. Yes.
 20 **Q. And how do you do that?**
 21 A. That is checked through FMCSA's portal, which we
 22 can pull up their DOT number and check to make sure
 23 their information is accurate and the last time that
 24 they did their biannual updates.
 25 **Q. Did you check to see if Mr. Theis had a current**

1 **MCS-150 at the time of your investigation?**
 2 A. Yes.
 3 **Q. Did he?**
 4 A. No.
 5 **Q. I'd now like to turn to medical certification.**
 6 **Would you please explain what it means to be**
 7 **medically certified?**
 8 A. Each driver needs to be physically examined by a
 9 physician on the National Registry of Medical Examiners
 10 to receive a certificate that shows that they are
 11 physically able to perform the duties of a driver.
 12 **Q. When you review a carrier's operations, do you**
 13 **look to see whether its drivers are medically certified?**
 14 A. Yes.
 15 **Q. And do you do that just by requesting the**
 16 **certificate you just described?**
 17 A. Yes.
 18 **Q. Did Mr. Theis or any other employee drive during**
 19 **the period you reviewed?**
 20 A. Mr. Theis did.
 21 **Q. And did you request Mr. Theis's medical**
 22 **certificate during your investigation?**
 23 A. Yes.
 24 **Q. Did he produce one?**
 25 A. No.

1 A. Yes.
 2 **Q. And what do you look for when you review those**
 3 **files?**
 4 A. If they have an application, have they checked
 5 into previous employment, is their medical certification
 6 in there with the verification of the examiner that
 7 they're on the National Registry. They need to have an
 8 abstract within 30 days, road test, as well as a
 9 certificate the road test was passed.
 10 **Q. You just mentioned that Mr. Theis had driven**
 11 **during the compliance review period, correct?**
 12 A. Yes.
 13 **Q. Did you ask him to produce his driver**
 14 **qualification file?**
 15 A. Yes.
 16 **Q. Did he produce it?**
 17 A. No.
 18 **Q. Did he explain why he did not produce it?**
 19 A. He just didn't understand how to do it and what
 20 he needed.
 21 **Q. So he didn't keep a driver qualification file?**
 22 A. No.
 23 **Q. Would the failure to maintain a driver**
 24 **qualification file constitute a critical violation?**
 25 A. Yes.

1 **Q. Did he explain why he did not produce one?**
 2 A. He had just not gotten one.
 3 **Q. Can the use of a driver who is not medically**
 4 **certified constitute a critical violation?**
 5 A. Yes.
 6 **Q. Did it do so here?**
 7 A. No.
 8 **Q. Would you explain why not?**
 9 A. In order to -- CAPRI to mark it as a critical
 10 violation, it has to be more than one driver in
 11 violation, and Mr. Theis is an owner/operator, so there
 12 is only one driver.
 13 **Q. So if Mr. Theis employed another employee who**
 14 **was also not medically certified, this would have been a**
 15 **critical violation, correct?**
 16 A. Yes.
 17 **Q. I'd now like to turn to driver qualification**
 18 **files.**
 19 **Would you please explain what a driver**
 20 **qualification file is?**
 21 A. It's a collection of information that assists in
 22 determining if a driver is qualified to operate a
 23 commercial motor vehicle accident.
 24 **Q. When you review a carrier's compliance, do you**
 25 **look at its driver qualification file?**

1 **Q. Did it do so here?**
 2 A. No.
 3 **Q. Is that for the same reason you described above?**
 4 A. Yes, it has to be more than one driver.
 5 **Q. So, again, if Mr. Theis had employed another**
 6 **driver for him, he did not maintain a driver**
 7 **qualification file, this would have been a critical**
 8 **violation, correct?**
 9 A. Yes.
 10 **Q. I'd like to discuss criminal background checks.**
 11 **When you review a carrier's operations, do you**
 12 **look to see if it performed criminal background checks**
 13 **for all employees?**
 14 A. For household goods, yes, we do.
 15 **Q. How do you do that?**
 16 A. By asking for copies of the results of the
 17 criminal background checks.
 18 **Q. Did you ask Mr. Theis to produce criminal**
 19 **background checks for him and any other employees?**
 20 A. Yes.
 21 **Q. Did he do so?**
 22 A. No.
 23 **Q. And did he have other employees other -- did he**
 24 **have employees other than himself that he should have**
 25 **had a background check for?**

1 A. Yes, he has -- he has one helper.
 2 **Q. Okay. And does the Commission consider the**
 3 **failure to maintain -- or keep criminal background check**
 4 **data critical type violation?**
 5 A. It is a critical violation, but again, because
 6 there was only one, it does not put it in that category.
 7 **Q. I'd like to talk about the annual report.**
 8 **When you review a carrier's operations, do you**
 9 **look to see whether it has filed the required annual**
 10 **reports with the Commission?**
 11 A. Yes.
 12 **Q. How do you do that?**
 13 A. By verifying on the annual report tracking
 14 system and also with the person that maintains that
 15 system.
 16 **Q. At the time of your review, had Mr. Theis filed**
 17 **the required annual reports?**
 18 A. No.
 19 **Q. Turning to vehicle maintenance.**
 20 **When you review a carrier's operations, do you**
 21 **review its vehicle maintenance records?**
 22 A. Yes.
 23 **Q. What maintenance records do you review?**
 24 A. The identification of the vehicle, whether they
 25 have a preventative maintenance schedule, records of any

1 A. Not at the time of the investigation.
 2 **Q. Did he explain why he did not?**
 3 A. I believe not besides we don't have them -- did
 4 not have them.
 5 **Q. Fair enough.**
 6 MR. ROBERSON: Judge Doyle, that's all the
 7 questions I have right now.
 8 JUDGE DOYLE: Thank you.
 9 And, Mr. Theis, I wanted to circle back and
 10 give you the opportunity, did you have any objection to
 11 the admission of these exhibits into the record?
 12 MR. THEIS: Yeah, the only thing was is just
 13 I really didn't know. Now that I had an opportunity and
 14 knew what I need to do, I felt like I gave all that
 15 information forward to Sandy and to Jason.
 16 Also, when -- when I supposedly found all
 17 this information out, I didn't even attend the class in
 18 person. It was all over the phone. It was really hard
 19 during the COVID time and getting disconnected with the
 20 phone. I'm not trying to make any excuses, but it was
 21 hard to pick up all the information. So when she came
 22 out, it was kind of all blank to me.
 23 JUDGE DOYLE: Okay. Mr. -- sure. And --
 24 and to be clear, I'm just asking if you have any
 25 objection to admission of them into the record. We're

1 inspections, repairs, and maintenance that they've
 2 conducted in a chronological order, and to see if they
 3 did have any roadside inspections, if those are in there
 4 as well.
 5 **Q. And I'm sorry. I may have missed this. Do you**
 6 **look at the qualifications of the people performing any**
 7 **required vehicle inspections when you review those**
 8 **records?**
 9 A. Yes.
 10 **Q. And do carrier's need to maintain evidence of**
 11 **the qualifications of their inspectors?**
 12 A. Yes, they do.
 13 **Q. And what qualifications do they need to maintain**
 14 **evidence of?**
 15 A. There's the question that they can both certify
 16 that they have an understanding of Appendix G, which is
 17 the requirements for doing annual inspections.
 18 **Q. Do you also look to make sure that their brake**
 19 **inspector's qualified?**
 20 A. Yes, because that's a separate category from
 21 just the inspections because brakes are so vital.
 22 **Q. Did you ask Mr. Theis to produce vehicle**
 23 **maintenance records and inspector qualification records?**
 24 A. Yes -- excuse me, yes.
 25 **Q. Did he do so?**

1 going to go into your explanation and your testimony in
 2 a moment after I get an opportunity to swear you in. Do
 3 you have any objection to her exhibits being on the
 4 record so that we can discuss them?
 5 MR. THEIS: Well, I -- can I let my
 6 assistant speak for me?
 7 MR. MANSOUR: Your Honor, can I say
 8 something?
 9 JUDGE DOYLE: Mr. Roberson, do you have any
 10 objection to --
 11 MR. MANSOUR: He -- he have objection to
 12 accuracy of all what -- what she said because he had --
 13 he did -- he did get the --
 14 JUDGE DOYLE: Sir?
 15 MR. MANSOUR: Yes? Go ahead, sorry.
 16 MR. ROBERSON: Judge Doyle, I have no
 17 objection to Mr. Theis receiving assistance. I don't
 18 know that it matters whether or not this is an attorney.
 19 I will say the objection he's making goes to the weight
 20 of the evidence, not its admissibility.
 21 JUDGE DOYLE: Thank you.
 22 Okay. And can you please give me your name?
 23 MR. MANSOUR: Yeah, my name is Gus. I'm a
 24 real estate agent. I'm just helping him fill in the
 25 paper. He's just -- he have a problem with the --

1 THE COURT REPORTER: I'm sorry, this is the
2 court reporter. I'm having a hard time hearing.

3 MR. MANSOUR: Okay. Well, he doesn't
4 have -- he doesn't have objection to the presentation,
5 but some of things that was said that he didn't do, he
6 did.

