

# **In the Matter of the Investigation of Baker, Bus, Ski & Snowboard Club**

**Docket No. TE-240673 - Vol. I**

**October 21, 2024**



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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Investigation )  
of ) DOCKET TE-240673  
)  
BAKER BUS SKI AND SNOWBOARD CLUB, )  
)  
For Compliance with WAC 480-30-221.)  
) PAGES 1-45

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VIRTUAL BRIEF ADJUDICATIVE PROCEEDING - VOL. I  
BEFORE ADMINISTRATIVE LAW JUDGE  
BIJAN HUGHES  
October 21, 2024

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Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, Washington 98504

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ALSO PRESENT:

Jason Sharp  
Sandra Yeomans

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1 Honor. Liam Weiland, assistant attorney general, on  
2 behalf of staff. With me are staff witnesses Jason Sharp  
3 and Sandra Yeomans.

4 JUDGE HUGHES: Thank you. And the  
5 representative for Mr. Engel, could you please introduce  
6 yourself for the record and spell your name, please.

7 PAUL ENGEL: Paul Engel, P-A-U-L,  
8 E-N-G-E-L. And I am the president of the Baker Bus Ski  
9 and Snowboard Club.

10 JUDGE HUGHES: Very good. Okay. I don't  
11 think that will be the case, but are there any motions  
12 before we jump into the witnesses?

13 ATTORNEY WEILAND: No, your Honor.

14 JUDGE HUGHES: Okay. So let's start off  
15 -- I don't know what you plan on presenting. But let's  
16 start off by getting some of the procedural facts down as  
17 to service and then we can move on to the merits. Does  
18 that sound good to you?

19 ATTORNEY WEILAND: Yes, it does. I'll  
20 probably raise some of these issues in my questioning of  
21 the witnesses.

22 But I can just say right now my  
23 understanding is that the inspection was done on August  
24 27.

25 The notice of intent to cancel was served

1 on September 25.

2 The penalty assessment, as you said, was  
3 served on October 8.

4 And then the actual notice of  
5 unsatisfactory safety rating was sent to the company on  
6 October 10.

7 That's my understanding. And we can  
8 confirm when we talk to the witnesses.

9 JUDGE HUGHES: Okay. Very good. Thanks  
10 for having that lined up.

11 Okay. So staff, would you like to  
12 introduce your first witness?

13 ATTORNEY WEILAND: Yes. Staff calls  
14 Sandra Yeomans to testify.

15 JUDGE HUGHES: Okay. I will swear you in.  
16 If you could please raise your right hand.

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

20 THE WITNESS: I do.

21 JUDGE HUGHES: Very good. All right.  
22 Please proceed, counselor.

23

24 SANDRA YEOMANS, having been duly sworn,  
25 testified as follows:

1 DIRECT EXAMINATION

2 BY ATTORNEY WEILAND:

3 Q Good afternoon, Ms. Yeomans.

4 A Good afternoon.

5 Q Would you please begin by stating your name and  
6 spelling your last name for the record?

7 A My name is Sandra Yeomans; last name is spelled  
8 Y-E-O-M-A-N-S.

9 Q And by whom are you employed?

10 A Utilities of -- Washington State Utilities and  
11 Transportation Commission.

12 Q And what is your position at the commission?

13 A I'm a Special Investigator 3.

14 Q And what are your duties in that position?

15 A I perform compliance investigations, inspect  
16 commercial motor vehicles, do training, and some  
17 community events.

18 Q Have you received training that allows you to  
19 carry out those duties?

20 A Yes.

21 Q Would you please describe that training for me?

22 A I have completed Part A, B, and ISA training  
23 with CDSA. That enables you to become a -- certified to  
24 complete investigations and inspections on vehicles.

25 I also do quarterly training to continually be



1 updated on any rules, regulations or changes that have  
2 been made.

3 Q Great. And are you generally familiar with the  
4 federal and state regulations that govern the state of  
5 operation of passenger carriers?

6 A Yes.

7 Q Are you familiar with the Washington passenger  
8 carrier called Baker Bus Ski and Snowboard Club?

9 A Yes.

10 Q How did you become familiar with Baker Bus?

11 A Baker Bus was assigned to me as one of my  
12 annual work schedules that we receive each December of  
13 every year.

14 And then I also was sent a complaint, forwarded  
15 a complaint, actually, on June 13th of 2024, expressing  
16 concerns about the vehicle size the carrier was using.

17 Q Okay. Thank you.

18 Now to back up for a second, could you please  
19 describe your process for -- generally for carrying out a  
20 safety inspection on a passenger carrier?

21 A Yes. So part of an investigation, we are  
22 required to evaluate all of the components of what the  
23 compliance is for each carrier. So this is investigating  
24 their driver's license status, the authority, what level  
25 of insurance they have, if they're required to have a

1 drug and alcohol program. If they are, we research the  
2 testing that has been done. We have the driver  
3 qualification files, hours of service, maintenance, and  
4 inspection.

5 And then we inspect the carrier's vehicles to  
6 make sure that -- and in general, we make sure that  
7 everything is in compliance and the vehicle is in safe  
8 working order.

9 Q Do you physically inspect the company's  
10 vehicles?

11 A Yes. Yes, we do.

12 Q And you mentioned something called a driver's  
13 qualification file. Could you please describe what that  
14 is?

15 A It's a collection of documents that provides  
16 the driver is the -- that proves that the driver is  
17 qualified to drive a commercial motor vehicle. So it  
18 might be abstracts, medical cards, their application,  
19 annual reviews, records. That would be a driver's file.

