

Docket No. TV-230081 - Vol. II

**In the Matter of: Tiraogo Simpore d/b/a TS Moving
Services**

March 23, 2023



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation)
of)
TIRAOGO SIMPORE d/b/a TS MOVING)
For Compliance with) DOCKET TV-230081
WAC 480-15-550, RCW 81.04.070,)
WAC 480-15-560, and WAC 480-15-570)
_____)

HEARING
BEFORE THE HONORABLE RAYNE PEARSON
ADMINISTRATIVE LAW JUDGE
VOLUME II

(All participants appearing via videoconference.)

DATE TAKEN: March 23, 2023

REPORTED BY: Evelyn M. Adrean, RPR, FPR, CCR 22009424

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14 TIRAOGO SIMPORE
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19 ALSO PRESENT:

20 FRANCINE GAGNE, Investigator
21 JASON SHARP, UTC
22 RYAN SMITH, UTC
23 STACEY BREWSTER, UTC
24 ATHENA GREEN, MOTOR CARRIER SAFETY

25 * * * * *

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1 March 23, 2023

2 2:02 p.m.

3 THE COURT: On the record in Docket
4 TV-230081 which is captioned -- sorry, my computer is
5 now blocking me -- In the Matter of the Investigation of
6 Tiraogo Simpure d/b/a TS Moving for compliance with the
7 Washington Administrative Code 480-15. Today is
8 Thursday, March 23rd, 2023, at 2 p.m., and we're here
9 for an evidentiary hearing to address the 36 violations
10 of commission safety rules alleged in the complaint and
11 notice of hearing. My name is Rayne Pearson, I use she,
12 her pronounces, and I am the administrative law judge
13 presiding over this case.

14 So let's begin by taking appearances, and we'll start
15 with commission staff. So please state your last
16 name -- or state your name, spelling your last name for
17 the court reporter. Feel free to share your pronouns
18 and then who you represent.

19 MS. STRAUSS: Good afternoon, Your Honor.
20 My name is Josephine Strauss, S-t-r-a-u-s-s. I use she,
21 her pronouns, and I'm here on behalf of staff. And with
22 me, I have two witnesses, Mathew Perkinson and Francine
23 Gagne.

24 THE COURT: Okay. Thank you. And for the
25 company? Mr. Simpure, if you could state your full name

1 and spell it, your first and last name, for the court
2 reporter.

3 MR. SIMPORE: Good morning -- afternoon. My
4 name is Tiraogo Simpore, T-i-r-a-o-g-o, and Simpore,
5 S-i-m-p-o-r-e, owner of TS Moving Servicing.

6 THE COURT: Okay. Thank you. Is there
7 anyone else who wishes to enter an appearance? Okay.
8 So we did convene a prehearing conference last week on
9 March 13th. The company did not make an appearance. I
10 understand, though, Mr. Simpore, that you communicated
11 with staff that you were stuck in traffic due to the
12 truck that was overturned on I-5. And at that time, the
13 company had not yet filed a safety management plan.

14 So we will hear from staff first, and then we will
15 hear from the company. And then once we hear from the
16 company, we'll hear staff's recommendation. Do you have
17 any questions, Mr. Simpore, before we get started?

18 MR. SIMPORE: No, thank you.

19 THE COURT: Okay. Then I'm going to turn it
20 over to Ms. Strauss.

21 MS. STRAUSS: Thank you, Your Honor. Your
22 Honor, I'd like to first call Francine Gagne.

23 THE COURT: Okay. Good afternoon, Francine.
24 Please raise your right hand. I'll swear you in.

25 Do you swear or affirm that the testimony

1 you give today will be the truth, the whole truth, and
2 nothing but the truth?

3 THE WITNESS: I swear.

4 THE COURT: Okay. Thank you very much.

5 DIRECT EXAMINATION

6 BY MS. STRAUSS:

7 Q. Good afternoon, Ms. Gagne. Would you please
8 state your name and spell your last for the record?

9 A. My name is Francine Gagne, G-a-g-n-e.

10 Q. And what is your current occupation?

11 A. Currently, I am a investigator with motor
12 carrier safety at the UTC.

13 Q. Okay. And how long have you been in that
14 position?

15 A. Since June of 2014.

16 Q. And what responsibilities do you have within
17 that position?

18 A. Primarily, I conduct compliance reviews or
19 investigations on our regulated companies.

20 Q. Okay. And were you assigned to conduct a
21 compliance review of TS Moving in December 2022?

22 A. I was.

23 Q. And did you conduct that compliance review?

24 A. I did.

25 Q. Okay. And what was the basis for this review?

1 A. TS Moving was a provisional household goods
2 carrier, and this was a review that was required because
3 of that provisional status.

