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 BEFORE THE WASHINGTON STATE

 2 UTILITIES AND TRANSPORTATION COMMISSION

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 4 )

 In the Matter of the Penalty )

 5 Assessment Against: )

 )

 6 ) Docket No. TV-143199

 GUS & JACK MOVING COMPANY, LLC, )

 7 )

 )

 8 In the Amount of $1,900. )

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 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I

11

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 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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16 Taken at 1300 South Evergreen Drive Southwest

17 Olympia, Washington

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24 DATE TAKEN: November 6, 2014

25 REPORTED BY: Ryan Ziegler, RPR, CCR 3348

0002

 1 A P P E A R A N C E S

 2

 ADMINISTRATIVE LAW JUDGE:

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25

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0004

 1 OLYMPIA, WASHINGTON; NOVEMBER 6, 2014

 2 9:31 a.m.

 3

 4 JUDGE PEARSON: Good morning. This is Docket

 5 TV-143199, captioned in the Matter of the Penalty

 6 Assessment against Gus & Jack Moving Company, LLC, in the

 7 amount of $1,900.

 8 My name is Rayne Pearson. I'm the

 9 administrative law judge presiding over today's brief

10 adjudicative proceeding that the Commission gave notice of

11 in response to the company's request for a hearing on the

12 penalty assessment.

13 Today is Thursday, November 6, 2014, and the

14 time is approximately 9:30 a.m., so let's start by taking

15 appearances, beginning with Commission Staff.

16 MR. BEATTIE: My name is Julian Beattie, and

17 I am here today on behalf of the Attorney General's Office

18 representing Commission Staff.

19 JUDGE PEARSON: Thank you, Mr. Beattie.

20 And for the company, can you please state

21 your full name, spelling your last name, and your address?

22 MR. MANSOUR: My name is Gus Mansour. Legal

23 name is Ghassan Mansour.

24 JUDGE PEARSON: Is your microphone turned on?

25 Is the red light on?

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 1 MR. MANSOUR: Can you hear me?

 2 JUDGE PEARSON: Yes. That's great.

 3 MR. MANSOUR: Can you hear me now?

 4 JUDGE PEARSON: Mm-hmm.

 5 MR. MANSOUR: My name is Gus Mansour. My

 6 legal name is Ghassan Mansour, and my address is 1216 182nd

 7 Street Southwest, Lynnwood, Washington, 98037, and I am --

 8 I'm the owner of Gus & Jack Moving Company. Small -- very

 9 small mom-and-pop company.

10 JUDGE PEARSON: Can I also get your phone

11 number and e-mail?

12 MR. MANSOUR: (206)919-4678. My e-mail is

13 Gus Mansour, M-A-N-S-O-U-R, at aol.com, so

14 G-U-S-M-A-N-S-O-U-R@aol.com.

15 JUDGE PEARSON: Thank you.

16 And Mr. Mansour, you requested a hearing

17 today to contest the violations in the Commission's penalty

18 assessment, and you'll have an opportunity to present your

19 testimony a little bit later, but before we get started, I

20 want to talk about the exhibits that you submitted in

21 advance of the hearing today.

22 Those included proof that you have, since the

23 penalty assessment issued, completed the required vehicle

24 inspection reports, obtained the required medical

25 certificate. It also looked like you included some

0006

 1 receipts and some screenshots from AutoZone and some bank

 2 records to show that you spent money on vehicle parts --

 3 MR. MANSOUR: Yes.

 4 JUDGE PEARSON: -- and proof of your

 5 insurance, and I looked at all of your exhibits.

 6 I'm not going to admit them into evidence,

 7 but I want to explain to you why that is. The basis of the

 8 violations that we're talking about today is that, during

 9 the inspection, you did not produce the required forms that

10 must be filled out for driver logs, vehicle inspections,

11 and medical certification; is that correct?

12 MR. MANSOUR: That's correct, because I --

13 JUDGE PEARSON: The forms did not exist,

14 correct? You're not alleging that they were just

15 overlooked?

16 MR. MANSOUR: No. I mean, the -- the forms

17 for the timing, they're all on the invoices, but I did not

18 have them on --

19 JUDGE PEARSON: You didn't have the actual

20 forms filled out?

21 MR. MANSOUR: -- the sheet. I really did not

22 even know it existed, to be honest with you. And I --

23 that's my fault, because I -- English is second language to

24 me, and it's -- this is overwhelming for me, all these

25 forms, so I didn't know that these has to be filled and be

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 1 on file.

 2 JUDGE PEARSON: I understand that.

 3 So Staff is not alleging that you didn't

 4 actually maintain your vehicles or have your doctor's

 5 appointment. The issue is that you didn't have the actual

 6 forms that you needed to have, and that's the basis for the

 7 violations, so what you submitted to me can't actually

 8 disprove the violations. If you didn't have the forms, you

 9 just didn't have the forms.

10 MR. MANSOUR: Yes.

11 JUDGE PEARSON: However, what they do is they

12 go to mitigation, and so they're something that I can take

13 into consideration when determining the amount of the

14 penalty to be assessed.

15 MR. MANSOUR: That's correct. But then --

16 JUDGE PEARSON: So that's the way that I'll

17 consider them today, and I'll let that information come in

18 through your testimony, rather than admitting each of these

19 exhibits. Okay?

20 MR. MANSOUR: So you -- okay. I'll say it

21 later. Okay.

22 JUDGE PEARSON: Yes. Yeah, when we get to

23 that point. That's what we'll do.

24 So what I would like to do is take the

25 violation categories one at a time. So, example, we can

0008

 1 first address WAC 480-15-560, which adopts 49 CFR Part

 2 396.11(a), for failing to require -- or failing to require

 3 a driver to prepare a vehicle inspection report, then go to

 4 the next violation for the vehicle inspection.

 5 So you'll have the opportunity to speak first

 6 for each violation, and then when you're done making your

 7 presentation, Staff will have the opportunity to

 8 cross-examine you or ask you questions. Staff will then

 9 present its case with respect to that violation. You will

10 also have an opportunity to ask questions of Staff, and

11 then we'll move on to the next violation.

12 Does that make sense?

13 MR. MANSOUR: Yes, but is there a list of the

14 violation that I can look at here?

15 JUDGE PEARSON: Do you have a copy of the

16 penalty assessment?

17 MR. MANSOUR: I don't -- I don't know.

18 JUDGE PEARSON: Mr. Beattie, do you have an

19 extra copy?

20 I can give you my copy. That's fine. I

21 don't need it.

22 MR. MANSOUR: Thank you.

23 JUDGE PEARSON: Does that work for you,

24 Mr. Beattie?

25 MR. BEATTIE: I can give --

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 1 MR. MANSOUR: Thank you.

 2 MR. BEATTIE: That's fine.

 3 MR. MANSOUR: Are you talking about this one?

 4 MR. BEATTIE: No, sir.

 5 MR. PRATT: It's --

 6 JUDGE PEARSON: No. It's right here.

 7 MR. PRATT: I have it. I can give him my

 8 copy.

 9 JUDGE PEARSON: Okay.

10 MR. MANSOUR: Thank you. Appreciate it.

11 Appreciate it.

12 JUDGE PEARSON: And Mr. Beattie, does that

13 work for you to take it up in that way?

14 MR. BEATTIE: Yes, Your Honor.

15 JUDGE PEARSON: So Mr. Mansour, if you would

16 stand and raise your right hand, I'll swear you in before

17 you give testimony.

18 MR. MANSOUR: Sure.

19 JUDGE PEARSON: Can you raise your right

20 hand?

21 GUS MANSOUR,

22 Party in the above-entitled matter,

23 after having been duly sworn,

24 testifies and says as follows:

25 JUDGE PEARSON: I do -- or I mean thank you.

0010

 1 So let's turn to the first category of

 2 violations, which is WAC 480-15-560, which adopts 49 CFR

 3 Part 396.11(a), for failing to require a driver to prepare

 4 a vehicle inspection report.

 5 And if you want to speak to that, whenever

 6 you're ready.

