

**Docket No. TV-210640 - Vol. I**

**In the Matter of the Investigation of Ed's Moving and  
Storage, Inc.**

**October 12, 2021**



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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Investigation )DOCKET TV-210640  
of )  
)  
ED'S MOVING AND STORAGE INC. )  
)  
For Compliance with WAC 480-15-560 )  
and WAC 480-15-570 )  
)  
)

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VIRTUAL BRIEF ADJUDICATIVE PROCEEDING, VOLUME I  
Pages 1-30  
ADMINISTRATIVE LAW JUDGE SAMANTHA DOYLE

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October 12, 2021  
  
9:30 a.m.

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

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:  
SAMANTHA DOYLE

FOR COMMISSION STAFF:  
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ALSO PRESENT:  
EDWARD STEINER  
JASON SHARP

\* \* \* \* \*

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LACEY, WASHINGTON; OCTOBER 12, 2021  
9:30 A.M.  
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P R O C E E D I N G S

JUDGE DOYLE: Let's be on the record. Good morning. This is Docket TV-210640, which is captioned In the Matter of the Investigation of Ed's Moving and Storage Incorporated for Compliance with WAC 480-15-560 and WAC 480-15-570.

My name's Samantha Doyle, and I'm the presiding administrative law judge over today's brief adjudicative proceeding.

Today is Tuesday, October 12th, 2021, and the time is approximately 9:30.

On August 31st, 2021, the Commission issued a notice of intent to cancel permit as household goods carrier, notice of brief adjudicative proceeding setting time for oral statements. The Commission issued the notice of intent to cancel following compliance review conducted by Commission Staff and completed in August, which resulted in a proposed conditional safety rating for Ed's Moving.

The company had until October 5th, 2021, to file a proposed safety management plan that is

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1 acceptable from Staff. And as mentioned off the record,  
 2 we will also address the penalty assessment in Docket  
 3 TV-210641 in the amount of \$4,300.  
 4 And just to confirm, is there any issue from  
 5 the company with -- or objection with consolidating the  
 6 dockets here today?  
 7 MR. JOHNSON: No, there is not.  
 8 JUDGE DOYLE: Great. So moving forward,  
 9 those matters are officially consolidated, and we'll  
 10 hear from the parties on both dockets this morning.  
 11 When I call on each party to testify, I will  
 12 swear you in with the oath of witness so that anything  
 13 you tell the Court will be under oath and can be  
 14 considered sworn testimony. For the court reporter's  
 15 benefit, again, speak slowly and clearly. Once you're  
 16 sworn in, you can present your testimony.  
 17 We will first begin with Staff addressing  
 18 the proposed safety rating. Following Staff's  
 19 presentation, the company will have the opportunity to  
 20 ask Staff's witnesses any questions, and then you may  
 21 present testimony. At that time, you can address the  
 22 violations in the penalty assessment. Once you are done  
 23 testifying, Staff's attorney may have some questions for  
 24 you, and then Staff will make a recommendation on the  
 25 penalty.

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1 Do you have any questions before we get  
 2 started?  
 3 MR. JOHNSON: No, I don't.  
 4 JUDGE DOYLE: Great. And have you, at this  
 5 point, submitted a proposed safety management plan?  
 6 MR. JOHNSON: I did, and it was rejected for  
 7 I guess -- yeah, it was rejected. I think that's maybe  
 8 how we ended up here. So I guess I've -- some of the  
 9 things I must not have been clear on or maybe the way I  
 10 worded things. So I -- I know at this point, I guess I  
 11 have to go back to the drawing board.  
 12 JUDGE DOYLE: So and, in fact, at this  
 13 point, you haven't resubmitted?  
 14 MR. JOHNSON: No, I have not resubmitted. I  
 15 think -- yeah, whatever I had to do before the 5th I did  
 16 and it was rejected.  
 17 JUDGE DOYLE: So let's first take an  
 18 appearance from Commission Staff. Mr. Dallas? Oh,  
 19 you're on mute.  
 20 MR. DALLAS: Sorry about that, Judge Doyle.  
 21 Good morning. My name is Joe Dallas. I'm an assistant  
 22 attorney general with the Utilities and Transportation  
 23 Division, and I'm here on behalf of Commission Staff.  
 24 JUDGE DOYLE: Great.  
 25 And for the company, please state your name