4 Q. And did you write a report summarizing your
5 review?

6 A. I did.

7 MS. STRAUSS: Okay. Your Honor, do I have
8 your permission to share my screen briefly?

9 THE COURT: Yes.

10 MS. STRAUSS: Bear with me, everybody, while
11 we have technology moments. Okay.

12 BY MS. STRAUSS:

13 Q. Ms. Gagne, can you see my screen?

14 A. I can.

15 Q. Okay. I'm showing you a document that has been
16 identified as Proposed exhibit FG-1. Ms. Gagne, what is
17 Exhibit FG-1?

18 A. This is what we call a Capri (phonetic) report.
19 It is the format that we use to report our findings
20 after conducting a compliance investigation.

21 Q. Okay. Did you write or fill out this
22 compliance review report?

23 A. I did.

24 Q. Is the information contained in this exhibit
25 true and correct to the best of your knowledge?

1 A. It is, except for one factor. I indicated the
2 company was a corporation, and it is, in fact, a sole
3 proprietorship.

4 Q. Okay. Thank you. Are there any other changes
5 you would like to make to this exhibit?

6 A. No.

7 MS. STRAUSS: Okay. Your Honor, at this
8 time, I would offer to enter Proposed Exhibit FG-1 into
9 evidence.

10 THE COURT: Okay. Thank you. And this
11 is -- just to verify, Ms. Gagne, this is the report that
12 was provided to Mr. Simpore; correct.

13 THE WITNESS: That's correct.

14 THE COURT: Okay. So Mr. Simpore, I know
15 you can't see the screen right now, but it is a copy of
16 the investigation report which -- citing the violations
17 that you have already been provided a copy of. Are you
18 okay with admitting that into evidence?

19 MR. SIMPORE: Yes.

20 THE COURT: Okay. Then we will admit this
21 and mark it as Exhibit FG-1. Thank you.

22 MS. STRAUSS: Your Honor, this exhibit has
23 been distributed to all the parties. Is it okay if I
24 stop sharing my screen and allow the parties to go off
25 the exhibits they have?

1 THE COURT: Yes.

2 MS. STRAUSS: Okay. Thank you, Your Honor.

3

4 BY MS. STRAUSS

5 Q. Ms. Gagne, prior to December 2022, was there
6 any compliance interactions between TS Moving and the
7 commission?

8 A. There was. Mr. Simpure attended household
9 goods training in August of 2018. There was a
10 compliance investigation conducted in April of 2019 and
11 again in July of 2020.

12 Q. Did you -- were you the investigator on those
13 reviews?

14 A. I was not.

15 Q. Okay. Do you know who was?

16 A. Yes. Ed Steiner (phonetic) was the
17 investigator.

18 Q. Is Mr. Steiner still with the commission?

19 A. No, he is not.

20 Q. Okay. Ms. Gagne, what is a compliance review?

21 A. A compliance review is essentially when we
22 review company records and ensure that they are being
23 compliant with CFRs, the rule of regulations.

24 Q. Okay. And when you are conducting the
25 compliance review, what information do you take into

1 account?

2 A. We take into account the rules, the
3 regulations, the requirements of such, and then how the
4 company may or may not track information required to be
5 tracked.

6 Q. Okay. And how do you determine if or when a
7 company needs a compliance review?

8 A. Those are required for provisional household
9 goods carriers generally within the first 18 months of
10 obtaining a permit, and then three to five years after
11 permanent status is reached, depending on the industry
12 that the company is in.

13 Q. And what was the basis for the review of
14 TS Moving in December 2022?

15 A. This was due to the company being, again, in
16 provisional status. There was a gap in authority which
17 reverted him back to provisional status.

18 Q. So did you conduct a compliance review of
19 TS Moving resulting in a report dated
20 February 1st, 2023?

21 A. I did.

22 Q. And how did you conduct this review?

23 A. I conducted it similar to how I conduct other
24 reviews. We contact the owner or the highest ranking
25 official in the company, set up the date to meet and

1 review paperwork, and then write up the report after the
2 meeting.

3 Q. Okay. And prior to this review, prior to this
4 visit, does the owner receive any documents or forms
5 that they need to fill out?