7 JUDGE DOYLE: Okay. And in a moment, I am
8 going to swear him in, and he also can have the
9 opportunity right now to ask Ms. Yeomans any questions
10 he would like before giving his testimony about the
11 weight of the evidence and -- and his depiction of the
12 accuracy of the statements.

13 So, Mr. Theis, do you have any questions for
14 Ms. Yeomans?

15 MR. THEIS: Not really any questions just
16 like I say, it's just I didn't -- I didn't know I had to
17 get these things done. Now that I know, I've been in
18 the process of trying to get it done. Obviously it's
19 not in compliance with what you guys asked, so I guess
20 I'll just be working on it until hopefully I can get in
21 compliance with you guys. Because I don't know what
22 else to do at this point. I'm trying my best to get
23 everything done. I'm terrible at the computer and back
24 and forth with her with emails, and so I'm trying my
25 best. It's really all I can say.

1 Okay. Let's move on to the penalty
2 assessment.

3 I did not receive any exhibits from you in
4 advance of the hearing --

5 And I -- I want to clarify for the court
6 reporter, that we have admitted Staff's evidence into
7 the record previously after that discussion.

8 So we did not receive any exhibits from you
9 in advance of the hearing, Mr. Theis, so we can proceed
10 with your testimony. We're going to walk through each
11 of the violations in the penalty assessment, and then
12 you can give your brief explanation of why the
13 violations occurred or didn't occur under your count,
14 and then describe any steps you have taken to correct
15 the violations and to prevent the violations from
16 occurring again.

17 MR. THEIS: Okay. You haven't received
18 anything? Because I've already gave everything I needed
19 to Sandy. I gave her everything that --

20 JUDGE DOYLE: You're saying the safety
21 management plan?

22 MR. THEIS: Correct, and all the pictures of
23 the calendar and how I'm going to keep track of
24 everything and I got my medical report. I got
25 everything to her.

1 JUDGE DOYLE: Thank you. Okay. Well, at
2 this point, I'm going to swear you in so you can give
3 your testimony and we'll walk through the violations in
4 a more organized manner.

5 Mr. Theis, will you please raise your right
6 hand.

7 (Jake Theis sworn.)

8 JUDGE DOYLE: Thank you. I'm going to walk
9 you through this next part.

10 You were given a deadline of
11 April 27th, 2021, to submit a plan that Staff finds
12 sufficient, which you did not meet. You were provided
13 notice that the Commission will cancel your permit if
14 you are not able to come into compliance by May 18th.
15 This means you will no longer be able to operate after
16 the 18th.

17 Do you have a safety management plan
18 specific to the violations to submit now or by the end
19 of the day tomorrow?

20 MR. THEIS: Yes, I have already submitted
21 it, but I guess I'll continue to work on it until it's
22 fully in compliance with you guys.

23 JUDGE DOYLE: Great. Staff just needs an
24 opportunity to review it, then. Thank you for
25 clarifying that.

1 JUDGE DOYLE: Sure. And -- go ahead.

2 MR. ROBERSON: Mr. Sharp is going to testify
3 about this.

4 MR. THEIS: What's that?

5 MR. ROBERSON: Sorry, Mr. Sharp is going to
6 testify about the safety management plan. It's just
7 usually rolled into his testimony about the penalty
8 assessment. You'd indicated you wanted that after
9 Mr. Theis's testimony. If you want, he can testify
10 before Mr. Theis. It might help straighten some of this
11 out.

12 JUDGE DOYLE: That sounds great.

13 Mr. Theis, let's go ahead and let
14 Mr. Roberson go ahead if you don't have any objection
15 with that. It might clarify things a little bit. Does
16 that work for you, Mr. Theis?

17 MR. THEIS: Yes.

18 JUDGE DOYLE: Okay. Go ahead.

19 MR. ROBERSON: Staff calls Jason Sharp.

20 JUDGE DOYLE: And, Mr. Sharp, will you
21 please raise your right hand?

22 (Jason Sharp sworn.)

23 JUDGE DOYLE: Okay. Thank you.

24 Go ahead, Mr. Roberson.

25 /////

EXAMINATION

BY MR. ROBERSON:

Q. Good morning. Will you please state your name and spell your last name for the record?

A. My name is Jason Sharp, S-h-a-r-p.

Q. Who employs you?

A. The Washington Utilities and Transportation Commission.

Q. How long have you worked for the Commission?

A. I've been employed by the Commission since 2016.

Q. What is your position with the Commission?

A. I am the motor carrier safety supervisor in the transportation safety division.

Q. What are your duties as the motor carrier safety supervisor?

A. My duties include assigning safety fitness investigations to our motor carrier staff, I review the investigative reports, and provide recommendations based on the findings of those investigations.

Q. Have you had any training to enable you to carry out your duties?

A. Yes, in addition to being the motor carrier safety supervisor, I began my career as a safety investigator, which entailed certification trainings through the Commercial Vehicle Safety Alliance for

it is broken -- the overall performance is broken up into six separate factors. As Investigator Yeomans testified as to the severity of critical violations, the company has receive points basically for acute or critical violations, which are violations that are linked to higher accident rates. And based off of the amount of points that they compile in each separate factor, the company is given an overall safety rating.

Q. Did Staff calculate a proposed safety rating for Mr. Theis?

A. Yes, we did.

Q. And what was that proposed safety rating?

A. The proposed safety rating was conditional.

Q. Can the carrier improve a proposed safety rating?

A. Yes, it can.

Q. And how would it do so?

A. It would do so by submitting an acceptable safety management plan.

Q. What is a safety management plan?

A. A safety management plan is a document that a motor carrier will provide for Staff's review, and it identifies each violation that was discovered during the recent compliance investigation. The plan must include a description of why the identified violations were

inspecting commercial motor vehicles as well as investigator training courses through the Federal Motor Carrier Safety Administration as well as field training.

Q. Is it fair to say, then, that you're familiar with the same Federal rules governing the operation of motor carriers and household goods carriers?

A. Yes.

Q. Are you familiar with Mr. Jake Theis who does business as Royal Moving?

A. Yes.

Q. How are you familiar with Mr. Theis?

A. I reviewed the safety investigation report that Investigator Yeomans compiled, and I have also been in correspondence with Mr. Theis on developing his safety management plan.

Q. What does Staff do with the results of a compliance review?

A. Following a compliance review, a motor carrier will receive a safety rating, and with that information, the company may or may not be required to do additional follow-on action based off of that rating.

Q. How does Staff calculate the proposed safety rating?

A. A safety rating is determined based on the company's performance during the compliance review and

allowed to occur, the steps that the carrier has taken to correct the violations supported by actual documentation or records demonstrating this corrective action. It -- the plan must state what management controls have been put in place to prevent the violations from reoccurring in the future. The carrier must certify that its operations are in compliance and meet the safety standard identified in Title 49 Part 385, which are adopted by the Commission. And the plan also must be signed by a carrier official.

Q. Did Mr. Theis submit a safety management plan?

A. Yes, Staff has received a couple of drafts of the safety plan from Mr. Theis.

Q. Have you reviewed those various drafts?

A. Yes.

Q. And that includes the most recent draft I take it?

A. Yes.

Q. And is the most recent draft acceptable?

A. As of this time, the plan does not address each step that I previously laid out that a safety plan must include. Staff has been working with the company on, you know, providing technical assistance to provide a better understanding of what the plan requires and what documentation that the company will need to provide.

