

Armstrong & Okey, Inc., Columbus, Ohio (614) 224-9481

APPEARANCES:

Mr. Micah Zappe  
9 Woods Edge Court  
Stafford, Virginia 22554

Pro se.

Mike DeWine, Ohio Attorney General  
William L. Wright, Section Chief  
Public Utilities Section  
By Mr. Ryan P. O'Rourke  
180 East Broad Street  
Columbus, Ohio 43215-3793

On behalf of the Transportation Staff of  
the Public Utilities Commission.

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

WITNESS	PAGE
Trooper J. P. Jirles	
Direct Examination by Mr. O'Rourke	8
Examination by the Attorney Examiner	22
Joseph Turek	
Direct Examination by Mr. O'Rourke	24
Examination by the Attorney Examiner	39
Redirect Examination by Mr. O'Rourke	42
Examination by the Attorney Examiner	44
Rebuttal Direct by Mr. O'Rourke	54
Examination by the Attorney Examiner	60
Micah Zappe	
Direct Testimony	46
Cross-Examination by Mr. O'Rourke	52

EXHIBITS

STAFF EXHIBITS	IDFD	ADMTD
1 - Driver/Vehicle Examination Report ending digits 224	10	67
2 - Driver/Vehicle Examination Report ending digits 223	10	67
3 - Photocopies of photographs	19	67
4 - Notices of Preliminary Determination	27	67
5 - Fine Schedule	29	67
6 - Letter to M. Zappe from J. Frye, 11/30/12	37	67
7 - Notice of Apparent Violation and Intent to Assess Forfeiture	43	67
8 - Copies of internet searches	55	67
ZAPPE EXHIBITS	IDFD	ADMTD
1 - Letter from J. West, 1/7/12	66	68

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Friday Morning Session,  
July 12, 2013.

- - -

THE ATTORNEY EXAMINER: Let's go on  
record at this time. The Public Utilities Commission  
of Ohio has assigned for hearing at this time and  
place Case No. 13-702-TR-CVF, In the Matter of Micah  
Zappe, Notice of Apparent Violation and Intent to  
Assess Forfeiture.

I'm Jim Lynn, attorney-examiner assigned  
to hear their case. At this time we will have the  
appearances of the parties, beginning with the Ohio  
Attorney General's office.

MR. O'ROURKE: Thank you, your Honor.  
Ryan O'Rourke, appearing here on behalf of staff, as  
you mentioned, with the Ohio Attorney General's  
Office. My address is 180 East Broad Street, Sixth  
Floor, Columbus, Ohio 43215.

THE ATTORNEY EXAMINER: Thank you.  
And, Mr. Zappe, if you could provide your  
name and address please.

MR. ZAPPE: Micah Zappe, 9 Woods Edge  
Court, Stafford, Virginia, 22554.

THE ATTORNEY EXAMINER: Thank you.  
As far as the proceeding today, we will

1 first hear from Mr. O'Rourke and any witnesses, and  
2 then, Mr. Zappe, you will testify a little bit later.

3 Mr. O'Rourke, if you would like to  
4 proceed.

5 MR. O'ROURKE: I do, your Honor, but  
6 before we do, I do have a motion to make.

7 THE ATTORNEY EXAMINER: Okay.

8 MR. O'ROURKE: There are two inspections  
9 at issue here, and the one inspection I list is  
10 inspection No. OH0779003224, and that has both a  
11 carrier and a driver violation. Insofar as the  
12 driver is concerned on that violation, the  
13 gentleman -- there was a gentleman named Mr. West.  
14 He did not request a conference. He did not request  
15 an administrative hearing, thus, we think it is  
16 appropriate to move for a default on that basis. As  
17 a precondition to getting into this proceeding, he  
18 needed to file those pleadings.

19 Now, if the Commission is uncomfortable  
20 with moving for a default on that basis, I would  
21 point the Commission to its default rule, Ohio  
22 Administrative Code, 4901:2-7-14(E), which provides  
23 that a respondent who has requested an administrative  
24 hearing and fails to participate in that hearing  
25 shall be in default. And as we sit here today,

1 Mr. West, as I can best tell, is not in the hearing  
2 room so I think it would be suitable for default.

3 THE ATTORNEY EXAMINER: I'm not sure I  
4 understand you correctly. Mr. West, have we heard  
5 from him at all?

6 MR. O'ROURKE: We have not, your Honor.

7 THE ATTORNEY EXAMINER: Did you say he  
8 requested an administrative hearing?

9 MR. O'ROURKE: He did not do anything,  
10 but he was the driver that was cited on the  
11 224 inspection. There was a 223 inspection, which  
12 was also a carrier and driver, which was assessed  
13 against Mr. Zappe; but insofar as the driver  
14 violation on the 224 inspection, that was issued  
15 against Mr. West. He is not here today. He did not  
16 request a hearing, and we think it would be suitable  
17 for a default judgment on that basis.

18 THE ATTORNEY EXAMINER: Concerning just  
19 the driver violation?

20 MR. O'ROURKE: Concerning the driver  
21 violation.

22 THE ATTORNEY EXAMINER: Let me make sure  
23 I understand. So you're saying -- was a letter sent  
24 to him about and did we ever hear anything back from  
25 him?

1 MR. O'ROURKE: Your Honor, Mr. West did  
2 receive notice of this, but he did fail to do  
3 anything on his own to secure a hearing or to defend  
4 this.

5 THE ATTORNEY EXAMINER: He did receive  
6 notice?

7 MR. O'ROURKE: Yes. I can get you a copy  
8 of that. I don't know if I have it in my file right  
9 now, but I can get a copy to the Commission if they  
10 would like that.

11 THE ATTORNEY EXAMINER: We will address  
12 that matter as the hearing proceeds. At some point  
13 we will take a break and you can obtain some evidence  
14 that he was contacted.

15 In the meantime, let's go ahead with what  
16 proceedings you have here with us and so forth.

17 MR. O'ROURKE: Absolutely, your Honor.  
18 The staff calls Trooper Jeff Jirles to the stand.

19 THE ATTORNEY EXAMINER: Please take the  
20 stand, sir.

21 (Witness sworn.)

22 THE ATTORNEY EXAMINER: Please take a  
23 seat. And your name is pronounced Jirles?

24 THE WITNESS: That is correct.

25 THE ATTORNEY EXAMINER: Mr. O'Rourke,

1 please continue.

2 - - -

3 TROOPER J. P. JIRLES

4 being first duly sworn, as prescribed by law, was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. O'Rourke:

8 Q. Trooper Jirles, can you please state your  
9 full name and business address for the record?

10 A. Trooper Jeffrey Jirles with the Ohio  
11 State Highway Patrol. Current assignment is in  
12 Cambridge, Ohio 43725.

13 Q. And how long have you been employed with  
14 the patrol?

15 A. 15 years.

16 Q. Could you briefly describe your training,  
17 education, and qualifications for the position?

18 A. My current assignment now is to the  
19 Cambridge district headquarters doing commercial  
20 enforcement of motor carrier units.

21 Q. And what is the scope of your  
22 jurisdiction?

23 A. Roadways, state property within the state  
24 of Ohio.

25 Q. Have you been trained to enforce the



1 Federal Motor Carrier safety regulations?

2 A. I have.

3 Q. And by what manner did you receive that  
4 training?

5 A. That training was through the Ohio State  
6 Highway Patrol with the training academy, and my  
7 certifications are from the North American Standards,  
8 Level I inspections and hazardous materials, all  
9 federal certifications.

10 Q. About how many times have you performed a  
11 roadway inspection to investigate a possible  
12 violation of the regulations?

13 A. More than a thousand.

14 Q. And typically what -- can you walk us  
15 through a typical inspection? What does that entail?

16 A. A commercial vehicle inspection, there's  
17 different levels of inspection, but generally we are  
18 looking for safety violations with regard to vehicles  
19 and/or the drivers.

20 Q. And are reports generated during the  
21 course of your inspection of the possible violation  
22 of the regulations?

23 A. They are.

24 MR. O'ROURKE: May I approach?

25 THE ATTORNEY EXAMINER: Yes.

1 MR. O'ROURKE: Your Honor, I'm handing  
2 Trooper Jirles what I would like to have marked as  
3 Staff Exhibits 1 and 2. I don't know what the most  
4 expeditious way to do this would be. We have two  
5 inspections. I don't want to go through one and do  
6 the whole thing all over again.

7 THE ATTORNEY EXAMINER: Well, looks as  
8 though the violations are identical on each  
9 inspection; therefore, whatever you would discuss for  
10 the inspection concerning Mr. Zappe I think could be  
11 taken to apply to the inspection of Mr. West's  
12 vehicle as well.

13 MR. O'ROURKE: Let's try and do it this  
14 way. Let's have the inspection number ending in  
15 224 be Staff Exhibit 1.

