

Docket No. TN-170156 - Vol. I

In the Matter of the Investigation of Buckley
Senior Citizens, Inc.

April 19, 2017



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

206.287.9066

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email: info@buellrealtime.com



Page 1

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3 _____
 4 In the Matter of the)
 Investigation of)DOCKET NO. TN-170156
 5 BUCKLEY SENIOR CITIZENS, INC.)
 6 For Compliance with WAC 480-31-130)
 7)
 8 _____
 9 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
 10 Pages 1-34
 11 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON
 12 _____
 13 April 19, 2017
 14 9:32 a.m.
 15
 16 Washington Utilities and Transportation Commission
 1300 South Evergreen Park Drive SW
 17 Olympia, Washington 98504-7250
 18
 19
 20 REPORTED BY: TAYLER RUSSELL, CCR 3358
 21 Buell Realtime Reporting, LLC
 1325 Fourth Avenue, Suite 1840
 22 Seattle, Washington 98101
 23 (206) 287-9066 | Seattle
 (360) 534-9066 | Olympia
 24 (800) 846-6989 | National
 25 www.buellrealtime.com

Page 2

1 A P P E A R A N C E S
 2 ADMINISTRATIVE LAW JUDGE:
 3 RAYNE PEARSON
 Washington Utilities and
 4 Transportation Commission
 1300 South Evergreen Park Drive SW
 5 Olympia, Washington 98504
 (360) 664-1160
 6
 7 FOR COMMISSION STAFF:
 8 JENNIFER CAMERON-RULKOWSKI
 Assistant Attorney General
 9 P.O. Box 40128
 Olympia, Washington 98504
 10 (360) 664-1186
 jcameron@utc.wa.gov
 11
 12 FOR BUCKLEY SENIOR CITIZENS:
 13 ELLEN BOYD
 811 Main Street
 14 Buckley, Washington 98321
 (360) 761-7841
 15 eboyd@cityofbuckley.com
 16
 17 * * * * *
 18
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1 OLYMPIA, WASHINGTON; APRIL 19, 2017
 2 9:32 A.M.
 3 --o0o--
 4
 5 P R O C E E D I N G S
 6
 7 JUDGE PEARSON: All right. Let's be on the
 8 record. Good morning. This is Docket TN-170156, which
 9 is captioned "In the Matter of the Investigation of
 10 Buckley Senior Citizens, Inc. for compliance with WAC
 11 480-31-130."
 12 My name is Rayne Pearson. I'm the
 13 administrative law judge presiding over today's brief
 14 adjudicative proceeding, and today is Wednesday,
 15 April 19th, 2017, at approximately 9:30 a.m.
 16 So we are here today because on
 17 March 16th, 2017, the Commission issued a notice of
 18 intent to cancel certificate, notice of brief
 19 adjudicative proceeding setting time for oral
 20 statements. This was in response to a compliance review
 21 conducted by Commission Staff in January of 2017, which
 22 resulted in a proposed unsatisfactory safety rating for
 23 Buckley Senior Citizens. The company was required to
 24 file a proposed safety management plan which I
 25 understand it has done, and we will be addressing how

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5

1 that affects the company's safety rating today.
 2 And before we get started, we discussed
 3 briefly off the record consolidating this matter with
 4 the penalty assessment that was assessed in Docket
 5 TN-170152 in the amount of \$9,500.
 6 Ms. Boyd, you filed an application for
 7 mitigation in that docket on March 30th and requested a
 8 hearing. So I'm assuming that neither party has an
 9 objection to consolidating these two dockets?
 10 MS. CAMERON-RULKOWSKI: That's correct from
 11 Staff's perspective, Your Honor.
 12 MS. BOYD: Correct.
 13 JUDGE PEARSON: Okay. If you want to pull
 14 the microphone closer to you and then push the button.
 15 MS. BOYD: Does that work?
 16 JUDGE PEARSON: Perfect. Okay. So those
 17 matters are consolidated, and we'll hear from the
 18 parties on both dockets this morning.
 19 So when I call on each of you to testify, I
 20 will swear you in with the oath of witness, which means
 21 that everything you tell me today will be under oath and
 22 is considered sworn testimony. And for the court
 23 reporter's benefit, please speak slowly and clearly and
 24 please be sure to use the microphone in front of you.
 25 And once you're sworn in, you can present testimony and

