

Docket No. TG-180181 - Vol. I

In the Matter of: Daniel Stein d/b/a Seabeck
Waste & Recycle

November 29, 2018



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

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email: info@buellrealtime.com



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1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3 _____
 4 In the Matter of Determining) DOCKET NO. TG-180181
 5 the Proper Carrier Classification)
 6 of, and Complaint for Penalties)
 7 Against:)
 8 DANIEL STEIN d/b/a SEABECK)
 9 WASTE & RECYCLE)
 10 _____
 11 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
 12 Pages 1-44
 13 ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF
 14 _____
 15 November 29, 2018
 16 1:30 P.M.
 17 Washington Utilities and Transportation Commission
 18 1300 South Evergreen Park Drive Southwest
 19 Olympia, Washington 98504
 20 REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358
 21 Buell Realtime Reporting, LLC
 22 1325 Fourth Avenue, Suite 1840
 23 Seattle, Washington 98101
 24 (206) 287-9066 | Seattle
 (253) 235-0111 | Tacoma
 (800) 846-6989 | National
 25 www.buellrealtime.com

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1 APPEARANCES
 2 ADMINISTRATIVE LAW JUDGE:
 3 LAURA CHARTOFF
 4 Washington Utilities and
 5 Transportation Commission
 6 1300 South Evergreen Park Drive SW
 7 Olympia, Washington 98504
 8 (360) 664-1160
 9 FOR COMMISSION STAFF:
 10 HARRY O. FUKANO
 11 Assistant Attorney General
 12 PO Box 40128
 13 Olympia, Washington 98504
 14 (360) 664-1225
 15 harry.fukano@utc.wa.gov
 16 FOR SEABECK WASTE &
 17 RECYCLE:
 18 DANIEL STEIN
 19 Seabeck Waste & Recycle
 20 PO Box 480
 21 Seabeck, Washington 98380
 22 ALSO PRESENT:
 23 JASON HOXIT
 24 Staff Witness
 25 TENA HOPPER
 Seabeck Waste & Recycle Witness
 * * * * *

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1 OLYMPIA, WASHINGTON; NOVEMBER 29, 2018
 2 1:30 P.M.
 3 --o0o--
 4 PROCEEDINGS
 5 JUDGE CHARTOFF: Okay. Let's be on the
 6 record. Today is Thursday, November 29th, 2018, and the
 7 time is a little after 1:30 p.m. This docket is
 8 TG-180181, which is captioned In the Matter of
 9 Determining the Proper Carrier Classification of, and
 10 Complaint for Penalties Against Daniel Stein, doing
 11 business as Seabeck Waste & Recycle.
 12 My name is Laura Chartoff. I am the
 13 administrative law judge presiding over today's brief
 14 adjudicative proceeding.
 15 Let's start by taking short appearances from
 16 the parties starting with Staff.
 17 MR. FUKANO: Good morning, Judge Chartoff.
 18 I am Harry Fukano, Assistant Attorney General, with the
 19 Utilities and Transportation Commission division here on
 20 behalf of Commission Staff.
 21 JUDGE CHARTOFF: Thank you.
 22 And for the respondent, Daniel Stein, doing
 23 business as Seabeck Waste & Recycle?
 24 MR. STEIN: I am Daniel Stein, doing
 25

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1 business as.

2 JUDGE CHARTOFF: Can you please also provide

3 your business address, phone number, and business email

4 if you have one?

5 MR. STEIN: I -- there is none. There was a

6 PO Box that I'd used. There was no website or -- yeah.

7 JUDGE CHARTOFF: Okay.

8 MR. STEIN: And I'm sorry, that was PO Box

9 480, Seabeck, Washington 98380. I'm sure that's kinda

10 what you were looking for.

11 JUDGE CHARTOFF: Thank you. Yeah, I assumed

12 it was the one that we had in the record.

13 Okay. So this a classification hearing that

14 was brought by the Commission based on Staff's finding

15 that Mr. Stein is operating as a solid waste collection

16 company without the required certificate from the

17 Commission. And if we determine today that Mr. Stein

18 was engaging in such conduct, we will issue an order

19 requiring him to cease and desist from engaging in such

20 conduct unless and until he obtains a certificate from

21 the Commission.

22 We also have a complaint for penalties, and

23 the complaint for penalties alleges that the business

24 violated RCW 81.77.040 on two occasions by operating as

25 a solid waste collection company without a certificate

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1 of public convenience and necessity. And Staff is

2 requesting penalties of up to \$1,000 for each violation.

3 So at this time, I wanted to ask, Mr. Stein,

4 are you planning to admit the violations today or to

5 contest that they occurred? Just briefly.

6 MR. STEIN: Yeah, yeah, just briefly, I

7 just -- I want it to be known that I can see where I

8 went wrong. I didn't -- I do admit that I was outside.

9 I spoke a little bit with Jason Hoxit on the phone. I

10 clearly see when I was served this paperwork. So yes, I

11 was in violation of -- of that law, of the

12 RCW 81.77.040, so I was.

13 I don't know if it was -- I don't know if it

14 was gone about the right way with the seven days.

15 There's a seven calendar day. That's under

16 RCW 34.05.110 where there's a seven calendar day to

17 serve me of the violation to be corrected. But with all

18 of that aside, what I want to do is I don't want to

19 fight. So I would like to work with the UTC and with

20 the score hand in hand. That's my goal here today.

21 It's not to come down and raise my arms and, you know,

22 cry injustice. So I -- I do admit. So I'm not sure

23 exactly if I want to say that I'm guilty at this point

24 right now given the RCW stated.

25 JUDGE CHARTOFF: Okay.

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1 MR. STEIN: There's a procedure that's

2 supposed to be followed in these matters, but I -- I

3 don't want to fight. So I just want to be clear with

4 that. I can clearly see where I was wrong.