6 A. Yes. Generally there's two documents sent out.
7 One is a compliance questionnaire, we ask that the
8 company return that prior to us actually meeting. It
9 gives us some initial information about the company.
10 And then the other is a checklist that basically
11 indicates which documents need to be available at the
12 time of the investigation.

13 Q. And did Mr. Simpore receive these documents
14 prior to your review in December?

15 A. He did.

16 Q. And are these documents that every company
17 receives prior to a review?

18 A. Yes.

19 Q. So for the reviews that he had prior to, he
20 would have also received this document -- these
21 documents; is that correct?

22 A. This document or a similar version, yes.
23 Probably older versions a little while ago, but yes.

24 Q. Understood. Did Mr. Simpore fill out the
25 questionnaire prior to your meeting?

1 A. He did, yes. Basically. Most of it was filled
2 out, yes.

3 Q. And is Mr. Sempore the person you talked to
4 during your investigation/review?

5 A. Yes.

6 Q. And he is the owner of the business; is that
7 correct?

8 A. That's correct.

9 Q. Okay. Did you find that TS Moving had any
10 violations?

11 A. I did.

12 Q. Okay. How many individual violations did you
13 find during your review?

14 A. Thirty-six.

15 Q. Okay. How many of those were acute violations?

16 A. One of them.

17 Q. And what was that acute violation?

18 A. That was a violation of not having cargo
19 insurance.

20 Q. And what is an acute violation?

21 A. An acute violation is essentially a violation
22 that requires immediate corrective action by the
23 company. It's a very severe violation.

24 Q. Okay. Were there any critical violations
25 identified?

1 A. There was one critical violation.

2 Q. And what was that violation?

3 A. That violation was failing to have records of
4 duty status or time sheets for drivers.

5 Q. Okay. And what is a critical violation as
6 compared to, say, an acute violation?

7 A. A critical violation is essentially a --
8 violations which relate directly to the company's
9 management or oversight of their safety processes.

10 Q. Okay. How did you discover the acute violation
11 in this matter?

12 A. Mr. Simpure did admit to me when I met him that
13 he did not have cargo insurance at the time, and then I
14 did verify with the insurance representative as well.

15 Q. Okay. And then sorry -- apologies to jump
16 around. I want to go back to that questionnaire very
17 quickly.

18 On the questionnaire, it has a question about trip
19 origin; is that correct?

20 A. That's correct.

21 Q. And what does "trip origin" mean?

22 A. In this context, it would be the pick-up and
23 drop-off of your last household goods move. So we like
24 to find out when the company last actually operated.

25 Q. Okay. And so the trip origin would be, for an

1 example, where the pick-up for that move began, not,
2 say, the home of the mover when they left home that
3 morning?

4 A. Correct.

5 Q. Okay. And then I think you briefly mentioned
6 this, but what's the trip destination?

7 A. That would be where the -- in this household
8 goods, it would be where the load was to be delivered or
9 dropped off.

10 Q. Okay. And then on that questionnaire, did
11 Mr. Simpore indicate that any trips had taken place?

12 A. Yes. He said the last trip that he took was in
13 November -- November 15th of 2022, and pick up in
14 Sammamish and drop off in Sammamish.

15 Q. Okay. And where Mr. Simpore's business
16 located?

17 A. In Spanaway.

18 Q. And did he have cargo insurance during that
19 time period?

20 A. No, he did not.

21 Q. Okay. Did you ask Mr. Simpore about that move
22 during your review?

23 A. I did. Basically, to confirm that that was the
24 last time he actually operated, because when I met with
25 him in January, he said he didn't have the cargo

1 insurance, so I need to find that trip date for when he
2 actually operated.

3 Q. Okay. And what did he say to you, if anything?

4 A. He had indicated he had been on extended
5 vacation, and he was aware he didn't have the cargo
6 insurance, but that November 15th was the last time he
7 operated.

8 Q. Okay. So you mentioned the acute violation,
9 you mentioned the critical violation. Were there any
10 other violations in your -- you discovered in your
11 review?

12 A. There were.

13 Q. Okay. Could you please briefly tell us about
14 those?

15 A. There was -- Mr. Simpore did not provide a
16 medical card, so he was driving without being medically
17 examined and certified. He did not provide a driver
18 qualification file, did not provide a maintenance file,
19 he did not have his previous annual inspection for his
20 vehicle, and basically a violation for failing to
21 produce documents. He had mentioned a work calendar and
22 then never produced it.

