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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

3

4 In the Matter of the Penalty Assessment) DOCKET TE-130198
Against) Volume I
5) Page 1-85
KEVIN WILLIAMS)
6 EXCALIBUR LIMOUSINE, LLC)
)
7 In the Amount of \$1,800)

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BRIEF ADJUDICATIVE PROCEEDING

10

Pages 1-85

11

ADMINISTRATIVE LAW JUDGE STEPHANY A. WATSON

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10:03 A.M.

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APRIL 26, 2013

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

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* * * * *

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INDEX OF WITNESSES

2	WITNESS:		PAGE
3	KEVIN WILLIAMS		
4	Statement by Mr. Williams		8
	Cross-Examination by Mr. Fassio		76
5			
	MATHEW PERKINSON		
6			
	Direct Examination by Mr. Fassio		36
7	Cross-Examination by Mr. Williams		54

8

9

INDEX OF EXHIBITS

10	EXHIBIT:	OFD:	AD:	DESCRIPTION:
11				KEVIN WILLIAMS
12	RS-1	--	32	Declaration of Richard Smith
13	D	--	33	E-mail Conversation with Richard Smith
14	G	--	33	E-mail Conversation with Richard Smith
15	I	--	35	Voluntary Cancellation Form
16	M	--	69	Letter dated 3/21/13

17

COMMISSION STAFF WITNESS:

18

MATHEW PERKINSON:

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20	MP-1	--	52	Declaration and Exhibits, dated 4/18/13 (40 pages)
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OLYMPIA, WASHINGTON, APRIL 26, 2013

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10:03 A.M.

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P R O C E E D I N G S

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JUDGE WATSON: Good morning, everyone. We're ready to go on the record. Thank you very much.

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My name is Stephany Watson. I am the presiding officer, the administrative law judge, who's been assigned to hear this case today before the Washington Utilities and Transportation Commission.

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This is a brief adjudicative proceeding regarding a penalty assessment against Excalibur Limousine, LLC. I see that Mr. Williams has already silenced his cell phone. If anyone else needs to do so, please do so.

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This is Docket No. TE-130198. It's a case in which the Commission sets the penalty against Excalibur for failure to timely file its safety report and pay its licensing fee to operate as a charter carrier as required by Washington Administrative Code 480-30-071 and, dash, 076.

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Excalibur requested a review of the penalty assessment, and the Commission determined that a brief adjudicative proceeding was the appropriate forum to sort this out, if you will.

25

And what I'd like to do is have the parties and

0005

1 attorneys introduce themselves, provide their contact
2 information. And please be advised this is on the record. As
3 you can see, we have a court reporter here, and it's helpful if
4 you speak clearly and not too fast. And in some cases, it's
5 really helpful if you speak to her.

6 So if we could do introductions, and, then,
7 Mr. Fassio, we'll let you go ahead and explain Staff's position.

8 MR. FASSIO: Thank you, Your Honor. Good morning.
9 Michael Fassio, Assistant Attorney General, appearing on behalf
10 of Commission Staff.

11 My address is 1400 South Evergreen Park Drive
12 Southwest, P.O. Box 40128, Olympia, Washington 98504. Telephone
13 number is: 360.664.1192; Fax: 360.586.5522; and my e-mail
14 address is mfassio@utc.wa.gov.

15 And with me at the table is Matt Perkinson from
16 Commission Staff.

17 MR. WILLIAMS: Hey, Matt.

18 MR. PERKINSON: How are you doing?

19 JUDGE WATSON: Thank you.

20 Mr. Williams?

21 MR. WILLIAMS: I'm Kevin Williams, representing
22 Excalibur Limousine. 15810 74th Avenue Northeast in Kenmore,
23 98028. Telephone number: 206.510.5090.

24 JUDGE WATSON: Mr. Fassio, would you like to go ahead
25 and explain Staff's position? When or if we need to hear from

0006

1 any witnesses, I will swear you.

2 MR. FASSIO: Yes. Thank you, Your Honor. I'll
3 briefly summarize. We have submitted for consideration a
4 declaration of Matt Perkinson of Commission Staff that includes
5 exhibits, and I'm happy to go through those with you.

6 We've also submitted a declaration of Richard Smith
7 from the transportation safety section, and a declaration of
8 Lisa Wyse, which you should have in front of you.

9 And Mr. Perkinson's declaration does describe some of
10 the background of the penalty assessment and does contain a
11 Staff recommendation and can summarize Staff's position today.
12 We would like an opportunity, after the Company has had a chance
13 to make its presentation today, to offer a recommendation in
14 terms of mitigation of the penalty. But we would like to
15 reserve that for the conclusion of the hearing, but I can
16 briefly summarize.

17 The penalty assessment in this case was assessed
18 because as of January 31st, the Company had not filed a complete
19 annual safety report or paid any regulatory fees. The Company
20 had at all times held an active charter and excursion carrier
21 permit with the Commission, and the Company on January 11th did
22 partially comply by filing an incomplete annual safety report
23 that did not include page 4 of that report, which is a vehicle
24 inventory sheet -- or a regulatory fee sheet that is required as
25 part of the annual safety report. And the Company was required

0007

1 to pay at minimum a \$25 regulatory fee, because it held an
2 active permit, regardless of the number of vehicles that it
3 operates, and the Company was assessed the full amount of the
4 penalty in this case, because neither a complete annual safety
5 report nor any regulatory fees had been received by January
6 31st, and the Company was previously assessed a penalty for late
7 filing.

8 There are exhibits attached to Mr. Perkinson's
9 declaration that support the penalty assessment in this case,
10 and I'm happy to go through those with you.

11 JUDGE WATSON: Okay. Mr. Williams, would you like to
12 explain your position? And if you're going to testify, I will
13 need to swear you.

14 But if you prefer to just give an overview first like
15 Mr. Fassio did, that's fine, too.

16 MR. WILLIAMS: Okay. I don't have a lawyer. I
17 apologize.

18 JUDGE WATSON: Oh, don't apologize.

19 MR. WILLIAMS: I can't afford a lawyer, but I
20 don't...

21 JUDGE WATSON: There's plenty of us here.

22 MR. WILLIAMS: Okay. Well, if one of you would like
23 to represent me...

24 So what I have done is I've prepared sort of a -- a
25 kind of a listing against each argument as it comes up. I don't

0008

1 know what the procedures are, but I'd be happy to follow your
2 guidance on that.

3 Obviously, I disagree with the contention that I
4 haven't turned things in. My contention would be that my belief
5 was that I had talked to Staff members in December and shut down
6 business.

7 JUDGE WATSON: Let's go ahead and swear you in,
8 because I think we're getting close to --

9 MR. WILLIAMS: Okay.

10 JUDGE WATSON: -- some factual testimony, which is
11 fine.

12 Would you raise your right hand for me, please?

13

14 KEVIN WILLIAMS,
15 witness herein, having been first duly sworn on oath, was
16 examined and testified as follows:

17

18 JUDGE WATSON: Thank you. Go ahead, sir.

19 MR. WILLIAMS: Okay. So I'll just kind of go with
20 the things that I have outlined here. And then, again, I don't
21 know if I'm...

22 JUDGE WATSON: This is an informal proceeding, so
23 just talk to us.

24 MR. WILLIAMS: Okay.

25 JUDGE WATSON: Just explain it.

0009

1 MR. WILLIAMS: All right. I didn't do it.

2 Okay. So moving on from that, right off the
3 beginning, looking at the form in question, this entire case is
4 really about paperwork. I'm being fined \$1800 for not turning
5 in a safety report that's required by the WAC ending with 071.

6 JUDGE WATSON: You might want to slow down just a
7 little bit.

8 MR. WILLIAMS: Okay. Sorry.

9 JUDGE WATSON: That's okay. I'm not typing. She is.

10 MR. WILLIAMS: Now, I have that WAC code as part of
11 my evidence. I didn't see it in the evidence provided by
12 Mr. Fassio.

13 So at this point, should I give that out or...

14 JUDGE WATSON: I think that's fine, if you would like
15 to do that.

16 MR. WILLIAMS: Okay. I'll tell you what. I brought
17 just packets for everybody of all the evidence that I might
18 refer to, so -- and then in the top corner, I just wrote letters
19 or numbers for the different pieces of evidence.

20 JUDGE WATSON: That's a good plan. Thank you.

21 MR. WILLIAMS: And then a third copy that is for you.

22 MR. PERKINSON: Thank you.

23 JUDGE WATSON: Would you like to explain what
24 happened?

25 MR. WILLIAMS: Sure. I'm not trying to rip anybody

0010

1 off. No one's been harmed. The public hasn't been put at any
2 risk. I've just followed the instructions that I have been
3 given all the way along, trying to comply with what I have been
4 told to do.

5 This is all about an annual safety report and the
6 fees for the year. So I do know a lawyer, and when I showed her
7 the original form, she said, "Well, you can't sign that one way
8 or the other."

9 Okay. This is the way the form reads. It says -- in
10 the WAC it says (as read): "A company must complete" -- "file a
11 complete, accurate annual safety report showing all requested
12 information by December 31st of each year."

13 However, the UTC has created forms for that year,
14 putting both the other WAC code that talks about regulatory fees
15 and the safety WAC into the same piece of paper even though they
16 call it two different forms.

17 They've created a form that requires the signer to
18 say (as read): "I certify that" -- write your name -- "the
19 responsible account officer for" -- your company -- "have
20 examined the foregoing report; that to the best of my knowledge,
21 information and belief, all statements of fact contained in said
22 report are true and said report is a correct statement of the
23 business and affairs of the above-named respondent in respect to
24 each and every manner set forth therein during the period from
25 January 1, 2012, to December 31, 2012, inclusive," however, the

0011

1 forms must be submitted before December 31st has expired.

2 Now, the UTC requires the operators to certify
3 something that can't possibly be true. I can't swear that there
4 haven't been any accidents up to and including December 31st if
5 December 31st hasn't happened. And being that December 31st is
6 New Year's Eve, it's actually the most likely time for an
7 accident to happen.

8 Now, this is what the lawyer told me to say, "It's
9 against public policy to sign a document verifying a document
10 that the time frame has not lapsed yet. It creates a situation
11 of pari delicto. If I sign it, I'm lying. And since I certify
12 it and it can be entered into court, the UTC is requiring each
13 operator to commit perjury, and it's against public policy for
14 the State agency to compel a person to break the law."

15 JUDGE WATSON: We understand the timing anomaly that
16 you're pointing out because we've come across this before.

17 MR. WILLIAMS: Mm-hm.

18 JUDGE WATSON: But I'm not clear why this is an issue
19 in your case, because could you just explain for us when you did
20 sign the form and turn it in?

21 MR. WILLIAMS: Yeah, that was January 11.

22 JUDGE WATSON: January 11?

23 MR. WILLIAMS: Correct.

24 JUDGE WATSON: Okay. And Mr. Fassio explained that
25 there was a missing page 4, the inventory of vehicles; do you

0012

1 want to explain that?

2 MR. WILLIAMS: Sure. The page 4 of the inventory of
3 vehicles is for vehicles that you plan to operate in 2013. I
4 don't have any vehicles. I haven't had any vehicles to operate
5 in 2013. It's a blank page. And page 1 contains an area to put
6 down your credit card and give that information so that you can
7 operate in 2013.

8 As of December 4, 2012, I was out of business, and
9 that was dealing with Staff members and doing what they asked me
10 to do.

11 Now, there's --

12 JUDGE WATSON: So can you explain that?

13 MR. WILLIAMS: Sure.

14 JUDGE WATSON: What happened in December?

15 MR. WILLIAMS: Absolutely. So on December 4th, as we
16 have submitted into evidence, Richard Smith's declaration about
17 what went down at this point. So --

18 JUDGE WATSON: Excuse me. That's the Staff's
19 exhibit --

20 MR. WILLIAMS: RS-1 it says.

21 JUDGE WATSON: -- RS-1?

22 MR. WILLIAMS: Correct.

23 JUDGE WATSON: Okay.

24 MR. WILLIAMS: Yeah. So I did talk to Richard Smith,
25 and we had e-mail conversations and he sent me forms and I sent

0013

1 the forms back in.