16 THE ATTORNEY EXAMINER: That will be --  
17 then that would be the inspection concerning Mr. West  
18 or his vehicle?

19 MR. O'ROURKE: Yes. But the carrier  
20 would be Mr. Zappe and/or Professional Relocation  
21 Methods.

22 THE ATTORNEY EXAMINER: Fine.

23 MR. O'ROURKE: And Staff Exhibit 2 would  
24 be the inspection ending in 223. Does that make  
25 sense to everybody?

1 THE ATTORNEY EXAMINER: Just for the  
2 record, what Mr. O'Rourke is referring to is the  
3 report number in the upper right-hand corner of the  
4 Driver/Vehicle Examination Report.

5 MR. O'ROURKE: That's correct.

6 (EXHIBITS MARKED FOR IDENTIFICATION.)

7 Q. (By Mr. O'Rourke) Trooper Jirles, have  
8 you had an opportunity to review what I just handed  
9 you? If you haven't, please take a moment to do so.

10 A. I have.

11 Q. What is that that I just handed you?

12 A. These are copies of the inspection  
13 reports that I generated on 10/12/2012.

14 Q. And is this the type of inspection report  
15 that you previously explained gets generated during  
16 the course of an inspection that you perform?

17 A. That's correct.

18 Q. And let's look at the top right box of  
19 information, and let's just stay with the  
20 223 inspection. Could you explain what those fields  
21 mean?

22 A. The first field is a report number unique  
23 in each case. In this case, the last four numbers  
24 were 3223. That's a sequential number of reports  
25 I've generated from the field.

1           Next is the inspection date, 10/12/2012.  
2           The time starting was 10:30 in the morning; time  
3           ended, 11:12 a.m. It's a Level II walk-around  
4           inspection, and the final notation, there was no  
5           hazardous materials being transported.

6           Q.    And the next field of information looks  
7           like we have an address. Can you explain how that  
8           information came to --

9           A.    The next field is the carrier  
10          information, Professional Relocation Methods. Their  
11          address is Stafford, Virginia; telephone number, the  
12          driver's name, Mr. Zappe; his license number; date of  
13          birth; and state of Virginia where his license is  
14          held.

15          Q.    Okay. And where did this inspection  
16          occur?

17          A.    This inspection occurred on Interstate  
18          Route 70, milepost 13, which is at our interstate  
19          scales facility near Cambridge, Ohio. He indicated  
20          that he was coming from Woodbridge, Virginia, on to  
21          Lakeview, Ohio. He was hauling household goods.

22                During the course of the inspection, we  
23          determined that the shipper was Sharon Klahr, I  
24          believe is the last name, or Klahr. The household  
25          goods belonged to her.

1           Q.    Now, the next field down is identified as  
2   Violations.  Can you please explain?

3           A.    The next field down is the vehicle that  
4   he was operating.  It was a rental truck, a Penske  
5   rental truck.  The license plate number is listed  
6   with the equipment number unique to Penske, the size  
7   of the vehicle, and the next portion is the  
8   violations I assigned to the carrier and driver.

9           Q.    And do you recall how this inspection  
10  came about?

11          A.    I do.

12          Q.    Did someone tip you off?

13          A.    This vehicle and driver, these were two  
14   rental vehicles that entered our scales westbound on  
15   Interstate 70 near Cambridge.  What caught my  
16   attention to these vehicles, they were not marked  
17   with a company name or DOT number, which would be a  
18   violation if they were in commerce.  We stopped them  
19   and inquired as to what they were doing.

20          Q.    And what did you learn when you inquired  
21   about the purpose of the trip?

22          A.    Initially the driver in this case,  
23   Mr. Zappe, indicated that this was a personal move,  
24   was furniture.  We had two trucks stopped at the same  
25   time, his vehicle and the one following behind.  He

1 indicated to me initially that it was a personal  
2 move, which is a bit unusual for someone to know that  
3 terminology that's just moving their stuff across the  
4 country. We inquired a little bit further, looked at  
5 the merchandise, and determined that it was not his  
6 property. It was the property of Sharon Klahr.

7 We questioned him further about that. He  
8 said that it was her property. He was being  
9 compensated. He and his crew were being compensated  
10 to move these products from Virginia to Ohio, and she  
11 was paying for the rental of the vehicles as well.

12 During the conversation I noticed when I  
13 was talking to Mr. Zappe that he was wearing what I  
14 would consider to be a uniform shirt. On one side of  
15 the uniform shirt it said Professional Relocation  
16 Methods. On the other side was his first name. I  
17 inquired of him with regard to this company, and  
18 that's how we determined that this is who the carrier  
19 was.

20 Q. And is Mr. Zappe sitting in here today?

21 A. He is.

22 Q. Is that the gentleman that you met with?

23 A. Yes, he is.

24 Q. Do you remember what the amount of the  
25 compensation was for their trip?

1           A.    I don't know that he told me an exact  
2           amount, no.

3           Q.    Then based upon your investigation and  
4           discussion, there's some violations here. You may  
5           have alluded to this earlier, but I'd kind of like,  
6           for the benefit of the Commission, to walk through  
7           what you learned and why these particular violations  
8           were cited, and if you could, refer to the violations  
9           that are listed on the 224 inspection as well.

10          A.    Okay. With regard to the first  
11          inspection, 223, I asked the driver, Mr. Zappe, for a  
12          medical card, which would be required. He did not  
13          produce one so he was cited for not having one. He  
14          was asked for a driver's logbook, which would be  
15          required for a more than 150 air miles. He did not  
16          have one. He was asked if he had authority from the  
17          US government to be doing this type of operation. He  
18          did not have. And the last violation is failure to  
19          pay a UCR fee, which would be a registration fee to  
20          be in commerce.

21                 These same violations, I believe -- yes,  
22          the same violations are noted on inspection 224. The  
23          only difference is that we have a different driver  
24          and a different vehicle. We have the same company,  
25          and Mr. Zappe indicated he was being compensated by

1 the shipper as well as the driver and helpers, if you  
2 will, the movers, everyone that was there, to move  
3 these household goods across the country.

4 Q. How many individuals were involved with  
5 this move?

6 A. I don't recall. There were multiple  
7 people there.

8 Q. So more than just Mr. Zappe and Mr. West?

9 A. Yes.

10 Q. 10, 20?

11 A. No, three or four.

12 Q. In addition to Mr. Zappe and Mr. West?

13 THE ATTORNEY EXAMINER: When you say  
14 "multiple people," you mean they were following in  
15 automobiles?

16 THE WITNESS: In the vehicles.

17 THE ATTORNEY EXAMINER: In the trucks  
18 themselves?

19 THE WITNESS: There were other people  
20 present as far as helpers, I believe. I didn't have  
21 any business with them, so to speak. I only had  
22 business with the drivers and the owner of the  
23 company.

24 THE ATTORNEY EXAMINER: All right.

25 Q. (By Mr. O'Rourke) Did you have any



1 conversations with these people, other than Mr. Zappe  
2 and Mr. West?

3 A. I don't recall.

4 Q. Did they wear any kind of clothing that  
5 indicated they were acting on behalf of Professional  
6 Relocation Methods?

7 A. Not that I recall.

8 Q. Do you recall if Mr. West was wearing a  
9 shirt that indicated he was acting on behalf of  
10 Professional Relocation Methods?

11 A. I don't recall that, no.

12 Q. Okay. Now, what did you do after you  
13 prepared this report?

14 A. Both of the records were prepared and  
15 issued to the drivers of both vehicles.

16 Q. Okay. I would note if you turn to the  
17 second page of both inspection reports, there isn't a  
18 signature line. Can you explain why that is?

19 A. The drivers would have been issued  
20 reports from the field that had signature lines for  
21 them to sign off on as issued from me --

22 Q. Okay.

23 A. -- in my report.

24 Q. And the inspection reports, the two  
25 sitting up there in front of you, are those accurate

1 representations of the reports that you prepared on  
2 that day?

3 A. They are.

4 Q. And is this the type of report that is  
5 ordinarily kept by the patrol in its course of  
6 business?

7 A. It is.

8 Q. After the report was generated, what did  
9 you do with it?

10 A. I issued copies to both drivers.

11 Q. Did you submit it on to any state or  
12 federal agencies?

13 A. I did, an electronic upload to the  
14 state's website, to the state's system.

15 Q. When you say "the state," is that the  
16 PUCO's?

17 A. Correct.

18 Q. Did you take any pictures during your  
19 stop?

20 A. I did.

21 MR. O'ROURKE: May I approach?

22 THE ATTORNEY EXAMINER: Yes, you may.

23 MR. O'ROURKE: Your Honor, I'll be  
24 offering what I would like to have marked as State's  
25 Exhibit 3.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Trooper Jirles, can you take a moment and  
3 review the packet of information I've handed you.