 7 MR. MANSOUR: I -- I have a mechanic who have

 8 the keys of my trucks, and he always check them, and that

 9 happened from the day I bought the truck until three months

10 ago when he left, you know, to Tacoma. He moved to Tacoma.

11 Since then, I've been taking it to Precision

12 Auto. I have all the receipts that, you know, that

13 anything came up on the truck, that they fixed. So I had

14 no idea that I had to have a form every year that

15 everything is being checked.

16 The moment that Mr. Dickson brought it to my

17 attention, immediately took them there and we paid money,

18 and they checked them, and if there's anything that needed

19 to be repaired, we ordered them to repair it right away.

20 So I have complied immediately after it came

21 to my attention that I have to have one per year. And

22 having just, three years ago, I mean, when we opened the

23 company, a gentleman came from here, and he had never told

24 me that I had to have, per year, one.

25 Now, of course, if it's written in the book,

0011

 1 I neglected to see it. I didn't see it, but the bottom

 2 line, I foll- -- every time I -- somebody talked to me

 3 about anything, I followed it immediately. The first like

 4 few months, somebody came from here, and he was very nice

 5 and told me, you know, what to do, and I did everything he

 6 told me.

 7 But nobody have ever told me that I have to

 8 have, per year, like a form to be filled. I thought I had

 9 a mechanic who goes all the time -- I have in -- on my

10 texts all the way back to June. That's as far as the texts

11 go, June 2013, my communication with the mechanic, and I

12 can give it to you. You can look at it. So I had a

13 mechanic all the time looking at my truck all the time.

14 JUDGE PEARSON: Thank you.

15 Mr. Beattie, do you have questions?

16 MR. BEATTIE: Yes.

17 BY MR. BEATTIE:

18 Q. Mr. Mansour --

19 A. Yes, sir.

20 Q. -- you have how many drivers?

21 A. I'm the only driver right now, and I have a new

22 driver just came, and I have the DOT for him.

23 Q. In July 2014, how many drivers did you have?

24 A. July 2014, I was the only one driving at the time.

25 Q. At the end of each day, you didn't fill out a

0012

 1 driver vehicle inspection report, correct?

 2 A. No. I didn't know I -- I needed to.

 3 Q. Thank you. No other questions.

 4 A. I -- I mean, what -- I mean, why would I wanting

 5 to do that? I mean, if it's being checked all the time. I

 6 did -- I did not know that I needed to fill every day.

 7 Q. Yes, sir.

 8 MR. BEATTIE: I -- I have no further

 9 questions.

10 MR. MANSOUR: I'm sorry. I -- I didn't --

11 JUDGE PEARSON: Thank you.

12 MR. MANSOUR: I had no knowledge that I have

13 to fill one every day, and it's really un- -- in my

14 opinion, it's just -- it's not -- I mean, it's not do -- I

15 mean, it's not doable, because we don't drive every day. I

16 mean, we don't drive the truck every day.

17 We are a very small company. We move a couch

18 from a -- from a furniture store, you know, to a house, you

19 know, once every two, three, four days. Sometime we have

20 in -- when it's very busy, we have, you know, four or five

21 days' work, but right now, we have no jobs, so why -- I

22 don't fill it every day because I don't use it every day.

23 JUDGE PEARSON: But on the days that you do

24 drive, you understand that you need to fill out --

25 MR. MANSOUR: Yes.

0013

 1 JUDGE PEARSON: -- an inspection report?

 2 MR. MANSOUR: Now I do, but I didn't know

 3 before.

 4 JUDGE PEARSON: Mr. Beattie, do you want to

 5 call a witness, speak to this violation?

 6 MR. MANSOUR: And the previous person who

 7 came three and a half years ago never told me that I needed

 8 to fill every day one. I mean, yes, I did take a class,

 9 but that class was humongous and huge, and I -- I don't

10 remember ever hearing that I needed to fill one every day.

11 Had I known, and I would have.

12 JUDGE PEARSON: I understand that, and you

13 did initial a form when you were at that training

14 acknowledging that you understood each portion of the

15 training. If you didn't understand, you shouldn't have

16 initialed. You should have asked for clarification.

17 MR. MANSOUR: I really --

18 JUDGE PEARSON: So that's part of how we

19 conduct those trainings.

20 MR. MANSOUR: I know.

21 JUDGE PEARSON: So it's going to be

22 Mr. Beattie's turn to present a witness now.

23 MR. MANSOUR: Yes.

24 MR. BEATTIE: Thank you, Your Honor. And

25 just to protect the record, I'd like to go through these

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 1 violations in a little more detail.

 2 JUDGE PEARSON: Sure.

 3 MR. BEATTIE: And so I'd like to first call

 4 Alan Dickson.

 5 JUDGE PEARSON: If you could stand and please

 6 raise your right hand.

 7 ALAN DICKSON,

 8 Witness in the above-entitled matter,

 9 after having been duly sworn,

10 testifies and says as follows:

11 JUDGE PEARSON: Thank you.

12 BY MR. BEATTIE:

13 Q. Thank you, Mr. Dickson. And can you state and

14 spell your name for the record, please?

15 A. Alan Dickson, A-L-A-N, D-I-C-K-S-O-N.

16 Q. And how are you employed?

17 A. I'm a transportation specialist with the motor

18 carrier safety division of the Utilities and Transportation

19 Commission.

20 Q. And as a transportation specialist, what are your

21 primary responsibilities?

22 A. As part of our normal safety checks, we inspect

23 vehicles and records of motor carriers, including household

24 goods companies.

25 Q. And what credentials do you have that would make

0015

 1 you qualified to perform those inspections?

 2 A. I'm certified by the Federal Motor Carrier Safety

 3 Administration to conduct vehicle safety inspections and

 4 inspect the records and documents of motor carriers.

 5 Q. How long have you been performing that type of

 6 work for the Commission?

 7 A. We started our program in the 1990s, as far as the

 8 compliance review, safety reviews, and have been certified

 9 since 1995.

10 Q. Thank you.

11 And in your official capacity, did you have

12 occasion to review the safety practices of a company called

13 Gus & Jack Moving Company?

14 A. Yes, I did. Gus & Jack is a provisional or

15 temporary household goods carrier, and as part of the

16 requirements, the company is required to have a safety

17 review and achieve a satisfactory safety rating before they

18 are converted to a full-time, permanent household goods

19 carrier.

20 Q. Did you perform a safety review?

21 A. Yes, I did. In -- in July of 2014, I initially

22 contacted Mr. Mansour by phone and sent him an e-mail

23 information packet detailing the information and documents

24 we'd be looking for to conduct the safety review, and that

25 safety review was started on July 30 of 2014.

0016

 1 Q. Mr. Dickson, I'm handing you what's been marked as

 2 Exhibit AD1. Do you recognize this document?

 3 A. Yes, I do. That's a photocopy of the e-mail

 4 attachment that I sent to Mr. Mansour, the details and the

 5 records and documents I'm required to look at and examine

 6 in order to conduct the safety review.

 7 Q. Thank you.

 8 MR. BEATTIE: And, Your Honor, at this time,

 9 I'd like to offer Exhibit AD1 into evidence.

10 JUDGE PEARSON: Mr. Mansour, do you have any

11 objection?

12 MR. MANSOUR: For -- no.

13 JUDGE PEARSON: Thank you. I will admit

14 Exhibit AD1 into evidence.

15 MR. BEATTIE: And if you could recap -- thank

16 you, Your Honor.

17 BY MR. BEATTIE:

18 Q. If you could recap, Mr. Dickson: When did you

19 provide this packet to Mr. Mansour?

20 A. I sent it out right after a phone call to him on

21 July 1st. I believe it was sent out on July 2nd or on the

22 1st, and in that packet, it has my business card, phone

23 number, cell phone, and e-mail address, and if he had any

24 questions, at the end of the form, there's a statement that

25 he could call for additional information if he didn't

0017

 1 understand what we'd be looking at.

 2 Q. Thank you.

 3 So is it your opinion -- what is your opinion

 4 about whether this was a surprise visit?

