

Docket No. TE-170951 - Vol. I

In the Matter of the Investigation of Puget
Express, LLC

October 18, 2017



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

206.287.9066

www.buellrealtime.com

Olympia | **360.534.9066** Spokane | **509.624.3261** National | **800.846.6989**

email: info@buellrealtime.com



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the)
Investigation of)
PUGET EXPRESS, LLC) Docket No. TE-170951
For Compliance with WAC)
480-30-221)

BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
Pages 1 - 53
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

9:30 a.m.

October 18, 2017

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504-7250

REPORTED BY: ANITA W. SELF, RPR, CCR #3032

Buell Realtime Reporting, LLC.
1325 Fourth Avenue
Suite 1840
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National

www.buellrealtime.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON
Washington Utilities and
Transportation Commission
1300 So. Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504
360.664.1136
rpearson@utc.wa.gov

FOR WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION:

JEFF ROBERSON
Attorney General of Washington
P.O. Box 40128
Olympia, Washington 98504-0128
360.664.1188
jroberso@utc.wa.gov

FOR RESPONDENT PUGET EXPRESS, LLC:

Isaiah Fikre

ALSO PRESENT:

Matthew Perkinson
Jason Sharp

* * * * *

HEARING
VOLUME I: INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES:	PAGE
JASON SHARP	
Direct Examination by Mr. Roberson.	13
ISAIAH FIKRE	
Direct Testimony by Mr. Fikre	29
Cross-Examination by Mr. Roberson	43

EXHIBITS FOR IDENTIFICATION	ADMITTED
JS-1 Safety Compliance Report	17

* * * * *

4

1 OLYMPIA, WASHINGTON; OCTOBER 18, 2017

2 9:30 A.M.

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

4
5 JUDGE PEARSON: Good morning. This is
6 Docket TE-170951, which is captioned In the Matter of
7 the Investigation of Puget Express, LLC, for
8 Compliance with Washington Administrative Code
9 480-30-221.

10 My name is Rayne Pearson. I'm the
11 administrative law judge presiding over today's brief
12 adjudicative proceeding, and today is Wednesday,
13 October 18, 2017, at just after 9:30 a.m.

14 So we're here today because on
15 September 13th, 2017, the Commission issued a Notice
16 of Intent to Cancel Certificate and Notice of Brief
17 Adjudicative Proceeding setting time for oral
18 statements.

19 The Commission issued the Notice of Intent
20 to Cancel following a compliance review of Puget
21 Express conducted by Commission staff in August 2017,
22 which resulted in a proposed unsatisfactory safety
23 rating for the company, so the company was required to
24 file a proposed safety management plan.

25 Have you had an opportunity to do that,

5

1 Mr. Fikre?

2 MR. FIKRE: Yes, I have plenty of
3 opportunity to do that. Some of them were a little
4 tougher to compile.

5 JUDGE PEARSON: Is your microphone on? Is
6 the red light on?

7 MR. FIKRE: No.

8 JUDGE PEARSON: If you could pull it
9 towards you --

10 MR. FIKRE: Okay.

11 JUDGE PEARSON: -- and press the button.
12 When the red light comes on, you can speak into the
13 microphone. Thank you.

14 MR. FIKRE: Yeah. So I start working on a
15 variety of things, obviously. One thing -- well, to
16 answer your question, yes. I can elaborate if you
17 want.

18 JUDGE PEARSON: No. We'll get to that. I
19 just wanted to know if you have completed the proposed
20 safety management plan and given it to Staff or --

21 MR. FIKRE: It's not complete, but it's in
22 the process of --

23 JUDGE PEARSON: Okay. When do you plan to
24 complete it? Because you do understand that we're
25 operating up against a clock right now, and if it's

6

1 not --

2 MR. FIKRE: From my understanding --

3 JUDGE PEARSON: Hold on a second. If it's
4 not completed and approved by Staff by next Friday,
5 October 27th, you will lose your certificate.

6 MR. FIKRE: That was my understanding too,
7 so I'm aware about that.

8 JUDGE PEARSON: Okay. So when do you plan
9 to have it complete?

10 MR. FIKRE: I intend to have it complete
11 prior to that, but this meeting right here will also
12 determine to which direction I'll be going as well,
13 so --

14 JUDGE PEARSON: What do you mean by that?

15 MR. FIKRE: Basically the main reason why
16 I came here is -- I don't have any objection to the
17 finding of the report. The only reason why I came
18 here is to let you know that I do agree with that.

19 However, the -- the penalties is very
20 heavy to the point where I may not just -- I may not
21 continue doing that business.

22 That is, I make a living by providing
23 tourism and transportation using the limousine
24 license, not UTC, something that I wanted to expand.
25 However, in looking at the penalty and -- you know, if

7

1 it's viable financially, if it's a viable move for me
2 to be able to just go ahead and just eliminate that,
3 then that's the direction that I will go.

4 So, you know, my -- you know, I didn't
5 come here with the intention to -- basically what I
6 had in mind was, you know, this meeting right here
7 will determine if -- if the fees goes down
8 significantly to the point where, you know, I'll
9 then -- to the point where it's a viable option for me
10 to move forward, then I'll go ahead and complete it
11 before -- before the deadline. If not, then -- then
12 that's the decision to be made after the meeting,
13 so --

14 JUDGE PEARSON: Okay. So just so you
15 know, most likely there won't be a decision made on
16 the penalty amount by the end of the day today,
17 particularly since you haven't prepared a safety
18 management plan, which is what Staff would need to see
19 in order to make a recommendation about a possibly --

20 MR. FIKRE: Right.

21 JUDGE PEARSON: -- reduced penalty. So
22 you're not going to get that answer here today.

23 You will have an opportunity to address
24 the violations and explain what you've done to correct
25 them, and what steps you're taking to prevent them

8

1 from happening again.

2 But other than that, like I said, we're on
3 a tight time frame here. And it sounds like the other
4 option you're considering is voluntarily cancelling
5 your permit?

6 MR. FIKRE: Right.

7 JUDGE PEARSON: Okay. So you may not
8 have --

9 MR. FIKRE: I also -- I also, for me it's
10 a winning situation one way or another, because it's a
11 learning experience, you know, for the -- you know,
12 for the Department as well, based on being able to
13 operate, you know, a limousine license, which is
14 different.

15 But I need to -- I need to let you guys
16 know why these violations are likely to happen with
17 anybody and everybody out there, and -- maybe not
18 everybody, but the majority of the people.