20 Q Great. And in performing your inspection of  
21 Baker Bus, did you follow all of the steps you just  
22 mentioned?

23 A Yes.

24 Q When you finish reviewing a carrier's  
25 operations, do you produce a report of your findings?

1 A Yes.

2 Q And do you produce those reports in the  
3 ordinary course of business?

4 A Yes.

5 Q And do you make those reports contemporaneously  
6 with the end of your safety review?

7 A Yes.

8 Q Did you produce such a report of your findings  
9 at the conclusion of your review of Baker Bus's  
10 operations?

11 A Yes.

12 Q And did that report accurately reflect what you  
13 found during your inspection?

14 A Yes.

15 Q At this time I would like you to please turn to  
16 the exhibit marked SY-2. Do you have that in front of  
17 you?

18 A I do.

19 Q Would you please identify this document?

20 A This is our findings report. It's called a  
21 Capri (phonetic) report that we put all the information  
22 in, all the violations, and we write -- that we write up  
23 after every review.

24 Q Great. Is SY-2 a true and accurate copy of the  
25 report you produced after your review of Baker Bus's

1 operations?

2 A Yes.

3 ATTORNEY WEILAND: Judge Hughes, at this  
4 point, staff would move to admit Exhibit SY-2.

5 JUDGE HUGHES: Does the company have any  
6 objection?

7 PAUL ENGEL: Was that to me?

8 JUDGE HUGHES: Yes. Staff is moving to  
9 enter SY-2, which I believe would have been provided to  
10 you last week in the record. Do you have any objections  
11 to that being --

12 PAUL ENGEL: Do I have a copy of SY-2?

13 ATTORNEY WEILAND: It was --

14 (Overlapping speech)

15 ATTORNEY WEILAND: -- week, yes.

16 PAUL ENGEL: Is that the report that --  
17 the encrypted report that I got that is at the -- it's  
18 basically Sandi's findings?

19 ATTORNEY WEILAND: Yes, it is.

20 PAUL ENGEL: Okay. Yes, I have that.

21 JUDGE HUGHES: And we're moving it into  
22 evidence. So you don't object to its being --

23 PAUL ENGEL: No.

24 JUDGE HUGHES: -- in evidence. So we will  
25 enter that into evidence as SY-2.

1 (Exhibit Number SY-2 admitted.)

2 Q (By Paul Engel) So Ms. Yeomans, did you find  
3 any violations of the relevant safety regulations during  
4 your inspection of Baker Bus's operations?

5 A Yes, I did.

6 Q And are those violations accurately reflected  
7 in your report?

8 A Yes.

9 Q Could you please describe for me the three  
10 levels of violations as set forth by the Federal Motor  
11 Vehicle Safety Administration that are included in your  
12 report?

13 A Yeah. There are three levels of violation  
14 severity.

15 And the first and most concerning is acute  
16 violations, which require immediate action on the carrier  
17 to correct.

18 Then there are critical violations, where there  
19 is a breakdown in the carrier's management controls.

20 And then there's general violation that  
21 requires correction.

22 Q Did you find any acute violations during your  
23 inspection?

24 A Yes, we did.

25 Q What were those?

1           A       There was an acute violation for not having a  
2 controlled substance and alcohol program.

3                    There was one for not having the right  
4 financial responsibility.

5                    And the third one was not in regards -- was in  
6 regards to making a fraudulent paper in a driver  
7 qualification file.

8           Q       Thank you.

9                    I'd like to just spend a minute talking about  
10 each of those three in a little bit more detail.

11                   You said first that there was an acute  
12 violation for failure to employ a controlled substance  
13 and alcohol testing program and failure to have the  
14 appropriate amount of insurance coverage. How did you  
15 determine that Baker Bus committed these violations?

16           A       The vehicle, one of the vehicles that they use  
17 for commerce is over 16 passengers. And that puts them  
18 in a position where they have to actually have a CDL  
19 versus a non-CDL. And any company that runs within a CDL  
20 requirement has to be enrolled in a drug and alcohol  
21 program. And they did not have a drug and alcohol  
22 program.

23           Q       And is it the same requirement, the same  
24 standard applies to the \$5 million insurance requirement?

25           A       Yes.

1 Q Thank you.

2 And how did you determine that, that Baker  
3 operates a vehicle that's designed to carry more than 16  
4 passengers?

5 A There was pictures and information that was  
6 given to me on the vehicles that Baker Bus owned that are  
7 parked at a hotel. And when I went and -- pictures of it  
8 being used in commerce, and the name of the person that  
9 hired them.

10 And so I went to where the bus was. When I  
11 originally did the inspections, it was not there. But I  
12 was back in town later and went to the same location  
13 where the bus was parked, and counted the seats and took  
14 pictures. It has 19 seats, so anything over 16 is a CDL  
15 vehicle.

16 And then I contacted the person that hired  
17 them, and they confirmed that they did hire them and had  
18 hired him many times, but I just focused on the one time  
19 that I had proof on the one time it was in service.

20 Q Okay. Thank you.

21 So let's go to the third acute violation you  
22 described, which is making a false entry on a driver  
23 qualification file. Can you discuss that in more detail  
24 and tell me how you determined that that violation was  
25 committed?

