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1 BEFORE THE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION
3 CASCADE MOVING AND STORAGE,) DOCKET NO. TV-061396
4 INC.'s Request for Mitigation)
5 of Penalty Assessment) Volume I
6) Pages 1 to 46
7 _____)

8 A hearing in the above matter was held on
9 October 27, 2006, from 9:30 a.m to 11:00 a.m., at 1300
10 South Evergreen Park Drive Southwest, Room 108, Olympia,
11 Washington, before Administrative Law Judge DENNIS
12 MOSS.

13 The parties were present as follows:

14 THE COMMISSION, by JENNIFER
15 CAMERON-RULKOWSKI, Assistant Attorney General, 1400
16 South Evergreen Park Drive Southwest, Post Office Box
17 40128, Olympia, Washington 98504, Telephone (360)
18 664-1186, Fax (360) 586-5522, E-Mail
19 jcameron@wutc.wa.gov.

20 CASCADE MOVING & STORAGE, INC., by ERIC L.
21 STEPHENS, President, 430 South Cloverdale Street,
22 Seattle, Washington 98108, Telephone (206) 762-9100, fax
23 (206) 767-3926, E-mail casmoving@aol.com.

24 Joan E. Kinn, CCR, RPR

25 Court Reporter

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

2 JUDGE MOSS: Good morning, everyone, my name
3 is Dennis Moss, I'm an Administrative Law Judge with the
4 Washington Utilities and Transportation Commission, I
5 will be presiding today in this matter that is styled
6 Cascade Moving and Storage, Inc.'s Request for
7 Mitigation of Penalty Assessment, Docket TV-061396.
8 Mr. Stephens is here and will be proceeding pro se, I'm
9 going to take a few minutes to explain the hearing
10 process, what we're about today and what we need to
11 accomplish and how we're going to accomplish it
12 basically.

13 However, before we go do that, we have to
14 formally identify everyone for the record, and we call
15 that taking appearances, so I will take appearances. I
16 would ask you to give your name, your business address,
17 your telephone number, your fax, and your E-mail if you
18 have one.

19 MR. STEPHENS: My name is Eric L. Stephens,
20 S-T-E-P-H-E-N-S, I am the President of Cascade Moving
21 and Storage, Inc. My physical address is 430 South
22 Cloverdale Street, Seattle, Washington 98108. Telephone
23 number is (206) 762-9100, my E-mail is
24 casmoving@aol.com, fax number is (206) 767-3926.

25 JUDGE MOSS: Thank you, Mr. Stephens.

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1 Ms. Cameron-Rulkowski.

2 MS. CAMERON-RULKOWSKI: My name is Jennifer
3 Cameron-Rulkowski, I'm an Assistant Attorney General,
4 the office address is 1400 South Evergreen Park Drive
5 Southwest in Olympia, Washington 98504. Telephone is
6 (360) 664-1186, fax number is (360) 586-5522, E-mail is
7 jcameron@wutc.wa.gov, and I'm representing Commission
8 Staff here today.

9 JUDGE MOSS: Okay, thank you very much.

10 Now, Mr. Stephens, primarily for your
11 benefit, is this the first hearing you have had before
12 this Commission?

13 MR. STEPHENS: Yes, sir.

14 JUDGE MOSS: Yes, okay, well, I want to take
15 a few minutes to explain what we're doing and so forth.
16 This is what we call a brief adjudicative proceeding.
17 It's a relatively informal type of a hearing, but it is
18 a hearing. I will take testimony today by sworn
19 testimony that I will put you, and I assume Ms. Hughes
20 is going to testify, will put you under oath. I will
21 just allow you to make a statement since you are here by
22 yourself, not represented by counsel, we won't go into
23 the formalities of the question and answer format which
24 you may have seen on TV or perhaps you have been in a
25 court proceeding. I suspect Ms. Cameron-Rulkowski will

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1 probably proceed with a question and answer format.

2 Is that a good assumption on my part?

3 MS. CAMERON-RULKOWSKI: Your Honor, I had
4 thought that I would make some statements, and then
5 Ms. Hughes would also be making some statements.

6 JUDGE MOSS: Okay.

7 MS. CAMERON-RULKOWSKI: In response to
8 whatever the Company's arguments may be.

9 JUDGE MOSS: But you will not be testifying,
10 you will simply be making argument; is that right?

11 MS. CAMERON-RULKOWSKI: I believe so, Your
12 Honor.

13 JUDGE MOSS: Well, the question is whether we
14 need to treat you as counsel or treat you as a witness.

15 MS. CAMERON-RULKOWSKI: I will be acting as
16 counsel.

17 JUDGE MOSS: Okay, very well.

18 So with that, what we'll do then, I will take
19 your statement first, Mr. Stephens, and then I will turn
20 to counsel for the Staff and hear whatever they have to
21 say, it appears they have some exhibits they want to
22 introduce into the record that will be made a part of
23 the rest of the things that have been filed in this
24 docket so far.

25 My goal today to learn what I need to know in

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1 terms of whether there are circumstances or facts that
2 warrant mitigation of the penalty that's been assessed.
3 This type of procedure is really we sort of analogize to
4 court proceedings sometimes, this is more analogous to,
5 for example, traffic court than it is to some other
6 types of proceedings we do. In other words, you have
7 been given the equivalent of a ticket, a penalty has
8 been assessed, so this is your opportunity to show why
9 that penalty should be mitigated. We did ask you to
10 file a statement in advance, and you did that, we
11 appreciate that, and that has helped us to prepare for
12 today.

13 Do you have any questions about the
14 procedure?

15 MR. STEPHENS: No, I don't believe so.

16 JUDGE MOSS: Okay, it's fairly
17 straightforward.

18 MR. STEPHENS: Pretty clear.

19 JUDGE MOSS: But if you do have questions as
20 we go along and if you want to ask each other questions,
21 of course I will allow for that too, and again let's
22 keep it on a fairly informal basis, but we'll want to do
23 that.

