

**Docket Nos. TV-200626 and TV-200625 (Consolidated) -
Vol. II**

In the Matter of: Pro Movers LLC d/b/a Groovin Movin

August 28, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

DOCKET NOS. TV-200625
and TV-200626
(Consolidated)

Complainant,

v.

PRO MOVERS LLC d/b/a GROOVIN
MOVIN,

Respondent.

VIDEOCONFERENCE BRIEF ADJUDICATIVE PROCEEDING BEFORE
ADMINISTRATIVE LAW JUDGE

RAYNE PEARSON

Volume II

Pages 15 - 39

August 28, 2020

1:33 p.m.

REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR, #2121

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ALSO PRESENT: Mathew Perkinson
Jason Sharp

1 LACEY, WASHINGTON; AUGUST 28, 2020

2 1:33 p.m.

3 -o0o-

4 JUDGE PEARSON: So let's be on the record.

5 I just want to remind everyone to keep your mic muted
6 unless it's your turn to speak. And then, please, also
7 speak slowly and clearly for the court reporter. And
8 please don't speak over anyone else who's speaking.

9 All right. Good afternoon. We're here for
10 a brief adjudicative proceeding in Docket TV-200626,
11 which is captioned In the Matter of the Investigation of
12 Pro Movers LLC, doing business as, Groovin Movin, for
13 compliance with Washington Administrative Code
14 Chapter 480-15. My name is Rayne Pearson. I'm filling
15 in for Judge Doyle. I will be presiding over today's
16 hearing, and we are recording the hearing so that
17 Judge Doyle will have access to the information to issue
18 the order.

19 Today's Friday, August 28th, 2020, and the
20 time is approximately 1:33 p.m.

21 On July 20th, 2020, the Commission issued a
22 notice of intent to cancel Groovin Movin's permit and
23 the notice of brief -- issued the notice of intent to
24 cancel following a compliance review conducted by
25 Commission Staff in July 2020, which resulted in a

1 proposed unsatisfactory safety rating for the company.

2 The company had until August 13th, 2020, to
3 file a proposed Safety Management Plan, which, to the
4 best of my knowledge, it has not yet done; so we will be
5 addressing how that affects the company's safety rating
6 today.

7 MR. GONCHARUK: They're actually -- it
8 should be pulled up in the files, the UTC records right
9 now.

10 JUDGE PEARSON: I'm sorry. You submitted it
11 to whom?

12 MR. GONCHARUK: It's in -- currently in UTC
13 records, currently. It was just -- it was just
14 submitted during the meeting.

15 JUDGE PEARSON: During what meeting?

16 MR. GONCHARUK: The -- this current hearing.
17 It was just uploaded, the safety maintenance plan, that
18 was all -- it's in the UTC records right now. It was
19 just uploaded before this hearing.

20 JUDGE PEARSON: Okay. And so I just want to
21 ask Staff -- or did you provide it to Staff also?

22 MR. GONCHARUK: I only got the UTC records
23 e-mail to send it to. So --

24 JUDGE PEARSON: Okay.

25 MR. TEIMOURI: Judge Pearson, this is

1 Daniel Teimouri here on behalf of Commission Staff. We
2 have not received a copy of it.

3 JUDGE PEARSON: Okay. Thank you.

4 MR. GONCHARUK: I'm sending -- I'm sending
5 multiple records out because there's only a limit of
6 files able to send out once during a -- this format
7 of -- I don't know. This platform only allows limited
8 amount of documents, and I have more coming in.

9 JUDGE PEARSON: Okay. Thank you.

10 So it sounds like you have submitted those
11 through the portal. And so Staff will have access to
12 them, but not until after the hearing, is what it sounds
13 like.

14 MR. GONCHARUK: If -- if that's the case.
15 I -- I would not be aware of how possibly to go, there,
16 yes, but I would agree then.

17 JUDGE PEARSON: Okay. So just to recap,
18 this is the second proceeding in this docket.

19 Yesterday, the company failed to appear at
20 the hearing that was held at 1:30. And at that
21 proceeding yesterday, Docket TV-200625, which was the
22 penalty assessment that was issued against the company,
23 and Docket TV-200626, which was the notice of intent to
24 cancel permit, were consolidated. Staff presented its
25 case on the merits and moved for default judgment, which

1 was granted. And Staff --

2 MR. GONCHARUK: I understand.

3 JUDGE PEARSON: Yes. So I will vacate the
4 default judgment today and we'll give the company an
5 opportunity to address their case.

