

Docket No. TV-220959 - Vol. I

**In the Matter of the Investigation of Visionary Movers,
LLC**

February 1, 2023



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation of)
Visionary Movers, LLC,) Docket TV-220959
For Compliance with WAC 480-15-560)
and WAC 480-15-570.)

BRIEF ADJUDICATIVE PROCEEDING
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

VOLUME I

Pages 1 - 21

DATE TAKEN: FEBRUARY 1, 2023

REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018

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A P P E A R A N C E S

FOR COMMISSION STAFF: (via Zoom)

NASH CALLAGHAN
Assistant Attorney General
P.O. Box 47250
Olympia, Washington 98504
360.915.4521
nash.callaghan@utc.wa.gov

STAFF MEMBER: (via Zoom)

JASON SHARP

* * * * *

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1 FEBRUARY 1, 2023

2 2:02 P.M.

3 JUDGE PEARSON: So good afternoon. This is
4 Docket TY-220959, which is captioned In the Matter of the
5 Investigation of Visionary Movers, LLC, for compliance
6 with WAC 480-15-560 and 570. My name is Rayne Pearson.
7 I use she/her pronouns. And I am the administrative law
8 judge presiding over today's brief adjudicative
9 proceeding. Today is Wednesday, February 1, 2023, and
10 the time is 2:02 p.m.

11 Before we get started, there's no one who has
12 appeared for the Company yet. So I wanted to ask Staff
13 if they have heard from the Company, if they have any
14 assurance if the Company will be appearing today.

15 MR. CALLAGHAN: Thank you, Your Honor.

16 For the record, this is Nash Callaghan,
17 assistant attorney general, on behalf of Commission
18 Staff. I just heard a message from Mr. Sharp. He did
19 communicate with the carrier. He sent them a link to the
20 hearing today and we're hopeful that they'll be able to
21 join us soon.

22 JUDGE PEARSON: Okay. Thank you.

23 So let's go ahead and be in recess. We'll
24 reconvene at 2:15. If the Company has not yet appeared,
25 we'll come back earlier if I see the Company come on the

1 line.

2 But, otherwise, if they have not shown up by
3 2:15, then I will entertain a motion for default at that
4 time. So we are in recess.

5 (Recess.)

6 JUDGE PEARSON: We'll go ahead and get started
7 then and be back on the record.

8 Could the representative for the company please
9 state your full name and spell your last name for the
10 court reporter?

11 MR. LEVERETTE: Juston Leverette. Last name
12 L-E-V-E-R-E-T-T-E.

13 JUDGE PEARSON: Okay. Thank you.

14 So my name is Rayne Pearson. I'm the
15 administrative law judge that's presiding over today's
16 brief adjudicative proceeding. And as you are aware, on
17 January 11, 2023, the Commission issued a notice of
18 intent to cancel and a notice of brief adjudicative
19 proceeding setting time for oral statements.

20 The Commission issued the notice following a
21 compliance review conducted by Commission Staff that was
22 completed in December 2022, which resulted in a proposed
23 conditional safety rating for Visionary Movers.

24 MR. LEVERETTE: Correct.

25 JUDGE PEARSON: On January 4, 2023, the

1 Commission also issued a penalty assessment in this
2 docket for \$5,700 for the violations discovered during
3 Staff's compliance review.

4 So we'll hear from the parties on the penalty
5 today too.

6 So the notice also provided that the Company had
7 until January 18th to file a proposed safety management
8 plan that was acceptable to Staff.

9 Has the Company had an opportunity to file the
10 proposed safety management plan?

11 MR. LEVERETTE: It was filed. It just wasn't
12 accepted.

13 JUDGE PEARSON: Okay. All right.

14 So what we'll do is when I call on each party to
15 testify, I'll swear you in with the oath of witness so
16 anything that you tell us today will be under oath and
17 will be considered sworn testimony. And for the court
18 reporter's benefit, please speak slowly and clearly.

19 So we'll first have Staff talk about the
20 proposed safety rating. And then following Staff's
21 presentation, the Company will have the opportunity to
22 ask Staff's witness any questions. And then the Company
23 will have an opportunity to testify.