24 Now before I swear you, I want to ask
25 particularly a direct question to you,

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1 Ms. Cameron-Rulkowski, whether there would be reason for
2 me to go off the record and allow you all to discuss
3 between yourselves whether there might be some basis to
4 settle this matter?

5 MS. CAMERON-RULKOWSKI: No, Your Honor.

6 JUDGE MOSS: Okay, very well.

7 MS. CAMERON-RULKOWSKI: I do, however, have a
8 few procedural issues that I did want to discuss.

9 JUDGE MOSS: Well, all right, let's do that
10 now.

11 MS. CAMERON-RULKOWSKI: Thank you.

12 First of all, I wanted to make certain that
13 the Company was not contesting the violations, that
14 Cascade did ask for mitigation, which indicates that the
15 Company is not contesting the basis of the violations.

16 JUDGE MOSS: That seems clear to me, is
17 that --

18 MR. STEPHENS: That's correct, yes.

19 MS. CAMERON-RULKOWSKI: Thank you.

20 MR. STEPHENS: I am not contesting that, no.

21 JUDGE MOSS: All right.

22 MS. CAMERON-RULKOWSKI: Thank you.

23 And then I also wanted to make sure that
24 items in the docket are part of the record, and
25 specifically the penalty assessment, the application for

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1 mitigation, and the statement of reasons for mitigation
2 by the Company.

3 JUDGE MOSS: Well, this is all part of the --
4 the filed documents are all part of the record in terms
5 of the pleading type documents, that would include the
6 application and the statement certainly. The penalty
7 assessment itself, again I would consider that to be
8 part of the official record without making it an
9 exhibit.

10 MS. CAMERON-RULKOWSKI: Thank you, Your
11 Honor.

12 And then one final note is that because the
13 Company is asking for mitigation that the Company has
14 the burden of showing mitigation.

15 JUDGE MOSS: Sure, that's the nature of the
16 proceeding, it's a show cause proceeding.

17 MS. CAMERON-RULKOWSKI: Thank you, Your
18 Honor.

19 JUDGE MOSS: All right, with that, we're
20 ready to proceed, let me ask you both to rise and raise
21 your right hands.

22 (Witnesses ERIC L STEPHENS and M. CARLENE
23 HUGHES were sworn.)

24 JUDGE MOSS: Thank you, please be seated.

25 All right, Mr. Stephens, you may go ahead

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1 with your statement.

2

3 Whereupon,

4

ERIC L. STEPHENS,

5 having been first duly sworn, was called as a witness

6 herein and was examined and testified as follows:

7

8 MR. STEPHENS: To keep mine very, very brief,
9 I do admit to the 49 violations that we have been cited
10 for for not having shipper signature on the estimated
11 cost of services form. As mentioned earlier, I'm not
12 contesting that at all. What I would like to see if we
13 can accomplish at this hearing is if we can reduce that
14 penalty from \$4,900 down to a lower figure, and I quite
15 frankly don't know how to do that other than coming
16 before you folks and asking for a reduction in that
17 penalty.

18 Since we were made aware of this with my last
19 hearing with Ms. Hughes and Staff, each and every one of
20 our bill of ladings now when it goes out on the move has
21 a copy of the estimated cost of services form. The
22 driver at that point in the morning gets a signature and
23 a date on the estimated cost of services form, so we're
24 up to compliance from the time that I had our previous
25 meeting with Ms. Hughes. However, I do, as I said

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1 earlier, admit to the 49 violations and several more if
2 we were to have all of our records audited, because we
3 didn't have that done. We believe we are now in 100%
4 compliance on that.

5 And as I, if I may state briefly, when I had
6 the meeting with Ms. Hughes, I was not aware of that
7 technically I was supposed to have all those signatures
8 on there, and I haven't done that for years. And the
9 reason I haven't done that is I'm one of the very few
10 companies that I'm aware of when I go out and do an
11 estimate, and I do 99% of the estimates, I make my hand
12 notes on the table of measurement at the time of
13 residence, then I bring it back, I put it all together,
14 and I type out the estimated cost of services form, then
15 I either do an E-mail to the party involved or I fax it
16 and/or I mail it. So I've never had that signature at
17 the time that I am in the residence. I have always had
18 the assumption, and that's my assumption, that when a
19 party calls and agrees to do the move with us, then I
20 have them sign all the appropriate blocks on the bill of
21 lading, and they of course have their copy of the
22 estimated cost of services, as we do, but up to this
23 point I have never had them sign for the estimate.

24 And I have been warned about that. Bob
25 Johnston, who has been in our office several times over

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1 the years and actually did one, perhaps two formal
2 audits when the agents used to come out to the facility,
3 he warned me about that, and I explained similar
4 situations to him as to why I didn't do that. And I
5 just, you know, I never put that much thought into it as
6 to have that document signed when I had all the
7 signatures on the bill of lading that pertain to the
8 estimate.

9 JUDGE MOSS: Okay.

10 MR. STEPHENS: But now we're in compliance, I
11 believe we're 100%.

12 JUDGE MOSS: All right, very good.

13 MR. STEPHENS: There are times, I had a
14 fellow the other day that went out, and I put little
15 sticky notes to get the shipper signature and date, he
16 didn't do that. So when he came back in, I sent him
17 right back out on his personal time to get that done.
18 Had another gentleman do the same thing, and we E-mailed
19 it back to the party, and they signed it and E-mailed it
20 back to us. So I believe we're in compliance.

21 JUDGE MOSS: Very good, thank you. Does that
22 complete your statement?

23 MR. STEPHENS: Yes.

24 JUDGE MOSS: All right.

25 MR. STEPHENS: Thank you.

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1 JUDGE MOSS: That doesn't mean you won't have
2 an opportunity to say something else, but that gives us
3 our start.