2 Now, once everything was done with Richard and the
3 Staff, I was out of business, as far as I knew, and as far as
4 Richard had told me, you're good to go.

5 JUDGE WATSON: So tell me about your conversation.
6 What did you guys talk about, or what did you submit?

7 MR. WILLIAMS: Well, I explained that I was no longer
8 in business. I wasn't going to be operating anymore.

9 He says, "Well, there's a couple of things you have
10 to do. You have to talk to the UTC Staff about the State stuff,
11 and you have to" -- for his purposes, he wanted me to fill out
12 an MCS 150, which --

13 JUDGE WATSON: Which is?

14 MR. WILLIAMS: -- tells the Federal Motor Carrier
15 Safety Administration that I'm not going to be doing business
16 anymore. And I revoke my DOT number, so I can't operate in the
17 State without a DOT number --

18 JUDGE WATSON: Okay.

19 MR. WILLIAMS: -- as of a couple years ago.

20 JUDGE WATSON: So what happened after that?

21 MR. WILLIAMS: So in his testimony here --

22 JUDGE WATSON: Uh-huh.

23 MR. WILLIAMS: And our conversation was by e-mail.
24 Once he sent me the form, he states (as read): "December 6,
25 2012, I received an e-mail from Mr. Williams. The MCS 150 was

0014

1 attached to cancel his authority. Mr. Williams said in the
2 e-mail he remembered me telling him to do two things: To cancel
3 both his interstate and intrastate authority. He wrote, I
4 called Ms. Tina" -- and Ms. Tina -- is it Leipski?

5 MS. LEIPSKI: Leipski.

6 MR. WILLIAMS: Leipski. Thank you. -- "works in the
7 UTC licensing servicing section. I spoke with Mr. Williams on
8 or about December 17th, again told him to contact the UTC
9 licensing division to cancel his intrastate authority."

10 So there's the smoking gun, really; that I was told
11 that I had to talk to somebody about the intrastate authority.

12 And if you read this, it would seem that --

13 JUDGE WATSON: If I can just clarify a minute.
14 They're hard pronounce, and I'm not sure if the record is going
15 to be clear. Intrastate is what the UTC has jurisdiction over;
16 in other words, stuff that happens inside the borders.

17 MR. WILLIAMS: Thank you. The MCS --

18 JUDGE WATSON: It's the Feds --

19 MR. WILLIAMS: You're right.

20 JUDGE WATSON: -- that have the right, exactly.

21 MR. WILLIAMS: Okay. So the Washington authority.

22 JUDGE WATSON: There we go. Better.

23 MR. WILLIAMS: I'll make it simple.

24 JUDGE WATSON: Much better.

25 MR. WILLIAMS: Now, Mr. Smith never answered my

0015

1 e-mail when I said -- I'll tell you exactly what I said in the
2 e-mail. It's in --

3 THE REPORTER: I have a suggestion to make. When
4 you're reading, just slow down a little bit, please.

5 MR. WILLIAMS: Sorry.

6 THE REPORTER: Thanks.

7 MR. WILLIAMS: I'm trying to minimize the time that
8 taxpayers --

9 JUDGE WATSON: That's all right.

10 MR. WILLIAMS: -- are having to pay for this.

11 JUDGE WATSON: That's all right.

12 MR. WILLIAMS: Okay. So -- da-da-da.

13 Okay. So Exhibit G is my e-mail conversation with --
14 do-do-do. Let's see. And I'm not disputing what Mr. Smith
15 said. He's always been very good and helpful.

16 This is the e-mail that I sent to him (as read):
17 "Thanks for your help, Rick. Was there anything else? I seem
18 to remember you asking for two things."

19 I call Tina. I never received a response to that
20 question from Mr. Smith.

21 Then if we go to Exhibit D, that's the very next
22 thing that I heard from Richard Smith, some four days later, and
23 he wrote to me (as read): "Ken" -- which isn't my name, but I
24 assume it was for me -- "I could not read the date you wrote on
25 the MCS 150 you had sent to me, and I remembered you saying that

0016

1 your last day was Sunday, 12/4/12. That's the date I wrote on
2 the MCS report declaring your company out of business. It won't
3 make a difference with anything. If this is wrong or you would
4 like me to file another MCS 150, please do so. Just send it to
5 me scanned and attach the e-mail."

6 And I replied above that (as read): "That date's
7 fine. Thanks."

8 No mention in here of, Yes. Tina is the one you
9 should talk to, or anything along those lines.

10 So the State contends that I knew that I was supposed
11 to talk to Tina or somebody else with the Washington regulation
12 authority. He never answered my question. If he had answered
13 my question, I would have replied, "Oh, good. I did talk to
14 Tina. I talked to her for six minutes. I told her exactly what
15 I wanted to do, and she told me exactly what I should do to make
16 it legal."

17 And this was on the 4th, the same day that I talked
18 to Richard Smith about closing the business for the first time.
19 She suggested that I call the Secretary of State, Department of
20 Licensing, to see if I needed any kind of rental license after I
21 told her that I -- my company might keep one of the vehicles as
22 a personal vehicle for myself but make it available to other
23 companies.

24 JUDGE WATSON: Okay. I'm confused.

25 MR. WILLIAMS: Yeah.

0017

1 JUDGE WATSON: So this was another conversation with
2 who?

3 MR. WILLIAMS: This is with Tina of the Washington
4 part of the UTC.

5 JUDGE WATSON: Okay. Ms. Leipski?

6 MR. WILLIAMS: Ms. Leipski, yes.

7 JUDGE WATSON: Okay. And when was this conversation?

8 MR. WILLIAMS: This was December 4th, the same day
9 that I talked to Richard Smith --

10 JUDGE WATSON: Right.

11 MR. WILLIAMS: -- about the federal authority.

12 JUDGE WATSON: Right. Okay.

13 MR. WILLIAMS: Now, I asked the question in the
14 e-mail on the 6th saying, "Is it Tina? You said I had to do two
15 things. Is it Tina that I have to talk to," and he never
16 answered.

17 And I did talk to Tina. In fact, I explained exactly
18 what I wanted to do, and she told me what I should do. She
19 never said anything about a one-page voluntary cancellation
20 form. If she had, I would have just filled it out and sent it
21 in. It's the simplest form I've ever filled out for anybody.
22 It's a one page, sign at the bottom, and it's in evidence. It's
23 stuff that Mr. Fassio -- at the end of Matt Perkinson's --
24 actually, no. I'm sorry. It's not in there. I have it as an
25 exhibit. If we have to go to it, it's just a very simple one

0018

1 page, I don't want my license anymore. Voluntary cancellation.
2 It's Exhibit I, so -- which is a copy of my conversation with
3 Tina later -- actually, just very recently. It's the second
4 time I sent in the release of authority for cancellation, and
5 that was on 4/10. I had originally sent it in January after
6 conversations with Rae Lynn Carnes.

7 But in December, when I talked to Ms. Leipski about
8 what to do now that I wasn't going to be using any sort of
9 charter and excursion license, it wasn't mentioned, and it may
10 have been clouded by the fact that I was asking her, Look. What
11 if other companies rent the vehicles from me but I never use it
12 for charter and excursion? She may have been concentrating more
13 on, Okay. Go ahead and call. Make sure that you don't need a
14 rental car license or anything like that, which I did, and
15 not -- forgot to tell me about the one-page form.

16 But, again, if I'd known about the one-page form, I'd
17 sign it out and send it in. I...

18 JUDGE WATSON: But there is -- I think one of the
19 things in this case that might have been confusing to everyone
20 is the last part of your testimony where you said, But I might
21 keep one vehicle and use it.

22 MR. WILLIAMS: Right. Well, this -- this gets back
23 to why the safety form wasn't handed in on December 31st.

24 JUDGE WATSON: Okay.

25 MR. WILLIAMS: So I have evidence of that phone call

0019

1 with Ms. Leipski as well. It is Exhibit -- do-do-do...

2 JUDGE WATSON: This was the phone call on December
3 4th?

4 MR. WILLIAMS: December 4th.

5 JUDGE WATSON: Okay.

6 MR. WILLIAMS: The same day that I talked to Richard
7 Smith for the first time --

8 JUDGE WATSON: Right.

9 MR. WILLIAMS: -- about shutting down the Company,
10 and I talked to Tina about shutting down the Company.

11 JUDGE WATSON: Right.

12 MR. WILLIAMS: So Exhibit C-2 are my Verizon cell
13 phone records. And you can see that on December 4th at 12:56, I
14 called the main UTC number, and I talked to someone for six
15 minutes. I've got to assume that was Ms. Leipski, because two
16 days later, I asked in the e-mail is it -- I remembered that I
17 talked to somebody named Tina, so I've got to assume. But I do
18 remember the conversation with someone here, probably
19 Ms. Leipski, telling her this is what I want to do. What do I
20 have to do.

21 And, then, additionally, in the exhibit, C-2, you'll
22 see later that day I made additional phone calls to 360 numbers.
23 Those are other State agencies that Ms. Leipski directed me to
24 call, so I did what she had asked me to do. I did what --

25 JUDGE WATSON: And that's interesting, but what I'm

0020

1 more interested in is the piece about, But I may keep another
2 vehicle to use.

3 MR. WILLIAMS: Yes. So what my plan was, I'm
4 shutting down operation. I'm no longer going to use charter and
5 excursion. I'm not going to pick up passengers. I'm not going
6 to take them around.

7 However, having been involved in the industry for
8 quite a while, I know that there are other companies that can
9 rent vehicles to use, either limousine license companies or
10 charter and excursion companies, or any company can rent a
11 vehicle and use it occasionally if they -- for example, I know a
12 wedding provider, an event planner, and sometimes they want to
13 rent a vehicle. And you can rent out your personal vehicle if
14 you so choose. I talked to the rental agency with -- I guess
15 it's Department of Licensing or something -- but I wanted to
16 make sure that -- and I wouldn't be driving. I'm not involved
17 at all. They just are renting my vehicle for the day. So I
18 wanted to make sure with the State division, the Washington
19 division of the UTC, that that was okay. I didn't need a
20 charter and excursion license in order to do that.

21 So as of that moment, having talked to Tina about
22 State law, having talked to Richard Smith about federal law, I'm
23 done. I'm out of business. As far as I'm concerned, I'm no
24 longer operating. And so when I look at the instructions for
25 who needs to send in a safety report, the instructions very

0021

1 clearly say that it's -- do-do-do-do -- you have to be
2 operating. I have those two, and they're part of evidence.
3 Okay. Here it is from the November 15th, instructions that were
4 sent out written by David Pratt. And David is...

5 JUDGE WATSON: It doesn't matter.

6 MR. WILLIAMS: Okay. Anyway, the instructions there
7 (as read): "You are required to file an annual safety report
8 and pay regulatory fees if you operate as a charter and
9 excursion company."

10 As of December 4th, having followed the instructions
11 on both the state and federal level, I wasn't in business as far
12 as I knew.

13 JUDGE WATSON: Were you in business as a charter and
14 excursion operator during the year --

15 MR. WILLIAMS: Yes, during 2012.

16 JUDGE WATSON: -- of 2012?

17 MR. WILLIAMS: I was.

18 JUDGE WATSON: Up until --

19 MR. WILLIAMS: Up until December 4th officially.

20 JUDGE WATSON -- December 4th?

21 MR. WILLIAMS: I actually stopped business a little
22 before that, but that's the date that we chose because that's
23 the date I talked to Richard Smith and to Ms. Leipski.

24 JUDGE WATSON: Okay. Okay.

25 MR. WILLIAMS: So looking at the instructions, am I

0022

1 operating? I am not. Everything's good.

2 Then I received a letter dated January 7th that goes
3 out and says, "Hey, you haven't turned in your safety report or
4 your regulatory fees. You better do so."

