

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re the matter of:	:	
	:	
Protective Parking Service Corporation d/b/a	:	
Lincoln Towing Service,	:	92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial Vehicle	:	Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of	:	
the Illinois Commercial Relocation of	:	
Trespassing Vehicles Law, 625 ILCS 5/18a-401.	:	

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on the **31st day of May, 2018**, the Respondent, **Protective Parking Service Corporation d/b/a Lincoln Towing Service**, by and through its attorneys, PERL & GOODSNYDER, LTD., filed its **RESPONDENT'S REPLY IN SUPPORT OF ITS MOTION TO STRIKE BRIEF OF STAFF**, with the Office of the Processing and Information Section by mailing a copy to 527 East Capitol Avenue, Springfield, Illinois 62701 pursuant to 83 Ill. Adm. Code 200.70.



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CERTIFICATE OF SERVICE

TO: See attached Service List.

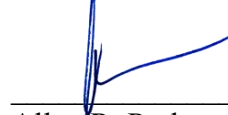
I, an attorney under oath, hereby certify under penalties as provided by law pursuant to §1-109 of the Illinois Code of Civil Procedure, that I caused the following documents of the Defendant, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE**:

- (1) **Notice of Filing**
- (2) **Certificate of Service**
- (3) **Service List**
- (4) **Respondent's Reply in Support of its Motion to Strike Brief of Staff**

to be served upon each attorney to whom directed at their respective addresses via:

 X **Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein with consent of the recipient where permissible under 83 Ill. Adm. Code 200.1050, before 11:59 P.M. on the **31st day of May, 2018**.

Respectfully submitted,



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SERVICE LIST

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ADMINISTRATIVE LAW JUDGE

Honorable Judge Latrice Kirkland-Montaque

Chief Administrative Law Judge

Review & Examination Program

Illinois Commerce Commission

160 N. LaSalle Street

Chicago, IL 60601

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CLERK OF THE ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission

Processing and Information Section

527 East Capitol Avenue

Springfield, Illinois 62701

via U.S. MAIL ONLY

STATE OF ILLINOIS
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In re the matter of: :

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RESPONDENT’S REPLY IN SUPPORT OF ITS MOTION TO STRIKE BRIEF OF STAFF

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE (hereinafter referred to as “Respondent”) by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant the Illinois Commerce Commission (hereinafter referred to as the “Commission”) Rules of Practice (hereinafter referred to as the “Rules”), 83 Ill. Adm. Code 200.10 *et seq.*, respectfully sustains its request that the Administrative Law Judge expeditiously strike **Staff’s Post-Hearing Brief** (hereinafter referred to as “Staff’s Brief” and/or “Closing Argument”) filed by attorneys for the Staff of the Illinois Commerce Commission (hereinafter referred to as the “Staff”), and in reply to Staff’s Response to Emergency Motion to Strike Brief of Staff, to Remove Brief from Illinois Commerce Commission’s Public Website, and Post Retraction, and in support of Respondent’s initial Motion, Respondent states as follows:

**THE COMMISSION INITIATED AN INVESTIGATION BUT
FAILED TO EVER FILE A COMPLAINT AGAINST RESPONDENT**

Neither the Staff nor the Commission have ever filed a complaint against Lincoln Towing in this matter, nor have the Staff or the Commission ever put Respondent on formal, written notice of any legitimate cause for which it may not be eligible to hold a commercial Vehicle Relocator's license. As conceded by Staff in its Staff's Response to Emergency Motion to Strike Brief of Staff, to Remove Brief from Illinois Commerce Commission's Public Website, and Post Retraction (hereinafter referred to as "Staff's Response"), the Commission has the authority to "make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed." 625 ILCS 5/18a-401 (emphasis added). However, once an inquiry is initiated, and an investigation is completed, a complaint must be filed in order for a Respondent to adequately protect its property rights and be afforded due process of law, as mandated by the Constitution. In fact, the very same statute relied upon by Staff, 625 ILCS 5/18a-401, expressly mandates as follows:

If the Commission has information of cause not to renew such license, it shall so notify the applicant, and shall hold a hearing as provided for in Section 18a-400.

625 ILCS 5/18a-401 (emphasis added).

The statute itself commands that the Commission must notify Respondent of the cause not to renew such license. Despite the clear and unambiguous language of the statute, Staff maintains that it can "inquire" into the business of Respondent, then proceed to a hearing without disclosing what "cause" it has, what charges it has against Respondent, or why it believes Respondent does not deserve to hold its license, and then without due process, revoke Respondent's license. Staff suggests no authority to support this proposition.

As set forth in greater detail in Respondent's Motion, Respondent is entitled to constitutional due process, prior to any revocation of its license. The government cannot deprive a person of life, liberty, or property without due process of law." *AFSCME*, 2015 IL App (1st) 133454, ¶ 13 (citing U.S. Const., amend. XIV, and Ill. Const. 1970, art. I, § 2). "Procedural due process requires that when a constitutional right is at stake, the person whose right is at issue is entitled to notice and a meaningful opportunity to be heard." *Id.* Illinois courts have long held that a commercial relocation towing license constitutes a property right that cannot be deprived without due process of law. *Pioneer Towing, Inc. v. Illinois Commerce Comm'n*, 99 Ill. App. 3d 403, 404 (1st Dist. 1981).

Procedurally, should the Commission have any legitimate cause to not renew Respondent's license, the very statute it relied upon mandates that the Commission notify Respondent of such cause, and at a hearing on the renewal of Respondent's license, determine Respondent's fitness to hold a commercial vehicle relocater's license, as set forth in 625 ILCS 5/18a-400. Even Staff's Response concedes in its second page that the fitness test applies to applications for new and renewed licenses, when Staff quoted the administrative code as follows: "In determining the fitness of a licensee, the Rules mandate the Commission to 'consider, with regard to applications for new or renewed relocater's licenses . . . the compliance record of [Respondent] . . . and other facts that may bear on their fitness to hold the license.' " Staff's Response, p. 2 (citing 92 Ill. Adm. Code 1710.22(a)(1))(Emphasis added). However, this case is not founded upon Respondent's application to renew its Relocater's License. The Commission has not notified Respondent that it has any legitimate cause not to renew, and has not yet scheduled a hearing on the renewal of Respondent's license. It is clear from the unambiguous language of the statute, that while the Commission has authority to investigate any relocater at

any time, should it determine that a relocater is not fit, it must provide notice to the relocater of such cause and hold a hearing prior to renewing its license. However, nowhere in the statute or the administrative code does it ever indicate that the Commission, or the Staff, can seemingly circumvent the mandated notice requirement by conducting an investigation, and proceeding to a hearing without ever forming any allegations for Respondent to defend itself against.

Should Staff have decided to hold a separate hearing upon its investigative findings, but prior to a renewal hearing of Respondent as set forth in 625 ILCS 5/18a-400, in order to seek relief from an administrative law judge, Staff could have opted to file a formal complaint pursuant to 83 Ill. Adm. Code 200.170, as further described in Respondent's Motion. However, staff did not file a written complaint pursuant to 83 Ill. Adm. Code 200.170, nor any informal allegations, at any time throughout the course of this proceeding.

Ultimately, the Commission has the authority pursuant to 625 ILCS 5/18a-401 to investigate Respondent at any time. Respondent has not objected to any such inquiry and has fully complied with any and all of Staff's requests for discovery and inquiry. However, should Staff uncover any issues, 625 ILCS 5/18a-401 mandates that a hearing be held at the time of the renewal. In the alternative, 83 Ill. Adm. Code 200.170 allows Staff the opportunity to file a written complaint, seeking the same remedy. In any event, Staff did neither. Staff completed its investigation, and after the close of discovery, simply proceeded to a hearing with no actual allegations or any accusations of wrongdoing being provided to Respondent.

In fact, this was discussed *ad nauseum* in this case on the first day of the hearing. Respondent's counsel noted that Section 200.570 of the Rules requires that in all cases except tariff investigations and suspension proceedings, the petitioner, applicant, or complainant shall open and close. See 83 Ill. Adm. Code 200.570. Staff conceded several times on the record that

the instant hearing was not a suspension hearing and thus, the Administrative Law Judge ordered Staff to proceed first. See Transcript, p. 185-186 (Staff conceding that it is not a suspension); see also Transcript p. 211 (Ordering Staff to proceed first).

Notwithstanding the aforementioned, Staff has failed to cite to any authority to support its general conclusion that it may seek to revoke Respondent's license without first putting Respondent on notice and affording Respondent the opportunity to defend itself and its license. Ultimately, on July 8, 2015, the Commission entered an order in which it found that "The evidence shows that [Lincoln Towing] is fit, willing, and able to provide relocation towing services, in accordance with Chapter 625 of Illinois Compiled Statutes, Section 5/18a-400 through 5/18a-501." See Commission Order dated July 8, 2015, a true and accurate copy of which is attached to Respondent's Motion as Exhibit 1. Just six (6) months later, the Commission entered an order initiating an investigation, which eventually resulted in no written complaint or any written allegations against Respondent. Accordingly, Respondent's Motion should be granted, Staff's Brief should be stricken, and this matter should be dismissed.

EVIDENCE MUST HAVE FOUNDATION TO BE ADMITTED

Public records are not inherently reliable and accurate. Over Respondent's numerous oral and written objections, various exhibits submitted by Staff were admitted into evidence. However, in order to adequately lay a foundation, Staff must have first established that the documents were reliable and accurate. Courts have held that "The proponent of a public record lays an adequate foundation for admission of the evidence when he or she establishes that the document is reliable and accurate." *Village of Arlington Heights v. Anderson*, 2011 IL App (1st) 110748, ¶ 14. However, the testimony at trial by Staff's only witness was that the documents are not reliable and not accurate. Sergeant Sulikowski repeatedly testified that there were inconsistencies in the Commission's records and the exhibits presented were not accurate.