1           A     Annually, it's required that you do an  
2 inspection on -- or not an inspection; excuse me. You do  
3 an annual review of drivers' records.

4           And to do that, one of the requirements is that  
5 you have the abstract. And once you review the abstract,  
6 then you sign that you have reviewed that abstract and  
7 the driver is in good standing to continue to be able to  
8 drive.

9           For Baker Bus, he had the paperwork dated prior  
10 to any abstract. So therefore, he was signing off that  
11 he had read the abstract and all was good, when really,  
12 he had not even had the abstract to review.

13          Q     Can you just tell me what an abstract is in  
14 more detail?

15          A     It is a commercial motor vehicle that is  
16 requested from the Department of Licensing that gives all  
17 information as to the driver, their date of birth, what  
18 type of license that they have, any infractions that they  
19 may have on it, if they have a medical. So it's  
20 everything in regards to your driver's license obtained  
21 through the Department of Licensing.

22          Q     All right. Thank you.

23                 And in your inspection, did you also record any  
24 critical violations?

25          A     Yes.



1 Q And which were those?

2 A There was three of those as well.

3 The first one was using a driver not medically  
4 examined and certified.

5 The second one was not having -- to maintain  
6 initial driving record in the driver qualification file.

7 And the last one was using a commercial motor  
8 vehicle that hadn't been periodically inspected.

9 Q And can you please just briefly run through how  
10 you determined each of those three violations were  
11 committed as well?

12 A The first one, using a driver not medically  
13 examined and certified, in order to drive a commercial  
14 vehicle, it is required that each driver get a DOT  
15 medical. And that produces the -- the doctor produces a  
16 certificate, and that is to be presented at the time that  
17 we ask for it. And there was no medical certification  
18 for Paul Engel or Shea McLaran.

19 On the next one, failing to maintain the  
20 abstracts in the driver record qualification file, at the  
21 time you hire a driver, you need to obtain an abstract  
22 either 30 days prior to or 30 days after in order to make  
23 sure that they are fit to be driving. And I was told  
24 that he had them and was going to get them to them. He  
25 was unable to do that since he said that he had obtained

1 the abstracts and did not have them; therefore, it was a  
2 failure to maintain them.

3 Then the last one is using a commercial motor  
4 vehicle not periodically inspected. That's required  
5 annually, that they do a complete inspection on every  
6 vehicle that the company operates on the public roads.  
7 And that is put on a piece of paper that specifically  
8 marks down that they have checked every component, who  
9 the mechanic was, what vehicle, what date; and that is  
10 certified, signed by the mechanic that does that. They  
11 are required to maintain those for an entire -- for 14  
12 months from the time that they are done. And Baker Bus  
13 was unable to produce those inspections for their  
14 vehicles.

15 Q All right. Thank you.

16 So just to sum up, you recorded three acute and  
17 three critical violations, correct?

18 A Yes.

19 Q And did you record any additional violations?

20 A Yeah. There was multiple general regulations.

21 Q Okay. Great. I won't make you go through  
22 those one by one.

23 A Okay.

24 Q When you complete a report that yields an  
25 unsatisfactory safety rating, what are your next steps?

1           A     Once I've done the report, it goes to my  
2 supervisor to verify. Then it comes back to me for my  
3 corrections. And that process continues until it's a  
4 satisfactory report.

5                     And at that point, my supervisor informs me  
6 that I can contact the carrier to have a closing  
7 interview with them. I try to contact the carrier to set  
8 up a date and time to have that conversation. Usually,  
9 then, they would give me a date and time that works for  
10 them. I would call them up. We'd go over the report.

11                    And then at that point, I'm done. It goes to  
12 other departments to handle penalties or any other  
13 further actions.

14           Q     Did you follow those steps in this case?

15           A     Yes but I did not get any reply from Paul.

16           Q     Just to clarify, when you -- you reached out to  
17 do a closing interview with the company, and you didn't  
18 get a reply?

19           A     I did not get any reply. I made multiple  
20 attempts to through e-mail and phone calls. I am pretty  
21 sure that I also sent him a copy of the report, but I was  
22 unable to locate that --

23           Q     Great.

24           A     -- once he didn't respond to me through the  
25 multiple attempts.

1 Q Did you send your report later to the company?

2 A That was actually sent in by Jason.

3 Q Okay. I'll hold that question for Jason.

4 A Yeah.

5 ATTORNEY WEILAND: I have no more  
6 questions for Ms. Yeomans.

7 JUDGE HUGHES: I have just two quick  
8 followups. You mentioned the report being satisfactory.  
9 The word satisfactory, like, by saying that, you're not  
10 saying it's a satisfactory safety rating; you're saying  
11 satisfactory in that staff approves of it?

12 THE WITNESS: Correct.

13 JUDGE HUGHES: Okay. When you said that  
14 you thought you sent him a copy, would that have been  
15 through e-mail, or you physically delivered it to him.

16 THE WITNESS: It would have been through  
17 e-mail.

18 JUDGE HUGHES: Okay. Would the company  
19 like to ask any questions?

20 This is your opportunity to do so. You're  
21 on mute, sir.

22 PAUL ENGEL: Can you hear me now?

23 JUDGE HUGHES: Yes.

24 PAUL ENGEL: No, I don't have any  
25 questions.

1 JUDGE HUGHES: Okay.

2 Well, thank you for your time.

3 Another witness, then?

4 ATTORNEY WEILAND: Yes. Thank you.

5 At this time, staff calls Jason Sharp to  
6 testify.

7 JUDGE HUGHES: Hi, Mr. Sharp. Please  
8 raise your right hand.

9 Do you solemnly swear or affirm that the  
10 testimony you are about to give will be the truth, the  
11 whole truth, and nothing but the truth?