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1 call witnesses, and you can also introduce any exhibits
 2 that you prefiled, which I don't think that there are
 3 any because Staff has submitted your safety management
 4 plan as one of its own exhibits.
 5 So first, we'll have Staff address the
 6 proposed safety management plan and the safety rating,
 7 and then following Staff's initial presentation, the
 8 company will have the opportunity to ask Staff's witness
 9 any questions, and then you may present testimony on the
 10 violations in the penalty assessment and speak to the
 11 factors for mitigation for the penalty. And then once
 12 you're done testifying, Staff's attorney may have some
 13 questions for you, and then Staff will make a
 14 recommendation on the penalty.
 15 Do you have any questions before we get
 16 started?
 17 MS. BOYD: If it's appropriate just for me
 18 to grab a tissue, I have no questions regarding that
 19 but --
 20 JUDGE PEARSON: Sure. Do you need some?
 21 MS. BOYD: -- I would like to do that before
 22 we start.
 23 JUDGE PEARSON: There are like seven boxes
 24 of Kleenex up here.
 25 MS. BOYD: Yeah, no. No questions. Thank

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7

1 you.
 2 JUDGE PEARSON: Okay. So let's first take
 3 an appearance, just a brief appearance from Commission
 4 Staff.
 5 Ms. Cameron-Rulkowski?
 6 MS. CAMERON-RULKOWSKI: Appearing on behalf
 7 of Commission Staff, Jennifer Cameron-Rulkowski,
 8 assistant attorney general.
 9 JUDGE PEARSON: Okay. Thank you.
 10 And for the company, Ms. Boyd, if you could
 11 state your full name, spelling your last name, and then
 12 give us your address and your phone number and your
 13 email address.
 14 MS. BOYD: Sure. So appearing on behalf of
 15 the Buckley Senior Citizens, my name is Ellen Boyd.
 16 Last name is B-o-y-d. Email address is eboyd,
 17 e-b-o-y-d, @cityofbuckley.com. Address, place of
 18 business, is 833 -- no, what's our address?
 19 MS. LOPEZ: 811.
 20 MS. BOYD: 811 Main Street, Buckley,
 21 Washington 98321. Phone number, too, is 360-761-7841.
 22 Recreation services director for the City of Buckley.
 23 JUDGE PEARSON: Okay. Great, thank you.
 24 And, Ms. Cameron-Rulkowski, you may proceed
 25 with the issue of the company's proposed safety

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EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS

1 management plan and safety rating when you're ready.
 2 MS. CAMERON-RULKOWSKI: Thank you, Your
 3 Honor. I was planning to call two witnesses today and
 4 we'll start off with Ms. Sandi Yeomans.
 5 JUDGE PEARSON: If you could please stand
 6 and raise your right hand.
 7
 8 SANDI YEOMANS, witness herein, having been
 9 first duly sworn on oath,
 10 was examined and testified
 11 as follows:
 12
 13 JUDGE PEARSON: You may be seated.
 14
 15 E X A M I N A T I O N
 16 BY MS. CAMERON-RULKOWSKI:
 17 Q. Good morning, Ms. Yeomans.
 18 A. Good morning.
 19 Q. Please state and spell your last name.
 20 A. My name is Sandi Yeomans. Last name is
 21 Y-e-o-m-a-n-s.
 22 Q. Please state the name of your employer.
 23 A. I am employed with Washington State Utilities
 24 and Transportation Commission.
 25 Q. In what position are you employed?

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EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS 9

1 **A. I am a special investigator.**
 2 Q. And how long have you been employed by the
 3 Commission?
 4 **A. Almost two years.**
 5 Q. And how long have you been employed -- and have
 6 you been employed for the entire two years in your
 7 position as an investigator?
 8 **A. Yes.**
 9 Q. Do you have prior experience in the field of
 10 motor carrier transportation?
 11 **A. Yes, I do. I was a general manager for a motor**
 12 **coach company for eight years, assistant director of a**
 13 **school bus transportation company for nine years, and a**
 14 **transit driver for seven years.**
 15 Q. Are you familiar with Buckley Senior Citizens?
 16 **A. Yes, I am.**
 17 Q. And how did you become familiar with Buckley
 18 Senior Citizens?
 19 **A. They were part of my work plan, what I have to**
 20 **do for this year to review in 2017.**
 21 Q. All right. And can you say a little bit more
 22 about what a work plan is?
 23 **A. Every year we're given a list of carriers that**
 24 **need to have compliance reviews done in that year.**
 25 Q. All right. And so did you conduct a compliance