Specifically, the words “not accurate” were used throughout, including on pages 1337, 1350, 1351, 1352, 1353, 1354, and 1471. Accordingly, as staff failed to adequately lay a foundation for the documents as reliable and accurate, they never should have been allowed into evidence.

Notwithstanding the aforementioned, even Staff conceded that although public records may be admissible, they do not necessarily hold weight as credible. Staff stated on the record on this issue that, “I think counsel's argument goes maybe to the weight of the evidence that he can explore on cross-examination. I don't think it goes to admissibility of the evidence.” Transcript, p. 209, lines 13-16.

Regardless, Respondent did not argue in its Motion that the exhibits were not admitted into evidence, as the issue had been ruled upon, despite Staff's claims in Staff's Response. Respondent merely argued that the evidence adduced at trial, which consisted of the sworn testimony of the Commission's officers and various printouts that the officers testified to, did not reflect that any actual violations occurred. The actual testimony adduced at trial was that the testifying officer did not complete an investigation, did not write a citation, did not testify at a hearing on a citation, and no violation was determined by an administrative law judge. The sworn testimony was that the records were not accurate, and at most, represented only inaccuracies between handwritten tow logs of Respondent and the Commission's electronic database.

In fact, Sergeant Sulikowski testified under oath that he had no knowledge of whether Respondent did or did not have a contract for any of the lots or that any of the purported inconsistencies in Staff's Brief and Closing Argument were tantamount to a violation. Sergeant Sulikowski was clear that he had no idea who created any of the exhibits, when they were created, how they were created, or if, in fact, they were even accurate. Despite Staff's purported

“syllogisms,” the only testimony in the record regarding the inconsistent documents simply does not surmount the burden to prove that any violations occurred.

**STAFF’S BRIEF MUST BE STRICKEN AS A DIRECT RESULT OF
STAFF’S INTENTIONAL DISSEMINATION TO THE PUBLIC**

Staff’s Response concedes that courts have held that, “A statement in closing argument regarding facts not in evidence is improper and constitutes reversible error if so prejudicial as to deprive a party of a fair trial,” and acknowledges that Respondent cites binding authority to that effect. See Staff’s Response, p.8, citing *Watkins v. Am. Serv. Ins. Co.*, 260 Ill. App. 3d 1054, 1067 (1st Dist. 1994)(Emphasis added). However, Staff then argues that the *Watkins* case relied on a jury trial case, concluding that “a judge, as a trained lawyer and experienced jurist, is able to only focus on competent evidence.” See Staff’s Response, p. 8.

However, unlike a bench trial tried before a trier of fact, in this case, Staff publically posted Staff’s Brief and Closing Argument on the Commission’s public website. As a result, the non-lawyer media and the public were lead to believe that the improper “syllogisms,” not substantiated by any facts adduced, nor admitted into evidence in this hearing, were genuine findings of the Commission itself, resulting in actual harm to Respondent’s business and its business reputation through false statements, inaccuracies, and mischaracterizations of the evidence adduced at the hearing. Staff’s actions unilaterally appointed a jury consisting of the general public, and publically made an improper closing argument regarding facts not in evidence which is wholly improper and constitutes reversible error. Not only was Staff’s improper dissemination prejudicial to this case such as to deprive Respondent of a fair trial, it has been prejudicial to Respondent’s business operations on the whole. In addition, due to Staff’s dissemination of Staff’s Brief and Closing Argument to the general public and press, and the resulting public outcry and confusion regarding the status of the matter with inaccurate

conclusions drawn by the press, the Administrative Law Judge may feel public pressure to rule against Respondent.

Finally, as further discussed at length in Respondent's Motion, a trial properly conducted is a dignified procedure. *Regan v. Vizza*, 65 Ill. App. 3d 50, 53 (1st Dist. 1978). Counsel in the case are officers of the court and owe a duty to the court, to opposing counsel, to the cause of justice and to themselves. *Id.* An attorney in his final argument is permitted only to make reasonable comments upon evidence. *Id.* It is not improper for an attorney to question either the credibility or judgment of a witness upon any legitimate ground, but an attorney has no right to indulge in violent or inflammatory language for the purpose of arousing the prejudice and passions of the jury nor to insult or abuse a witness without cause. *Id.* Accordingly, Staff's Brief should be stricken in its entirety.

STAFF'S PERVASIVE AND ONGOING PATTERN AND PRACTICE OF CONDUCTING IMPROPER, UNCONSTITUTIONAL, AND HARASSING LITIGATION TACTICS CONTINUES EVEN IN ITS RESPONSE BRIEF

Staff notes in Staff's Response that Respondent took issue with Staff attacking Respondent and Respondent's counsel, specifically portions claiming that Respondent's argument(s) strain logic. However, Staff continues to attempt to bully Respondent, now arguing in Staff's Response that "it strains logic for [Respondent] to argue that Staff's Brief is not premised on properly admitted evidence." See Staff's Response, p. 3. Staff continues to argue that not only do Respondent's arguments "strain logic," but that "the implication of [Respondent's] testimony is illogical." See Staff's Response, p. 9. Staff argues, "In the end, Lincoln manufactures outrage to a slight that one must strain to even perceive." *Id.*

Confusingly, the arguments made by Respondent that strained Staff seem to refer to the fact that Staff failed to actually allege any wrongdoing by Respondent, writing no citations for the purported inconsistencies. Staff questioned in Staff's Response, "how was the Commission

to notify Lincoln of such instances as they were occurring when such instances were not identified until much later as a result of comparing Lincoln's Tow Report to MCIS records during the fitness hearing to make inquiry into Lincoln's relocation operations?" *Id.* Interestingly, the 24-hour tow log was turned over to Staff over a year prior, yet no purported inconsistencies were even mentioned to Respondent or the tribunal until mere days prior to the commencement of the hearing in this case.

Although Staff persistently maintains that there is no mechanism in place for the Commission to notify Respondent of any instances where Respondent may be towing vehicles where it had no contract for the property, there is, in fact, a mechanism. The Commission has the authority to conduct investigations and write citations. Thereafter, a hearing would be held and an administrative law judge would make a determination as to whether or not there was a violation. No such investigations, citations, hearings, or determinations were made in the purported violations Staff argued about in Staff's Brief and Closing Argument.

Staff's own witness, Sergeant Sulikowski, testified on the record that police officers have the ability to start or open up investigations. See Transcript, p. 1226, lines 13-14. However, he also testified that he opened up no investigations against Respondent during the relevant time period. See Transcript, p. 1226, line 18. Sergeant Sulikowski testified that motorists could also simply fill out the backside of the complaint, mail it into the Commission's Des Plaines office, and then an investigation is opened. See Transcript pp. 1227-1228. He also testified that there is a lot to do between starting an investigation and deciding whether or not to file or write a citation. Transcript p. 1235. Even then, Sergeant Sulikowski testified that even if he wrote a citation, he still would not always be sure that an actual violation actually occurred. Transcript, p. 1242. Although Staff would lead the general public and the media to believe that Respondent

is not entitled to notice that it allegedly did not follow the Commission's Rules, or thereafter, be afforded an opportunity to defend itself, there is, in fact, such a procedure and a constitutional due process right to defend itself.

Without straining any logic, Staff's own witness, a Commission officer, testified under oath as follows:

1435

2 Q. You have no opinion as to whether or
3 not Lincoln Towing violated any ICC rules as a
4 result, do you?

5 A. No.

6 Q. Because prior to today -- I think
7 yesterday you testified under oath, before you
8 could do that, you need to do an investigation,
9 correct?

10 A. Yes.

11 Q. And no investigation was done,
12 correct?

13 A. Correct.

14 Q. And if I went through every single
15 one of these so-called inconsistencies from
16 Exhibit B, the 24-hour tow sheet, and I asked
17 you the following questions: Do you know
18 whether or not Lincoln Towing actually had a
19 contract on those days with that lot
20 specifically?

21 A. The answers would all be the same.

22 Q. Okay. So you don't know, correct?

1436

1 A. Correct.

2 Q. And you didn't do any investigation,
3 correct?

4 A. Correct.

5 Q. And you don't know whether or not
6 that implies any violations by Lincoln Towing,
7 correct?

8 A. Yes.

In Re Protective Parking (January 31, 2018), (Page 1435:2 to 1436:8)

Despite the aforementioned, Staff maintains that there was no need to bring to Respondent's attention instances where it was towing vehicles where it allegedly had no contract for the property, and that it strains logic, even "manufacturing outrage to a slight that one must strain to even perceive," that Respondent would even suggest such a theory. See Response Brief, p. 9. These repeated, derogatory, and abusive remarks are part of Staff's pervasive and ongoing pattern and practice of conducting improper, unconstitutional, and harassing litigation tactics intended to deprive respondent of due process of law, and which ultimately only delegitimize the objectivity of the proceeding and, should the comments be allowed to stand as a part of the record, the impartiality of the tribunal in the eyes of the public and the media, to whom Staff's Brief and Closing Argument was disseminated.

**STAFF'S BRIEF SHOULD BE STRICKEN AS FAILING TO CONFORM TO
COMMERCE COMMISSION RULES OF PRACTICE**

Staff argues, "it does not appear that Lincoln is seeking any relief premised on any procedural omissions." Staff's Response, p. 9. However, Respondent is visibly seeking to strike Staff's Brief. Respondent filed a written motion with the bolded caption, Emergency Motion to Strike Brief of Staff, to Remove Brief from Illinois Commerce Commission's Public Website, and Post Retraction, in which Respondent asked the Administrative Law Judge to enter an order granting Respondent's Emergency Motion to Strike Brief of Staff, to Remove Brief From Illinois Commerce Commission's Public Website, and Post Retraction, and (1) order Staff to immediately post a retraction disclaimer on the Illinois Commerce Commission's public website; (2) order Staff to remove Staff's Brief and Closing Argument from the Illinois Commerce Commission public website; (3) strike the entirety of Staff's brief; (4) enter a directed verdict in favor of Respondent; or in the alternative, (5) strike Staff's Brief and Closing Argument and direct Staff to file a revised closing argument, consistent with the testimony adduced at trial, and allow

Respondent thirty (30) days thereafter to file its Closing Argument, re-set the oral argument to a date and time thereafter; award Respondent reasonable attorneys' fees incurred in bringing this Motion; and any such other and further relief as the Administrative Law Judge deems just and proper. As a basis thereof, Respondent specifically argued that the brief should be stricken as it "lacked appendices, a table of contents, and a summary of the position of the party filing, despite the strict requirements of Section 200.800. See 83 Ill. Adm. Code 200.800(b)." See Motion, p. 17. Merely claiming that no relief was sought does not entitle Staff to violate Commission rules of procedure, especially when the relief was, in fact, specifically sought in the Motion.