12 THE WITNESS: Yes, I do.

13 JUDGE HUGHES: Thank you. Please proceed.

14

15 JASON SHARP having been duly sworn, testified as  
16 follows:

17

18 DIRECT EXAMINATION

19 BY ATTORNEY WEILAND:

20 Q Good afternoon, Mr. Sharp.

21 A Good afternoon.

22 Q Would you please begin by stating your name and  
23 spelling your last name for the record?

24 A Yes. My name is Jason Sharp; S-H-A-R-P.

25 Q And by whom are you employed?

1           A     The Washington Utilities and Transportation  
2 Commission.

3           Q     What is your position at the commission?

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

6           Q     Would you please briefly describe your duties  
7 in that position?

8           A     Yes. I have many duties as they pertain to  
9 today's case.

10                   I oversee the safety investigators team. I  
11 assign their work, so their investigations. I review  
12 their safety reports. And I provide recommendations that  
13 are based on the commission's enforcement policy.

14           Q     And have you received training that allows you  
15 to carry out these duties?

16           A     Yes. I've been in my position for nearly seven  
17 years now.

18                   Prior to being in my current role, I was also a  
19 safety investigator here at the commission, receiving  
20 training through the Federal Motor Carrier Safety  
21 Administration to conduct compliance reviews, as well as  
22 vehicle inspection and driver inspection certification  
23 through the Commercial Vehicle Safety Alliance.

24           Q     Great. Thank you.

25                   Are you generally familiar with the federal and

1 state regulations that govern the safe operation of  
2 passenger carriers?

3 A Yes.

4 Q Are you familiar with the Washington passenger  
5 carrier called Baker Bus Ski and Snowboard Club?

6 A Yes, I am.

7 Q How did you become familiar with Baker Bus?

8 A Baker Bus is a regulated charter and excursion  
9 carrier. They have a certificate with the commission to  
10 provide those services. And they were in need of a  
11 safety rating. So I assigned a routine compliance  
12 investigation on the company.

13 Q Great. And did you review Ms. Yeomans'  
14 inspection report in this case?

15 A Yes, I did.

16 Q After an investigator completes a review and  
17 submits their report, what are typically the next steps  
18 in the compliance review process?

19 A So after they submit their report, and when we  
20 are done with any, let's say corrections, then I approve  
21 the investigator to close the report.

22 Once I'm notified that the process has  
23 occurred, depending on the outcome, if the, in this case,  
24 carrier received a proposed unsatisfactory safety rating,  
25 we start the process to cancel the certificate based on

1 the proposed rating and issue a notice of intent to  
2 cancel.

3 If there are violations that are identified  
4 that per our enforcement policy would mandate a financial  
5 penalty be administered, then we will recommend that to  
6 the commission as well. I think I answered.

7 Q That sounds good.

8 A Yeah.

9 Q Could you briefly describe for me how staff  
10 calculates an unsatisfactory rating?

11 A Yes. The UTC adopts the Federal Motor Carrier  
12 Safety Administration's safety rating methodology, Part  
13 385.

14 And I'm going to turn to the Exhibit SY-2.  
15 Starting on page 21 of that document, there is a  
16 breakdown of the safety fitness rating explanation. So a  
17 company will receive points during a safety  
18 investigation. In this case, points are not a positive  
19 thing. They're a tally that negatively impacts the  
20 overall safety rating.

21 There's three potential ratings during a  
22 comprehensive review.

23 The best a carrier can do is receive a  
24 satisfactory rating.

25 If the company has some areas where critical or



1 acute regulations are impacted, they may receive a  
2 proposed conditional rating, which is kind of your next  
3 step down, but it doesn't necessarily impact the  
4 carrier's ability to operate per the regulations.

5 In the event that a company receives a proposed  
6 unsatisfactory rating as a passenger carrier, they would  
7 have 45 days from the notice of that proposed rating to  
8 request an upgrade to that proposed rating via a safety  
9 management plan.

10 So I just got to page 21 here, and we look at  
11 six factors related to a company's overall safety  
12 posture. You see them listed, Factor 1, Factor 2 through  
13 6.

14 The first factor here -- I should slow down  
15 here. Each factor, depending on the violations that are  
16 identified, may result in a satisfactory, a conditional,  
17 or an unsatisfactory rating. (Inaudible) just broke down  
18 the overall proposal.

19 In this case, the categories are grouped into  
20 similar qualification requirements.

21 So Factor 1, this is where the violation is for  
22 insurance, as well as the fraudulent documents went. The  
23 carrier received two negative points for this factor.  
24 And if you see in the right top corner of that box, it  
25 shows you zero points is satisfactory all the way down to

1 greater than one is unsatisfactory. So this particular  
2 factor received two points, meaning it was  
3 unsatisfactory.

4 As we go down to the next factor, that's  
5 related to controlled substance and alcohol testing, as  
6 well as driver qualifications. So Investigator Yeomans  
7 just went over the results of that, which were an acute  
8 and two critical violations, which resulted in another  
9 unsatisfactory factor.

10 Factor 3 was focused on hours of service, as  
11 well as operations and local laws which would fall under  
12 Part 329. The company did not receive any negative  
13 scores in this factor. So they received a satisfactory  
14 for Factor 3.