Page 10

EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS 10

1 review of Buckley Senior Citizens?
 2 **A. Yes, I did.**
 3 Q. And was this a routine compliance investigation?
 4 **A. Yes.**
 5 Q. Did you inspect the carrier at its premises?
 6 **A. Yes, I did.**
 7 Q. And what was the date of that inspection?
 8 **A. I was at the carrier's office on**
 9 **January 24th, 2017.**
 10 Q. Did you document your compliance review?
 11 **A. Yes, I did.**
 12 Q. Please direct your attention to
 13 Exhibit No. SY-1. Can you please identify that
 14 document?
 15 **A. Yeah, this is the documentation on what was**
 16 **discovered during the compliance review for Buckley**
 17 **Senior Citizens.**
 18 Q. And is this document a true and accurate copy of
 19 your compliance review?
 20 **A. Yes, it is.**
 21 Q. Based on this compliance review, what was the
 22 proposed safety rating of Buckley Senior Citizens?
 23 **A. It was unsatisfactory.**
 24 Q. When did you notify Buckley Senior Citizens of
 25 the safety rating?

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EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS 11

1 **A. I closed with the company on March 13th, 2017,**
 2 **and at that time, they were informed of the**
 3 **unsatisfactory status.**
 4 Q. Thank you.
 5 All right. Please turn to part B of
 6 Exhibit No. SY-1.
 7 MS. CAMERON-RULKOWSKI: And for everyone's
 8 reference, that is on page 6 of the exhibit.
 9 BY MS. CAMERON-RULKOWSKI:
 10 Q. I want to talk now about the violations that
 11 were factors in the unsatisfactory safety rating.
 12 Which of the violations in part B are the basis
 13 of the unsatisfactory safety rating?
 14 **A. Any of them that are marked as state critical.**
 15 Q. All right. And it looks like there are three of
 16 those; do you agree?
 17 **A. Correct.**
 18 Q. All right. What's the description of the first
 19 of these violations?
 20 **A. The first one would be using a driver not**
 21 **medically examined or certified.**
 22 Q. All right. And this violation references CFR
 23 Section 391.45(a). What is your understanding of this
 24 rule as it's relevant to this case?
 25 **A. Medical certificates are required for any driver**

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EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS 12

1 that operates a commercial motor vehicle.
 2 Q. And how did Buckley Senior Citizens violate this
 3 rule?
 4 **A. Their drivers did not have medical**
 5 **certification.**
 6 Q. Let's move on to the next violation.
 7 What's the description of that violation?
 8 **A. Failing to maintain driver qualification file on**
 9 **each driver employed.**
 10 Q. All right. And this violation references CFR
 11 Section 391.51(a). And what's your understanding of
 12 this rule as it is relevant to this case?
 13 **A. The driver qualification file has all the**
 14 **documents in it to assure that a driver is qualified to**
 15 **drive a commercial motor vehicle.**
 16 Q. And how did Buckley Senior Citizens violate the
 17 rule?
 18 **A. They did not have qualification files for their**
 19 **drivers.**
 20 Q. And moving on to the third and the last
 21 violation we're going to discuss today.
 22 What's the description of this violation?
 23 **A. Failing to require a driver to make a record of**
 24 **duty status.**
 25 Q. This violation references CFR Section 395.8(a).

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EXAMINATION BY CAMERON-RULKOWSKI / YEOMANS 13

1 What is your understanding of this rule as it is
 2 relevant to this case?
 3 **A. All drivers are required to submit the records
 4 of time on duty.**
 5 Q. And how did Buckley Senior Citizens violate the
 6 rule?
 7 **A. They did not have any records of on-duty status
 8 time.**
 9 Q. Thank you.
 10 MS. CAMERON-RULKOWSKI: Your Honor, I offer
 11 Exhibit No. SY-1 for admission into evidence.
 12 JUDGE PEARSON: Okay. Ms. Boyd, do you have
 13 any objection?
 14 MS. BOYD: I do not.
 15 JUDGE PEARSON: Okay. Then I will admit
 16 that and mark it as SY-1.
 17 (Exhibit SY-1 admitted.)
 18 MS. CAMERON-RULKOWSKI: I have no further
 19 questions for Ms. Yeomans, and I would like to call my
 20 next witness at this time.
 21 JUDGE PEARSON: Okay. I have a question,
 22 but I'm not sure if it's best directed at Ms. Yeomans or
 23 Mr. Perkinson. So why don't we go ahead and we can
 24 swear him in and then I can ask the question and whoever
 25 wants to can respond to it.