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1 and address for the record, spelling your last name for  
 2 the court reporter.  
 3 MR. JOHNSON: So my personal name or company  
 4 name? My personal name?  
 5 JUDGE DOYLE: Your personal name, please.  
 6 MR. JOHNSON: My name is Jackie Johnson,  
 7 last name J-o-h-n-s-o-n.  
 8 JUDGE DOYLE: And then the address for the  
 9 company.  
 10 MR. JOHNSON: It is 4823 - 95th Street  
 11 Southwest, Lakewood, Washington, 98499.  
 12 JUDGE DOYLE: And then the business phone  
 13 number and email address, please.  
 14 MR. JOHNSON: It is 253-581-2446.  
 15 JUDGE DOYLE: And then an email address,  
 16 please.  
 17 MR. JOHNSON: Company email address?  
 18 JUDGE DOYLE: Company, please.  
 19 MR. JOHNSON: I don't have it right now.  
 20 JUDGE DOYLE: Okay. Well, if you can update  
 21 it after the hearing so that we make sure that we have  
 22 your correct contact information, we can follow up with  
 23 that later. Mr. Johnson, that will be fine for now.  
 24 Feel free to mute for a moment.  
 25 Mr. Dallas, you may proceed with the issue

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1 of the company's proposed safety rating when you're  
 2 ready since there is not a safety management plan to  
 3 discuss.  
 4 MR. DALLAS: Thank you, Your Honor. And as  
 5 previously stated, as of this hearing, the company has  
 6 not provided an adequate safety management plan to Staff  
 7 for Staff to recommend approval to the Commission.  
 8 However, the company has submitted a safety  
 9 management plan, and it's Staff's intention to continue  
 10 working with the company to ensure it is adequate for  
 11 Commission approval if the company requests such  
 12 assistance.  
 13 However, for the purposes of this hearing,  
 14 Staff intends to present sufficient evidence to prove  
 15 the safety violations set forth in the notice of  
 16 proposed rating change and the notice of intent to  
 17 cancel.  
 18 Staff intends to present this evidence  
 19 through the testimony of Ed Steiner and Jason Sharp, who  
 20 are present in this virtual hearing. This evidence will  
 21 show that Staff documented 47 safety violations as a  
 22 result of its compliance investigation that was  
 23 completed in August 2020.  
 24 Thereafter, Staff assessed these 47  
 25 violations in light of the six enumerated factors in 49

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1 CFR Section 387.7 and proposed an overall safety rating  
2 of conditional.  
3 Mr. Steiner will testify as to the 47  
4 documented violations, and Mr. Sharp will testify as to  
5 why Staff proposed a conditional safety rating in light  
6 of these documented violations.  
7 As also discussed, Staff will also provide a  
8 recommendation as to the penalty amount in Docket  
9 TV-210641.  
10 And at this time, I would call Mr. Steiner  
11 to testify.  
12 JUDGE DOYLE: All right. Mr. Steiner, you  
13 can unmute and will you please raise your right hand?  
14 (Ed Steiner sworn.)  
15 JUDGE DOYLE: Thank you. You may proceed.  
16  
17 **EXAMINATION**  
18 BY MR. DALLAS:  
19 **Q. Thank you, Mr. Steiner. Would you please state**  
20 **your name and spell your last name for the record?**  
21 A. Edward Steiner, S-t-e-i-n-e-r.  
22 **Q. And, Mr. Steiner, what is your current**  
23 **occupation?**  
24 A. I am a motor carrier safety investigator.  
25 **Q. And how long have you been in that position?**