19 And I think rather than random -- I
20 communicate that with the investigators too -- I would
21 like -- I learned so much in this -- you know, in this
22 particular encounter that I had with the
23 investigating, you know, crew, these violations are
24 less likely to happen. Any kind of violations are
25 less likely to happen where there's an inspection

9

1 every year, mandatory inspection. Like in the Town
2 Car business, City of Seattle does that.

3 So I care so much about the profession,
4 and I don't necessarily have to satisfy the -- you
5 know, my compassion in the profession that I'm
6 committed to through UTC, I can always do it with --
7 you know, mostly I do it with the limousine license as
8 well.

9 But at the same time, I don't feel pretty
10 good -- I don't feel comfortable doing business with
11 these kind of violations, because I'm putting these --
12 you know, putting the public at risk, basically.

13 So if there's something that I cannot do,
14 but at least, you know, if there's a way maybe the
15 Commission can consider to give some sort of finding
16 where there will be a mandatory, you know, every year,
17 once a year, or every other year rather than random,
18 because I went a long period of time without being
19 inspected.

20 And these -- you know -- you know, these
21 violations could have been -- you know, I'm a rookie,
22 basically. When I came in, I really didn't have
23 anybody to talk to in terms of, you know -- or City of
24 Seattle inspection on the limousine is, hey, you know,
25 you set up an appointment every year.

10

1 JUDGE PEARSON: Okay. I'm just going to
2 stop you right there, because what you're talking
3 about is a little bit outside of the scope of what
4 we're addressing here today, and you will get an
5 opportunity to speak.

6 My point was, you most likely won't have
7 enough information at the conclusion of today's
8 hearing to make the decision that you're talking
9 about, so just please keep that in mind.

10 MR. FIKRE: Right. I didn't know that,
11 but that's fine, so --

12 JUDGE PEARSON: Okay.

13 MR. FIKRE: I was given a deadline --

14 JUDGE PEARSON: And also please don't
15 speak over me. We need to speak one at a time because
16 we have a court reporter who's taking down everything
17 that we're saying. So wait for your opportunity to
18 speak, please, or let me know if you have something
19 you want to say.

20 So you mentioned the penalty that was
21 assessed in Docket TE-170950 in the amount of \$8,300,
22 and you filed an application for mitigation of that
23 penalty on September 28th and requested that we assess
24 a reduced penalty.

25 And so we can consolidate the penalty

11

1 assessment with the proposed safety rating docket.
2 And I'm assuming that neither party has an objection
3 to consolidating these dockets?

4 MR. ROBERSON: Staff has no objection.

5 JUDGE PEARSON: Okay.

6 And you're okay with that?

7 MR. FIKRE: I'm okay with that, yeah.

8 JUDGE PEARSON: Okay. So then we will
9 consolidate Dockets TE-170951 and TE-170950, and we'll
10 hear from the parties on both dockets this morning.

11 So when I call on each party to testify, I
12 will swear you in with the oath of witness so that
13 anything you tell the Court will be under oath and
14 will be considered sworn testimony.

15 And for the court reporter's benefit, as I
16 mentioned, please speak slowly and clearly and use the
17 microphone on the table in front of you. And once
18 you're sworn in, you can present your testimony and
19 introduce any exhibits that you've pre-filed, which I
20 don't believe you have, Mr. Fikre.

21 So let's just start by taking an
22 appearance from Commission staff.

23 MR. ROBERSON: Good morning. My name is
24 Jeff Roberson, R-O-B-E-R-S-O-N. I'm an assistant
25 attorney general representing Staff. My address is

12

1 1400 South Evergreen Park Drive SW, P.O. Box 40128,
2 Olympia, Washington 98504. My email address is
3 jroberso@utc.wa.gov, and my phone number is
4 (360) 664-1188.

5 JUDGE PEARSON: Thank you.

6 And Mr. Fikre, if you could please state
7 your full name and spell your last name and your
8 address for the record.

9 MR. FIKRE: Isaiah Fikre, Isaiah spelled
10 I-S-A-I-A-H, last name F-I-K-R-E. And the address is
11 3800 South 176th Street, SeaTac, Washington 98188.

12 JUDGE PEARSON: Okay. And a phone number?

13 MR. FIKRE: (206) 949-9095.

14 JUDGE PEARSON: And an email address?

15 MR. FIKRE: You can use
16 info@pugetexpress.com.

17 JUDGE PEARSON: Okay.

18 So let's first have Staff today address
19 the proposed safety rating. And following Staff's
20 presentation, Mr. Fikre, you'll have an opportunity to
21 ask Staff's witness any questions, and then you can
22 present testimony and address the violations in the
23 penalty assessment.

24 And then once you're done testifying,
25 Staff's attorney may have some questions for you. And

1 then Staff will make a recommendation possibly on the
2 penalty, depending on what information comes out
3 today, but it's also possible that Staff won't be
4 prepared to make a recommendation until they see the
5 proposed safety management plan from you.

6 Do you have any questions before we get
7 started?

8 MR. FIKRE: No.

9 JUDGE PEARSON: All right. Then
10 Mr. Roberson, you can call your first witness.

11 MR. ROBERSON: Good morning. Staff would
12 call Jason Sharp.

13 JUDGE PEARSON: Mr. Sharp, if you could
14 stand and raise your right hand.

15
16 JASON SHARP, witness herein, having been
17 first duly sworn on oath,
18 was examined and testified
19 as follows:

20
21 JUDGE PEARSON: Okay. You may be seated.

22
23 DIRECT EXAMINATION

24 BY MR. ROBERSON:

25 Q. Good morning.

1 Can you please state your name and spell your
2 last name for the record?

3 **A. Jason Sharp, S-H-A-R-P.**

4 Q. And who employs you?

5 **A. The Utilities and Transportation Commission.**

6 Q. And what is your occupation?

7 **A. I'm a motor carrier safety investigator.**

8 Q. And how long have you worked for the

9 Commission in that capacity?

10 **A. Almost one year.**

11 Q. And can you describe any training that you've
12 had to enable you to carry out your duties?

13 **A. Yes. I've successfully completed training**
14 **through the Federal Motor Carrier Safety**
15 **Administration covering North American Standard**
16 **Level 1 Driver and Vehicle Inspection, Passenger**
17 **Vehicle Inspection, General Hazardous Material**
18 **Inspection, as well as an Investigative Safety**
19 **Analysis course.**

20 Q. And are you familiar with the statutes
21 governing charter party and excursion carriers?

22 **A. Yes.**

23 Q. And are you familiar with the Commission
24 regulations implementing those statutes?

25 **A. Yes.**

1 Q. Does Staff perform safety investigations on
2 carriers that the Commission regulates?

3 **A. Yes.**

4 Q. And why does Staff do that?

5 **A. To ensure the motor carriers are operating in
6 compliance with the safety regulations.**

7 Q. And how does Staff typically perform a safety
8 investigation?

9 **A. A typical safety investigation is set out over
10 several stages, beginning with a pre-investigation in
11 which we look into the history of the motor carriers
12 through Commission files and federal and state
13 databases.**

14 **We will make an initial contact with the motor
15 carrier and send them some information on which
16 records we will need to review, as well as a carrier
17 information packet. And we request that that's filled
18 out and returned to us to give us a current picture of
19 their operation.**

20 **We will have an initial interview with them in
21 which we will review the records that we've requested.
22 We'll inspect any vehicles that the carrier has that
23 are regulated by the Commission, and we will take that
24 information and complete an investigative report and
25 then schedule a closing interview with the motor**

1 **carrier going over our findings.**

2 Q. Now, when you perform the safety
3 investigation, you look at the carrier's operations in
4 a defined period of time, correct?

