

Docket No. TV-230061 - Vol. I

**In the Matter of the Investigation of: Marsik Movers,
LLC**

March 15, 2023



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the)	
Investigation of)	DOCKET No. TV-230061
)	
MARSIK MOVERS LLC,)	
)	
For Compliance with)	NOTICE OF INTENT TO CANCEL
WAC 480-15-555 and)	PERMIT AS A HOUSEHOLD
WAC 480-15-570)	GOODS CARRIER

BRIEF ADJUDICATIVE PROCEEDING

VOLUME I

(Pages 1 - 24)

March 15, 2023

Before Administrative Law Judge Rayne Pearson

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

(All participants appeared via videoconference.)

REPORTED BY: Nicole A. Bulldis, RPR
AZ No. 50955 | CA No. 14441 | WA No. 3384

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ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON

FOR COMMISSION STAFF:

(via Zoom)

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FOR MARIK MOVERS LLC:

(via Zoom)

MARCEL FILIP
Marik Movers LLC
35810 16th Avenue South, Apt. G304
Federal Way, WA 98003
(302) 217-8320
marikmovers@gmail.com

ALSO PRESENT:

(via Zoom)

Cortney Wagner
Kathy Hunter
Aaron Cahen
Ryan Smith
Tracy Cobile
Mathew Perkinson

--o0o--

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1 Wednesday, March 15, 2023; 2:00 p.m.

2 --o0o--

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

4

5 JUDGE PEARSON: Good afternoon. This is
6 Docket TV-230061 which is captioned in the Matter of the
7 Investigation of Marsik Movers LLC for compliance with
8 Washington Administrative Code 480-15.

9 My name is Rayne Pearson, I use she/her
10 pronouns, and I'm the Administrative Law Judge presiding
11 over today's Brief Adjudicative Proceeding. Today is
12 Wednesday, March 15, 2023, and the time is 2:00 p.m.

13 So, first, let's take an appearance from
14 commission staff.

15 ATTY STRAUSS: Your Honor,
16 Josephine Strauss here on behalf of staff. I have with
17 me two witnesses, Tracy Cobile and Mathew Perkinson.

18 JUDGE PEARSON: Great. Thank you.

19 And for the company, if you could please
20 state your full name and provide your address for the
21 record as well as your phone number and your email
22 address.

23 MR. FILIP: Hi there. My name is
24 Marcel Filip. I'm the owner of Marsik Movers. My
25 address is 7171 Marshall Avenue Southeast, Auburn,

1 Washington.

2 And what else? That's it?

3 JUDGE PEARSON: Email and phone number.

4 MR. FILIP: Oh, the email address is

5 MarsikMovers@gmail.com, and my phone number is

6 (302) 217-8320.

7 JUDGE PEARSON: Okay. Could you spell

8 your first and last name for me?

9 MR. FILIP: Yes, M-a-r-c-e-l, F-i-l-i-p.

10 JUDGE PEARSON: Okay. So your last name

11 is F-i-l-i-p?

12 MR. FILIP: Yes, correct.

13 JUDGE PEARSON: Pronounced Filip?

14 MR. FILIP: Yes.

15 JUDGE PEARSON: Okay. Thank you.

16 Okay. So on February 9th, the commission

17 issued a notice of intent to cancel and a notice of

18 brief adjudicative proceeding setting time for oral

19 statements. This was following a compliance review

20 conducted by commission staff and completed in January

21 of this year, which resulted in a proposed conditional

22 safety rating for the company, and the company had until

23 March 1st to file a proposed safety management plan that

24 is acceptable to staff.

25 So when I call on each party to testify,

1 I will swear you in with the oath of witness so anything
2 that you tell us today will be under oath and is
3 considered sworn testimony. For the Court Reporter's
4 benefit, please speak slowly and clearly. And once you
5 are sworn in, you can present your testimony.

6 So we will hear from staff first. I'd
7 like to check in about the status of the safety
8 management plan before we get started.

9 ATTY STRAUSS: Yes, your Honor. My
10 understanding is there is no current safety management
11 plan that has been approved by staff.

12 JUDGE PEARSON: Okay. So has one been
13 filed and the company is working with staff?

14 ATTY STRAUSS: The company as filed three
15 versions of a safety management plan and they are still
16 working on one.