24 And at that time, we'll go through the
25 violations in the penalty assessment. And then once

1 you're done testifying, Staff's attorney may have some
2 questions for you. And then Staff will make a final
3 recommendation.

4 So do you have any questions before we get
5 started?

6 MR. LEVERETTE: No.

7 JUDGE PEARSON: Okay. So let's first take an
8 appearance from Commission Staff.

9 Mr. Callaghan.

10 MR. CALLAGHAN: Thank you, Your Honor.

11 Nash Callaghan, assistant attorney general, for
12 Commission Staff. With me today is staff member Jason
13 Sharp.

14 JUDGE PEARSON: Okay. Thank you. And for the
15 Company, can you tell me your last name again?

16 MR. LEVERETTE: Leverette, L-E-V-E-R-E-T-T-E.

17 JUDGE PEARSON: Okay. So, Mr. Leverette, are
18 you the company owner?

19 MR. LEVERETTE: Correct.

20 JUDGE PEARSON: Okay. And could we get your
21 phone number and your e-mail address for the record?

22 MR. LEVERETTE: Phone number is going to be
23 (206) 290-9261. And e-mail is going to be
24 Leverette98@gmail.com.

25 JUDGE PEARSON: The company address?

1 MR. LEVERETTE: It is now 2211 South Star Lake
2 Road, Federal Way, Washington 98003, building 29,
3 apartment 102.

4 JUDGE PEARSON: Okay. Thank you.

5 So, Mr. Callaghan, do you want Mr. Sharp to
6 first speak about Staff's investigation and the proposed
7 safety rating? Does that work for you?

8 MR. CALLAGHAN: Yes, Your Honor. Thank you.

9 JUDGE PEARSON: All right. So, Mr. Sharp, if
10 you could please raise your right hand, I'll swear you
11 in.

12 * * * * *

13 Jason Sharp, having been first duly sworn, was
14 examined and testified as
follows:

15 THE WITNESS: Yes, I do.

16 JUDGE PEARSON: Okay. Thank you.

17 You may proceed, Mr. Callaghan.

18 DIRECT EXAMINATION

19 BY MR. CALLAGHAN:

20 Q. Thank you, Your Honor. Good morning -- good
21 afternoon, Mr. Sharp.

22 A. Good afternoon.

23 Q. Are you the supervisor of the staff member who
24 issued the investigation report in this case?

25 A. Yes. I supervise safety investigator

1 Tracy Cobile who performed this routine safety
2 investigation.

3 Q. All right. And do you have a copy of Exhibit
4 JS-1 with you?

5 A. Yes, I do.

6 Q. And is JS-1 that safety investigation report?

7 A. Yes, it is.

8 Q. And you're familiar with this document?

9 A. I am. I reviewed the report prior to
10 Investigator Cobile closing out the investigation with
11 the company and provided the recommendations for
12 follow-on actions.

13 Q. All right. And the statements in the report are
14 true and accurate to the best of your knowledge; is that
15 correct?

16 A. Yes, to the best of my knowledge.

17 MR. CALLAGHAN: Thanks.

18 Your Honor, Staff offers Exhibit JS-1 into
19 evidence.

20 JUDGE PEARSON: Okay. Thank you.

21 Mr. Leverette, do you have any objection?

22 MR. LEVERETTE: No. No. Yeah.

23 JUDGE PEARSON: All right. Then that exhibit
24 is admitted. Thank you.

25 (Exhibit No. JS-1 admitted.)

1 MR. CALLAGHAN: Thank you, Your Honor.

2 BY MR. CALLAGHAN:

3 Q. Mr. Sharp, the investigation report noted
4 several violations. Is that correct?

5 A. Correct.

6 Q. And those violations are outlined in the penalty
7 assessment as well; is that right?

8 A. Some of the violations are outlined in the
9 penalty assessment. In the Exhibit JS-1, that contains
10 all the violations that were discovered during the safety
11 investigation.