1 **Q. And is Staff continuing to provide that**
2 **technical assistance?**

3 A. Yes, Staff -- Staff is available and -- and
4 providing guidance to the company currently.

5 **Q. And so your recommendation at this time is that**
6 **the Commission not find the submitted safety management**
7 **plan acceptable, correct?**

8 A. At the time, correct.

9 MR. ROBERSON: And so, Judge Doyle, at this
10 time, Mr. Sharp is also going to testify about the
11 company's request for mitigation, but it seems like the
12 company should present that request before he testifies.
13 So I'm done discussing the safety management plan unless
14 you have discussions or the company has discussions --
15 or questions, sorry.

16 JUDGE DOYLE: Thank you. I just wanted to
17 ask Mr. Sharp, have you notified the company about which
18 specific violations that -- that have not been addressed
19 within the safety management plan at this point?

20 MR. SHARP: Yes, I provided feedback to the
21 company with detail on where the plan is deficient
22 currently, and we've been in communication via email and
23 telephonically on what the company needs to do to -- to
24 have its plan be accepted by Staff.

25 JUDGE DOYLE: Thank you.

1 criminal background check for every person the carrier
2 intends to hire. Do you want to explain why the
3 violation occurred and how you're going to prevent it
4 from occurring again?

5 MR. THEIS: Yeah, I just -- I didn't know
6 that I needed to have one. So now that I know, I'm
7 going to keep up on that every year.

8 JUDGE DOYLE: And for the violation 44 --
9 violation of 49 CFR 391-45(a), \$4,400 penalty, using a
10 driver not medically examined and certified, which would
11 be yourself.

12 MR. THEIS: I -- I have it now. And -- and
13 like I say, it was -- I mean, I found all this
14 information out with the online meeting when they did
15 the class on -- or over the phone, and I just -- I had
16 trouble getting all the information. So and I have it
17 now and presented it to Jason and Sandy and they both
18 have it. So every two years, I'll be sure to get it.

19 JUDGE DOYLE: Okay. And so then just to
20 clarify, and it's not a lack of -- of your explanation,
21 I am just going one by one. So then for the hundred
22 dollar category penalty for 30 violations of 49 CFR
23 395.8 -- 395.8(a)(1), failing to require a driver to
24 make a record of duty status. Is that the same
25 situation, then, Mr. Theis?

1 Mr. Theis, do you have any questions for
2 Mr. Sharp?

3 MR. THEIS: No, huh-uh. He's been -- he's
4 been really helpful, they both have been. And like I
5 say, it was just I'm very new to this, so I'm trying to
6 get everything in order, and they've been helping me out
7 with it. I really appreciate the help. I've also been
8 going to my buddy's real estate office and using all of
9 his computer and stuff because I am terrible with all
10 that so...

11 JUDGE DOYLE: Thank you. Do you have any
12 other questions?

13 MR. THEIS: Not at -- not at the moment, but
14 if I do, I'll just be in contact with Jason.

15 JUDGE DOYLE: Okay. Great. Then let's
16 discuss the violations shortly from your perspective so
17 that -- and Mr. Sharp --

18 (Cross talking.)

19 JUDGE DOYLE: Thank you.

20 Let's discuss the violations so that if you
21 had any testimony about why the violation occurred, how
22 you're going to prevent the violation from occurring
23 again, you can do so right now for me.

24 Let's first discuss the hundred dollar
25 violation of WAC 480-15-555, the failure to complete a

1 MR. THEIS: Correct, yeah.

2 JUDGE DOYLE: Okay. And then finally the
3 hundred dollars for the one violation of 49 CFR
4 396.3(b), failing to keep minimum records of inspections
5 and vehicle maintenance.

6 MR. THEIS: Yeah, I mean, I -- I have all my
7 maintenance. I just got the truck and I have all my
8 maintenance records and I presented them, but I guess it
9 just wasn't in the right order on how you guys want me
10 to present. I mean, I have all my maintenance records
11 and all that. And now that I know that I had to get the
12 brake inspection, I got all that stuff signed. And like
13 I say, I just -- I didn't know. So now that I know, I
14 will keep up on all of it.

15 JUDGE DOYLE: Okay. Thank you.

16 And, Mr. Roberson, do you have any questions
17 for the company at this point?

18 MR. ROBERSON: I do not, Judge Doyle.

19 JUDGE DOYLE: Okay. And, Mr. Roberson,
20 would you like to make your recommendation on the
21 request for mitigation of the penalty?

22 MR. ROBERSON: I would. I'd actually like
23 to recall Mr. Sharp to testify about it.

24 JUDGE DOYLE: Great. Thank you.

25 Mr. Sharp, you can return, please.

1 MR. ROBERSON: And, Mr. Sharp, you're still
2 under oath.

3
4 EXAMINATION

5 BY MR. ROBERSON:

6 **Q. Did you listen to Mr. Theis's explanation as to,
7 I guess, the state of things?**

8 A. Yes.

9 **Q. Having heard from Mr. Theis, does Staff have a
10 recommendation as to what the Commission should do with
11 the penalties assessed against Mr. Theis?**

12 A. Yes. So looking at -- Mr. Theis had submitted a
13 request for mitigation of the penalty, looking at
14 factors that would either contribute towards or -- or
15 away from Staff recommending mitigation of the penalty,
16 Staff looked at the company's history of compliance and
17 its interactions during the most recent safety review,
18 items that were presented to Staff, as well as
19 corrective action upon discovery of violation.

20 Taking into consideration that Staff had --
21 initially had some difficulty getting the company to
22 attend the required safety training from its inception,
23 the company finally got through the training in August
24 of 2020. And considering other factors such as Staff
25 having difficulty in scheduling the safety investigation

1 household goods training, which I believe is currently
2 set for June 16th.

3 **Q. Now, Mr. Sharp, those factors that you're
4 discussing, those come from the Commission's enforcement
5 policy, correct?**

6 A. Correct.

7 **Q. And you're familiar with the policy?**

8 A. Yes.

9 **Q. So your recommendation is consistent with your
10 evaluation of that policy and its application to
11 Mr. Theis's specific operations and the review of
12 Mr. Theis's operations?**

13 A. Correct, correct. And -- and with the idea
14 behind the suspended penalty being to encourage future
15 compliance for the company.

16 **Q. So if you could summarize Staff's
17 recommendations with regard to the compliance review and
18 the penalty assessment, that would be great.**

19 A. Sure. So should the company submit a -- an
20 acceptable safety plan, then Staff would recommend that
21 the -- at this point, Staff is unable to recommend
22 anything other than canceling the permit without an
23 acceptable plan, but should that plan be submitted and
24 the company allowed to continue operation, Staff would
25 recommend a follow-up investigation at least six months

1 with the company as Mr. Theis claimed to be out of state
2 when Investigator Yeomans had contacted him. During
3 this time, we found documentation of performed household
4 goods moves in the state as well as the company's
5 vehicle being annually inspected during that time.

6 There was some -- some evidence of corrective
7 action that the company did provide, though, as I
8 mentioned such as when -- when Mr. Theis was notified of
9 not having his required medical certificate, he went and
10 got -- got an exam right away and got into compliance
11 there.

12 So looking at those factors, Staff would
13 recommend that there be no mitigation of the penalty of
14 the \$4,800 that was assessed; however, due to Mr. Theis
15 taking initiative of immediately correcting the
16 391.45(a) violation for not being medically certified,
17 Staff would recommend that that portion of the penalty
18 have \$2,200 suspended for a period of two years subject
19 to a follow-up review in compliance.

20 So overall Staff's recommendation would be no
21 mitigation of the \$4800 penalty, but have \$2,200 of
22 that suspended for a period of two years subject to the
23 company not incurring any repeat violations of critical
24 regulations upon reinspection and also to have the
25 company owner attend the next Commission-provided

1 from the date of the order in which the company would
2 have the suspension of \$2,200 portion of the penalty
3 assessment in play should they not have any repeat
4 violations of critical regulations and that the company
5 owner also re-attend the household goods safety
6 training.

7 MR. ROBERSON: And, Judge Doyle, at this
8 point I have no further questions for Mr. Sharp, so I
9 tender him for questions from the bench or from
10 Mr. Theis.