5 JUDGE CHARTOFF: Okay. Okay. I was asking

6 because I wanted to see if the respondent was willing to

7 stipulate to the facts of what occurred, but since -- it

8 sounds like perhaps you should go ahead and present your

9 case; does that sound...

10 MR. FUKANO: I think it does. I mean, it

11 sounds as though Mr. Stein is willing to acknowledge

12 what had occurred. But if the judge -- if you would

13 prefer, then we will proceed.

14 JUDGE CHARTOFF: We'll just go ahead and

15 have you present your case so I have it all on the

16 record.

17 So before you get started, so here's how

18 this will go. Staff will present their case first today

19 and then you will have the opportunity to present your

20 side of the story. When I call on each party to

21 testify, I will swear you in with the oath of witness so

22 that anything you tell the Court will be under oath and

23 can be considered sworn testimony.

24 And for the court reporter's benefit, please

25 speak slowly and clearly, and also please be sure to use

Page 8

1 the microphone on the table in front of you. And once

2 you are sworn in, you can present your testimony.

3 MR. FUKANO: Judge, if I may, can I have a

4 brief moment to speak with Staff, just two minutes in

5 the hallway?

6 JUDGE CHARTOFF: Of course, yes. Yeah,

7 we'll take a brief recess.

8 (Recess taken from 1:38 p.m.

9 until 1:43 p.m.)

10 JUDGE CHARTOFF: We're back on the record.

11 MR. FUKANO: And, Judge, I have placed two

12 copies of our proposed Exhibit JH-1 on the bench, one

13 for you, one for records.

14 JUDGE CHARTOFF: Okay. And did you provide

15 a copy -- or you'll provide when you introduce the

16 exhibit?

17 MR. FUKANO: Yes, we will.

18 JUDGE CHARTOFF: Okay. Okay. You can

19 proceed when you're ready.

20 MR. FUKANO: RCW 81.77.010 states that --

21 defines a solid waste collection company as every person

22 owning, controlling, operating, or managing vehicles

23 used in the business of transporting solid waste for

24 collection or disposal or both for compensation, except

25 septic tank pumpers, over any public highway in the

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1 state. That same statute defines a common -- or excuse
 2 me -- as a common carrier or as a contract carrier.
 3 That same statute defines a common carrier as any person
 4 who collects or transports solid waste or for disposal
 5 by motor vehicle for compensation whether over regular
 6 or irregular routes or by regular or irregular
 7 schedules.
 8 RCW 81.77.010 also states that solid waste
 9 has the same meaning as in RCW 70.95.030, which in turn
 10 defines solid waste in part as all putrescible and
 11 nonputrescible solid and semisolid wastes including, but
 12 not limited to, garbage, rubbish, ashes, industrial
 13 waste, soil sewage sludge, demolition and construction
 14 waste of any vehicle parts or vehicles or parts thereof.
 15 Under RCW 81.77.020, no person shall engage
 16 in the business of operating a solid waste company in
 17 this state except in accordance with RCW 81.77. RCW
 18 81.77.040 states that a solid waste company shall not
 19 operate for the hauling of solid waste for compensation
 20 without first having obtained from the Commission a
 21 certificate declaring that public convenience and
 22 necessity requires such operation.
 23 The same statute further states that
 24 operating for the hauling of solid waste includes
 25 advertising, soliciting, offering, or entering into an

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EXAMINATION OF HOXIT / FUKANO

1 agreement to provide that service.
 2 Staff intends to present evidence that
 3 Seabeck Waste & Recycling operated as a solid waste
 4 collection company on two separate instances, by
 5 advertising and/or soliciting solid waste collection
 6 business and by offering to provide solid waste
 7 collection services without authorization from the
 8 Commission. Staff will present evidence through
 9 Mr. Jason Hoxit, who will testify about Staff's
 10 investigation of and determinations regarding Seabeck
 11 Waste & Recycle. Thank you.
 12 JUDGE CHARTOFF: Thank you.
 13 MR. FUKANO: And I would like to call Jason
 14 Hoxit.
 15 (Jason Hoxit sworn.)
 16 JUDGE CHARTOFF: Thank you. Please be
 17 seated.
 18
 19 E X A M I N A T I O N
 20 BY MR. FUKANO:
 21 Q. Would you please state your name and spell your
 22 last name for the record?
 23 A. Jason Hoxit, H-o-x-i-t.
 24 Q. And what is your current occupation?
 25 A. Compliance investigator.

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EXAMINATION OF HOXIT / FUKANO

1 Q. And how long have you been in that position?
 2 A. Over four years.
 3 Q. And what does that position involve?
 4 A. It involves investigating the business practices
 5 of permitted companies, but also into the business
 6 practices of nonpermitted companies.
 7 Q. I would like to discuss the matter that is at
 8 issue at today's hearing. Are you familiar with the
 9 matter involving Seabeck?
 10 A. Yes, I am.
 11 Q. And how are you familiar?
 12 A. I was emailed a complaint by Waste Management in
 13 December of 2017 alleging that Seabeck Waste was
 14 distributing flyers in the Seabeck, Washington area
 15 soliciting service for solid waste collection.
 16 Q. And I'm showing you what has been labeled as
 17 Exhibit JH-1.
 18 MR. FUKANO: And, Judge, may I approach the
 19 witness?
 20 JUDGE CHARTOFF: Yes.
 21 MR. FUKANO: Or approach opposing?
 22 JUDGE CHARTOFF: Yes.
 23 MR. FUKANO: This is JH-1.
 24 BY MR. FUKANO:
 25 Q. What is this exhibit, Mr. Hoxit?