15 Factor 4, they did get a point. And that was  
16 in relation to the annual inspections. So one point  
17 equated to a conditional factor for Factor 4.

18 Factor 5 is related to hazardous materials.  
19 And the company does not transport hazardous materials,  
20 and so that was not applicable.

21 And then Factor 6 is related to accidents and  
22 the reportable accident rate of the company. The company  
23 did not have any DOT reportable accidents during the  
24 previous year. And so that factor was satisfactory.

25 Okay. So then if we move on to the next page

1 number, 22, it has the overall safety fitness rating,  
2 where it identifies that there were two unsatisfactory  
3 factors and there was one conditional.

4 So that equates to an overall safety or  
5 proposed rating of unsatisfactory. And then there's the  
6 calculated table below that that shows why that is the  
7 case.

8 So this is all factored in due to the FMCSRs,  
9 and we follow that same process.

10 Q Great. Thank you.

11 And you mentioned briefly that when a company  
12 gets the unsatisfactory rating, it can address that and  
13 come into compliance without having its certificate  
14 canceled by submitting what's called a safety management  
15 plan.

16 Can you explain what a safety management plan  
17 is?

18 A Yeah, a safety management plan is a company's  
19 opportunity to show a corrective action.

20 What we look for in that is that a company  
21 addresses the safety regulations that were identified in  
22 the safety investigation report. That response would be  
23 a detailed account of why the violation was allowed to  
24 occur, what the company has done to correct the  
25 violation. That would also entail the company providing

1 documentation of actual corrective action, as well as  
2 identifying the management controls that the company has  
3 put in place to prevent those violations from reoccurring  
4 in the future.

5           Additionally, once the entirety of the  
6 violations are identified, the company would certify in a  
7 certification statement that their operations currently  
8 meet state and federal regulations and that they will  
9 continue to operate within those guidelines.

10         Q     Great. Thank you.

11           And in this case, on what date did staff send  
12 its notice of a proposed unsatisfactory safety rating to  
13 the company?

14         A     Most recently, Mr. Engel reached out to me -- I  
15 believe on October 10 -- and stated that he had not  
16 received a copy of the investigation report, which would  
17 have identified the individual violations and which he  
18 could then respond.

19           I sent him the report via e-mail.

20           He contacted me again last week on Friday,  
21 which would have been the 18th, to state that he wasn't  
22 able to access that report.

23           So we got on a call together, and I was able to  
24 verify, as Mr. Engel mentioned, the encrypted report.  
25 When we send reports through our e-mail system, they're

1 flagged as having potential personal identifiable  
2 information. So they become a little bit tricky to get  
3 to the end user, as I know I've had issues sending them  
4 to you. So we were able to work through it, and I was  
5 able to verify that Mr. Engel was able to receive the  
6 report with each of the violations on the 17th.

7 Q Okay. Thank you.

8 And since the company has received the report,  
9 are you aware of any actions the company has taken to  
10 correct these violations?

11 A I haven't received any -- I haven't received a  
12 safety management plan from the company.

13 The company did send me some initial responses  
14 looking to address the violations.

15 I provided them some feedback on what we were  
16 going to need to have more in alignment with the  
17 standards that I just identified that are required in the  
18 safety management plan. We had that conversation on  
19 Friday the 17th.

20 So we have discussed what the expectation of  
21 the safety management plan is.

22 ATTORNEY WEILAND: Okay. Thank you.

23 I have no further questions for Witness  
24 Sharp.

25 JUDGE HUGHES: I will -- Company, do you

1 have any questions for the witness first? I see you  
2 shaking your head, indicating no.

3 Okay. Mr. Sharp, thank you. Please stick  
4 around. I may have some questions following the  
5 company's presentation. But thank you.

6 Okay. Does staff have anything further?

7 ATTORNEY WEILAND: No, nothing further  
8 from staff.

9 JUDGE HUGHES: Okay. Thank you. Would  
10 Baker Bus Ski and Snowboard like to present any evidence  
11 or testimony?

12 You can proceed by testifying in a  
13 narrative form if you would like. But if you would like  
14 to, I'll have to swear you in, so please let me know.

15 PAUL ENGEL: Can you hear me?

16 JUDGE HUGHES: Yes.

17 PAUL ENGEL: Okay. Thank you.

18 All I would like to do as far as, like,  
19 the only testimony that I have is I would like to have  
20 the chance to resubmit my safety plan, now that I have  
21 the report and know exactly -- I've talked with Jason and  
22 I know exactly what I need to do. I would like to have  
23 time to be able to submit that plan to come into  
24 compliance with what the UTC is asking for.

25 JUDGE HUGHES: Okay. Well, you have 45

1 days from the receipt of the rating to request an  
2 improvement. So we can keep that in mind.

3 I suppose I don't need to swear you in,  
4 But can you --

5 PAUL ENGEL: Does that mean I have 45 days  
6 from October 17; is that correct?

7 JUDGE HUGHES: I don't think I can answer  
8 that question at this time with the facts that I have.  
9 But I think that's the way we want to proceed. I don't  
10 know if it's -- I might have to grant a variance or  
11 something to that effect. But I think we can move -- if  
12 staff is comfortable with that, 45 days from that date of  
13 actual receipt.