4 A. Yes, sir.

5 Q. Do you recognize those pictures?

6 A. I do.

7 Q. What are they?

8 A. These are pictures of the vehicles  
9 reflective of these two reports.

10 MR. O'ROURKE: Your Honor, if it is okay  
11 with you, I don't have a copy at my desk, if I could  
12 stand and follow along.

13 THE ATTORNEY EXAMINER: Please, go ahead.

14 Q. Let's walk through those, starting with  
15 the first picture there. What is that?

16 A. This is a Penske truck, rental vehicle,  
17 that Mr. Zappe was in operation of at the time he was  
18 stopped.

19 Q. Let's flip on to the next page.

20 A. Same vehicle, below the windshield on the  
21 right is the unit number of the truck, which would be  
22 reflective in any rental agreements he may have, may  
23 have gotten when he rented the truck.

24 Q. Does that license plate on there match up  
25 with the information you have done on either of the

1 two reports that you prepared?

2 A. I see that the last digit 1 is not  
3 appearing on the report. Other than that, this is  
4 the vehicle and the first -- last digit of the No. 1  
5 did not appear on the plate number, but this is  
6 vehicle RA39441, Virginia.

7 Q. Okay. If you could turn to the next  
8 page, what does that show?

9 A. This is the second vehicle that Mr. West  
10 was in operation of. It's a GMC rental truck, Budget  
11 rental truck.

12 Q. Okay. Moving on to the next page.

13 A. A rear view of that same vehicle showing  
14 the license plate number, which is reflective of that  
15 224 report.

16 Q. Moving on to the next page.

17 A. Same vehicle, just a different side of  
18 it.

19 Q. Okay. Next page.

20 A. This is a rental agreement, Penske rental  
21 agreement. I was interested in who the customer or  
22 who the renter of this vehicle was. We determined  
23 that PRM with the same address in Stafford, Virginia,  
24 was reflective of Professional Relocation Methods.

25 Q. You said PRM. Where exactly on the sheet

1 is that identified?

2 A. Under the Customer Information and  
3 Account Number, PRM, with the same address as  
4 Professional Relocation Methods, which was conducive  
5 of what we determined to be the carrier.

6 Q. And who did you speak with to determine  
7 what that PRM stood for?

8 A. I don't know that I spoke with anyone. I  
9 guess that was a conclusion I made during this stop.

10 Q. Next page.

11 A. Just a close-up picture to show further  
12 what we just discussed.

13 Q. Okay. Flipping over to the next one,  
14 looks like we have a Budget.

15 A. This is a Budget rental agreement for the  
16 second vehicle. Mr. Zappe is indicated as the  
17 customer in this case, which would be consistent with  
18 the observations that we made during this stop.

19 Q. Looking over, looks like we have a  
20 close-up.

21 A. Close-up picture of the same thing. It  
22 shows Mr. Zappe as the customer, when the rental was  
23 due, and when it's due out.

24 Q. And those pictures you have in front of  
25 you, are those true and accurate pictures that you

1 took on the date at issue here?

2 A. That's correct.

3 MR. O'ROURKE: Your Honor, I don't have  
4 anything further from Trooper Jirles at this time.

5 - - -

6 EXAMINATION

7 By The Attorney Examiner:

8 Q. Trooper, I have a few questions for you  
9 on these inspection reports. Professional Relocation  
10 Methods' address and so forth, where did you obtain  
11 the name and address from, from these rental  
12 agreements?

13 A. I believe Mr. Zappe provided that  
14 information.

15 Q. He provided that, all right.

16 THE ATTORNEY EXAMINER: I don't have any  
17 other questions at this time. I remind you you are  
18 under oath so I may be asking you questions later on.

19 Mr. Zappe, did you have any questions for  
20 the witness?

21 MR. ZAPPE: The only note I made is  
22 Mr. West did contact the original person, individual  
23 here at this location who produced those documents,  
24 Cheryl Streets. He participated on December 19 in a  
25 phone hearing, which I had asked to have. He

1 participated in that on a three-way call, and I have  
2 a letter here from him that is notarized that states  
3 his inability to be here because of a job situation  
4 and I'm able to speak on his behalf.

5 MR. O'ROURKE: Your Honor, I have an  
6 objection if he is attempting to speak on Mr. West's  
7 behalf. That is blatant hearsay.

8 THE ATTORNEY EXAMINER: Well, okay.

9 Mr. Zappe, you actually cannot speak on  
10 his behalf. However, you say you have a document  
11 from him, and I can take that into account a little  
12 later on. Did you have any other questions for the  
13 trooper at this time?

14 MR. O'ROURKE: I don't have any other  
15 questions, other than some of the information that  
16 was provided I understand was to the best of his  
17 knowledge, but it is not entirely accurate. I don't  
18 know how important that information is or if it is  
19 just minor details. I can address those, I guess.

20 THE ATTORNEY EXAMINER: Fine.

21 Okay. We will go off the record for a  
22 minute.

23 (Discussion off record.)

24 THE ATTORNEY EXAMINER: Back on the  
25 record then. Mr. O'Rourke, you indicated you have an

1 additional witness available.

2 MR. O'ROURKE: I do, your Honor. I would  
3 call Joe Turek to the stand.

4 THE ATTORNEY EXAMINER: Mr. Turek, come  
5 to the stand, please.

6 (Witness sworn.)

7 THE ATTORNEY EXAMINER: Mr. O'Rourke,  
8 please continue.

9 MR. O'ROURKE: Thank you, your Honor.

10 - - -

11 JOSEPH TUREK

12 being first duly sworn, as prescribed by law, was  
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 By Mr. O'Rourke:

16 Q. Mr. Turek, can you state your full name  
17 and business address.

18 A. Joseph Turek, business address is 180  
19 East Broad Street, Fourth Floor, Columbus, Ohio  
20 43215.

21 Q. And where are you employed currently?

22 A. Public Utilities Commission.

23 Q. And how long have you been in that  
24 position?

25 A. I've been with the Public Utilities



1 Commission for five years. I've been in the  
2 Transportation Department for approximately three.

3 Q. And how about your educational  
4 background?

5 A. I have a Bachelor's degree in general  
6 studies, liberal arts, and I have a Juris Doctorate.  
7 I'm a licensed attorney.

8 Q. What is your training and qualifications  
9 you have for the position you currently hold?

10 A. As I said, I'm a licensed attorney. I  
11 act as staff attorney for the Transportation  
12 Department, and I'm also a supervisor within the  
13 compliance division of the Transportation Department  
14 where I assist with the resolution of civil  
15 forfeiture matters.

16 Q. Okay. In your employment with the staff  
17 of the Transportation Department, the inspection  
18 report repairs that were previously alluded to, are  
19 those the types of reports that your section  
20 receives?

21 A. Yes.

22 Q. And how are those so received?

23 A. Those are uploaded from the field from  
24 the inspectors, and we receive them at the PUCO where  
25 they are then reviewed to see if any forfeitures are

1 warranted.

2 Q. Okay. Sitting in front of you there's a  
3 couple of inspection reports. Now, are those the  
4 type of inspection reports that get uploaded to your  
5 section?

6 A. Yes.

7 Q. What do you do after you receive those?

8 A. For forfeiture purposes, they are  
9 electronically uploaded, and for nonhazmat violations  
10 like we have here, they are processed automatically  
11 through the computer system, and any forfeiture  
12 notices go out to the responsible parties for the  
13 violations.

14 MR. O'ROURKE: May I approach?

15 THE ATTORNEY EXAMINER: Yes.

16 MR. O'ROURKE: I have a series of  
17 documents, so pardon my delay here, Your Honor.

18 THE ATTORNEY EXAMINER: Not a problem.

19 MR. O'ROURKE: May I approach, Your  
20 Honor?

21 THE ATTORNEY EXAMINER: Yes.

22 MR. O'ROURKE: Your Honor, as I noted  
23 before, there are two inspections, and for each there  
24 is a driver and carrier violation, so perhaps the  
25 most expeditious way to do this would be to give them

1 to him all at one time. These are documents that  
2 were sent out by staff to the individual respondents.  
3 Mr. Turek can explain and distinguish the documents.

4 Q. (By Mr. O'Rourke) Mr. Turek, I'm handing  
5 you what what I would like to have marked as Staff  
6 Exhibit 4. Could you take a moment to review them,  
7 please?

8 A. I've reviewed them.

9 THE ATTORNEY EXAMINER: Mr. O'Rourke, you  
10 are calling the entire packet Exhibit 4?

11 MR. O'ROURKE: I think it would be  
12 easier, but if you want, I can break it up.

13 THE ATTORNEY EXAMINER: Let's call it all  
14 Exhibit 4, but indicate which part of the stack you  
15 are referring to.