In addition, Staff makes reference to how Respondent noted Staff violated the Commission's Rules on briefs, citing to "Staff's 32 page brief lacking appendices, a table of contents, and a position summary." Staff acknowledged that Staff's Brief, did, in fact, lack these required items, and that Respondent specifically highlighted this fact in its Motion. However, Staff then attempts to compare this to Staff "indicating that Lincoln towed a vehicle from a property address and that Lincoln did not have a tow contract for that property," although despite Staff's attempts at indications, no actual evidence to that effect was ever adduced at the hearing. In fact, the testimony on the record showed the exact opposite:

1303

5 **Q. Did you check with the actual hard**
6 **copies of the contracts with Lincoln Towing?**

7 A. No.

. . . .

1304

10 **Q. Did you ever ask anybody at the Commerce**
11 **Commission for copies of the contracts that are**
12 **listed in Exhibit A?**

13 A. No.

In Re Protective Parking (January 31, 2018), (Page 1303:5 to 1304:13)

Consequently, the comparison fails. The brief admittedly lacked the required components and should be stricken. Whereas the Commission's own employees admitted that no investigations were conducted, no citations were written, and no hearings were had on the purported inconsistencies.

Sergeant Sulikowski testified that he had no idea whether or not there was a contract for any of the lots, conducted no investigations, and wrote no citations. The only documents introduced failed to identify (1) what they were; (2) what they represented; (3) what they purported to prove; (4) who created them; (5) why they were created; (6) when they were created; or (7) what Commission representative had knowledge of the veracity of the documents. In addition, the documents only reflected certain limited reports based upon unknown search criteria from the Commission's MCIS database. None of the documents reflected what written contracts were actually in existence. Accordingly, none of the testimony even discussed whether actual contracts existed, but rather, whether evidence of the contracts was accurately electronically recorded into the MCIS database. The conclusion of Staff's witness was that the database was inaccurate, and he did not know if the inaccuracy was caused by the Commission or Respondent. Additionally, it was established at the hearing that Staff's mere identification of typographical inconsistencies in the Commission's computer system and/or in Respondent's handwritten logs does not even suggest any violations, which could only be adduced by thorough investigation and with due process of law.

STAFF'S INTENTIONAL DISSEMINATION WAS UNPRECEDENTED AND OUTSIDE THE STANDARD OPERATING PROCEDURE FOR TRANSPORTATION HEARINGS

To date, no other pleadings, motions, or documents filed by Respondent have ever been posted on the website. Staff argues that "As a matter of fact, Staff's Brief, a public document similar to all court filings, was accessible to the general public through a link on the

Commission's website." Staff's Response, p. 11. Staff fails to mention that no other documents are available in the same manner. Among the other documents filed in this case that are seemingly also public record, but were never posted to the Commission's website, are Respondent's Motion to Compel Discovery, a true and accurate copy of which is attached hereto as Exhibit 1, the Reply in Support of Respondent's Motion to Compel Discovery, a true and accurate copy of which is attached hereto as Exhibit 2, Respondent's Motion in Limine to Bar Exhibits, a true and accurate copy of which is attached hereto as Exhibit 3, Respondent's Emergency Motion to Strike Testimony and Continue Hearing, a true and accurate copy of which is attached hereto as Exhibit 4, or Respondent's Emergency Motion to Stay Hearing, a true and accurate copy of which is attached hereto as Exhibit 5. In addition, the Administrative Law Judge's written rulings and decisions have not been made a part of the online public record, such as the Administrative Law Judge's November 18, 2016 ruling, a true and accurate copy of which is attached hereto as Exhibit 6. Finally, the online public record fails to contain the parties' joint, mutually agreed upon, Stipulation Regarding Uncontested Factual Evidence, a true and accurate copy of which is attached hereto as Exhibit 7.

**IMMEDIATE RETRACTION AND CLARIFICATION IS WARRANTED
TO PRESERVE THE LEGITIMACY OF THIS TRIBUNAL**

Despite Staff's claims that nobody at the Commission has any authority to make any statements to the media, such statements were made throughout the case. In addition, the media coverage contained substantial damaging statements that mislead the public into believing the Commission had already ruled. Consequently, any ruling to the contrary would directly affect the legitimacy of the tribunal.

For example, the Chicago Tribune article begins with the opening line, “A state regulator has issued a scathing report calling Lincoln Towing Service ‘unfit’ to hold a license to operate.”

The article wrote:

In addition, the article published states:

“The implication of Lincoln’s argument strains logic,” the ICC wrote. “... It is Lincoln’s obligation to conduct its business in compliance with the law, not the commission’s obligation to remind Lincoln to do so.”

The ICC, which regulates utilities but also oversees relocation towing in Cook County, also said that the ease of finding the violations suggest that the North Side company’s problems stem from both mismanagement and a more deliberate evasion of the law.

“Given that a fairly simple audit of Lincoln’s own business records uncovered the ongoing pattern of violations, the reasonable inference that follows is that Lincoln’s incompetence and mismanagement is tantamount to a deliberate ignorance of its obligation to properly manage its business practices,” the report said.

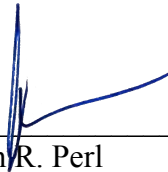
Chicago Tribune. (May 9, 2018). Lincoln Towing 'unfit' to hold license, state regulator says.

As a result, in order to preserve the legitimacy of the tribunal as the fitness hearings proceed, Respondent seeks that immediate emergency action is taken to attempt to clarify the Commission’s website and the record in this matter.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order granting Respondent’s Emergency Motion to Strike Brief of Staff, to Remove Brief From Illinois Commerce Commission’s Public Website, and Post Retraction, and (1) order Staff to immediately post a retraction disclaimer on the Illinois Commerce Commission’s public website;

(2) order Staff to remove Staff's Brief and Closing Argument from the Illinois Commerce Commission public website; (3) strike the entirety of Staff's brief; (4) enter a directed verdict in favor of Respondent; or in the alternative, (5) strike Staff's Brief and Closing Argument and direct Staff to file a revised closing argument, consistent with the testimony adduced at trial, and allow Respondent thirty (30) days thereafter to file its Closing Argument, re-set the oral argument to a date and time thereafter; award Respondent reasonable attorneys' fees incurred in bringing this Motion; and any such other and further relief as the Administrative Law Judge deems just and proper.

Respectfully submitted,



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EXHIBIT 1

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :
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Protective Parking Service Corporation d/b/a :
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Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on the **19th** day of **October, 2016**, the Respondent, **Protective Parking Service Corporation d/b/a Lincoln Towing Service**, by and through its attorneys, **PERL & GOODSNYDER, LTD.**, filed its **MOTION TO COMPEL**, with the Office of the Processing and Information Section by mailing a copy to 527 East Capitol Avenue, Springfield, Illinois 62701 pursuant to 83 Ill. Adm. Code 200.70.



Perl & Goodsnyder, Ltd.
By one of its Attorneys

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CERTIFICATE OF SERVICE

TO: See attached Service List.

I, an attorney under oath, hereby certify under penalties as provided by law pursuant to §1-109 of the Illinois Code of Civil Procedure, that I caused the following documents of the Defendant, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE**:

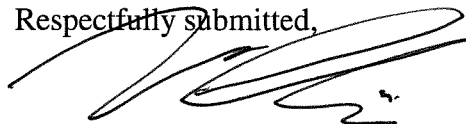
- (1) **Notice of Filing**
- (2) **Certificate of Service**
- (3) **Service List**
- (4) **Certificate of Service of Motion dated October 12, 2016**
- (5) **Motion to Compel**

to be served upon each attorney to whom directed at their respective addresses via:

 X **Via Federal Express (FedEx)**, standard priority, overnight delivery, by depositing the same in the Fedex drop box location/shipping center, with shipping charges paid by the sender, in a properly addressed, sealed and secure envelope, at 901 W. Madison Street, Chicago, Illinois 60607, before 4:00 P.M. on the on the **19th** day of **October, 2016**.

 X **Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein with consent of the recipient where permissible under 83 Ill. Adm. Code 200.1050, before 4:00 P.M. on the **19th** day of **October, 2016**.

Respectfully submitted,



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
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SERVICE LIST

ATTORNEYS FOR STAFF OF THE ICC:

Benjamin J. Barr

Transportation Counsel

Illinois Commerce Commission

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Chicago, IL 60601

bbarr@icc.illinois.gov

via ELECTRONIC MAIL ONLY

ATTORNEYS FOR RESPONDENT:

Allen R. Perl

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via ELECTRONIC MAIL ONLY

CLERK OF THE ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission

Processing and Information Section

527 East Capitol Avenue

Springfield, Illinois 62701

via FEDEX ONLY

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :

Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC

Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached MOTION TO COMPEL DISCOVERY was E-Mailed to counsel of record, Benjamin Barr, at *bbarr@icc.illinois.gov* on October 12, 2016.