6 Mr. Goncharuk, you e-mailed the Commission
7 on July 16th and stated that the penalty was more than
8 you were able to pay. So we'll treat that as a request
9 for mitigation. And I'll give you an opportunity, in a
10 few moments, to address each of the violations and
11 explain what you've done to correct them.

12 So when I call on you to testify, I'll swear
13 the oath of witness so that anything you tell the Court
14 will be under oath and will be considered sworn
15 testimony.

16 Once you're sworn in, you can present your
17 testimony. And if -- do you have any exhibits to offer?
18 I'm guessing not. Just the Safety Management Plan that
19 you submitted.

20 MR. GONACHARUK: No, I guess. I'm not most
21 familiar with all this terminology.

22 JUDGE PEARSON: Okay. Which terminology
23 is -- is confusing to you?

24 MR. GONCHARUK: Exhibit -- I'm not sure what
25 an exhibit is.

1 JUDGE PEARSON: Okay. So -- it's just like
2 in a regular court of law, that if you had documents you
3 wanted me to review or Staff to review, then you would
4 offer them for the record. But it sounds like you've --
5 you've given your stuff to --

6 MR. GONCHARUK: I guess I don't.

7 JUDGE PEARSON: -- the record center, but
8 I'd also ask that you provide that via e-mail to
9 Mr. Sharp and Mr. Perkinson.

10 MR. GONCHARUK: Okay. Okay. I could e-mail
11 it to Mr. Sharp. Or would you like that immediately,
12 right now?

13 JUDGE PEARSON: You can do it after the
14 hearing. That's fine. They're not going to have an
15 opportunity to look at it before the conclusion of the
16 hearing. And even if they did, they wouldn't have an
17 opportunity to evaluate it. So I just want to make sure
18 that they have it so that they have as much time as
19 possible to review it, since we are up against a
20 deadline.

21 MR. GONCHARUK: Understood.

22 JUDGE PEARSON: So yesterday, Staff
23 addressed the investigation report and the proposed
24 safety rating. The company will have the opportunity,
25 again, to state its position on any of the violations in

1 the penalty assessment.

2 And then, once you're done testifying,
3 Staff's attorney may have some questions for you, and
4 then Staff will make a final recommendation on the
5 penalty amount.

6 So do you have any questions before we get
7 started?

8 MR. GONCHARUK: I'm not sure of the
9 questions I should be asking right now, I'm sorry.

10 JUDGE PEARSON: Okay. Well, it's fairly
11 straightforward, and I will be walking you through it.
12 So let's just start by taking an appearance from
13 Commission Staff.

14 MR. TEIMOURI: Thank you, Your Honor. This
15 is Daniel Teimouri, Assistant Attorney General, here on
16 behalf of Commission Staff.

17 JUDGE PEARSON: Thank you.

18 And, Mr. Goncharuk, if you could please
19 state your name and spell your last name for the record;
20 and then also provide your address, phone number, and
21 e-mail address.

22 MR. GONCHARUK: Address, phone number,
23 e-mail address. Phone number is 360.487.6564.

24 JUDGE PEARSON: Okay. Hold on. I need you
25 to start with your name. State your full name and spell

1 your last name, please.

2 MR. GONCHARUK: Andrey Goncharuk. Last name
3 spelled G-o-n-c-h-a-r-u-k.

4 JUDGE PEARSON: Okay. And then your address
5 and e-mail address, please.

6 MR. GONCHARUK: Address, 4804 Northeast 52nd
7 Circle, Vancouver, Washington 98661.

8 JUDGE PEARSON: And your e-mail address,
9 please.

10 MR. GONCHARUK: Andrey Goncharuk,
11 A-n-d-r-e-y, G-o-n-c-h-a-r-u-k, at hotmail.com.

12 JUDGE PEARSON: Okay. Thank you.

13 Now, Mr. Goncharuk, if you would please
14 raise your right hand, I will swear you in.

15 Do you swear --

16 MR. GONCHARUK: Okay.

17 JUDGE PEARSON: -- or affirm that the
18 testimony you give today will be the whole truth and
19 nothing but the truth?