16 MR. O'ROURKE: Absolutely.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 Q. Mr. Turek, I handed you a pack of  
19 documents, and within that pack there are four  
20 stapled documents. Have you had a moment to look at  
21 those?

22 A. Yes.

23 Q. Are you familiar with them?

24 A. Yes.

25 Q. You've seen them before?

1 A. Yes.

2 Q. Let's start with the document which is  
3 the 223 violation on the carrier, if we could.

4 A. Uh-huh.

5 THE ATTORNEY EXAMINER: For the record  
6 that's the case number that ends in 223C, for  
7 carrier.

8 MR. O'ROURKE: Yes.

9 Q. That's in front of you as we're speaking.

10 A. Yes.

11 Q. Now, if you look down, it has a Code  
12 Section and Violations.

13 A. Yes.

14 Q. And under that there is a forfeiture  
15 assessed. What is the forfeiture assessed on that?

16 A. It's \$1,000.

17 Q. How did that number come to get  
18 calculated?

19 A. The compliance division maintains a fine  
20 schedule, and each violation has a fine associated  
21 with it.

22 Q. And the calculation was performed by you  
23 or someone under your supervision?

24 A. Yes. The person who assessed this is not  
25 under my direct supervision; however, I have reviewed

1 her work, as I do routinely in the department, and  
2 this has been calculated correctly.

3 Q. Before we move any further, the title of  
4 this document is Notice of Preliminary Determination.  
5 Could you please explain what the significance of  
6 that is?

7 A. Yes. This is the document that is sent  
8 to the responsible party subsequent to a staff level  
9 conference. If the issue is not resolved at a staff  
10 level conference, a Notice of Preliminary  
11 Determination is sent to the responsible party.

12 Q. Who is identified on this one?

13 A. This one is Micah Zappe with Professional  
14 Relocation Methods.

15 Q. Let's go back to the forfeiture  
16 calculation. The \$1,000, just refresh my memory, how  
17 was that calculation arrived at?

18 A. Again, the compliance division maintains  
19 a fine schedule, and each one of those is a \$500  
20 violation so it's a total of \$1,000.

21 MR. O'ROURKE: May I approach, Your  
22 Honor?

23 THE ATTORNEY EXAMINER: Yes.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Handing you what I have marked as Staff

1 Exhibit 5, take a moment and review that and let me  
2 know when you're ready.

3 A. I'm ready.

4 Q. What is that document?

5 A. It is the compliance division fine  
6 schedule that was in effect at the time of the  
7 violations, at the time the violations occurred.

8 Q. And this is the document you previously  
9 mentioned that is utilized to perform the  
10 calculations?

11 A. Yes.

12 Q. And so walk us through how this document  
13 drives towards a calculation.

14 A. In essence, violations are grouped into  
15 one of four groups, 1, 2, 3, 4. It just kind of  
16 depends where the violation falls. In this  
17 particular case, we have a 392.9A. It's supposed to  
18 be a little "a," but that's the way it prints this  
19 out. It's a general operating without operating  
20 authority. It's a Group 4 violation and is a \$500  
21 fine. In fact, if you look at the group 4 box on  
22 page 2 of this document, the first line says "No  
23 Operating Authority," and it's a \$500 fine.

24 If you want to drill down even further,  
25 you would go towards the back of the document where

1 each violation is listed independently, and again you  
2 could see it is a Group 4 violation and a \$500 fine.

3 The 392.2UCR violation is also a Group  
4 4 violation, and that is also in Group 4, seven lines  
5 down in Group 4, and also a \$500 violation.

6 Q. Anything further to add about how that  
7 calculation was performed?

8 A. No.

9 Q. Let's move on to the Notice of  
10 Preliminary Determination that was issued with  
11 regards to that 223 inspection on the driver's side.  
12 Tell me when you have that ready.

13 A. I have it ready.

14 Q. And who was that issued to?

15 A. This was issued to Micah Zappe as the  
16 driver of this vehicle.

17 Q. Okay. Can you explain what the  
18 difference in a driver and carrier violation is, what  
19 the significance of that is?

20 A. There are some violations that we assess  
21 as driver violations and the driver is responsible  
22 for, and there are other violations that are issued  
23 as carrier violations that are assessed to the  
24 carrier.

25 Q. What were the violations at issue on the

1 223 driver case?

2 A. The driver in this case, Micah Zappe, was  
3 cited for not having a logbook. That was a  
4 395.8K2 violation, and the failure to retain the  
5 previous seven days' records, that's the failure to  
6 have the logbook. The 391.41A is a failure to have a  
7 medical certificate in the driver's position.

8 Q. And how did the forfeiture amount get  
9 calculated?

10 A. The logbook violation, 395.8K2, is a  
11 record of duty status violation, a Group 1 violation.  
12 You can see on the first page of the schedule in the  
13 box, "Record of Duty Status," \$100, and if you drill  
14 down to the list that follows all those groups,  
15 395.8K2 is a Group 1 violation, so it gives us that.

16 The medical certificate, the 391.41A, is  
17 a Group 4 violation. It is five up from the bottom  
18 in the group. It is a \$100 violation, so together  
19 those would be \$200. This was assessed correctly.

20 Q. Let's move on to the 224 carrier  
21 inspections. Let me know when you have that  
22 available.

23 A. I have it.

24 THE ATTORNEY EXAMINER: For the record,  
25 that would be Case No. Staff Exhibit 4 that ends in



1 224C.

2 MR. O'ROURKE: Thank you, Your Honor.

3 Q. And who was that issued to?

4 A. This was a carrier violation, and this  
5 was issued to Professional Relocation Methods. It  
6 was mailed to Micah Zappe at Professional Relocation  
7 Methods.

8 Q. And the violations at issue here?

9 A. It's the same as the ones in the other  
10 inspection. It's operating without authority and  
11 failure to pay the UCR fee.

12 Q. And the dollar amount there was?

13 A. \$1,000 total.

14 Q. And let's move finally to the Case  
15 No. 224D, the driver.

16 A. Yes.

17 Q. Let me know when you have that in front  
18 of you.

19 A. I have it.

20 Q. And the violations at issue there?

21 A. It is the same as the driver violation  
22 that went to Mr. Zappe in the other inspection.  
23 These were against Mr. James West. It is the same  
24 violations, failure to have a logbook, failure to  
25 have a medical card.

1           Q.    Let's get back to an issue we had  
2           explored earlier at the outset of the proceeding  
3           concerning Mr. West.  What is your understanding --  
4           which case number does Mr. West's involvement pertain  
5           to?

6           A.    It is the one that ends in 224.

7           Q.    Would that be a carrier or driver  
8           violation?

9           A.    The 224 inspection had both carrier and  
10          driver violation.  Mr. West would only be responsible  
11          for the driver violation, which would be the logbook  
12          and medical card for \$200.

13          Q.    And in your position with the staff of  
14          the Transportation Department, do you regularly keep  
15          up with the various letters that are sent in to staff  
16          with regards to the goings on of a particular case?

17          A.    When a case reaches this level, when we  
18          are in an administrative hearing like we are today, I  
19          am involved and I am familiar with what the history  
20          of the case had been prior.

21          Q.    Now, to the best of your knowledge, did  
22          you or any of your colleagues or anyone under your  
23          supervision on the staff of the Transportation  
24          Department receive any documents from Mr. West that  
25          requested a conference and/or administrative hearing?

1           A.     We did not receive anything directly from  
2     Mr. West. We did receive a request for conference  
3     from Mr. Zappe, and he -- and he was requesting a  
4     conference on behalf of himself, the company, and  
5     Mr. West.

6           Q.     He requested a conference on behalf of  
7     Mr. West?

8           A.     Yes, I believe so. If I may, when the  
9     initial notices of violations are sent out, which we  
10    call the Notice of Apparent Violation and Intent to  
11    Assess Forfeiture, they are mailed to the responsible  
12    parties. In this case the NIF would have been mailed  
13    to Professional Relocation Methods for both of the C  
14    cases, so the 223C and 224C, those would have been  
15    mailed to Professional Relocation Methods.

16                   The driver violations for the 223 case,  
17    that was the case where Mr. Zappe was driving, those  
18    were mailed to his address. The NIF for Mr. West,  
19    however, would have been sent to his address, which  
20    was noted -- which would have been noted on the  
21    inspection report.

22                   On the 224 inspection report, I believe  
23    Mr. West's -- it is on here, Mr. West's information  
24    is on here. So the original notice of violation  
25    would have gone to Mr. West. Mr. West was notified

1 of these two violations.