Vlad V. Chirica

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :

Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
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Relocator’s License pursuant to Section 401 of :
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Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

MOTION TO COMPEL DISCOVERY

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant to Sections 200.190 and 200.370 of the Illinois Commerce Commission (“Commission”) Rules of Practice (“Rules”), 83 Ill. Adm. Code 200.10 *et seq.*, respectfully requests the Administrative Law Judge to issue a ruling compelling the Staff of the Illinois Commerce Commission (“Staff”), to answer and respond to all outstanding discovery. In support of this motion, Respondent states as follows:

1. On April 5, 2016, Respondent propounded a discovery Data Request to Staff, as set forth in the Certificate of Service, incorporated herein by reference and attached hereto as Exhibit A.
2. Respondent’s Data Request responses were due on May 3, 2016, pursuant to Section 200.410 of the Rules. 83 Ill. Adm. Code 200.410.
3. On May 9, 2016, Staff emailed Staff’s Answer to Protective Parking Service Corporation’s Data Request, containing numerous meritless objections, with few actual responses.

4. Since May 9, 2016, consultation and reasonable attempts to resolve differences have failed.
5. On May 20, 2016, Respondent sent Staff a letter pursuant to Ill. Admin. Code 200.350, in an attempt to further facilitate the production of discovery, as set forth in Exhibit B, attached hereto and incorporated herein by reference.
6. Despite many telephonic discussions, in-person conferences, and written correspondence, Staff refuses to turn over documents requested by Respondent.
7. On July 26, 2016 and on September 21, 2016, Staff tendered Staff's Second and Third Answers to Protective Parking Service Corporation's Data Request. However, both responses contained similar meritless objections, and provided very few, if any, additional responses to the Data Requests, as set forth in Exhibit C, attached hereto and incorporated herein by reference.
8. None of the responses are sufficient to allow Respondent to defend itself in its hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law.
9. Ill. Admin. Code 200.340 clearly states that "It is the policy of the Commission to obtain full disclosure of all relevant and material facts to a proceeding. Further, it is the policy of the Commission to encourage voluntary exchange by the parties and staff witnesses of all relevant and material facts to a proceeding through the use of requests for documents and information." Ill. Admin. Code 200.340.
10. As a preliminary matter, Staff objected to each request as "unduly burdensome." See Exhibit C.
11. Upon information and belief, the documents requested are digitally stored on the Illinois Commerce Commission's computer system, and are readily available for review and discovery.

12. Notwithstanding the digital and easy access Staff has to the files, Respondent has offered suggestions on how to narrow the search fields to yield fewer results.
13. Regardless of the quantity of relevant documents that are responsive, Respondent is entitled to all documents that are relevant and responsive to the instant allegations, so as to afford its constitutional due process rights in a hearing to take away its livelihood and license.
14. Addressing each request and objection individually, Respondent's first question sought "All documents reviewed by you in the course of preparing your responses to these Data/Document Requests." Exhibit A.
15. Staff's answer consisted of the following paragraph:

Objection: response to this request would be unduly oppressive in that it would require substantial ICC Staff time to reproduce and apply redactions to, if necessary, voluminous records, including many records irrelevant to Docket # 92 RTV-R Sub 17. For example, on information and belief, initial scans by the Illinois Department of Central Management Services of ICC E-Mail Accounts, uncovered E-Mails in the hundreds of thousands containing generic search terms such as "Lincoln", which in the context of the E-Mail, may ultimately be unrelated to Protective Parking Service Corporation d/b/a Lincoln Towing Service. Efforts to comply with this Data Request and a simultaneously filed FOIA request by Protective Parking Service Corporation are ongoing, and placing a burden on the Staff of the Illinois Commerce Commission ("Staff") to produce copies of all documents reviewed by any Staff person or Staff counsel in the preparation of the answer to Protective Parking Service Corporation's is overly broad and would place an undue burden on Staff to spend an incalculable amount of time copying, redacting, and compiling documentation with potentially no meaningful relationship to Docket # 92 RTV-R Sub 17. *See, e.g., People ex rei. General Motors Corp. v. Bua*, 37 Ill. 2d 180, 193 (Ill. 1967)(trial court abused discretion in ordering production of records related to 5 model years of a vehicle when plaintiff's complaint alleged facts concerning only 1 model year, plaintiff failed to prove materiality of the records concerning other model years, and voluminous production would involve substantial expense, labor, and business disruption).

Exhibit C.

16. Staff's answer is meritless and unpersuasive, and purports to claim that amongst the documents reviewed in the course of preparing responses to these requests, Staff reviewed "voluminous records, including many records irrelevant to Docket# 92 RTV-R Sub 17," including, "E-Mails in the hundreds of thousands containing generic search terms such as "Lincoln", which in the context of the E-Mail, may ultimately be unrelated to Protective Parking Service Corporation d/b/a Lincoln Towing Service." Exhibit C.
17. Furthermore, Staff relies on a 1967 Illinois Supreme Court case, which discussed discovery procedures nearly fifty (50) years ago, in which the trial court abused discretion in ordering production of records related to 5 model years of a vehicle when the complaint alleged facts concerning only 1 year. Exhibit C (citing *General Motors Corp.*, 37 Ill. 2d at 193).
18. However, the request in this case only requested documents limited explicitly to those "reviewed in the course of preparing responses to these requests," all of which are presumably digitally stored and readily available to Staff. Exhibit A.
19. Thereafter, Respondent's fourth request asked Staff to "Identify, in general, how the ICC decides to conduct a hearing on Fitness to hold Commercial Vehicle Relocator's License." Exhibit A.
20. Staff's response consisted of no explanation or description as to how the ICC decides to conduct a hearing. Staff merely quoted the entire statutory text of 625 ILCS 5/18a-401 and 92 Ill. Adm. Code 1710.22. Exhibit C.
21. While the statute provides that the Commission may at any time make inquiry into the management, conduct of business, or otherwise to determine that the provisions of the Act and regulations are being observed, no description was actually provided, in either the staff response or the statute, regarding the process and procedure of how the ICC forms a

decision on whether or not to conduct a particular hearing on Fitness to hold a Commercial Vehicle Relocator's License.

22. Respondent is unable to adequately defend itself in a hearing without ascertaining the basis for the decision to conduct said hearing, including the reasons and motivations behind each basis thereof.
23. Next, Respondent asked that Staff "Identify why the ICC is conducting this hearing on Fitness to hold Commercial Vehicle Relocator's License against Lincoln Towing at this time." Exhibit A.
24. Staff again provided no answer to the request, and again restated the entire statutory text of 625 ILCS 5/18a-401 and 92 Ill. Adm. Code 1710.22, without any explanation or description.
25. Request number 9 asked that Staff "Identify all communications between the Petitioner and Third Parties regarding Petitioner's allegations from year prior to the alleged incidents until present. If said communications are in writing please produce same." Exhibit A.
26. Staff's response stated as follows:

Staff objects to this request as vague. The phrase "Petitioner's allegations from year prior to the alleged incidents until present" is unclear as to time period and content of communications. Additionally, Staff objects to this request as overly broad and burdensome because the language implies that verbal communications not reduced to writing are to be identified in the response. On information and belief, there are approximately 200 employees at the Illinois Commerce Commission. Based on the definition of the term "Petitioner" contained within this Data Request shall mean and refer to " ... the ILLINOIS COMMERCE COMMISSION ("ICC"), including its agents and any person or entity acting under its control or on its behalf." This term is so broad that it would include not only Staff, but also the Administrative Law Judges, Chairman, Commissioners, and their respective assistants. The breadth of this request is overly broad and burdensome in that it would require Staff counsel to interview every single person who works at the Commission to determine whether any oral communications took place, and further assumes that the person being interviewed would remember any oral conversations not reduced to writing. The time that would be required to conduct such interviews would require significant Staff time and would impair the function of the Transportation

Division. Additionally, because the breadth of the term “Petitioner” appears to include Administrative Law Judges, the Chairman, Commissioners, and their respective assistants, the conduct of these interviews would run afoul of 83 Ill. Adm. Code 200.710 concerning ex parte communications between Staff counsel and those involved in the decision making process concerning this docket.

Additionally, Staff objects to this request as unduly burdensome because after obtaining the assistance of CMS and the Illinois Department of Innovation & Technology with running multiple searches through the Commission's E-mail accounts, even after applying narrowed-down search terms in an attempt to reduce the scope of the search based on language that you provided to the Commission in a letter dated June 14, 2016, there are still approximately 20,021 E-mails with respect to Protective Parking Service Corporation, Rendered Services, Inc., and A-1 Citywide Towing & Relocation, Inc. The production of these E-mails will nevertheless unduly burden the operations of the Commission. If all three staff attorneys in the Office of Transportation Counsel (“OTC”) devoted their entire work days to reviewing and redacting the E-mails, estimating an average of 7 minutes for reviewing and redacting per E-mail, it would take approximately 359 days to review and redact these messages. This would substantially impede the function of the Transportation Division of the Commission, as these attorneys have other duties and responsibilities which include but are not limited to representing staff at administrative hearings, prosecuting administrative citations, reviewing investigation files, negotiating settlements, reviewing responses to FOIA requests, providing legal advice to Staff, responding to inquiries from the public and other governmental agencies, etc. Estimating on average of 7 minutes for reviewing and redacting per E-mail, it will take approximately 334 days to review and redact 20,021 E-mail messages. Assuming all three staff attorneys would work on nothing else but reviewing and redacting the E-mails, the OTC would have to completely cease performing its every day functions for approximately four months.

Exhibit C.

27. Staff’s response is wholly unpersuasive. First, the request is clearly worded. The phrase “Petitioner’s allegations from year prior to the alleged incidents until present,” is clear as to the time period and content of communications. Staff claims that there are “approximately 200 employees at the Illinois Commerce Commission,” in an attempt to argue the impossibility of responding to Respondent’s Data Request, but in Staff’s response to Request number 3, Staff identified only eight (8) employees who “assisted in the prosecution of any citation, ticket, violations, etc. against Lincoln Towing in the past three years.” See Exhibit C.