23 Q. I want to briefly talk about that last
24 violation that you mentioned.

25 So you mentioned you were unable to obtain some

1 documents?

2 A. Correct.

3 Q. Okay. Why were you unable to obtain these
4 documents?

5 A. I -- Mr. Simpure didn't provide them.

6 Q. What steps did you take to obtain these
7 documents?

8 A. Well, we -- when we provide the checklist prior
9 to arriving, those are documents that we expect to see
10 when we get there. I did ask him when I was there for
11 the documents, and then after I left I also asked him
12 again if he was able to find, locate, or send me those
13 documents, and that didn't happen.

14 Q. And were you ever provided with an explanation
15 about these documents' unavailability?

16 A. Not -- not that I can recall, no.

17 Q. Are these documents that the company is
18 required to maintain?

19 A. Yes.

20 Q. Okay. And these are documents the company is
21 required to produce to commission staff when requested?

22 A. Correct.

23 Q. Were any documents ever produced?

24 A. Mr. Simpure had obtained an annual inspection
25 for his vehicle which I was able to see, and he did

1 conduct a background check on his non-driving employee.

2 Q. Okay. And you mentioned that he had told you
3 about a calendar. Did you ever receive a copy of his
4 calendar?

5 A. No.

6 Q. Did you ever follow up to ask or request for
7 this calendar?

8 A. Yes.

9 Q. Okay. But none was ever provided; is that
10 right?

11 A. No. That's correct.

12 Q. What information were you told was on that
13 calendar?

14 A. I had asked about how does he manage his work,
15 how does he keep track of trips and things, and he
16 mentioned he had a work calender. So I asked to see a
17 copy of that.

18 Q. Okay. Thank you. Based on the violations in
19 your review, what safety rating did you give to TS
20 Moving?

21 A. He received a conditional safety rating.

22 Q. Did you give the company notice of the results
23 of this compliance review?

24 A. I did.

25 Q. And when did you give the company notice of

1 this?

2 A. Well when I was departing my on-site visit in
3 January, I informed Mr. Simpure: Without any documents,
4 he was more than likely going to have to fill out a
5 safety management plan again similar to what he had done
6 before. And then this document I e-mailed him on or
7 about the 2nd of February when it was completed.

8 MS. STRAUSS: Okay. Thank you, Ms. Gagne.

9 I have no further questions for this witness, Your
10 Honor.

11 THE COURT: Great. Thank you. Mr. Simpure,
12 do you have any questions for Ms. Gagne?

13 MR. SIMPURE: Not at this point.

14 THE COURT: Okay. All right. Ms. Strauss,
15 do you have another witness to call at this time?

16 MS. STRAUSS: Yes, Your Honor. I'd like to
17 call Mathew Perkinson.

18 THE COURT: All right. Okay. If you could
19 raise your right hand, I'll swear you in.

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

23 THE WITNESS: I do.

24 THE COURT: Okay. Thank you. Go ahead,
25 Ms. Strauss.

1 DIRECT EXAMINATION

2 BY MS. STRAUSS:

3 Q. Good afternoon. Could you please state your
4 name and spell your last for the record?

5 A. Mathew Perkinson, P-e-r-k-i-n-s-o-n. And I use
6 he, him pronouns.

7 Q. And Mr. Perkinson, what is your current
8 occupation?

9 A. I am an assistant director in the
10 Transportation Safety Division at the UTC.

11 Q. And how long have you been in that position?

12 A. About four years.

13 Q. And what is your responsibilities in that
14 position?

15 A. I make the final recommendations to the
16 commission on motor carrier safety investigations such
17 as this one that resulted in penalty assessments for
18 motor carrier safety violations, and then I also make
19 sure that our team is enforcing the rules consistent
20 with the commission's enforcement policies.

21 Q. Okay. Are you familiar with the compliance
22 history of the company in this case, TS Moving?

23 A. Yes.

24 Q. Has TS Moving been subject to any prior safety
25 reviews?

1 A. Yes, they have.

2 Q. How many?

3 A. Three.

4 Q. Okay. And when did these safety reviews occur?

5 A. Investigator Ed Steiner completed an
6 investigation in 2019 as well as a follow-up
7 investigation in 2020, and then Investigator Gagne
8 completed this most recent safety investigations in
9 2023.