14 ATTORNEY WEILAND: Staff is comfortable  
15 with that.

16 JUDGE HUGHES: Okay.

17 PAUL ENGEL: So that means I have 45 days  
18 to address everything in Sandi's report, bring that into  
19 compliance; and show my safety management plan, show  
20 compliance, detail all of why the occurrences happened,  
21 how I corrected them, and then how management will keep  
22 them corrected or control that, those corrections.

23 JUDGE HUGHES: You have the opportunity to  
24 request a safety rating improvement. And you do that  
25 through showing those corrections.

1                   PAUL ENGEL: Yes. And then I have to do a  
2 compliance statement. I'm just making sure that that's  
3 what I need to do.

4                   JUDGE HUGHES: That's the -- that would be  
5 the request. I can't say whether it would be granted or  
6 not granted. I can't (inaudible) not having seen your  
7 corrective actions.

8                   Does staff -- if the company does file a  
9 safety management plan, staff thinks you can continue  
10 working with them, or would they be pursuing cancellation  
11 regardless?

12                   ATTORNEY WEILAND: It depends on the  
13 contents of the plan. If the plan adequately addresses  
14 all the violations, yes, staff would no longer pursue  
15 cancellation.

16                   JUDGE HUGHES: Okay. Okay. I suppose we  
17 can proceed on that. I did -- let me just make sure I  
18 don't have any followup questions. Okay.

19                   Actually, I do have a few questions for  
20 you. So I'm going to go ahead and swear you in, okay?

21                   PAUL ENGEL: Okay.

22                   JUDGE HUGHES: Raise your right hand.

23                   Do you swear to tell the truth, the whole  
24 truth, and nothing but the truth?

25                   PAUL ENGEL: I do.



1                   QUESTIONS BY JUDGE HUGHES

2                   JUDGE HUGHES: Okay. You received a  
3 number of acute violations in August. Have those been  
4 cured?

5                   PAUL ENGEL: Yes.

6                   JUDGE HUGHES: Can you talk to me about  
7 the actions you took to cure them?

8                   PAUL ENGEL: Well, the basic thing is the  
9 cease of operations. I mean, let me go back to the --

10                  JUDGE HUGHES: I guess let me rephrase.  
11 Let me ask more specifically. Do you have adequate  
12 insurance right now?

13                  PAUL ENGEL: Yes.

14                  JUDGE HUGHES: Okay. Does your vehicle  
15 currently have the markings or your charter number?

16                  PAUL ENGEL: Yes.

17                  JUDGE HUGHES: And let's see. What was  
18 the third acute? And you now have a drug program?

19                  PAUL ENGEL: We have not implemented a  
20 drug program, but we will not -- we will not use vehicles  
21 over 15 passengers.

22                  JUDGE HUGHES: Okay.

23                  PAUL ENGEL: It was my understanding that  
24 if we don't use vehicles over 15 passengers, we don't  
25 have to have a drug and alcohol plan or CDL's. The

1 drivers don't have to have CDL's.

2 JUDGE HUGHES: Okay. So your intent is to  
3 simply get rid of the big bus and not have CDL's?

4 PAUL ENGEL: Correct.

5 JUDGE HUGHES: Okay.

6 PAUL ENGEL: That's what I meant by cease,  
7 yeah. No more big bus favors.

8 JUDGE HUGHES: I gotcha.

9 I did want to ask, because I saw it in the  
10 NOIC, and I think it is relevant to our enforcement  
11 policy. The staff included information that you had a  
12 previous company which had received a fairly substantial  
13 fine or it wound down operations?

14 PAUL ENGEL: Yes.

15 JUDGE HUGHES: Can you speak at all to  
16 that?

17 PAUL ENGEL: Yes. Yes. So when I very  
18 first started, and this has been a ton of years ago now,  
19 I wanted to be nonprofit. That was my original goal.  
20 And the lawyer that -- we couldn't figure out how to do  
21 that with the UTC to be, like, for hire, but then not be  
22 -- but be nonprofit. So we just started as just a  
23 regular for hire company, not a nonprofit.

24 I went through all the stuff with the UTC  
25 and got my permit and all of that, and I didn't -- I

1 didn't know -- I don't -- I was just stupid. I didn't  
2 know that -- I thought it was like when you build a  
3 house; you get a permit and then you're done. You're  
4 good to go.

5           And so -- sorry about that. So anyway, I  
6 ended up operating -- I operated that for a long time,  
7 not knowing that I was not in compliance, basically.

8           And then I went in and -- went in, went to  
9 court, and told them that; and said, like, look, I mean,  
10 all I did -- I had all the insurance. I had all the  
11 paperwork. I was doing all the stuff. I just didn't  
12 know that I had to -- I guess it's like -- it's like \$40  
13 a vehicle or something like that every year. Basically  
14 there's like an annual report thing that you do.

15           Anyway, so they showed mercy on me and  
16 said, okay, if you -- you know, obviously do these  
17 reports, and all of that. Then they waived a bunch of  
18 the fines. And I was like probation, I think, and I paid  
19 it off, and we're all good. And then I did the reports,  
20 so then it was all good.

21           Then COVID happened. And they contacted  
22 me and said the best thing to do is to just close. Like  
23 to cancel the permit and not -- because obviously, we  
24 can't operate. We weren't whatever it's called,  
25 critical, or -- anyway, we couldn't operate.

1                   So we couldn't operate, so the UTC said  
2 they won't -- I won't get -- it won't be frowned upon or  
3 anything. We're just going to close. And then once  
4 COVID is over, we're going to reopen. And it will be  
5 okay. So that's what I did. I took that advice.