5 **A. Correct.**

6 Q. And what is that time period?

7 **A. The previous 365 days.**

8 Q. And so your investigation does not concern
9 violations committed outside that time period?

10 **A. Not in most circumstances.**

11 Q. So you mentioned that when you finish an
12 investigation, you write a report, correct?

13 **A. Correct.**

14 Q. And could you turn to the exhibit marked
15 JS-1? Can you identify that exhibit?

16 **A. Yes, this is my report.**

17 Q. Report for what?

18 **A. For the compliance investigation of Puget
19 Express, LLC.**

20 Q. And is that a true and accurate copy of the
21 report you wrote?

22 **A. It is.**

23 MR. ROBERSON: Your Honor, at this point
24 Staff would move to admit Exhibit JS-1.

25 JUDGE PEARSON: And Mr. Fikre, do you have

1 any objection?

2 MR. FIKRE: No.

3 JUDGE PEARSON: Then I will admit this in
4 into the record and mark it as JS-1.

5 (Exhibit No. JS-1 was marked and
6 admitted.)

7 BY MR. ROBERSON:

8 Q. Now, Mr. Sharp, are you familiar with a
9 company called Puget Express, LLC?

10 **A. I am.**

11 Q. And how are you familiar with that company?

12 **A. I was the investigator that did their recent
13 safety investigation.**

14 Q. And who from Puget Express did you speak with
15 in the course of that investigation?

16 **A. Mr. Fikre.**

17 Q. And I think you mentioned this, but when
18 Staff does an investigation of a company, do you look
19 at their compliance history with the Commission?

20 **A. We do.**

21 Q. And did you look into Puget Express's
22 compliance history before this investigation?

23 **A. Yes.**

24 Q. And what did you find?

25 **A. I learned that Puget Express had a previous**

1 **compliance investigation conducted in 2012, and that**
2 **serious violations were noted on that report.**

3 Q. Okay.

4 Turning to this specific investigation, when
5 you perform a safety investigation, do you look to see
6 if the company has an alcohol or controlled substance
7 testing program?

8 **A. Yes, if it's applicable.**

9 Q. And did you look for such a program when
10 investigating Puget Express?

11 **A. Yes, I did.**

12 Q. And did you find such a program?

13 **A. No.**

14 Q. And do state and federal regulations require
15 certain carriers to participate in a drug and alcohol
16 testing program?

17 **A. Yes. Any motor carrier that operates**
18 **commercial motor vehicles requiring their drivers to**
19 **have a commercial driver's license are, therefore,**
20 **required to have an alcohol and controlled substance**
21 **testing program.**

22 Q. And you mentioned before that Puget had been
23 found for having committed certain serious violations,
24 so do federal and state regulations set out that
25 certain violations are more serious than others?

1 **A. Yes. And those would be acute violations and**
2 **critical violations, which are -- those are the more**
3 **serious violations linked to higher accident rates.**

4 Q. And how serious is the failure to maintain a
5 drug testing program?

6 **A. It's an acute violation.**

7 Q. And had the Commission previously cited Puget
8 Express for failing to operate a drug and alcohol
9 testing program?

10 **A. It did on their 2012 investigation.**

11 Q. When you perform a safety investigation, do
12 you look at whether the carrier's drivers are properly
13 licensed?

14 **A. Yes.**

15 Q. And did you make this examination with
16 respect to Puget Express's drivers?

17 **A. Yes.**

18 Q. And did you find anything of note?

19 **A. I discovered that the carrier's main driver,**
20 **Michael Kidane, did not have a passenger endorsement**
21 **on his commercial driver's license, which made him**
22 **ineligible to operate the carrier's 30-passenger bus.**

23 Q. Did you find that that driver made at least
24 one trip during your inspection window?

25 **A. Yes.**

1 Q. Do state and federal regulations prohibit
2 drivers from operating commercial motor vehicles
3 without the proper endorsements?

4 **A. Yes.**

5 Q. And how serious is the violation for failing
6 to comply with that?

7 **A. That is an acute violation.**

8 Q. Now, when you look -- or when you perform the
9 safety investigation, do you look at the carrier's
10 insurance coverage?

11 **A. Yes, I do.**

12 Q. And did you look at Puget Express's coverage?

13 **A. Yes.**

14 Q. And what happened when you first asked Puget
15 Express for its insurance certificate?

16 **A. At the opening interview, Mr. Fikre provided**
17 **me a Certificate of Liability along with the carrier**
18 **information packet, both documents naming Zurich**
19 **American Insurance as the carrier's insurance**
20 **provider, with Marquette Cook & Associates as the**
21 **insurance agent representing them.**

22 Q. And did you notice anything odd about that
23 certificate?

24 **A. Yes. The liability certificate was missing a**
25 **certificate number, and the policy number that was**

1 **listed did not match the Form E on file with the**
2 **Commission.**

3 Q. And what were the effective dates of that
4 certificate?

5 **A. That certificate stated the effective date of**
6 **May 4, 2017, through May 4, 2018.**

7 Q. So did you investigate that certificate
8 further?

9 **A. I did. I discovered that there were -- there**
10 **was an expired insurance binder in Commission files**
11 **listing that policy number.**

12 Q. When did that binder expire?

13 **A. I believe that it expired on May 4, 2011.**

14 Q. Did you find anything else in your
15 investigation?

16 **A. My investigation of the company's insurance?**

17 Q. Yes.

18 **A. Yes. So I -- as part of our verification of**
19 **insurance, I contacted Zurich American Insurance to**
20 **verify that the carrier maintained coverage for the**
21 **preceding 365 days, that they weren't involved in any**
22 **accidents, and that they maintained the minimum level**
23 **of \$5 million, and was told that Puget Express did not**
24 **have a current policy through Zurich American**
25 **Insurance, and the policy number, which I referenced**

1 **to them that was on the Form E at the Commission, was**
2 **cancelled in July of 2011 due to nonpayment of the**
3 **premium.**

4 Q. Did you look into Marquette Cook &
5 Associates?

6 **A. I did.**

7 Q. And what did you discover?

8 **A. I contacted the office of the insurance**
9 **commissioner and was told that Marquette**
10 **Cook & Associates had their license revoked in 2012.**

11 Q. And did you look to see whether Puget Express
12 had listed that insurance policy which had been
13 cancelled on any other Commission documents?