4 MR. STEPHENS: Thank you.

5 JUDGE MOSS: All right,
6 Ms. Cameron-Rulkowski, it's your turn.

7 MS. CAMERON-RULKOWSKI: All righty. I would
8 like everybody to take a look at a couple of the
9 exhibits. One of the exhibits is the complaint, and
10 another of the exhibits is the memorandum dated April
11 29, 1996.

12 JUDGE MOSS: When you say the complaint, I'm
13 not sure what you're referring to.

14 MS. CAMERON-RULKOWSKI: Oh, in the exhibit
15 list there's an exhibit that's called WUTC Consumer
16 Affairs Record of Consumer Complaint Number 83327.

17 JUDGE MOSS: Okay.

18 MR. STEPHENS: Where is that in this stack of
19 papers, if I may ask?

20 MS. CAMERON-RULKOWSKI: Certainly. Oh, I
21 see, this is all -- the first stack is the audit report.

22 MR. STEPHENS: Okay.

23 MS. CAMERON-RULKOWSKI: The complaint is the
24 next one, and then after that is the memo.

25 JUDGE MOSS: Oh, okay, I have it now.

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1 Do you have it, Mr. Stephens?

2 MR. STEPHENS: Yes, I do.

3 JUDGE MOSS: Okay, I think we're both looking
4 at it now.

5 MS. CAMERON-RULKOWSKI: First, Ms. Hughes --

6 JUDGE MOSS: And let me stop you for a moment
7 too, it's your intention I assume to move for the
8 introduction of these various exhibits.

9 MS. CAMERON-RULKOWSKI: I will be, Your
10 Honor.

11 JUDGE MOSS: All right. Now I notice that
12 the first one is the Staff audit report, and then you
13 have listed all the various appendices, do those need to
14 be separately marked?

15 MS. CAMERON-RULKOWSKI: They do not, they can
16 all be combined with the body of the audit.

17 JUDGE MOSS: All right, then I'm going to
18 mark the Staff audit report for identification and
19 Appendices A through F as Exhibit 1 for identification.

20 MS. CAMERON-RULKOWSKI: Thank you.

21 JUDGE MOSS: The complaint that we're talking
22 about right now I'm going to mark as Exhibit 2 for
23 identification. The memorandum that's listed next as 3
24 for identification, that's the April 29, 1996,
25 memorandum. The following memorandum, May 19, 1997, I

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1 will mark as 4 for identification. And the Cascade bill
2 of lading from May 2005 I will mark as 5.

3 So let's refer to these by their numbers, and
4 we are currently looking at what I have marked for
5 identification as Exhibit Number 2.

6 Go ahead.

7 MS. CAMERON-RULKOWSKI: Thank you, Your
8 Honor.

9

10 Whereupon,

11 M. CARLENE HUGHES,
12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 D I R E C T E X A M I N A T I O N

16 BY MS. CAMERON-RULKOWSKI:

17 Q. Ms. Hughes, I would actually like you to take
18 a look at what has been marked as Exhibit Number 3, and
19 I would like you to explain how -- I would like you to
20 explain how it is that this particular memorandum was
21 prepared and how you accessed it in your investigation.

22 A. This memorandum is from Bob Johnston, a Motor
23 Carrier Special Investigator, who in 1996 was given the
24 assignment to investigate a consumer complaint. He went
25 to the Company, reviewed records regarding this

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1 consumer's move and the documents associated with the
2 move, made an investigation, and at the end of the move
3 he summarized his investigation in this memorandum dated
4 April 29, 1996.

5 Q. I'm going to stop you there briefly.

6 And how is it during the investigation that
7 you became familiar with this particular memorandum?

8 A. As part of my audit, I also reviewed all of
9 the compliance documents, what we call our compliance
10 files for the Company, and the compliance file included
11 Mr. Johnston's assignment to review this consumer
12 complaint.

13 JUDGE MOSS: So there's no mystery in my mind
14 or in the record, Ms. Cameron-Rulkowski, I want to ask
15 my recollection is that there was 1 violation associated
16 with more than a 25% deviation from an estimate; is that
17 what this exhibit is offered in support of?

18 MS. CAMERON-RULKOWSKI: Your Honor, I'm just
19 getting to that right now.

20 JUDGE MOSS: Okay, well, that's what I need
21 to know.

22 MS. CAMERON-RULKOWSKI: Yes, Your Honor.

23 BY MS. CAMERON-RULKOWSKI:

24 Q. Ms. Hughes, if you could please look at the
25 bottom of page 2, and please tell us what was discussed

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1 in this memo.

2 A. Mr. Johnston stated that he, in reviewing the
3 complaint with Mr. Stephens, he discussed the following,
4 the first of which was having the potential customer
5 sign the estimate.

6 Q. Thank you, Ms. Hughes.

7 Could you please now turn to the complaint
8 that has been marked as Exhibit Number 2, and could you
9 please describe how you're familiar with this particular
10 complaint.

11 A. As part of my audit investigation I also
12 review all of the consumer complaints that have been
13 filed against a company. This is a consumer complaint
14 that the consumer affairs section received in May of
15 2003.

16 Q. Thank you. And could you now please refer to
17 page 3 of the complaint, and tell us what violation was
18 issued there.

19 A. On May 22nd, 2003, Staff issued a violation
20 for 480, this is WAC 480-15-650(3), customers must sign
21 the written estimate, Company failed to obtain signature
22 of customer on written estimate and supplemental
23 estimate.

24 Q. Thank you.

25 And now I'm going to move on to the subject

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1 of supplemental estimates. Would you please turn to
2 what's been marked as Exhibit Number 4, and could you
3 tell us, please, how you are familiar with this
4 particular memorandum.