12 However, the violations identified in the
13 penalty assessment were ones that required enforcement
14 action against them while there were other violations
15 that were more administrative that were identified in
16 JS-1.

17 Q. All right. And based on the number and the type
18 of violations that were found, did this result in a
19 conditional safety rating for Visionary Movers?

20 A. Yes, it did. There were a total of eight
21 violation types that were identified during the safety
22 investigation. Three of which negatively impact the
23 Company's proposed safety rating, which resulted in a
24 proposed conditional rating.

25 Q. All right. And have you had any communication

1 with the Company related to a safety management plan?

2 A. Yes. I've been in communication with the
3 Company over the last several weeks discussing what --
4 what needs to be in their plan. And I received a copy of
5 the Company's safety management plan on January 24th.
6 And responded the same day identifying areas that the
7 plan needed further work.

8 Q. All right. And, again, you communicated that
9 with the company owner?

10 A. Yes.

11 MR. LEVERETTE: Correct. Sorry.

12 BY MR. CALLAGHAN:

13 Q. All right. And what is Staff's recommendation?
14 What is Staff asking for in this case?

15 A. In this case, the Company hasn't presented an
16 acceptable safety management plan. As such, Staff cannot
17 provide a recommendation for an upgrade to the Company's
18 proposed rating.

19 And since the -- this is a provisional household
20 goods company that has not yet obtained a satisfactory
21 safety rating, Staff's recommendation would be to
22 continue with the cancellation process.

23 Q. All right. And what is Staff's recommendation
24 with respect to the penalties that have been assessed?

25 A. So the Company was issued a penalty assessment

1 as Judge Pearson referenced on January 4th. They had
2 15 days to respond, which would have been January 19th.
3 And as of time of hearing today, a response has not been
4 submitted to the docket.

5 So Staff does not know how the Company would
6 wish to respond to that penalty assessment at this time.

7 MR. LEVERETTE: Yeah. You know, I wasn't sure
8 exactly --

9 JUDGE PEARSON: Hold on. Mr. Leverette, it's
10 not your turn to talk, okay. The court reporter is
11 typing everything that is being said.

12 MR. LEVERETTE: Sorry.

13 JUDGE PEARSON: And you need to wait until
14 it's your turn to speak. Okay?

15 MR. LEVERETTE: Gotcha. Sorry about that.

16 JUDGE PEARSON: You'll have an opportunity in
17 a moment.

18 Go ahead, Mr. Callaghan.

19 MR. CALLAGHAN: Thank you, Your Honor.

20 BY MR. CALLAGHAN:

21 Q. Mr. Sharp, if the Company were to file an
22 acceptable -- or to provide Commission Staff with an
23 acceptable safety management plan within the next week or
24 so, what would Staff's position be at that point?

25 A. Staff is willing to work with the Company up

1 through next week. The 60-day period for -- for
2 cancellation doesn't take effect until February the 14th.

3 However, Staff will only be available to provide
4 any further evaluation through February 10th, which would
5 be next Friday.

6 MR. LEVERETTE: Mm-hmm.

7 MR. CALLAGHAN: All right.

8 Thank you, Mr. Sharp.

9 Your Honor, I have no further questions.

10 JUDGE PEARSON: Okay. Thank you.

11 So, Mr. Leverette, do you have any questions for
12 Mr. Sharp?

13 MR. LEVERETTE: Not specifically.

14 Like I said, I just kind of understand that I
15 just need to finish up in upgrading the safety management
16 plan on our end. And that's kind of just been my main
17 focus, you know, as I know we have to tend to get that
18 done.

19 JUDGE PEARSON: Okay. Why don't I go ahead
20 and swear you in and we'll walk through the violations,
21 and we'll see if you want to respond to those. Okay?

22 MR. LEVERETTE: Okay.

23 ///

24 ///

25 ///

1 * * * * *

2 Juston Leverette, having been first duly sworn,
3 was examined and testified as
4 follows:

5 THE WITNESS: Yes.

6 JUDGE PEARSON: Please excuse my whiny dog in
7 the background.

8 All right. So I didn't receive any exhibits
9 from you in advance of the hearing. So we'll go ahead
10 and proceed with your testimony.