20 MR. GONCHARUK: Yes, the truth.

21 JUDGE PEARSON: Okay. Thank you. All
22 right. So let's just begin talking about the violations
23 and the penalty assessment, because those are the same
24 violations that led Staff to its recommendation of a
25 proposed unsatisfactory safety rating.

1 So I'll take you through them one at time.
2 You can briefly explain why the violation occurred, and
3 then describe the steps that you've taken to correct the
4 violation and to prevent it from occurring again.

5 So the first violation category is
6 WAC 480-15-555, which is failing to acquire criminal
7 background checks for each prospective employee. And
8 there were 13 violations of this regulation. If you
9 could please explain what happened and what you've done
10 to correct it.

11 MR. GONCHARUK: Would you please repeat the
12 question?

13 JUDGE PEARSON: So the first set of
14 violations in the penalty assessment is for failing to
15 acquire criminal background checks, and you had 13 of
16 these violations. So if you could explain what led to
17 the violation and then whether it's been corrected.

18 MR. GONCHARUK: Failure to acquire criminal
19 background checks, prospective employee. I mean, a
20 solution, application process hiring new, required for
21 all temp -- well, temps, as well as full-time employees
22 to go through background check before hire. Meanwhile,
23 our company policy did not require background checks for
24 temp employees. It did not find itself to be under --
25 oh, man, regulation WAC 480-15-555, secondary RCW

1 81.80.130; CFR sublet 392-2.

2 Changes were made to -- to company policies
3 and adjusted for temporary drivers that previously were
4 not background-checked -- well, these are all
5 seasonal/temporary employees. But now all will be
6 background-checked no matter what; temporary, full-time.

7 And currently, no -- no employment is going
8 on, but will be. And all background checks will be done
9 immediately. That is the new policy on record, as
10 filed.

11 JUDGE PEARSON: Okay. Thank you. So just
12 so I'm understanding correctly, it sounds like you did
13 not get background checks on those particular 13
14 employees because they're no longer with the company; is
15 that correct?

16 MR. GONCHARUK: Temporary employees.

17 JUDGE PEARSON: I just asked you a yes-or-no
18 question.

19 Are those 13 employees who were named in the
20 penalty assessment no longer with the company?

21 MR. GONCHARUK: Correct. No longer with the
22 company.

23 JUDGE PEARSON: Okay. All right. So the
24 next violation is for 49 CFR Section 391.45(a), for
25 using a driver not medically examined and certified. If

1 you want to speak to that violation, go ahead.

2 MR. GONCHARUK: One moment. Again, it has
3 to relate with temporary assistance of temporary
4 drivers, just filling in on emergency basis. Knowledge
5 of -- for temporary drivers and while I'm the primary
6 driver, I got myself fixed. I even went back to fix the
7 records for -- even after they were terminated or just
8 left the company, I still went back and got them cards,
9 just to backdate.

10 So previously did not -- failed to give
11 medical cards for temporary drivers, and now we have
12 went back, even after termination, and got them
13 qualified and will go with only qualified individuals
14 from here on. And I am -- and there is no other
15 drivers. No drivers of the company. I am the only
16 driver.

17 JUDGE PEARSON: Okay. Thank you. And the
18 next violation category was failing to maintain a driver
19 qualification file for each driver employed.

20 Do you want to address how that's been
21 corrected?

22 MR. GONCHARUK: Yes. Driver records. I
23 have pulled my driving records with the Department of
24 Licensing, and also -- let's see, yeah, I got a full
25 report for my driving record filed. Yeah -- let's see,

1 what else am I failing to be a part of the driver's
2 record. And I got my ID in there. My application for
3 myself, even though I'm a -- I'm the owner, is coming.
4 I believe that was another requirement. But I have a --
5 I have a file for myself and my driver's record and my
6 medical insurance. And everything -- medical
7 certificate, insurance, and everything.

8 JUDGE PEARSON: Okay. Thank you. And the
9 next violation is for 49 CFR Section 393.75(b). This
10 was for a front tire that had a tread depth less than
11 2/32 of an inch on a major tread groove. Has that
12 violation been corrected?