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1 MS. CAMERON-RULKOWSKI: All right, Your
 2 Honor.
 3 JUDGE PEARSON: Okay. If you'd stand and
 4 raise your right hand.
 5
 6 MATHEW PERKINSON, witness herein, having been
 7 first duly sworn on oath,
 8 was examined and testified
 9 as follows:
 10
 11 E X A M I N A T I O N
 12 BY MS. CAMERON-RULKOWSKI:
 13 Q. Good morning, Mr. Perkinson.
 14 **A. Good morning.**
 15 Q. Please state and spell your full name.
 16 **A. Mathew Perkinson, M-a-t-h-e-w, and Perkinson,
 17 P-e-r-k-i-n-s-o-n.**
 18 Q. And please state the name of your employer.
 19 **A. I work for the Washington Utilities and
 20 Transportation Commission.**
 21 Q. In what position are you employed with the
 22 Commission?
 23 **A. I'm currently the supervisor of the motor
 24 carrier safety section.**
 25 Q. And how long have you been employed in this

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1 position?
 2 **A. I have been in the position about eight months.**
 3 Q. And how long have you been employed in the
 4 Commission?
 5 **A. About five years.**
 6 Q. What other positions have you held with the
 7 Commission that are relevant to your current work?
 8 **A. For about five years, I was an investigator at
 9 the Commission for both safety and consumer protection.**
 10 Q. Please briefly describe your responsibilities as
 11 they pertain to this matter.
 12 **A. As the supervisor, I assign, lead, and review
 13 the work conducted by our investigations team.**
 14 Q. Are you familiar with Buckley Senior Citizens,
 15 Inc.?
 16 **A. Yes.**
 17 Q. And how did you become familiar with Buckley
 18 Senior Citizens?
 19 **A. As I stated, I review the work that's done by
 20 investigations team, and Ms. Yeomans performed the
 21 compliance review and submitted it to me for review.**
 22 Q. And did you review the compliance review?
 23 **A. Yes, I did.**
 24 Q. What does a carrier need to do to upgrade its
 25 safety rating?

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1 **A. There are three factors. One, obviously they
 2 need to request to upgrade with a safety management
 3 plan. The safety management plan needs to address each
 4 violation, explain why the violations occurred, and then
 5 demonstrate the actions taken by the company that will
 6 prevent it from happening again in the future. Also,
 7 they need to include supporting documentation with that
 8 request.**
 9 Q. Did Buckley submit a request and a safety plan
 10 and supporting documentation?
 11 **A. Yes, they did. Buckley Senior Citizens has
 12 taken several steps to ensure the violations were
 13 corrected. Specific responsibilities and duties are now
 14 placed on director and activities coordinator and
 15 drivers. They provided documentation of medical
 16 certificates for each driver. They plan to utilize
 17 Outlook Calendar reminders as a tool to prevent these
 18 types of violations from happening again. They've also
 19 provided us with copies of each driver's qualification
 20 files with copies of the licenses and the applications
 21 and everything that's required to be in a driver
 22 qualification file.**
 23 The company also communicated with its drivers
 24 the hours of service requirements and has a better
 25 understanding now according to the letter of what is

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1 **required.**
 2 Q. Thank you.
 3 I would ask you to direct your attention to
 4 Exhibit No. MP-1. Is this a true and accurate copy of
 5 the safety management plan that you just discussed?
 6 **A. Yes, it is.**
 7 Q. All right. And now I would ask you to direct
 8 your attention to Exhibit No. MP-2. Can you please
 9 identify this document?
 10 **A. This is the evaluation that I put together of**
 11 **the safety management plan -- or Ms. Yeomans and I put**
 12 **together.**
 13 Q. And what you just discussed a moment ago, is
 14 that contained in this written evaluation?
 15 **A. Yes.**
 16 Q. All right. And I would just ask you to look at
 17 Exhibit No. 2 -- No. MP-2 for a moment and tell me, is
 18 this a true and accurate copy of your written
 19 evaluation?
 20 **A. Yes.**
 21 Q. In your opinion, after your discussion and
 22 considering your written evaluation, does Buckley Senior
 23 Citizens' management plan now meet the federal safety
 24 fitness standard?
 25 **A. Yes.**