5 So now I receive the letter, I'm guessing, on January
6 9th, because that's when I called in and talked to folks here at
7 the UTC office and said, "I'm out of business. Why do I have to
8 turn the sheet in?"

9 And they said, "Well, you still have to turn the
10 sheet in, and we still think that you're in business, so we need
11 that sheet as soon as possible."

12 So on the 9th, I was actually over at my parents'
13 house. My mother is terminally ill. I spend a lot of time over
14 there because she needs 24-hour care.

15 When I got back home on the 11th of January, I made
16 up a cover sheet, went somewhere that had a fax machine. I
17 don't have one anymore. The only agency I know -- or the only
18 thing I ever fax is stuff to the UTC. I found a fax machine and
19 sent it in with all the -- I got the safety report, and I filled
20 out anything having to do with safety. I saw the section there
21 that was regulatory fees, which is within the same form. But
22 the UTC, at least in David Pratt's letter, refers to it as two
23 separate forms, and the law has it as two separate forms. The
24 part that says list your vehicles, page 4, I didn't have any
25 vehicles to put in that part, because there were no vehicles

0023

1 that I intended to operate.

2 Now, after my conversation on the 9th or the 11th --
3 because I did call on the 11th as well -- after my conversation,
4 I was told, "Look. You still have vehicles."

5 And I called Richard Smith, and I said -- I'm sorry.
6 They said, "You still have a license."

7 So I talked to Richard Smith and said, "So I
8 still" -- "according to the State, I can still operate."

9 And he said, "Well, you can't, because you gave up
10 your DOT number."

11 So what would I have -- I have to apply for a new DOT
12 number, and that would take time.

13 So at that point, I put a cover sheet down there, and
14 it basically said, "Look. Here's the situation. I thought I
15 was done. I talked to everybody, and I thought I was good to
16 go. I did exactly what I was told, but it appears that my
17 license has not been canceled yet, so I had hoped to sell the
18 vehicles and the Company back in December. A couple of sales
19 fell through. In the middle of January, I'm still sitting there
20 with three different vehicles."

21 And I said, "Well, you know, let me" -- "Give me a
22 few days to consider this. And do I" -- "If I've got the
23 vehicles anyway and I'm paying the insurance, do I want to stay
24 in business and start business operations up again, or do I want
25 to just leave it as is. As far as I'm concerned, I'm out of

0024

1 business. I don't have a DOT license, I can't operate, so do I
2 want to pay a \$25 fee for just holding onto the certificate,
3 which I thought was already done? Now that I knew the
4 certificate was actually still active, okay. Well, give me a
5 couple of days, and I will get around to paying the certificate
6 if I decide that I'm going to be continuing business. That's
7 fine."

8 So page 4 is blank because there were no vehicles to
9 operate.

10 JUDGE WATSON: Right. I think you've already
11 explained that.

12 MR. WILLIAMS: Right.

13 JUDGE WATSON: Do you want to tell me the next thing
14 that happened?

15 MR. WILLIAMS: Sure. Then on January 22nd, I
16 received an e-mail from Rae Lynn Carnes with the State division
17 of the UTC, and that's Exhibit J here.

18 MR. FASSIO: Your Honor, that's also in Staff's
19 submissions.

20 MR. WILLIAMS: The one part --

21 JUDGE WATSON: Thank you.

22 MR. WILLIAMS: -- the very first part --

23 JUDGE WATSON: Excuse me.

24 MR. WILLIAMS: Sorry, Your Honor.

25 JUDGE WATSON: Excuse me.

0025

1 MR. WILLIAMS: Sorry.

2 JUDGE WATSON: Mr. Fassio?

3 MR. FASSIO: Some of these documents that have been
4 mentioned are also contained in the submissions of Commission
5 Staff, but I believe the e-mail that Mr. Williams is referring
6 to is Exhibit 4 to the declaration of Mr. Perkinson as well.
7 That's page -- on page 24 of 40 of that.

8 JUDGE WATSON: Thank you, Mr. Fassio.

9 Go ahead.

10 MR. WILLIAMS: Okay. He is correct. The very first
11 part of that e-mail, this, my Exhibit J, contains the e-mail
12 chain between the two of us after her original e-mail as well.

13 So her e-mail said we received your 2012 charter and
14 excursion annual report, but it's missing page 4, the vehicle
15 listing, and also the regulatory fee sheet. There's a minimum
16 \$25 charge for charter carriers, so I wrote back saying, "Did
17 you not receive my cover sheet with the paperwork explaining
18 that we ended operations in mid-December?"

19 She wrote back saying, "Well, I did, and I forwarded
20 your information to Tina in licensing."

21 So now, at least as of the 23rd, I know that
22 licensing knows that I, as far as I'm concerned, am out of
23 business.

24 So I know Tina has that, but I haven't had any
25 contact from Tina saying, Please submit the I'm out of business,

0026

1 the voluntary cancellation. No e-mails. No contact at all.

2 So Rae Lynn Carnes writes (as read): "I have spoken
3 to David Pratt, the director of the transportation division" --

4 THE REPORTER: Excuse me.

5 MR. WILLIAMS: Sorry. Am I too...

6 JUDGE WATSON: You're really fast.

7 MR. WILLIAMS: Sorry.

8 (As read): "I have spoken to David Pratt, the
9 director of the transportation division. I have provided him
10 with a copy of your e-mail and letter. He states that since you
11 were active in 2012, you still need to complete the annual
12 report form. There is a minimum \$25 charge for the charter and
13 excursion permit if you do not plan to operate any vehicles in
14 2013."

15 So then I asked in e-mail (as read): "All right. So
16 I have to send in the page of the list of vehicles and the page
17 with the credit card info, yes?"

18 She responds (as read): "Fill out the vehicle page
19 and send me a list of the regulatory fee sheet. The number of
20 vehicles you plan to operate in 2013 is what the regulatory fee
21 is for. If you plan zero, mark zero, and pay the minimum \$25."

22 So she's confirmed again for me that the fourth page
23 of the form is used to help determine regulatory fees. Once I
24 have ascertained that and understand that that part of the form
25 is to comply with WAC Code 480-30-076, which is about the

0027

1 regulatory fees, I've had time now to consider, now I've still
2 got a couple of vehicles. Do I want to go back in business?
3 This is way too much hassle. No, I'm not going to go back in
4 business.

5 So I look online, I get the voluntary cancellation
6 form, and I send it in. I fax it in. And at that point, I
7 figure I'm done. That's it. I --

8 JUDGE WATSON: And when was that?

9 MR. WILLIAMS: That was right after the e-mail
10 conversation with Rae Lynn Carnes, so that would have been the
11 24th or 25th of January.

12 So at that point, as far as I knew, I -- again, they
13 have the safety part of the form. Everything that WAC Code
14 480-30-071, which is the safety regulations, everything that
15 that WAC complies you to do has been done. I have answered all
16 of the safety questions contained in the form. Page 4 is still
17 blank because I am not going to be operating any vehicles.

18 However, it seems that the UTC is deciding that the
19 WAC code ending with 071, the safety compliance, has not been
20 turned in.

21 Now, if you take a look at the pages that I did fax
22 in -- and I believe those are part of evidence as well, correct,
23 Mr. Fassio?

24 MR. FASSIO: Can you be specific to what?

25 MR. WILLIAMS: Sure. The pages I faxed in on the

0028

1 11th.

2 JUDGE WATSON: The cancellation; is that what you're
3 talking about?

4 MR. WILLIAMS: No, no. The pages I faxed in on the
5 11th, which are Exhibit 3.

6 MR. FASSIO: Oh, yes.

7 MR. WILLIAMS: Okay.

8 MR. FASSIO: Your Honor, yes. He's referring to
9 Exhibit 3, to the declaration of Matt Perkinson, which contains
10 a cover letter filed on January 11th and the portion -- and the
11 annual safety report portion that was received, which is three
12 pages.

13 JUDGE WATSON: Thank you.

14 MR. WILLIAMS: So within those pages, all of the
15 questions having to do with safety -- who's your current
16 insurance company? Have you had any accidents intrastate? Have
17 you had any accidents for intrastate and interstate? How many
18 miles did you operate intrastate and interstate in 2012? Did
19 you provide charter bus operations for any Washington school
20 district during 2012 -- all of the information having to do with
21 the WAC code about safety has been answered.

22 JUDGE WATSON: Okay.

23 MR. WILLIAMS: Page 4 isn't there because there's
24 nothing on page 4.

25 JUDGE WATSON: Right.

0029

1 MR. WILLIAMS: Different -- different WAC code. But
2 this information, which contains everything you need to know
3 about safety, was not good enough for the UTC, because a few
4 weeks later, I received a notice that I'm being fined \$1800 for
5 noncompliance of both of the WAC codes.

6 At this point, I think I'm really, really done. I've
7 done everything and faxed in all the forms, and I get an
8 assessment that the Commission interprets noncompliance with WAC
9 code ending in 071, and WAC code ending in 076, which is the fee
10 regulations, as continuing violations giving rise to penalties
11 of a hundred dollars for each day a company fails to make each
12 requisite filing after the date on which it was due.

13 So at this point, I have to ask the question: What
14 am I being fined for 071 and what am I being fined for 076? 071
15 is the safety regulations, and I turned in all the information
16 that has to do with safety on the 11th of January, not turning
17 it in on December 31st, because I thought I was out of business,
18 having followed the instructions of both the State employee and
19 federal safety lead, Richard Smith. Once I knew that, yes, we
20 do want this, even though it's contrary to what the instructions
21 letter said, no problem. I'll fax in all the information about
22 my safety. You have it now.

23 I'm getting a noncompliance on both of the WAC codes
24 with a hundred dollars for each day a company fails to make the
25 requisite filing, so I'm asking at this point, what I'm being

0030

1 fined that hundred dollars for, and how much for 071 and how
2 much for 076?

3 JUDGE WATSON: And I think that Mr. Perkinson and
4 Mr. Fassio will explain that to you when I give them a chance.

5 I have one more question, and you'll have an
6 opportunity to ask Mr. Perkinson some questions as well.

7 Did Excalibur Limousine operate in 2013?

8 MR. WILLIAMS: No, not at all.

9 JUDGE WATSON: Did it advertise?

10 MR. WILLIAMS: Nope. The website says we're no
11 longer in business. Please contact these other companies.

12 JUDGE WATSON: And where are the vehicles now?

13 MR. WILLIAMS: Two of the vehicles have been sold.
14 The third vehicle I'm in the process of selling. I haven't
15 gotten any takers on it yet.

16 JUDGE WATSON: So what is that third vehicle?

17 THE WITNESS: The third vehicle is a Sprinter van
18 that's done up nicely like a limousine inside so it's --

19 JUDGE WATSON: And it's sitting at your house?

20 MR. WILLIAMS: No. It's actually in repair right
21 now, because some sort of diesel catalytic converter costs
22 \$4,000, and it's gone bad. So it's at Komar Auto Repair
23 (phonetic) right now, which is the reason I'm not in business
24 anymore. Just one after -- one thing after another.

25 JUDGE WATSON: Okay. But you haven't operated it --

0031

1 MR. WILLIAMS: No. I have not taken any --

2 JUDGE WATSON: -- as a business --

3 MR. WILLIAMS: -- reservations.

4 JUDGE WATSON: -- in 2013?

5 MR. WILLIAMS: Anybody who's called my cell phone, I
6 tell them I'm not in business anymore. What are you looking
7 for? Call these guys. Call those guys. I have no intention of
8 being in business. As far as I was concerned, as of December
9 4th, I'm done.