5 A. Again as part of my audit investigation, I
6 review the compliance file. In the compliance file, I
7 found a second assignment from special investigator Bob
8 Johnston, it's a investigation, excuse me, it's an
9 economic audit and safety audit of Cascade Moving and
10 Storage that he conducted in November of 1996 and
11 January of 1997.

12 Q. Thank you. And if you could please turn to
13 the third paragraph there on the first page, and could
14 you please tell us what it says there about
15 supplementary estimates.

16 A. Mr. Johnston states in his memorandum:

17 I did not observe any supplementary
18 estimates, so I inquired whether
19 supplementary estimates were used.

20 Mr. Stephens stated that whenever the
21 nature of the work would change, he
22 would personally generate a new estimate
23 at the shipper's location.

24 Q. Thank you.

25 And now I would ask you to please turn to the

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1 final exhibit, and this is the sample Cascade bill of
2 lading.

3 MS. CAMERON-RULKOWSKI: Your Honor, may we
4 mark that for identification?

5 JUDGE MOSS: Where are we?

6 MS. CAMERON-RULKOWSKI: We are at the final
7 exhibit listed on the exhibit list.

8 JUDGE MOSS: Bill of lading, I have marked it
9 as 5 for identification.

10 MS. CAMERON-RULKOWSKI: As 5, thank you.

11 BY MS. CAMERON-RULKOWSKI:

12 Q. Now if you would look please in the section
13 declarations, which is in the first column on the left,
14 about midway down, could you please read what it says
15 there on that line.

16 A. (Reading.)

17 Declarations (Customer must initial
18 preferences.)

19 Q. Thank you.

20 And below there concerning valuation, could
21 you please read there what it says?

22 A. (Reading.)

23 Valuation, the customer must initial
24 option selected.

25 Q. And over in the second column, that's the

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1 column on the right, is there a space there to fill in
2 mileage?

3 A. Yes, there is.

4 Q. And down further, is there information about
5 payment choice?

6 A. Yes, there is.

7 Q. Could you please read what the form says?

8 A. (Reading.)

9 Payment, customer must initial. The
10 customer and the carrier agree that
11 payment at the time of delivery will be
12 made by.

13 And then there are spaces for the type of
14 payment.

15 Q. Thank you.

16 And then back to this particular document,
17 could you explain how it is that you came into
18 possession of this particular document?

19 A. As part of my audit investigation, the
20 Commission issued a data request asking for all bills of
21 lading for the month of May 2005. This was one of those
22 bills of lading.

23 Q. Thank you.

24 And then just a couple more questions, I
25 would like to discuss listing the mileage on a bill of

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1 lading, and can you explain why it is important that
2 mileage is listed on a bill of lading?

3 A. Mileage is required on a bill of lading as
4 the -- there are 2 choices when you bill for a household
5 goods move. If the mileage is 35 miles or less, it is
6 billed under hourly rates. If the mileage is greater
7 than 35 miles, it must be billed under mileage rates.
8 So the mileage must be determined at the time of the
9 move so the correct billing can be applied.

10 Q. Thank you.

11 JUDGE MOSS: Where is that mileage on this
12 form? I mean I see where it says mileage-rated moves,
13 there's some stuff there, is that where we're looking,
14 or are we looking somewhere else?

15 MS. CAMERON-RULKOWSKI: Your Honor, directly
16 under mileage-rated moves, there is a list of perhaps
17 ten items, and the second to the last item is mileage
18 right above fuel surcharge.

19 JUDGE MOSS: Okay.

20 MS. CAMERON-RULKOWSKI: And that's the space
21 to fill in mileage.

22

23 E X A M I N A T I O N

24 BY JUDGE MOSS:

25 Q. Well, now is your testimony, Ms. Hughes, that

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1 because there is a space there for the entry of mileage
2 that that's a required entry on every move even though
3 this section of the form is for mileage-rated moves and
4 there's another section of the form for hourly-rated
5 moves?

6 A. That's correct.

7 Q. I see, okay.

8 A. The rule requires mileage for all moves.

9 Q. I see.

10 MS. CAMERON-RULKOWSKI: Thank you, Your
11 Honor, that concludes my examination of Ms. Hughes.

12 JUDGE MOSS: Okay.

13 Would you like to ask Ms. Hughes any
14 questions, Mr. Stephens, questions about these exhibits
15 or anything she said?

16 MR. STEPHENS: Yes, I am somewhat confused,
17 because I thought we were discussing the 49 violations
18 of the estimated cost of services form. I did not
19 understand that we were going to be drawn to the example
20 shown, bill of lading number 15428, for Mr. Jordon Lott.

21 With regards to that, this document, which is
22 a copy of our bill of lading, I was never made aware of,
23 and I am sure if I read every single line in the tariff
24 rules and regulations that I would find out that I have
25 to list mileage even if it's a local move by the hour.

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1 And I have been in this business in the state of
2 Washington for 36 years, owned Cascade for the last 28
3 years, now that's something I have never heard of. That
4 has never been brought to my attention in previous
5 audits either on site or coming down here to speak with
6 Ms. Hughes. So if that is something that is required, I
7 will do that in the future.

8 However, as I stated earlier, I thought this
9 was a review of the estimated cost of services form, not
10 the bill of lading for this particular move in this
11 complaint. So I'm a little confused as to why this
12 particular move was brought up and not something on the
13 estimated cost of services form, which is something I
14 have been fined for.

15 JUDGE MOSS: I can clarify one point for you,
16 Mr. Stephens, and that is I'm looking at the penalty
17 assessment here in my file, September 5th, 2006, and
18 what it lists is 34 violations for failure to require
19 customer signature on written estimate form, there are
20 15 I guess additional violations of various types listed
21 here, the largest single number being 8 for charging
22 more than 25% above the written non-binding estimate.
23 The others are for various things such as --

24 Although I'm still frankly a little puzzled
25 about this, what does Exhibit 5, for what purpose are

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1 you tendering that exhibit?