17 JUDGE PEARSON: Okay. Great. Thank you.
18 All right. Then, are you ready to
19 proceed with your first witness?

20 ATTY STRAUSS: Yes, your Honor. Our
21 first witness will be Tracy Cobile.

22 JUDGE PEARSON: All right. Ms. Cobile,
23 if you could raise your right hand and I'll swear you
24 in.

25 Do you swear --

1 ATTY STRAUSS: Oh.

2 JUDGE PEARSON: Oh, sorry.

3 ATTY STRAUSS: Tracy, you're muted.

4 I apologize for interrupting, your Honor.

5 I just thought --

6 JUDGE PEARSON: That's okay.

7 ATTY STRAUSS: -- it'd be better if she
8 was unmuted.

9 JUDGE PEARSON: I agree.

10 THE WITNESS: Thank you, kindly.

11 JUDGE PEARSON: All right. Do you swear
12 or affirm that the testimony you give today will be the
13 truth, the whole truth, and nothing but the truth?

14 THE WITNESS: Yes, I do.

15 JUDGE PEARSON: All right. Go ahead,
16 Ms. Strauss, when you're ready.

17

18 DIRECT EXAMINATION

19 BY ATTY STRAUSS

20 Q. Good morning -- good afternoon. Would you
21 please state your name and spell your last for the
22 record?

23 A. Yes, good afternoon. It's Tracy Cobile, C-o-
24 "b," as in "boy" -i-l-e.

25 Q. What is your current occupation?

1 A. I am a special investigator with the Motor
2 Carrier Safety Program for the Utilities and
3 Transportation Commission.

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

5 A. I've worked as a special investigator with UTC
6 for two years.

7 Q. And what are your responsibilities in that
8 position?

9 A. As a special investigator with the Motor
10 Carrier Safety Program for the commission, I conduct
11 compliance investigations on regulated transportation
12 companies which includes inspecting the company records
13 as well as inspecting the commercial motor vehicles.

14 Q. And what training or education have you
15 received relating to your role as an investigator?

16 A. I obtained my investigative safety analysis
17 certification from the Federal Motor Carrier Safety
18 Administration, and I'm certified through CVSA to
19 conduct commercial vehicle inspections.

20 And prior to working at the UTC, I served as a
21 commercial vehicle enforcement officer with the
22 Washington State Patrol for a period of seven years, and
23 four of those years were spent and/or included
24 conducting federal new entrant safety audits.

25 Q. Thank you.

1 Moving towards this case, are you familiar
2 with the company Marsik Movers?

3 A. Yes.

4 Q. How are you aware of this company?

5 A. Per Order 01 in Docket TV-220169 consolidated,
6 a follow-up comprehensive investigation was assigned to
7 me on January 9, 2023, and I met with the carrier for
8 on-site follow-up investigation on January 18, 2023.

9 Q. And is that the compliance hearing we're here
10 about today?

11 A. Yes.

12 Q. Okay. Did you conduct that compliance review?

13 A. Yes.

14 Q. Did you write a report summarizing your
15 review?

16 A. I did.

17 ATTY STRAUSS: Okay. I'm going to open
18 exhibit -- Proposed Exhibit TC-11. Your Honor may I
19 have permission to share my screen?

20 JUDGE PEARSON: Sure.

21 ATTY STRAUSS: Apologies. Some technical
22 issues.

23 There we go. Is that visible to
24 everybody?

25 JUDGE PEARSON: Yes.

1 ATTY STRAUSS: Hold on. I lost my
2 screen. There we go. Now we're back. That's fun.

3 Q. (By Atty Strauss) Ms. Cobile, I'm showing you
4 what has previously been identified as Proposed
5 Exhibit TC-1.

6 Ms. Cobile, what is Exhibit TC-1?

7 A. Exhibit TC-1 is the final compliance review
8 report submitted by me.

9 Q. Okay. Is the information contained in this
10 proposed exhibit true and correct to the best of your
11 knowledge?

12 A. Yes.

13 Q. Okay. Do you have any changes you would like
14 to make to the exhibit?

15 A. No.

16 ATTY STRAUSS: At this time, your Honor,
17 I'd like to offer and to enter proposed Exhibit TC-1
18 into evidence?

19 JUDGE PEARSON: All right. Mr. Filip, do
20 you have any objection?

21 MR. FILIP: No, I don't. I have just --
22 I see here the address, it was the old address. But by
23 the end of January, I got to move my address and I have
24 updated and I -- but, yeah, it's still like the old
25 address, but it's fine.

1 JUDGE PEARSON: Okay.

2 MR. FILIP: Nothing else.

3 JUDGE PEARSON: All right. Thank you.

4 Then we will admit that exhibit into the
5 record.

6 (Exhibit No. TC-1 admitted.)

7 Q. (By Atty Strauss) So I just have a few
8 questions about this report.

9 MR. FILIP: Oh, also, one more thing I
10 see here. There's a business corporation. I guess
11 we're still an LLC, not corporation. Or this is
12 something else? I don't know.