2 When Mr. Zappe subsequently requested a  
3 conference, the staff did allow him to speak on  
4 behalf of Mr. West at the conference. Mr. West,  
5 himself, had never requested a conference. The  
6 reason why the Notice of Preliminary Determination  
7 was then subsequently sent to Mr. Zappe on the  
8 224 driver case, basically Mr. West -- let me stop.

9 The reason why the Notice of Preliminary  
10 Determination was sent to Micah Zappe on behalf of  
11 James West was because Mr. Zappe is the one that  
12 requested the conference. After one requests a  
13 conference in regards to violations, all subsequent  
14 notices are sent to the person who is contesting the  
15 violation.

16 Q. To your understanding, did Mr. West  
17 himself ever contest the violation?

18 A. Mr. West himself never contested it,  
19 whereas -- I'm sorry.

20 Q. And it's your understanding that  
21 Mr. Zappe does not have the authority to represent  
22 Mr. West on the driver violation, at least that's how  
23 staff runs their shop?

24 A. My understanding internally at the staff  
25 level, before reaching this level, we do sometimes

1 allow the carrier to represent the interests of the  
2 driver informally, try to settle the matter  
3 informally; however, when it comes to this level, the  
4 party responsible, Mr. West, needs to request an  
5 administrative hearing for any violations. Mr. West  
6 never made a request for a hearing and Mr. Zappe  
7 cannot represent his interests in this forum.

8 MR. O'ROURKE: Your Honor, may I  
9 approach?

10 THE ATTORNEY EXAMINER: Yes.

11 MR. O'ROURKE: Your Honor, I have one  
12 copy. I'd be more than happy to make copies.

13 THE ATTORNEY EXAMINER: What is this, by  
14 the way?

15 MR. O'ROURKE: I was going to elicit  
16 testimony from Mr. Turek.

17 THE ATTORNEY EXAMINER: Go ahead.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 Q. Mr. Turek, I am handing you what has been  
20 marked as Staff Exhibit 6. Take a moment to review  
21 that.

22 A. I've reviewed it.

23 THE ATTORNEY EXAMINER: Mr. Turek, can  
24 you describe that since we don't currently have  
25 copies?

1 THE WITNESS: Yes. This is an  
2 acknowledgment letter that staff sends out after they  
3 receive a request for conference. So when a  
4 responsible party makes a request for conference, it  
5 gets sent this letter that confirms the time and date  
6 of the telephone conference they will have with  
7 staff.

8 Q. And what inspection is listed on there?

9 A. This is the 224 inspection with regards  
10 to Mr. West.

11 Q. And who was that sent to?

12 A. It was addressed to Micah Zappe and James  
13 West. It appears to be sent to the address of  
14 Mr. Zappe, and the reason for that is because  
15 Mr. Zappe is the one who made the request for  
16 conference and would have maybe, perhaps, put his  
17 address on the correspondence with us, so that's  
18 where all future correspondence is going to go  
19 because that's where we know we can reach him.

20 Q. To sum up, what is the source of this  
21 confusion about Mr. West's involvement in this  
22 proceeding?

23 A. The source of the confusion is simply  
24 because Mr. West never really was involved in the  
25 process. He never requested a conference. Mr. Zappe

1 did, and so staff, as they should, sent all future  
2 correspondence to Mr. Zappe because that's who we  
3 knew was contesting it. That is who would be  
4 involved in the conference, so that's where the  
5 confusion is.

6 But Mr. West was certainly served notice  
7 of the violations with the Notice of Apparent  
8 Violation and Intent to Assess Forfeiture, which  
9 would be the first forfeiture notice to go out.

10 Q. Go ahead.

11 A. I have nothing else.

12 MR. O'ROURKE: That's all the questions I  
13 have for Mr. Turek at this time, your Honor.

14 - - -

15 EXAMINATION

16 By The Attorney Examiner:

17 Q. First, a follow-up on the comment you  
18 just made. So you're indicating the initial  
19 violation letter that went out, the Notice of  
20 Apparent Violation letter, would have been sent to  
21 Mr. West concerning the driver violations; that is,  
22 the violations for not having a logbook and no  
23 medical card?

24 A. That's correct.

25 Q. And you're indicating that would have

1       been sent to Mr. West. Looking at Staff Exhibit 1,  
2       the report that ends in 224, I see this apparently is  
3       Mr. West's street address down here under Locally  
4       Defined Fields, 4345 Normandy Court, Driver Address;  
5       Driver City, Fredericksburg, and so forth?

6             A.     That's where the NIF would be sent.

7             Q.     You're indicating that's how the initial  
8       violation went out, was mailed out, but because it  
9       was Mr. Zappe who actually requested the conference,  
10      then subsequent letters went to Mr. Zappe even though  
11      it involved the violations for Mr. West?

12            A.     Yes.

13            Q.     I also had a different question on the  
14      violations themselves. Just to clear things up in my  
15      own mind, the violation concerning the Title 49, Code  
16      of Federal Regulations, 392.9(a), Household Goods,  
17      operating without Operating Authority, that rule just  
18      applies to a household goods carrier?

19            A.     I don't have the book in front of me, but  
20      my answer is no. There are other sections of  
21      392.9(a) that apply to nonhousehold goods carriers.

22            Q.     So this is just an operating authority  
23      requirement, and that is a federal requirement?

24            A.     Yes.

25            Q.     Can you help me with the UCR? What does



1       that mean?

2               A.     Unified carrier registration.  It is  
3       basically a per-vehicle registration fee that  
4       interstate carriers have to pay.

5               Q.     And that's, I guess, a federal  
6       requirement as well, correct?

7               A.     It is.

8               THE ATTORNEY EXAMINER:  Mr. Zappe, do you  
9       have any questions for Mr. Turek?

10              MR. ZAPPE:  I don't.

11              THE ATTORNEY EXAMINER:  Thank you.

12              Mr. Turek, you may take your seat for the  
13       time being.  Under oath, I may ask you other  
14       questions later.

15              Thank you.

16              MR. O'ROURKE:  Off the record.

17              (Discussion off record.)

18              (Recess taken.)

19              THE ATTORNEY EXAMINER:  Back on the  
20       record.  During your break Mr. O'Rourke and Mr. Turek  
21       was searching for some documents they want to put  
22       into evidence.

23              First, if you have copies of Exhibit 6.

24              MR. O'ROURKE:  I have that.

25              THE ATTORNEY EXAMINER:  And I believe you

1 said you had an additional exhibit after that.

2 MR. O'ROURKE: Your Honor, I explained in  
3 the interim, Mr. Turek searched for a few documents  
4 he was alluding to earlier when he was on the stand.

5 THE ATTORNEY EXAMINER: Right.

6 MR. O'ROURKE: I think it would be  
7 helpful to call him back to explain an additional  
8 document concerning Mr. West's involvement.

9 THE ATTORNEY EXAMINER: Mr. Turek, if you  
10 could assume the seat you had been in before on the  
11 witness stand. Thank you.

12 - - -

13 REDIRECT EXAMINATION

14 By Mr. O'Rourke:

15 Q. Mr. Turek, we were a little while ago  
16 discussing Mr. West's involvement in the 224 driver  
17 case, and you were alluding to some documents  
18 concerning his involvement.

19 THE ATTORNEY EXAMINER: For the record,  
20 this is the case that involves Mr. West as the  
21 driver.

22 MR. O'ROURKE: Yes. Thank you, your  
23 Honor.

24 Q. Were you able to find anything during the  
25 break to substantiate your testimony earlier?

1           A.    Yes.  I was able to speak with a staff  
2 member in the Transportation Department who generates  
3 these letters as part of her duties.  She was able to  
4 regenerate what was sent to Mr. West originally.

5           MR. O'ROURKE:  May I approach, your  
6 Honor?

7           THE ATTORNEY EXAMINER:  Yes.

8           MR. O'ROURKE:  I would like to have this  
9 marked as Staff Exhibit 7.

10           (EXHIBIT MARKED FOR IDENTIFICATION.)

11           Q.    Mr. Turek, take a moment to review and  
12 then let me know when you are ready.

13           A.    I am ready.

14           Q.    What is the document that was just handed  
15 to you?

16           A.    This is the Notice of Apparent Violation  
17 and Intent to Assess Forfeiture.

18           Q.    On the top left hand of that document  
19 there's some information, name and address.  Could  
20 you explain?

21           A.    Yes.  This is the document that was sent  
22 to Mr. James West, and, as I believe I indicated  
23 before, this was sent to the address that is  
24 indicated in the inspection report, the  
25 224 inspection.  It is 4345 Normandy Court,

1 Fredericksburg, Virginia, 22408.

2 Q. If you move down, you talked about this  
3 earlier, but just briefly recap the violations and  
4 the amount due?

5 A. Yes. It was a logbook violation. That  
6 was 395.8K2, didn't have a logbook; 391.41A, no  
7 medical certificate. They are both \$100 violations  
8 for a total of \$200.