10 JUDGE WATSON: Okay. Thank you very much.

11 MR. WILLIAMS: Sure.

12 JUDGE WATSON: Mr. Fassio?

13 MR. FASSIO: Yeah. I guess, first in point of
14 clarification, Mr. Williams referred to a lot of documents that
15 are contained in -- that Staff has submitted. I wanted some
16 clarification as to what is already part of the record, and if
17 we need to move to admit --

18 JUDGE WATSON: Well, that's a good point. I made a
19 list of stuff that's been referred to, and I thought it would be
20 simpler to let Mr. Williams just --

21 MR. FASSIO: Yeah.

22 JUDGE WATSON: -- tell a story without, you know --

23 MR. FASSIO: Yeah.

24 JUDGE WATSON: -- interjecting.

25 So I'll tell you what I have, okay?

0032

1 MR. FASSIO: All right.

2 JUDGE WATSON: And that is I have RS-1, which is
3 Mr. Smith's declaration.

4 MR. FASSIO: Mm-hm.

5 JUDGE WATSON: And unless someone objects, that will
6 be part of the record, okay?

7 MR. WILLIAMS: That's fine.

8 MR. FASSIO: Mm-hm.

9 (Exhibit RS-1 admitted into the record.)

10 JUDGE WATSON: And we have Mr. Williams' Exhibit G
11 and Exhibit D, which are both printouts from his e-mail account,
12 and my view is they ought to be admitted for what they're worth.

13 MR. FASSIO: Mm-hm.

14 JUDGE WATSON: I mean, there's obviously hearsay
15 problems and all that kind of stuff, but we are in a less formal
16 proceeding.

17 MR. FASSIO: Yeah. And I recognize this is an
18 informal process, but I did want to point out that the -- that
19 these documents are somewhat of a surprise to the Commission
20 Staff, because they were not referred to in a --

21 JUDGE WATSON: We understand. Once again, we have a
22 pro se applicant here, and so I'm inclined to --

23 MR. FASSIO: And I'm not objecting --

24 JUDGE WATSON: And -- good.

25 MR. FASSIO: -- to any admissions of those exhibits.

0033

1 JUDGE WATSON: And I think they're pretty innocuous,
2 frankly, so they'll be admitted.

3 (Exhibits D and G admitted into the record.)

4 JUDGE WATSON: And I have Exhibit I, which is the
5 blank cancellation form?

6 MR. WILLIAMS: No. Exhibit I has --

7 JUDGE WATSON: It's the filled out cancellation form?

8 MR. WILLIAMS: It's e-mail between...

9 JUDGE WATSON: Oh, I thought that was...

10 MR. WILLIAMS: It is. It includes a cancellation
11 form, but e-mail between Ms. Leipski and myself, including the
12 authorization for cancellation.

13 JUDGE WATSON: Okay. So, again, my sense would be to
14 admit it.

15 MR. FASSIO: Yeah. And, Your Honor, just for point
16 of clarification, these are e-mails that occurred on April 9th
17 and April 10th.

18 JUDGE WATSON: Okay. That's a good clarification.

19 MR. FASSIO: Yeah, and it is a release of authority
20 for cancellation that was filed. You know, we stipulate that
21 on -- and it is part of Staff's submissions as well. It is
22 the -- Exhibit 9 to the declaration of Matt Perkinson. It's the
23 order cancelling the certificate. We do stipulate to the
24 admission of this exhibit to show that the Company's resubmitted
25 it, I guess, on this date, 4/10.

0034

1 JUDGE WATSON: And that's I and Appendix 9 --

2 MR. FASSIO: Yes.

3 JUDGE WATSON: -- you said?

4 Appendix 9 to Exhibit...

5 MR. FASSIO: Appendix 9, yes, Your Honor.

6 JUDGE WATSON: To Exhibit 1?

7 MR. FASSIO: Yes.

8 MR. WILLIAMS: Your Honor?

9 JUDGE WATSON: Yes?

10 MR. WILLIAMS: So your Exhibit 9, was it?

11 MR. FASSIO: Yes.

12 JUDGE WATSON: It's actually attached to Exhibit 1,
13 not to put too fine a point on it.

14 MR. WILLIAMS: Whatever it is --

15 MR. FASSIO: It's part of that.

16 MR. WILLIAMS: -- I didn't see -- I'm sorry. I
17 didn't see in their evidence the actual cancellation form.

18 JUDGE WATSON: Okay.

19 MR. WILLIAMS: Is it there or...

20 MR. FASSIO: Right. I believe that is part of the
21 record in that particular docket, and that docket for
22 clarification is TE-130506.

23 (Reporter interruption for clarification.)

24 JUDGE WATSON: Okay. It's another docket. That's
25 confusing. Okay.

0036

1 to 10:54 a.m.)

2 JUDGE WATSON: It's five minutes to eleven. Let's go
3 back on the record.

4 We just took a ten-minute break, and I would like to
5 hear from Staff with regard to its position on what happened in
6 this case, please.

7 MR. FASSIO: Well, perhaps the easiest way to proceed
8 would be to swear in Mr. Perkinson.

9 JUDGE WATSON: I'd be happy to do so.

10 MR. FASSIO: And then I can ask him some questions.

11

12 MATHEW PERKINSON,

13 witness herein, having been first duly sworn on oath, was

14 examined and testified as follows:

15

16 JUDGE WATSON: Thank you. Go ahead.

17

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

19 BY MR. FASSIO:

20 Q. Good morning, Mr. Perkinson. Can you please state
21 and spell your first and last name for the record.

22 A. It's Mathew Perkinson; M-a-t-h-e-w,
23 P-e-r-k-i-n-s-o-n.

24 Q. And who is your employer?

25 A. The Washington Utilities and Transportation

0037

1 Commission.

2 Q. And what is your position with the Commission?

3 A. I'm a compliance investigator.

4 Q. And how would you describe your duties as they relate
5 to this case?

6 A. I investigate charter and excursion companies for
7 compliance with rules surrounding annual reports and regulatory
8 fees.

9 Q. And you're familiar with those rules at issue in this
10 case?

11 A. Yes, I am.

12 Q. And briefly what do those rules require?

13 A. WAC 480-30-071, requires that charter and excursion
14 companies file annual reports by December 31st, and WAC
15 480-30-076, requires that they pay a regulatory fee annually by
16 December 31st.

17 Q. And in this case, the Staff has submitted an exhibit
18 that is labeled the declaration of Mathew Perkinson.

19 Do you have that in front of you?

20 A. Yes, I do.

21 Q. Did you prepare that declaration?

22 A. Yes, I did.

23 Q. And attached to that declaration are a number of
24 exhibits to that declaration.

25 Did you prepare those exhibits?

0038

1 A. Yes.

2 Q. And are they true and correct to the best of your
3 knowledge?

4 A. Yes.

5 Q. I'm going to ask you some questions about some of
6 those things in that -- in that declaration.

7 A. Mm-hm.

8 Q. Can you describe what the Commission did with respect
9 to notifying charter and excursion carriers prior to December
10 31st as to the requirements for annual reports and regulatory
11 fees?

12 A. Yes. The Commission mailed out annual report forms
13 and regulatory fee sheets on November 15th to each charter and
14 excursion company that's regulated by the Commission.

15 Q. If I could just refer you to Exhibit 1 to your
16 declaration, is this a copy of that letter that you're referring
17 to?

18 A. Yes, it is.

19 Q. Was that letter sent to Excalibur Limousine?

20 A. Yes, it was.

21 Q. Can you just give us a sense of -- and perhaps maybe
22 we can look at that letter, and you can tell us what that letter
23 included and what that letter stated.

24 What specifically did it inform companies they were
25 required to do?

0039

1 A. It says on the letter itself, complete and file the
2 enclosed 2012 annual safety report form and pay 2013 regulatory
3 fees. It follows up to say what happens if you do not pay your
4 regulatory fees by December 31st, which is a 2 percent penalty
5 on the amount due, and a 1 percent monthly interest charge on
6 the unpaid balance. It gives an option for the Company to
7 request an extension and a deadline to do so of December 31st.

8 It gives another option that you can perform some of
9 the tasks online, such as obtain electronic versions of the
10 annual report forms, pay regulatory fees, file the report, and
11 cancel your permit if the Company ceased operations.

12 And, then, additionally, what if the Company didn't
13 operate during the year. It says that the Company must indicate
14 this on the report and regulatory fee sheet that it's had no
15 operations, including the minimum \$25 fee, and return both forms
16 to the Commission.

17 JUDGE WATSON: Thank you.

18 THE WITNESS: Sure.

19 It does also say if you're no longer using your
20 charter and excursion authority and you wish to cancel, to go to
21 the Commission's website to locate the voluntary cancellation
22 form or call, and we could provide a form to the Company.

23 BY MR. FASSIO:

24 Q. And also after that there's also the -- and that
25 letter you mentioned included the full annual safety report

0040

1 form?

2 A. Yes.

3 Q. And it also included the regulatory fee sheet in that
4 letter as well?

5 A. Yes, it did.

6 Q. So by December 31st, for clarity of the record, did
7 Excalibur Limousine file an extension with the Commission to
8 file its annual report or pay its regulatory fees?

9 A. No, it did not.

10 Q. Did the Company file a request to voluntarily cancel
11 its authority by December 31st?

12 A. No.

13 Q. Can you clarify for the record what the Commission
14 records indicate when the Company did file a voluntary
15 cancellation form to cancel its authority? When did that filing
16 come in?

17 A. I believe it was April 9th. The actual cancellation,
18 my Exhibit 9 --

19 JUDGE WATSON: Thank you.

20 THE WITNESS: -- shows the cancelling certificate of
21 April 11.

22 BY MR. FASSIO:

23 Q. So Mr. Williams --

24 JUDGE WATSON: Would you give me a moment?

25 MR. FASSIO: Sorry. Sure.

0041

1 JUDGE WATSON: That's quite all right.

2 MR. FASSIO: Maybe page 38, 39, and 40. It's at the
3 very end, Your Honor.

4 JUDGE WATSON: Mm-hm. Thank you.

5 BY MR. FASSIO:

6 Q. Mr. Perkinson, Mr. Williams -- and it's been
7 submitted into the record as Exhibit I, a voluntary cancellation
8 form, and he testified that he believes he originally submitted
9 that in January. I believe he indicated on or about January
10 24th.

11 Does the Commission have any records of having
12 received that form?

13 A. No, they do not.

14 Q. So after December 31st, what actions did the
15 Commission take with respect to companies that had not filed
16 their annual safety reports or pay their regulatory fees?

17 A. Companies that did not file their annual reports or
18 paid their regulatory fees as of January 7th were mailed a
19 notice instructing the companies to complete the report and/or
20 pay the regulatory fee. A notice was mailed out to them letting
21 them know that if they filed a report and paid the regulatory
22 fee by January 18th, the penalty would be mitigated to \$25 a
23 day, plus an additional \$25 per day, for each year that the
24 company had been delinquent prior.

25 Q. So even though the rule requires that companies make

0042

1 these filings by December 31st, the Commission didn't actually
2 begin to assess penalties until January 7th and -- and after; is
3 that right?

4 A. Yes.

5 Q. When did the Company first receive the filing from
6 Excalibur Limousine for its annual report and regulatory fees?
7 Or when did it first receive a filing?

8 A. The Commission?

9 Q. The Commission.

10 A. The Commission received the annual report on January
11 11, 2013.

12 Q. Is that your Exhibit 3?

13 A. Yes, it is.

14 Q. Can you just briefly describe what the Commission
15 received on January 11th?

16 A. Yeah. The Commission received, it looks like three
17 pages of the annual report with the fourth page, the vehicle
18 inventory sheet, missing and no regulatory fee sheet or \$25
19 minimum fee and was also accompanied with a letter submitted by
20 Mr. Williams.

21 Q. Were those two pages that were missing included in
22 the Commission's notice of November 15?

23 A. Yes, they were.

24 JUDGE WATSON: What does the letter say that you just
25 referred to that's part of Exhibit -- strike that -- Exhibit 1

0043

1 in Attachment 3? That's what we're talking about now, right?