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1 A. About four and a half years.  
2 **Q. And, Mr. Steiner, can you please provide a brief**  
3 **description of what your position involves?**  
4 A. I conduct safety compliance investigations on  
5 carriers to ensure they're in compliance with federal  
6 and state regulations.  
7 **Q. Thank you, Mr. Steiner.**  
8 **Are you familiar with the investigation**  
9 **involving Ed's Moving and Storage?**  
10 A. Yes, I am.  
11 **Q. And how are you familiar?**  
12 A. I completed the investigation.  
13 **Q. And, Mr. Steiner, can you please refer to a**  
14 **document that has been identified as proposed Exhibit**  
15 **ES-1.**  
16 MR. DALLAS: And, Judge Doyle, this proposed  
17 exhibit was submitted to the docket on October 5th,  
18 2021.  
19 BY MR. DALLAS:  
20 **Q. And, Mr. Steiner, are you looking at proposed**  
21 **Exhibit ES-1?**  
22 A. Yes.  
23 **Q. Can you provide a description of what proposed**  
24 **Exhibit ES-1 is?**  
25 A. This is the investigation report.

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1 **Q. And how are you familiar with this exhibit?**  
2 A. I completed the investigation.  
3 **Q. And do you agree that the information contained**  
4 **with this exhibit is truthful and correct?**  
5 A. Yes.  
6 **Q. Do you have any changes you would like to make**  
7 **to this exhibit?**  
8 A. No.  
9 MR. DALLAS: Judge Doyle, at this time, I  
10 would offer to enter proposed Exhibit ES-1 into  
11 evidence.  
12 JUDGE DOYLE: Thank you. ES-1 is admitted  
13 into the record.  
14 (Exhibit ES-1 admitted.)  
15 MR. DALLAS: Thank you, Judge Doyle.  
16 BY MR. DALLAS:  
17 **Q. Mr. Steiner, I would like to ask some questions**  
18 **of Exhibit ES-1, and in particular, can you reference**  
19 **pages 3 through 5?**  
20 A. Okay.  
21 **Q. Could you please explain what these pages**  
22 **consist of?**  
23 A. These are the violations that were discovered  
24 during the carrier's investigation.  
25 **Q. And how many safety violations did you document**

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1 **during your compliance investigation?**  
2 A. There was a total of 47 violations and nine  
3 different categories.  
4 **Q. And of all the violations that you documented,**  
5 **could you please explain the violations you believe**  
6 **contributed most to the company's proposed conditional**  
7 **safety rating?**  
8 A. Yes. So there was two criticals and one acute.  
9 The acute violation was a result of the carrier being  
10 involved in an accident for the individual that was  
11 driving was discovered to have a suspended license.  
12 The violation number two, which was a critical,  
13 was failing to have drivers medically examined and  
14 certified, which the carrier's required to have.  
15 And violation number three, critical, the  
16 drivers are required to have qualification files for all  
17 the drivers on file, which they failed to have.  
18 **Q. Thank you, Mr. Steiner.**  
19 **And are any of these violations repeat**  
20 **violations from Staff's investigation of the company in**  
21 **2020?**  
22 A. Yes, the two critical violations. The first one  
23 for failing to have medical certificates and then the  
24 driver qualification files are repeat violations.  
25 **Q. Thank you, Mr. Steiner.**

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1 MR. DALLAS: Judge Doyle, I have no further  
 2 questions of Mr. Steiner.  
 3 JUDGE DOYLE: Okay. Mr. Johnson, do you  
 4 have any questions of Mr. Steiner and --  
 5 MR. JOHNSON: No, I do not have any  
 6 questions.  
 7 JUDGE DOYLE: Okay. And I just realized I  
 8 wanted to double-check with Staff, did you want to  
 9 address the rejected safety management plan at this --  
 10 at all?  
 11 MR. JOHNSON: No, I -- I think I -- I -- I  
 12 understand from the email they sent me. I understand  
 13 why it was rejected. I do understand why it was  
 14 rejected. So I just -- like I said, I just have to just  
 15 kind of go back to the drawing board and fix what I need  
 16 to fix and yes, I know. I don't have any objection.  
 17 JUDGE DOYLE: Okay. Then, Mr. Johnson, I am  
 18 going to swear you in now, and we will move on with your  
 19 testimony. So if you could please raise your right  
 20 hand.  
 21 MR. DALLAS: Judge Doyle, could I -- Staff  
 22 has one more witness before -- before we swear in. Is  
 23 it appropriate to have Jason Sharp testify at this time?  
 24 (Brief interruption.)  
 25 (Pause in the proceedings.)