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EXAMINATION OF HOXIT / FUKANO

1 A. Which page are you referring to?
 2 Q. Just the exhibit in general.
 3 A. This is Staff's investigations report of Seabeck
 4 Waste.
 5 Q. And are you familiar with this exhibit?
 6 A. Yes, I am.
 7 Q. And how did you become familiar with this
 8 exhibit?
 9 A. I am the investigator that drafted this report.
 10 Q. And do you agree with the information contained
 11 in this report?
 12 A. Yes, I do.
 13 Q. And would you have any changes to make to this
 14 report?
 15 A. I would not.
 16 MR. FUKANO: At this time, I would offer
 17 proposed Exhibit JH-1 into evidence.
 18 JUDGE CHARTOFF: Mr. Stein, do you have an
 19 objection?
 20 MR. STEIN: Yeah, I believe that this was
 21 the same as what I was served with in the packet. So
 22 there is some conflicting -- briefly if I may have a
 23 moment?
 24 JUDGE CHARTOFF: So you disagree with some
 25 of the statements in there?

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EXAMINATION OF HOXIT / FUKANO

1 MR. STEIN: Just a few statements, yeah.
 2 Everything in -- I'm gonna say 95 percent of this is 100
 3 percent correct. There's a few things that it stated
 4 that happened if this is the same that I'm looking at
 5 that I don't -- I --
 6 JUDGE CHARTOFF: Okay.
 7 MR. STEIN: Yeah.
 8 JUDGE CHARTOFF: I am going to admit Exhibit
 9 JH-1; however, when it's your turn to provide testimony,
 10 you can explain -- you will have the opportunity to
 11 explain what parts -- what facts in there that you
 12 disagree with.
 13 MR. STEIN: Thank you.
 14 JUDGE CHARTOFF: Okay.
 15 (Exhibit JH-1 admitted.)
 16 BY MR. FUKANO:
 17 Q. Mr. Hoxit, I would like to ask you some
 18 additional questions about the investigation detailed in
 19 the report. You mentioned that you initially received a
 20 complaint, do you recall what that complaint stated?
 21 **A. Yes, the complaint stated that customers in the**
 22 **Seabeck area of Kitsap County brought this flyer,**
 23 **referring to Appendix G -- sorry, let me -- which will**
 24 **also be page 18 of the exhibit, to our attention. (As**
 25 **read) It appears that a waste hauler is trying to**

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EXAMINATION OF HOXIT / FUKANO

1 provide service outside their jurisdiction.
 2 And Waste Management goes on to say, (as read)
 3 I'm not sure if they're trying to provide full service,
 4 but I wanted to let you know of the possible infraction.
 5 Q. And you mentioned an Appendix G, what is -- are
 6 you familiar with Appendix G?
 7 **A. Yes, I am.**
 8 Q. And what is Appendix G?
 9 **A. This is the flyer that was provided to me at the**
 10 **time of the complaint.**
 11 Q. And how do you know that this flyer pertains to
 12 Seabeck?
 13 **A. It is titled "Seabeck Waste & Recycle" as well**
 14 **as the PO Box address at the bottom location matches the**
 15 **mailing address on Daniel Stein's driver's license as**
 16 **reported by Department of Licensing.**
 17 Q. And what did Staff do in response to the
 18 complaint that it received?
 19 **A. Staff contacted the company and posed as a**
 20 **potential customer in the Seabeck, Washington area.**
 21 Q. And what did that -- what did that process
 22 entail?
 23 **A. I called the phone number that's found on the**
 24 **2015 flyer for Seabeck Waste, which is going to be page**
 25 **12 of the exhibit, and the phone number on there, area**

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EXAMINATION OF HOXIT / FUKANO

1 code 360-328-6787, which is the number that is also
 2 associated with Daniel Stein.
 3 Q. And how did Seabeck respond?
 4 **A. Seabeck Waste answered the phone, and when I**
 5 **posed as a potential customer, they offered me**
 6 **originally two 45-gallon garbage containers at \$32 per**
 7 **month and that would be for every other week service.**
 8 **Daniel Stein later inquired as to how large the family**
 9 **was. I informed him of four members, and at that time,**
 10 **he recommended that I have three 45-gallon containers at**
 11 **a price of \$40 a month, and that would also be for every**
 12 **other week service.**
 13 Q. And did Staff determine who had answered the
 14 phone call when you called Seabeck?
 15 **A. Yes.**
 16 Q. Who answered the phone?
 17 **A. The man identified himself as Daniel.**
 18 Q. Did Staff determine who runs or operates
 19 Seabeck?
 20 **A. Yes.**
 21 Q. Who runs or operates Seabeck?
 22 **A. Daniel Stein.**
 23 Q. And how did Staff make that determination?
 24 **A. As addressed earlier, the PO Box on the 2017**
 25 **flyer matches Daniel Stein's mailing address, and the**

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EXAMINATION OF HOXIT / FUKANO

1 phone number on the 2015 flyer matched the phone number
 2 associated with Daniel Stein.
 3 Q. And I'd like to talk a bit about the required
 4 operating authority that one would need to operate a
 5 solid waste collection company.
 6 What does a company need in order to operate as
 7 a solid waste collection company?
 8 **A. A certificate issued from the Commission.**
 9 Q. Does Seabeck Waste & Recycle have a certificate
 10 from the Commission authorizing it to operate as a solid
 11 waste collection company?
 12 **A. No, they do not.**
 13 Q. May a company operate as a solid waste
 14 collection company without a Commission certificate?
 15 **A. No.**
 16 Q. Does Staff have a recommendation as to the
 17 classification of Seabeck?
 18 **A. Yes, it does.**
 19 Q. And what is that recommendation?
 20 **A. Staff recommends that the Commission classify**
 21 **the company as a solid waste collection company.**
 22 Q. Does Staff have a recommendation as to a
 23 penalty?
 24 **A. Yes. Staff recommends a penalty of \$1,000 per**
 25 **violation, so for two violations a penalty of \$2,000.**