13 MR. GONCHARUK: Yes, a receipt has been --
14 for a dismount/remount has been posted to the records
15 center, as well as -- there was more -- there is more
16 vehicle records. Maintenance history has been pulled
17 from the dealership and been e-mailed to me, which I can
18 download or upload later. All previous records of
19 vehicle maintenance, as well as -- what else was there
20 on the --

21 JUDGE PEARSON: It sounds like you're
22 addressing some of the violations here, which had to do
23 with keeping minimum records of inspection and using a
24 motor vehicle that was not periodically inspected. So
25 it sounds like you're also speaking to those violations

1 that you --

2 MR. GONCHARUK: Yeah, I'm
3 also immediately -- yeah, everything related to the
4 truck. It's in there getting a DOT inspection right
5 now. And it had a drag link, and a -- it has more
6 things being done to it on top, today, as we speak. And
7 I got -- I uploaded an invoice for the DOT inspection
8 and the other service being done right currently.

9 JUDGE PEARSON: Okay. Thank you. And then
10 finally, the last violation was for 49 CFR 395.8 (a)(1),
11 for failing to require a driver to prepare a record of
12 duty status using the appropriate method. Can you
13 address how that's been corrected, please?

14 MR. GONCHARUK: Solution. Because of our
15 lack of knowledge, we did further investigate and found
16 ourself to be under the assumption -- exemption non-CDL
17 short haul, local only, for small loads. So we did not
18 ever go over 88 hours. We did not go over 150 areal
19 miles. We follow under the ten-hour off-duty, 11-hour
20 driving requirements. We did not drive the 14-hour
21 after coming on duty, five days, any period, seven
22 consecutive -- seven consecutive days. We did not drive
23 the 16-hour after coming on duty on the second day of
24 any period seven consecutive days. We are --

25 JUDGE PEARSON: Mr. Goncharuk?

1 Mr. Goncharuk? You need to slow down. The court
2 reporter isn't going to be able to keep up with you if
3 you speak that quickly.

4 MR. GONCHARUK: I apologize. I can go back.
5 Where was -- where may I restart?

6 Do not drive on the 16th hour after coming
7 on duty on the second day of any period of consecutive
8 days. Every driver is now required to prepare RODs, a
9 record of duty status for each 24-hour period. Changes
10 were made to the company policies and all new employees
11 must record, complete, or retain the log for all temps
12 and full-time employees.

13 JUDGE PEARSON: Okay. Thank you.

14 All right. Do you have anything else that
15 you would like to add?

16 MR. GONCHARUK: Is -- what can I add in my
17 favor, may I ask?

18 JUDGE PEARSON: I mean, anything that you
19 want to explain about -- if the penalty would create a
20 financial hardship for your company. Any other thing --
21 any other factors that -- that you want.

22 MR. GONCHARUK: Yeah, all -- most
23 definitely. If I may, please, thank you so much.

24 So I'm a small business owner. I am a -- a
25 first-generation immigrant here, starting the American

1 dream as a religious refugee. Part of our mission here,
2 mainly, is to be part of the church. And most of my
3 proceeds have been going towards the church in Ukraine,
4 for villages that have been affected with the shutdown
5 during COVID.

6 I myself, especially, have not advertised,
7 marketed this year. And January/February has been the
8 deadliest month of no work. Then I have made my first
9 mission trip this winter, for over a month. I did not
10 make those a process that could have been made if I were
11 here. I came back right the day of the lockdown, when
12 the stores were being bought out. And did not work
13 for -- get work for three months, due to all the
14 lockdowns were happening in the spring season. Paid for
15 rent and everything, utilities, on loans. Did not make
16 it to the government stimulus check. Couldn't receive
17 that. Did not receive any other government loans.
18 And -- and have sponsored, with everything I had, mostly
19 to the church. And just minimum survival needs here.

20 Made another mission trip at this time. I
21 was supposed to receive my legal document to register
22 myself as part of facilities. Did not get -- with
23 quarantine, I did not -- missed by one week receiving my
24 document, for which I now need to go back to receive my
25 passport again, and make another mission trip with

1 another lockdown coming.