2 MS. CAMERON-RULKOWSKI: I'm happy to explain,
3 Your Honor.

4 JUDGE MOSS: Please.

5 MS. CAMERON-RULKOWSKI: This is simply a
6 sample bill of lading, and the point here was to make
7 clear that it's what the Company needs to fill in, that
8 on the Company's own bill of lading it lists valuation
9 and that the customer must initial the options selected,
10 and that was one of the violations that the penalty was
11 assessed upon was for failure to have the customer
12 select and initial valuation. And so I was -- we were
13 marching through some of the other penalty assessment
14 items.

15 And on that note, a further explanation, Your
16 Honor, I did have a few more things that I did want to
17 have Ms. Hughes address, may I go back briefly and have
18 her address a few things?

19 JUDGE MOSS: Well, let me first ask
20 Mr. Stephens, do you understand now that there's a
21 variety of violations for which you were penalized, not
22 just this one?

23 MR. STEPHENS: Yes, sir, I do, Your Honor.
24 However, in the letter that was sent to our firm dated
25 October 5th of this year, 2006, it says 49 violations of

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1 WAC 480-15.

2 JUDGE MOSS: And I think all of these
3 violations are in that chapter.

4 MR. STEPHENS: I see, okay, then that's my
5 misunderstanding.

6 JUDGE MOSS: Sure.

7 MR. STEPHENS: I thought all 49 of those
8 related to the estimated cost of services form.

9 JUDGE MOSS: Sure.

10 MR. STEPHENS: But in looking at page 4 of
11 the audit summary, now I see that there's all kinds of
12 them there, there's parentheses different numbers after
13 that. So that is, based on this letter of October 5th,
14 that's what I thought I was trying to mitigate was 49
15 violations of my estimated cost of services form. I
16 think I was somewhat confused because all 49 of these
17 violations on this letter dated October 5th are not
18 broken out. Does that make sense?

19 MS. CAMERON-RULKOWSKI: I understand your
20 argument.

21 JUDGE MOSS: Sure, all right, but --

22 MR. STEPHENS: So I'm arguing incorrectly,
23 because I thought that it was all related to the
24 estimated cost of services form.

25 JUDGE MOSS: I'm still -- you say this number

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1 5, marked for identification number 5 is I suppose in
2 the nature of an illustrative exhibit, doesn't support
3 any specific violation in the penalty assessment?

4 MS. CAMERON-RULKOWSKI: That's correct, Your
5 Honor.

6 JUDGE MOSS: All right. So in terms of its
7 illustrative value, what do you think it supports?

8 MS. CAMERON-RULKOWSKI: It supports the
9 argument against mitigation in that the Company has on
10 its own form spaces that instruct the Company exactly
11 what it is to do to fill out the form and thus comply
12 with the rule or tariff item. And even though the
13 Company has these items marked clearly on the bill of
14 lading, they were not filled out, and so that is one of
15 Staff's arguments against mitigation of the penalty.

16 And I did have a couple of other arguments
17 against mitigation to address with Ms. Hughes, if I
18 could at this time?

19 JUDGE MOSS: Well, we'll get to that.

20 MS. CAMERON-RULKOWSKI: Certainly.

21

22 E X A M I N A T I O N

23 BY JUDGE MOSS:

24 Q. Ms. Hughes, I will put the question to you
25 though, is this form one that is acceptable under our

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1 tariff and so forth?

2 A. Yes.

3 Q. This form has been reviewed by Staff and is
4 acceptable?

5 A. Yes.

6 JUDGE MOSS: All right, then go ahead,
7 Ms. Cameron-Rulkowski, you may proceed.

8 MS. CAMERON-RULKOWSKI: Thank you.

9

10 D I R E C T E X A M I N A T I O N

11 BY MS. CAMERON-RULKOWSKI:

12 Q. I did want to address the audit report,
13 Ms. Hughes, if you could please take a look at Exhibit
14 1, which is the audit report, and I understand that you
15 authored the audit report and were responsible for
16 compiling the text and the appendices; is that correct?

17 A. That's correct.

18 Q. Thank you. Then I would like to please have
19 you turn your attention to Appendix B, and could you
20 please tell us a bit about this letter, and then discuss
21 what the letter says in relation to supplemental
22 estimates.

23 A. This letter is in response to investigator
24 Johnston's assignment to review the Boehm consumer
25 complaint. He did an investigation, he did write the

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1 memo that we referred to earlier, and in response to his
2 investigation it was determined that the Deputy
3 Director, Paul Curl, would send a letter to Mr. Stephens
4 at Cascade Moving pointing out some deficiencies in his
5 operations that were found during that investigation.

6 The third bullet point talks about the
7 estimates provided to the shipper was invalid, the
8 actual charges assessed were 68% higher than the
9 estimated charges. The next bullet point also talks
10 about the fact that there was no indication of
11 supplemental estimate was provided when it became
12 apparent that the move would take considerably longer
13 and thus cost considerably more than the original
14 estimate.

15 And on the second page, the letter to Cascade
16 Moving goes on to say that, the Commission strongly
17 recommends that you take immediate remedial steps to
18 ensure, and then it has three bullet points, the second
19 of which talks about that estimates provided to shippers
20 are accurate and provide sufficient information so that
21 the shipper may make informed decisions. And the third
22 bullet point states that, and that your employees are
23 properly trained in the issuance of supplemental
24 estimates.

25 MS. CAMERON-RULKOWSKI: Thank you.

0029

1 JUDGE MOSS: Now I'm again my questions are
2 similar to the ones I asked before, is this Appendix B
3 to Exhibit 1, is this offered in support of the specific
4 violation of WAC 480-15-060 for failure to issue a
5 supplemental estimate subject to a penalty of \$100?