9 Q. Did Mr. West act upon this document to  
10 protect any of his rights in terms of securing a  
11 hearing date to contest the violation?

12 A. He did not comply with the rules to get  
13 an administrative hearing like we are here for today.

14 MR. O'ROURKE: No further questions, your  
15 Honor.

16 - - -

17 EXAMINATION

18 By The Attorney Examiner:

19 Q. Mr. Turek, you are indicating that Staff  
20 Exhibit 7, the Notice of Apparent Violation letter,  
21 went out and initially went to Mr. West?

22 A. Yes.

23 Q. Then Staff Exhibit 6, apparently  
24 Mr. Zappe responded on behalf of Mr. West?

25 A. Yes. That's my understanding, that

1 Mr. Zappe made a request for conference in regards to  
2 all of these violation notices.

3 THE ATTORNEY EXAMINER: All right. I  
4 have no other questions for you at this time.

5 Mr. Zappe, do you have any further  
6 questions now that you have seen the two additional  
7 documents?

8 MR. ZAPPE: No; other than to make the  
9 statement that James West did participate in the  
10 phone conversation on December 13.

11 THE ATTORNEY EXAMINER: We'll let you  
12 make that statement when you're up on the witness  
13 stand.

14 Thank you, Mr. Turek.

15 Any further witnesses at this time?

16 MR. O'ROURKE: Nothing further, your  
17 Honor.

18 THE ATTORNEY EXAMINER: If you would like  
19 to come to the witness stand or if it is simpler to  
20 speak from where you are.

21 MR. ZAPPE: I can speak from here if  
22 that's okay.

23 THE ATTORNEY EXAMINER: That's fine.

24 - - -

25 MICAH ZAPPE

1 being first duly sworn, as prescribed by law, was  
2 examined and testified as follows:

3 DIRECT TESTIMONY

4 THE ATTORNEY EXAMINER: Mr. Zappe, what  
5 comments do you have concerning everything that's  
6 been discussed so far, the roadside inspections of  
7 the two vehicles, the violations involved, the  
8 circumstances that brought about the trip, that kind  
9 of thing?

10 MR. ZAPPE: Okay. When the original  
11 documents were sent to me by Cheryl Streets that  
12 contained the notifications, the individual numbers  
13 that contained the violations, I responded with a  
14 lengthy four-page letter that was sent to her that I  
15 have a copy of explaining how I believe this all  
16 materialized and where some of the misunderstanding  
17 was.

18 What originally I believe created the  
19 situation where I received the fines was my name tied  
20 to the name PRM. I am currently employed as a  
21 government contractor by Wiley in Arlington,  
22 Virginia, in the Joint Strike Fighter program.

23 THE ATTORNEY EXAMINER: Who are you  
24 employed by?

25 MR. ZAPPE: Wiley.

1 THE ATTORNEY EXAMINER: Can you spell  
2 that?

3 MR. ZAPPE: W-I-L-E-Y.

4 Q. Who is Wiley?

5 A. Wiley is a government contractor. That's  
6 my full-time job in Arlington, Virginia. The way  
7 that I wound up in the situation of having those two  
8 vehicles across state lines was being approached by  
9 the names that were previously mentioned, Sharon  
10 Klahr and her husband, about needing some help to  
11 relocate to Ohio, which I agreed to do.

12 THE ATTORNEY EXAMINER: Who is  
13 Ms. Klahr's husband. Is that --

14 MR. ZAPPE: I think Tom.

15 THE ATTORNEY EXAMINER: I wanted to make  
16 sure it wasn't a name that's already been brought up.

17 MR. ZAPPE: I think Todd is his name. A  
18 little background on this and how the name PRM  
19 transpired. There was no business registered with  
20 that name. That is a fictitious name that was  
21 generated due to Penske asking me if I would like to  
22 register a company name in order to get a 20 percent  
23 discount on truck rentals.

24 I provided -- in the original letter I  
25 provided to Cheryl Streets, I stated why I was

1 involved in the moving business. In the church group  
2 that I'm associated with, I was appointed contact for  
3 a lot of the moves. I provided a hot mail snapshot  
4 of all the e-mails that said "Need moving help. Can  
5 you arrange getting a truck," those kind of things.

6 After a period of approximately two or  
7 three years, Penske said, "You can get a discount if  
8 you are going to rent trucks this much." I asked  
9 what the criteria was.

10 MR. O'ROURKE: I do have an objection to  
11 anything stated by Penske as that would constitute  
12 hearsay.

13 THE ATTORNEY EXAMINER: I understand that  
14 objection, but I'll overrule that and give his  
15 comments the appropriate weight.

16 Go ahead, Mr. Zappe.

17 A. The person I talked to -- I had talked to  
18 both their regional office, which is located in  
19 Fredericksburg, Virginia, Daniel Stevens, I believe  
20 is the last name, could provide no additional  
21 information as to what was needed to be able to get  
22 the discount, other than the fact you register a  
23 name.

24 THE ATTORNEY EXAMINER: When you say  
25 register a name, you mean provide a name --



1 MR. ZAPPE: Just provide a name.

2 THE ATTORNEY EXAMINER: -- to Penske.

3 MR. ZAPPE: Correct. The location  
4 closest to my house which is a Penske location is a  
5 Boswell Automotive. They are an automotive repair  
6 facility, and they also rent Penske trucks. The  
7 person that I have dealt with for approximately two  
8 years is Roy Bosswell. He is the owner's son.

9 When I contacted him about the  
10 circumstances today, he said there's no other  
11 criteria needed to have a business account with them  
12 to get the discount other than you provide the name.

13 THE ATTORNEY EXAMINER: You're indicating  
14 that Professional Relocation Methods was a name that  
15 you created not solely to get this discount, but also  
16 because you had been asked -- well, you're saying  
17 Professional Relocation Methods didn't actually exist  
18 as a company.

19 MR. ZAPPE: No.

20 THE ATTORNEY EXAMINER: And you're  
21 indicating that you had frequently been renting  
22 trucks because as contact person for your church, you  
23 offered to help people move.

24 MR. ZAPPE: Yes.

25 THE ATTORNEY EXAMINER: I see.

1 MR. ZAPPE: It's not limited to church  
2 moves. I move friends locally. The previous company  
3 I worked for prior to this is General Dynamics. I  
4 moved a lot of people locally and town to town, that  
5 kind of thing. When you lift heavy things, the word  
6 gets around and people petition you for help.

7 THE ATTORNEY EXAMINER: All right. Now,  
8 one of the things that came up during the trooper's  
9 testimony was that you had been paid. You were  
10 compensated; you were paid for the trip?

11 MR. ZAPPE: Yes. I stopped. I did  
12 comply with the signs I saw as I was traveling  
13 through the state of Ohio that clearly indicated that  
14 we needed to stop there, which we did.

15 THE ATTORNEY EXAMINER: You're referring  
16 to the sign that directed you to the weigh station?

17 MR. ZAPPE: Yes.

18 THE ATTORNEY EXAMINER: And the sign was  
19 indicating because of the gross weight of the truck  
20 or something?

21 MR. ZAPPE: I didn't pay attention to the  
22 gross weight. It appeared -- it indicated me, my  
23 assumption was, these were vehicles that had a  
24 capacity greater than a pickup truck, that we needed  
25 to stop there so we did.

1 THE ATTORNEY EXAMINER: You were  
2 compensated for the trip by the Klahrs, I assume?

3 MR. ZAPPE: Yes. I was compensated  
4 modestly. It was just extra spending money.

5 THE ATTORNEY EXAMINER: Did you have any  
6 other comments to add? Anything else you can think  
7 of or anything you would like to address that was  
8 brought up so far today?

9 MR. ZAPPE: No, other than he volunteered  
10 to help.

11 THE ATTORNEY EXAMINER: Mr. West  
12 volunteered to help?

13 MR. ZAPPE: He volunteered to help, so he  
14 drove the smaller of the two trucks. It was a  
15 16-foot Budget truck. They were rented from two  
16 different locations because it was cheaper to do it  
17 that way. Since ultimately they're paying for it,  
18 the Klahrs, it was at their direction, and that's  
19 what we did.

20 THE ATTORNEY EXAMINER: You're saying the  
21 Klahrs were paying for the rental of the vehicles, as  
22 well as compensating you as well.

23 MR. ZAPPE: Right. But I put -- it  
24 showed it with my name because I used my credit card,  
25 and he volunteered to help.