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1 Q. All right. And I'm referring to the federal
 2 safety fitness standard in 49 CFR Part 385, which
 3 Washington has adopted in WAC 480-30-221. And are you
 4 familiar with these rules?
 5 **A. Yes, I am.**
 6 Q. And is it --
 7 JUDGE PEARSON: Ms. Cameron-Rulkowski, I
 8 believe that's the incorrect WAC citation. That was the
 9 auto tran. It's the nonprofited for 480-31-130.
 10 MS. CAMERON-RULKOWSKI: You're absolutely
 11 right. My apologies.
 12 BY MS. CAMERON-RULKOWSKI:
 13 Q. In your opinion, should the company's safety
 14 rating be upgraded?
 15 **A. Yes.**
 16 Q. And what to?
 17 **A. Staff believes that the plan meets the criteria**
 18 **under CFR 49 Part 385 and recommends that the operating**
 19 **authority be upgraded from unsatisfactory to**
 20 **conditional, effective no later than April 27th, 2017.**
 21 MS. CAMERON-RULKOWSKI: Your Honor, I offer
 22 Exhibit No. MP-1 and Exhibit No. MP-2 for admission into
 23 evidence.
 24 JUDGE PEARSON: Okay. Ms. Boyd, do you have
 25 any objections to either of those Exhibits?

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1 MS. BOYD: I do not.
 2 JUDGE PEARSON: Okay. Then I will admit
 3 those and mark them as MP-1 and MP-2.
 4 (Exhibits MP-1 and MP-2 admitted.)
 5 MS. CAMERON-RULKOWSKI: Thank you, Your
 6 Honor. I would like to reserve Staff's discussion of
 7 the penalty assessment until after Buckley Senior
 8 Citizens has presented its testimony.
 9 JUDGE PEARSON: Okay. Thank you.
 10 Ms. Boyd, did you have questions for either
 11 Ms. Yeomans or Mr. Perkinson?
 12 MS. BOYD: No.
 13 JUDGE PEARSON: Okay. So I do have a
 14 question. This is just strictly for my benefit for
 15 understanding this. As you know, I see a number of
 16 these penalty assessments and requests for mitigation
 17 come across my desk, and some of them seem similar in
 18 the number and type of violations yet those don't result
 19 in a proposed unsatisfactory safety rating. So I'm
 20 wondering if you could help me understand what
 21 distinguishes this case from ones where it's just a
 22 penalty.
 23 MR. PERKINSON: Yeah, absolutely. I'll go
 24 ahead?
 25 MS. CAMERON-RULKOWSKI: Please.

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1 MR. PERKINSON: So violations that are
 2 discovered within the review each have a weight to them
 3 that's significant in six different factors. The
 4 factors are broken into -- right here, one of the
 5 documents, Exhibit SY-1, has a -- I guess, I'll say page
 6 18 -- thank you -- will explain the safety fitness
 7 rating explanation. It will show the six different
 8 factors and how specific violations such as the medical
 9 card violation or the driver qualification violation are
 10 weighted with points.
 11 If a particular factor goes unsatisfactory,
 12 it's part of the equation to the overall safety rating.
 13 Accidents are also considered in that factor, you'll see
 14 in factor six. Factor five will speak to the hazardous
 15 materials, which doesn't apply in this case, but you'll
 16 see factor two is unsatisfactory and factor three is
 17 also unsatisfactory. Hours of service violations
 18 specifically have a two-point weight to them.
 19 JUDGE PEARSON: Okay. Thank you for that
 20 explanation.
 21 MR. PERKINSON: Sure.
 22 JUDGE PEARSON: Okay. So if you don't have
 23 any questions, then we can turn now to addressing the
 24 violations specifically. So let's just walk through
 25 each of them, and if you can just -- if you have

Page 21

21

1 anything that you want to say -- I read your application
 2 for mitigation that explained that you were simply
 3 unaware of these safety requirements, so there's
 4 probably no need to -- to go into any more detail than
 5 that, because if you didn't know, you just didn't know.
 6 But if you'd like to tell me how you have taken steps to
 7 address each of the violations and what you've done to
 8 correct them and then any explanation you have about why
 9 you believe the penalty should be reduced, we can do
 10 that.
 11 So let's start with the first category
 12 violation, which is 49 CFR Part 391.45(a) regarding
 13 medical examination certification.
 14 MS. BOYD: So I actually would like to add,
 15 because one of the things that we -- that is spelled out
 16 here in the review of our safety management plan is that
 17 we have not taken accountability for these things
 18 because we didn't have the knowledge and it wasn't
 19 passed down.
 20 I would like to add, too, just not in taking
 21 accountability, it's not necessarily something that's
 22 common practice. These rules and regulations are not
 23 necessarily something that other senior centers in the
 24 area are having to comply with because they filter their
 25 van service in other ways. So it's not -- even in