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EXAMINATION OF HOXIT / FUKANO

1 Q. And is there any other conditions Staff would
 2 attach to that recommendation?
 3 **A. Yes, if Mr. Stein, d/b/a Seabeck Waste & Recycle**
 4 **agrees to cease and desist as a solid waste collection**
 5 **company, Staff would recommend that we suspend 1,000 of**
 6 **the \$2,000 penalty on the conditions that the company**
 7 **cease from operations.**

8 Q. And to clarify for the record, which two
 9 violations is Staff asserting?
 10 **A. One violation is for the advertisement for solid**
 11 **waste collection and the other violation is for the**
 12 **offer for solid waste service.**

13 Q. And specifically, which advertisement would that
 14 be?
 15 **A. The 2017 advertisement.**

16 Q. And is that contained in JH-1?
 17 **A. Yes, it is, page 12. Oh, I apologize. Page 18.**

18 MR. FUKANO: Thank you. No further
 19 questions at this time.
 20 JUDGE CHARTOFF: Okay. Mr. Stein, do you
 21 have any questions for Mr. Hoxit?
 22 MR. STEIN: I wish I were a lawyer. I wish
 23 I had a better understanding of all this, but I'm going
 24 to do my best here.
 25 JUDGE CHARTOFF: And I'll -- I'll just

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1 explain since you're not a lawyer. So here you would --
 2 this would be the time where you just ask him questions
 3 about his testimony. Later on, you will have the
 4 opportunity to just testify as to everything you want to
 5 tell me.
 6 MR. STEIN: Okay.
 7 JUDGE CHARTOFF: So does that make sense?
 8 MR. STEIN: It does.
 9 JUDGE CHARTOFF: Okay.
 10 MR. STEIN: Thank you.
 11 I believe the only questions that I would
 12 have for Mr. Hoxit at this time, (as read) On
 13 February 17th, 2015 -- this is back to Exhibit JH-1.
 14 This is a couple of pages in. It states in there, (as
 15 read) On February 17th, 2015, Staff sent Seabeck Waste a
 16 compliance letter informing the company that until and
 17 unless the Commission grants a solid waste certificate,
 18 Seabeck must immediately cease advertising, providing
 19 all forms of solid waste collection service. Staff
 20 requested that the company respond in writing by
 21 March 4th, 2015. Seabeck Waste failed to respond to
 22 Staff.
 23 And I don't know if this is appropriate at
 24 this time, Your Honor, but stop me if it is. I did not
 25 receive that letter in the mail.

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1 The next line down, (as read)
 2 March 16th, 2015, Staff sent the company a follow-up
 3 letter explaining that Seabeck Waste failed to respond
 4 to the February 17th compliance letter and that
 5 operating as a solid waste collection company without
 6 the Commission-issued certificate is illegal. Staff
 7 enclosed a copy of the February 17th compliance letter.
 8 Staff requested that Seabeck Waste respond no later than
 9 March 26th, 2016, to explain how the company plans to
 10 proceed. Seabeck Waste failed to respond to Staff.
 11 Also did not receive that letter.
 12 JUDGE CHARTOFF: Okay. So yeah, that's --
 13 MR. STEIN: Okay. I apologize. I
 14 apologize.
 15 JUDGE CHARTOFF: I think we're -- yeah,
 16 that's not a question.
 17 MR. STEIN: Apologize.
 18 JUDGE CHARTOFF: So -- okay.
 19 MR. STEIN: Well, if I may, then, I
 20 understand. Okay. I got it.
 21
 22 **EXAMINATION**
 23 **BY MR. STEIN:**
 24 Q. So, Mr. Hoxit, at this time, can you confirm
 25 that you did, in fact, send two letters, both on

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EXAMINATION OF HOXIT / STEIN

1 February 17th, 2015, and the other letter on
 2 March 16th, 2015?
 3 **A. On both instances, the investigator would have**
 4 **been Pam Smith, who was the solid waste investigator at**
 5 **the time and is no longer with the Commission. So I**
 6 **can't speak directly to receiving any correspondence**
 7 **back.**

8 Q. Would there be any receipt or would there be any
 9 way that you could prove that such a letter was sent?
 10 **A. I can say that in the records that Commission**
 11 **Staff has, there was no record of a returned letter.**

12 Q. Mr. Hoxit, are you aware of RCW 34.05.110(1),
 13 basically here, the notice must be given to a small
 14 business about violations and their provisions for
 15 waiving any fines after proper notice is given,
 16 specifically the relevant part of RCW 34.05.110?
 17 **A. I do not have that in front of me, and I do not**
 18 **have recollection of that off the top of my head.**

19 Q. RCW 34.05.110, it does state that there must be
 20 at least seven calendar days of the agency as the UTC to
 21 serve an individual performing outside of that law.
 22 MR. FUKANO: Your Honor, I'm not quite sure
 23 this is a question.
 24 JUDGE CHARTOFF: Yeah, I -- I think that's
 25 correct. I -- I think what you're trying to present may

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1 be better presented in -- as testimony when it's your
 2 turn.
 3 MR. STEIN: I apologize. I have no
 4 questions for Mr. Hoxit.
 5 JUDGE CHARTOFF: Okay. Do you have any
 6 redirect?
 7 MR. FUKANO: Not at this time, but I may
 8 recall Mr. Hoxit.
 9 JUDGE CHARTOFF: Okay. Okay. So -- okay.
 10 So, Mr. Stein, it's your turn to present testimony. I
 11 assume you're going to speak as a witness for -- so I
 12 will swear you in.
 13 (Daniel Stein sworn.)
 14 JUDGE CHARTOFF: And who -- who do you
 15 intend to call as a witness including yourself?
 16 MR. STEIN: I intend to call a witness -- as
 17 we can see, we have a pretty full room, and I don't want
 18 to monopolize the entire Court's time here. I know
 19 everyone's got things to do.
 20 So if anybody that happened to have come
 21 with me today would like to testify, if you would please
 22 raise your hand.
 23 UNIDENTIFIED SPEAKER: I actually have a
 24 question, but maybe that can wait for another time.
 25 UNIDENTIFIED SPEAKER: Are we allowed to ask