2 And so, yeah, kind of -- my -- my uncle,
3 which is the pastor's helped, depends on all the
4 financial medications, all the provisions and for the
5 surrounding people that depend on the nonprofit
6 services, as well as rent here and everything.

7 Yes, it one -- besides the fact this year
8 has not been about profiting, but just surviving. And
9 not receiving the handouts that some have taken
10 advantage of, I've kind of been just living by providing
11 more for the means of others that have been less
12 fortunate than me, since I have sort of small business.

13 So definitely the -- the spiral of negative
14 emotional side effects of stress, with all the people
15 that depend on this that have lost their jobs during
16 COVID. All the lockdowns.

17 So by all means, I mean, there is definitely
18 a great deal and why the Commission should look into,
19 you know, preserving this permit. You know, things will
20 turn out. Definitely have -- this has been a learning
21 experience from the bottom to the top, learning through
22 all the hardships, but --

23 End of day, this is a service that provides,
24 you know, quality service for its customers, quality
25 care. And -- I mean, we're -- we're good for the

1 community. And we can continue providing, you know,
2 good positive service for everybody. And this company
3 is not just for profiting, only -- I finish -- I dropped
4 out of college on my last class of nonprofit
5 philanthropy for this purpose, to start an organization
6 to fund my way back into college for further getting an
7 engineering degree. That's what the whole intent was.

8 So definitely I have chosen not to take any
9 handouts or grants or other welfare, even when I was
10 going through multiple surgeries in 2016 and 2019. I
11 didn't take any grants from the State or welfare.
12 Pretty -- it was pretty stubborn about being
13 independent.

14 So the amount of spiritual energy that went
15 to creating this organization successfully, to run five
16 years with no reports of the -- like, serious issues or
17 anything, it's been a pretty major feat.

18 So I would definitely appreciate, like, with
19 a grateful heart and blessings for the Commission, if
20 they consider eliminating. Because I have not profited
21 this year, and I put myself into debt to try to make it
22 this year.

23 So somebody that's already dealing with a
24 lot of anxiety and, you know, deals with a lot every day
25 about all this, you guys would definitely feel, at the

1 end of the day, great about helping me, you know, comply
2 and reach those goals. I understand it's frustrating to
3 deal with individuals like I, but I appreciate your
4 consideration. That's it.

5 JUDGE PEARSON: Okay. Thank you.

6 Mr. Teimouri, did you have any questions for
7 Mr. Goncharuk?

8 MR. TEIMOURI: No, not at this time. Thank
9 you, Your Honor.

10 JUDGE PEARSON: Okay. Thank you. And would
11 Staff like to make a recommendation with respect to just
12 the penalty assessment? I understand that -- and in a
13 moment I will get to discussion about the safety rating.
14 But just with respect to the penalty. And if you need a
15 couple of moments, Mr. Teimouri, we can take a break.

16 MR. TEIMOURI: Well, I believe I have
17 Mr. Jason Sharp on the line. And yesterday, Staff
18 testified as to both the penalty assessment and the
19 safety rating. And so he -- he provided his
20 recommendation today. I don't know if he's available on
21 the line right now to reiterate that -- that same
22 recommendation, but if not, we could go ahead and take a
23 short recess and then --

24 JUDGE PEARSON: Okay. So, Mr. Sharp, I'll
25 just ask you, since we're not all in the same room

1 together so that makes it difficult, if you are prepared
2 to give your statement now or if you'd like a moment to
3 confer with your attorney?

4 MR. SHARP: Thank you, Judge Pearson.

5 Jason Sharp here. I -- I believe that the
6 recommendation that I provided yesterday took into
7 account some corrective action from the company and
8 displaying that the owner had gotten a medical
9 certificate to correct the violation, for one count of
10 the medical card violations.

11 As I have not yet been able to review the
12 documents submitted to the docket this afternoon by the
13 company, I would be unable to issue a change to my
14 recommendation at this time.

15 JUDGE PEARSON: Okay. And that makes sense
16 to me. So I think what I propose is, let's give Staff
17 some time to look over the Safety Management Plan.