10 Q. Thank you. Do you know if there's an
11 investigation report issued for the April 2019 review?

12 A. Yes.

13 MS. STRAUSS: Your Honor, I'd like to obtain
14 permission to again share my screen?

15 THE COURT: Sure.

16 BY MS. STRAUSS:

17 Q. Mr. Perkinson, can you see my screen all right?

18 A. Yes.

19 Q. Okay. This is a document that's been
20 previously marked as Proposed Exhibit MP-1. What is
21 this document?

22 A. That would be the 2019 safety investigation
23 completed by investigator Ed Steiner.

24 Q. And this is a true and accurate copy to the
25 best of your knowledge?

1 A. Yes.

2 Q. And do you have any corrections to make at this
3 time?

4 A. I do not.

5 MS. STRAUSS: Your Honor, I would like to
6 ask to admit this exhibit into evidence.

7 THE COURT: Okay. Mr. Simpoire, do you have
8 any objection to that? Do you understand what the
9 document is? I know you can't see it.

10 MR. SIMPOIRE: Yes, I can't see that. I
11 think -- yeah.

12 THE COURT: You're okay with that?

13 MR. SIMPOIRE: Yes.

14 THE COURT: Okay. Then we will admit that
15 into report and mark it as MP-1.

16 BY MS. STRAUSS:

17 Q. Mr. Perkinson, was there an investigation
18 report for July 23rd, 2020?

19 A. Yes, there was.

20 Q. Okay. I am again going to show you a different
21 document. Hold on just a moment.

22 A. Okay.

23 Q. This is a document that has previously marked
24 as Exhibit MP-2, Proposed Exhibit MP-2. What is
25 proposed exhibit MP-2.

1 A. This is the follow-up safety investigation
2 completed July 23rd, 2020 by investigator Edward
3 Steiner.

4 Q. And is this a true and accurate copy to the
5 best of your knowledge?

6 A. It is.

7 Q. Do you have to make any -- do you want to make
8 any corrections to this document?

9 A. I don't have any corrections, no.

10 MS. STRAUSS: Your Honor, I'd also like to
11 admit this document as Exhibit MP-2 for the record.

12 THE COURT: Okay. Mr. Simapore, do you have
13 any objection to that? And do you understand what the
14 document is?

15 MR. SIMPORE: Yes, I do understand. And I
16 have no objection.

17 THE COURT: Okay. Then we will admit this
18 into the record and mark it as Exhibit MP-2.

19 MS. STRAUSS: And, Your Honor, I believe
20 these exhibits have been circulated. Are you okay if I
21 remove them from sharing my screen to ask more
22 questions?

23 THE COURT: Yes.

24 MS. STRAUSS: Thank you, Your Honor.

25

1 BY MS. STRAUSS:

2 Q. Mr. Perkinson, are you aware there was a safety
3 review conducted this year with a report dated for
4 February 2023?

5 A. Yes.

6 Q. Okay. And do you know the outcome of this
7 safety review?

8 A. I do.

9 Q. Okay. And what was that outcome?

10 A. Investigator Gagne issued a conditional safety
11 rating.

12 Q. And do you know what the specific violations in
13 that review were?

14 A. Yeah. There were eight specific violations.

15 Q. Okay. Great. And do you know what the result
16 of the 2019 compliance review was?

17 A. I do.

18 Q. And what was that -- what was the result of
19 that review?

20 A. That was also conditional.

21 Q. Okay. And do you know what the violations were
22 in that review?

23 A. Yeah. I know that there was five repeat
24 violations (inaudible) 2019 to the 2023 compliance
25 review.

1 Q. So sorry, the audio cut out a little bit right
2 there. If I have what you said correctly, there were
3 five violations in the 2019 review that were also in the
4 2023 review?

5 A. That's correct, yes.

6 Q. Okay. Great. And what were those violations?

7 A. The repeat violations are -- do you want me to
8 talked about the --

9 Q. The repeat violations. That's fine. Thank
10 you.

11 A. Okay. The repeat violations Investigator Gagne
12 found was that Washington Administrative Code 480-15-550
13 which is basically a company failing to maintain cargo
14 insurance as well as 395.8A1 which is failing -- it's a
15 record of duty status, like a logbook, if you will; and
16 then 391.45A is using a driver not medically examined
17 and certified, so failing to have a medical card;
18 391.51A would be failing to maintain a driver
19 qualification file on each driver employed, and then CFR
20 396.3B is failing to maintain a minimum record of
21 inspection and vehicle maintenance.

22 Q. Great. Thank you. After the 2019 compliance
23 review, was there an SMP put in place?

24 A. There was.

25 Q. Okay. And what was the next review after that

1 2019 review?