14 **A. Yes. Marquette Cook & Associates was -- and**
15 **the Zurich American policy was listed on annual**
16 **reports for 2012, 2013 and 2014.**

17 Q. And you mentioned that the effective date of
18 the certificate provided to you was May 4th, 2017?

19 **A. Correct.**

20 Q. So by my math, that's five years after
21 Marquette Cook & Associates lost its license, correct?

22 **A. Correct.**

23 Q. Is it unusual to have an effective date after
24 an agency has its license revoked?

25 **A. Yes.**

1 Q. Okay.

2 Did you follow up with Puget Express about
3 any other possible insurance they might have?

4 **A. I did.**

5 Q. Okay.

6 **A. I contacted Mr. Fikre, in which he told me at
7 that point that Marquette Cook & Associates was a
8 company that had scammed him, and that he was trying
9 to report them, but apparently that anything and
10 everything about them is false, and that he didn't
11 know why he handed me a fake insurance certificate,
12 but that he must have handed it to me on accident.**

13 I then asked him who his current insurance was
14 through, and he stated that he had turned his business
15 over to Key Insurance years ago and that their office
16 would be sending me information.

17 I did receive a liability certificate from Key
18 Insurance stating that, effective April 6th, 2017,
19 that Puget Express was insured for \$5 million through
20 American Services Insurance. And so as I verified
21 that information with American Services Insurance,
22 they confirmed that the policy went into effect for
23 \$5 million on April 6th, 2017.

24 At that point, still looking within my scope
25 of 365 days, I attempted to verify an insurance

1 **coverage prior to April 6th, 2017, in which I received**
2 **a liability certificate, dated April 6, 2016, from Key**
3 **Insurance showing that Puget Express's 30-passenger**
4 **bus was insured at that point, but at a single-limit**
5 **level of \$1,050,000, which is below the minimum**
6 **requirement of \$5 million for a 30-passenger bus.**

7 Q. And did you look to see if Puget Express made
8 any trips without the \$5 million in coverage?

9 **A. Yes, I did.**

10 Q. Okay.

11 And so do state and federal regulations
12 forbid making intentionally false or fraudulent
13 entries on an application, certificate, report or
14 record?

15 **A. Yes.**

16 Q. And just to be clear, do state and federal
17 regulations require that basically charter carriers
18 carry \$5 million of insurance?

19 **A. Yes.**

20 Q. How serious are the violations for making
21 intentionally false or fraudulent entry and failing to
22 carry the proper insurance?

23 **A. Both violations are considered acute.**

24 Q. Moving on, when you perform a safety
25 investigation, do you look for driver qualification

1 files?

2 **A. Yes.**

3 Q. And did you look for them when you were
4 investigating Puget Express?

5 **A. I did.**

6 Q. And did you find them?

7 **A. No.**

8 Q. Do state and federal regulations require
9 those files?

10 **A. Yes, they do.**

11 Q. And how serious is the failure to maintain
12 such files?

13 **A. Not having a driver qualification file is a
14 critical violation.**

15 Q. And can you tell me how the Commission
16 previously cited Puget Express for the failure to
17 maintain driver qualification files?

18 **A. Yes. That same violation was noted on their
19 2012 investigation.**

20 Q. And when you perform the safety
21 investigation, do you look to see if drivers have
22 filled out a record of duty status?

23 **A. Yes, I do.**

24 Q. And did you look for those records when
25 investigating Puget Express?

1 **A. Yes.**

2 Q. And did you find them for every trip for
3 which you should have found them?

4 **A. No. Within my 30-day sample period of records**
5 **that I reviewed, I discovered 11 trips were made**
6 **without a record of duty status.**

7 Q. And do state and federal regulations require
8 record of duty status reports?

9 **A. Yes.**

10 Q. And how serious is the violation to maintain
11 those reports?

12 **A. Again, those are critical violations.**

13 Q. When you perform a safety investigation, do
14 you look for records of vehicle inspections and
15 maintenance?

16 **A. Yes.**

17 Q. And did you look for those records when
18 investigating Puget Express?

19 **A. Yes.**

20 Q. Did you find them?

21 **A. No.**

22 Q. Do state and federal regulations require
23 those records?

24 **A. Yes, they do.**

25 Q. And how serious is the violation for failing

1 to maintain those records?

2 **A. Those are critical violations.**

3 Q. And had the Commission previously cited Puget
4 Express for failing to maintain vehicle inspection and
5 maintenance logs?

6 **A. Yes, in their 2012 investigation.**

7 Q. No, when you closed with Puget Express, did
8 you speak with the company about the need to submit a
9 safety management plan to address the violations you
10 discovered?

11 **A. Yes, I did.**

12 Q. And did you follow up at any point with Puget
13 Express?

14 **A. Yes. Several days prior to the deadline to**
15 **turn in the safety management plan, I reached out to**
16 **Mr. Fikre and was checking on his status with that.**

17 Q. And to your knowledge, at this point has
18 Puget Express submitted a safety management plan?

19 **A. Not that I've seen.**

20 MR. ROBERSON: Staff has no further
21 questions.

22 JUDGE PEARSON: Okay.

23 Mr. Fikre, did you have any questions for
24 Mr. Sharp?

25 MR. FIKRE: No.

28

1 JUDGE PEARSON: Okay. I just have a
2 couple of questions just to clarify.

3 So the repeat violations, I just want to
4 make sure that I understand which were repeat.
5 Failing to implement the alcohol and controlled
6 substance testing program; yes?

7 THE WITNESS: Correct.

8 JUDGE PEARSON: What about permitting a
9 driver to operate a vehicle without a passenger
10 endorsement?

11 THE WITNESS: No, that was a first-time
12 violation.

13 JUDGE PEARSON: Okay.

14 And what about the insurance violation?

15 THE WITNESS: That was not a repeat
16 violation.

17 JUDGE PEARSON: Okay.

18 What about the record of duty status?

19 THE WITNESS: No, that was not a repeat.

20 JUDGE PEARSON: Okay. Got it.

21 THE WITNESS: Yeah. The --

22 JUDGE PEARSON: Thank you.

23 THE WITNESS: Just the driver
24 qualification files, the vehicle maintenance files,
25 and the alcohol and controlled substance.