6                   And then during that time, during COVID  
7 and all that, I figured out how to go nonprofit. I  
8 figured out a way to be able to do it. And then when I  
9 opened back up again, I opened back up as a nonprofit.  
10 And then -- but I did pay the fine, my previous fine and  
11 all of that. You know what I mean? I paid all that. I  
12 closed --

13                   JUDGE HUGHES: I believe it --

14                   (Overlapping speech)

15                   JUDGE HUGHES: Was there 9,000 suspended  
16 though, that --

17                   (Overlapping speech)

18                   PAUL ENGEL: No, but I wasn't required to  
19 pay that as long as I came -- as long as I, like, came  
20 into compliance and paid the \$1,000.

21                   JUDGE HUGHES: Okay.

22                   PAUL ENGEL: The 9,000 was like  
23 probationary.

24                   But then I canceled that permit because I  
25 changed it into the nonprofit, basically. I changed --

1 JUDGE HUGHES: Okay.

2 PAUL ENGEL: -- the company to where we  
3 could accept donations, all of that stuff.

4 JUDGE HUGHES: Okay. I appreciate that  
5 background. I was a little thrown off by the revenue on  
6 the first page. That all makes more sense now.

7 PAUL ENGEL: Yeah, I -- yeah. Yeah. The  
8 whole -- what happened before was just incompetence on my  
9 part. Like, I literally just didn't know.

10 And they were really cool at the hearing  
11 when I brought the paperwork and I said, Here's my  
12 paperwork. I'm doing it. I just didn't know that I had  
13 to show you or whatever. Anyway.

14 JUDGE HUGHES: Okay.

15 PAUL ENGEL: They were cool about it.  
16 They went from 10,000 to 1,000 which is doable, at least,  
17 on our budget.

18 JUDGE HUGHES: It's not a small  
19 difference, no.

20 Okay. I have one more question for you.

21 PAUL ENGEL: Yes.

22 JUDGE HUGHES: The false certification,  
23 I'll just say is concerning.

24 PAUL ENGEL: The what?

25 ATTORNEY WEILAND: False certification.

1 So signing off on the abstracts prior to looking at the  
2 abstracts. So is there anything you'd like to say  
3 relating to that?

4 PAUL ENGEL: The main basis for all of my  
5 drivers -- and this is what I'm going to submit. All the  
6 stuff that went through the drivers, I didn't realize,  
7 because they didn't have -- that's the whole reason why I  
8 got out of the CDL thing. I didn't want to -- I didn't  
9 realize that we had to address all of that stuff.

10 And so now I know that no matter what,  
11 even if they're volunteers -- like, our drivers, like --  
12 our bus, what we do is we take people up to Mount Baker  
13 Ski Area to go skiing. So when you drive the bus, you  
14 get a lift ticket. So it's like that's your inventory to  
15 drive the bus. All the drivers are volunteers. They're  
16 not employees, you know. It's a really small -- anyway.

17 So now that I know that we have to have  
18 the -- all of that, we have to have the medical forms and  
19 all of that for this upcoming season, I'm going to have  
20 it all dialed in.

21 And I mean, right now, we're getting  
22 ready, you know. We're probably a month out from  
23 starting operations. And so this is like perfect timing.  
24 I'm just going to get it all completely dialed in and  
25 have it like -- and --

1 JUDGE HUGHES: Okay.

2 PAUL ENGEL: And now that I have this, I  
3 have all the tools to be able to do it too.

4 JUDGE HUGHES: Thank you. That sounds  
5 good.

6 I would note for your edification that  
7 knowing the rules is actually a requirement of the rules.

8 PAUL ENGEL: I know.

9 JUDGE HUGHES: In any event, I think I  
10 have one question for Mr. Sharp, but thank you for  
11 answering my questions there. Thank you.

12 PAUL ENGEL: Thanks.

13

14 QUESTIONS OF MR. SHARP BY JUDGE HUGHES

15 JUDGE HUGHES: All right. My only  
16 question is related to the size of the club and the  
17 revenue, and what impact, if any staff thinks that has on  
18 the enforcement policy of -- in terms of the harshness of  
19 the penalty that should be imposed here.

20 JASON SHARP: Yeah. So the company hasn't  
21 responded to the penalty, the penalty assessment yet.

22 If I may, I could provide a little bit  
23 more background into my understanding of how the club  
24 operations work and -- because Mr. Engel supplied  
25 information on that they're nonprofit.

1           I want to clarify that even though the  
2 company is registered as a nonprofit, they do not qualify  
3 for a nonprofit certificate through the commission. They  
4 are offering more club-based transportation, and not  
5 providing transportation to people who otherwise could  
6 not transport themselves.

7           So I think that was something that I just  
8 wanted to make sure was clear, as Mr. Engel was talking  
9 about the \$10,000 penalty with the \$1,000 suspended  
10 penalty. That was due to a settlement that we reached  
11 amongst the parties prior to that hearing with the  
12 understanding of the operations as they fall under  
13 charter excursion.

14           Mr. Engel also had previously, as he  
15 mentioned, owned and operated Cascade Adventures and  
16 Baker Bus. So there's a lot of prior technical  
17 assistance that's been involved with Mr. Engel and his  
18 operations as they exist with the commission.

19           So the company, is my understanding, it's  
20 a club where people will pay to join it and then have  
21 access to a seat on the bus to go up to the mountain and  
22 back.