 5 A. Well, by rule, we're required to give 48 hours'

 6 notice before we inspect a vehicle or conduct an

 7 investigation on site. In this case, he was advised on

 8 July 1st. We contacted him at his business address that

 9 he's given you earlier in Lynnwood on July 30th, so he had

10 ample time to prepare his business records in order so that

11 we could go through them in a timely and orderly fashion.

12 Q. I'd like to ask you to provide a few more details

13 about the safety review that you conducted on July 30.

14 Where did you conduct this review?

15 A. This was conducted at Mr. Mansour's Lynnwood

16 office. He has a facility in the real estate company where

17 he had his records for the moving company in files and --

18 and drawers in that area.

19 Q. And after you completed your safety review, did

20 you perform any follow-up investigation?

21 A. No. The on-site inspection was conducted on

22 July 30th. Any follow-up was done via phone call or

23 e-mail, in which case Gus would have provided some

24 additional forms that he didn't have at the time of the

25 original contact.

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 1 Q. Did you phone Mr. Mansour after the safety review

 2 was completed?

 3 A. Yes. After it was reviewed by a supervisor

 4 personnel in Olympia and okayed for final, I did call him

 5 and advise him that the review was complete and he was to

 6 send in a -- what's known as a compliance letter, from him

 7 as the owner of the company, detailing the corrections that

 8 he would make to come into compliance with the rules and

 9 regulations.

10 Q. Did Mr. Mansour provide the 15-day letter as

11 requested?

12 A. To my knowledge, I didn't receive any letter

13 within the time frame, and in reviewing the records, it was

14 not received at our Olympia office in the 15 days or

15 beyond.

16 Q. At the conclusion of your investigation, did you

17 record any violations of Commission rules or state laws?

18 A. Yes. In the review, what's known as a compliance

19 review, software promulgated by the Federal Motor Carrier

20 Safety Administration, violations are recorded on Part B of

21 the review, and there are three critical violations that

22 were recorded that were in violation of the rules and regs.

23 Q. And I am now handing you what's been premarked as

24 Exhibit AD2, and do you recognize this document?

25 A. Yes. This is the compliance review, the complete

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 1 review of the operations generated from the software in the

 2 laptop computer. It's the Federal Motor Carrier Safety

 3 Administration report of the operations, details their

 4 basic business information, and in Part B of the report,

 5 the violations are enumerated.

 6 Q. Does Part B of this document accurately state the

 7 results of your investigation?

 8 A. Yes, it does. We go through that thoroughly,

 9 making sure that all the violation accounts are proper and

10 documented.

11 Q. And did you author this document?

12 A. Yes, I did.

13 MR. BEATTIE: Your Honor, I offer Exhibit AD2

14 into evidence.

15 JUDGE PEARSON: And, Mr. Mansour, do you have

16 any objection?

17 MR. MANSOUR: Can I ask him a question first?

18 JUDGE PEARSON: Not yet. I just want to know

19 if you have an objection to this being offered into

20 evidence. This is the copy of the safety inspection report

21 that you received following the inspection.

22 MR. MANSOUR: Well, I have an objection,

23 because some of that statement was not correct, so I

24 don't -- I don't --

25 JUDGE PEARSON: You'll have a chance to --

0020

 1 MR. MANSOUR: Okay.

 2 JUDGE PEARSON: -- address that momentarily.

 3 MR. MANSOUR: Okay.

 4 JUDGE PEARSON: I'm asking if you object to

 5 the authenticity of the document itself.

 6 MR. MANSOUR: I need to see the document to

 7 see --

 8 JUDGE PEARSON: You've been provided with a

 9 copy of the document ahead of time. It's the same document

10 that you would have received from Mr. Dickson following the

11 safety inspection around the first week of August.

12 MR. MANSOUR: I don't recall these documents,

13 so I --

14 MR. PRATT: Maybe it's -- it's the second

15 document.

16 MR. MANSOUR: Right here?

17 MR. PRATT: Yeah.

18 MR. MANSOUR: This one?

19 JUDGE PEARSON: It's the one that has the

20 violations in it.

21 MR. MANSOUR: You mean the letter that says,

22 "state the violation"?

23 JUDGE PEARSON: Not the penalty assessment,

24 but the actual safety inspection report. Do you recognize

25 it?

0021

 1 MR. MANSOUR: No. I don't remember that.

 2 JUDGE PEARSON: Well, I'm going to go ahead

 3 and admit it into evidence.

 4 MR. MANSOUR: Okay. But I don't remember

 5 receiving this. This -- no, I did not receive this.

 6 JUDGE PEARSON: Mr. Dickson, was that

 7 provided to Mr. Mansour?

 8 THE WITNESS: Yes. It was sent via e-mail

 9 attachment by myself and also an associate sent it as well.

10 On the form, you might remember, Gus, there's a highlighted

11 portion --

12 MR. MANSOUR: Do you have of copy of that

13 e-mail?

14 THE WITNESS: -- where it has -- not with me

15 right here, but I can produce it.

16 MR. MANSOUR: I don't remember get --

17 receiving a copy.

18 THE WITNESS: Do you have the e-mail?

19 MR. BEATTIE: I'm not -- I'm not aware.

20 JUDGE PEARSON: I'm going to go ahead and

21 admit that into evidence and we'll move on, and you'll have

22 an opportunity to ask questions in just a moment. Okay?

23 MR. MANSOUR: Okay.

24 MR. BEATTIE: Thank you, Your Honor.

25

0022

 1 BY MR. BEATTIE:

 2 Q. Mr. Dickson, I'd like to ask you now to provide

 3 some details about the specific violations you recorded.

 4 Are you prepared to provide those details this morning?

 5 A. Yes.

 6 Q. And per your -- per Your Honor's sort of

 7 procedural schedule this morning, I'd like to first focus

 8 on the violation involving failure to require drivers to

 9 complete what are known as DVIRs or driver vehicle

10 inspection reports.

11 So, Mr. Dickson, what is a driver vehicle

12 inspection report, or DVIR?

13 A. That's a requirement for the commercial motor

14 vehicle driver to complete an inspection at the end of the

15 day's operation each day a vehicle is operated on the

16 public highways.

17 There's 11 items that are required to be checked,

18 and the requirement is if there's a defect of any of these

19 items, the defects are required to be fixed by a mechanic

20 and certified as being repaired prior to the next day's

21 operation of that vehicle.

22 Q. What is the purpose of the DVIR?

23 A. Purpose is to make sure that vehicles operated on

24 the public highways are in safe operation for the traveling

25 public.

0023

 1 Q. What recordkeeping or filing requirements apply to

 2 DVIRs?

 3 A. These records are required to be kept for 90 days

 4 for each vehicle, and they're required to be completed each

 5 day the vehicle is operated, so in -- in a month's time,

 6 you may not drive 30 days, but each day the vehicle's

 7 operated, they're required to be completed, filled out, and

 8 filed, maintained.

 9 Q. How many violations did you record?

10 A. We sampled the month of July 2014, and in a 30-day

11 period, there were a total of 16 days when the combination

12 of the two trucks operated, that is, 16 days' operation

13 during the month at which time the carrier failed to

14 require the driver to prepare the daily vehicle inspection

15 report.

16 Q. Did Mr. Mansour provide you with any documentary

17 proof that he was completing DVIRs? He, or any of the

18 other drivers working for his company, completed a DVIR at

19 the end of each day?

20 A. No, he did not.

21 Q. Mr. Dickson, I'd like to turn your attention to

22 page 3 of Exhibit AD2. Now, what are we looking at here?

23 A. Page 3 starts off, Part B of the report is known

24 as the violation page. In this page, they detail

25 violations that were noted during the review, and at the

0024

 1 end of Part B, it does generate a rating, safety rating,

 2 for the company.

 3 Q. I see that you've written a word under -- in the

 4 top left box of each category under the word "state." What

 5 is that word?

 6 A. That word is critical, and that refers to the

 7 violation detailed in that section. These are generated by

 8 the software in the laptop computer as promulgated by the

 9 Federal Motor Carrier Safety Administration.

10 Critical being the serious violation. There is

11 one that's worse than that or more serious. It's called an

12 acute violation. In this case, Mr. Mansour's company had

13 three violations that were critical.