6 MS. CAMERON-RULKOWSKI: Your Honor, it's
7 issued in support of an argument against mitigating the
8 penalty, and it is submitted to show that the Company
9 had received information from the Commission about
10 preparing supplemental estimates, and therefore the
11 violation that was issued and the penalty that was
12 assessed this time around should not be mitigated
13 because the Company knew and should have been able to
14 correct its practices.

15

16 E X A M I N A T I O N

17 BY JUDGE MOSS:

18 Q. Mr. Stephens, did I understand you to say
19 earlier that your practice now is that when an estimate
20 needs to be changed that you actually do a new estimate
21 for a customer?

22 A. That's correct.

23 Q. Okay.

24 A. Or if it is over, if I don't have that
25 estimate at the time that the move takes place and we go

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1 over the 25% allowed, that's all we charge the client.

2 Q. Okay.

3 A. So at that time there are some instances
4 where we just can't get out there or my drivers don't
5 know how to fill out the form if it does go over, which
6 is very rare but it has happened since my last meeting
7 with Ms. Hughes, we keep it at the 25%.

8 JUDGE MOSS: Okay, thank you.

9 Anything else?

10 MS. CAMERON-RULKOWSKI: I do, Your Honor.

11

12 D I R E C T E X A M I N A T I O N

13 BY MS. CAMERON-RULKOWSKI:

14 Q. Ms. Hughes, we're now discussing valuation,
15 and if you could please turn to the audit report, and
16 turn to page 16, could you please tell us how many of
17 the bills of lading had a violation concerning
18 valuation?

19 A. Of the 47 bills of lading that I reviewed, 18
20 of the bills of lading failed to acknowledge what type
21 of valuation the customer had chosen.

22 Q. And the penalty of \$100 could have been
23 assessed for all of those 18 violations?

24 A. That's correct.

25 Q. Thank you.

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1 JUDGE MOSS: And what penalty was assessed?

2 MS. CAMERON-RULKOWSKI: Only one, Your Honor.

3 JUDGE MOSS: I'm trying to, oh, here it is,
4 that's item 90 violation, right?

5 MS. CAMERON-RULKOWSKI: That's correct, Your
6 Honor.

7 JUDGE MOSS: All right.

8 BY MS. CAMERON-RULKOWSKI:

9 Q. And then regarding the payment choice of the
10 customer, I would ask you to please turn to page 18 of
11 the audit report, and could you tell us how many of the
12 bills of lading that you reviewed had the violation for
13 selection of payment type?

14 A. Of the 47 bills of lading I reviewed, none of
15 the bills included the choice of the customer for what
16 type of payment they were going to use.

17 Q. So that means that Staff could have requested
18 a penalty of \$100 for each of 47 violations; is that
19 correct?

20 A. That's correct.

21 Q. Thank you.

22 JUDGE MOSS: And how many were assessed?

23 MS. CAMERON-RULKOWSKI: Oh, I'm sorry, Your
24 Honor, only one.

25 JUDGE MOSS: And which one, I'm looking at

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1 the penalty assessment, I'm trying to tie all this stuff
2 together, so --

3 MS. CAMERON-RULKOWSKI: Certainly, I
4 understand, this violation --

5 JUDGE MOSS: -- which one is this?

6 MS. CAMERON-RULKOWSKI: This is tariff 15-B,
7 item 95.

8 JUDGE MOSS: Oh, okay, got it, all right.

9 MS. CAMERON-RULKOWSKI: And then finally,
10 Your Honor, I would like to move for the admission of
11 all five of these exhibits.

12 JUDGE MOSS: Do you have any objection to me
13 receiving these as part of the record, Mr. Stephens?

14 MR. STEPHENS: No, Your Honor.

15 JUDGE MOSS: Okay, fine, they will all be
16 admitted as marked.

17 MS. CAMERON-RULKOWSKI: Thank you, Your
18 Honor.

19 JUDGE MOSS: Are you finished?

20 MS. CAMERON-RULKOWSKI: I am finished with
21 examination.

22 JUDGE MOSS: All right, very well. Again,
23 Mr. Stephens, I will give you an opportunity if you have
24 any questions you would like to ask of Ms. Hughes or
25 counsel.

0033

1 MR. STEPHENS: Yes, I would like to ask one
2 question, and then I would like to make a statement if I
3 could.

4 JUDGE MOSS: Sure, absolutely.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. STEPHENS:

8 Q. Ms. Hughes, do you have a record of how many
9 complaints have been filed with the Commission on behalf
10 of shippers since we have been in business for 28 years?

11 A. For 28 years, no, I don't have that
12 information.

13 Q. Would you care to speculate?

14 A. I would speculate -- I'm aware of I believe
15 two.

16 JUDGE MOSS: Okay.

17 MR. STEPHENS: Thank you.

18 JUDGE MOSS: All right.

19 A. Can I correct that, I should say there are
20 two that were filed within the last I would say four
21 years. Those are the ones I'm aware of.

22 JUDGE MOSS: Okay.

23 A. Prior to that I wouldn't have a number.

24 MR. STEPHENS: Okay, thank you.

25 JUDGE MOSS: All right, you can go ahead with

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1 your statement, Mr. Stephens.

2 MR. STEPHENS: I don't know if it's
3 appropriate or you folks have the time, but just to give
4 you a little background on our firm, as I mentioned
5 earlier, we have been in business for 28 years. We are
6 a very small shop. Besides being the owner, I am the
7 one that does, as I say, 99% of the estimating, I
8 dispatch, I hire the guys, fire the guys, go out
9 personally to look at almost every single move we do.
10 Very seldom do we do a move over the phone, perhaps it
11 might be a piano move, but usually we go out and look at
12 it.