11 JUDGE DOYLE: Thank you.

12 Mr. Theis, you'll have an opportunity to
13 discuss your view, but for right now, do you have any
14 questions for Mr. Sharp while he's still available?

15 MR. THEIS: No, huh-uh. My assistant just
16 wants to say one thing.

17 MR. MANSOUR: If you don't mind. Your
18 Honor, can you hear me?

19 JUDGE DOYLE: I'm going to excuse Mr. Sharp,
20 thank you.

21 And yes, go ahead.

22 MR. MANSOUR: Yeah, I'm sorry, I have a
23 client waiting. But all I want to say is thank you very
24 much and I thank Sandy for helping Jake get better in
25 doing things. And I'm helping him in my office. You

1 know, every day he comes to me. But I just want to say
 2 one thing. Jake is a good member of community. He's
 3 been helping us deliver food for the seniors and the
 4 homeless in this area. He's providing his time for free
 5 for us.
 6 So what I'm saying is he's a good person.
 7 Definitely he has made mistakes, definitely needs to be
 8 on top of it. I just want to say he's a really good
 9 member of the community and we would love -- he would
 10 love to work with you, and I will stay on top of him to
 11 make sure that we comply with all -- with all what needs
 12 to be done.
 13 So I just want to say that he's a very
 14 important member of our community, so I hope and pray
 15 that you allow him within the next few months to
 16 continue complying and do what you want. And I
 17 apologize, I have to go. But please I urge you, I
 18 encourage you to allow him to continue working in sake
 19 of his brother, his father and yes, he made mistakes.
 20 He -- he's admitting it. He's provided everything to
 21 Ms. Sandy, and he's going to provide everything to you
 22 guys on a regular basis.
 23 So thank you for allowing me even to say
 24 something, and I thank you very much. I will put
 25 Mr. Theis back.

1 business. Do you have any questions about that?
 2 MR. THEIS: No, I am going to be working on
 3 it today and hopefully present the full thing again
 4 tonight to -- to Jason.
 5 JUDGE DOYLE: Okay. Great. And before we
 6 conclude, do you have any other requests -- or pardon
 7 me, questions?
 8 MR. THEIS: No, huh-uh.
 9 JUDGE DOYLE: And, Staff, do you have any
 10 other issues or questions before we reside for the day?
 11 MR. ROBERSON: Staff has nothing further,
 12 Judge Doyle.
 13 JUDGE DOYLE: Thank you.
 14 Thank you all for appearing today. I will
 15 issue an order reflecting my decision on the company's
 16 request for penalty assessment and the safety rating.
 17 Is there -- oh, I believe that was it. Okay. Well,
 18 thank you all. We are adjourned for the day.
 19 (Adjourned at 10:19 a.m.)
 20
 21
 22
 23
 24
 25

1 JUDGE DOYLE: Thank you.
 2 Mr. Theis, in regards to your request for
 3 mitigation of the penalty assessment and the
 4 recommendation that you just heard, do you have any
 5 explanation that you would like to give on your ability
 6 to pay the assessed penalty and the reasons why you
 7 requested mitigation of the assessed penalty?
 8 MR. THEIS: Yeah, I mean, if I could get on
 9 payment plan for it, but I just want to thank Jason for
 10 being a little lenient with me, you know, and helping me
 11 out there.
 12 JUDGE DOYLE: I just want to let you know
 13 that you can definitely discuss with Staff payment plan
 14 options. You can -- you can request that after this
 15 hearing. I also want to clarify so that you know, I
 16 know you're working to get your safety management plan
 17 in compliance, and I believe your window is about 48
 18 hours, give or take the Staff's ability to assess that,
 19 the plan, in order to make your deadline.
 20 However, should you not make that deadline,
 21 you do have a 30-day window to request your permit be
 22 reinstated with an accessible safety management plan
 23 without having to file a new application. If you miss
 24 this window, it will mean that you have to start the
 25 permit process over again and apply as if you were a new