28. Furthermore, Staff's argument that "Petitioner" appears to include Administrative Law Judges, the Chairman, Commissioners, and their respective assistants would run afoul of 83 Ill. Adm. Code 200.710 is unfounded as (1) Staff should have access to electronic records without the necessity for any ex-parte communications; (2) the rule prohibits communications regarding "any issue in the proceeding," but does not bar any discovery regarding all matters regarding a commercial vehicle relocater; and (3) 200.710 allows for such communications if waived by written stipulation. 83 Ill. Adm. Code 200.710.
29. Notwithstanding the aforementioned, Staff provided no records of any conversations between the ICC and Third Parties regarding Petitioner's allegations from year prior to the alleged incidents until present.
30. Respondent is unable to adequately defend itself in a hearing without ascertaining the basis for the decision to conduct said hearing, including the reasons and motivations behind each basis thereof.
31. Request number 10 asks Staff to "Identify how many ICC violations Lincoln Towing, in Chicago, has been found guilty of in the last (3) three years. Exhibit A.
32. Staff objects, on the basis that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket # 92 RTV-R Sub 15.
33. However, throughout Staff's response, it becomes apparent that one of the bases for Staff's decision to review the fitness of Respondent is Officer Geisbush's investigation, # 15-0088, which reviewed records from October 1, 2014 through December 31, 2014, and was submitted to the ICC on April 20, 2015.
34. If the subject of this investigation includes the time period from October 1, 2014 through December 31, 2014, the scope of discovery should be inclusive of documents and records

throughout that time period. As such, Respondent should be entitled to discovery October 1, 2014 through the present.

35. Request 13 asks staff for “Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Protective Parking Service Corporation d/b/a Lincoln Towing for the last three (3) years.

36. Staff’s response objected as follows:

Staff objects to this request as vague due to the use of the phrase “claimed violation”. It is unclear whether the question is seeking only the listed records with respect to actual violations alleged by Staff in the form of an administrative citation, civil penalty investigation, or other legal instrument, or whether it also seeks information concerning violations alleged by members of the public which may not have resulted in any enforcement action being taken. Additionally, Staff objects to this request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly administrative citations and investigation files containing correspondence, which routinely contain personal information of drivers or members of the public exempt from disclosure. Furthermore, Staff objects to the time period of the request as overly broad in that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket# 92 RTV-R Sub 15.

Exhibit C.

37. In order to defend itself from allegations that it Respondent is unfit to hold a Commercial Vehicle Relocator’s License on the basis of tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, Respondent is entitled to copies of the same.

38. Request 14 asked staff for “Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Rendered Services, Inc. in Chicago for the last three (3) years,” and Request 15 asked for “Copies of any and all tickets, citations,

notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to A1 Citywide Towing in Chicago for the last three (3) years.” Exhibit A.

39. Staff objected to the request as irrelevant. However, the number of tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence issued against other competitors would undoubtedly shed light on whether Respondent is fit to hold a Commercial Vehicle Relocator’s License.

40. Request 16 sought “copies of any and all documents Petitioner plans to use at any hearing, Fitness Hearing, trial or other proceeding related to this matter.” Exhibit A.

41. Staff objected to Request 16, on the basis that hearing exhibits have not been prepared at this time, and that Staff would need to first review Respondent’s response to Staff’s data request. Exhibit C.

42. However, Respondent’s response to Staff’s data request was served upon Staff on June 7, 2016.

43. To date, Staff has failed to turn over any hearing exhibits in the 127 days since the response to Staff’s data request was served upon Staff.

44. Request 17 asked Staff for “Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements, reports, speeches, etc. between the ICC and third parties related to Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.”

Staff's objection argued as follows:

Staff objects to this request as irrelevant in so far as it requests copies of correspondence not related to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. The way this request is worded, it seeks a response that would include correspondence identifying Protective Parking Service Corporation not in the context of an enforcement or licensing manner, as well as correspondence concerning two separate relocators, which are not relevant to Protective Parking Service Corporation's fitness. The burden to track down every written document or electronic record between and among any employees, administrators, police officers, and Staff of the ICC related to these three relocators would take an incalculable number of Staff hours.

Additionally, Staff objects to this request as unduly burdensome because after obtaining the assistance of CMS and the Illinois Department of Innovation & Technology with running multiple searches through the Commission's E-mail accounts, even after applying narrowed-down search terms in an attempt to reduce the scope of the search based on language that you provided to the Commission in a letter dated June 14, 2016, there are still approximately 20,021 E-mails with respect to Protective Parking Service Corporation, Rendered Services, Inc., and A-1 Citywide Towing & Relocation, Inc. The production of these E-mails will nevertheless unduly burden the operations of the Commission. If all three staff attorneys in the Office of Transportation Counsel ("OTC") devoted their entire work days to reviewing and redacting the E-mails, estimating an average of 7 minutes for reviewing and redacting per E-mail, it would take approximately 359 days to review and redact these messages. This would substantially impede the function of the Transportation Division of the Commission, as these attorneys have other duties and responsibilities which include but are not limited to representing staff at administrative hearings, prosecuting administrative citations, reviewing investigation files, negotiating settlements, reviewing responses to FOIA requests, providing legal advice to Staff, responding to inquiries from the public and other governmental agencies, etc. Estimating on average of 7 minutes for reviewing and redacting per E-mail, it will take approximately 334 days to review and redact 20,021 E-mail messages. Assuming all three staff attorneys would work on nothing else but reviewing and redacting the E-mails, the OTC would have to completely cease performing its every day functions for approximately four months.

Exhibit C.

45. Staff's objection is meritless, as the documents related to Lincoln Towing, Rendered Services, Inc. and A1 Citywide Towing are clearly related to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater.

46. Furthermore, Staff must bear the burden to “track down every written document,” which are presumably electronically stored and readily searchable, as it would violate Respondent’s constitutional due process right if its license were revoked without a fair hearing on the merits, having taken a look at correspondence amongst the regulating body regarding Respondent.

47. Request 18 seeks “Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements, reports, speeches, etc. between the ICC and third parties related to Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.” Exhibit A.

48. Staff’s objection is the same as that for Request 17, and is improper for the same reasons.

49. Request 19 seeks “Copies of any and all complaints, citations, grievances, criticisms, etc. filed by any third party against Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.” Exhibit A.

50. Staff’s response consists of the following:

Staff objects to this request as irrelevant and unduly burdensome. Based on the wording of this request, it appears it seeks in response copies of all consumer complaints received against three relocators for a three year period, regardless of whether the consumer complaint resulted in an enforcement action or the entry of a penalty against the relocator. In so far as it seeks such records concerning Rendered Services, Inc. or A-1 Citywide Towing, the request seeks irrelevant information, as the consumer complaints will not have bearing on Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocator. Additionally, Staff objects to this request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly as investigation files routinely contain personal information of drivers or members of the public exempt from disclosure. Furthermore, Staff objects to the time period of the request as overly broad in that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket# 92 RTV-R Sub 15.

Exhibit C.

51. Staff failed to turn over any records responsive to Request 19.
52. According to the ICC's website, "The ICC's mission is to balance the interests of consumers and utilities to ensure adequate, efficient, reliable, safe and least-cost public utility services."¹
53. It is implausible that Staff can claim complaints, citations, grievances, criticisms, etc. filed by the public in Illinois are "irrelevant and unduly burdensome," during discovery regarding a hearing on fitness to hold a Commercial Vehicle Relocator's License.
54. Respondent's fitness to hold a Commercial Vehicle Relocator's License is directly affected by the complaints, citations, grievances, criticisms, etc. filed by the public in Illinois.
55. Request 20 asks Staff to "Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony." Exhibit A.
56. Staff responded that "Staff is unable to identify all witnesses that it intends to call at this time, as it has not yet received and reviewed a response from Protective Parking Service Corporation to its Data Request." Exhibit C.
57. Notwithstanding the aforementioned, Respondent's response to Staff's data request was served upon Staff on June 7, 2016, 121 days prior to Staff's Third Answer to Protective Parking Service Corporation's Data Request was served on September 21, 2016.
58. Respondent cannot adequately defend itself without knowing the identity of the witnesses that will present testimony on behalf of the ICC.

¹ <https://www.icc.illinois.gov/about.aspx>

59. Finally Request 28 requests “All written or recorded statements, utterances or communication (whether written or oral, signed or unsigned, verbatim or narrative) of Petitioner, any witness, or the, Respondent or of any of their agents, representatives or employees, concerning the subject matter of this action.”

60. Staff’s response objects by stating:

Staff objects to this request as overly broad and burdensome because the language implies that verbal communications not reduced to writing are to be identified in the response. On information and belief, there are approximately 200 employees at the Illinois Commerce Commission. Based on the definition of the term “Petitioner” contained within this Data Request shall mean and refer to “... the ILLINOIS COMMERCE COMMISSION (“ICC”), including its agents and any person or entity acting under its control or on its behalf.” This term is so broad that it would include not only Staff, but also the Administrative Law Judges, Chairman, Commissioners, and their respective assistants. The breadth of this request is overly broad and burdensome in that it would require Staff counsel to interview every single person who works at the Commission to determine whether any oral communications took place, and further assumes that the person being interviewed would remember any oral utterances or communication not reduced to writing. The time that would be required to conduct such interviews would require significant Staff time and would impair the function of the Transportation Division. Additionally, because the breadth of the term “Petitioner” appears to include Administrative Law Judges, the Chairman, Commissioners, and their respective assistants, the conduct of these interviews would run afoul of 83 Ill. Adm. Code 200.710 concerning ex parte communications between Staff counsel and those involved in the decision making process concerning this docket. Furthermore, the follow-up request from Protective Parking Service Corporation dated May 20, 2016 seeking draft versions of the Commission’s Order setting docket 92 RTV-R Sub 17 for hearing are likely protected by attorney-client and work product privileges. Staff additionally objects to the request in so far as it asks for Staff to produce statements made by Protective Parking Service Corporation, its agents, representatives, or employees, as Staff is not in possession or control of such statements.