DIRECT TESTIMONY OF MR. FIKRE 29

1 JUDGE PEARSON: Okay. Thank you. Okay.
2 So Mr. Fikre, at this point, if you would
3 stand and raise your right hand, I can swear you in.
4

5 ISAAH FIKRE, witness herein, having been
6 first duly sworn on oath,
7 was examined and testified
8 as follows:
9

10 DIRECT TESTIMONY OF MR. FIKRE

11

12 JUDGE PEARSON: You can go ahead and be
13 seated. And let's just walk through each of the
14 violations in the penalty assessment that were just
15 discussed and you can explain why the violation
16 occurred and then any steps that you've taken to
17 correct the violation and prevent it from happening
18 again. Okay?

19 So the first is 49 CFR, part 382.115(a),
20 failing to implement an alcohol and controlled
21 substances testing program, which was a repeat
22 violation from 2012.

23 MR. FIKRE: Most of these violations were
24 done for the simple fact that -- by the way, I do want
25 to -- if I can move forward with that question, I do

DIRECT TESTIMONY OF MR. FIKRE 30

1 want you to know that it's a one-man show, just one
2 vehicle, and possibly would add more or stuff like
3 that, but it's not like -- not that it doesn't excuse
4 any of the -- you know, these violations whatsoever.
5 But I just -- the picture that I want you -- I don't
6 want you to have a picture of this as a company that
7 have 60, 70, 100 busses just, you know, trying just
8 to -- so right off the bat, there was a lot of
9 preparation mentally and emotionally going forward to
10 this.

11 Like I have about, like, seven, eight
12 vehicles, you know, under limousine license,
13 combination of vans, Town Cars and SUVs, and I have
14 about, I think, seven or eight cars registered, you
15 know, under my company. That's what I mostly am
16 focused on.

17 So right off the bat, there was a lot of
18 attention, you know, directed towards Puget Express as
19 well. So a lot of these violations have been
20 neglected, you know.

21 JUDGE PEARSON: So just to clarify, you
22 have one 30-passenger bus that operates under your
23 charter and excursion certificate. Is that what we're
24 talking about?

25 MR. FIKRE: At the time, that's -- that

DIRECT TESTIMONY OF MR. FIKRE 31

1 was -- that -- you know, just when I first started the
2 business, you know, and pretty much I just limited it
3 to one or maybe two in the beginning type of thing.
4 But I'm planning to expand this more.

5 And based on what needs to be done, needs
6 to be given proper attention and -- but, yeah, so --
7 and so I -- just lack of commitment of good
8 bookkeeping and recordkeeping is what pretty much, you
9 know, triggered this, so --

10 JUDGE PEARSON: Okay.

11 And do you have a drug and alcohol testing
12 program in place now?

13 MR. FIKRE: I have contacted several
14 companies, and I chose to get involved with someone
15 who's local, so I pretty much -- yes, but I haven't
16 quite identified if I should go -- you know, this
17 person costs -- I thought I might, you know, go with
18 somewhere local just in case I need to go somewhere,
19 you know, to get tested or send a driver in the
20 future.

21 So like I say, it's fair to say yes.

22 JUDGE PEARSON: So you're enrolled in a
23 consortium?

24 MR. FIKRE: I haven't made that decision,
25 but I've done study to the point I've identified who

DIRECT TESTIMONY OF MR. FIKRE 32

1 to go with.

2 JUDGE PEARSON: But you understand that
3 you need to enroll and show proof of enrollment in
4 order to keep your certificate?

5 MR. FIKRE: Yep, right. And I actually
6 have things that I've prepared at home as far as --
7 you know, I operate from home basically, so, you know,
8 I have had serious meetings with people that are in
9 the profession or are familiar with the profession.

10 And well, I'm keeping, you know, documents
11 on drivers, such as medical, their medical, their
12 current and updated medical cards, and also their --
13 having files rather than -- you know, for potential
14 driver down the road and, you know, with a checklist
15 of what I need.

16 JUDGE PEARSON: Okay. We'll get to that
17 in second.

18 But just speaking to this particular
19 violation, again, you'll need to enroll in an alcohol
20 and drug testing program and provide proof to Staff
21 that you've done that really quickly, like in the next
22 couple days.

23 MR. FIKRE: My plan was to actually meet
24 the deadline and have a bunch of things emailed or
25 faxed to these guys so --

DIRECT TESTIMONY OF MR. FIKRE 33

1 JUDGE PEARSON: Okay.

2 MR. FIKRE: -- I'm aware about that, yeah.

3 JUDGE PEARSON: Okay. So the next
4 violation, allowing your driver to operate the
5 commercial motor vehicle without the passenger
6 endorsement on his CDL, has that been corrected?

7 MR. FIKRE: Yes, that have been corrected.
8 He's no longer with me, and I wasn't -- again, it was
9 an honest mistake. A CDL is a CDL is what I was
10 thinking, but obviously not.

11 JUDGE PEARSON: So you didn't know the
12 endorsement was required?

13 MR. FIKRE: No.

14 JUDGE PEARSON: And he's no longer with
15 the company?

16 MR. FIKRE: No.

17 JUDGE PEARSON: So who's driving that
18 vehicle?

19 MR. FIKRE: I've pretty much -- you know,
20 I have a couple guys in place, so -- and I've had -- I
21 have their information I can -- which I plan to go
22 ahead and submit that along with some of the things
23 that I've corrected as well.

24 JUDGE PEARSON: Okay. Because they have
25 commercial driver's licenses with the proper

DIRECT TESTIMONY OF MR. FIKRE 34

1 endorsements?

2 MR. FIKRE: They do. They currently do
3 work for hotels that require those, so yeah.

4 JUDGE PEARSON: So you'll be able to
5 provide that to Staff?

6 MR. FIKRE: Yeah. I have them on file,
7 yeah.

8 JUDGE PEARSON: So next, operating a
9 passenger carrier vehicle without having in effect the
10 minimal levels of financial responsibility. It sounds
11 like that's been corrected as of April of 2017, so
12 these are before -- past violations.

13 But can you explain how that happened, why
14 you didn't have the proper amount of insurance before
15 April of this year?

16 MR. FIKRE: So it is true that I have been
17 using -- I went back and looked at my records as well.
18 I have been using Marquette Cook company that went
19 belly-up for some reason. I've just been -- while,
20 you know, I wasn't -- I wasn't -- I pretty much wasn't
21 aware, you know, that they were actually -- you know,
22 went belly-up.