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.
 10
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 12 
 13 Tayler Garlinghouse, CCR 3358
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<p style="text-align: center;">A</p> <p>a.m 1:16 4:2,15 39:19</p> <p>ability 38:5,18 40:9</p> <p>able 10:7 13:11 22:14,15</p> <p>abstract 15:8</p> <p>acceptable 27:18 28:19 29:7 35:20 35:23</p> <p>accepted 29:24</p> <p>accessible 38:22</p> <p>accident 14:23 27:6</p> <p>accuracy 20:12 21:12</p> <p>accurate 10:3,19 12:23 40:9</p> <p>action 26:21 28:4 33:19 34:7</p> <p>actual 28:2</p> <p>acute 27:4</p> <p>addition 25:22</p> <p>additional 26:20</p> <p>address 5:1,18,23 6:13,18 28:20</p> <p>addressed 29:18</p> <p>adjourned 39:18 39:19</p> <p>adjudicative 1:11 4:13,18</p> <p>Administration 26:3</p> <p>administrative 1:13 2:2 4:9,12</p> <p>admissibility 6:11 20:20</p> <p>admission 3:8 19:11,25</p> <p>admit 10:24</p> <p>admitted 11:1,2 23:6</p> <p>admitting 37:20</p> <p>adopted 28:9</p> <p>advance 6:8 23:4,9</p> <p>agent 20:24</p>	<p>ahead 7:17 20:15 24:1,13,14,18,24 36:21</p> <p>Alliance 25:25</p> <p>allow 37:15,18</p> <p>allowed 28:1 35:24</p> <p>allowing 37:23</p> <p>amount 27:7</p> <p>annual 17:7,9,13 17:17 18:17</p> <p>annually 34:5</p> <p>apologize 37:17</p> <p>appearance 5:3</p> <p>appearing 39:14</p> <p>Appendix 18:16</p> <p>application 15:4 35:10 38:23</p> <p>apply 38:25</p> <p>appreciate 30:7</p> <p>approximately 4:15 8:3</p> <p>April 4:16 22:11</p> <p>area 37:4</p> <p>asked 21:19</p> <p>asking 16:16 19:24</p> <p>assess 38:18</p> <p>assessed 33:11 34:14 38:6,7</p> <p>assessment 6:18 23:2,11 24:8 35:18 36:3 38:3 39:16</p> <p>assigning 25:16</p> <p>assistance 20:17 28:23 29:2</p> <p>assistant 2:7 5:7 20:6 36:15</p> <p>assists 14:21</p> <p>associated 12:11</p> <p>assure 8:8</p> <p>attend 19:17 33:22 34:25</p> <p>attorney 2:7,8 5:7 6:19 20:18</p> <p>August 33:23</p>	<p>authorizing 9:1</p> <p>available 29:3 36:14</p> <p>Avenue 1:22 2:13 5:21</p> <hr/> <p style="text-align: center;">B</p> <p>back 19:9 21:23 37:25</p> <p>background 8:15 16:10,12,17,19,25 17:3 31:1</p> <p>based 25:18 26:21 26:24 27:6</p> <p>basically 27:4</p> <p>basis 37:22</p> <p>Bear 5:13</p> <p>began 25:23</p> <p>believe 19:3 35:1 38:17 39:17</p> <p>bench 36:9</p> <p>benefit 6:5</p> <p>best 21:22,25 40:9</p> <p>better 28:24 36:24</p> <p>biannual 12:14,24</p> <p>bill 11:15</p> <p>bit 24:15</p> <p>blank 19:22</p> <p>brake 18:18 32:12</p> <p>brakes 18:21</p> <p>brief 1:11 4:12,17 5:16 23:12</p> <p>briefly 11:5 12:8</p> <p>Brier 2:14 5:21</p> <p>bring 7:9</p> <p>broken 27:1,1</p> <p>brother 37:19</p> <p>browser 7:9</p> <p>buddy's 30:8</p> <p>Buell 1:21</p> <p>business 4:8 8:20 9:1,23 26:9 39:1</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 4:4 40:1,1</p> <p>calculate 26:22</p>	<p>27:9</p> <p>calendar 23:23</p> <p>call 6:1,7 7:5</p> <p>calls 7:11 24:19</p> <p>cancel 4:17,20 22:13</p> <p>canceling 35:22</p> <p>CAPRI 10:15,17 14:9</p> <p>captioned 4:7</p> <p>career 25:23</p> <p>carrier 5:10 8:1 9:2 10:7 25:12,14,17 25:22 26:3,18 27:14,22 28:1,6 28:10 31:1</p> <p>carrier's 11:11 12:16 13:12 14:24 16:11 17:8,20 18:10</p> <p>carriers 8:7,17,17 9:5 12:12,12 26:6 26:6</p> <p>carry 8:10 25:20</p> <p>category 17:6 18:20 31:22</p> <p>CCR 1:20 40:13</p> <p>certificate 13:10,16 13:22 15:9 34:9</p> <p>certification 13:5 15:5 25:24</p> <p>certified 13:7,13 14:4,14 31:10 34:16 40:6</p> <p>certify 18:15 28:7 40:8</p> <p>CFR 31:9,22 32:3</p> <p>Chapter 4:10</p> <p>check 12:17,22,25 16:25 17:3 31:1</p> <p>checked 12:21 15:4</p> <p>checks 16:10,12,17 16:19</p> <p>chronological 18:2</p> <p>circle 19:9</p>	<p>claimed 34:1</p> <p>clarify 23:5 24:15 31:20 38:15</p> <p>clarifying 22:25</p> <p>class 19:17 31:15</p> <p>clear 19:24</p> <p>clearly 6:5</p> <p>client 36:23</p> <p>closed 9:13</p> <p>Code 4:10</p> <p>collection 14:21</p> <p>come 22:14 35:4</p> <p>comes 37:1</p> <p>commercial 14:23 25:25 26:1</p> <p>Commission 1:2,17 2:6 4:16,19,21 5:4 5:8 6:7,8 8:2,4 9:4 17:2,10 22:13 25:8,9,10,11 28:9 29:6 33:10</p> <p>Commission's 35:4</p> <p>Commission-pro... 34:25</p> <p>communication 29:22</p> <p>community 37:2,9 37:14</p> <p>company 2:11 5:1 5:17 6:15 8:24 26:20 27:4,8 28:22,25 29:4,12 29:14,17,21,23 32:17 33:21,23 34:1,7,23,25 35:15,19,24 36:1 36:4</p> <p>company's 7:2 26:25 29:11 33:16 34:4 39:15</p> <p>compile 27:7</p> <p>compiled 26:13</p> <p>comple- 10:15</p> <p>complete 9:11,22 9:25 30:25</p>
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<p>compliance 1:7 3:9 4:9,20 8:8,13,23 9:14,19 10:9,17 11:10 14:24 15:11 21:19,21 22:14,22 26:17,18,25 27:24 28:7 33:16 34:10 34:19 35:15,17 38:17</p> <p>comply 37:11</p> <p>complying 37:16</p> <p>computer 21:23 30:9</p> <p>conclude 39:6</p> <p>conditional 4:22 8:25 27:13</p> <p>conducted 4:20 18:2</p> <p>consider 17:2</p> <p>consideration 33:20</p> <p>considered 6:4 11:24 12:2</p> <p>considering 33:24</p> <p>consistent 35:9</p> <p>consolidating 4:25</p> <p>constitute 14:4 15:24</p> <p>contact 5:8,15 30:14</p> <p>contacted 34:2</p> <p>contemporaneou... 9:25</p> <p>continue 10:7 22:21 35:24 37:16 37:18</p> <p>continuing 29:1</p> <p>contribute 33:14</p> <p>control 12:3</p> <p>controls 28:5</p> <p>copies 16:16</p> <p>copy 10:19</p> <p>correct 14:15 15:11 16:8 23:14,22 28:2 29:7,8 32:1</p>	<p>35:5,6,13,13</p> <p>correcting 34:15</p> <p>corrective 28:3 33:19 34:6</p> <p>correspondence 26:14</p> <p>counsel 5:9</p> <p>count 23:13</p> <p>COUNTY 40:4</p> <p>couple 28:12</p> <p>course 9:15,23</p> <p>courses 26:2</p> <p>court 5:15,19 6:3,4 21:1,2 23:5</p> <p>COVID 19:19</p> <p>criminal 16:10,12 16:17,18 17:3 31:1</p> <p>critical 11:24 12:2 12:4 14:4,9,15 15:24 16:7 17:4,5 27:3,5 34:23 36:4</p> <p>Cross 30:18</p> <p>current 12:25</p> <p>currently 29:4,22 35:1</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 4:4</p> <p>D/B/A 1:5</p> <p>data 17:4</p> <p>date 36:1</p> <p>day 11:9 22:19 37:1 39:10,18</p> <p>days 15:8</p> <p>deadline 22:10 38:19,20</p> <p>decision 39:15</p> <p>deficient 29:21</p> <p>definitely 37:7,7 38:13</p> <p>deliver 37:3</p> <p>demonstrating 28:3</p> <p>depiction 21:11</p> <p>describe 23:14</p>	<p>described 13:16 16:3</p> <p>description 27:25</p> <p>detail 29:21</p> <p>determine 10:6</p> <p>determined 26:24</p> <p>determining 14:22</p> <p>developing 26:14</p> <p>difficulty 33:21,25</p> <p>disconnected 19:19</p> <p>discovered 9:20 27:23</p> <p>discovery 33:19</p> <p>discuss 16:10 20:4 30:16,20,24 36:13 38:13</p> <p>discussed 4:24</p> <p>discussing 29:13 35:4</p> <p>discussion 23:7</p> <p>discussions 29:14 29:14</p> <p>division 8:1 25:13</p> <p>docket 1:4 4:6,25 5:9</p> <p>document 10:14 27:21</p> <p>documentation 28:3,25 34:3</p> <p>documents 11:14</p> <p>doing 4:8 18:17 36:25</p> <p>dollar 30:24 31:22</p> <p>dollars 32:3</p> <p>DOT 12:11,22</p> <p>download 7:8</p> <p>Doyle 1:13 2:3 4:6 4:11 5:12,22 6:1 6:25 7:13,16 10:23,25 19:6,8 19:23 20:9,14,16 20:21 21:7 22:1,8 22:23 23:20 24:1 24:12,18,20,23 29:9,16,25 30:11</p>	<p>30:15,19 31:8,19 32:2,15,18,19,24 36:7,11,19 38:1 38:12 39:5,9,12 39:13</p> <p>draft 28:16,19</p> <p>drafts 28:12,14</p> <p>drive 13:18</p> <p>driven 15:10</p> <p>driver 11:7 13:8,11 14:3,10,12,17,19 14:22,25 15:13,21 15:23 16:4,6,6 31:10,23</p> <p>drivers 13:13</p> <p>due 34:14</p> <p>duties 8:6,11 13:11 25:14,16,21</p> <p>duty 9:9 11:4,6,11 11:16,23 31:24</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:1,1 4:4,4 7:19 25:1 33:4 40:1,1</p> <p>either 33:14</p> <p>email 5:23 29:22</p> <p>emails 21:24</p> <p>employed 7:25 14:13 16:5 25:10</p> <p>employee 13:18 14:13</p> <p>employees 16:13,19 16:23,24</p> <p>employment 15:5</p> <p>employs 7:24 25:6</p> <p>enable 8:10 25:20</p> <p>encourage 35:14 37:18</p> <p>enforcement 35:4</p> <p>engage 9:1</p> <p>ensure 9:5</p> <p>entailed 25:24</p> <p>estate 20:24 30:8</p> <p>evaluation 35:10</p> <p>evidence 18:10,14 20:20 21:11 23:6</p>	<p>34:6</p> <p>exam 34:10</p> <p>EXAMINATION 3:1</p> <p>examined 13:8 31:10</p> <p>examiner 15:6</p> <p>Examiners 13:9</p> <p>excuse 18:24 36:19</p> <p>excuses 19:20</p> <p>exhibit 3:7 7:6,7 10:11,24</p> <p>exhibits 3:8 6:10 11:2 19:11 20:3 23:3,8</p> <p>explain 11:5,21 12:8 13:6 14:1,8 14:19 15:18 19:2 31:2</p> <p>explained 11:22</p> <p>explains 9:20</p> <p>explanation 20:1 23:12 31:20 33:6 38:5</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F 40:1</p> <p>factor 27:8</p> <p>factors 27:2 33:14 33:24 34:12 35:3</p> <p>failing 31:23 32:4</p> <p>failure 11:23 15:23 17:3 30:25</p> <p>fair 19:5 26:4</p> <p>familiar 8:15,19,22 26:4,8,11 35:7</p> <p>father 37:19</p> <p>February 4:21 8:24</p> <p>Federal 8:8,12,16 26:2,5</p> <p>feedback 29:20</p> <p>felt 19:14</p> <p>field 26:3</p> <p>file 5:8 14:20,25 15:14,21,24 16:7 38:23</p>
---	---	---	--	--