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1 questions?
 2 JUDGE CHARTOFF: No.
 3 Okay. So what -- what would be the content
 4 of what they would want to present, just generally?
 5 MR. STEIN: I believe the content of what
 6 they would want to present today would be an urgent need
 7 for somebody, just somebody, to come and pick up their
 8 garbage. A lot of these people have an extremely hard
 9 time, some of which are not able to pick up their
 10 garbage at all and nobody will help them. And when
 11 someone does show up to help them, then that person that
 12 helps them asked them if they would come to Olympia with
 13 them. So I guess it would be under maybe -- maybe a
 14 small form of character witness, but also an urgent
 15 need. These people have been kind of left -- left in
 16 the dark.
 17 JUDGE CHARTOFF: Okay. I'm not sure if
 18 that's relevant to the legal issue, but this is what
 19 I'll -- I'm going to suggest. I think you should give
 20 your testimony first.
 21 MR. STEIN: Sure.
 22 JUDGE CHARTOFF: So we'll have you speak,
 23 and then Staff will ask you questions, and then you'll
 24 be able to speak a bit more. And then we'll take a
 25 short recess, and I think you should choose one person

Page 23

1 who can speak for the group. And I'm going to give you,
 2 you know, five, ten minutes to talk about that. Do you
 3 think that would work?
 4 MR. STEIN: I don't think it would work. I
 5 think we could probably narrow the field down from the
 6 amount of people that are here that would want to speak,
 7 but -- and the reason for that is, is there are
 8 different circumstances, yes, the common thread being
 9 that people do have a hard time moving their garbage.
 10 But every person in every situation is specific, so I --
 11 I do think that, you know, we've all traveled a long
 12 way, and I do think that some people here would like to
 13 speak. And I think that they could add -- they could
 14 add something to this proceeding that I think would be
 15 valuable.
 16 JUDGE CHARTOFF: Okay. I -- I'm not -- I'm
 17 pretty sure that what they are going to say is not going
 18 to be relevant to the legal issue, but I will -- let's
 19 go ahead and do your testimony and then you can -- I'll
 20 allow you to call a witness and we'll -- we'll move on
 21 from there.
 22 MR. STEIN: Sure.
 23 JUDGE CHARTOFF: Okay. So what is your
 24 response to the allegations against you?
 25 MR. STEIN: My response to the allegations

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1 before me today, the two counts of operating -- or
 2 excuse me, for soliciting customers without the proper
 3 certification is true. It is true. It's a hundred
 4 percent true, and Jason's got it right and this Court
 5 knows it. You know, I've -- as I've told even all my
 6 customers, you know, or customers, yeah, I get it. I
 7 was wrong. I got it. I see that clearly now.
 8 As far as -- this -- this would be time to
 9 bring up the procedural actions, correct? There are --
 10 JUDGE CHARTOFF: Oh, sure.
 11 MR. STEIN: This would be correct? Okay.
 12 Thank you. As I stated before, RCW 34.05.110 clearly
 13 states that there needs to be presentation to the small
 14 business seven calendar days as to so the correction can
 15 be corrected. And I was presented with nothing. So I'm
 16 just throwing that out there.
 17 JUDGE CHARTOFF: Are -- are you talking
 18 about -- are you saying you were not served?
 19 MR. STEIN: Correct. I got a phone -- so I
 20 got a phone call -- I got a phone call how this all
 21 started. It was from Pam Smith and it was kind of a
 22 heated exchange. This is how it all started and I --
 23 she identified herself as Pam Smith with the UTC. I had
 24 no idea who Pam Smith was. I had no idea who UTC was.
 25 This all sounds make up -- make-believe to me. It did.

Page 25

1 And that's not a -- that's not a cut against the UTC, it
 2 just -- it sounded made up. What I thought it was, is I
 3 thought it was Waste Management coming in and posing as
 4 a certain way and trying to scare me off basically.
 5 Then from there, it was stated in this
 6 packet of JH where I was served all of -- all of these
 7 packets of paperwork, I would assume, or letters, it
 8 says letters. I have not received any of those. So if
 9 procedure hasn't been followed on -- on the UTC side to
 10 show evidence supporting that they followed
 11 RCW 34.05.110, then we're kind of spinning our wheels
 12 here.
 13 So ultimately, yes, I was wrong. I see it.
 14 I was served this packet that was set up brilliantly, if
 15 I may add. I showed up to do a job, you know, and then
 16 I got served paperwork. So it's kind of a mixed
 17 blessing, though, because what it did was is, it showed
 18 me in this intense packet that I was served it -- it --
 19 it lined everything right out. It was what you need,
 20 where you went wrong, and it was -- it was like having a
 21 breath of fresh air.
 22 So from there, I -- I -- I found empowerment
 23 in this, being served all this information. I realized
 24 then that the UTC is an actual thing, and yes, they're
 25 definitely after my butt. There's no doubt about it.