14 Q. Thank you.

15 MR. BEATTIE: I have no further questions at

16 this time on this category.

17 JUDGE PEARSON: Thank you.

18 Mr. Mansour, did you have questions?

19 MR. MANSOUR: Yes, I do.

20 BY MR. MANSOUR:

21 Q. First of all, Mr. Dickson, when you came to my

22 office, you -- and we went and checked the trucks, you told

23 me I have 30 days to comply. I took them the next day and

24 everything was done and -- and fixed.

25 There were a light -- the only thing was not

0025

 1 fixed -- because we only use -- most of the time using one

 2 truck -- was the horn, and I have e-mailed you and I have

 3 called you multiple times --

 4 JUDGE PEARSON: Mr. Mansour, I'm going to

 5 interrupt you there, because what we're talking about right

 6 now is the daily inspection logs the drivers would fill

 7 out. That's not something that could be retrospectively

 8 remedied. You either had done --

 9 MR. MANSOUR: Okay. But --

10 JUDGE PEARSON: -- that at the time or not.

11 We're not talking about the vehicle inspections

12 themselves --

13 MR. MANSOUR: Okay.

14 JUDGE PEARSON: -- right now. We're talking

15 about the driver logs, so if you have questions about that,

16 you either had your drivers prepare those logs or you

17 didn't, and that's what Mr. Dickson was testifying to.

18 MR. MANSOUR: You mean the drive -- I don't

19 understand the question.

20 JUDGE PEARSON: The daily driver logs --

21 MR. MANSOUR: Yes.

22 JUDGE PEARSON: -- that he was just talking

23 about --

24 MR. MANSOUR: Yes.

25 JUDGE PEARSON: -- the vehicle inspection

0026

 1 reports, it has 11 items that the driver checks off each

 2 day at the end of the day when the vehicle was in

 3 operation --

 4 MR. MANSOUR: No, that was not done. But

 5 what -- he's saying something "critical." What is critical

 6 here? What is he's -- what --

 7 JUDGE PEARSON: He's talking about the

 8 category of the violation, and that rating of critical is

 9 from the Federal Motor Carrier Safety Administration.

10 MR. MANSOUR: Critical what? What is the

11 critical here? Because I'm not --

12 JUDGE PEARSON: He just --

13 MR. MANSOUR: -- filling it --

14 JUDGE PEARSON: He just explained to you why

15 it was a critical violation.

16 MR. MANSOUR: Critical violation, not filling

17 the form; is that what he's saying?

18 JUDGE PEARSON: Correct.

19 MR. MANSOUR: Okay. That's fine.

20 JUDGE PEARSON: Do you have any other

21 questions having to do with the daily vehicle inspection

22 reports? Because that's what we're talking about right

23 now.

24 MR. MANSOUR: No.

25 JUDGE PEARSON: Thank you.

0027

 1 You ready to move on to the next set of

 2 violations?

 3 MR. BEATTIE: Yes, Your Honor.

 4 JUDGE PEARSON: So, Mr. Mansour, let's talk

 5 about the second set of violations, which is WAC

 6 480-15-560, which adopts 49 CFR Part 396.17(a), for using a

 7 commercial vehicle not properly inspected, so if you want

 8 to speak about the vehicle inspections themselves, this

 9 would be the time to do that.

10 MR. MANSOUR: My truck, both of them, were

11 inspected at least once every two weeks. Any time that we

12 have thought of oil change or brake, our mechanic was

13 called or texted.

14 And I can show you my phone, and you can see

15 the texts all the way back to June '13 was done. Yes, we

16 did not fill out form for it, but our truck was inspected

17 all the time. We can't drive them if they're not properly

18 moving.

19 And as I said, we are very small company. We

20 don't -- we're not like a freight-trucking company. We

21 don't use them every day, you know what I mean? This is

22 like a second job for me just to survive and pay my bills

23 and child support, whatever.

24 The bottom line was my trucks was inspected

25 all the time. My mechanic, until now, the one who moved,

0028

 1 he have my keys. We call him; he go check them. Need

 2 something, need to be fixed; fixed, until he moved. We

 3 then are taking them right now to Andy's Auto and Precision

 4 Auto.

 5 They have been inspected all the time. Yes,

 6 there is no form was filled. I really didn't even know

 7 that I need to fill a form, you know, every time I fixed my

 8 truck or every month or every year.

 9 The moment Mr. Dickson -- everything he told

10 me to do, I immediately have done, and I have e-mailed him,

11 and I have responded to everything he told me immediately,

12 and he knows that. I called him and asked him questions.

13 I e-mailed him some -- something. 17 days, he said, "I

14 don't have it." Then was he found it.

15 So everything he ask me to do, I have done.

16 Yes, I am -- I have neglected to fill the forms because I

17 didn't even know I had to fill them.

18 JUDGE PEARSON: Thank you.

19 MR. MANSOUR: I mean, and the neglect here is

20 not from one side. I mean, after three and a half years,

21 nobody showed up, and then come, and they say, "All these

22 forms need to be filled."

23 Yes, that is an oversight for me. It's very

24 hard for me to read all the stuff and comply with it

25 because I'm very, very small company. I don't have enough

0029

 1 time in the day just to keep reading them and filling them.

 2 Yes, I've neglected that, but the trucks were

 3 always inspected. Every other week, every week, every time

 4 we needed something to be done, it was done. And mechanic,

 5 you can call. I have texts all the way back to June, and I

 6 believe -- I mean, I -- I don't want to be rude here or

 7 disrespectful to any -- anybody, but I -- I believe that

 8 this -- this gentleman here, when he comes to my office,

 9 said, "Everything's fine, Mr. Mansour. You need to do this

10 and that."

11 In front of him, I went right away,

12 immediately. He told me to buy a couple of extinguisher --

13 although I forgot the word "extinguisher" -- under the

14 seat. Immediately, in front of him, I went and bought

15 them.

16 The next day, I took my trucks to be

17 inspected completely, and I called him. I told him,

18 "Everything's done but the horn, so I'm going to wait til

19 the horn is fixed, sign the paper, send it to you," and I

20 did send it to him.

21 And then they're saying they haven't received

22 anything. This is just -- it is a disingenuous situation

23 here. Yes, I have not filled the form, but everything was

24 done.

25 JUDGE PEARSON: Thank you.

0030

 1 Mr. Beattie?

 2 MR. BEATTIE: Thank you, Your Honor. I don't

 3 have any questions of Mr. Mansour.

 4 JUDGE PEARSON: Would you like to proceed

 5 with Staff testimony?

 6 MR. BEATTIE: Please.

 7 BY MR. BEATTIE:

 8 Q. Mr. Dickson, as defined under the relevant law,

 9 what is a periodic inspection?

10 A. There's a requirement to have each commercial

11 motor vehicle inspected annually, also known as

12 periodically, by a certified mechanic, and that mechanic

13 would complete a thorough inspection and detail all the

14 components that were inspected under Part G of the

15 regulation book, which is all the components of a motor

16 vehicle.

17 Q. What is the purpose of the periodic inspection

18 requirement?

19 A. The purpose is to make sure that vehicles

20 operating on the public highways are safe for the traveling

21 public and are all maintained in an orderly fashion.

22 Q. Why did you record two violations in this case?

23 A. Mr. Mansour operates two moving trucks. Both of

24 them are commercial motor vehicles and are required to have

25 annual or periodic inspections, and at the time of the

0031

 1 inspection, Mr. Mansour did not have these inspection

 2 documents at his place of business.

 3 Q. Under the federal safety standards, what class of

 4 violation is failure to complete the periodic inspection?

 5 A. That is deemed a critical violation from the

 6 laptop computer's software program as promulgated by the

 7 Federal Motor Carrier Safety Administration.

 8 Q. And, Mr. Dickson, engage you in a little bit of a

 9 hypothetical. If I own a regulated moving company and --

10 am I in compliance with the applicable standard if I take

11 my truck to the neighborhood mechanic and the mechanic

12 tells me everything looks okay?