2 A. That would have been the follow-up, the 2020.

3 Q. Okay. And do you know what the result of that
4 2020 review was?

5 A. Satisfactory.

6 Q. Okay. Can you tell me what a conditional
7 finding is?

8 A. Yeah. There's three ratings, possible
9 outcomes. It's an accumulation of different violations
10 and accidents in a predetermined formula. And
11 basically, when our investigator goes out, they report
12 violations, they measure how many accidents there were,
13 and a software program called Capri populates a safety
14 review. Satisfactory is the best rating that a company
15 can receive indicating, you know, a great compliance; a
16 conditional would be middle of the road; and
17 unsatisfactory would be the lowest rating that a carrier
18 can receive. And in this situation, a household goods
19 company that receives a conditional -- a provisional
20 household goods company that receives a conditional
21 safety rating is equivalent to an unsatisfactory safety
22 review.

23 Q. Okay. Can a household goods carrier maintain
24 its permit with a conditional review finding?

25 A. No. Provisional companies are required to

1 achieve satisfactory safety ratings within 18 months of
2 receiving their permits.

3 Q. Okay. After the compliance review in February
4 found violations that resulted in a conditional safety
5 rating, what did you decide the appropriate response was
6 for enforcement?

7 A. We worked with the attorney general and issued
8 a complaint for penalties as well as a notice of intent
9 to cancel the company's operating authority.

10 Q. Okay. And what could the company do to come
11 into compliance with Washington law and maintain their
12 permit?

13 A. All companies are afforded the opportunity to
14 provide staff with a safety management plan.

15 Q. Has the company in this matter submitted a
16 proposed safety management plan?

17 A. Yes.

18 Q. Has that safety management plan been accepted?

19 A. No.

20 Q. Okay. And they've been -- and this company has
21 been required to submit a safety management plan before;
22 correct?

23 A. Yeah. I had an opportunity to review that
24 previously safety management plan prior to this hearing,
25 and yes, they were required to, and they did, so --

1 Q. And then in 2019, did this company submit a
2 safety management plan as a result of that compliance
3 review?

4 A. Yeah. That's the one I was referring to.
5 They -- in 2019, they got a conditional rating that
6 required a safety management plan, and then they
7 submitted a safety management plan that was accepted by
8 staff.

9 Q. Okay. Thank you. I just wanted to make sure I
10 got that clarified.

11 Are there any penalties that can be assessed for the
12 sort of violations in the review of TS Moving?

13 A. Yeah. With complaints at the commission, the
14 penalty for violations is \$1,000 -- up to \$1,000 per
15 violation.

16 Q. And does staff have any recommendations of what
17 penalty should be assessed in this case?

18 A. Yes.

19 Q. And can you tell me what those recommendations
20 are?

21 A. TS Moving has been generally uncooperative with
22 the investigation, the most recent investigation. Not
23 initially, but now, is my understanding. And they've
24 repeatedly failed to produce records for staff. Staff
25 would recommend a penalty in the amount of \$4,300. With

1 an approved safety management plan, staff would
2 recommend suspending 3,300 of that for a period of two
3 years on condition of future compliance and requirement
4 of the \$1,000 penalty payment.

5 Q. Okay. And Mr. Perkinson, can you tell me the
6 basis for that number, 4,300?

7 A. Yeah. As we stated before, there was eight
8 different violations, so we just apply an amount based
9 on severity or repeat in nature. So in this instance,
10 the first cause of action, the Washington Administrative
11 Code 480.15.550 would be transporting without cargo
12 insurance is an acute violation, and that's the most
13 severe, so we applied \$1,000 to that. The failing to
14 complete logbooks or records of duty status, there were
15 30 violations. We opted to apply one violation count
16 for that for \$1,000; another \$1,000 penalty
17 recommendation would be failing to require drivers to be
18 medically examined and certified; and then from there,
19 \$100 penalties for failing to maintain a driver
20 qualification file keeping of the minimum records of
21 inspection and vehicle maintenance, as well as failing
22 to retain the reports of periodic inspections as
23 required. And the last one -- I apologize this
24 wasn't -- I should have gone \$1,000 all the way down,
25 but this last one is maybe one of the most important,

1 RCW 81.04.070 would be failing to produce company
2 documents when requested to do so by a safety
3 investigator, in this case Investigator Gagne.