13 JUDGE PEARSON: I'm sorry. The name at
14 the top says "Marsik Movers LLC." Is that not correct?

15 MR. FILIP: No, it's correct, but I see a
16 little bit low, like in the other section where it's
17 gross revenue --

18 JUDGE PEARSON: Oh, sure.

19 MR. FILIP: -- there's business
20 corporation.

21 JUDGE PEARSON: So I think -- I think
22 that that distinction is there to say that your business
23 is a corporation as opposed to a sole proprietorship
24 because an LLC is a form of a corporation. Is that
25 correct?

1 MR. FILIP: Okay. Gotcha. Thank you.

2 JUDGE PEARSON: Okay.

3 MR. FILIP: Nothing else to add.

4 JUDGE PEARSON: All right.

5 ATTY STRAUSS: I'm going to -- oh, sorry.

6 I'm going to start -- stop sharing my screen. This
7 exhibit has been distributed to all the parties,
8 your Honor.

9 Q. (By Atty Strauss) Ms. Cobile, sorry. I will
10 proceed.

11 What is a compliance review?

12 A. A compliance review is an on-site examination
13 of the motor carrier's operations, such as drivers'
14 hours of service, driver qualification files, inspection
15 repair and maintenance, drivers' license requirements,
16 financial responsibility, accidents, hazardous materials
17 if they apply, and other safety transportation needs to
18 determine whether a motor carrier meets the safety
19 fitness standard.

20 A compliance review may also be conducted in
21 response to a request for an upgrade of a safety rating
22 to follow up on and investigate potential violations of
23 safety regulations or a response to complaints about
24 safety -- evidence of safety violations.

25 Q. In this case, how did you determine that the

1 company needed a compliance review?

2 A. This was a follow-up investigation to the
3 judge's orders.

4 Q. And you conducted this compliance review on
5 January 18, 2023?

6 A. Correct. The on-site investigation was
7 conducted on January 18, 2023.

8 Q. And how did you conduct this review?

9 A. The review was conducted as an on-site
10 follow-up investigation at the motor carrier's principal
11 place of business.

12 Q. And who did you -- who did you speak with
13 during this review?

14 A. The -- the owner of the company, Marcel Filip.

15 Q. Okay. During your review, did you uncover any
16 violations by Marsik Movers?

17 A. Yes.

18 Q. How many violations did you find during your
19 review?

20 A. I identified eight types of violations with a
21 total of nine violations counted.

22 Q. Okay. Were any of these violations acute
23 violations?

24 A. Yes. There was one acute violation of
25 WAC 480-15-530 for operating a motor vehicle without

1 having in effect the required minimum financial
2 responsibility.

3 Q. And what is an acute violation?

4 A. Acute violations are those where noncompliance
5 is so severe that they require immediate corrective
6 action by the motor carrier, and this is regardless of
7 overall safety position such as a one-time occurrence
8 like this.

9 Q. Were there any critical violations that you
10 discovered?

11 A. No.

12 Q. Okay. Were any of the violations you found
13 particularly concerning?

14 A. Yes. There were two -- two -- excuse me --
15 repeat violations, one of CFR 390.15(b)(2). That was
16 for incorrect MCS-150 registration. And the other was
17 Washington Administrative Code 480-15-590, which was
18 failure to maintain a leased vehicle agreement.

19 And, also, during the investigation, it was
20 discovered that the company had two reportable accidents
21 in the previous 365 days and was a key factor that
22 negatively affected and impacted the overall safety
23 proposed safety rating.

24 Q. And what is a recordable accident?

25 A. A recordable accident is defined as a

1 commercial motor vehicle that results in a fatality,
2 personal injury to any person that requires immediate
3 medical attention away from the accident scene, or
4 disabling damage to any vehicle that requires it to be
5 towed from the scene.

6 Q. Okay. Thank you.

7 Did this recordable accident note make any --
8 make any impact on your review and assessment of the
9 company?

10 A. Can you repeat the question?

11 Q. Yes, my apologies.

12 Did these recordable accidents make any impact
13 on your safety review of the company?

14 A. Yes. So that impacted the crash ratio
15 percentages, yes.

16 Q. Okay. And based on the violations you found
17 in this review and those recordable accidents, what
18 safety rating did Marsik Movers receive?

19 A. A proposed conditional rating.

20 Q. Okay. Did you give company notice of the
21 results of your compliance review?

22 A. Yes. So on January 25, 2023, I held a closing
23 interview with Marcel Filip, the owner of the company,
24 where I provided him a copy of the final report and we
25 went over the entire report together to include Part A,

1 Part B, the requirements, the recommendations, and the
2 safety fitness rating report. I also provided a safety
3 management plan guidance that we went over in detail
4 together at that time as well.