13 A. No. No, you would not be. The requirement is to

14 have a certified inspector annually inspect the vehicle and

15 document that.

16 MR. BEATTIE: Thank you, Mr. Dickson.

17 And I have no further questions in this

18 category.

19 JUDGE PEARSON: Thank you.

20 Mr. Mansour, did you have questions for

21 Mr. Dickson related to this topic only?

22 MR. MANSOUR: The -- when -- when Mr. Dickson

23 brought it to my attention, we immediately took to it

24 mechanic and certified both trucks, and I have sent them --

25 send -- send it to you guys immediately.

0032

 1 But as I said, I had -- I mean, if -- if my

 2 mechanic is looking at it every other week, it didn't

 3 really occur to my mind that I have to have a -- have him

 4 write something, a yearly thing, and send it. Nobody -- I

 5 really did not know that.

 6 But the moment I knew that, immediately took

 7 them. We paid $100 for each truck, and anything that came

 8 up, I said, "Immediately, please, anything that need to be

 9 repaired, repair it." And it was done, and I sent it, so I

10 mean, I don't know what else I could have done.

11 JUDGE PEARSON: Thank you.

12 So now we can proceed to the final set of

13 violations, which is WAC 480-15-570, which adopts 49 CFR

14 Part 391.45(a), for using a driver not medically certified.

15 Mr. Mansour, if you want to speak to that,

16 when you're ready.

17 MR. MANSOUR: I took a -- I took -- I take --

18 once a year, I go to my doctor and he check me out. I was

19 fine. I did not know that there's a DOT something. When I

20 came to the class, it came to my attention. I went to

21 three clinics in -- in Ed- -- in Edmonds and Lynnwood.

22 None of them, they will do DOT.

23 When Mr. Dickson came and he highlighted

24 couple of names, in front of him, I got on the computer

25 immediately, find out who does it, called them, made an

0033

 1 appointment. I went and did the DOT and send it, and the

 2 DOT was really nothing comparing to the check that I do

 3 once a year with my doctor.

 4 It's not -- I mean, they just -- I walked in

 5 there, they had me look at the -- at the -- just read some

 6 letters, and he checked my -- my -- my blood pressure, and

 7 I left. This is a DOT test? I mean, I -- I have a

 8 physical every day with my -- every year with my doctor.

 9 So I'm here be- -- I'm here before you. I'm

10 fine. I mean, I did not know that -- I mean, that this is

11 so critical to have a piece of paper from -- from the

12 doctor. My doctor don't provide it. Dr. Findlay don't

13 provide it.

14 But when he brought my attention, couple of

15 times, I called them. They said, "We don't do it anymore,"

16 but they referred me to somebody who does it, and I did it

17 right away. I mean the DOT physical. Yes, this is -- I --

18 I'm guilty at that, that I did not have a DOT physical, but

19 I have a physical once a year.

20 JUDGE PEARSON: Thank you.

21 Mr. Beattie, do you have any questions?

22 MR. BEATTIE: No questions, Your Honor.

23 JUDGE PEARSON: You can proceed with

24 testimony.

25

0034

 1 BY MR. BEATTIE:

 2 Q. Mr. Dickson, what is a medical examiner's

 3 certificate?

 4 A. That's a standard physical exam known as the DOT,

 5 Department of Transportation, medical examination that's

 6 set on a set form that evaluates a driver of a commercial

 7 motor vehicle showing that he's fit and able to drive a

 8 vehicle on the public highways.

 9 The examination is required to be conducted by a

10 certified medical practitioner, doctor, and at this point,

11 the doctors need to be on the national register, that is,

12 they're certified by the national registry under the FMCSA

13 showing that they are authorized to conduct these physical

14 examinations.

15 Q. And what recordkeeping or filing requirements

16 apply to the medical examiner's certificate?

17 A. The driver that obtains a medical exam would give

18 that form to his employer. The employer would keep it in

19 his qualification -- driver qualification packet at the

20 office.

21 The individual driver would maintain that physical

22 examination card signed and dated by the doctor. They're

23 good for generally a two-year period, and he would have to

24 keep that examination card with him while he's driving a

25 commercial motor vehicle.

0035

 1 Q. Why did you record 17 violations in this docket?

 2 A. The month that was sampled was July of 2014, and

 3 during that month, Mr. Mansour drove 17 days operating a

 4 commercial motor vehicle on the public highways. Each of

 5 those days, he did not have a medical exam certificate, the

 6 DOT physical card.

 7 Q. Thank you.

 8 What classification of violation is this?

 9 A. This is deemed a critical violation as promulgated

10 by the Federal Motor Carrier Safety Administration and

11 generated in the software program of this safety review.

12 Q. All right. Mr. Dickson, please explain why going

13 to a neighborhood clinic would not -- would not be

14 sufficient to comply with the rule.

15 A. A neighborhood clinic could operate as a

16 DOT-certified physician, but they have to be on the

17 national registry and conduct the examination in accordance

18 with the standard physical examination requirements, the

19 instructions given to the doctor as promulgated by the

20 FMCSA.

21 MR. BEATTIE: Thank you.

22 And I have no further questions.

23 JUDGE PEARSON: Thank you.

24 Mr. Mansour, do you have any questions for

25 Mr. Dickson?

0036

 1 MR. MANSOUR: Yeah.

 2 BY MR. MANSOUR:

 3 Q. Are you -- are you saying that the DOT one I sent

 4 you was not adequate?

 5 MR. BEATTIE: Your Honor, I object to that

 6 question. It's outside the scope.

 7 JUDGE PEARSON: It is outside the scope.

 8 We're --

 9 MR. MANSOUR: Okay.

10 JUDGE PEARSON: -- talking about the

11 violations that occurred in July of 2014, when --

12 MR. MANSOUR: I understand, but --

13 JUDGE PEARSON: -- you did not have a

14 certificate.

15 MR. MANSOUR: -- but I have -- okay.

16 BY MR. MANSOUR:

17 Q. Mr. Dickson, did I call you on the phone and told

18 you I have sent you the DOT, and you said you didn't have

19 it, and then you found it?

20 A. Subsequent to the review, you did call and you did

21 e-mail a copy of your physical exam.

22 Q. But it's for the second time. The first time, you

23 didn't get it, and I told you, "I've sent it."

24 And you said to me, "I did not have it." Then I

25 sent it again, and then you -- then you said you found it

0037

 1 with the other gentleman who came with you. I don't know

 2 his name.

 3 A. Yes. That's true.

 4 Q. Did that conversation take -- take place?

 5 A. You -- you actually e-mailed that to Olympia. One

 6 of our personnel in Olympia had forwarded it back to me,

 7 and that's when I said I didn't receive it.

 8 MR. MANSOUR: I have done everything in -- in

 9 my power to comply. Okay. If it took 17 days for him to

10 take it, to -- to receive it, I've sent it -- I've sent it

11 where he told me to send it. Then he -- they forward it to

12 him. Then I send it again to him.

13 But what I want to know is -- I really want

14 to know, because I want to make sure I don't make

15 mistake -- is -- is this DOT I sent to him adequate? I

16 mean, how would I know?

17 JUDGE PEARSON: You can certainly contact

18 Staff and ask for that technical assistance after the

19 hearing's over. Okay?

20 MR. MANSOUR: I have sent it immediately.

21 The next day he came, I went and took it. It look him 17

22 days to get it.

23 JUDGE PEARSON: But you do understand that

24 the violations that are in the penalty assessment come from

25 the fact that you drove on 17 occasions in the month of

0038

 1 July without having the required certificate?

 2 MR. MANSOUR: I don't have --

 3 JUDGE PEARSON: So we appreciate --

 4 MR. MANSOUR: I still don't have --

 5 JUDGE PEARSON: -- that you've come into

 6 compliance --

 7 MR. MANSOUR: The -- the doctor did not give

 8 me a card. Until now, I don't have a card. I have what he

 9 sent to me that I put on file.