1 THE ATTORNEY EXAMINER: So this was just  
2 a move of the Klahrs' residence basically from one  
3 state to another.

4 MR. ZAPPE: Correct.

5 THE ATTORNEY EXAMINER: From Virginia to  
6 Ohio.

7 MR. ZAPPE: Yes.

8 THE ATTORNEY EXAMINER: Mr. O'Rourke, any  
9 questions for Mr. Zappe?

10 MR. O'ROURKE: I think I have one  
11 question, but I think I would like to call Mr. Turek  
12 back up on rebuttal.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. O'Rourke:

16 Q. My question is, can you explain if  
17 there's no business known as Professional Relocation  
18 Methods, why were you wearing a shirt that said  
19 Professional Relocation Methods?

20 A. I have two shirts. One is blue with  
21 yellow lettering. The other one is black with white  
22 lettering. I'm the only one that has those. The one  
23 that I was wearing on the day that I was pulled over  
24 at the weigh station, it was the black one with white  
25 lettering. It says "Professional Relocation Methods"

1 on it. And the only thing that was contrary to what  
 2 was stated before, it does not have my name on it.  
 3 It simply says "Professional Relocation Methods."  
 4 With as much work as I did, I thought it would at  
 5 least look legitimate to have that name on something.

6 THE ATTORNEY EXAMINER: You just had that  
 7 shirt made up with that name?

8 MR. ZAPPE: I had a shirt made up by a  
 9 company in Woodbridge where I work called Imprints.  
 10 I know the owner because the owner is married to a  
 11 person that I worked with at General Dynamics. So in  
 12 addition to getting some family reunion shirts made,  
 13 I had them make two of those shirts, one blue with  
 14 yellow lettering and one white with black lettering.

15 THE ATTORNEY EXAMINER: You had that  
 16 shirt made simply because you moved people  
 17 frequently. You're saying there's no such company,  
 18 actually.

19 MR. ZAPPE: No, there's no such company.  
 20 One of the things I did bring as supporting evidence,  
 21 if you Google Professional Relocation Methods or PRM,  
 22 the only thing that was returned at the time was a  
 23 document faxed back to me by Mr. O'Rourke, is there's  
 24 a social media.  
 25 Site called LinkedIn. I think a lot of people are

1 familiar with it.

2 I cursorily filled that out, two, three  
3 years ago. It has not been touched since, and the  
4 time underneath my primary job at the time, which was  
5 General Dynamics, I put "Additional interest,  
6 Professional Relocation Methods," and that's it.  
7 That's the only hit that came back. There is no  
8 business registered in that name. It does not exist.

9 THE ATTORNEY EXAMINER: I will likely get  
10 back to you with additional questions.

11 Mr. O'Rourke, you indicated you would  
12 have Mr. Turek on the stand one further time.

13 MR. O'ROURKE: I'd like to call Mr. Turek  
14 up for rebuttal.

15 THE ATTORNEY EXAMINER: Please come on  
16 up. I remind you, you are still under oath.

17 - - -

18 REBUTTAL REDIRECT EXAMINATION

19 By Mr. O'Rourke:

20 Q. Mr. Turek, were you sitting in the room  
21 when Mr. Zappe just explained there's no such  
22 business named Professional Relocation Methods?

23 A. I was.

24 Q. And did you have an opportunity to  
25 perform prior to today's hearing some investigatory

1 research to analyze whether or not that claim is true  
2 or false?

3 A. Yes.

4 MR. O'ROURKE: May I approach, your  
5 Honor?

6 Q. Mr. Turek, I'm handing you a packet of  
7 documents I'd like to have marked as Staff Exhibit 8.

8 MR. O'ROURKE: And, your Honor, as we've  
9 done previously, this packet of documents actually  
10 has, I think, four separate documents in it, but to  
11 speed things along, instead of marking each document  
12 individually, it would probably be easier to do this  
13 in one fell swoop.

14 THE ATTORNEY EXAMINER: All right.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. Take a look at the documents marked Staff  
17 Exhibit 8. Do you recognize those?

18 A. Yes.

19 Q. Let's start with the first document.  
20 What is that?

21 A. Well --

22 Q. Please, be careful to distinguish. You  
23 do have separately stapled documents there.

24 A. Yes. These are all documents that I  
25 found doing Internet research using searching terms

1 such as "Professional Relocation Methods," "Micah  
2 Zappe moving," things like that, just to see what was  
3 out there.

4 Q. Why did you do this?

5 A. As part of my job as a staff attorney and  
6 just to be in compliance with the compliance  
7 division, when we get these sorts of cases, I do a  
8 little research. If there's a claim made, I would  
9 investigate further.

10 Q. And that claim was what?

11 A. Mr. Zappe maintains he doesn't hold  
12 himself out as a business known as Professional  
13 Relocation Methods.

14 Q. Please explain what that document is in  
15 front of you, first.

16 A. This is a document from a site called  
17 Yatedo.com. When I ran Micah Zappe's name in  
18 Yatedo.com, it does come back with information, as on  
19 this first page of this first stapled document, and  
20 it's clear that he has held himself out as the owner  
21 of Professional Relocation Methods.

22 THE ATTORNEY EXAMINER: Mr. Turek, before  
23 you continue, I'll just for the record spell Yatedo.  
24 That's Y-A-T-E-D-O.

25 MR. O'ROURKE: Yes.



1 THE ATTORNEY EXAMINER: And Mr. Turek is  
2 referring to Staff Exhibit 8, the first part of the  
3 packet that in the upper left corner has Micah Zappe,  
4 General Dynamics, Professional Systems Engineer,  
5 Owner, Strayer University, and so forth.

6 A. The subsequent page of this first  
7 document just kind of explains what Yatedo is. When  
8 you run a search, it looks at the person's online  
9 presence, so it may look at any publicly available  
10 social networks that it could grab information from,  
11 other sources, whatever it can find. It kind of  
12 explains that and gives some examples. But the only  
13 page that really is about Micah Zappe is the first  
14 page of that document. That's what I found when I  
15 ran that name.

16 Q. What was the critical piece of  
17 information that you found from running that search  
18 on that Yatedo website?

19 A. The critical piece was at some point,  
20 somewhere, perhaps on a social network, I'm not sure,  
21 looking at this particular document, was that he was  
22 the owner of Professional Relocation Methods.

23 Q. All right. Let's move on to the next  
24 pack of stapled documents.

25 THE ATTORNEY EXAMINER: For the record,

1       that's the pack that has the date of 7/19 in the  
2       upper right-hand corner of the page. It also on the  
3       page says "People Search" and "Radaris,"  
4       R-A-D-A-R-I-S. It's a search engine.

5               MR. O'ROURKE: Thank you, your Honor.

6               Q. Mr. Turek, could you please explain what  
7       you did to generate that information?

8               A. Again, this is another site similar to  
9       the Yatedo. It's called Radaris.com, People Search.  
10       I ran Mr. Zappe's name and on the second page of this  
11       document near the bottom, again -- and this one is  
12       more clear that this was from the LinkedIn page that  
13       he maintained, and again at the very bottom it says,  
14       "Systems Engineer at General Dynamics" and "Owner,  
15       Professional Relocation Methods."

16              Q. Thank you, Mr. Turek. Could we please  
17       turn to the next pack, and please identify the unique  
18       characteristics so we can figure it out for the  
19       record.

20              A. Yes. This third pack is Cottus Info.com,  
21       C-O-T-T-U-S. It's just another people search. Type  
22       in "Micah Zappe," and it came back again, from the  
23       second page of the packet, Experience, it says "Owner  
24       Professional Relocation Methods."

25              Q. The next pack.

1           A.     The next pack is from Pipl Directory,  
2     P-I-P-L. I'm not sure I went to the Pipl website for  
3     this or I just found this on Google. I don't recall.  
4     But as you can see in the first column on this page,  
5     there is a paragraph with a little star next to it.  
6     At some point on the Internet this Total Rental and  
7     Parton's Tents of Virginia has advertised that "If  
8     you need moving help, please contact Micah Zappe."

9                     Again, I tried to go to this Total  
10    Rental.com, and that website no longer exists so I  
11    was not able to explore that further. But, again,  
12    this provides some evidence to me Micah Zappe has  
13    held himself out to the public as providing moving  
14    services.

15           Q.     Mr. Turek, that pack of documents there,  
16    are those fair and accurate representations of the  
17    searches you did on those particular days when you  
18    were doing your research?

19           A.     Yes.

20           Q.     What did that information lead you to  
21    believe?

22           A.     It led me to believe, whether or not  
23    there is an actual Professional Relocation Methods  
24    Incorporated, I don't know if there's an  
25    incorporation, if the business is incorporated, but

1       there is some entity called Professional Relocation  
2       Methods that Micah Zappe has held himself out to own  
3       and operate. It could simply be Micah Zappe doing  
4       business as Professional Relocation Methods. I don't  
5       know, but I think it is clear that this evidence at  
6       least told me that he owns and operates a business  
7       called Professional Relocation Methods.