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1 communicating with other directors and other staff at
 2 senior centers, it's not something that's a common
 3 practice and something senior centers in our area are
 4 having to have on their radar. So the knowledge wasn't
 5 passed down, but it's also not something that other
 6 centers in our area are dealing with. So we'd just like
 7 to add that.
 8 JUDGE PEARSON: Okay.
 9 MS. BOYD: So as far as addressing our
 10 drivers having medical examinations, we are fortunate
 11 enough to have one of our -- a doctor's office in town
 12 which is within walking distance that we've been able to
 13 send our drivers to, that Ms. Lopez has sent her drivers
 14 to and been -- they've been very accommodating in
 15 getting us in and getting us out real fast so that we've
 16 been able to get our drivers back on the road and feel
 17 confident about that. And that cost has been at our
 18 expense for the senior center, because it is volunteer
 19 drivers that we're dealing with, so don't want it to be
 20 a burden on them for having to volunteer their time --
 21 for getting to volunteer their time.
 22 So that is something we have on our radar
 23 and put on our Outlook Calendar as a reminder, and we
 24 have communicated -- been in communication with one
 25 another as well as our board of directors at the senior

Page 23

23

1 center in making folks aware that there are some
 2 additional requirements for drivers so that we'll be a
 3 bit more selective in who we're bringing on and just
 4 realizing that there's a bit more work involved on our
 5 end, too, in maintaining those records just one, and
 6 making sure we have those updated annually but also on
 7 board with -- on board and filed prior to any new driver
 8 coming on board.
 9 JUDGE PEARSON: Okay. Thank you.
 10 And then 49 CFR Part 391.51(a). I
 11 understand you have submitted full copies of the driver
 12 qualification files that you've put together.
 13 MS. BOYD: Correct.
 14 JUDGE PEARSON: Okay. So you now know what
 15 is required from those files and how to maintain them
 16 going forward?
 17 MS. BOYD: Yes, and, in fact, Ms. Lopez has
 18 been pretty fabulous in putting together -- having a
 19 checklist included as the first page of each file so
 20 that we are making sure to cross our -- cross our Ts and
 21 dot our Is.
 22 JUDGE PEARSON: Great.
 23 And then finally is 49 CFR Part 395.8(a)
 24 regarding making a record of duty status.
 25 MS. BOYD: Yes, so although we have always

Page 24

24

1 maintained time and hours of our drivers, that has not
 2 been logged on a separate file that is inclusive of just
 3 their -- that goes into just their file. So we
 4 understand that doing so makes it easier for us to track
 5 at a glance how often, how frequently we're using
 6 drivers and Ms. Yeomans' point not having drivers on the
 7 road who are exhausted and been overburdened with
 8 perhaps how much we're asking them to volunteer.
 9 So although we do maintain our trip sheet
 10 that still have a log of time when our trips start, who
 11 we're including on our trips, the participants, we now
 12 have a separate log for them to keep those hours that
 13 will -- that goes in their file.
 14 JUDGE PEARSON: Okay. Great.
 15 Is there anything else you'd like to add?
 16 MS. BOYD: I would say, too, we're just --
 17 that file is in a spot that's accessible to our drivers.
 18 And so just been -- in addition to going through these
 19 things with our drivers, making sure that they are on
 20 board with filling them out on a regular basis and
 21 having our volunteer receptionist on board with hassling
 22 them if need be.
 23 JUDGE PEARSON: Okay. And is there anything
 24 that you want to say about the penalty amount?
 25 MS. BOYD: So just I suppose what I started

Page 25

EXAMINATION BY MS. CAMERON-RULKOWSKI / PERKINSON 25

1 with is that I'll -- we certainly do acknowledge that we
 2 were in the wrong for not having been aware of these.
 3 As far as accountability goes, it's simply not something
 4 that other senior centers in our area are dealing with
 5 either for it to have been put on our radar. Whether
 6 the lack in communication was with two directors ago or
 7 our director prior, it was simply not communicated, and
 8 it's not something that we're in communication with
 9 other senior centers about either.

10 JUDGE PEARSON: Okay.

11 MS. BOYD: So certainly appreciate the --
 12 the recommendation to reduce, but would hope that you
 13 might consider a further reduction.