4 MS. STRAUSS: Okay. Thank you. Your Honor,
5 I have no further questions for this witness.

6 THE COURT: Thank you. Mr. Simapore, do you
7 have any questions for Mr. Perkinson?

8 CROSS-EXAMINATION

9 BY MR. SIMPORE:

10 Q. Yes. My question would be: Not uncooperative,
11 that -- I don't understand what that means. And also,
12 the driver qualifications allows -- I was the owner,
13 operator, I don't have to have that because I'm not --
14 you know, I'm the one who was the driver, that's why I
15 didn't have that in that -- in the record. The last, I
16 did not have that either. So my question is: Because I
17 -- you know, I'm the driver, owner driver, solo driver,
18 I'm also not -- and I did not have the document to
19 provide, I was actually -- did not -- I'm not sure what
20 the question of something. So I'm not sure what the not
21 cooperative, that means?

22 THE REPORTER: Your Honor, I'm having a
23 difficult time understanding him.

24 THE COURT: Mr. Simapore, your connection
25 isn't great.

1 MR. SIMPORE: Can you hear me?

2 THE COURT: We can hear you, but -- hold on
3 a second. It's a little bit distorted.

4 MR. SIMPORE: Okay. Can you hear me better
5 now maybe?

6 THE COURT: We can try again. Do you want
7 to just start your question again? And if you can
8 just --

9 MR. SIMPORE: Yeah.

10 THE COURT: -- direct yes or not question.
11 You don't need to give a bunch of introductory
12 information, just please ask --

13 MR. SIMPORE: Okay.

14 THE COURT: -- the question.

15 BY MR. SIMPORE:

16 Q. Okay. My -- the note to the not cooperative
17 and no, not to have the driver qualification because I
18 was not required the last time to have it, because I was
19 sole owner/operator?

20 THE COURT: Okay. So I think what you're
21 asking is if the requirement for you to have a medical
22 card? Is that what you're talking about?

23 MR. SIMPORE: No. The driver qualification.

24 THE COURT: Oh, the driver qualification
25 file.

1 MR. SIMPORE: Yes.

2 THE COURT: So you're wondering if that does
3 or does not apply to owner/operators; is that correct?

4 MR. SIMPORE: Yes, that's what I was told,
5 yeah, the last time I --

6 THE COURT: Okay.

7 MR. SIMPORE: Yes.

8 THE COURT: So let Mr. Perkinson answer your
9 question, and then we'll get to your turn to testify in
10 a moment.

11 A. Thank you, Your Honor.

12 So a two-part question: One is what is
13 uncooperative, and I think that there were notes in the
14 report that indicate -- just that use that general term.
15 "Uncooperative" would be not providing documents when
16 requested, is one example, failing to produce records
17 that might exist is another example. And then as far as
18 the requirement for the driver qualification file for an
19 owner/operator, it's one of the things that I believe is
20 specifically pulled out in our training and addressed
21 because it could be confusing for an owner/operator,
22 that they might not think that they need to have a
23 driver qualification file. So I think it's something
24 that our investigators would address, and it's something
25 that Mr. Simpoire did include in his original safety

1 management plan when he submitted that, a driver
2 qualification file for himself back in 2020.

3 THE COURT: Okay. Does that answer your
4 question, Mr. Simapore?

5 MR. SIMPORE: Did I include -- I'm not
6 the -- the answer my question. But just misunderstand.
7 Yes.

8 THE COURT: Okay. Do you have any
9 additional questions?

10 MR. SIMPORE: No, thank you, Your Honor.

11 THE COURT: All right. Ms. Strauss, do you
12 have any other witnesses you'd like to call?

13 MS. STRAUSS: No, Your Honor, I do not.

14 THE COURT: All right. So Mr. Simapore, if
15 you could raise your right hand.

16 Do you swear or affirm the testimony you
17 give today will be the truth, the whole truth, and
18 nothing but the truth?

19 MR. SIMPORE: Okay. If I could add
20 something about working -- working about the safety
21 plan.

22 THE COURT: Well, hold on. I first need you
23 to state --

24 MR. SIMPORE: Yes.

25 THE COURT: Yes?

1 MR. SIMPORE: Yes, I swear to tell the
2 truth, nothing but the truth.

3 THE COURT: Okay. All right. Go ahead if
4 you want to respond.

5 MR. SIMPORE: Yes. I was going to say that
6 I'm working with Mr. Sharp about the safety plan and
7 I'm -- yes, I'm working with that for them, the
8 safety -- address the violation -- each violation that
9 have occurred and what to do to prevent it from
10 happening again.