8                       MR. O'ROURKE: Thank you. No further  
9       questions.

10                      - - -

11                      EXAMINATION

12       By The Attorney Examiner:

13               Q.     Mr. Turek, thank you for those comments,  
14       and to go back to something that was stated earlier,  
15       I believe it was your contention that Mr. West, the  
16       other driver, never actually contacted the Commission  
17       himself directly. Am I correct on that?

18               A.     Yes.

19               Q.     So your statement is he never actually --  
20       Mr. West never actually participated in any sort of  
21       telephone conversation with the staff of the  
22       transportation section.

23               A.     I was not involved with the initial  
24       telephone conference with the staff at the staff  
25       level before it reached this level. I don't know.

1 Q. All right. That's a fair answer.

2 A. The only thing I can answer, he never  
3 participated in any conference after I have gotten  
4 involved with this.

5 Q. And you get involved at the point where  
6 it actually -- at the point it is likely to proceed  
7 to a hearing.

8 A. Yes.

9 THE ATTORNEY EXAMINER: Thank you.

10 Mr. Zappe, do you have any additional  
11 questions for Mr. Turek?

12 MR. ZAPPE: No; just a response, but no  
13 questions.

14 THE ATTORNEY EXAMINER: Please take your  
15 seat then.

16 Mr. Zappe, before you respond, I'll ask  
17 you a few questions that come to my mind.

18 - - -

19 MICAH ZAPPE  
20 being previously sworn, as prescribed by law, was  
21 examined and testified as follows:

22 EXAMINATION

23 By The Attorney Examiner:

24 Q. You mentioned earlier that you put your  
25 information out on LinkedIn, I believe.

1           A.     Correct.

2           Q.     Can you explain the circumstances again  
3     about how or why you did that?

4           A.     Yes.   It was recommended by some  
5     coworkers.  They were using LinkedIn.  They used it,  
6     so I filled mine out at a very cursory level.  I have  
7     not gone into greater detail on that because being  
8     advised by our security at our security briefings,  
9     they asked us to limit the amount of information  
10    that's put in those -- what is considered a social  
11    networking website due to the sensitive nature of the  
12    program we work on and the classified information we  
13    deal with and also the security clearances that we  
14    have.  That's why it's very limited information.

15          Q.     But you indicated on LinkedIn,  
16     Professional Relocation Methods, I believe, under  
17     your name; am I correct?

18          A.     Yeah.

19          Q.     Why did you really end up doing that  
20     then?

21          A.     Well, because on the front page it says  
22     other interests or other things I do.  I don't  
23     remember without looking at it.  I'm also a  
24     competitive cyclist, and I think I put my affiliation  
25     with the United States Cycling Federation.

1           Q.    You say you had a response or comment  
2           about Mr. Turek or some other statement.

3           A.    This Cottus info, this PIPL search, the  
4           Yatedo, these are nothing more than search engines  
5           that just pull the same redundant information. If  
6           you look at the information, it's consistent with  
7           what was on LinkedIn. It's the same. It's not  
8           changed or manipulated in any way, so if you run my  
9           name, an exhaustive research on my name, you will  
10          perpetually find my name tied to that with any other  
11          search engines that are out there. It's just  
12          redundant information.

13          Q.    On some of this information Mr. Turek  
14          produced, it indicates "Owner, Professional  
15          Relocation Methods." What would your response be to  
16          that?

17          A.    Well, I don't -- I can't tell you if  
18          LinkedIn even has the term "owner." It may -- I  
19          don't remember what the field is. I don't remember  
20          what the field criteria is. But the rest of these  
21          websites, it just pulls the exact same information.  
22          So it's similar to if I go search on my name, it  
23          pulls up my phone and address directory. It's going  
24          to show up on about 15 different websites, looking  
25          for this person, searching for this person, high

1 school websites, things of that nature. It was put  
2 in there once, and that's it. There's nothing else  
3 on it.

4 Q. I understand you can't speak for  
5 Mr. West, but you indicated there was a letter he  
6 prepared or some documents that indicated that he had  
7 a conference with someone here at the Commission.

8 A. Yes. He participated in the phone  
9 conference on what was supposed to be December 19 and  
10 was rescheduled to December 20 at the  
11 administration's recommendation. I think somebody  
12 was going to be out of town. I don't remember  
13 exactly, but it occurred on December 20. And me not  
14 having been in this situation before, I assumed that  
15 even though he had not gotten any further  
16 correspondence in the mail regarding this, that he  
17 potentially would have been somebody that could have  
18 been here to substantiate what I said.

19 Q. Let me see if I am understanding you  
20 correctly. Are you saying Mr. West was supposed to  
21 have a conference and then the conference was  
22 rescheduled?

23 A. It was scheduled on December 19. I  
24 believe it was rescheduled to the next day. It  
25 occurred on December 20.



1           Q.    You cannot speak for him, but as far as  
2           any documents he prepared, was there some document  
3           you had indicating he did participate in the  
4           telephone conference?  Maybe I misunderstood that.

5           A.    I don't know that he wrote down that he  
6           actually participated.  He did participate in the  
7           phone conference, but, no, he didn't mention that he  
8           had actually participated in that phone conference,  
9           although he did participate in the phone conference.

10          Q.    Sorry, could you say that one more time?

11          A.    He did participate by phone in the phone  
12          conference.  It wasn't in person.  It was by phone.

13          Q.    Mr. Turek had produced evidence that  
14          Mr. West was contacted initially, of course.  But  
15          you're indicating, maybe I misunderstood, I thought  
16          you said you had a letter from him summarizing his  
17          discussion with the PUCO transportation staff.  Maybe  
18          I misunderstood it.

19          A.    No.  This was the letter he intended for  
20          me to give you all stating his inability to be here  
21          today, notarized, and the circumstances surrounding  
22          why he could not be here.

23          Q.    Okay.  Do you want to admit that into  
24          evidence?

25          A.    I can.  I guess it's at my own

1 recommendation. I'm not sure. It simply states he  
2 gives me permission to speak on his behalf  
3 surrounding what happened, although I found out later  
4 through our conversation that I can't physically  
5 speak on his behalf.

6 Q. Right, you can't speak on his behalf.

7 THE ATTORNEY EXAMINER: We will admit  
8 that into evidence and give it the proper weight. I  
9 realize there can be some questions about its  
10 authenticity and so forth, but this case has some  
11 unusual characteristics, so we'll call that Zappe  
12 Exhibit 1 and give it the proper weight, in addition  
13 to everything else that has been admitted today.

14 Do you have any other comments at all?

15 MR. ZAPPE: No.

16 THE ATTORNEY EXAMINER: We will designate  
17 the Zappe Exhibit 1. We will make some copies of  
18 that, or actually you can just provide us with that  
19 copy.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 THE ATTORNEY EXAMINER: The hearing, I  
22 will mention just for purposes of the record again,  
23 Mr. Zappe, do you have any objections to any of the  
24 Staff Exhibits 1 through 8 being admitted into  
25 evidence?

1 MR. ZAPPE: I don't, no. Other than what  
2 I've stated. I don't know if there's additional  
3 information against those particular documents.

4 THE ATTORNEY EXAMINER: Well, you  
5 commented that Staff Exhibit 8 were just search  
6 engines that would pull up your name. But as far as  
7 admitting any of the exhibits into evidence, you  
8 don't have any strong objection to that?

9 MR. ZAPPE: No.

10 THE ATTORNEY EXAMINER: Okay. We will  
11 admit Staff Exhibits 1 through 8 into evidence.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 THE ATTORNEY EXAMINER: Staff, any  
14 thoughts -- actually, you haven't seen the letter  
15 from Mr. West.

16 MR. O'ROURKE: Could I take a look at it?

17 THE ATTORNEY EXAMINER: Sure.

18 MR. O'ROURKE: Thank you. We would renew  
19 our objection on hearsay, but we will abide by the  
20 prior ruling allowing it and you will give it the  
21 proper weight.

22 THE ATTORNEY EXAMINER: Thank you, and I  
23 will admit Zappe Exhibit 1 into evidence as well,  
24 given this case has some characteristics that have  
25 never come before me.

(EXHIBIT ADMITTED INTO EVIDENCE.)

THE ATTORNEY EXAMINER: I want to thank everyone for attending today, given the distance you traveled, in particular. Have a safe trip back.

That will end the proceedings for today. Thank you.

(The hearing concluded at 11:44 a.m.)

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, July 12, 2013, and carefully compared with my original stenographic notes.

---

Rosemary Foster Anderson,  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires April 5, 2014.  
(RFA-72828)

- - -

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/29/2013 12:54:56 PM**

**in**

**Case No(s). 13-0702-TR-CVF**

Summary: Transcript in the matter of Micah Zappe hearing held on 07/12/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.