2 MR. FASSIO: Yes.

3 JUDGE WATSON: Can you give me a page number on this?

4 MR. FASSIO: Page 19, Your Honor.

5 JUDGE WATSON: Thank you.

6 Okay. And so what does this say? Or maybe I'll just
7 read it.

8 MR. FASSIO: Sure.

9 JUDGE WATSON: Thank you.

10 BY MR. FASSIO:

11 Q. In reading that cover letter, do you see anywhere in
12 that cover letter where the Company indicates that they would
13 like to cancel their authority with the Commission?

14 A. No. I see -- when I read it, I saw (as read): "We
15 will evaluate our current standings and future prospects over
16 the weekend and get all that information to the UTC early next
17 week."

18 Q. So is it your opinion that it was -- that it was
19 clear -- that would have been clear by what the Company's
20 intentions were going forward with respect to whether they
21 wanted to have an active UTC permit or not?

22 A. I think it's unclear here, undecided by the Company,
23 saying that they will evaluate the current standing and future
24 prospects over the weekend, as in they're undecided on whether
25 they're going to continue operations or cease operation.

0044

1 Q. So you testified that that submission was incomplete.

2 Did the Commission receive a regulatory fee payment

3 at that time on January 11?

4 A. No.

5 Q. Did the Commission notify the Company after January

6 11th about the incomplete annual safety report and regulatory

7 fees?

8 A. Yes. You can see in my Exhibit 4, an e-mail from Rae

9 Lynn Carnes, which, I believe, Mr. Williams already referred to,

10 that she sent to him telling him that the report was missing

11 page 4 of the vehicle listing and also the regulatory fee sheet.

12 And that there's a minimum \$25 charge for charter carriers,

13 instructs him to complete page 4 and the attached regulatory

14 sheet as soon as possible.

15 And it looks like in addition to that, Rae Lynn

16 Carnes also phoned and left a voice mail explaining the same

17 thing.

18 Q. Since that e-mail was sent and -- since that e-mail

19 was sent, has the Commission to date ever received the missing

20 page 4, the vehicle listing, and the regulatory fee sheet?

21 A. No.

22 Q. Has the Commission ever received the minimum \$25

23 charge for charter carriers?

24 A. No.

25 Q. And, again, as of this time, was the Company still --

0045

1 did the Company still have an active permit?

2 A. Yes.

3 JUDGE WATSON: Excuse me. Clarification.

4 As of what time?

5 MR. FASSIO: Oh, as of January 22, 2013.

6 JUDGE WATSON: Thank you.

7 BY MR. FASSIO:

8 Q. The Commission rules require a complete report?

9 A. Yes.

10 Q. Do they make any exceptions for when a report cannot
11 be complete?

12 A. No.

13 Q. Is the minimum \$25 charge dependent upon the number
14 of vehicles, or is that a \$25 charge based on the Company's
15 status as a UTC-permitted company?

16 A. It would be based on the fact that the Company's
17 permitted with the Utilities Commission.

18 (Reporter interruption for clarification.)

19 BY MR. FASSIO:

20 Q. So the Company might have different regulatory fees
21 if they had two, three, four vehicles? Two, three or four
22 vehicles? Multiple vehicles?

23 A. Yes. There's an additional \$25 per vehicle, and a
24 minimum of \$25 if you have no vehicles.

25 Q. And does the Commission use the regulatory fee sheet

0046

1 that companies file to determine the regulatory fees that are
2 due?

3 A. Yes.

4 Q. And, again, they do this of all regulated companies?

5 A. Yes.

6 Q. So a company can still hold an active permit, and yet
7 at the time not necessarily have a vehicle in operation at the
8 moment they file that; is that correct?

9 A. Yes.

10 Q. And they're still required to pay that \$25 fee?

11 A. Yes, they are.

12 JUDGE WATSON: I have a question.

13 My understanding is that the report, the annual
14 report that's due at the end of a calendar year, December
15 31st -- let's just take 2012 as an example.

16 THE WITNESS: Mm-hm.

17 JUDGE WATSON: The annual report is for the calendar
18 year 2012. It's a backward looking, if you will.

19 THE WITNESS: That's right.

20 JUDGE WATSON: But the fee, the annual fee, is a
21 forward-looking fee, so if one wanted to continue to operate in
22 2013, then one would pay that fee?

23 THE WITNESS: Yes.

24 JUDGE WATSON: So if, let's say, all the i's were
25 dotted and the t's were crossed, the Company had done some

0047

1 business in 2012, if it were to be perfect and it filed a
2 cancellation, no longer in business --

3 THE WITNESS: Mm-hm.

4 JUDGE WATSON: -- let's say it filed a cancellation
5 in June of 2012, it would still be required to file the report
6 for 2012 by December 31st?

7 THE WITNESS: Yes.

8 JUDGE WATSON: But it would not be required to pay
9 any money because it wouldn't -- it would be cancelled? It
10 wouldn't be operating in 2013?

11 THE WITNESS: On my exhibit -- let's see -- Exhibit
12 1, that November 15th notice?

13 JUDGE WATSON: Mm-hm.

14 THE WITNESS: On the second page, it says, "What if
15 you didn't operate during the year?"

16 JUDGE WATSON: Mm-hm.

17 THE WITNESS: So in the case of absolutely no
18 operations, it just basically says that you need to indicate
19 that on the report, you know, with a zero or whatever, send that
20 back to the Commission, and include the \$25 minimum fee.

21 JUDGE WATSON: Oh. So you still have to pay \$25 even
22 if you're cancelled and you're not going to operate in 2013?

23 THE WITNESS: Yes, that's my understanding.

24 JUDGE WATSON: It's not completely necessary that I
25 know the answer. The thing that I needed to be clear on was

0048

1 that the form, the safety report, is backward looking, and the
2 fee is forward looking.

3 THE WITNESS: Yes.

4 JUDGE WATSON: Terrific. Thank you.

5 BY MR. FASSIO:

6 Q. Maybe one clarifying --

7 JUDGE WATSON: Oh, go ahead.

8 BY MR. FASSIO:

9 Q. Maybe one clarifying question, Mr. Perkinson.

10 A. Yes.

11 Q. I believe the hypothetical may have assumed, perhaps,
12 that the Company sometime during 2012 had filed a voluntary
13 cancellation with --

14 JUDGE WATSON: That is the hypothetical.

15 BY MR. FASSIO:

16 Q. At some point in 2012.

17 So as of December 31st of 2012, they were no longer a
18 regulated company.

19 A. Okay.

20 Q. In that instance, would they have still had to file a
21 \$25 fee?

22 A. No.

23 Q. Okay.

24 JUDGE WATSON: That's what I understood, too, and
25 thank you for the clarification.

0049

1 THE WITNESS: Sorry about that.

2 JUDGE WATSON: That's all right.

3 BY MR. FASSIO:

4 Q. Another question, Mr. Perkinson. If a company owes
5 the regulatory fee, perhaps even the minimum amount but does not
6 pay it, does the Commission add any late fees and administrative
7 penalties to the amount that's due and calculate those?

8 A. Yes, it does.

9 Q. And has the Commission calculated what the \$25
10 regulatory fee would be as of the date that the Commission
11 cancelled this Company's authority on April 11th? Has the
12 Commission calculated what that would be?

13 A. Yes, it has.

14 Q. What?

15 A. Twenty-six twenty-five is what the additional amount
16 would be.

17 JUDGE WATSON: \$2,625?

18 THE WITNESS: No. I'm sorry. \$26.25.

19 JUDGE WATSON: \$26.25 is?

20 THE WITNESS: It's the \$25 regulatory fee, plus a 2
21 percent penalty on the amount due, and an additional 1 percent
22 penalty monthly charge.

23 JUDGE WATSON: So it's 25 plus 1 1/2 percent --
24 strike that -- 3 percent?

25 THE WITNESS: Three percent, yeah. And I think,

0050

1 again, that's on Exhibit 1. On the front page there it breaks
2 it down.

3 JUDGE WATSON: Thank you. I recall that.

4 BY MR. FASSIO:

5 Q. Mr. Perkinson, has this company ever been penalized
6 for failure to file its annual safety report in the past?

7 A. Yes.

8 Q. And do you have a reference to that in your materials
9 that were filed with your declaration?

10 A. Yes, I do. Exhibit No. 7 is a penalty assessment in
11 the amount of a hundred dollars for Docket TE-110747.

12 JUDGE WATSON: Page 32 of 40?

13 THE WITNESS: Yes.

14 JUDGE WATSON: And maybe that's not the right one.

15 Do you mean Exhibit 8?

16 MR. FASSIO: There's an Exhibit 7. It's a notice of
17 penalty assessment in Docket TE-110747.

18 JUDGE WATSON: Okay. Oh, I see. Thank you. Oh, I
19 see. I have the date. Thank you.

20 BY MR. FASSIO:

21 Q. Well, did the Company -- did the Company file a
22 request for mitigation of that penalty assessment at that time?

23 A. Yes.

24 Q. And do you have that document included in your
25 materials as well?

0051

1 A. Yes. It's Exhibit 8 to the declaration.

2 Q. And subsequent to that original penalty assessment
3 and the Company's request for mitigation, what was the outcome
4 of that proceeding?

5 A. The Company, it looks like, requested mitigation, and
6 that was denied.

7 Q. Okay. So the Commission issued an order in that
8 docket denying mitigation?

9 A. Yes.

10 Q. Okay.

11 MR. FASSIO: Your Honor, at this time I believe
12 Mr. Perkinson has addressed most of the exhibits in his --
13 that's attached to his declaration. There are a couple of
14 exhibits that are submissions by the Company in this case that
15 may already be part of the record. That would include Exhibit 5
16 to his declaration, which is the penalty assessment in this
17 case, Exhibit 6 to his declaration, which is the Company's
18 response to that penalty assessment.

19 JUDGE WATSON: Mm-hm.

20 MR. FASSIO: Also it is not part of these
21 submissions, but there is Staff's response to that penalty
22 assessment, which is -- should be in the record as a filing, and
23 I believe that was done in March.

24 JUDGE WATSON: In whose record?

25 MR. FASSIO: With the Records Center in this docket.

0052

1 That's merely a response to the Company's request for a hearing.

2 JUDGE WATSON: But it's not attached to the
3 materials?

4 MR. FASSIO: It's not attached to those materials,
5 but I did want to point that out to you.

6 JUDGE WATSON: Okay. So I have Exhibits 1, but you
7 just spoke to 5 and 6?

8 MR. FASSIO: Yes.

9 JUDGE WATSON: 1, 3, 4, 5, 6, 7, 8, and 9.

10 So what is Exhibit 2?

11 MR. FASSIO: Exhibit 2 is the notice of enforcement
12 action of January 7th, and I believe Mr. Perkinson did testify
13 to that document.

14 JUDGE WATSON: And for the most part, these are all
15 public records, and I will admit them into evidence.

16 (Exhibit MP-1 admitted into the record.)

17 MR. FASSIO: I don't have any additional questions of
18 Mr. Perkinson at this time. We would like the opportunity at
19 the close to provide Staff's recommendation in terms of
20 mitigation as a concluding statement.

21 JUDGE WATSON: Sure.

22 MR. FASSIO: And I would like the opportunity briefly
23 to discuss that with Staff.

24 JUDGE WATSON: That would be great. Thank you.

25 MR. FASSIO: Thank you.

0053

1 JUDGE WATSON: Mr. Williams?

2 MR. WILLIAMS: This is where I get to ask
3 Mr. Perkinson questions?

4 JUDGE WATSON: And I was going to help you out a
5 little bit, or maybe hinder you, one or the other.

6 This is meant to be informal; however, what you are
7 about to engage in is cross-examination. And the general rule
8 about cross-examination is that it's limited to the scope of
9 what Mr. Perkinson's already testified to.

10 MR. WILLIAMS: (Nods head.)

11 JUDGE WATSON: I'm not going to be very strict about
12 that, but I do want to caution you that any questions that you
13 ask him should, you know, have a point.