23 But then, again, at the same time, I --
24 you know, I found a cheaper insurance with Key
25 Insurance for I want to say about maybe four or

DIRECT TESTIMONY OF MR. FIKRE 35

1 five -- maybe three years, four years ago, so -- and
2 while I was paying insurance -- and they knew this was
3 for UTC, so I figured whatever I was paying every year
4 was the requirement, but not necessarily paying
5 attention to what -- you know, how much I was paying.

6 So the insurance usually -- my insurance
7 actually renewed in April every year, so I don't know
8 if it was April or May when we met, but we just
9 renewed. So I could see how it could look like
10 something -- that I just got insurance for the purpose
11 of the investigation.

12 But -- so -- and it came to my attention
13 when Mr. Sharp was going through the whole
14 investigation that he was given wrong information.
15 And when I looked at my -- when I contacted my
16 insurance, they have informed me that UTC, in fact,
17 required \$5 million, not \$1 million. But I was paying
18 \$1 million, so I told them that that needs to be
19 corrected, so --

20 JUDGE PEARSON: So you didn't know --

21 MR. FIKRE: I didn't know.

22 JUDGE PEARSON: -- until your insurance
23 company told you?

24 MR. FIKRE: Yeah. Mr. Sharp brought that
25 up to my attention that it wasn't -- yeah -- so

DIRECT TESTIMONY OF MR. FIKRE 36

1 anyway, yeah.

2 JUDGE PEARSON: Okay.

3 And then with respect to 49 CFR, part
4 390.35, that was making a fraudulent or intentionally
5 false statement or producing a false record, that has
6 to do with the certificate that was presented from
7 Marquette & Cook that had a date of May 2017 as the
8 effective date.

9 MR. FIKRE: That was something that I got
10 on -- I've been getting things like that pretty much
11 every year for a while, so -- and that was something
12 that I got.

13 And so, again, that wasn't supposed to
14 be -- that wasn't supposed to be given to him.
15 Rather, I should have given him whatever Key Insurance
16 sent me.

17 But it wasn't -- it's not in the card.
18 It's something I've been paying every month
19 automatically, and so it wasn't -- it wasn't -- that
20 doesn't make it -- it was pretty much a scam that I --
21 that I was in the process of actually paying them.
22 So -- and I don't look at that in detail, so -- but
23 apparently it was missing a lot of information as
24 well.

25 JUDGE PEARSON: So that certificates was

DIRECT TESTIMONY OF MR. FIKRE 37

1 something that was mailed to you; it's not something
2 that you altered?

3 MR. FIKRE: No.

4 JUDGE PEARSON: Okay.

5 MR. FIKRE: I don't have that capability
6 of -- I'm not that -- when it comes to doing it, I
7 barely struggle to try to get things scanned and
8 emailed or faxed, so --

9 JUDGE PEARSON: So you said that
10 Marquette & Cook continued to take automatic monthly
11 payments from you even though they're out of business?

12 MR. FIKRE: So I have made -- so they
13 wanted -- they pretty much offer me -- it was somehow,
14 somehow, somebody who keep calling on a blocked
15 number. But, you know, I kind of -- you know, I kind
16 of got suspicious, you know, and -- but then it didn't
17 make any sense for me to why -- you know, to why I
18 would actually all of a sudden be contacted by these
19 guys and pay -- you know, insurance usually go up,
20 they don't usually go down. If they do, not to that
21 level.

22 So -- and at that point, then I kind of
23 put that aside and -- but I accidentally with -- I
24 have turned that into the -- with -- to the
25 investigation crew with the rest of my documents.

DIRECT TESTIMONY OF MR. FIKRE 38

1 JUDGE PEARSON: Okay.

2 So the bottom line --

3 MR. FIKRE: Remember at the time, too, it
4 really didn't make any sense for me to give them that
5 while I'm paying insurance, if I'm paying -- whether
6 I'm paying partial insurance or full insurance,
7 though.

8 JUDGE PEARSON: And the bottom line is,
9 you had insurance through another carrier?

10 MR. FIKRE: Right, yeah.

11 JUDGE PEARSON: So you gave them the wrong
12 document?

13 MR. FIKRE: Yeah. But remember, at the
14 time, it then turned out to be the insurance I had was
15 not full. It was not -- it wouldn't satisfy fully,
16 but I had insurance at the time, basically.

17 JUDGE PEARSON: Okay.

18 So with respect to the driver
19 qualification files, why did that violation occur,
20 particularly when you received the same violation in
21 2012?

22 So you were put on notice in 2012 that you
23 needed to create and maintain driver qualification
24 files, but you still didn't do it. So why is that?

25 MR. FIKRE: At the time I was more so --

DIRECT TESTIMONY OF MR. FIKRE 39

1 in the beginning, it was just me, so I was, like,
2 well, it's just me, whatever, you know, I don't need
3 to screen myself, whatever.

4 But -- and then later on, I thought, well,
5 now I'm really -- I really need to stay focused on my
6 limousine license, and so bringing in another person
7 who's got a CDL might be a viable option and just --
8 again, not -- not doing a good job in bookkeeping, and
9 so --

10 JUDGE PEARSON: Okay.

11 And then what about the violations for
12 failing to make a record of duty status? Was that a
13 requirement that you weren't aware of?

14 MR. FIKRE: I give them 1099, you know,
15 that's -- you know, usually kind of consulted
16 somebody, you know, how do you do this when you hire
17 somebody, you know? And so he was, like, well, you
18 know, I can't give them specific hours, because you
19 never know when we need them.

20 And so -- and at the end of the year, you
21 just give them 1099. So -- and it's just lack of not
22 going -- not hiring someone professional that does
23 this for a living, or not being -- I figured as long
24 as I report, you know, the income that they make, you
25 know, at the end of the year, it would have been okay.

DIRECT TESTIMONY OF MR. FIKRE 40

1 So I just -- I just wasn't really fully
2 aware in terms -- this is the first time that I've
3 done where I've actually involved other -- other
4 drivers.

5 JUDGE PEARSON: Okay. So I'll just stop
6 you right there.

7 I'm going to ask Mr. Sharp to explain what
8 a record of duty status is, because he'll be able to
9 do so better than I can because it doesn't have
10 anything to do with taxes.

11 MR. SHARP: So a record of duty status is
12 required for all drivers to maintain when they're on
13 duty for each seven-day period.

14 And in Mr. Fikre's case for Puget Express,
15 they would have operated under a short-haul exemption,
16 which would have required their drivers to log on a
17 time card their -- the time that they started on duty,
18 the time that they were relieved from duty, and the
19 total hours that they worked on any day that they
20 worked. And that Puget Express was required to
21 maintain those records of duty status for a period of
22 six months.