14 JUDGE PEARSON: Okay. Thank you.

15 Ms. Cameron-Rulkowski, do you have any
 16 questions for Ms. Boyd?

17 MS. CAMERON-RULKOWSKI: I do not. Thank
 18 you, Your Honor.

19 JUDGE PEARSON: Okay. So if you'd like to
 20 proceed with the second half of Staff's presentation.

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

22

E X A M I N A T I O N

24 BY MS. CAMERON-RULKOWSKI:
 25 Q. Mr. Perkinson, have you reviewed Buckley Senior

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EXAMINATION BY MS. CAMERON-RULKOWSKI / PERKINSON 26

1 Citizen's application for mitigation?
 2 **A. Yes, I have.**
 3 Q. And did you just hear the testimony of
 4 Ms. Ellen Boyd from Buckley Senior Center?
 5 **A. Yes.**
 6 Q. Since you have reviewed the application for
 7 mitigation, the safety management plan, and having heard
 8 Ms. Boyd's testimony, has the Staff recommendation for
 9 the penalties changed in any way?
 10 **A. Yes.**
 11 Q. All right. And what amount of penalty does
 12 Staff now recommend?
 13 **A. So the company's taken substantial steps toward**
 14 **improving its safety program, which is evident by its**
 15 **safety management plan. For that reason and the fact**
 16 **the company is a small nonprofit carrier, Staff**
 17 **recommends suspending still 7,000 of the \$9,500 penalty**
 18 **for a period of one year. However, Staff is open to a**
 19 **payment plan if that would be an option for the company**
 20 **if they desire.**
 21 Q. And what would happen at the end of the year?
 22 **A. I would also recommend that a nonrated**
 23 **compliance investigation be conducted in one year, so**
 24 **April 2018 our Staff would come out, perform another**
 25 **review, a follow-up. A rated review will be conducted**

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1 in 2019 as part of the Commission's normal two-year work
 2 plan cycle.
 3 Q. And what results of the review would cause the
 4 suspended penalty to be imposed?
 5 **A. So if any of the violations are repeat**
 6 **violations, specifically the critical regulations, are**
 7 **found in the April 2018 compliance investigation, Staff**
 8 **will recommend that the Commission impose the suspended**
 9 **portion of the penalty.**
 10 Q. I'd like to ask you to refer to Exhibit No. MP-2
 11 and specifically to page 4. And there under the Staff
 12 penalty recommendation, in the first bullet point,
 13 there's a phrase there that says, (as read) Any other
 14 compliance investigation. What does that refer to?
 15 **A. So if motor carrier safety receives complaint,**
 16 **we might investigate and that could result in violations**
 17 **that are discovered that could trigger the penalty or we**
 18 **could also receive information from the FMCSA, which is**
 19 **the Federal Motor Carrier Safety Administration, who's**
 20 **performed their own compliance review with the same**
 21 **violations. Any of those circumstances could cause that**
 22 **suspended penalty to be imposed.**
 23 Q. Thank you.
 24 Do you have anything else to add to your
 25 testimony?

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1 MR. PERKINSON: I would just -- I guess
 2 would thank Ms. Boyd and Ms. Lopez for taking the time
 3 out today, coming down and testifying. I did review
 4 that safety management plan thoroughly, as you can see
 5 in the evaluation. You guys have done an excellent job.
 6 We see a lot of safety management plans so I just thank
 7 you for taking the time and we hopefully -- Sandi will
 8 be available in the future if you guys have any
 9 questions about anything that comes up.

10 MS. CAMERON-RULKOWSKI: I have no further
 11 questions for Mr. Perkinson at this time.

12 JUDGE PEARSON: Okay. Thank you.
 13 I do have one quick question just with
 14 respect to the recommended penalty amount.
 15 So your recommendation is that the
 16 Commission impose the entire penalty but suspend a
 17 portion of it. And I guess my question relates to prior
 18 cases where specifically with respect to first-time
 19 violations for the medical certifications, Staff often
 20 recommends an actual reduction in that penalty amount.
 21 So not just a suspension but, say, cutting that in half
 22 and then perhaps suspending an additional portion. So I
 23 was wondering if Staff had considered that here and
 24 arrived at this recommendation for a different reason or
 25 if Staff is open to that idea. And if you need a

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1 minute, we can take a minute. That's fine.
 2 MS. CAMERON-RULKOWSKI: If we could take a
 3 moment off the record.
 4 JUDGE PEARSON: We will go off the record
 5 for a brief recess.
 6 (A break was taken from
 7 10:04 a.m. to 10:07 a.m.)
 8 JUDGE PEARSON: We will go back on the
 9 record and Ms. Boyd had a question.
 10 MS. BOYD: Yeah, I do. So as far as
 11 reassessing the penalty, we've been confident in putting
 12 our safety management plan together and what that looks
 13 like. I feel like we've done a good job of that in
 14 correcting those wrongs. Just curious how that is
 15 typically equated.
 16 So one, how the \$9,500 was settled on and,
 17 two, in correcting those wrongs, how -- how we can -- if
 18 there is any possibility of bumping that down. Just
 19 simply not a discussion we've had via phone with Staff
 20 prior how that's typically -- what that calculation is
 21 based on.
 22 MR. PERKINSON: Sure. With the medical
 23 card, a violation specifically is a hundred dollars per
 24 occurrence per trip, and then the -- for every
 25 qualification files, I believe would be a hundred