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1 (Jason Sharp sworn.)  
 2 JUDGE DOYLE: You may continue, Mr. Dallas.  
 3 MR. DALLAS: Thank you, Judge Doyle.  
 4  
 5 E X A M I N A T I O N  
 6 BY MR. DALLAS:  
 7 **Q. Mr. Sharp, would you please state your name and**  
 8 **spell your last name for the record?**  
 9 A. Jason Sharp, S-h-a-r-p.  
 10 **Q. And, Mr. Sharp, what is your current occupation?**  
 11 A. I'm the motor carrier safety supervisor with the  
 12 Washington Utilities and Transportation Commission.  
 13 **Q. And, Mr. Sharp, how long have you been in that**  
 14 **position for?**  
 15 A. For four years.  
 16 **Q. And can you please provide a brief description**  
 17 **of what your position involves?**  
 18 A. Yes. As a supervisor, I assign safety  
 19 investigations to our investigation Staff, I review  
 20 their investigative reports, and provide recommendations  
 21 consistent with the Commission's enforcement policy for  
 22 any follow-up enforcement action.  
 23 **Q. And, Mr. Sharp, will you please reference pages**  
 24 **14 and 15 in Exhibit ES-1?**  
 25 A. Yes, I'm looking at the safety fitness rating

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1 explanation section of ES-1, the investigative report.  
 2 **Q. Thank you, Mr. Sharp.**  
 3 **In reference to these two pages, can you please**  
 4 **explain how Staff determines a company's proposed safety**  
 5 **rating after completing its compliance review?**  
 6 A. Yes. The Commission adopts the safety rating  
 7 methodology that was created by the Federal Motor  
 8 Carrier Safety Administration and captured in Title 49  
 9 CFR Part 385. The safety ratings are determined by the  
 10 presence of acute and critical violations, the presence  
 11 of vehicle crash and out-of-service vehicle inspection  
 12 data that can negatively affect the overall safety  
 13 rating.  
 14 Commission safety investigators will initiate a  
 15 safety fitness evaluation through the compliance review.  
 16 They will document violations of federal and state  
 17 regulations and determine a proposed safety rating based  
 18 on the company's performance in six separate factors.  
 19 And that's what we see on pages 14 and 15 of this  
 20 report. It breaks down the company's performance in  
 21 different areas.  
 22 **Q. Thank you, Mr. Sharp.**  
 23 **And given the process you just explained and the**  
 24 **safety violations documented, what is Staff's proposed**  
 25 **safety rating of Ed's Moving and Storage?**

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1 A. Conditional.  
 2 **Q. Thank you.**  
 3 **Mr. Sharp, can you please explain what an acute**  
 4 **and critical violation is?**  
 5 A. Yes. Acute and critical violations are  
 6 considered to be more serious as they are linked to  
 7 inadequate safety management controls and higher than  
 8 average accident rates. Acute violations are those  
 9 identified as such where noncompliance is so severe as  
 10 to require an immediate corrective action by the motor  
 11 carrier, while critical violations are those identified  
 12 as such where noncompliance is indicative of breakdowns  
 13 in a company's safety management controls and  
 14 demonstrated by a pattern of noncompliance.  
 15 **Q. And, Mr. Sharp, did Staff find any acute or**  
 16 **critical violations in its compliance review of Ed's**  
 17 **Moving and Storage?**  
 18 A. Yes.  
 19 **Q. And how did these critical and acute violations**  
 20 **factor into the company's proposed conditional safety**  
 21 **rating?**  
 22 A. The one acute violation and the two conditional  
 23 violations were calculated into factor two, related to  
 24 driver qualifications. And if we were to look at the  
 25 bottom of page 14, it highlights the overall safety

1 fitness rating where one factor is unsatisfactory with  
2 zero conditional factors being -- or being conditional  
3 for the overall safety rating of a conditional.