Exhibit C.

61. As previously discussed, Staff identified only eight (8) employees that “assisted in the prosecution of any citation, ticket, violations, etc. against Lincoln Towing in the past three years.”

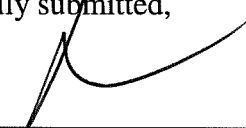
62. In order to afford Respondent its constitutional due process, the Staff must produce additional documents for Respondent to adequately defend itself in its hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401.

63. Respondent's license to operate is its single most valuable asset; losing its license would constitute taking away its entire livelihood and sole source of revenue, putting many employees and independent contractors out of work.

64. The Administrative Law Judge is authorized by Ill. Admin. Code 200.370 to supervise all or any part of any discovery procedure upon the motion of any party.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order pursuant to Ill. Admin. Code 200.370 compelling the Staff of the Illinois Commerce Commission to promptly answer Respondent's First Set of Data Requests to Staff; or in the alternative, bar the Staff from introducing any evidence, documentation, or testimony at the hearing in this matter; and grant any such other and further relief as the Administrative Law Judge deems just and proper.

Respectfully submitted,



Allen R. Perl
Perl & Goodsnyder, Ltd.
Attorneys for Protective Parking Service
Corporation d/b/a Lincoln Towing Service

Allen R. Perl
Vlad V. Chirica
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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re the matter of:	:	
	:	
Protective Parking Service Corporation d/b/a	:	
Lincoln Towing Service,	:	92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial Vehicle	:	Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of	:	
the Illinois Commercial Relocation of	:	
Trespassing Vehicles Law, 625 ILCS 5/18a-401.	:	

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached MOTION TO COMPEL DISCOVERY was E-Mailed to counsel of record, Benjamin Barr, at *bbarr@icc.illinois.gov* on October 12, 2016.



Vlad V. Chirica

EXHIBIT A

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

CERTIFICATE OF SERVICE

TO: See attached Service List.

The undersigned hereby certifies that a correct copy of the foregoing *Data Request* was provided to Petitioner’s Attorney in this matter:

- Via Regular U.S. Mail**, by depositing the same in the U.S. Mail, postage prepaid, in a properly addressed, sealed and secure envelope, at 14 North Peoria Street, Suite 2-C, Chicago, Illinois 60607, before 5:00 P.M. on the **5th day of April, 2016**.

- Via Hand Delivery**, by tendering the same in a properly addressed, sealed and secure envelope, before 5:00 P.M. on the on the **5th day of April, 2016**.

- Via Telephone Facsimile**, by transmitting a facsimile copy to the telephone numbers listed herein, before 5:00 P.M. on the on the **5th day of April, 2016**.

- Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein, before 5:00 P.M. on the on the **5th day of April, 2016**.

- Via Federal Express (Fedex)**, standard priority, overnight delivery, by depositing the same in the Fedex drop box location/shipping center, with shipping charges paid by the sender, in a properly addressed, sealed and secure envelope, at 901 W. Madison Street, Chicago, Illinois 60607, before 8:00 P.M. on the on the on the **5th day of April, 2016**.

Respectfully submitted by its attorneys:

PERL & GOODSNYDER, LTD.



PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 North Peoria Street Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
Attorney Number: 39611

SERVICE LIST

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Court for Filing:

Illinois Commerce Commission
Attn: Processing
527 East Capitol Avenue
Springfield, Illinois 62702

ILLINOIS COMMERCE COMMISSION

Respondent: Protective Parking Service Corporation
Docket No.: 92 RTV-R Sub 17
Propounded: April 5, 2016
Response Due: May 3, 2016

Protective Parking Service Corporation, d/b/a Lincoln Towing Service (“Respondent”) hereby submits its Data Request to the Respondent in this matter. Responses should be delivered Respondent’s counsel as soon as possible but certainly no later than May 3, 2016.

DEFINITIONS

1. The words “**Petitioner**” shall mean and refer to the **Petitioner** in this hearing, the **ILLINOIS COMMERCE COMMISSION (“ICC”)**, including its agents and any person or entity acting under its control or on its behalf.

2. The word “**Respondent**” shall mean and refer to the **Respondent** in this hearing, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE (“LINCOLN TOWING”)**, including its officers, employees, beneficiaries, respective agents and any person or entity acting (or authorized to act) under its control or on behalf of any such Respondent.

3. The word “lawsuit” or “hearing” shall mean and refer to the legal action filed by Petitioner with the Illinois Commerce Commission and captioned **In re: Protective Parking Service Corporation d/b/a Lincoln Towing Service, Case No. 92 RTV-R Sub 17 100139 MC**, including all claims and defenses asserted by any of the parties in the lawsuit.

4. The word “Complaint” shall mean the complaint filed by Petitioner in the lawsuit, including any amended versions thereof.

5. The word "Pleadings" shall mean the pleadings in this lawsuit, including but not limited to Petitioner's Complaint and any responsive motion or answer filed by Respondent, including any amended versions thereof.

6. The words "document" or "documents" shall mean and refer to any and all written, recorded, filmed, or graphic matter, whether produced or reproduced, on paper, cards, tapes, film, electronic facsimile, hard drives, thumb or flash drives, zip drives, servers, back-up tapes or other computer storage devices, or any other media, and any other things within the scope of the applicable section of the Code of Civil Procedure and Supreme Court Rules, including, but not limited to, statements, ledgers, orders, purchase orders, sales tickets, order or transaction confirmations, articles, by-laws, research files, accounts, brochures, pamphlets, bulletins, circulars, letters, correspondence, electronic mail messages, telegrams, telexes, facsimile transmissions, telecopies, publications, agreements, forecasts, statistical statements, minutes or records of meetings or conferences, policy statements, memoranda, notes, records, reports, studies, interoffice and/or intra-office communications, working papers, reports and/or summaries or investigations, notices, calendar and diary entries, microfilm, messages, maps, charts, tabulations, summaries or abstracts, tape recordings, work sheets, any notes or writings pertaining to any meetings, oral or telephonic communication, surveys, graphs, statistics, tables, any computer printouts, computer software or code (whether in machine or human readable form on any medium), rules, regulations, opinions, orders, interpretations, guidelines, envelopes, all marginalia or stamped material, and also including, but not limited to, originals and all copies which are different in any way from the original whether by interlineations, receipt stamp, notations, indication of copies sent or received, or otherwise, and drafts, which are in your possession, custody or control, or in the possession, custody or control of your present or former agents,

representatives or attorneys, or any persons acting on your behalf, including documents at any time in the possession, custody or control of such individuals or entities known by you to exist. The word “document” also specifically includes electronically stored information (“ESI”), metadata, voicemail messages, e-mail communications and attachments.

7. The word “communication” shall mean and refer to any transmittal of information including correspondence, e-mail, telex, facsimile transmission, telecopy, recording in any medium of oral communication, telephone and message log, note or memorandum relating to written or oral communications, and any translation thereof.

8. The word “person” shall mean and refer to, without limitation, any natural person, corporation, partnership, association, sole proprietorship, cooperative or other entity.

9. The word “date” shall mean and refer to the exact date, month and year, if ascertainable, or if not, the best approximation (including a description of relationships to other events) with the indication that it is an approximation.

10. The words “description” or “describe” shall mean to provide a narrative, detailed and chronological history of the incident or events inquired about, including pertinent dates, identifying persons involved and identifying documents utilized or generated thereby.

11. The words “describe in detail” and “set forth the factual basis” shall mean: (a) to describe fully by reference to underlying facts rather than by ultimate facts or conclusions of facts or law; and (b) to particularize as to: (i) times, (ii) place, and (iii) manner.

12. The word “identify” when used with reference to an individual person shall mean to state his or her (a) full name (or, if not known, his or her job title or position and employer, or if no other identification is possible, provide a sufficient description so that he or she will be identifiable); (b) title; (c) present position and business affiliation; (d) the person whom he or she

was representing or acting for; (e) present (or last known, with indication of the date of that last knowledge) business address; and (f) present (or last known, with indication of the date of that last knowledge) residence address.

13. The word “identify” when used with reference to a document shall mean to: (a) state the type of document (e.g., memorandum, contract, letter, etc.); (b) set forth its date; (c) identify the author (and if different, the originator and signer); (d) set forth the title, heading or other designation, numerical or otherwise, of the document; (e) identify the person(s) (or if widely distributed, set forth the organization of classes of persons) to whom the document was sent; (f) set forth the present or last known location of the document; and (g) describe and set forth the substance of the document. Alternatively, you may identify the document by Bates number, if produced.

14. The word “identify” when used concerning any fact, information, source of information or reason, means to (a) describe the substance of the fact, information, source of information or reason; (b) identify every person who was the source of the information; (c) state whether any minutes, notes, memoranda, or other record of such fact, information, source of information or reason were made; (d) state whether such record now exists; and (e) identify the person presently having possession, custody, or control of each such record.

15. The words “relating to” and “concerning” shall mean, without limitation, in any way regarding, constituting, mentioning, referring to, discussing, describing, summarizing, evidencing, listing, indicating, relevant to, demonstrating, tending to prove or disprove, containing, reflecting, concerning, pertaining to, consisting of, constituting, analyzing, explaining, identifying, dealing with, or in any way logically or factually connected with the matter discussed.

16. The words “support,” “supports,” and “supporting” shall mean to establish or prove under a preponderance of the evidence standard.

17. The word “including” shall mean including without limitation.

18. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

19. All references to the singular shall include the plural, and all references to the plural shall include the singular.

20. A masculine, feminine, or neuter pronoun shall not exclude the other genders.

INSTRUCTIONS

1. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa.