10 JUDGE PEARSON: Well, you're going to need to

11 get a card. That's --

12 MR. MANSOUR: Okay.

13 JUDGE PEARSON: -- part of being in

14 compliance, and you can speak with Staff after the hearing

15 if you need more information about how to come into

16 compliance. Okay?

17 MR. MANSOUR: I just think it's not fair,

18 really. I have complied with anything he told me. It's

19 just not fair.

20 I mean, he's right now sitting here making it

21 look that I have not done what he asked me to do. While he

22 was in my office, said, "Everything's fine, Mr. Mansour.

23 You know, just, you know, do this and it'll -- it'll be all

24 right," and now I get all these -- after, you know --

25 that's -- that's deception, in my opinion.

0039

 1 Yes, I am guilty of not having the forms

 2 filled. There's no doubt about that, so I'm -- I'm not

 3 putting blame to anyone, but for somebody to come and tell

 4 me, "Do this and everything will be fine," and I do it, and

 5 then I'm hit with all kind of violations.

 6 I'm a very small company, very small person,

 7 you know, and if -- if it's true I'm in violation, then

 8 what about your -- your -- your responsibility? For three

 9 and a half years, nobody showed up.

10 JUDGE PEARSON: But it's your responsibility

11 to follow the law, whether we're there to inspect your

12 vehicles and your records or not.

13 MR. MANSOUR: Yeah.

14 JUDGE PEARSON: That's the bottom line.

15 MR. MANSOUR: The negligence here happening

16 from both sides, not from me alone. Because I need -- I

17 need to be helped. I mean, I think one of the job is to

18 help me, guide me to be successful, and guide me to follow

19 the rules. It's very hard for me, this -- I mean, half of

20 the stuff I'm reading, I don't understand.

21 JUDGE PEARSON: If you don't --

22 MR. MANSOUR: It's very hard for me.

23 JUDGE PEARSON: -- understand, that's when

24 you need to pick up the phone and contact Staff and get

25 technical assistance. That's what we're here for, and our

0040

 1 agency provides a lot of that.

 2 Mr. Beattie, do you have additional testimony

 3 from Mr. Pratt that you wanted to present?

 4 MR. BEATTIE: Yes, Your Honor. I would like

 5 to call Mr. Pratt.

 6 JUDGE PEARSON: If you could stand and raise

 7 your right hand.

 8 DAVID PRATT,

 9 Witness in the above-entitled matter,

10 after having been duly sworn,

11 testifies and says as follows:

12 JUDGE PEARSON: Thank you.

13 BY MR. BEATTIE:

14 Q. Would you please state and spell your name for the

15 record.

16 A. Sure. My name is David Pratt, P-R-A-T-T.

17 Q. How are you employed, Mr. Pratt?

18 A. I'm the assistant director for transportation

19 safety for the agency, which means I oversee the motor

20 carrier safety program and the rail safety program.

21 Q. And what are your primary responsibilities?

22 A. My primary responsibilities is as the manager over

23 these units. I have supervisors under me that actually

24 supervise the Staff. Mr. Dickson is an employee in the

25 motor carrier program who reports to John Foster who

0041

 1 reports to me, up that line there, so I kind of oversee the

 2 workload and the assignments and the management duties.

 3 Q. Are you familiar with the investigation of Gus &

 4 Jack Moving Company performed by compliance investigator

 5 Alan Dickson?

 6 A. Yes, I am.

 7 Q. To what extent were you involved in that

 8 investigation?

 9 A. I'm the final review on these reports when they

10 get turned in. They come through Mr. Dickson's supervisor,

11 and then once they're approved by them, they come to me for

12 final approval, so I review them to make sure that

13 they're -- they were done properly, that they're accurate,

14 and they reflect the findings.

15 Q. Does the Utilities and Tran- -- Transportation

16 Commission have an enforcement policy with regard to

17 penalty assessments?

18 A. Yes, we do.

19 Q. Could you please explain, without going into too

20 much detail, the -- the basics of that policy?

21 A. Okay. We have an enforcement policy that guides

22 us to help us make decisions in compliance cases, and it

23 lays out specific criteria or rules that we need to follow

24 for different types of violations.

25 It -- it helps us determine, if a penalty reaches

0042

 1 a critical level, what the outcome should be on our

 2 perspective. It helps us determine the level of penalty

 3 that we might assess based on the specific type of

 4 violations.

 5 Q. In this case, the Commission penalized Gus & Jack

 6 Moving Company $100 for failing to prepare driver vehicle

 7 inspection reports, or DVIRs, on 16 occasions in July 2014.

 8 Would you please state your opinion as to whether an $100

 9 penalty is appropriate under the circumstances?

10 A. Under our enforcement policy, yes. Our typical

11 approach is that critical -- critical violations are

12 generally subject to $100 per violation. There were 16

13 violations here, which could have been $1,600, but we

14 looked at this and we felt this was a first-time violation,

15 that there had been no violations before, so for that kind

16 of issue on this specific violation here, we simply issue a

17 $100 penalty for the type of violation, rather than each

18 individual time --

19 MR. MANSOUR: Thank you.

20 A. -- so that's how we came up with that.

21 BY MR. BEATTIE:

22 Q. Thank you.

23 Same question about the second category of

24 violation, which was incurred for failing to have company

25 vehicles periodically inspected by a qualified mechanic.

0043

 1 The Commission penalized Gus Mansour $100 for this

 2 violation. Do you feel this penalty is appropriate?

 3 A. Yes. Again, that was based on the same criteria

 4 we had with the first set of violations. There were only

 5 two on this, but again, because it was a first-time

 6 violation, I just assessed one penalty of $100 for both

 7 violations instead of $100 each, and again, that's as

 8 driven by our policy.

 9 Q. Finally, with regard to the medical examiner's

10 certificate, the Commission penalized the company one --

11 $1,700 for 17 violations. Please state your opinion as to

12 whether a $1,700 penalty is appropriate under the

13 circumstances.

14 A. Okay. Not having a medical card is one of the

15 more critical violations that we have. National data shows

16 that drivers cause accidents, not vehicles, and so it's

17 critical that drivers have been medically examined to make

18 sure that they're qualified and safe to be on the road.

19 And so for us, that's a mandatory penalty for

20 every time a driver drives without a medical card. In this

21 case, he drove 17 times during the month of it, so it's 17

22 violations, so I recommended $100 per violation, again per

23 our policy, because we believe that is such a critical

24 violation. It is always -- from my recommendation, is

25 always $100 per violation.

0044

 1 Q. Mr. Pratt, I'm handing you what has been marked

 2 for identification as Exhibit DP1. Do you recognize this

 3 document?

 4 A. Yes. And for Mr. Mansour, I believe it is the

 5 next one in your packet. This is a letter -- or it's a

 6 memorandum to me from Bruce Grimm dated May 1, 2012, and

 7 this is a report of an assignment that Mr. Grimm had with

 8 Mr. Mansour at his business on April 26, 2012.

 9 Q. Thank you.

10 Is that your name in the -- in the "to" line of

11 the memo?

12 A. Yes. This was his report to me. At this time,

13 back in 2012, we had a different structure, and the motor

14 carrier inspectors reported directly to me instead of up

15 through a supervisor.

16 So Bruce Grimm is a retired motor carrier

17 inspector. He retired last year. He went out and gave

18 some technical assistance to Mr. Mansour, and this was his

19 report to me kind of summarizing what he did to document

20 it, which goes in the file.

21 Q. Thank you.

22 MR. BEATTIE: And at this time, I would offer

23 Exhibit DP1 into evidence.

24 JUDGE PEARSON: Mr. Mansour, do you have any

25 objection to this document being offered into evidence?

0045

 1 MR. MANSOUR: Can I look at it please?

 2 THE WITNESS: It's the one right on the top.

 3 JUDGE PEARSON: You have a copy of it.

 4 MR. MANSOUR: This one?

 5 JUDGE PEARSON: Yes.

 6 MR. MANSOUR: This one?

 7 THE WITNESS: Yes.

 8 JUDGE PEARSON: I'll give you a moment to

 9 look it over.