11 THE COURT: Okay. Is there anything else?

12 MR. SIMPORE: No, thank you.

13 THE COURT: Okay. So I guess I just have
14 questions for, actually, Mr. Perkinson, if you could
15 come back on camera.

16 What's the status of the safety management
17 report? Is my first question.

18 MR. PERKINSON: Yeah, Mr. Simpore has
19 e-mailed staff sort of an itemized list, I don't know,
20 maybe seven items, trying to maybe explain generally or
21 ask questions. It's I would say not even close, if I
22 was going to be directly answering the question. There
23 hasn't been any supporting documents or corrective
24 action. I think the general response has been that they
25 want -- that Mr. Simpore wasn't in the country during

1 the time and that he was unaware of some of the
2 requirements. So it's incomplete.

3 THE COURT: When is the 60th day? I guess
4 I'm wondering how much time is left for staff and the
5 company to continue working through the safety
6 management plan?

7 MR. PERKINSON: I don't have that exactly in
8 front of me. Staff -- the cancellation date is
9 April 3rd.

10 THE COURT: Okay.

11 MR. PERKINSON: So we were looking at
12 March 29th for getting an acceptable plan in.

13 THE COURT: Okay. And is that something --
14 I assume staff is willing to continue those
15 conversations?

16 MR. PERKINSON: Of course, yeah.

17 THE COURT: Yeah. Okay. So Mr. Simpore,
18 does that make sense to you, that staff wants to
19 continue working with you to try and get your safety
20 management plan where it needs to be and that you have
21 about a week to get that done? I will say that I'm
22 going to be out of the office beginning on April 3rd --
23 I think that's a Monday -- I'll be out that whole week.
24 So I will need it to me by next Thursday, a week from
25 today.

1 MR. SIMPORE: Yes.

2 THE COURT: So when would staff need it in
3 order to have a recommendation to me by, say, noon next
4 Thursday, the 30th?

5 MR. PERKINSON: I think the 28th would give
6 us sufficient time, but the 29th at the latest.

7 THE COURT: Okay. Mr. Simpore, is that
8 clear to you?

9 MR. SIMPORE: Yes. I -- Mr. Sharp is
10 sending me a deal with, you know, some suggestions he
11 had. I do mostly have most of them corrected, it's just
12 the fact that it's violation isn't the right way, is
13 what I'm working on and, you know, not -- and it's not
14 being -- unfortunately, it's kind if hard to get
15 everything right, perfect. But that's what I'm working
16 on. So every correction that file needs violations
17 corrected, but -- and I just need to say that, you know,
18 write e-mail and state and everything. I should be able
19 to get it done by then.

20 THE COURT: Great. And staff has given its
21 penalty recommendation which I'm going to restate, and
22 Mr. Perkinson correct me if I'm wrong, but what I noted
23 was a \$4,300 penalty with a \$3,300 portion suspended for
24 a period of two years, is subject to conditions
25 including that the company pay the \$1,000 portion of the

1 penalty that's not suspended and that they do not incur
2 repeat violations on a follow-up inspection. Is that
3 correct? And that they maintain satisfactory safety
4 rating or conditional safety rating?

5 MR. PERKINSON: That's correct.

6 THE COURT: Okay. All right, Mr. Simpoire,
7 did you want to respond to staff's penalty
8 recommendation?

9 MR. SIMPOIRE: I would want to ask if we can
10 make a payment agreement because, I mean, it's -- so I
11 can -- I'm (inaudible) of a debt and I'm okay with that,
12 just want to work on payment plan.

13 THE COURT: Yes, we do offer payment plans.
14 You can work with staff on that once you have an
15 acceptable safety management plan, assuming that your
16 permit maintains it's active statu, you can work with
17 staff on a payment plan that works for you. Okay?

18 MR. SIMPOIRE: Okay. Sounds good.

19 THE COURT: Okay. Is there anything else
20 that we need to address while we're here today?

21 MS. STRAUSS: No, Your Honor. That is all.

22 THE COURT: Okay. Well, thank you all so
23 much for being here. Thank you, Mr. Simpoire.

24 MR. SIMPOIRE: Yeah.

25 THE COURT: And we will be off the record.

(The hearing concluded at 2:41 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF WHATCOM

I, Evelyn M. Adrean, RPR, CCR, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the hearing on March 23, 2023, 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 3rd day of April 2023.

Evelyn M Adrean

EVELYN M. ADREAN, RPR, CCR-WA