4 **Q. Thank you, Mr. Sharp.**

5 **Has the company been able to submit an adequate**  
6 **safety management plan as of this hearing?**

7 A. As addressed previously, the company did submit  
8 a plan, and Staff provided a breakdown of where the  
9 safety plan is deficient to the company.

10 **Q. And, Mr. Sharp, if the company is not able to**  
11 **get Commission approval of a safety management plan by**  
12 **October 26, 2021, what is Staff's recommendation?**

13 A. Staff's recommendation would be to cancel the  
14 company's provisional permit.

15 **Q. And, Mr. Sharp, will you and Staff continue to**  
16 **work with the company to submit an adequate safety**  
17 **management plan if the company requests such assistance?**

18 A. Yes. Our Staff is available to offer technical  
19 assistance to the company up until cancellation date.

20 **Q. Thank you, Mr. Sharp.**

21 **And lastly, I would like to ask you some**  
22 **questions about the \$4,300 penalty assessment within**  
23 **Docket TV-210641.**

24 **Has the company provided any response to this**  
25 **penalty assessment?**

1 through each of the violations and the penalty  
2 assessment, and you can briefly explain why the  
3 violation occurred and then describe any steps you have  
4 taken to correct the violation and prevent that  
5 violation from occurring again.

6 So to start, we're going to look at 49 CFR  
7 391.15(a), using a disqualified driver. The company  
8 allowed a disqualified driver Tola -- Toloa  
9 Tupu [phonetic] -- sorry. I apologize. I just  
10 butchered that name -- to operate and -- that's  
11 terrible -- to operate a commercial motor vehicle on  
12 8/10/2020 and hundred dollar -- or hundred dollars for  
13 that one violation.

14 Could you explain the steps you're taking  
15 and corrective action that you've taken?

16 MR. JOHNSON: So for the -- the steps we've  
17 taken to kind of correct this is I -- I went through --  
18 and this happened around the time of the first audit. I  
19 went through, I created a driver packet, which includes  
20 the -- which includes the application from the safety  
21 manual and the other forms necessary from the safety  
22 manual, all of that stuff now is like part of our  
23 process where it all has to be completed, turned in, and  
24 reviewed. And then before the -- and then all those  
25 steps including medical cards and all those things are

1 A. I did check with the docket prior to this  
2 hearing and did not see a response from the company  
3 related to the penalty assessment.

4 **Q. And, Mr. Sharp, given that the company hasn't**  
5 **provided any response to the penalty assessment, what is**  
6 **Staff's recommendation as to the penalty amount?**

7 A. Staff's recommendation is that the penalty  
8 should be assessed as outlined in the penalty  
9 assessment.

10 **Q. All right. Thank you, Mr. Sharp.**

11 MR. DALLAS: Judge Doyle, I have no further  
12 questions.

13 JUDGE DOYLE: Thank you.

14 Mr. Johnson, do you have any questions for  
15 the Staff witness, Mr. Sharp?

16 MR. JOHNSON: No, no, I don't. They've been  
17 kind of pretty transparent and straightforward with me  
18 on everything throughout. So yeah, no, I understand  
19 where we're at.

20 JUDGE DOYLE: Okay. Thank you, Mr. Sharp.  
21 I will now swear in Mr. Johnson as we stated before.

22 (Jackie Johnson sworn.)

23 JUDGE DOYLE: Thank you. Since I did not  
24 receive any exhibits from you in advance of the hearing,  
25 we're going to proceed with your testimony. Let's walk

1 collected before a person is hired.