10 MR. MANSOUR: I have no objection.

11 JUDGE PEARSON: Thank you. I will admit

12 Exhibit DP1 into evidence.

13 BY MR. BEATTIE:

14 Q. Mr. Pratt, what is technical assistance?

15 A. Okay. For many of our carriers like Mr. Mansour,

16 small businesses, we know that it's difficult, sometimes,

17 to understand all the rules and to follow them. So

18 we give -- we provide what's called technical assistance

19 just to help them understand the rules.

20 One of the tools we use -- excuse me -- is the

21 safety guide, which I see Mr. Mansour has one in front of

22 him. We provide that to them, which in -- in my terms, I'd

23 say that's a -- that's a copy of the rules in layman's

24 terms, written in simple English, so you don't have to

25 follow the technical rules.

0046

 1 Q. Well, I'm going to stop -- stop you there. Since

 2 you mentioned the safety guide, I'd like to hand you what

 3 has been marked as Exhibit DP3 --

 4 A. Okay.

 5 Q. -- for identification, and can you please tell me

 6 if you recognize this document?

 7 A. Yes. This is our -- this is our safety guide,

 8 which we hand out to all motor carriers when they start

 9 their business up and when we go out and give them

10 technical assistance.

11 MR. BEATTIE: Okay. And then -- and at this

12 time, I'd like to offer Exhibit DP3 into evidence.

13 JUDGE PEARSON: And rather than burden the

14 records center with this document, I'm going to take

15 administrative notice of it, since it is a

16 Commission-produced document and I'm very familiar with it.

17 MR. BEATTIE: Thank you, Your Honor.

18 THE WITNESS: So I guess I would summarize by

19 saying this memo from Mr. Grimm to me reported his

20 findings, and he basically just let me know that he -- he

21 met with Mr. Mansour on April 26, 2012, went over the book

22 with him, explained the rules, asked -- gave Mr. Mansour a

23 chance to ask questions, and tried to make sure he

24 understood the basic rules he needed to follow as he was

25 starting up his business.

0047

 1 BY MR. BEATTIE:

 2 Q. And for the record, could you tell us what date is

 3 on that safety guide?

 4 A. This particular guide is dated March 2010.

 5 Q. Would this have been the guide that Mr. Mansour

 6 received that is referenced in the memo?

 7 A. Yes.

 8 Q. Thank you.

 9 And finally, I'd like to hand you what's been

10 marked for identification as Exhibit DP2. Please state

11 whether you recognize this document.

12 A. Yes. This is a copy of a registration sign-in

13 sheet for our household goods training class that we offer

14 here at the Commission, I believe right here in this room.

15 Q. Who is listed as the attendee?

16 A. Well, it starts off, the name of the company is

17 Gus & Jack Moving Company, and the attendee was Gus Mansour

18 and Ryan Mansour.

19 MR. MANSOUR: My son.

20 THE WITNESS: That's two attendees.

21 BY MR. BEATTIE:

22 Q. What -- what date is given under "date of

23 training"?

24 A. August 14, 2013.

25 Q. What information does this -- this document tell

0048

 1 us about the level of technical assistance that Mr. Mansour

 2 received?

 3 A. Well, during this training class, safety staff

 4 actually go through the safety guide kind of step-by-step

 5 and go over all the different rules that companies must

 6 follow.

 7 This is a documentation that shows that the

 8 company attended the class. They're required to initial it

 9 down through the guide to show that they did receive this

10 training on here and that they did learn what was being

11 taught.

12 As I see this, Mr. Mansour did initial all the

13 sections that we've been talking about here today as far as

14 medical cards, periodic inspections, and DVIRs, and so it

15 was our -- our hope for this training class that carriers

16 come in and they learn the rules, they can ask questions,

17 they can talk about real scenarios, and that they walk away

18 having a good understanding of what they need to do to

19 comply.

20 Q. Final question for you, Mr. Pratt. What is your

21 recommendation with regard to the $1,900 penalty that is

22 currently being assessed against Gus & Jack Moving Company?

23 A. Well, my recommendation was, the total, there were

24 35 critical violations between the three: the medical card,

25 the periodic inspections, and the DVIR.

0049

 1 Again, the medical cards, we always recommend $100

 2 per violation. The other ones, we kind of pre-mitigate

 3 those by just saying it's $100 per violation. So I had a

 4 potential of $3,500 of violations I could have assessed on

 5 this case, and I chose to go $1,900 to back off on the --

 6 the other two that weren't quite as critical as the medical

 7 card, so my recommendation was $1,900.

 8 Q. Thank you.

 9 MR. BEATTIE: And before I let you go, I

10 neglected to ask Your Honor to admit Exhibit DP2 into

11 evidence.

12 JUDGE PEARSON: Mr. Mansour, do you have any

13 objection?

14 MR. MANSOUR: No.

15 JUDGE PEARSON: We will admit Exhibit DP2

16 into evidence.

17 MR. BEATTIE: Thank you, Your Honor, and I

18 have no further questions of Mr. Pratt.

19 JUDGE PEARSON: Thank you.

20 Mr. Mansour, do you have any questions for

21 Mr. Pratt?

22 MR. MANSOUR: No. Thank you very much.

23 JUDGE PEARSON: Would you like to make a

24 closing statement?

25 MR. MANSOUR: Yes.

0050

 1 JUDGE PEARSON: Go ahead, when you're ready.

 2 MR. MANSOUR: Again, my name is Gus Mansour.

 3 I came to this beautiful country in 1984. I have worked

 4 hard every single day. I have never tasted alcohol. I

 5 have never used drugs. I've never seen drugs. There's no

 6 reason for me to go get a drug test, because I have no --

 7 never used them.

 8 Okay. I work very hard day and night to

 9 survive, especially after 2008, 2010. Yes, I -- I can't

10 truly fight against this. The only guilty things I have is

11 not filling forms. I have followed everything correctly.

12 My trucks was inspected all the time.

13 I don't do drugs. I don't drink alcohol.

14 I've never tasted alcohol in my life. None of that. I've

15 never had an accident, thank God. Knock on wood. I've

16 done everything legitimately, and I have been doing

17 business in this state since 1984 with not one violation of

18 any kind.

19 The only violation I have is not

20 understanding some of these forms and not filling them.

21 Yes, I'm guilty with that. But I believe this is unfair,

22 and $1,900 right now will put me out of business. I

23 don't -- I don't -- I'm not a big company. I don't do a

24 lot of moves. I do little moves just to survive and feed

25 my kid.

0051

 1 The bottom line is if I am negligent, so is

 2 your department. If you want to penalize me 17 times for

 3 the DOT, no. Penalize me for the last 1000 day or 1500 day

 4 I had, you know, the company. I -- I didn't have a DOT.

 5 Okay?

 6 So, I mean, I believe negligent here

 7 happening -- happened on both sides, in my opinion. Yes,

 8 I -- I took the class. Yes, I signed the paper, but when

 9 it says to me to go get a drug test and all that stuff for

10 the driver, I don't do drugs. I've never done drugs. I

11 don't need to do a drug test.

12 Yes, I am always safety. I believe you guys

13 doing a great job trying to keep us safe on the road, but

14 it's very -- obviously, after 40 years with not one

15 accident, not one incident, it's very obvious I'm -- I'm --

16 I'm doing the thing right.

17 So, yes, I'm guilty of not filling the form,

18 so I urge you to either waive this, you know, fine or

19 reduce it tremendously. Otherwise, it'll be the last day I

20 do moving, really. I have to just quit and do something

21 else, so I urge you.

22 Mr. Dickson knows that I'm a sincere and a

23 good person. I followed everything he told me. Everything

24 he told me, I followed immediately. The next day I was --

25 everything was done. I just had to have an appointment to

0052

 1 get the DOT, and I went to the only person who will do DOT

 2 in -- in -- in Lynnwood. Okay. So I did everything.

 3 Yes, I didn't have it for 17 days. I mean,

 4 come on. Really? I mean, 17 -- 17 violation for not

 5 having the card? I had to wait for the appointment to go

 6 get the -- you know, it's either do it the entire time or

 7 do it one time, not 17 times. Okay?