<p>filed 17:9,16 files 14:18 15:3 fill 20:24 finally 32:2 33:23 find 29:6 findings 9:15 10:6 25:19 finds 22:11 finish 9:14 finishing 10:8 first 5:3,25 6:13 30:24 fitness 25:16 FMCSA's 12:21 follow-on 26:21 follow-up 34:19 35:25 following 4:20 6:15 26:18 food 37:3 foregoing 40:8 form 12:8 forth 21:24 forward 19:15 found 19:16 31:13 34:3 free 37:4 full 39:3 fully 22:22 further 36:8 39:11 future 28:6 35:14</p> <hr/> <p style="text-align: center;">G</p> <p>G 4:4 18:16 Garlinghouse 1:20 40:6,13 General 2:7,8 5:7 getting 19:19 31:16 33:21 give 5:22 19:10 20:22 22:2 23:12 38:5,18 given 8:15 22:10 27:8 giving 21:10 gmail.com 5:25</p>	<p>go 7:17 20:1,15 24:1,13,14,18,24 36:21 37:17 goes 20:19 going 5:12 7:5 20:1 21:8 22:2,8 23:10 23:23 24:2,5 29:10 30:8,22 31:3,7,21 36:19 37:21 39:2 good 4:6 5:6 7:12 7:21 25:3 37:2,6,8 goods 8:17 9:2,5 16:14 26:6 34:4 35:1 36:5 gotten 14:2 governing 8:16 26:5 great 5:12 22:23 24:12 30:15 32:24 35:18 39:5 guess 21:19 22:21 32:8 33:7 guidance 29:4 Gus 2:18 20:23 guys 21:19,21 22:22 32:9 37:22</p> <hr/> <p style="text-align: center;">H</p> <p>hand 7:14 22:6 24:21 handy 7:10 hard 19:18,21 21:2 hazards 12:5 hear 36:18 heard 33:9 38:4 hearing 21:2 23:4,9 38:15 help 24:10 30:7 helper 17:1 helpful 30:4 helping 20:24 30:6 36:24,25 37:3 38:10 higher 27:6 hire 31:2</p>	<p>history 33:16 hold 8:25 holding 5:13 homeless 37:4 Honor 7:4 20:7 36:18 hope 37:14 hopefully 21:20 39:3 hoping 7:7 hours 38:18 household 8:17 9:1 9:5 16:14 26:6 34:3 35:1 36:5 huh-uh 30:3 36:15 39:8 hundred 30:24 31:21 32:3</p> <hr/> <p style="text-align: center;">I</p> <p>idea 35:13 identification 17:24 identified 27:25 28:8 identifies 27:23 identify 10:14 immediately 34:15 important 10:3 37:14 improve 27:14 inception 33:22 include 25:16 27:24 28:22 includes 28:16 incurring 34:23 INDEX 3:1,7 indicated 24:8 information 5:8 12:10,23 14:21 19:15,17,21 26:19 31:14,16 initially 33:21 initiative 34:15 inspected 34:5 inspecting 11:14</p>	<p>26:1 inspection 8:14 9:23 10:1 32:12 inspections 18:1,3 18:7,17,21 32:4 inspector 18:23 inspector's 18:19 inspectors 18:11 intends 31:2 intent 4:17,19 interactions 33:17 introduce 6:10 investigate 8:7 investigation 1:4 4:8 6:14 7:2 8:13 8:23 9:11,19,21 11:17 13:1,22 19:1 26:12 27:24 33:25 35:25 investigations 25:17,19 investigative 25:18 investigator 5:11 7:5 8:5,6,11 25:24 26:2,13 27:2 34:2 issue 7:1 39:15 issued 4:16,19 issues 39:10 items 33:18</p> <hr/> <p style="text-align: center;">J</p> <p>Jake 1:5 2:12 4:8 5:20 8:19 22:7 26:8 36:24 37:2 Jaketheis 5:24 jaketheisroyals@... 2:14 Jason 2:18 3:4 5:10 19:15 24:19,22 25:5 30:14 31:17 38:9 39:4 Jeff 2:7 5:6 jeff.roberson@ut... 2:10 judge 1:13 2:2 4:6 4:12 5:12,22 6:1</p>	<p>6:25 7:13,16 10:23,25 19:6,8 19:23 20:9,14,16 20:21 21:7 22:1,8 22:23 23:20 24:1 24:12,18,20,23 29:9,16,25 30:11 30:15,19 31:8,19 32:2,15,18,19,24 36:7,11,19 38:1 38:12 39:5,9,12 39:13 June 35:2</p> <hr/> <p style="text-align: center;">K</p> <p>keep 15:21 17:3 23:23 31:7 32:4 32:14 keeps 11:7 kind 19:22 knew 19:14 know 19:13 20:18 21:16,17,21 28:23 31:5,6 32:11,13 32:13 37:1 38:10 38:12,15,16 knowledge 40:9</p> <hr/> <p style="text-align: center;">L</p> <p>Lacey 1:18 2:9 4:1 lack 31:20 ladings 11:15 laid 28:21 law 1:13 2:2 4:12 lenient 38:10 let's 5:3 6:13 23:1 24:13 30:15,20,24 linked 12:4 27:6 listen 33:6 little 24:15 38:10 LLC 1:21 local 8:9 long 8:2 25:9 longer 22:15 look 13:13 14:25 15:2 16:12 17:9</p>
--	--	---	--	---