2 In that instance, the person was hired and  
3 was allowed to drive without a medical card, which he  
4 shouldn't have been, and then his license expired  
5 unbeknownst to me and my staff. So when the accident  
6 happened, he had an expired license. So we kind of set  
7 up a failsafe with that, won't happen again through -- I  
8 had kind of instruction from Edward to -- you know, how  
9 often I need to be pulling driver check to check and  
10 make sure that their license is still in good standing.

11 And then for as far as their license  
12 expirations and medical card expirations, dates have  
13 been set in my calendars and -- in both my personal  
14 calendar and work calendar a month out. So I will make  
15 sure to have the guys renew everything when they need  
16 to.

17 And then I'll be checking -- be checking  
18 quarterly to -- pull an abstracts quarterly to make sure  
19 everybody's license is in good standing so I don't have  
20 someone who isn't supposed to be driving around or has a  
21 suspended license driving when I don't know it.

22 JUDGE DOYLE: Okay. So that was in regards  
23 to the other violation, 49 CFR Section 391.45(a), the  
24 failing to have drivers medically certified and  
25 examined. So you're referring to that second violation

1 there as well?  
 2 MR. JOHNSON: Yeah, they kind of go hand  
 3 in -- like the -- yeah, the acute and the two criticals  
 4 are -- kind of go hand in hand, so I guess I did, yeah.  
 5 JUDGE DOYLE: Okay. And so similarly for  
 6 the other violation, 49 CFR -- I know these all sound  
 7 very similar -- 391.51(a), failing to maintain driver  
 8 qualification file on each driver employed, so is this  
 9 the new process, is there anything specific that you're  
 10 doing for that or is that including this as well?  
 11 MR. JOHNSON: Yes. So for the second  
 12 violation with Philip, he -- his medical card expired.  
 13 I had failed to get all those dates in early enough.  
 14 You know, I -- they were put in and he -- I just -- I  
 15 missed it. So and I didn't get -- I actually didn't  
 16 get -- when his medical card expired, I wasn't aware  
 17 and, again, you know, he was driving some days where he  
 18 didn't have a medical card.  
 19 I now have those dates set in the calendar,  
 20 and when I sent him the plan that was not accepted, I  
 21 sent him a printout of the calendar where I have it  
 22 placed in the calendar a month before the medical card  
 23 will expire. So I give myself a notification with ample  
 24 time to get him in there and get his physical done  
 25 before the card is up rather than the card expiring and

1 information is collected now, it's more, you know,  
 2 organized and structured. There is an actual like  
 3 protocol for it.  
 4 JUDGE DOYLE: Excellent. That makes sense.  
 5 And then for Washington Administrative Code,  
 6 WAC 480-15-533, failure to maintain public liability and  
 7 property damage insurance. So it was a hundred dollars  
 8 for one repeat violation.  
 9 MR. JOHNSON: And is that for the 4 P  
 10 [phonetic], is that what it is or...  
 11 JUDGE DOYLE: I'm sorry, for the what?  
 12 MR. JOHNSON: I'm not -- I'm not sure.  
 13 So --  
 14 JUDGE DOYLE: Oh, the failure to maintain  
 15 public liability and property damage insurance.  
 16 MR. JOHNSON: Well, I've always had it, so I  
 17 must have had an expired form for that. That's the only  
 18 way. I mean, there's never been a time where our  
 19 insurance lapsed or anything like that. So the form I  
 20 had on hand must have been expired, which that's --  
 21 which I actually think I have -- I don't have it in  
 22 front of me. Yeah, I -- I'm -- I'm not sure which form  
 23 that is. I know I've never had anything lapse.  
 24 And I know there was one form where in the  
 25 last -- I kind of had a rebuttal for one of the forms.