23           Mr. Engel is aware that his drivers that  
24 he calls volunteers are part of a compensation method  
25 where they are operating on behalf of the company,



1 driving their vehicles on the public roadways. They are  
2 being compensated by the lift ticket, is my  
3 understanding, as part of being a club member as well.  
4 Regardless, whether they are paid or not, they're  
5 operating for the club, which is a for-hire entity.

6 And that was all established during our  
7 previous case, or classification, I should say, and which  
8 was referenced with the suspended penalties of \$1,000.

9 So the overall penalty, staff would be  
10 open, in the right circumstances, meaning an approved  
11 safety management plan, to entertain mitigation of that  
12 penalty.

13 Since that request hasn't been made to  
14 this point, staff doesn't really have a position to  
15 change what's been assessed as of now, as we believe that  
16 the overall penalty is fair in what has been issued,  
17 based on the history and involvement of the operator.

18 However, with a commitment to the safety  
19 management controls of the company, staff would  
20 entertain, should the company request, a mitigation plan.

21 JUDGE HUGHES: Okay. Very good. I  
22 appreciate that. Sorry for asking that, but I figured  
23 better than sending a request later. Good context.

24 That's all the questions I have.

25

1                   Mr. Weiland, is there anything further  
2 from staff?

3                   ATTORNEY WEILAND: I would just like to  
4 clarify to your last question, I'm not sure if you were  
5 specifically talking about the penalty or the penalty and  
6 cancellation.

7                   But I agree that the commission has, you  
8 know, broad discretion in considering the size of the  
9 company and deciding the appropriate penalty to impose.

10                   I'm not sure the same can be said about  
11 the decision whether cancellation is appropriate. You  
12 know, the regulation doesn't give us a lot of wiggle room  
13 there, right? It says if there's still an unsatisfactory  
14 rating on the 46th day, they can no longer operate. So  
15 the size of the company is irrelevant there.

16                   But for the penalties, I will concede it  
17 is relevant.

18                   JUDGE HUGHES: I see. Absolutely. Very  
19 good. I wasn't trying to imply we'd let them keep going  
20 if they hadn't fixed anything. Good clarification.

21                   Okay. So I guess I'm going to ask the  
22 parties -- usually after a BAP, the rules say I have ten  
23 days to issue a decision. I'm going to assume the  
24 parties will be waiving that since there's still quite a  
25 few days left on the clock for the SMP.

1 ATTORNEY WEILAND: That's fine.

2 JUDGE HUGHES: Okay. Very good.

3 So I will be hearing back from the  
4 parties; is that right, Mr. Engel?

5 You intend to submit a safety management  
6 plan?

7 PAUL ENGEL: Yes, absolutely. I'm going  
8 to get that in within the 45 days.

9 JUDGE HUGHES: Okay. (Inaudible).  
10 Quicker is always better.

11 PAUL ENGEL: No, no. I know.

12 JUDGE HUGHES: The commission is very busy  
13 this month. Do the best that you can.

14 PAUL ENGEL: Yes.

15 JUDGE HUGHES: Okay. Well, then, I'll be  
16 looking in my inbox into the future, and we'll be getting  
17 an order out depending on how that proceeds.

18 Mr. Sharp?

19 JASON SHARP: Your Honor, I just would  
20 like to clarify. We are talking 45 days from October 17,  
21 correct?

22 JUDGE HUGHES: I think that's what we're  
23 going to go with.

24 JASON SHARP: Okay.

25 JUDGE HUGHES: I think there could be a

1 legal question we could explore, but it's perhaps not  
2 worth it.

3 JASON SHARP: Yeah, staff doesn't contest  
4 that. I think that it's -- you know, Mr. Engel has the  
5 report now with the violations. So I just wanted to  
6 verify that. Thank you.

7 JUDGE HUGHES: No, thank you for doing  
8 that.

9 Okay. I don't have anything else. In an  
10 abundance of caution, does anyone else have anything?

11 ATTORNEY WEILAND: One more clarification.  
12 By my count, that is December 1, just so everyone is  
13 aware. I might be off by --

14 JUDGE HUGHES: Oh, there's a -- so yeah,  
15 I'd shoot for the end of November, Mr. Engel.

16 ATTORNEY WEILAND: And the more  
17 communication with staff, the better. (Inaudible).

18 JUDGE HUGHES: Yeah. Go ahead, sorry.

19 PAUL ENGEL: I'm sorry. I didn't mean to  
20 interrupt.

21 I'll be sending this to Jason, correct?

22 JUDGE HUGHES: Yes.

23 PAUL ENGEL: Okay. I'm on it. I'll get  
24 it done as fast as I can.

25 JUDGE HUGHES: Okay. All right.

1                   PAUL ENGEL: We're getting ready to start.  
2 Like, it's going to be new employees, and -- or new  
3 volunteers or whatever. So it's like -- it's now I know  
4 exactly what I need to do, and I'll do it.

5                   JUDGE HUGHES: Okay. Well, thank you  
6 everyone for your time. This was productive. And I look  
7 forward to hearing from the parties soon. So thank you.  
8 We are off the record.

9                   ATTORNEY WEILAND: Thank you, your Honor.

10                   (Proceedings concluded at 4:29 p.m.)

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IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of November, 2024.

*Elizabeth Patterson Harvey*



Elizabeth Patterson Harvey, CCR 2731