14 MR. WILLIAMS: Okay. I'll try. Now, what he's
15 testified to, does that include anything --

16 JUDGE WATSON: Yes.

17 MR. WILLIAMS: -- in the declaration?

18 JUDGE WATSON: Absolutely.

19 MR. WILLIAMS: So even if he hasn't addressed the
20 documents?

21 JUDGE WATSON: Absolutely. He has referred to the
22 documents, and I have admitted them, so they are part of the
23 record as if he had spoken all those words, okay, so you can ask
24 him about those.

25 MR. WILLIAMS: Okay.

0054

1 JUDGE WATSON: Thank you.

2

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

4 BY MR. WILLIAMS:

5 Q. All right. If we could have you go back to, I
6 believe it's Exhibit 1 in here, the letter from Mr. Pratt
7 explaining how the -- how both reports should be submitted.

8 I have looked through this letter, but could I have
9 you read the second line right here?

10 MR. WILLIAMS: Can I indicate to him on here?

11 JUDGE WATSON: Is that all right?

12 THE WITNESS: Yeah, absolutely.

13 JUDGE WATSON: Go ahead.

14 BY MR. WILLIAMS:

15 Q. So you read what is required to be sent in, but you
16 didn't read this top line here.

17 What does that line say for the record?

18 A. "You are required to file an annual safety report and
19 pay regulatory fees if you operate as a charter or excursion
20 company."

21 Q. Okay. And then if you'll flip the page over, you'll
22 see a headline there that says, "What if you didn't operate
23 during the year"; is that correct?

24 A. Yes.

25 Q. Okay. Is there anywhere in that letter that details

0055

1 what you should do if you operated but you're no longer in
2 operation?

3 A. No. It says you must indicate on the report that
4 you're no longer operating, the regulatory fee sheet that you've
5 had no operations, and include a \$25 fee and return both of
6 those to the Commission.

7 Q. Okay. That is for companies.

8 If I'm correct, that's under the headline, "What if
9 you didn't operate during the year?"

10 A. Yes.

11 Q. Okay. If somebody did operate during the year and is
12 no longer in operation, is there a section for that?

13 A. I guess I'm confused by the question.

14 JUDGE WATSON: I understand the confusion.

15 Let's try this: "What if you didn't operate during
16 the year?" I'll do a dramatic reading.

17 (As read): "You must indicate this on the report and
18 regulatory fee sheet that you've had no operations, include the
19 minimum \$25 fee and return both forms to the commission. If you
20 are no longer using your charter or excursion authority and wish
21 to cancel it, go to our website at...and locate the 'voluntary
22 permit cancellation form,' or call us at phone number and we'll
23 mail you the form."

24 That's what that section says.

25 BY MR. WILLIAMS:

0056

1 Q. Okay. So looking at this form, it appears to me to
2 be you've got some headlines, and then underneath, some
3 information pertinent to those headlines like a fact on a
4 website that if this question applies to you, here's the
5 information that you have; would you agree with that summation?

6 A. I would say that they're more like instructions, but
7 information, sure.

8 Q. And at the top of each paragraph where there's
9 information, there is a bold headline, for example, in this
10 case, "What if you didn't operate during the year?"

11 That information under that would apply to that
12 section --

13 A. Yes.

14 Q. -- would you agree with that?

15 A. (Witness nods head.)

16 Q. Okay. The Judge just read this section here
17 (as read): "If you are no longer using your charter and
18 excursion authority and wish to cancel it," go to our website
19 and fill out the voluntary permit cancellation form.

20 Why is that under the headline "What if you didn't
21 operate during the year?"

22 MR. FASSIO: Your Honor, I'm going to briefly object
23 to the extent that Mr. Perkinson did not write the form, so I
24 don't know that he is -- has the ability to testify as to the
25 whys of why words were written the way they were.

0057

1 JUDGE WATSON: I will --

2 MR. FASSIO: But he's certainly welcome to try to
3 answer it, but I'm not...

4 JUDGE WATSON: Actually, I'll sustain that, because I
5 do realize that he didn't write the form. And I think what
6 Mr. Williams is getting at is it's a little confusing.

7 MR. WILLIAMS: I don't know if I'm allowed to testify
8 on my own behalf at this point.

9 JUDGE WATSON: You may, but remember that you're
10 under oath.

11 MR. WILLIAMS: Sure. Yeah. I mean, I'm not going to
12 lie.

13 When I saw the paperwork -- I deal with a lot of
14 paperwork on a regular basis -- I looked at that headline, and
15 it says, "What if you didn't operate during the year?"

16 Well, I did operate during the year, so that section
17 doesn't apply to me. The part where it explains about the
18 voluntary permit cancellation form is hidden underneath that
19 headline.

20 Can you understand how I might not read that
21 paragraph seeing that that paragraph is titled "What if you
22 didn't operate during the year," because I did operate during
23 the year.

24 THE WITNESS: Sure, yes.

25 BY MR. WILLIAMS:

0058

1 Q. And the Judge covered this part. There's two forms
2 at play here, correct? There's the WAC that applies to 071, and
3 there's the -- the form that applies to the WAC that ends with
4 076, correct?

5 A. Yes.

6 Q. Okay. One, the safety operations have to do with
7 2012?

8 A. Yes.

9 Q. And I don't know if this has been clarified or not
10 already.

11 If you did operate during 2012, like I did and then
12 you were no longer in operation, hypothetically, if all the
13 forms had been filled out properly and sent in, would I still
14 have to submit the safety form?

15 A. Yes. If you -- yeah, you would.

16 Q. Okay. Can you show me on the instructions here where
17 it says that?

18 A. (Witness reviews document.)

19 No, I cannot.

20 Q. Okay. I had you read -- well, never mind. We'll go
21 over that.

22 You said at one point here referring to the safety
23 report, I believe, submitted on the 11th, Commission rules
24 require a complete report?

25 A. Yes.

0059

1 Q. Okay. In this case -- well, I'm sorry. Let's go
2 back to Exhibit 1 again, and under this section, "What if you
3 didn't operate during the year" on page 2, if I could just have
4 you read that very first sentence.

5 A. "You must indicate this on the report and regulatory
6 fee sheet that you've had no operations, include the minimum \$25
7 fee and return both forms to the commission."

8 Q. Okay. This refers to both forms, so that's two
9 forms, so the report, the annual report -- is that what we call
10 it? -- that has to be submitted by December 31st? That's really
11 two forms, according to David Pratt, if he refers to them as
12 "both"; is that correct?

13 A. Yes.

14 Q. So there are parts of that form that refer to the
15 safety of WAC 071 code, and there's part of the forms that refer
16 to -- or a second part of the same form which is another form
17 that refers to 076; is that accurate, or how would you classify
18 it?

19 A. WAC 480-30-071 talks about the annual safety report,
20 a portion of the annual safety report. And WAC 480-30-076
21 refers to the regulatory fee sheet which is part of the annual
22 safety report.

23 Q. So there's a safety portion of the safety report?

24 A. Yes.

25 Q. And the annual fees are part of the safety report?

0060

1 A. The sheet is included. I don't know that it matters.

2 Q. Okay.

3 A. I'm not sure.

4 Q. All right.

5 A. It's all included when it's mailed out.

6 If your question is: Is the regulatory fee sheet
7 part of the annual safety report, yes, it is.

8 Q. Okay.

9 JUDGE WATSON: And I think we have already
10 established that, that the two pieces are the report and the
11 fee. And that the only reason really there's an interesting
12 distinction is that the report is backward looking, and the fee
13 is forward looking.

14 MR. WILLIAMS: Sure. And I can't ask why that is?

15 JUDGE WATSON: Right.

16 MR. WILLIAMS: Because he didn't write it?

17 JUDGE WATSON: Yeah, that's how they do it.

18 BY MR. WILLIAMS:

19 Q. Okay. So if I had cancelled using the voluntary
20 cancellation form, if someone had said send that in and I had
21 sent it in before the end of 2012, I would still have to send in
22 the safety report, but I wouldn't have to fill out the
23 regulatory fees; is that accurate?

24 A. I think that's what we've already agreed on, yes.

25 JUDGE WATSON: I would have sustained as an asked and

0061

1 answered.

2 MR. FASSIO: Yes.

3 MR. WILLIAMS: So I'm trying to clear this up for
4 myself.

5 JUDGE WATSON: No, that's good.

6 BY MR. WILLIAMS:

7 Q. So in your opinion, I have violated the WAC code
8 about regulatory fees because I haven't paid the \$25 to operate
9 in 2013.

10 How much am I being fined for that?

11 MR. FASSIO: I'm going to object, Your Honor.

12 There -- that's established in the record that the...

13 JUDGE WATSON: Overruled.

14 Testify, if you can. If you don't know, you don't
15 know.

16 THE WITNESS: Could you repeat the question?

17 BY MR. WILLIAMS:

18 Q. Sure. Part of -- in the letter that I received,
19 which I believe is part of your evidence.

20 A. Mm-hm.

21 Q. Give me a second to find it here. Excuse me. It's
22 the letter explaining that I'm being fined, notice of
23 enforcement action. No, that may not be it.

24 A. Maybe the penalty assessment?

25 Q. Yeah, that sounds right.

0062

1 A. Okay. So Exhibit 5.

2 JUDGE WATSON: Thanks for your help.

3 THE WITNESS: Page 25 and 26.

4 MR. WILLIAMS: Is everybody ready?

5 JUDGE WATSON: Yeah. You were going to repeat the
6 question, or would you like Ms. Fukushima to repeat the question
7 for you?

8 MR. WILLIAMS: Oh, I'm going to actually have him
9 read something here.

10 JUDGE WATSON: Oh, okay.

11 MR. WILLIAMS: And then I'll -- it'll explain why I'm
12 asking the question.

13 Do-do-do. Okay.

14 BY MR. WILLIAMS:

15 Q. The second paragraph down there's a sentence, and
16 I'll point to it on your page right there.

17 So could you read this sentence there?

18 A. "The Commission interprets noncompliance with WAC
19 480-30-071 and WAC 480-30-076 as continuing violations, giving
20 rise to penalties of \$100 for each day a company fails to make
21 each requisite filing after the date on which it was due."

22 Q. And then if you could just read the little -- the
23 next little part, please.

24 A. "As a result, the Commission hereby notifies you that
25 it has assessed penalties against you in the amount of \$1800 on

0063

1 the following basis."

2 Q. Okay. So in the first sentence you read, it says
3 that both those WAC codes have been violated, and I'm being
4 penalized a hundred dollars for each day that I failed to make
5 the requisite filing --

6 A. That's right.

7 Q. -- for a total of \$1800?

8 How much am I being fined for each of those
9 violations for 071 and for 076?

10 A. It's a hundred dollars per day for each day that
11 those aren't complete.

12 Q. So am I being fined a hundred dollars a day for the
13 076?

14 MR. FASSIO: Your Honor, I'm going to object to the
15 extent that Mr. Perkinson is not an attorney, and he is asking,
16 in a way, a legal question.

17 But I would refer the Court to the portion he just
18 read, which is Revised Code of Washington 81.04.405, which is a
19 statute that authorizes the Commission to assess a hundred
20 dollars a day for violations. And it is that statute that
21 authorizes penalties of a hundred dollars a day for each day a
22 company fails to make -- fails to comply, so we stipulate that
23 that is the legal standard for violations.

24 And I can --

25 JUDGE WATSON: I think that's the right way to handle

0064

1 it. And I'll sustain the objection, accept the stipulation, and
2 let you know that I do understand your point.