1 then me trying to scramble to get him in there after the  
 2 fact. So I guess yeah, the answer -- yeah, I have set  
 3 things in place to ensure that doesn't happen again.  
 4 JUDGE DOYLE: So then for 49 CFR 391.51(a),  
 5 failing to maintain driver qualification files on each  
 6 driver employed, did I hear that you addressed that as  
 7 well?  
 8 MR. JOHNSON: Yes, yeah, yes, I did. I  
 9 addressed it -- I addressed it, you know, through the  
 10 driver packet. The -- the hiring process has been  
 11 changed a bit, so we've got it won't even start  
 12 beforehand. Setting all the reminders in my calendars  
 13 ahead of time and giving myself ample time to get these  
 14 guys in so the cards don't expire on me before I'm able  
 15 to do that.  
 16 Yeah, and that's where kind of the breakdown  
 17 was before. My files weren't in order. I had Philip,  
 18 who had an expired medical card, so as a result not only  
 19 did I get a violation for him driving without the --  
 20 with the expired medical card, but the file wasn't in  
 21 order because the medical card wasn't up-to-date.  
 22 JUDGE DOYLE: So then --  
 23 MR. JOHNSON: The calendar reminders are  
 24 what will help me to prevent that as well as, you know,  
 25 the way the actual application process and the way the

1 I'm not a hundred percent sure if that's it, but where  
 2 it didn't have an expiration date. It kind of -- the  
 3 way it was worded was that it was kind of just good  
 4 indefinitely from that date. So I think I'd asked is it  
 5 supposed to be worded different, but there's never been  
 6 a time where it had lapsed. So it was just I had an  
 7 outdated form on hand is the only --  
 8 MR. STEINER: Judge, if I could just -- this  
 9 is Edward Steiner. That violation is for Form E. The  
 10 carrier failed to have a current Form E on file with the  
 11 Commission.  
 12 MR. JOHNSON: And I -- and I believe the way  
 13 the -- the Form E was worded, it -- it didn't -- it  
 14 just -- it said good throughout. It didn't have an  
 15 actual end date for it to be -- it's the way the company  
 16 worded it on the actual form.  
 17 MR. STEINER: Just for the record, so the  
 18 Form E that's on file is a totally different insurance  
 19 company. So that's what the violation stemmed from.  
 20 MR. JOHNSON: Okay. I understand now.  
 21 Yeah, that is -- yeah, they -- okay. Yeah, I  
 22 understand. They switched the insurance company on me  
 23 and I didn't have the correct form. So I now know which  
 24 insurance company we are under and have a -- have a form  
 25 that has been provided after Edward made me aware of

1 that.  
 2 JUDGE DOYLE: Okay. So at this point, the  
 3 correct form has been presented to Commission Staff with  
 4 the Commission?  
 5 MR. JOHNSON: Yeah, I had -- and I remember,  
 6 I had the form from an old company.  
 7 JUDGE DOYLE: And then finally -- oh, I  
 8 apologize, not finally, second-to-last. So WAC  
 9 480-15-555, failure to conduct or retain paperwork  
 10 containing a criminal background check prior to hiring  
 11 each employee. There was a \$400 penalty for four repeat  
 12 violations.  
 13 MR. JOHNSON: Yeah, those -- so at the time,  
 14 our -- like since I worked here, they've always done --  
 15 they always do some program that they used to do the  
 16 background check, and it was somebody else's job at a  
 17 sister company.  
 18 So we've now taken that on here. It's done  
 19 in office. So we're making sure that they're getting  
 20 done rather than having someone else doing it, and if  
 21 they, you know -- maybe they prioritize it different  
 22 than us and it's on the back burner for them, I can make  
 23 sure that it gets done.  
 24 Also the -- the company that they were using  
 25 didn't always have clear results, and so we've stopped