18 And then, Mr. Sharp, if you're comfortable,
19 you could include with your evaluation of the Safety
20 Management Plan a final recommendation on the penalty at
21 that point.

22 MR. SHARP: Yes, I can do that, Your Honor.

23 JUDGE PEARSON: Okay. Thank you.

24 Mr. Teimouri, were you going to say
25 something?

1 MR. TEIMOURI: Oh, I was saying that that
2 makes sense. Thank you.

3 JUDGE PEARSON: Okay. So, Mr. Goncharuk,
4 just to remind you that there are federal regulations
5 that are governing the pace and the timing of this
6 proceeding. So the Commission does not have the ability
7 to extend the September 7th deadline.

8 So you have submitted your Safety Management
9 Plan. Staff will be reviewing that. However, if there
10 are changes that need to be made and you have to, you
11 know, resubmit it or if it's not up to Staff standards
12 and you have to do additional work, I just want to
13 remind you that you have a very limited time frame to
14 accomplish that.

15 I will need Staff's evaluation no later than
16 close of business on Wednesday, September 2nd. So --
17 and most likely, Staff will require a couple of days to
18 review your -- your proposed plan. So just kind of keep
19 that in mind.

20 And does that work for Staff to provide the
21 evaluation by close of business on Wednesday,
22 September 2nd?

23 MR. SHARP: Yes. Either way we will submit
24 it by the end of close of business on Wednesday.

25 JUDGE PEARSON: Okay. And also,

1 Mr. Goncharuk, I just wanted to give you a little bit
2 more information. In the event that the deadline isn't
3 met, if your plan turns out to not be sufficient --
4 which, obviously I can't speak to that right now -- if
5 your permit does get canceled, there is a 30-day window
6 for you to request that your permit be reinstated
7 without having to file a new application. So just also
8 keep that in mind.

9 MR. GONCHARUK: Thank you very much.

10 Is there anything else I can do to appeal
11 this decision until I can get to that stage? I'm
12 assuming this is the final hearing for today.

13 JUDGE PEARSON: This is the final hearing
14 for today. Because again, like I said, we are bound by
15 the federal requirement. The 60-day limit from when
16 you're first notified of the proposed unsatisfactory
17 safety rating, there's a 60-day clock that begins to run
18 for you to submit and have approved a proposed Safety
19 Management Plan that could then upgrade your rating to
20 conditional.

21 So I do have one more question for,
22 Mr. Sharp.

23 Is the company currently in provisional
24 status or do they have permanent authority at this
25 point?

1 MR. SHARP: The company is a provisional
2 household goods carrier.

3 JUDGE PEARSON: Okay. So another thing that
4 is likely to happen, Mr. Goncharuk, is that your
5 provisional period will likely be extended until you're
6 able to achieve a satisfactory safety rating. That's
7 pretty routine at the Commission.

8 MR. GONCHARUK: Okay. How about --
9 concerning elimination of fees? Besides the extension,
10 addressing the fines.

11 JUDGE PEARSON: So Staff will make its
12 recommendation regarding the penalty and whether that
13 should be reduced or mitigated or suspended. The
14 Commission will have the final decision.

15 So we have, still on the record today,
16 everything that you said with respect to your inability
17 to pay. And so we'll take that all under advisement.
18 And in the event that you do -- are assessed a penalty,
19 Staff is certainly amenable to making payment
20 arrangements. And that's something that you can discuss
21 with Staff after the order comes out.

22 MR. GONCHARUK: Thank you very much.

23 JUDGE PEARSON: Okay. So thank you all for
24 appearing today. We'll issue an order reflecting the
25 Commission's decision on the company's safety rating and

1 with respect to the penalty assessment, and that order
2 will come out before the September 7th deadline.

3 So is there anything else that we need to
4 address before we go off the record?

5 MR. TEIMOURI: Not from Staff, Your Honor.

6 MR. GONCHARUK: Thank you very much. That
7 will be all for today.

8 JUDGE PEARSON: Okay. Thank you so much.
9 We're adjourned.

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11 (Hearing concluded at 2:02 p.m.)

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STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the adjudicative proceeding of AUGUST 28, 2020, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of September, 2020.

Crystal McAuliffe



CRYSTAL R. McAULIFFE, RPR, CCR #2121