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1 So from there, I put in action plans to counter
 2 everything that has happened, basically, the damage that
 3 I have done to myself, but more importantly to the
 4 people that you see sitting behind me. These people
 5 that you see sitting behind me -- this is my time to
 6 give my testimony -- are so left in the dark, it's --
 7 it's horrible.
 8 I get calls, you know, because my name is --
 9 is put out there, you know, Please would you come over
 10 and help me move my garbage? I come over and there's
 11 someone in a wheelchair and they got -- they're on chemo
 12 and they're dying, you know. It's horrible. And here
 13 they are and they've got 11-plus garbage cans sitting
 14 outside their garage, and these are not -- I don't want
 15 to be rude, these are not dirty, slobby people. These
 16 are good people. And they got rats, and they look at me
 17 and they said please help.
 18 So I'm not going to say no. I'm going to do
 19 it. So I did. This all started with my friend, Chris
 20 Lane, who came down with cancer, was sick, he couldn't
 21 move his garbage cans. He asked me if I'd help his
 22 family, and I said, Of course. You know, it's no big
 23 deal.
 24 And then my friend down the street, Mike and
 25 Tena Hopper, Mike came to me and said, Would you please

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1 help? We're having a hard time getting our garbage out.
 2 I said, Absolutely. I said, No problem.
 3 That's how it started. That's literally exactly how it
 4 started.
 5 And then from there, just knowing so many
 6 people, and so many people knowing me, just well-known
 7 in the community, it was -- it was brought out like,
 8 Hey, you know, Dan will take your garbage, you know.
 9 It's like oh, jeez, and before you knew it, you know --
 10 you know, I wasn't going after anybody. You know, they
 11 were coming after me like please do this. I said, Okay,
 12 I will do it.
 13 And then before I knew it, I saw that there
 14 was a serious need. I saw that there was more -- there
 15 was a whole group of people that -- and I knew nothing
 16 about -- I knew nothing about this law, I knew nothing
 17 about the UTC. I realized. So I was like, Okay. Well,
 18 my goodness, I'm wanted. I'll do it. I'll help. I'll
 19 help.
 20 So I made up these flyers, and I put these
 21 flyers out there, and I didn't really -- I didn't really
 22 have the -- the goal wasn't really necessarily a
 23 business. The goal was is to reach out there to the
 24 community, people that I don't know that are suffering
 25 and relieve them. So that I -- when I show up, you

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1 know, on the doorstep, you can't just be like, Hey, my
 2 name's Dan and I want to take your garbage, you know.
 3 It's kind of a hard sell. I had to put something kind
 4 of to it so people wouldn't look at me like just some
 5 dude getting garbage. I had to present it in such a way
 6 that they felt comfortable and they felt safe with it.
 7 And they -- they might not know who I am, but it was
 8 very clear that like, okay. All right.
 9 So then from there, it -- it just -- it kind
 10 of bloomed. It did bloom. And then I was served with
 11 this packet of paperwork, and I realized, okay.
 12 Getting, you know, kind of back to where I kind of
 13 started this, the UTC is a real organization. I
 14 actually started reading the law and digested this to
 15 the best of my understanding. I can't afford an
 16 attorney. So I just do it to the best of my ability.
 17 And through all this, I knew that this -- it
 18 says right in here cease and desist, you know. Problem
 19 is, is that they can't move their garbage. So what do
 20 you do. So I continued on after the cease and desist
 21 order, after I was served this, and I did this as stated
 22 before by Jason Hoxit in RCW 81.77.1 -- or excuse me,
 23 010, and RCW 81.77.010 and 81.77.040, it all states the
 24 same. It has a common -- commonality to it, that no
 25 solid waste company individual entity of any kind -- if

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1 I may read it. (As read) The term common carrier in the
 2 context of solid waste collection means any person who
 3 collects and transports solid waste for disposal by
 4 motor vehicle for compensation whether over regular or
 5 irregular routes or by regular or irregular schedules.
 6 So basically what I've been doing for the
 7 last two months is I have been collecting garbage as I
 8 historically have; however, there has been no exchange
 9 of compensation. I have not collected any money, nobody
 10 has given me any form of compensation except for
 11 cookies, because I've gotten some cookies and they're
 12 pretty awesome.
 13 So I -- I can't stress enough to you, I'll
 14 do whatever it takes. I don't want to say the UTC has
 15 failed to meet their obligation of meeting the public's
 16 best interest, but I will inform the UTC now, here, on
 17 the record, that there is a serious public need out
 18 there. It's really bad. We start having rodents come
 19 in and health and public is -- is in jeopardy, and I see
 20 it. I'm here to just tell you that.
 21 I would like for the record further, one
 22 more time, and if I haven't beat on this enough, that
 23 procedure was not followed by the UTC under
 24 RCW 34.05.110. I don't know who I want to call up here.
 25 JUDGE CHARTOFF: Okay. Well, before then, I

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EXAMINATION OF STEIN / CHARTOFF

1 have a couple of questions and then Mr. Fukano may have
 2 some questions for you.
 3
 4 EXAMINATION
 5 BY JUDGE CHARTOFF:
 6 Q. I'm just looking at the letter in Exhibit JH-1,
 7 it looks like the letter, the February 17th letter, was
 8 mailed to 6070 Minnig Northwest, Seabeck, Washington;
 9 was that your address at the time?
 10 **A. No, that was my mailing -- or excuse me, that**
 11 **was my physical but not my mailing address.**
 12 Q. And you don't receive mail at your physical?
 13 **A. Correct.**
 14 Q. Okay.
 15 **A. I have problems with break-ins.**
 16 Q. Okay. And the phone call that Mr. Hoxit
 17 testified about, do you recall that phone call?
 18 **A. Yeah, I -- I -- I do remember numerous phone**
 19 **calls. I -- I have had a chance to read through this**
 20 **previously, and I remember pretty much all of these**
 21 **conversations. I don't think there was a one**
 22 **conversation that's -- that didn't happen. I do contest**
 23 **to little bit on the Pam Smith initial conversation, the**
 24 **one that started all of this, but, you know -- but it**
 25 **happened. It did happen.**