1 Edward made me aware that every time a person comes  
 2 back, even if he, you know, leaves for a month and comes  
 3 back, that a background check needs to be done every  
 4 time. It wasn't -- it wasn't getting done.  
 5 And so he had in one of the times, or maybe  
 6 even while he was working here, one of those times he  
 7 had -- he had got this conviction of a crime, you know,  
 8 and I didn't -- I didn't know about it. So as a result,  
 9 I had someone working here who shouldn't have been.  
 10 So now we are doing all our background  
 11 checks in house. Everything is done through Washington  
 12 State Patrol, and I now know that, you know, if a guy  
 13 leaves even for a week, I will make sure that each time  
 14 he comes back and is hired that their background is ran.  
 15 And then, again, we'll be pulling abstracts and things  
 16 like that quarterly to -- to check so this doesn't  
 17 happen again.  
 18 Because I believe I didn't -- yeah, I -- I  
 19 don't know if I would get the same result if a guy was  
 20 convicted of a crime here and is no longer eligible to  
 21 work here, you know, and I just don't know about it. I  
 22 don't know how that would turn out. So I'm going to  
 23 have to have failsafes, which will be just looking up  
 24 guys quarterly to make sure that everybody's in good  
 25 standing so if I'm audited again or the next time, you

1 using that company, and I opened an account on the  
 2 Washington State Patrol website. So now we're using the  
 3 Washington State Patrol website to do the background  
 4 checks, which I believe, you know, from talking with  
 5 Edward that that's where you guys get your information  
 6 and check from.  
 7 So I'm just doing everything I can to use  
 8 the same forms, go to the same places, do my checks the  
 9 same places you are so that I know that I'm in  
 10 compliance rather than using outside companies or  
 11 something other than, you know -- what's happening is  
 12 they haven't been in compliance, and, you know, so I use  
 13 Washington State Patrol now. We have an open account,  
 14 and that's being done here in my office, so it's -- I'm  
 15 able to monitor whether or not it gets done before  
 16 anyone's hired. That way, you know, files are reviewed  
 17 by me once they're complete before hire date.  
 18 JUDGE DOYLE: Great. Thank you.  
 19 And finally, for WAC 480-15-555(3), hiring a  
 20 person convicted of a crime involving an assault. It  
 21 sounds like maybe this is part of the same issue. Do  
 22 you want to speak to that?  
 23 MR. JOHNSON: Yeah, okay, I will. This is a  
 24 guy who worked here for some time, and he's worked off  
 25 and on at times, and I wasn't aware and, you know,

1 know, this is done, we do this again, that I'm -- I'm in  
 2 compliance with everything.  
 3 JUDGE DOYLE: Great. Thank you.  
 4 Staff, does Staff have any questions for the  
 5 company at this point based on their testimony?  
 6 MR. DALLAS: Staff has no questions for the  
 7 company.  
 8 JUDGE DOYLE: Okay. And is Staff  
 9 maintaining its previous recommendation after hearing  
 10 the testimony?  
 11 MR. DALLAS: Provide me one second to...  
 12 JUDGE DOYLE: Okay.  
 13 MR. DALLAS: Thank you for waiting, Judge  
 14 Doyle. At this time, Staff is going to maintain its  
 15 recommendation, but would be willing to -- willing to  
 16 revisit the penalty amount after the submittal of an  
 17 adequate safety management plan.  
 18 JUDGE DOYLE: Okay. Thank you for that.  
 19 I just want to confirm with the company, or  
 20 to just clarify, I suppose, with the company that the  
 21 cancellation date is the 26th of October. And so just a  
 22 reminder that Staff is going to need some time to review  
 23 any safety management plans that you supply and then  
 24 also give time to notify myself, the presiding officer,  
 25 in such case that it's accepted to postpone -- or to not



1 do a cancellation, to avoid a cancellation. So I just  
2 want to be mindful of that before we close up.

3 And if there aren't any other issues by any  
4 of the parties or questions by any of the parties, I  
5 would like to thank you all for coming here today. I  
6 will be issuing an order once I've heard from Staff  
7 regarding the safety management plan when, and if, it --  
8 assuming it's submitted and, again, their revisiting of  
9 the penalty recommendation depending on the submittal of  
10 that safety management plan. And that order will  
11 reflect my decision.

12 And with that, if there isn't anything else,  
13 we are adjourned. Thank you again.

14 (Adjourned at 10:13 a.m.)  
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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



11  
12  
13 ~~Tayler Garlinghouse~~  
Tayler Garlinghouse, CCR 3358  
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