23 JUDGE PEARSON: Okay.

24 And so this has less to do with -- it's
25 not timekeeping purposes for the purpose of payroll,

DIRECT TESTIMONY OF MR. FIKRE 41

1 it's for the purpose of --

2 MR. SHARP: Fatigue -- keeping fatigued
3 drivers off the road.

4 JUDGE PEARSON: So making sure that
5 they're not working so many hours that it becomes
6 dangerous for them to operate a vehicle. So that's
7 the purpose of it. It has nothing to do with how you
8 pay them.

9 Does that make sense?

10 MR. FIKRE: Yeah, it makes sense. Yeah.
11 Yeah.

12 JUDGE PEARSON: Okay.

13 Now, these are forms that -- example forms
14 are provided in our booklet -- what's it called now --
15 Your Guide to Achieving a Satisfactory Safety Rating,
16 and that has example forms in it that you can use that
17 are probably fairly self-explanatory.

18 MR. SHARP: Yes, and I did provide a copy
19 of that to Mr. Fikre at our opening interview.

20 JUDGE PEARSON: Okay. All right.

21 And the last violation is failing to keep
22 minimum records of inspection and vehicle maintenance,
23 and this was also a repeat violation from 2012.

24 So can you explain why this wasn't
25 corrected and whether you've corrected it now?

DIRECT TESTIMONY OF MR. FIKRE 42

1 MR. FIKRE: Kind of stupid, but when a
2 vehicle doesn't move much, and it's a diesel engine,
3 of course, you do oil change once in a blue moon,
4 maybe once a year or something like that, you know.
5 And so, again, it's just something that I didn't think
6 was that big of a deal. It was just, you know, I'm
7 here and there.

8 But, again, these are little things that
9 required just a little bit of attention that needs to
10 be attended to that I didn't have. But, you know, I
11 mean, if I'm paying that kind of money for a bus, I
12 figure, you know, I've got to do oil change, you know,
13 but not necessarily caring for, um -- to have a file
14 for it.

15 Again, it's just poorly run, my
16 recordkeeping, but just -- that being said, you know,
17 FYI, I went back and got the last -- all the records
18 that they have on oil keeping [sic], since I do oil
19 change at the same place, so I was able to go ahead
20 and get that and correct it, but --

21 JUDGE PEARSON: So it has been corrected?

22 MR. FIKRE: Yeah.

23 JUDGE PEARSON: And you can provide that
24 to Staff?

25 MR. FIKRE: Yeah.

CROSS-EXAMINATION BY MR. ROBERSON / FIKRE 43

1 JUDGE PEARSON: Okay.

2 And then you also understand that part of
3 the safety management plan needs to include whatever
4 policies that you put in place or procedures to
5 prevent these violations from recurring again in the
6 future? You know that that's part of it?

7 MR. FIKRE: Yes. Yeah.

8 JUDGE PEARSON: Okay.

9 And for the plan to be acceptable to
10 Staff, you'll have to show very detailed steps of what
11 you're doing to make sure this doesn't happen again?

12 MR. FIKRE: Right.

13 JUDGE PEARSON: Okay.

14 Mr. Roberson, do you have any questions
15 for Mr. Fikre?

16 MR. ROBERSON: Just a couple.

17

18 CROSS-EXAMINATION

19 BY MR. ROBERSON:

20 Q. You said that in -- I guess it was three or
21 four years ago, you went with Key Insurance; is that
22 correct?

23 **A. Yeah.**

24 Q. At that point, who did you consider your
25 insurance company?

CROSS-EXAMINATION BY MR. ROBERSON / FIKRE 44

1 **A. I don't understand.**

2 Q. Did you consider Key Insurance or Zurich
3 American to be your insurer?

4 **A. Key Insurance.**

5 Q. So you didn't consider Zurich American to be
6 your insurer?

7 **A. I think there might have been confusion to
8 being -- you know, I had a conversation with the --
9 the owner of the company to what -- you know, what
10 happened with the -- you know, what happened with
11 the -- with Jason about the -- you know, the fake
12 insurance and stuff like that.**

13 **And he just pretty much, you know, explained
14 to me -- I asked why was Zurich used, and that being a
15 big insurance company, I guess, even on the insurance
16 that I have with them, it was -- if I'm not mistaken,
17 it's also listed, so -- and so -- but yeah, I -- Key
18 Insurance pretty much subcontract with them, I guess
19 that's how it works, so I go with them.**

20 Q. So I guess my question is, why did you keep
21 documents that weren't from your insurer?

22 **A. It was sent to me. It was sent to me, so it
23 was just on my table kind of when I turned that in and
24 report the file on that, but yeah.**

25 Q. Okay.

CROSS-EXAMINATION BY MR. ROBERSON / FIKRE 45

1 My other question concerns the Key policy.
2 Investigator Sharp asked you for all documents related
3 to your insurance, correct?

4 **A. Right.**

5 Q. And the only documents that you provided
6 mentioned that you'd obtained the policy in the first
7 instance in April of 2017.

8 MR. ROBERSON: 2016.

9 MR. SHARP: The Key Insurance coverage
10 shows that his bus was put on the policy April 6th,
11 2016.

12 BY MR. ROBERSON:

13 Q. So do you have any proof of insurance before
14 that that you didn't give to Investigator Sharp?

15 **A. I would have to -- I would have to ask -- I**
16 **think it might have been -- is it Douglas or Key? I'm**
17 **not sure. It might have been -- I've been with Key**
18 **Insurance a lot longer than that.**

19 MR. ROBERSON: Fair enough. Okay. I
20 think we're done.

21 JUDGE PEARSON: Okay.

22 So listening to your responses, I
23 appreciate that you're being honest about how these
24 violations occurred and that you're not attempting to
25 make excuses. You're just being honest about your

1 poor recordkeeping and things of that nature.

2 And it sounds like kind of the overarching
3 theme is you didn't take these regulations very
4 seriously, or you thought, it's just me, I don't need
5 a driver qualification file; I have one vehicle, I
6 don't need to keep maintenance records.

7 But hopefully, by virtue of the fact that
8 you're here today with the proposed unsatisfactory
9 safety rating and the possibility of losing your
10 certificate, hopefully the seriousness of that is
11 apparent now, and what you need to do.

12 And it sounds like, you know, at the
13 beginning you said, well, I have to decide whether
14 it's worth it for me to keep the certificate, but then
15 a little bit later you said you had plans to expand,
16 and it sounds like this is something you want to
17 continue doing. This is a service you want to
18 continue doing.