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EXAMINATION OF STEIN / FUKANO

1 JUDGE CHARTOFF: Okay. Mr. Fukano, do you
 2 have any questions for Mr. Stein?
 3 MR. FUKANO: Just briefly.
 4
 5 EXAMINATION
 6 BY MR. FUKANO:
 7 Q. So, Mr. Stein, I would just like to clarify, you
 8 had said earlier that you would admit that the
 9 allegations in the complaint were true, in that there
 10 was nothing wrong with that aside from the issue
 11 involving 34.05.110?
 12 **A. Correct.**
 13 MR. FUKANO: Okay. Thank you. No further
 14 questions for cross on Staff.
 15
 16 EXAMINATION
 17 BY JUDGE CHARTOFF:
 18 Q. Okay. And did -- so you said you continued to
 19 provide -- you are continuing to provide the service --
 20 **A. Correct.**
 21 Q. -- at this point for compensation or --
 22 **A. For no compensation.**
 23 Q. For no compensation.
 24 And Staff mentioned in their recommendation that
 25 they would be willing to recommend waiving or suspending

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EXAMINATION OF STEIN / CHARTOFF

1 a portion of the penalty if you agreed to cease
 2 operating; is that something you're willing to do? Or
 3 is that -- sounds like you need to think about it?
 4 **A. There's really nothing too much to think about.**
 5 **It's -- I mean, don't tell me to cease and desist.**
 6 **Don't look at me and ask me to do that, look at them.**
 7 Q. Okay. Please direct your comments --
 8 **A. I -- I'm directing it -- I'm directing it**
 9 **accordingly.**
 10 JUDGE CHARTOFF: Okay. Okay. So I will
 11 allow you to call -- so we'll take -- in a minute, we'll
 12 take a short recess. I will allow you to call two
 13 people for a maximum of ten minutes, so five minutes per
 14 person. But I do want to caution you that each person
 15 who speaks is probably going to provide evidence of
 16 another violation for which, you know, are violations
 17 are -- for which you may be subject to penalties. So
 18 you need to -- you should think about that, but if you
 19 want to get their -- and I have concerns about whether
 20 they're relevant to the legal issue. I know they're
 21 important to you.
 22 MR. STEIN: Sure.
 23 JUDGE CHARTOFF: And so I'm going to -- I'm
 24 willing to let you get this on the record. So do you
 25 have a --

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EXAMINATION OF STEIN / FUKANO

1 MR. FUKANO: I just had a -- one follow-up
 2 cross-question that occurred to me if you would permit.
 3 JUDGE CHARTOFF: Okay. I'll let you do your
 4 cross-question.
 5 Then we'll take a short recess where you can
 6 decide who -- what witnesses to call, and then we'll
 7 move on.
 8 Okay. So go ahead.
 9
 10 EXAMINATION
 11 BY MR. FUKANO:
 12 Q. Mr. Stein, in addition to the information in the
 13 complaint, would you agree with the information
 14 contained in Mr. Hoxit's narrative of your phone
 15 conversation on page 21, I believe?
 16 **A. What specifically?**
 17 Q. I was asking if you agreed with all the
 18 information in the complaint -- or in the -- excuse me,
 19 in the narrative on page 21. As you had -- you had
 20 agreed with the complaint, and so I wanted to just make
 21 sure.
 22 **A. I believe so. No, no, I don't agree with all of**
 23 **that.**
 24 Q. And what parts do you not agree with?
 25 **A. In the opening line, in the opening line, says,**

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EXAMINATION OF STEIN / FUKANO

1 (as read) Called from the UTC, called phone number
 2 360 -- oh, used a cell number of 810-1281 [sic], okay,
 3 and spoke with David Stein, so clerical error there.
 4 Q. Yes.
 5 **A. Would be Daniel Stein.**
 6 Q. Apologies, yes.
 7 **A. I don't recollect. I can't say for sure exactly**
 8 **if everything in this is stated correctly. So I can't**
 9 **say out of recollection.**
 10 Q. So you're -- you're not quite sure?
 11 **A. I can't -- yeah, I can't say --**
 12 Q. Does -- oh, sorry.
 13 **A. Yeah, if it is word for word, I mean...**
 14 Q. But nothing jumps out to you as being wrong
 15 aside from the clerical error?
 16 **A. Other than my name.**
 17 Q. Okay. Thank you.
 18 **A. But I'm not sure.**
 19 **JUDGE CHARTOFF: Okay. So at this time,**
 20 **we'll take a short recess, and I'll give you a chance to**
 21 **think about who you want to call as a witness. And we**
 22 **will take five minutes; is that acceptable?**
 23 MR. FUKANO: Acceptable to Staff.
 24 MR. STEIN: Yes.
 25 JUDGE CHARTOFF: Okay. All right. We are

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1 in recess.
 2 (Recess taken from 2:28 p.m.
 3 until 2:39 p.m.)
 4 JUDGE CHARTOFF: Okay. So we are back on
 5 the record. Would you like to call a witness?
 6 MR. STEIN: Yes, I'd like to call a witness
 7 pertaining to acquiring without -- without giving an
 8 advertisement basically. I know -- I know that we're
 9 here for two charges for advertising. So I'd like to
 10 call Tena Hopper.
 11 JUDGE CHARTOFF: Okay. Ms. Hopper, please
 12 come forward and I'll swear you in.
 13 (Tena Hopper sworn.)
 14 JUDGE CHARTOFF: Thank you. Please have a
 15 seat. Make sure your microphone is turned on.
 16 MS. HOPPER: Are we good?
 17 JUDGE CHARTOFF: Oh, yeah, you're good.
 18 So please state your name, spelling your
 19 last name for the court reporter.
 20 MS. HOPPER: Tena Hopper. It's T-e-n-a,
 21 H-o-p-p-e-r.
 22 JUDGE CHARTOFF: And so you can ask her
 23 questions or she can just --
 24 You can just speak.
 25 MR. STEIN: You want to just go?