5 Q. Okay. Great. Thank you so much, Ms. Cobile.
6 That's all the questions I have for you.

7 JUDGE PEARSON: Thank you.

8 Mr. Filip, do you have any questions for
9 Ms. Cobile?

10 MR. FILIP: No, I don't. I got familiar
11 with all this regulation and, no, no questions at all.

12 JUDGE PEARSON: All right. So at this
13 time, if you can please raise your right hand, I will
14 swear you in, Mr. Filip.

15 ATTY STRAUSS: Oh, your Honor, I have one
16 other witness.

17 JUDGE PEARSON: Oh, I'm sorry.

18 ATTY STRAUSS: No worries.

19 JUDGE PEARSON: All right.

20 ATTY STRAUSS: Your Honor, I'd like to
21 call Mathew Perkinson.

22 JUDGE PEARSON: All right. Mr. Perkinson
23 if you could please raise your right hand, I will swear
24 you in.

25 Do you swear or affirm that the testimony

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

3 THE WITNESS: I do.

4

5 DIRECT EXAMINATION

6 BY ATTY STRAUSS

7 Q. Good morning -- good afternoon, Mr. Perkinson.
8 Would you please state your name and spell your last for
9 the record?

10 A. Mathew Perkinson, P-e-r-k-i-n-s-o-n.

11 Q. What is your current occupation?

12 A. I'm an Assistant Director in the
13 Transportation Safety division at the UTC.

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

15 A. About three years.

16 Q. Okay. And what are your responsibilities in
17 that position?

18 A. I make the final recommendations to the
19 commission on motor carrier safety investigations, the
20 result and penalty assessments for motor carrier safety
21 violations.

22 Q. And what training or experience do you have
23 related to your role?

24 A. I formerly supervised the Motor Carrier Safety
25 Program as well as was certified by the Federal Motor

1 Carrier Safety Administration to perform safety
2 investigations and vehicle inspections.

3 Q. Okay. Gonna move on to this current matter.

4 During your time at the commission, have you
5 been involved in the matter that we are currently
6 talking about with Marsik Movers with an investigation
7 for compliance issues in January 2023?

8 A. I finalized the recommendation on the 2022
9 investigation and then was recently made aware of the
10 2023 outcome.

11 Q. Okay. When did you become aware of the 2023
12 compliance review of Marsik Movers?

13 A. Typically, I will monitor any out -- any --
14 any hearing that's going to come about as a result of
15 safety violations. This was one of those so I was aware
16 of the hearing, and then this morning was made aware
17 that our motor carrier safety investigator supervisor
18 was out today.

19 Q. Right. So you're here in his place; is that
20 correct?

21 A. Yes, I am.

22 Q. Great. Thank you.

23 Do you know the results of the February 2023
24 review?

25 A. Yes.

1 Q. What were the results of the February 2023
2 compliance review?

3 A. A proposed conditional safety rating.

4 Q. And what is a proposed conditional finding?

5 A. There are three potential outcomes from a
6 safety investigation: One would be satisfactory, the
7 best that a motor carrier can achieve; conditional being
8 in the middle; and then unsatisfactory safety rating
9 would be the worst.

10 Q. And, in this case, it was the conditional
11 finding; correct?

12 A. That's correct.

13 Q. Okay. Can a household carrier -- goods
14 carrier maintain its permit with a conditional review
15 finding?

16 A. No.

17 Q. Okay. What were your recommendations given
18 the conditional finding in the compliance review for
19 this matter?

20 A. Well, companies, as you just stated, that fail
21 to achieve a satisfactory safety rating within 18 months
22 of obtaining a provisional permit typically would be
23 canceled unless the commission finds good cause to
24 extend the provisional period. In looking back, that
25 was done with -- for this company already once. The

1 company has, however, been working with staff to get an
2 acceptable safety management plan in and has submitted
3 three drafts to date. Currently, the plans that were
4 submitted failed to address all the violations, why they
5 occurred, the steps to correct them, and then how they
6 were going put controls in place to ensure that the
7 company could maintain compliance in the future.

8 Staff will continue to work with the company;
9 however, the commission should require the company to
10 submit an acceptable safety management plan by
11 March 23rd. This would allow staff time to review and
12 evaluate the safety management plan and submit an
13 evaluation to the docket on Friday, March 24th. And
14 then if the company failed to submit an acceptable plan,
15 staff would recommend that the commission cancel the
16 company's operating authority effective March 27.