3 MR. WILLIAMS: Okay.

4 BY MR. WILLIAMS:

5 Q. And Mr. Fassio just read us the authorization for the
6 UTC to fine somebody up to a hundred dollars a day.

7 Are you familiar with which WAC code he was reading
8 from?

9 A. It was an RCW.

10 Q. It's an RCW?

11 A. Yeah.

12 Q. Okay.

13 MR. WILLIAMS: Have we submitted into evidence yet
14 the WAC code 076? I know that I handed it out.

15 JUDGE WATSON: We don't need to.

16 MR. WILLIAMS: Okay.

17 JUDGE WATSON: I can take judicial notice of that,
18 which has the same effect as offered and admitted.

19 MR. WILLIAMS: Okay.

20 JUDGE WATSON: I don't think anybody's going to
21 disagree that that's the law of this State and this Commission.

22 BY MR. WILLIAMS:

23 Q. Let's go back to Exhibit 1, which -- actually, it
24 quotes WAC 076 about three, four, kind of five paragraphs down
25 there, but it starts with, "What happens if you do not pay your

0065

1 regulatory fees by December 31?"

2 Could you read that section, please?

3 JUDGE WATSON: Exhibit 1 --

4 MR. WILLIAMS: Exhibit 1, which is the --

5 JUDGE WATSON: So it's actually Attachment 1 to

6 Exhibit 1, and it starts on what page here?

7 MR. WILLIAMS: I have 8 of 40.

8 JUDGE WATSON: Okay. Me too. Thank you.

9 And what's your question?

10 BY MR. WILLIAMS:

11 Q. So could you read the section there that says what
12 happens if you do not pay?

13 JUDGE WATSON: There's two bullet points, right?

14 "What happens if you do not pay your regulatory fees by December
15 31st?"

16 THE WITNESS: It says (as read): "You will" -- "You
17 will incur: a 2 percent penalty on the amount due; and a 1
18 percent monthly interest charge on the unpaid balance."

19 BY MR. WILLIAMS:

20 Q. Have I been fined for not turning in my regulatory
21 sheet?

22 A. Yes.

23 Q. So is that the -- have I been fined the 2 percent and
24 the 1 percent?

25 A. Yes. When you submitted your cancellation form in

0066

1 April, the Financial Services Department assessed these
2 penalties.

3 Q. Is that separate from the \$1800 assessment?

4 A. Yes.

5 Q. Okay. Have I been notified of that?

6 JUDGE WATSON: He doesn't know what you have been
7 notified about.

8 MR. WILLIAMS: Oh, okay. Okay. Sorry.

9 BY MR. WILLIAMS:

10 Q. How would I be notified about that? Would I be
11 notified? This is the first time hearing of this, so...

12 JUDGE WATSON: The first you're hearing of --
13 what? -- the 1 percent and the 2 percent?

14 MR. WILLIAMS: That I have been fined for not turning
15 in the regulatory fees. The WAC is very explicit about what the
16 UTC can fine for not turning in the regulatory fee for, and it
17 is the 2 percent and 1 percent.

18 BY MR. WILLIAMS:

19 Q. So you are saying that the \$1800, then, is a fine
20 relating to not turning in the safety form because...

21 A. Yeah.

22 Q. Okay.

23 A. And the regulatory fee.

24 Q. Okay. And not paying the regulatory fee?

25 JUDGE WATSON: Yeah. I think we have established

0067

1 that as Mr. Fassio explained, the \$100 covers both the failure
2 to file the report and the failure to submit the fee.

3 MR. WILLIAMS: Which is okay under the law, even
4 though the WAC prohibits any additional fines beyond the 2
5 percent and 1 percent?

6 JUDGE WATSON: I'm here to listen to argument and
7 facts.

8 MR. WILLIAMS: Okay. You can't answer questions.

9 JUDGE WATSON: No.

10 BY MR. WILLIAMS:

11 Q. Okay. So if a company -- I don't know if that is
12 asked and answered yet. Forgive me.

13 I'm out of business by December 31st, there's no
14 regulatory fee that I have to file, but I do have to file a
15 safety form?

16 JUDGE WATSON: I think that's been established.

17 MR. WILLIAMS: Right. But you can't show me where it
18 says that I have to file a safety form in that case?

19 MR. FASSIO: Objection. Asked and answered.

20 JUDGE WATSON: Yeah.

21 MR. WILLIAMS: Okay.

22 JUDGE WATSON: Yeah, I agree.

23 MR. WILLIAMS: I'm trying to clarify.

24 JUDGE WATSON: Sustained.

25 BY MR. WILLIAMS:

0068

1 Q. Okay. Back in 2001 when I --

2 JUDGE WATSON: 2001? 2011?

3 MR. WILLIAMS: I'm sorry. 2011.

4 JUDGE WATSON: That's fine.

5 BY MR. WILLIAMS:

6 Q. Back in 2011 -- I have terrible writing.

7 Back in 2011, when I didn't turn in the safety report
8 and fine -- in my first year in operation when I didn't turn it
9 in on time, did I pay the penalty that year?

10 A. Yes.

11 Q. Okay. We talked a little bit about the Staff's
12 response to my request for mitigation. I have that. I don't
13 see it in your packet right here. I did put it into my packet
14 of evidence, and it was referred to earlier by Mr. Fassio as
15 being part of the record.

16 MR. WILLIAMS: Is that correct, Mr. Fassio?

17 MR. FASSIO: It is part of the record as a response
18 to the request for hearing; however, we would stipulate that the
19 declaration of Mr. Perkinson in this case represents the --

20 MR. WILLIAMS: So I have it as Exhibit M in my
21 packet.

22 MR. FASSIO: -- what we're introducing as a exhibit
23 today. We're not introducing that document as a separate
24 document today. I only referred to it by reference that Staff
25 did file a response at that time.

0069

1 MR. WILLIAMS: And I filed that under Exhibit M.

2 MR. FASSIO: And Mr. Perkinson --

3 JUDGE WATSON: Well, Exhibit M is a letter dated
4 March 21, 2013, from Steven King.

5 MR. WILLIAMS: To Steven King.

6 MR. FASSIO: And, Your Honor --

7 JUDGE WATSON: Excuse me. You're absolutely right.
8 Thank you. From Ms. Wallace.

9 MR. FASSIO: And, Your Honor, Mr. Perkinson did not
10 testify about this document.

11 JUDGE WATSON: Right.

12 And I'm happy to -- there's no objection to admitting
13 this?

14 MR. FASSIO: That's fine, Your Honor.

15 (Exhibit M admitted into the record.)

16 JUDGE WATSON: So what's the question about it?

17 MR. WILLIAMS: Can you answer my questions about this
18 document?

19 JUDGE WATSON: I don't know that there's a question
20 pending.

21 MR. WILLIAMS: Oh, so I'll ask questions if I -- I
22 mean...

23 JUDGE WATSON: Oh, yeah. That's fine.

24 MR. WILLIAMS: Ideally, I guess, the questions will
25 be addressed to Sharon Wallace, but as the -- your director of

0070

1 enforcement, or...

2 JUDGE WATSON: Well, let's see what he knows.

3 MR. WILLIAMS: Okay.

4 MR. FASSIO: Your Honor, I would like to just request
5 that Mr. Williams direct his questions specifically. I don't
6 know the purpose of going through a great deal of questioning on
7 this, but if he could be focused in his questions --

8 JUDGE WATSON: Sure.

9 MR. FASSIO: -- and direct --

10 JUDGE WATSON: That's a fair request.

11 MR. FASSIO: -- and direct specific questions and
12 then we can take those one at a time.

13 JUDGE WATSON: Yes.

14 MR. WILLIAMS: Okay. I'll certainly try. Again, I
15 apologize. I'm not familiar with the process.

16 BY MR. WILLIAMS:

17 Q. This is a letter from Sharon Wallace, Assistant
18 Director, Consumer Protection and Communications to Steven King,
19 Acting Executive Director and Secretary, and it's called the
20 Response to Application For Mitigation of Penalties.

21 Why is this sent to Mr. King, and what does he do
22 with this letter?

23 MR. FASSIO: Your Honor, again, I'm going to object
24 that Mr. Perkinson did not write this letter.

25 JUDGE WATSON: Yeah. He doesn't have any personal

0071

1 knowledge.

2 MR. FASSIO: And he does not have any personal
3 knowledge of this letter. I'm not sure of the purpose of the
4 questioning about this particular letter.

5 JUDGE WATSON: Yeah. Can you help us out --

6 MR. WILLIAMS: Sure. Well, I'm trying --

7 JUDGE WATSON: -- since he didn't write it?

8 And just colloquially, let's just say we were just
9 sitting around. What do you want to know?

10 MR. WILLIAMS: Okay. So this letter, I'm trying to
11 figure out what this is for. What Mr. King decides. Why a
12 letter was written to Mr. King. What his decision process is in
13 this.

14 Is he the one who decides, yes, we agree that he has
15 to pay the \$1800? Is he the one who says, no, this needs to go
16 to a hearing? What does Mr. King do with this letter?

17 JUDGE WATSON: Well, the reason that we're here -- I
18 think I can help out.

19 The reason we're here is that you've requested a
20 hearing.

21 MR. WILLIAMS: Mm-hm.

22 JUDGE WATSON: And the Commission has a process by
23 which Staff, in this case, the head of the enforcement -- I've
24 got her title wrong. Sorry. -- Assistant Director of Consumer
25 Protection and Communications, is advising the acting director

0072

1 of this Commission of its advice.

2 You know, we've done an investigation. We have
3 looked into this. And here's the facts that we found, and this
4 is what our recommendation is.

5 And Mr. King receives that, makes a decision of what
6 the next step is.

7 You've asked for a hearing, and that's why we're
8 here.

9 MR. WILLIAMS: Okay.

10 BY MR. WILLIAMS:

11 Q. I don't know if you'll be able to answer this
12 question, but attached to this was a number of pieces of
13 evidence -- or exhibits, if they were. At this point, I don't
14 know. And included in them were the fax cover sheet from
15 January 11th that included the answers about safety, but none of
16 the pages that I faxed in.

17 Any idea why that would be?

18 JUDGE WATSON: No. I think that we know that
19 Mr. Perkinson doesn't.

20 MR. FASSIO: And, Your Honor, again, I would
21 stipulate that the document he's referring to is part of the
22 exhibits that already have --

23 JUDGE WATSON: Yes.

24 MR. FASSIO: -- been admitted into the record.

25 JUDGE WATSON: Yeah, exactly.

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1 MR. FASSIO: And we'd simply stipulate that these
2 documents are what they say they state.

3 BY MR. WILLIAMS:

4 Q. What I'm trying to establish is if Mr. King has some
5 sort of decision power over what happens to me next, and
6 evidence was sent to him that didn't include the safety portion
7 of the form. It makes me look really bad.

8 In this letter it says several times that I still
9 haven't submitted safety information. Back on January 11th, I
10 faxed in safety information.

11 JUDGE WATSON: Right. And what the purpose of the
12 hearing is today, the reason why we're all here, is to get that
13 information that you're talking about, that you're concerned
14 about being part of an official record, made part of an official
15 record. That's what we're doing.

16 MR. WILLIAMS: Gotcha. Okay. Well, then --

17 JUDGE WATSON: And he will have that information.

18 MR. WILLIAMS: That appears to be irrelevant, then,
19 at this point?

20 JUDGE WATSON: It's not irrelevant at all.

21 MR. WILLIAMS: Sorry.

22 JUDGE WATSON: It's very important. It's just the
23 kind of different slots that stuff goes in.

24 MR. WILLIAMS: Okay.

25 JUDGE WATSON: I have the sense that you're pretty

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1 close to the end of your questions?

2 MR. WILLIAMS: I am very close.

3 JUDGE WATSON: One more question, maybe?

4 MR. WILLIAMS: I'll try to keep it to one question.

5 JUDGE WATSON: Okay.

6 BY MR. WILLIAMS:

7 Q. In the January 11th form that I faxed in -- let's go
8 to that in Exhibit -- Exhibit -- well, it's page 20 of 40.

9 JUDGE WATSON: Thanks. That reference is helpful.

10 Yes.

11 MR. WILLIAMS: Okay. This is Exhibit 3.

12 BY MR. WILLIAMS:

13 Q. If we look at page 40 of --

14 JUDGE WATSON: Do you have that, Mr. Perkinson?

15 THE WITNESS: Yes, I do. You're referring to the
16 letter, and then the attachment of this?

17 JUDGE WATSON: Page 20 says "Charter and Excursion
18 Carriers Annual Safety Report."

19 THE WITNESS: Yes. Thank you.

20 JUDGE WATSON: Go ahead and ask your question.

21 THE WITNESS: Thank you.

22 BY MR. WILLIAMS:

23 Q. Okay. So this is the annual safety report,
24 obviously?

25 Looking at the pages that you have there, you have

0075

1 pages 20, 21, and 22.