 8 Yes, I did not fill the forms. This is very

 9 obvious. All these receipts, what -- well, I don't know.

10 I'm not a mechanic. This mechanic did this. What about

11 the stuff for him to save money? Because if he goes to buy

12 and charged me extra, so all these receipts, very obvious

13 I've been keeping my trucks.

14 When he inspected the trucks, the horn was

15 not working. We immediately went there. It took them like

16 28 days to find the right connection to it. I did

17 everything. We never had an accident. That's a proof that

18 I'm doing things right.

19 So I urge you to reduce this fine. I mean,

20 just -- it's just -- it's devastating for me. I won't be

21 able to, you know, pay my child support and other things,

22 so it's -- it's just -- I -- I believe that if I'm

23 negligent, so is the department. In my opinion. That's

24 it.

25 JUDGE PEARSON: Thank you.

0053

 1 Mr. Beattie, do you have a closing statement?

 2 MR. BEATTIE: Yes, Your Honor.

 3 The evidence shows that Gus & Jack Moving

 4 Company committed critical violations that fundamentally

 5 undermined its safety record and, today, with respect to

 6 Mr. Mansour, the company has provided no new information

 7 that would justify mitigation of the $1,900 penalty that is

 8 currently being assessed. Under all the circumstances, the

 9 penalty is fair.

10 Just to recap some -- some of what we've

11 learned today, the company failed to prepare driver vehicle

12 inspection reports after the end of each day. The company

13 has never provided any information on this allegation that

14 would go to mitigation.

15 With regard to periodic inspections,

16 Mr. Mansour alleges that he keeps his truck in good working

17 order. Well, the law requires systematic inspection, and I

18 use the word "systematic" because that comes directly from

19 the code of federal regulations that has been incorporated

20 by reference into this state.

21 The law requires systematic inspection,

22 repair, and maintenance, not ad hoc, after-the-fact

23 maintenance when something breaks. The idea is that you

24 get a good program in place so that you can prevent

25 violations, not just respond -- or prevent breakdowns, not

0054

 1 just respond to -- when things go wrong.

 2 Finally, with regard to the medical

 3 examiner's certificate, this is a critical, fundamental,

 4 serious violation. When there is an undocumented medical

 5 condition, that can put the traveling public at grave risk

 6 of harm.

 7 In this case, the compliance review that was

 8 conducted was not a surprise. It was not unannounced.

 9 Mr. Mansour had adequate notice. If he had questions, he

10 could have contacted Mr. Dickson. Mr. Dickson provided his

11 phone number and invited Mr. Mansour to call him with

12 questions.

13 And prior to the compliance review, the

14 company did receive a personal technical assistance visit

15 in 2012. Mr. Mansour also personally attended a

16 Commission-sponsored household goods carrier training. On

17 both occasions, it would have received a copy of the safety

18 guide, which states in plain language what is required of

19 these companies.

20 I want to note that confusion regarding

21 safety requirements is not a mitigating factor. The

22 company bears the responsibility to ensure familiarity in

23 compliance with applicable regulations.

24 With regard to the $1,700 penalty for medical

25 examiner's certificate, there is simply no leeway there.

0055

 1 It's $100 per day, period, and that has been a consistent

 2 Commission policy.

 3 Finally, Your Honor, I want to point out that

 4 the $1,900 penalty currently being assessed already

 5 represents a substantial reduction from the maximum penalty

 6 that could have been imposed under the law. As Mr. Pratt

 7 testified, that maximum penalty would have been $100 per

 8 each of the 35 violations recorded, for a total penalty of

 9 $3,500. So in a sense, mitigation has already occurred,

10 and for each of those reasons, Staff is requesting that you

11 uphold the full penalty assessment of $1,900.

12 Thank you.

13 JUDGE PEARSON: Thank you, Mr. Beattie.

14 Is there anything else that we need to

15 address while we're here today?

16 MR. MANSOUR: Yes. Some of the thing he said

17 is not accurate, and if you would like to look -- and this

18 is from June -- from June 12, 2013, all my communication

19 with the mechanic.

20 JUDGE PEARSON: That's fine.

21 MR. MANSOUR: I mean, I -- you know, just

22 saying that I have not followed the rules, I have followed

23 the rules, and some of this communication you're going to

24 see, "Can you check this truck?" There's nothing wrong

25 with the trucks. I'm telling him, "Please check them to

0056

 1 make sure."

 2 So I mean, I really -- I can't compete with

 3 what they're saying, but what they were -- 90 percent of

 4 what they're saying is untrue. The only thing is true is I

 5 did not fill the forms.

 6 JUDGE PEARSON: And that's really the only

 7 thing that we're here to discuss today. That's --

 8 MR. MANSOUR: I mean --

 9 JUDGE PEARSON: That's the heart of the

10 violations, is that --

11 MR. MANSOUR: But is this really fair --

12 JUDGE PEARSON: -- the forms weren't there.

13 MR. MANSOUR: -- for me to lose my company or

14 lose my -- my work, you know, and my living just because I

15 did not fill forms where I have the evidence that I have

16 done, checked the trucks, did everything?

17 You can check me right now. I'm -- I'm

18 willing to go take any drug test or alcohol test. Never --

19 never touched them. The only thing I'm guilty is not

20 filling the forms, but to -- okay. Did not fill the forms

21 17 times? 17 times for one violation, you know what I

22 mean? It's -- they're taking it per day. That's not fair.

23 If you're telling me, okay, you violate me

24 $100 on a vi- -- on one, it's okay, but $1,700 for not

25 presenting while I didn't have DOT for -- for three years,

0057

 1 you know, that -- that card that they're talking about.

 2 I do a physical once a year, and I am fit,

 3 okay? And the DOT was a joke. That -- that test was a

 4 joke. You -- I walked in there, gave him $100, he had me

 5 look at some numbers, checked my blood pressure, and send

 6 me back. I mean, come on. This is not a DOT test. This

 7 is not -- this is -- this is not safety.

 8 I'm always safety. Okay? But I have

 9 operated for four years. I have no accident, knock on

10 wood. Now tomorrow, going to have an accident. I had no

11 accident, had no problems with anything. I think -- I

12 think this is unfair. It's unfair. It really is unfair

13 for me to be paying all this penalty.

14 Yes, it's fair for me to be penalized,

15 because I -- I have not filled the forms. Some of them, I

16 didn't know about it. The DOT's the only thing that I knew

17 about when I took the class -- you know what I mean? --

18 that I need to take it.

19 I really made an effort, I called every

20 clinic in -- in -- in Edmonds. None of them do it. There

21 were a clinic, they used to do, they said they don't do it

22 anymore. And then I -- after he came, gave me some

23 information, in front of him, I went on the Internet, and I

24 am illiterate on the Internet. I mean, I'm not very good

25 in computer.

0058

 1 And we found somebody, and we went and did

 2 it, so I urge you to just -- I mean, this $1,900 is

 3 devastating for me. I cannot afford that. I need your

 4 help with this, please.

 5 JUDGE PEARSON: Thank you.

 6 I will take everything that was heard today

 7 under advisement, and I will issue an order within ten

 8 days.

 9 MR. MANSOUR: Okay.

10 JUDGE PEARSON: Anything further?

11 MR. BEATTIE: No, Your Honor.

12 JUDGE PEARSON: Then we'll go off the record.

13 Thank you.

14 (Proceedings concluded at 10:32 a.m.)

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 1 C E R T I F I C A T E

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 3 STATE OF WASHINGTON

 4 COUNTY OF KING

 5

 6 I, Ryan Ziegler, a Certified Shorthand Reporter in

 7 and for the State of Washington, do hereby certify that the

 8 foregoing transcript of the brief adjudicative proceeding in

 9 the above-captioned matter on November 6, 2014, is true and

10 accurate to the best of my knowledge, skill, and ability.

11 IN WITNESS WHEREOF, I have hereunto set my hand

12 and seal this November 14, 2014.

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 RYAN ZIEGLER, RPR, CCR

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