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EXAMINATION OF HOPPER / STEIN

1 MS. HOPPER: Hmm?
 2 MR. STEIN: You want to just go?
 3 MS. HOPPER: Daniel -- my husband came down
 4 with cancer and passed away in 2015, and Daniel's been
 5 picking up my trash for me at no charge ever since. I
 6 give him cookies, that's it. He's a good man. That's
 7 pretty much it in a nutshell, because I can't do it
 8 myself.
 9 MR. STEIN: Would it be okay if I asked Tena
 10 some questions?
 11 JUDGE CHARTOFF: Mm-hmm.
 12
 13 EXAMINATION
 14 BY MR. STEIN:
 15 Q. Tena, have I ever approached you for garbage
 16 service?
 17 **A. Have you what?**
 18 Q. Have I approached you for garbage service?
 19 **A. Approached me, no.**
 20 Q. Did you come to me because you had heard about
 21 me through just the friend group or through the
 22 grapevine so to speak?
 23 **A. No.**
 24 Q. So --
 25 **A. I'm having a hard time hearing you. I got**

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EXAMINATION OF HOPPER / FUKANO

1 hearing issues.
 2 Q. I'm sorry.
 3 So did I -- did I give -- did I give you any
 4 flyers or --
 5 **A. No.**
 6 Q. -- or any advertisements --
 7 **A. No.**
 8 Q. -- of any kind? Okay.
 9 **A. A Christmas card and some trash bags.**
 10 Q. Oh, yeah.
 11 **A. Does that count?**
 12 MR. STEIN: I have no further questions.
 13 JUDGE CHARTOFF: Okay.
 14 THE WITNESS: That's -- that's it?
 15 JUDGE CHARTOFF: Mr. Fukano, do you have any
 16 questions for Ms. Hopper?
 17 MR. FUKANO: Just a brief -- very brief
 18 question.
 19
 20 **E X A M I N A T I O N**
 21 BY MR. FUKANO:
 22 Q. Before Mr. Stein was -- began helping you with
 23 waste disposal services, were you served or had waste
 24 disposal services through another company?
 25 **A. No, no.**

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EXAMINATION OF HOPPER / FUKANO

1 Q. So who removed your waste prior to Mr. Stein?
 2 **A. My husband.**
 3 Q. And --
 4 **A. Used our vehicle, drove to the waste site.**
 5 Q. I see. Thank you.
 6 **A. The one on Dickey Road.**
 7 MR. FUKANO: No further questions.
 8 THE WITNESS: It was a long time ago.
 9 MR. FUKANO: Thank you.
 10 JUDGE CHARTOFF: Okay. Thank you.
 11 THE WITNESS: Is that it?
 12 JUDGE CHARTOFF: Don't have anything
 13 further. Do you have another witness?
 14 THE WITNESS: I make great cookies too by
 15 the way.
 16 MR. STEIN: She does make great cookies.
 17 I have no other witnesses.
 18 JUDGE CHARTOFF: No further witnesses.
 19 Okay. Is there anything further?
 20 MR. FUKANO: I would like to call, recall
 21 Mr. Hoxit to the stand for a brief question.
 22 JUDGE CHARTOFF: Okay. Go ahead.
 23 /////
 24 /////
 25 /////

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EXAMINATION OF HOXIT / FUKANO

1 **E X A M I N A T I O N**
 2 BY MR. FUKANO:
 3 Q. Mr. Hoxit, do you know whether a company
 4 currently serves the general Seabeck area for solid
 5 waste collection services?
 6 **A. Yes.**
 7 Q. And what company would that be?
 8 **A. Waste Management.**
 9 MR. FUKANO: Thank you. No further
 10 questions.
 11 MR. STEIN: Would I have the ability to
 12 answer -- or excuse me, question Mr. Hoxit on the same
 13 line of questioning?
 14 JUDGE CHARTOFF: Yes.
 15 MR. STEIN: Thank you.
 16
 17 **E X A M I N A T I O N**
 18 BY MR. STEIN:
 19 Q. Mr. Hoxit, are you familiar with the tariff for
 20 Waste Management for -- about pack out service in
 21 particular?
 22 **A. No, I'm not.**
 23 Q. Were you aware of their 50-foot rule as far as
 24 walking goes?
 25 **A. Not specific to that service territory, no.**

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1 MR. STEIN: Thank you.
 2 JUDGE CHARTOFF: Okay. So is there anything
 3 further from either party?
 4 MR. STEIN: I would like to add, if I could,
 5 what my intentions are moving forward.
 6 JUDGE CHARTOFF: Okay.
 7 MR. STEIN: Would that be okay?
 8 MR. FUKANO: Perhaps in closing.
 9 JUDGE CHARTOFF: Okay. Why don't you make a
 10 closing statement and then Mr. Fukano can make one if he
 11 chooses.
 12 MR. STEIN: Number one, my apologies to the
 13 Court. I know this hasn't gone as smoothly as I'm sure
 14 these things go. I'm not a lawyer obviously, and I -- I
 15 would like to thank you, Your Honor, for allowing all of
 16 the support to stay in the room. I know it's -- it's a
 17 little bit uncomfortable, so I would like to thank you
 18 personally.
 19 My intentions moving forward, since I've
 20 been served this packet of information from the UTC, it
 21 has lined out everything that needs to be done. I went
 22 to the UTC website, I have obtained the tariff form that
 23 is a part of the application process. I understand what
 24 the application is. This will be a big bombshell for
 25 the WRRR in the back room, but I plan on applying for a