11 If you would like, you can explain why the
12 violation occurred and then any steps you've taken to
13 correct the violation and prevent it from occurring
14 again.

15 So the first one is --

16 MR. LEVERETTE: Okay.

17 JUDGE PEARSON: -- operating a commercial
18 motor vehicle without having adequate cargo insurance.
19 This is WAC 480-15-550, if you want to speak to that.

20 MR. LEVERETTE: Yeah. Just, essentially, I
21 had went through a switch in the insurance company. And
22 the way we got that corrected now is obviously to make
23 sure we have that and have that set at autopay.

24 JUDGE PEARSON: Okay. Thank you.

25 The next is failing to conduct a routine
paperwork containing criminal background checks or hiring

1 an individual with a disqualifying conviction.

2 It looks like there were four employees for whom
3 there were not criminal background checks conducted.

4 This is WAC 408-15-555.

5 MR. LEVERETTE: Yeah. Well, I would say just
6 for -- kind of in the beginning, I was just kind of
7 shuffling through a bunch of different guys. So it was
8 just kind of, you know, a lack of, you know, detail on my
9 end. And just not all the way understanding of
10 dealing -- you know, with the rules and stuff like that.
11 And, you know, moving forward, we are working on and
12 getting all that done.

13 JUDGE PEARSON: Okay. Great. Thank you.

14 The next is 32 violations of 49 CFR § 391.45(a),
15 and this is using a driver not medically examined and
16 certified.

17 Have you addressed that violation?

18 MR. LEVERETTE: Yes, I have. And that's in
19 the safety management plan already.

20 JUDGE PEARSON: Okay. Great. Thank you.

21 Next is one violation of 49 CFR § 391.51(a)
22 failing to maintain a driver qualification file. And
23 this was specifically for you.

24 MR. LEVERETTE: Yeah. I would say I had that.
25 It just wasn't in the proper level -- up to the UTC

1 standard of organization.

2 JUDGE PEARSON: Okay. And then the last one
3 is 30 violations of 49 CFR § 395.8(a)(1), which is
4 failing to require a driver to make a record of duty
5 status.

6 Has that been addressed?

7 MR. LEVERETTE: Yeah. Can you explain that
8 one more time?

9 JUDGE PEARSON: Failing to have a driver
10 complete a record of duty status on 30 occasions. This
11 was for you as well.

12 MR. LEVERETTE: So like a -- you mean like a
13 clock-in and clock-out method?

14 JUDGE PEARSON: I believe that's what it is.
15 But I would be more comfortable with Mr. Sharp answering
16 that question.

17 MR. LEVERETTE: Sorry. If you can say that
18 one more time.

19 JUDGE PEARSON: I said I'm going to have
20 Mr. Sharp explain what it is.

21 MR. SHARP: So all commercial drivers, meaning
22 driving a commercial vehicle with a gross vehicle weight
23 rating of 10,001 or greater are required to prepare
24 what's called a record of duty status. And what that
25 does is it is tracking the on-duty time and the driving

1 time of commercial drivers with the purpose of --

2 MR. LEVERETTE: Okay.

3 MR. SHARP: Yeah -- limiting the amount of
4 hours a driver can operate a commercial vehicle --

5 MR. LEVERETTE: Right.

6 MR. SHARP: -- after being on duty for a
7 specified period of time.

8 And so the intent is to prevent fatigued driving
9 for commercial drivers. And so each driver is required
10 to prepare a record.

11 In your case, you -- your operations are
12 generally falling within the short haul provision of the
13 hours of service regulations requiring less paperwork if
14 the appropriate information is documented. Meaning the
15 start time, the end time for each day, and the total
16 hours worked during that day, amongst other conditions
17 such as operating within 150-square-mile radius.

18 If you don't satisfy each of those requirements,
19 then you're supposed to have a traditional logbook for up
20 to eight times in any 30-day period. And beyond that,
21 you would have to have an electronic logging device.