2 Are there any questions about safety having to do
3 with the WAC code ending in 71 that requires a submission of
4 safety information? Are there any questions about safety that
5 are left unanswered by those pages?

6 A. Can you rephrase the question maybe? I'm not sure
7 what the question is.

8 Q. Sure. Is there any safety information that the UTC
9 needs to know that hasn't been included in these pages?

10 A. This would be the information that they would need
11 regarding safety.

12 Q. Okay. And there's a page 4 that is part of a
13 different form but part of that form referring to operation in
14 2013.

15 Is that part of the regulatory information needed by
16 the WAC code ending in 076?

17 JUDGE WATSON: That's asking for a legal conclusion,
18 and I think --

19 MR. WILLIAMS: Oh, sorry.

20 JUDGE WATSON: -- we've had a lot of testimony about
21 what that page was. That it wasn't included.

22 MR. WILLIAMS: Sure.

23 JUDGE WATSON: Why you didn't include it. And at
24 this juncture, I can tell you that all makes a lot of sense to
25 me. I mean, I'm pretty clear in my mind, you know, what was

0076

1 asked and what you provided and why you didn't provide that
2 information.

3 MR. WILLIAMS: Okay.

4 JUDGE WATSON: So unless you're burning to say
5 something else, I'm going to call it good. You'll have an
6 opportunity --

7 MR. WILLIAMS: The other thing would all be opinion,
8 so I don't think it would.

9 JUDGE WATSON: And you'll have an opportunity to do
10 that in just a moment.

11 MR. WILLIAMS: Okay.

12 JUDGE WATSON: Do you have any questions for
13 Mr. Williams?

14 MR. WILLIAMS: Your Honor, while he's preparing, is
15 it possible for me just to refill my water?

16 JUDGE WATSON: I would like to do the same. Thank
17 you.

18 (Pause in the proceedings.)

19 JUDGE WATSON: Okay. We can go back on the record.

20 We're waiting to see if Mr. Fassio has any questions
21 for the witness.

22

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

24 BY MR. FASSIO:

25 Q. Now, Mr. Williams, how long has the Company been

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1 regulated by the UTC?

2 A. It would have been -- in 2011 would have been the
3 first year, or perhaps in 2010. It must have been 2010, because
4 I had to fill out -- in 2011, I didn't turn in the 2010 safety
5 report in time, if I'm reading this correctly.

6 Q. Well, maybe I can refresh your memory. At least in
7 Mr. Perkinson's declaration, he indicates that "they have been a
8 charter excursion company regulated since October 26th of 2009."

9 A. Okay.

10 Q. I mean, having read that, does that comport with...

11 A. Sure.

12 Q. If you think about it?

13 A. Yeah.

14 Q. Okay.

15 A. I mean, he's got the records.

16 Q. So you've had occasion to file an annual safety
17 report and pay regulatory fees in 2010, 2011, 2012, and now this
18 year, or...

19 A. Yes. I've had the opportunity the last three years.
20 This year I didn't think that I had to file one.

21 Q. But you have filed these in the past?

22 A. Yes, sir.

23 Q. Okay. All right. It was your testimony -- and we
24 have Mr. Smith's -- Richard Smith's declaration in the record
25 regarding an e-mail that you sent to him on or about December

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1 6th.

2 And it's your testimony that you don't recall ever
3 speaking to him again about this after that; that he did not
4 contact you?

5 A. No, that's not my testimony. We e-mailed each other.
6 He e-mailed me on December 10th, and then we had another
7 consequent conversation later that month.

8 Q. So you did speak to him later that month?

9 A. I believe so, yes.

10 Q. On your letter on -- going to -- I guess it's
11 Exhibit -- it's page 19 of Staff's -- of Mr. Perkinson's
12 declaration. You indicate you talked to Trina subsequently, and
13 I believe it is your testimony that you spoke to Ms. Tina
14 Leipski?

15 A. Correct. Yeah, that's a typo.

16 MR. FASSIO: Your Honor, if you feel it would be
17 beneficial, we have Ms. Leipski here today and she can testify
18 regarding any conversation she may have had. I believe her
19 testimony would be that she doesn't recall a conversation having
20 taken place between her and Mr. Williams.

21 If you would feel it beneficial to place her on the
22 stand, we can do that to answer that specific question and
23 respond to the testimony of Mr. Williams as to whether he spoke
24 with Ms. Leipski about voluntary cancellation.

25 JUDGE WATSON: My view is that -- that that will be

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1 the testimony. It doesn't matter, and -- yeah. So, no. Thank
2 you.

3 MR. FASSIO: Okay. Thank you.

4 I don't think I have any -- well, let me ask.

5 BY MR. FASSIO:

6 Q. Just for clarification of the record, you've
7 indicated here that you're not operating.

8 Do you have any vehicles currently? Have you sold
9 them off? What is the current status? Can you just clarify the
10 current status of your business?

11 A. Sure.

12 JUDGE WATSON: He has testified to that.

13 MR. FASSIO: Oh, okay. Okay.

14 JUDGE WATSON: Which is fine.

15 MR. FASSIO: That's fine.

16 JUDGE WATSON: I just wanted to point that out that
17 we haven't dodged that you have one vehicle left which is called
18 a Sprint?

19 THE WITNESS: A Sprinter.

20 JUDGE WATSON: Sprinter that's in the shop --

21 THE WITNESS: Right, which I use as my personal
22 vehicle.

23 JUDGE WATSON: -- and has the unfortunate status of
24 requiring 4,000 bucks.

25 THE WITNESS: Yes.

0080

1 JUDGE WATSON: Sort of like a Fiat, a Fix it Again
2 Tony. Yikes.

3 THE WITNESS: Over and over.

4 JUDGE WATSON: And I gathered that vehicle, you don't
5 drive around in something that says Excalibur Limousine?

6 THE WITNESS: No, no. There's no markings on it.
7 It's just a van. It's a big van, essentially, so that's my --
8 my son drives my Scion. I drive that van around.

9 JUDGE WATSON: Got it.

10 THE WITNESS: Until I can sell it when it's working,
11 and can't sell it until its working.

12 JUDGE WATSON: Thank you.

13 MR. FASSIO: I have no other questions of
14 Mr. Williams at this time.

15 JUDGE WATSON: Would you like to make a brief closing
16 statement, and would you like to make a brief closing statement?

17 Mostly what those are for, technically, is to
18 summarize what you have presented as far as the evidence. I
19 don't think you need to do that, but if there's -- there's just
20 something that you're just burning to say, this would be the
21 time to do that.

22 MR. FASSIO: Your Honor, could I have one moment to
23 discuss, to confer --

24 JUDGE WATSON: Yes.

25 MR. FASSIO: -- with my client off the record before

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1 going back on the record and providing Staff's recommendation?

2 JUDGE WATSON: I would like to finish here no later
3 than five after twelve, because low blood sugar makes for very
4 unhappy people.

5 MR. FASSIO: I expect it would be a very short
6 recess.

7 JUDGE WATSON: Okay. Let's get back together at
8 twelve. Thank you. We're off the record briefly.

9 (A break was taken from 11:55 a.m.
10 to 12:01 p.m.)

11 JUDGE WATSON: It's two minutes after twelve. Let's
12 go back on the record.

13 And to the extent that either party has a closing
14 statement, I would like to hear it.

15 One thing that occurred to me with the advice of
16 someone who has more experience than I do is that I should
17 clarify our acting executive director's role. You've asked
18 about that, and I don't think I explained it very well.

19 If you had not asked for this proceeding, Mr. King
20 would have made the decision about the penalty and so on.

21 Since you asked for a hearing, he has delegated to me
22 as a judge the authority to listen to the evidence and your
23 arguments and to come up with a decision. So whatever I decide
24 will be the Commission's decision in the end. I hope that's
25 helpful. I didn't mean to dodge you before.

0082

1 MR. WILLIAMS: No, that's fine.

2 JUDGE WATSON: Thank you.

3 Mr. Fassio?

4 MR. FASSIO: Thank you, Your Honor. Staff has a
5 recommendation as its closing statement, and I will briefly
6 summarize what that is.

7 JUDGE WATSON: Okay. Thank you.

8 MR. FASSIO: Staff recommends that the Commission
9 find the Company in violation of WAC 480-30-071 and WAC
10 480-30-076 for failing to file a complete annual safety report
11 and pay regulatory fees.

12 The period covered by the penalty assessment is
13 through January 31, 2013. The Company was out of compliance at
14 that time. The Company has remained out of compliance with
15 those requirements despite multiple instructions from Commission
16 Staff that are contained in the record.

17 However, the Company has -- Staff recognizes the
18 Company has voluntarily cancelled its permit now by order of the
19 Commission on or about April 11th of 2013. However, the Company
20 was out of compliance with the rules required of it as a
21 permitted charter and excursion carrier up until that time.

22 So Staff recommends that the Commission in this case
23 mitigate the penalty assessment by 50 percent to \$900, and
24 suspend with the intent to waive the remainder of the penalty
25 that was assessed conditioned on two things: First, that the

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1 Company within the next ten calendar days complete its annual
2 report and complete its regulatory fee sheet as instructed by
3 Staff so that the Commission's records are complete; and,
4 second, because the Company has been a regulated charter and
5 excursion carrier until April 11th of this year, submit payment
6 of the minimum required \$25 regulatory fee and interest and late
7 fees as calculated by the Commission and testified today which
8 total a total of \$26.25.

9 That concludes Staff's recommendation in this case.

10 JUDGE WATSON: Thank you.

11 Do you have any parting words for us, Mr. Williams?

12 MR. WILLIAMS: Yeah, absolutely. I'm just kind of
13 befuddled that we're even here. All along, I have just followed
14 instructions from Staff as to how to proceed with the cancelling
15 of operation.

16 The confusion, I believe, lies in two forms being
17 part of one form. I'm being fined \$1800, or now \$900, as
18 recommended, if you go that way, I suppose, for not turning in
19 the safety form.

20 However, as testified by Mr. Perkinson, all the
21 safety questions required by 071 have been answered on January
22 11th. And it was only late at that point because I had
23 believed, per Staff instruction, that I was no longer in
24 business.

25 And nowhere does it state that a company that is not

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1 operating in 2013, but did operate in 2012, still has to turn in
2 the safety forms. It's in the present tense. And at the time,
3 by what I was told by two members of the UTC Staff and even
4 after having filled out a form that I was told to fill out that
5 made it impossible for me to operate in 2013 -- because you
6 cannot operate without a federal DOT license, and I had
7 forfeited that per instruction of a UTC official -- there's
8 nothing there anywhere that tells me to turn in a safety form.

9 Once I was informed that I had to, I turned it in
10 almost immediately, yet Staff still contends that they don't
11 have the information that they need to comply with WAC
12 480-30-071. I'm just trying not to do business anymore, and I
13 have done everything that I have been asked to do.

14 JUDGE WATSON: Thank you. Thank you very much. We
15 are adjourned. I will have a decision within ten days, as I'm
16 required to by Washington Administrative Code, but I need to
17 think about it for a while.

18 Thank you so much for coming.

19 MR. WILLIAMS: Okay. Thank you.

20 (Proceeding concluded at 12:06 p.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON)

) ss

4 COUNTY OF KING)

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6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
7 and Notary Public in and for the State of Washington, do hereby
8 certify that the foregoing transcript is true and accurate to
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal
11 this 7th day of May, 2013.

12

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15

SHELBY KAY K. FUKUSHIMA, CCR

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17 My commission expires:

June 29, 2013

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