19 MR. FIKRE: Right. You know, of course,
20 yeah, that's -- you know, I'm committed to the tourism
21 and transportation. And I also would be using other
22 vehicles as well to make their job easier, because all
23 they're asking us to do is make sure -- take out
24 tourists in the public safety.

25 And I travel quite a bit with my family,

1 and I would want to be served by someone who oversees
2 such a thing in another state or another country. So
3 for me, it's a win-win situation as well as for the
4 UTC as well.

5 You know, I'm constantly going out there
6 and telling people, hey, you know, I got looked into,
7 you guys -- you know, you don't want to do this. It's
8 so much easier to just do what you need to do. And so
9 basically I'm just -- you know, once I'm done, anyway,
10 I intend to pretty much give people a packet of what
11 works for me. They can utilize that or they can copy
12 it or whatever. So yes.

13 JUDGE PEARSON: Okay.

14 So in light of the fact that we have until
15 the end of the day on Friday, the 27th, to make a
16 decision about whether or not you get to keep your
17 certificate, I would like you to complete your safety
18 management plan and get it turned into Staff no later
19 than close of business on Friday.

20 MR. FIKRE: Yeah, I've been -- I've been
21 working on that nonstop. I actually -- I didn't know
22 I was coming to this kind of setting, so otherwise I
23 would have -- you know, I just -- I thought I was
24 meeting with -- you know, I actually called -- was
25 that you that I talked to on the phone?

48

1 MR. ROBERSON: (Nods head.)

2 MR. FIKRE: So I just wanted to talk to
3 somebody who could lower the price a little bit to
4 help me out, and the penalty, and that's what I came
5 here for. But this is -- this is a little more than I
6 expected.

7 But yes, I've been working on that, and I
8 will continue to work on that afterward. But yeah,
9 I -- I have a bunch of things. I have --
10 unfortunately, I don't think I'll be able to email it
11 to you, but I'll have to just fax it to you. You
12 know, I'm still working on getting that thing, you
13 know, going, but yeah.

14 JUDGE PEARSON: Okay.

15 So you do understand you'll have to have
16 that turned in by the end of the day Friday?

17 MR. FIKRE: Yeah. And that even if I have
18 to -- in some cases, if the fax is not going to work,
19 driver files, and if it doesn't make any sense, I'll
20 just drive it and deliver it to you guys as well by
21 that day.

22 JUDGE PEARSON: Okay.

23 MR. FIKRE: I have it pinned on my
24 calendar, so I'll probably do it --

25 JUDGE PEARSON: And then --

49

1 MR. FIKRE: Yeah.

2 JUDGE PEARSON: Okay.

3 And then I'll need Staff's recommendation
4 no later than noon on Wednesday in order for me to
5 turn an order around and get it out by close of
6 business on Friday.

7 So is that realistic for Staff?

8 MR. PERKINSON: Matthew Perkinson here.

9 Yes, that be would reasonable.

10 JUDGE PEARSON: Okay. All right.

11 And so is it realistic for you to provide
12 any sort of recommendation at this point,
13 Mr. Perkinson? Is there anything you want to say
14 or --

15 MR. PERKINSON: I don't think we need to
16 address -- we know the status of the safety management
17 plan and the penalty assessment. We can't really make
18 a recommendation at this point.

19 JUDGE PEARSON: That's what I thought.

20 So Mr. Fikre, just to elaborate a little
21 bit further, once you submit your safety management
22 plan -- and it might be useful if Staff has a little
23 bit of time after this to sit with him and really
24 explain what needs to be included in that, just so
25 that you understand exactly what has be to submitted,

50

1 because there's not going to be a lot of time for back
2 and forth. If what you give to Staff is incomplete,
3 there's -- we're just going to run out of time.

4 MR. FIKRE: Yeah, I'm aware about that.

5 JUDGE PEARSON: Okay.

6 MR. FIKRE: They've extended themselves
7 far beyond to be able to help me get these things
8 done, so --

9 JUDGE PEARSON: Okay.

10 And so what will happen is, once you
11 submit that safety management plan, at that point
12 Staff will review it, Mr. Perkinson will prepare a
13 memo that he will deliver to me, and that will contain
14 any recommendation about any reduction in the penalty
15 if he feels that's appropriate based on the safety
16 management plan that you've submitted. Okay?

17 So there will be a recommendation to that
18 effect. It just won't be until we see what you have
19 and Staff has had a chance to evaluate that.

20 MR. FIKRE: Fair enough.

21 JUDGE PEARSON: All right.

22 So -- and just understand that, in the
23 event that you don't meet your deadline, you're unable
24 to provide something that's satisfactory, we don't
25 have a choice but to cancel your certificate effective

51

1 Friday, October 27th, because of the federal
2 requirements. There's no way we can get around that.

3 So in the event that that happens --

4 MR. FIKRE: I'm aware of that.

5 JUDGE PEARSON: -- you may no longer
6 operate as a charter or excursion carrier, which
7 includes advertising or offering those services, and
8 you'll be ordered to cease and desist all operations
9 unless and until you're able to come into compliance.

10 MR. FIKRE: Right.

11 JUDGE PEARSON: Okay.

12 You understand that?

13 MR. FIKRE: Yes.

14 JUDGE PEARSON: Okay.

15 So is there anything else that we need to
16 discuss before we go off the record?

17 MR. ROBERSON: Staff has nothing.

18 JUDGE PEARSON: Okay.

19 So does that sound like -- perhaps the
20 parties should convene for a little bit here after the
21 hearing and give him some additional guidance to make
22 sure he can --

23 MR. FIKRE: They've done enough.

24 JUDGE PEARSON: Well, I'm just a little
25 bit concerned, because when we went through the

1 violations today, it seemed like you didn't completely
2 understand. Particularly with respect to the record
3 of duty status, you were talking about unrelated
4 things.

5 So I just want to make sure that you
6 understand what's required of you, and it might be
7 helpful to go over it one more time with Staff just to
8 make sure, because, like I said, we don't have a lot
9 of time for corrections to be made or back and forth
10 between the parties.

11 MR. FIKRE: Yeah, it's -- it was just the
12 way it was worded, the way you said it. But this -- I
13 have a signup sheet on the bus. Whoever takes it puts
14 their name on it and start time and date, so --

15 JUDGE PEARSON: Okay. I want you to be
16 able to keep your certificate, so that's why I'm
17 advocating that we do all we can to make sure this
18 happens.

19 Okay?

20 MR. FIKRE: Thank you.

21 JUDGE PEARSON: All right. Then we will
22 be off the record and be adjourned. Thank you.

23 (Hearing concluded at 10:26 a.m.)

24

25 -o0o-