<p>18:6,18 looked 5:14 33:16 looking 33:12,13 34:12 Loop 1:18 2:8 love 37:9,10</p> <hr/> <p style="text-align: center;">M</p> <p>M 7:19 25:1 33:4 maintain 15:23 16:6 17:3 18:10 18:13 maintains 17:14 maintenance 17:19 17:21,23,25 18:1 18:23 32:5,7,8,10 making 20:19 management 12:3 22:17 23:21 24:6 26:15 27:19,20,21 28:4,11 29:6,13 29:19 38:16,22 manner 22:4 MANSOUR 2:18 20:7,11,15,23 21:3 36:17,22 March 4:21 9:13 mark 14:9 marked 10:11 Matter 1:4 4:7 matters 20:18 MCS-150 12:7,9,10 12:13,17 13:1 mean 12:1 31:13 32:6,10 38:8,24 means 13:6 22:15 medical 13:5,9,21 15:5 23:24 34:9 medically 13:7,13 14:3,14 31:10 34:16 meet 22:12 28:8 meeting 31:14 member 37:2,9,14 memorialize 9:15 mentioned 15:10</p>	<p>34:8 mind 36:17 minimum 32:4 missed 18:5 mistakes 37:7,19 mitigation 5:2 29:11 32:21 33:13 33:15 34:13,21 38:3,7 moment 5:13,14 7:8 20:2 21:7 30:13 months 35:25 37:15 morning 4:6 5:6 7:12,21 25:3 motor 5:9 8:1,17 14:23 25:12,14,17 25:22 26:1,2,6,18 27:22 move 10:24 23:1 moves 34:4 Moving 1:6 2:13 4:9,23 8:20 26:9</p> <hr/> <p style="text-align: center;">N</p> <p>N 2:1 4:4 7:19,19 25:1,1 33:4,4 name 4:11 5:17,18 5:25 7:21,22,23 20:22,23 25:3,4,5 National 1:24 13:9 15:7 need 12:15 15:7 18:10,13 19:14 28:25 needed 15:20 23:18 31:6 needs 13:8 22:23 29:23 37:7,11 new 30:5 38:23,25 notice 4:17,17,19 22:13 notified 6:7,8 29:17 34:8 number 5:23 12:11</p>	<p>12:22</p> <hr/> <p style="text-align: center;">O</p> <p>O 4:4 7:19 25:1 33:4 o0o-- 4:3 oath 6:2,3 33:2 objection 19:10,25 20:3,10,11,17,19 21:4 24:14 Obviously 21:18 occur 23:13 28:1 occurred 23:13 30:21 31:3 occurring 23:16 30:22 31:4 office 2:8 30:8 36:25 official 28:10 oh 39:17 Okay 5:16 10:13 17:2 19:23 20:22 21:3,7 22:1 23:1 23:17 24:18,23 30:15 31:19 32:2 32:15,19 39:5,17 Olympia 1:23 Once 6:6,19 online 31:14 operate 14:22 22:15 operating 9:6 operation 8:16 9:4 9:12 10:7 26:5 35:24 operations 9:8 10:9 10:21 12:16 13:12 16:11 17:8,20 28:7 35:11,12 opportunity 6:16 19:10,13 20:2 21:9 22:24 36:12 options 38:14 oral 4:18 order 14:9 18:2 30:6 32:9 36:1</p>	<p>38:19 39:15 ordinary 9:22 organized 22:4 overall 27:1,8 34:20 owner 34:25 36:5 owner/operator 14:11</p> <hr/> <p style="text-align: center;">P</p> <p>P 2:1,1 4:4 PAGE 3:2,8 Pages 1:12 paper 20:25 pardon 39:6 part 22:9 28:8 party 6:1 passed 15:9 pause 5:12,17 pay 11:15 38:6 payment 38:9,13 penalties 33:11 penalty 5:2 6:18,21 23:1,11 24:7 31:9 31:22 32:21 33:13 33:15 34:13,17,21 35:14,18 36:2 38:3,6,7 39:16 people 18:6 perform 11:10 13:11 performance 8:7 26:25 27:1 performed 8:23 16:12 34:3 performing 18:6 period 13:19 15:11 34:18,22 permit 4:17 8:25 22:13 35:22 38:21 38:25 permitted 9:5 person 17:14 19:18 31:1 37:6 perspective 30:16 phone 5:23 19:18</p>	<p>19:20 31:15 physically 13:8,11 physician 13:9 pick 19:21 pictures 23:22 place 28:5 plan 22:11,17 23:21 24:6 26:15 27:19,20,21,24 28:4,9,11,13,20 28:21,24 29:7,13 29:19,21,24 35:20 35:23,23 38:9,13 38:16,19,22 play 36:3 please 5:17,23 6:5 7:14,21 10:11,14 11:5 12:8 13:6 14:19 20:22 22:5 24:21 25:3 32:25 37:17 point 10:23 21:22 22:2 29:19 32:17 35:21 36:8 points 27:4,7 policy 35:5,7,10 poor 12:3 portal 12:21 portion 34:17 36:2 position 8:4 25:11 pray 37:14 prefiled 6:11 7:7 present 2:16 6:6,17 29:12 32:10 39:3 presentation 6:15 21:4 presented 31:17 32:8 33:18 presiding 4:12 prevent 23:15 28:5 30:22 31:3 preventative 17:25 previous 15:5 previously 23:7 28:21</p>
--	--	--	---	---

<p>problem 20:25 proceed 7:1 23:9 proceeding 1:11 4:13,18 process 21:18 38:25 produce 11:19 13:24 14:1 15:13 15:16,18 16:18 18:22 proposed 4:22 6:14 26:22 27:9,12,13 27:14 provide 6:7 25:18 27:22 28:23,25 29:1 34:7 37:21 provided 6:8 22:12 29:20 37:20 providing 28:23 29:4 37:4 pull 12:22 pursuant 9:8 put 17:6 28:5 37:24</p> <hr/> <p style="text-align: center;">Q</p> <p>qualification 14:17 14:20,25 15:14,21 15:24 16:7 18:23 qualifications 18:6 18:11,13 qualified 14:22 18:19 question 18:15 questions 6:16,20 6:22 19:7 21:9,13 21:15 29:15 30:1 30:12 32:16 36:8 36:9,14 39:1,7,10</p> <hr/> <p style="text-align: center;">R</p> <p>R 2:1 4:4 40:1 r-o-y-a-l-s 5:25 raise 7:14 22:5 24:21 rates 27:6 rating 4:22 6:14 7:2 26:19,21,23</p>	<p>26:24 27:8,9,12 27:13,15 39:16 re-attend 36:5 ready 7:3 real 20:24 30:8 really 19:13,18 21:15,25 30:4,7 37:8 Realtime 1:21 reason 16:3 reasons 5:1 38:6 recall 32:23 receive 13:10 23:3 23:8 26:19 27:4 received 23:17 28:12 receiving 20:17 recommend 34:13 34:17 35:20,21,25 recommendation 6:21 29:5 32:20 33:10 34:20 35:9 38:4 recommendations 25:18 35:17 recommending 33:15 record 4:24 5:18 7:22 11:1,5,7,23 19:11,25 20:4 23:7 25:4 31:24 records 11:4,11,15 11:16 17:21,23,25 18:8,23,23 28:3 32:4,8,10 referring 7:6 reflecting 39:15 regard 35:17 regards 38:2 Registry 13:9 15:7 regular 37:22 regulations 8:9 34:24 36:4 reinspection 34:24 reinstated 38:22</p>	<p>reoccurring 28:6 repairs 18:1 repeat 34:23 36:3 report 3:9 6:14 9:19 10:6,8,15,17 10:17,19 17:7,13 23:24 26:12 REPORTED 1:20 reporter 5:15,19 21:1,2 23:6 40:7 reporter's 6:5 Reporting 1:21 reports 9:22,25 10:3 17:10,17 25:18 representing 5:7 request 11:16 13:21 29:11,12 32:21 33:13 38:2 38:14,21 39:16 requested 38:7 requesting 5:1 13:15 requests 39:6 require 6:9 31:23 required 8:12 12:12 17:9,17 18:7 26:20 33:22 34:9 requirements 18:17 requires 28:24 reside 39:10 resulted 4:22 results 16:16 26:16 return 32:25 review 4:20 9:4,14 9:16 10:9,16,20 11:10,11 12:16 13:12 14:24 15:2 15:11 16:11 17:8 17:16,20,21,23 18:7 22:24 25:17 26:17,18,25 27:22 33:17 34:19 35:11 35:17</p>	<p>reviewed 9:8 13:19 26:12 28:14 right 7:14 19:7 21:9 22:5 24:21 30:23 32:9 34:10 36:13 road 15:8,9 roadside 18:3 Roberson 2:7 3:3,5 5:5,6,7 7:1,4,17 7:20 10:23 11:3 19:6 20:9,16 24:2 24:5,14,19,24 25:2 29:9 32:16 32:18,19,22 33:1 33:5 36:7 39:11 rolled 24:7 Royal 1:5 2:13 4:8 4:23 8:20 26:9 royals 5:25 rule 6:11 rules 6:9 8:9,16 26:5</p> <hr/> <p style="text-align: center;">S</p> <p>S 2:1 4:4 S-h-a-r-p 25:5 safely 9:6 safety 4:22 5:10 6:14 7:2 12:3,4 22:17 23:20 24:6 25:12,13,14,16,23 25:23,25 26:3,12 26:14,19,22,24 27:8,9,12,13,14 27:19,20,21 28:8 28:11,13,21 29:6 29:13,19 33:17,22 33:25 35:20 36:5 38:16,22 39:16 sake 37:18 Samantha 1:13 2:3 4:11 Sandra 2:17 3:2 5:11 7:11,15,23 Sandy 19:15 23:19</p>	<p>31:17 36:24 37:21 saying 23:20 37:6 schedule 12:13,14 12:18 17:25 scheduling 33:25 SE 1:18 2:8 Seattle 1:22,23 see 12:25 13:13 16:12 17:9 18:2 seniors 37:3 separate 18:20 27:2 27:7 separately 5:15 set 35:2 setting 4:18 severity 27:3 Sharp 2:18 3:4 5:10 24:2,5,19,20 24:22 25:5 29:10 29:17,20 30:2,17 32:23,25 33:1 35:3 36:8,14,19 sheets 11:15 Shorthand 40:6 shortly 30:16 shows 11:8 13:10 sign 12:3 signed 28:10 32:12 Sir 20:14 situation 31:25 six 8:3 27:2 35:25 skill 40:9 slowly 6:5 sorry 18:5 20:15 21:1 24:5 29:15 36:22 sounds 24:12 speak 6:5 20:6 special 5:10 8:5,6 8:11 specific 22:18 29:18 35:11 spell 7:22 25:4 spelling 5:18 Square 1:18 2:8</p>
---	---	--	--	---