17 Q. Thank you.

18 Are there any penalties that can be assessed
19 for the sort of violations in this matter?

20 A. Yes.

21 Q. Were any penalties assessed in this case?

22 A. The company was issued a penalty assessment
23 for \$500, and it paid that on March 10th.

24 Q. Thank you, Mr. Perkinson. I have no further
25 questions.

1 JUDGE PEARSON: All right. Thank you.
2 Mr. Filip, do you have any questions for
3 Mr. Perkinson?

4 MR. FILIP: No, I don't.

5 JUDGE PEARSON: All right. So I'll go
6 ahead and swear you in now.

7 That was your last witness; right? I
8 don't want to do it again.

9 ATTY STRAUSS: Yes. That's it,
10 your Honor. Thank you.

11 JUDGE PEARSON: Okay. All right. Please
12 raise your right hand.

13 Do you swear or affirm that the testimony
14 you give today will be the truth, the whole truth, and
15 nothing but the truth?

16 MR. FILIP: Yes, I do.

17 JUDGE PEARSON: All right. So would you
18 like to speak to the status of the safety management
19 plan and how you feel about staff's proposal to ensure
20 that you have finalized an acceptable plan by next
21 Thursday, the 23rd?

22 MR. FILIP: I'm almost done with the
23 safety management plan. I will -- I went and started to
24 read the book from the UTC to make sure, like, I know
25 everything, how it's going. I didn't -- like, it's not

1 an excuse, like, no one is, like, becoming a business
2 owner or something, like, to know all the regulation.
3 I'm trying to do my best. I'm trying to avoid anything
4 that's happening.

5 And this situation, what happened with
6 the accident, like that's why they're called accident.
7 It's coming. Like, no one's waking up in the morning,
8 "Hey, I want to crash a truck," or, "I want to crash
9 someone on the road." It happened. All I will take
10 care -- like, nobody wants to injure -- there was no
11 accident -- like, no people injured, no police report,
12 like everything was fine. In those cases, no one was
13 affected. We'll try for the future to be more
14 responsible and make sure all the driving safety,
15 it's -- it's going to be a priority.

16 And also my fault driving the truck with
17 no commercial insurance on it. I will not repeat this
18 for future. And, yeah, I will -- I will try to follow
19 up all this safety management plan 'til the 21st, and I
20 will try to do it earlier because, yeah, I need it. It
21 need to stay busy. I need to stay and get folks to know
22 what I'm doing. It's -- it's been a part of me already
23 for years, and it -- and it's everything that I have. I
24 have to work on it.

25 JUDGE PEARSON: Okay. Thank you.

1 Ms. Strauss, do you have any questions
2 for Mr. Filip?

3 ATTY STRAUSS: I do not, your Honor.

4 JUDGE PEARSON: Okay. So just to be
5 clear, there is a deadline, Mr. Filip, which I think
6 you're aware of. And Mr. Perkinson explained that you
7 will need to continue to work on the safety management
8 plan, get that to staff by next Thursday so that they
9 can get a recommendation to me by Friday, so that we can
10 meet that March 27th deadline.

11 MR. FILIP: Okay.

12 JUDGE PEARSON: Does that make sense? Do
13 you have any questions?

14 MR. FILIP: No, it's making sense at all.
15 Like, yeah, I understood.

16 JUDGE PEARSON: Okay. All right. So it
17 sounds like we have a plan.

18 Is there anything else that we need to
19 address while we're here today?

20 ATTY STRAUSS: I do not believe so,
21 your Honor.

22 JUDGE PEARSON: All right. Well, thank
23 you very much to all of you for showing up, and we are
24 adjourned. Have a great rest of your day.

25 (Whereupon the proceedings were adjourned at 2:24 p.m.)

C E R T I F I C A T E

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STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

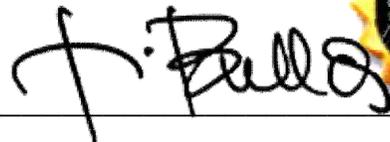
I, Nicole A. Bulldis, RPR, a Certified Court Reporter, do hereby certify under the laws of the State of Washington:

That the foregoing proceedings were taken stenographically by me, via Zoom, on March 15, 2023, and transcribed under my direction;

That the witnesses were duly sworn to testify truthfully, and that the transcript of the proceedings is full, true, and correct to the best of my ability;

That I am not a relative, employee, or counsel of any party to this action or relative or employee of such counsel, and that I am not financially interested in the said action or the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of March 2023.




Nicole A. Bulldis, RPR
WA CCR. No. 3384