22 So it's -- as a local -- mostly local operator,
23 you would generally qualify to be able to use a time
24 sheet in place of a record of duty status.

25 JUDGE PEARSON: Thank you for that

1 explanation, Mr. Sharp.

2 Let's see. Can you unmute yourself,
3 Mr. Leverette you can press star 6 to unmute yourself.

4 Mr. Leverette, can you press star 6 on your
5 phone to unmute yourself?

6 Mr. Leverette, I don't know if you can hear me
7 but we can't hear you. You're muted. If you can press
8 star 6 on your phone, you'll come off of mute.

9 MR. LEVERETTE: Okay. Sorry. Sorry about
10 that. I thought you were saying -- I heard star. Sorry
11 about that. So star 6.

12 JUDGE PEARSON: Yeah.

13 MR. LEVERETTE: Gotcha. I'm here.

14 JUDGE PEARSON: Okay. Mr. Callaghan, do you
15 have any questions for Mr. Leverette?

16 MR. CALLAGHAN: No, I do not, Your Honor.

17 JUDGE PEARSON: Okay. So it sounds like we're
18 at the point where we need to set a deadline for the
19 Company and Staff to continue working together to
20 finalize the safety management plan.

21 MR. LEVERETTE: Correct.

22 JUDGE PEARSON: And the -- the deadline is
23 February 14th, which is two weeks from yesterday.

24 MR. LEVERETTE: Yeah. Which I -- technically,
25 it's the 10th, though. Because like I said, Sharp has

1 let me know they're going to be out of the office from
2 the 10th on. So -- and that deadline is the 14th. So
3 technically, you know, for my situation it would be the
4 10th.

5 JUDGE PEARSON: Okay. And, Mr. Sharp, is that
6 acceptable to you to give the company until the 10th? I
7 know that's a Friday. Or do you need an extra day?

8 MR. SHARP: I think that the deadline for
9 Staff to submit would be best by -- if it works for you,
10 Judge Pearson, to be Friday by 5 p.m. for a submittal of
11 Staff's evaluation.

12 So with that, I generally need a day to finalize
13 evaluations. So I would request that any final
14 submission be submitted by the 9th.

15 JUDGE PEARSON: Okay.

16 Does that work for you, Mr. Leverette? So,
17 Thursday, the 9th. That's eight days from now.

18 MR. LEVERETTE: Yeah. It would be nice if it
19 was the 10th. I mean, obviously if that's -- that's --
20 considering the process.

21 JUDGE PEARSON: Yes. And we're already past
22 the deadline. So --

23 MR. LEVERETTE: No. I definitely hear you.

24 JUDGE PEARSON: All right. So it sounds like,
25 then, Staff and the Company will continue to work

1 together. The Company will make sure to get the final
2 proposed safety management plan filed by Thursday,
3 February 9th.

4 And then Staff will file its recommendation with
5 respect to the safety management plan by Friday,
6 February 10th. And then I will issue an order no later
7 than Tuesday, February 14th, either upgrading or
8 maintaining the Company's safety rating, depending on
9 Staff's recommendation, or canceling the Company's
10 permit.

11 MR. LEVERETTE: Gotcha.

12 JUDGE PEARSON: Okay. Do you have any other
13 questions, Mr. Leverette?

14 MR. LEVERETTE: No. That's pretty much -- you
15 know, already figured where we were at. Just got to
16 finish up everything on my end and be all good to go.

17 JUDGE PEARSON: Okay. And, Mr. Callaghan, is
18 there anything further from Staff?

19 MR. CALLAGHAN: No, Your Honor.

20 JUDGE PEARSON: All right. Well, thank you
21 all for being here today. And we are adjourned.

22 (The videoconference hearing
23 concluded at 2:30 p.m.)
24
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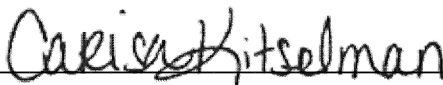
C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF KITSAP

I, Carisa Kitselman, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the videoconference hearing is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 15th day of February, 2023.





CARISA KITSELMAN, RPR, CCR #2018