<p>staff 2:6 4:21 5:4,8 6:13,20 7:7,11 10:24 22:11,23 24:19 25:17 26:16 26:22 27:9 28:12 28:22 29:1,3,3,24 33:9,15,16,18,20 33:24 34:12,17 35:20,21,24 38:13 39:9,11 Staff's 6:15,16,19 7:2 23:6 27:22 34:20 35:16 38:18 stand 7:5 standard 28:8 start 11:8 38:24 started 6:23 8:24 state 5:17 7:21,25 8:9,12,16 25:3 28:4 33:7 34:1,4 40:3,7 statements 4:19 21:12 status 11:4,6,11,17 11:23 31:24 stay 37:10 step 28:21 steps 23:14 28:1 stop 11:8 straighten 24:10 stuff 30:9 32:12 subject 34:18,22 submit 22:11,18 28:11 35:19 submitted 22:20 29:6 33:12 35:23 submitting 27:18 sufficient 22:12 Suite 1:22 summarize 35:16 supervisor 5:10 25:12,15,23 supported 28:2 supporting 11:14 supposedly 19:16</p>	<p>sure 12:17,22 18:18 19:23 24:1 31:18 35:19 37:11 suspended 34:18 34:22 35:14 suspension 36:2 swear 6:2 20:2 21:8 22:2 sworn 6:4,6 7:15 22:7 24:22 SY-1 3:9 10:12,24 10:25 11:2 system 17:14,15</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T 7:19 25:1 33:4 40:1,1 T-h-e-i-s 5:20 table 5:9 take 5:3 7:8 28:16 38:18 taken 23:14 28:1 talk 17:7 talking 30:18 Taylor 1:20 40:6,13 technical 28:23 29:2 telephonically 29:23 tell 6:3 tender 36:9 terrible 21:23 30:9 test 15:8,9 testified 27:3 testifies 29:12 testify 6:2 24:2,6,9 29:10 32:23 testifying 6:19 testimony 6:4,6,17 20:1 21:10 22:3 23:10 24:7,9 30:21 thank 5:13,16 6:25 7:4,16 10:25 19:8 20:21 22:1,8,24 24:23 29:16,25</p>	<p>30:11,19 32:15,24 36:11,20,23,24 37:23,24 38:1,9 39:13,14,18 Theis 1:5 2:12 4:8 5:20,20,24 6:24 8:19,22,25 9:13 12:25 13:18,20 14:11,13 15:10 16:5,18 17:16 18:22 19:9,12 20:5,17 21:13,15 22:5,7,20 23:9,17 23:22 24:4,10,13 24:16,17 26:8,11 26:14 27:10 28:11 28:13 30:1,3,13 31:5,12,25 32:1,6 33:9,11,12 34:1,8 34:14 36:10,12,15 37:25 38:2,8 39:2 39:8 Theis's 9:8,12 10:9 10:16,20 11:16 13:21 24:9 33:6 35:11,12 thing 19:12 36:16 37:2 39:3 things 21:5,17 24:15 33:7 36:25 thought 5:14 THURSTON 40:4 time 4:15,18 6:17 11:7,8,8,8,15 12:23 13:1 17:16 19:1,19 21:2 28:20 29:5,8,10 34:3,5 37:4 Title 28:8 today 4:14 39:3,14 today's 4:12 tomorrow 22:19 tonight 39:4 top 37:8,10 total 11:8</p>	<p>track 23:23 tracking 17:13 training 8:10,13 25:20 26:2,3 33:22,23 35:1 36:6 trainings 25:24 transcript 40:8 transportation 1:2 1:17 8:1 25:7,13 trouble 31:16 truck 32:7 true 10:19 40:8 trying 5:15 19:20 21:18,22,24 30:5 Tuesday 4:14 turn 10:11 11:4 12:7 13:5 14:17 Turning 17:19 TV-210170 1:4 4:7 TV-210171 4:25 two 31:18 34:18,22 type 17:4</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>unable 35:21 understand 15:19 understanding 18:16 28:24 update 12:10,12,15 updated 12:17 updates 12:24 urge 37:17 use 14:3 usually 24:7 Utilities 1:2,17 7:25 25:7</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>various 28:14 vehicle 8:13 14:23 17:19,21,24 18:7 18:22 25:25 32:5 34:5 vehicles 26:1 verification 15:6</p>	<p>verifying 17:13 view 36:13 violation 11:24 12:1 14:4,10,11 14:15 15:24 16:8 17:4,5 27:23 30:21,22,25 31:3 31:8,9 32:3 33:19 34:16 violations 6:18 9:20 12:4 22:3,18 23:11,13,15,15 27:3,5,5,25 28:2,6 29:18 30:16,20 31:22 34:23 36:4 vital 18:21 VOLUME 1:11</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>WAC 1:7,7,8 30:25 waiting 36:23 walk 22:3,8 23:10 want 23:5 24:9 31:2 32:9 36:23 37:1,8,13,16 38:9 38:12,15 wanted 19:9 24:8 29:16 wants 36:16 Washington 1:1,17 1:18,22 2:9,14 4:1 4:9 5:21 7:25 25:7 40:3,7 wasn't 32:9 we'll 22:3 We're 19:25 23:10 we've 29:22 website 7:9 weight 20:19 21:11 went 34:9 West 2:13 5:21 window 38:17,21 38:24 witness 6:2 witnesses 6:7,16 Woodland 1:18 2:8</p>
--	---	---	---	--

work 22:21 24:16 37:10	4:21 8:24 9:13 22:11	<hr/> 7 <hr/>		
worked 8:2 11:9 25:9	206 1:23 23009 2:13 5:21	7 3:3		
working 21:20 28:22 37:18 38:16 39:2	23rd 8:24 25 3:5 27th 22:11	<hr/> 8 <hr/>	800 1:24 846-6989 1:24	
write 9:19 10:8	287-9066 1:23	<hr/> 9 <hr/>	9:30 1:16 4:2,15	
wrote 10:20	29th 2:13 5:21	98036 2:14 5:21	98101 1:22	
www.buellrealti... 1:25	2nd 4:16	98503 1:18 2:9		
<hr/> X <hr/>	<hr/> 3 <hr/>			
X 7:19 25:1 33:4	30 15:8 31:22 30-day 38:21 33 3:5			
<hr/> Y <hr/>	3358 1:20 40:13 360 1:23 2:9 385 28:9 391-45(a) 31:9 391.45(a) 34:16 395.8 31:23 395.8(a)(1) 31:23 396.3(b) 32:4			
Y-e-o-m-a-n-s 7:23	<hr/> 4 <hr/>			
yeah 12:14 19:12 20:23 31:5 32:1,6 36:22 38:8	4,400 31:9 4,800 34:14 425-350-3386 5:24 44 31:8 48 38:17 480-15 4:10 480-15-555 1:7 30:25 480-15-560 1:7 480-15-570 1:8 4800 34:21 49 28:8 31:9,22 32:3 4th 1:22			
year 31:7	<hr/> 5 <hr/>			
years 8:3 31:18 34:18,22	534-9066 1:23			
Yeomans 2:17 3:2 5:11 7:5,11,12,13 7:15,23 21:9,14 26:13 27:2 34:2	<hr/> 6 <hr/>			
<hr/> Z <hr/>	621 1:18 2:8 664-1188 2:9			
<hr/> 0 <hr/>				
<hr/> 1 <hr/>				
1-40 1:12				
10:19 39:19				
11 1:15 3:9 4:1				
11th 4:14				
1325 1:22				
16th 35:2				
1840 1:22				
18th 9:13 22:14,16				
<hr/> 2 <hr/>				
2,200 34:18,21 36:2				
2016 25:10				
2020 33:24				
2021 1:15 4:1,14,16				