2. Whenever appropriate, the conjunctive terms “and” and “or” should be interpreted either in the disjunctive or conjunctive as necessary to bring within the scope of this request any information which might otherwise be construed to be outside the scope.

3. Whenever appropriate, the use of any pronoun should be interpreted, as applicable, to refer to a female, male, or neuter.

4. The production requests that follow are to be regarded as continuing in that you have a duty to seasonably supplement your responses to these production requests. You are requested to provide, by way of answers thereto, such additional information or documents as you or any other person on your behalf may hereafter obtain which will augment or otherwise modify your answers now given to the production requests below.

5. If any information or documents responsive to the production requests below are withheld on the basis of a claim of privilege, set forth a statement detailing as to each item of information or document:

- (a) the name of the sender or the source, if any, of the documents or information;
- (b) the type of any document;
- (c) the name of the author of any document;
- (d) the name of any persons to whom the information was divulged or copies of the document were sent;
- (e) the date the information was communicated or the date of the document;
- (f) the date on which the information or document was received by all those having possession of the information or document;
- (g) a brief description of the nature and the subject matter of the information or document;
- (h) the nature of the privilege claimed;
- (i) attachments to any such document; and
- (j) the number of pages comprising any document.

6. If a document has been destroyed, lost or otherwise discarded, please state as to each such document:

- (a) the identity of the person who prepared it;
- (b) the identity of the person who signed it or over whose name it was issued;
- (b) the identity of each person to whom it was addressed, distributed, or copied;
- (c) the nature or substance of the document with sufficient particularity to enable it to be identified;

(d) its date, and, if it bears no date, the date when it was prepared; and

(e) its disposition (e.g., lost, destroyed, etc.).

DATA/DOCUMENT REQUESTS

1. All documents reviewed by you in the course of preparing your responses to these Data/Document Requests.

2. Identify all ICC employees who assisted in the preparation of this response. For each individual, provide the following:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

3. Identify all ICC employees who assisted in the prosecution of any citation, ticket, violations, etc. against Lincoln Towing in the past three years. For each individual, provide the following:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

4. Identify, in general, how the ICC decides to conduct a hearing on Fitness to hold Commercial Vehicle Relocator's License.

5. Identify why the ICC is conducting this hearing on Fitness to hold Commercial Vehicle Relocator's License against Lincoln Towing at this time.

6. Identify all ICC employees involved in the decision to conduct this hearing on Fitness to Hold Commercial Vehicle Relocator's License. For each person, please identify:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date

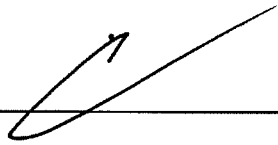
(f) Job Duties

7. Identify all third parties involved in the decision to conduct this hearing on Fitness to Hold Commercial Vehicle Relocator's License at this time. For each person, please identify:
 - (a) Name
 - (b) Date of Birth
 - (c) Job Title/Position
 - (d) Start Date
 - (e) End Date
 - (f) Job Duties
8. Identify, in general, whether there is a certain number of complaints that must be filed with the ICC in order for the ICC to conduct a Fitness to Hold Commercial Vehicle Relocator's License hearing.
9. Identify all communications between the Petitioner and Third Parties regarding Petitioner's allegations from year prior to the alleged incidents until present. If said communications are in writing please produce same.
10. Identify how many ICC violations Lincoln Towing, in Chicago, has been found guilty of in the last (3) three years.
11. Identify how many ICC violations Rendered Services, Inc., in Chicago, has been found guilty of in the last (3) three years.
12. Identify how many ICC violations A1 Citywide Towing, in Chicago, has been found guilty of in the last (3) three years.
13. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Protective Parking Service Corporation d/b/a Lincoln Towing for the last three (3) years.
14. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Rendered Services, Inc. in Chicago for the last three (3) years.
15. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to A1 Citywide Towing in Chicago for the last three (3) years.

16. Please provide copies of any and all documents Petitioner plans to use at any hearing, Fitness Hearing, trial or other proceeding related to this matter.
17. Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements, reports, speeches, etc. between and among any employees, administrators, police officers, staff of the ICC related to Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.
18. Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements, reports, speeches, etc. between the ICC and third parties related to Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.
19. Copies of any and all complaints, citations, grievances, criticisms, etc. filed by any third party against Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.
20. Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony.
21. Copies of any and all documents provided to or reviewed by any person whom you intend to call as a lay witness or expert witness at the trial of this case.
22. Copies of any and all reports, statements, correspondence, documents, or other memoranda prepared by or at the direction of any lay witness or expert witness.
23. Copies of any and all written reports and the curriculum vitae of each person whom you expect to call as an expert witness at trial.
24. The complete file of any expert, consultant, or opinion witness, including but not limited to all notes, diagrams, photographs or other documents prepared or reviewed by any consultant or expert witness in connection with this case and all drafts, working papers and documents generated by each witness whom you intend to call as an expert witness at the Fitness Hearing or trial in this matter.
25. Each publication or paper that was written or worked on by each expert witness whom you expect will be called to testify at trial on behalf of any party and which refers or relates to the opinions and subjects on which the witness is expected to testify.
26. Transcripts of any testimony (in this or any other matter) given by each expert witness whom you expect will be called to testify at the Fitness Hearing or trial of this matter.

27. Any document (obtained from any source whatsoever) that purports to be, or that you contend was, written, created and/or received by, for, or on behalf of any party to this matter, or any of their respective officers, agents, employees, successors, predecessors, subsidiaries, parent corporations, or any person you contend was acting on behalf of or with the authority of any party to this litigation, which in any way may be construed to be an admission binding on any party to this litigation.
28. All written or recorded statements, utterances or communication (whether written or oral, signed or unsigned, verbatim or narrative) of Petitioner, any witness, or the, Respondent or of any of their agents, representatives or employees, concerning the subject matter of this action.
29. All documents pertaining to any investigation related to the allegations in the Fitness Hearing or the Pleadings.
30. All photographs or videos pertaining to any investigation related to the issue of the Fitness Hearing or allegations made by the Illinois Commerce Commission or any Third Parties or in the Pleadings.
31. Any statements obtained related to any investigation related to the allegations in the above matter/Pleadings.

Respectfully submitted on behalf of:
Respondent, **PROTECTIVE PARKING
SERVICE CORPORATION**, an Illinois
Corporation d/b/a **LINCOLN TOWING
SERVICE**,



PERL & GOODSNYDER, LTD.
Allen Perl
Nick Strom
Attorneys for Respondent
14 N. Peoria Street Suite 2-C
Chicago, Illinois 60607
Attorney No. 39611
aperl@perlandgoodsnyder.com
nstrom@perlandgoodsnyder.com

ATTESTATION

State of Illinois)
)
County of _____)

_____, being first duly sworn on oath, deposes and states that he/she is authorized to attest to the foregoing data request on behalf of the Petitioner in the above captioned matter, that he/she has read the foregoing document, and the answers made herein are true, correct and complete to the best of his/her knowledge and belief.

SIGNATURE

Subscribed and Sworn to before me this ____ day of _____, 2016

NOTARY PUBLIC

EXHIBIT B



PERL & GOODSNYDER, LTD.

ATTORNEYS & COUNSELORS AT LAW

Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500
Fax: 312-243-0806
perlanguoodsnyder.com

May 20, 2016

SENT VIA ELECTRONIC MAIL

Jennifer Anderson

Illinois Commerce Commission
Office of Transportation Counsel
160 N. LaSalle Street, Suite C-800
Chicago, Illinois 60601
janderson@icc.illinois.gov

**Re: In re: Protective Parking Service Corporation d/b/a Lincoln Towing Service
92 RTV-R Sub 17; 100139 MC**

Jennifer,

I am in receipt of Staff's Answer to Protective Parking Service Corporation's Data Request dated May 9, 2016. This letter is written in an attempt to facilitate discovery under Ill. Admin. Code tit. 83, § 200.350, by making a reasonable attempts to resolve differences over discovery. The answers provided contain meritless objections, and the request response only produced two documents for thirty-one (31) total requests for documents.

In order to afford my client its constitutional due process, the Illinois Commerce Commission must produce additional documents for my firm to adequately defend our client in its hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401.

The first request sought documents reviewed in the course of preparing responses to these Data/Document requests. The objection given is that "this request would be unduly oppressive in that it would require substantial ICC Staff time to reproduce and apply redactions to, if necessary, voluminous records, including many records irrelevant to Docket # 92 RTV-R Sub 17." Your objection cites to a 1967 Illinois Supreme Court case discussing discovery in a case fifty (50) years ago, in which the trial court had abused its discretion in ordering production of records related to 5 model years when the complaint alleged facts concerning 1 model year. However, that case is unrelated to the present dispute. The hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 brings into relevance more records than the two documents that were turned over pursuant to this request, as the hearing is to ascertain whether my client observed the applicable statutes and regulations throughout a period of time beginning on October 1, 2014.



PERL & GOODSNYDER, LTD.

ATTORNEYS & COUNSELORS AT LAW

Furthermore, the answer addresses the “hundreds of thousands” of uncovered E-Mails containing generic search terms such as “Lincoln” that yield documents unrelated to my client. However, we believe that this may be alleviated by searching for “Lincoln” in all documents that also contain either of the words “tow,” “tows,” “towing,” “towings” “towed,” “parking,” “relocator,” “relocators,” “relocating,” “relocated,” “truck,” or “trucks.” In addition, we would be willing to enter into an agreed protective order in an effort to reduce the incalculable amount of time redacting documents.