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1 dollars per file per driver. So that would be the \$500,
 2 and then the hours of service violations are based on
 3 the count.
 4 Is that correct? With our penalty
 5 assessment?
 6 MS. CAMERON-RULKOWSKI: And I would just
 7 note that it is -- this all is in the penalty
 8 assessment.
 9 MS. BOYD: Yes, I guess I'm just curious
 10 about the realisticness how -- how -- how -- if we're
 11 realistic in thinking that we could reduce that.
 12 MR. PERKINSON: Yeah, I think -- and maybe I
 13 should restate the significance of the specific
 14 violations. We don't come up with what is critical and
 15 what is acute. There is a couple levels of violations,
 16 and certain violations the Commission has adopted a
 17 policy and says they're so critical that we're going to
 18 impose a penalty for those types of things. Medical
 19 card is one of the critical items for every occurrence
 20 as opposed to a first-time offense. And that's what was
 21 done in this, and we do certainly factor in the effort
 22 put forth in the safety management plan toward our
 23 mitigation and suspension of the penalty.
 24 If you guys are ready, we can go ahead with
 25 that.

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1 JUDGE PEARSON: Sure.
 2 MR. PERKINSON: So what we'd do is we would
 3 actually reduce the penalty from the 9,500 down to 7,500
 4 so a \$2500 reduction in the penalty. So the total
 5 penalty would be \$5,000 suspending 2500, \$2,500, and the
 6 company would still be responsible for \$2,500 with,
 7 again, the option for a payment plan.
 8 MS. CAMERON-RULKOWSKI: Mr. Perkinson, can
 9 you go back to the beginning. The original penalty is
 10 9,500 and Staff is now recommending a reduction in the
 11 full penalty to what was the amount? Can you state that
 12 again, please?
 13 MR. PERKINSON: So reduce by 2,500. Oh, I'm
 14 sorry. Okay. So we -- yeah, we would reduce from 9,500
 15 to 7,000. Sorry. Okay. So we're going to reduce the
 16 penalty 5,000, sorry.
 17 JUDGE PEARSON: Okay.
 18 MR. PERKINSON: And then suspend half of
 19 that, correct?
 20 JUDGE PEARSON: Reduce it to 5,000, so
 21 reduce it by 4,500?
 22 MR. PERKINSON: Correct.
 23 JUDGE PEARSON: Down to 5,000?
 24 MR. PERKINSON: I have my notes mixed up.
 25 JUDGE PEARSON: Okay. And suspend 2500?

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1 MR. PERKINSON: Correct.
 2 JUDGE PEARSON: Okay. And I assume that the
 3 reduction is coming off of the medical certification
 4 violation since the other are just \$100 violations for
 5 the violation category.
 6 MR. PERKINSON: Yes.
 7 JUDGE PEARSON: Okay. So you're actually
 8 reducing the \$9300 portion down to \$4,300?
 9 MR. PERKINSON: Yes.
 10 JUDGE PEARSON: Okay. Great. Thank you.
 11 MR. PERKINSON: Thank you.
 12 JUDGE PEARSON: Okay. Do you have any
 13 questions, Ms. Boyd? Does that make sense?
 14 MS. BOYD: Yes, that makes sense.
 15 JUDGE PEARSON: Okay. So does anyone have
 16 anything further? Doesn't sound like it.
 17 MS. CAMERON-RULKOWSKI: Nothing from Staff,
 18 Your Honor.
 19 JUDGE PEARSON: Okay. Thank you. So I will
 20 issue an order in the next few days reflecting the
 21 Commission's decision to upgrade the company's safety
 22 rating to conditional and then also reflecting my
 23 decision on the penalty assessment. So thank you very
 24 much for making the trip here today.
 25 MS. BOYD: Thank you. Thank you.

1 JUDGE PEARSON: And we are adjourned.
 2 (Adjourned at 10:12 a.m.)
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1 CERTIFICATE

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 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Russell, a Certified Shorthand Reporter
 7 in and for the State of Washington, do hereby certify
 8 that the foregoing transcript is true and accurate to
 9 the best of my knowledge, skill and ability.
 10
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12 Tayler Russell, CCR 3358
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