13 I give the folks at the time I'm out there
14 rights and responsibilities, I give them the insurance
15 form that is sent from this office for the consumer,
16 explain everything to them. I also give them the form
17 from the Washington Movers Conference saying select a
18 legal mover. I give them two pages of references,
19 phones, names. I explain their insurance options to
20 them as provided by the Utilities Commission. I sit
21 down if we're lucky enough to get them with my crew in
22 the morning, explain everything to them. Very hands on,
23 I think I'm very detail oriented. By and large the
24 thousands of people we have moved over the years have
25 been extremely happy with our service. We have a lot of

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1 them that use us over and over again, refer us.

2 And to be able to sit down, read and
3 comprehend every single thing that the State of
4 Washington wants all the little things done on
5 paperwork, I have missed some of those, I admit that.
6 Since this \$11,000 some odd proposed penalty against our
7 firm, I met with Ms. Hughes and Staff, we have corrected
8 I believe the bulk of what they want us to do. The
9 bills of lading now are all highlighted in the
10 appropriate spots, payment method, the shipper signs for
11 that, initials for it, my estimated cost of services are
12 complete the way that we are supposed to be doing them,
13 I have instructed all my drivers, helpers, to do all
14 this paperwork.

15 And to be very honest with you, I know of
16 several firms that I wouldn't let haul my garbage, and
17 yet they're still in business. And if you're going to
18 come down and say send me one month's worth of
19 documentation without coming up and having a
20 face-to-face meeting with the moving company, we have
21 all the documents, we can go back and forth, you could
22 fine me hundreds of thousands of dollars. All I can do
23 at this point is I'm trying to comply with what the
24 State of Washington, particularly the WUTC Commission
25 folks, want us to do. You're welcome to come up and do

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1 an audit, or I will send you a boatload of paperwork
2 from the time that Ms. Hughes had me down here and went
3 through this proposed penalty.

4 So my dander is up somewhat because I believe
5 we run a very good operation, we give really good
6 service to people, we have very, very few clients that
7 have a problem with our service. When we do, we try to
8 iron those out. But again, I don't document all the
9 darn little spaces that the State says we must do, and I
10 don't think there's a firm out there that does so.

11 JUDGE MOSS: Okay.

12 MR. STEPHENS: I think that I have done all I
13 can possibly do to come up to requirements per the WUTC.
14 And it came down to this meeting hopefully to mitigate
15 what I thought was the 49 violations of the estimated
16 cost of services form. I did not know that the other
17 ones were in that 49 group. Now I will admit to every
18 single one of those, the \$11,000 some odd fine, we did
19 all of those, and I'm just asking for some leniency, our
20 records are trying to be brought up.

21 JUDGE MOSS: All right, does that complete
22 your statement?

23 MR. STEPHENS: No. This is a tough business
24 to be in. You have to satisfy not only the consumer,
25 you've got to satisfy the State, you've got to satisfy

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1 your employees. And we're essentially a 2 person office
2 on the administrative side. We work 10 to 15 men every
3 day. And to do all of that and still run a shop that
4 provides good service is pretty tough to do. And this
5 is an industry I chose to go into 36 years ago as a
6 legal mover, have always been a legal mover, pay all the
7 taxes associated with every agency there is. So when I
8 get something like this, it's just -- it's a little
9 upsetting. So I guess I put myself at your mercy and
10 the Commission's mercy as to what you folks want to do.

11 JUDGE MOSS: All right, thank you, does that
12 complete your statement?

13 MR. STEPHENS: Yes.

14 JUDGE MOSS: Okay.

15 MR. STEPHENS: Thank you very much.

16 JUDGE MOSS: Just want to make sure you have
17 had your say.

18 MR. STEPHENS: Thank you.

19 JUDGE MOSS: Ms. Cameron-Rulkowski, I will
20 give you an opportunity to make a statement, a summary
21 if you wish.

22 MS. CAMERON-RULKOWSKI: Thank you. As
23 Mr. Stephens said, the penalty amount that could have
24 been assessed was in excess of \$11,000, and Staff did
25 look through the violations and bring that amount down

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1 to \$4,900. In a sense, there was already some
2 mitigation.

3 I would like to talk about the estimates,
4 particularly the written estimate form and the failure
5 of the Company to require the customer to sign the
6 estimates. The company has been told in the past that
7 it needs to have customers sign the estimate form. In
8 1996, investigator Bob Johnston informed Mr. Stephens
9 that potential customers must sign the estimate form,
10 and we can see that in the memo of April 29, 1996, which
11 is Exhibit Number 3. And then in 2003 in the context of
12 a consumer complaint, consumer affairs staff issued a
13 violation to Cascade Moving for failure to have the
14 consumer sign the estimate, and we can see that at
15 Exhibit Number 2, the consumer complaint.

16 And then along the same lines, moving on to
17 failure to issue a supplemental estimate when the
18 circumstances of the move change, Bob Johnston contacted
19 the Company in 1996 or possibly early 1997 and indicated
20 that that was a problem, and we can see that in Bob
21 Johnston's memo of May 19, 1997, that's Exhibit Number
22 4. And then also the Company was notified approximately
23 a year later that it needed to take immediate action to
24 ensure that its employees were trained in issuing
25 supplemental estimates, and we can see that in Exhibit

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1 Number 1, Appendix B, and that was a letter from Staff
2 dated January 26, 1998, to Cascade Moving and Storage.
3 Regarding those two issues, it is Staff's position that
4 the Company knew that it needed to have customers sign
5 the written estimate, and therefore mitigation is not
6 appropriate.

7 Moving on to the violation of WAC 480-15-690,
8 and this was charging more than 25% above the written
9 non-binding estimate, the compliance letter which is set
10 forth at Appendix B of the audit report which is Exhibit
11 Number 1 told Cascade Moving that the estimates must be
12 accurate. And similarly it is Staff's position that the
13 Company knew that its estimates -- that they had to do a
14 better job in making the estimates accurate, and
15 therefore mitigation is not appropriate on this
16 violation, rather on these 8 violations of WAC
17 480-15-690.

18 Regarding the remaining violations, there
19 were several instances in which Staff could have chosen
20 to assess significant penalties. For example, in the
21 requirement that the customer must select a type of
22 valuation and then initial the selection on the bill of
23 lading, and then also in the violation involving a
24 failure to require customers initial their payment
25 choice. Staff could have penalized, significantly

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1 penalized Cascade for significantly more violations and
2 chose rather to issue a violation and penalize for only
3 one in each case.

4 Moving on to the violations concerning
5 mileage, it is very important that the mileage is listed
6 on a bill of lading and that any information such as
7 mileage and weight is listed so that the Commission
8 knows when it is reviewing the bills of lading that the
9 customer has been properly charged. And because there
10 is space on the company's bill of lading and because
11 it's quite obvious in order to be able to assess a
12 proper charge to the customer that this information must
13 be included, Staff recommends no mitigation.

14 And finally, Your Honor, it's not clear how
15 many complaints there are against this Company either
16 with the Commission or with the Company by customers,
17 but the number of complaints is not the full story. The
18 Commission is concerned that the Company commit to
19 complying with the regulations that all other household
20 goods moving companies are required to comply with and
21 does not believe that mitigation is appropriate for
22 these particular violations.

23 Thank you, Your Honor.

24 JUDGE MOSS: All right, any final word,
25 Mr. Stephens?

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1 MR. STEPHENS: Yes, I would like to ask
2 Ms. Hughes a question pertaining to the bill of lading
3 that's exhibited here, if I can find that again.

4 JUDGE MOSS: That's the last one, Exhibit 5.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. STEPHENS:

8 Q. And this relates to the mileage issue for all
9 moves as I understand you're saying. If you will take a
10 look at this bill of lading, it's Seattle to Seattle.
11 Now for my firm and myself to be in compliance with your
12 rules and regulations, what would you do to put in there
13 for the mileage? Now I want to know from the Commission
14 what I'm supposed to put in there. It's a mileage-rated
15 column, mileage-rated moves, this is an hourly move, so
16 that I don't get my hand slapped again for something I
17 didn't know about, what should I put in there using this
18 one as an example?

19 A. Zero.

20 Q. Zero miles?

21 A. (Nodding head.)

22 Q. All right. And I am told that every one of
23 these bills of lading we do has to have something in
24 there for mileage.

25 A. The tariff requires it.

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1 Q. Even though it's mileage-rated moves and it's
2 not a mileage-rated move?

3 A. The tariff requires that.

4 Q. Then why is that mileage underneath
5 mileage-rated moves when it's an hourly move?

6 A. I believe this bill of lading is the
7 Washington Movers Conference format.

8 Q. That's correct, we have always --

9 A. They chose to put the mileage under the
10 mileage-rated move column. I don't have an answer to
11 that.

12 Q. So to be in compliance with the Utilities
13 Commission, where do I put that? Because it's not a
14 mileage-rated move, I'm not going to put it in where it
15 says mileage if it's an hourly fee. Because the
16 Commission will come back and say, well, it's not a
17 mileage-rated move, it's an hourly move, and you've got
18 a figure in there for a mileage-rated move.

19 Irregardless of whether it's a WUTC form or a Washington
20 Movers Conference form that has been approved by the
21 Utilities and Transportation Commission, I'm just trying
22 to clarify where I'm supposed to put that so I don't get
23 in trouble in the future.

24 A. You put the mileage under the designation for
25 mileage.

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1 MR. STEPHENS: Okay, from here on out, I will
2 do that. Every single move we do, I will put mileage.
3 Hopefully, if I get an audit again and I have a figure
4 for mileage Seattle to Seattle, Seattle to Bellevue,
5 that I've got the right mileage so that the Commission
6 says, well, we've gone to our Rand McNally computerized
7 mileage system, and your mileage is wrong on an hourly
8 shipment.

9 MS. CAMERON-RULKOWSKI: Your Honor, may I
10 make a clarifying statement? Thank you.

11 For the purpose of this penalty assessment,
12 the penalty was assessed for violation to show -- for a
13 failure to show mileage for a mileage-rated move, so the
14 penalty was not assessed and a violation was not issued
15 for failure to show mileage on an hourly rated move.

16 MR. STEPHENS: I'm aware of that, however,
17 this was the first I have ever heard in all my years
18 that we have to show mileage for both hourly and mileage
19 move. If you go to our paperwork again, you're welcome
20 to come up and do a full blown audit, every single
21 mileage move has the mileage listed. So I just want
22 clarification, I understand I'm not being penalized this
23 time for that, I just wanted clarification from the
24 Commission.

25 JUDGE MOSS: Okay, we have that.

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1 don't you and I step out of the room for a moment and
2 let them consult among themselves, and we will be off
3 the record.

4 (Recess taken.)

5 JUDGE MOSS: I have been informally informed
6 that the parties have had some discussions and have
7 achieved a settlement in principle, and I assume then
8 you will be shortly reducing something to writing for
9 filing.

10 MS. CAMERON-RULKOWSKI: That's correct, Your
11 Honor, we will be filing a settlement agreement as soon
12 as we can get that drafted and signed.

13 JUDGE MOSS: And I will say this, that I
14 think we have sufficient evidence in this record to
15 support whatever agreement you have achieved, so there
16 won't be any need to file supplemental testimony or
17 evidence in support. I think the rules call for a
18 narrative statement or something like that, which can be
19 quite succinct, but we won't really need anything
20 supplemental.

21 MS. CAMERON-RULKOWSKI: Thank you.

22 JUDGE MOSS: Any questions?

23 Thank you all very much for a very
24 professionally done hearing, and I'm glad that you were
25 able to have some fruitful discussions and reach an

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1 agreement.

2 So with that, our record is closed.

3 (Hearing adjourned at 11:00 a.m.)

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