Turning to the answers to Document Request Numbers 3 and 10, the answers objected to the time period of the request covering the past three years as irrelevant. Specifically, the answer provided that the Order entered setting the Docket # 92 RTV-R Sub 17 for hearing references an “unresolved police investigation pending at the time that Protective Parking Service Corporation’s license was last renewed, as well as the number of investigations opened and citations issued since the time of renewal: July 24, 2015.” Therefore, the response only disclosed matters since July 24, 2015. However, the aforementioned investigation, Illinois Commerce Commission Police Investigative Report, # 100139 MC, specifically reviewed records from as early as October 1, 2014. Therefore, we are requesting additional disclosure for all discovery requests from at least October 1, 2014 through the present. However, we feel that the requests and dates contained in our discovery are in fact reasonable, as it is relevant to show how many and what types of investigations/tickets have historically been pending and how many were pending during previous hearings in which Lincoln’s license was renewed.

The response to Request Numbers 4 and 5 were vague and merely provided the language of the statute regarding Expiration and Renewal from the Illinois Vehicle Code, as well as the regulation from the Illinois Administrative Code regarding the Policy on Applications. While the statute provides that the Commission may at any time make inquiry into the management, conduct of business, or otherwise to determine that the provisions of the Act and regulations are being observed, no description was actually provided, in either the staff response or the statute, regarding the process and procedure of how the ICC forms a decision on whether or not to conduct a particular hearing on Fitness to hold a Commercial Vehicle Relocator’s License. Please provide further description of how the decision was reached.

The objection to Request Numbers 11 and 12 are inapplicable. Request 11 was for the number of ICC violations of Rendered Services, Inc. in the past three (3) years, and Request 12 for the number of ICC violations for A-1 Citywide Towing in the past three (3) years. Staff objected to both requests as irrelevant to Protective Parking Service Corporation’s fitness to operate as a commercial vehicle relocator. However, Respondent’s fitness to operate as a Commercial Vehicle Relocator is directly related to Respondent’s compliance with the Illinois Vehicle Code and applicable regulations, relative to other Commercial Vehicle Relocators. Notwithstanding the aforementioned, records regarding Rendered Services, Inc. and A-1 Citywide Towing are not outside the scope of the outstanding FOIA request. Counsel for Respondent reserves the right to request additional documentation regarding this request at a later date.



PERL & GOODSNYDER, LTD.

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The answer to Request Numbers 13, 14, and 15 claimed it would be unduly burdensome to copy all of the documents, citations, and investigation files. As mentioned above, we would be willing to enter into an agreed protective order in an effort to reduce the incalculable amount of time redacting documents. Notwithstanding the aforementioned, we are still awaiting the spreadsheet referenced in your responses. Furthermore, I am not certain how the ICC could proceed in good faith with the Hearing, if they do not have this information to review for themselves.

The answer to Request Number 28 provides a copy of the February 24, 2016 Regular Open Meeting Minutes at which the Commission voted to set Docket # 92 RTV-R Sub 17 for hearing. On page 2, the minutes first reference and adopt the Transportation Minutes of the February 10, 2016 Regular Opening Meeting, which was not attached to this request. Thereafter, on page 3, the minutes reference Item AM-1, concerning setting the fitness hearing for Lincoln Towing. The minutes state that "there are both substantive and non-substantive edits to the proposed Order." No such Order, Proposed Order, nor any other records were turned over pursuant to this document request. Furthermore, no records or documents were provided regarding Item AM-1, the original text, the edited text, or any other records that were involved in the meeting.

The request specifically requested, "All written or recorded statements, utterances, or communication (whether written or oral, signed or unsigned, verbatim or narrative) of Petitioner, any witness, or the Respondent or of any of their agents, representatives or employees, concerning the subject matter of this action." In light of this request and the incomplete response, we would like a copy of the Order that was approved, as well as all of the documents referenced in the transcript, containing Item AM-1.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact my office.

Sincerely,

Allen R. Perl

EXHIBIT C

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re:	:	
	:	
Protective Parking Service Corporation	:	
d/b/a Lincoln Towing Service,	:	Docket No. 92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial	:	
Vehicle Relocator's License pursuant to	:	
Section 401 of the Illinois Commercial	:	
Relocation of Trespassing Vehicles Law,	:	
625 ILCS 5/18a-401.	:	

**STAFF'S THIRD ANSWER TO PROTECTIVE PARKING SERVICE
CORPORATION'S DATA REQUEST**

1. All documents reviewed by you in the course of preparing your responses to these Data/Document Requests.

Objection: response to this request would be unduly oppressive in that it would require substantial ICC Staff time to reproduce and apply redactions to, if necessary, voluminous records, including many records irrelevant to Docket # 92 RTV-R Sub 17. For example, on information and belief, initial scans by the Illinois Department of Central Management Services of ICC E-Mail Accounts, uncovered E-Mails in the hundreds of thousands containing generic search terms such as "Lincoln", which in the context of the E-Mail, may ultimately be unrelated to Protective Parking Service Corporation d/b/a Lincoln Towing Service. Efforts to comply with this Data Request and a simultaneously filed FOIA request by Protective Parking Service Corporation are ongoing, and placing a burden on the Staff of the Illinois Commerce Commission ("Staff") to produce copies of all documents reviewed by any Staff person or Staff counsel in the preparation of the answer to Protective Parking Service Corporation's is overly broad and would place an undue burden on Staff to spend an incalculable amount of time copying, redacting, and compiling documentation with potentially no meaningful relationship to Docket # 92 RTV-R Sub 17. See, e.g., *People ex rel. General Motors Corp. v. Bua*, 37 Ill. 2d 180, 193 (Ill. 1967)(trial court abused discretion in ordering production of records related to 5 model years of a vehicle when plaintiff's complaint alleged facts concerning only 1 model year, plaintiff failed to prove materiality of the records concerning other model years, and voluminous

production would involve substantial expense, labor, and business disruption).

2. Identify all ICC employees who assisted in the preparation of this response. For each individual, provide the following:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

Objection in part: Staff objects to the disclosure of dates of birth in response to this question. The dates of birth of any individuals disclosed in response to this question have no relevance or materiality to the fitness of Protective Parking Service Corporation to operate as a commercial vehicle relocater. Additionally, Staff objects to the use of the term "assisted" in this context as vague. Because the definitions to this data request do not provide a definition of the word "assisted" or "assisted in the preparation of", it is unclear to what degree of involvement a person would have to be involved in order for disclosure to be sought. That being said, within the ordinary dictionary meaning of the word "assisted", the following attorneys of the Office of Transportation Counsel consulted concerning the preparation of this response, and thus are being disclosed.

Answer:

Jennifer Anderson

Technical Advisor II

January 3, 2011 – Present

Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division

Steven Matrisch

Chief Counsel, Transportation Division;

Bureau Chief, Transportation Division;

Deputy Executive Director

December 16, 1998 - Present

Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division as well as Human Resources and Fiscal Section. Manage the Transportation Bureau, Office of Human Resources, Information Technology Services, and Fiscal Section of the Illinois Commerce Commission.

3. Identify all ICC employees who assisted in the prosecution of any citation, ticket,

violations, etc. against Lincoln Towing in the past three years. For each individual, provide the following:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

Objection in part: Staff objects to the disclosure of dates of birth in response to this question. The dates of birth of any individuals disclosed in response to this question have no relevance or materiality to the fitness of Protective Parking Service Corporation to operate as a commercial vehicle relocater. Staff objects to the time period of the request covering the past "three years" as irrelevant. The Order entered setting Docket # 92 RTV-R Sub 17 for hearing references an unresolved police investigation pending at the time that Protective Parking Service Corporation's license was last renewed, as well as the number of investigations opened and citations issued since the time of renewal: July 24, 2015. Additionally, Staff objects to the use of the term "assisted" in this context as vague. Because the definitions to this data request do not provide a definition of the word "assisted" or "assisted in the preparation of", it is unclear to what degree of involvement in the hearing process of administrative citations a person would have to be involved in order for disclosure to be sought. That being said, within the ordinary dictionary meaning of the word "assisted", the following attorneys of the Office of Transportation Counsel consulted at some point since July 24, 2015 concerning administrative citations, and thus are being disclosed. Additionally, the following officers and investigators of the Illinois Commerce Commission Police Department were involved in one or more traffic stops or investigations of consumer complaints that resulted in the issuance of administrative citations since July 24, 2015, and thus are being disclosed.

Answer:

Jennifer Anderson

Technical Advisor II

January 3, 2011 – Present

Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division

Steven Matrisch

Chief Counsel, Transportation Division;

Bureau Chief, Transportation Division;

Deputy Executive Director

December 16, 1998 - Present

Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division as well as Human Resources and Fiscal Section. Manage the Transportation

Bureau, Office of Human Resources, Information Technology Services, and Fiscal Section of the Illinois Commerce Commission.

Katarzyna Kowalska

Technical Advisor II

May 16, 2011 - Present

Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division

Tim Sulikowski

Interim Sergeant

July 9, 2012 – Present

Illinois Commerce Commission Police sergeant with supervisory responsibility for day-to-day supervision of Illinois Commerce Commission Police staff at the Des Plaines, Illinois office.

John Geisbush

Commerce Commission Police Officer I

July 9, 2012 – Present

Illinois Commerce Commission Police officer

Brian Strand

Commerce Commission Police Officer I

July 9, 2012 – Present

Illinois Commerce Commission Police officer

James Carlson

Transportation Investigator II

January 2, 2002 – Present

Illinois Commerce Commission Police investigator for relocation towing matters

Scott Kassal

Transportation Investigator II

July 1, 1996 – Present

Illinois Commerce Commission Police investigator for relocation towing matters

4. Identify, in general, how the ICC decides to conduct a hearing on Fitness to hold Commercial Vehicle Relocator's License.

Staff's decision to recommend a matter for a fitness hearing is based on the following

statutory and regulatory language:

(625 ILCS 5/18a-401) (from Ch. 95 1/2, par. 18a-401)

Sec. 18a-401. Relocator's licenses - Expiration and renewal. All relocator's licenses shall expire 2 years from the date of issuance by the Commission. The Commission may temporarily extend the duration of a license for the pendency of a renewal application until formally approved or denied. Upon filing, no earlier than 90 days nor later than 45 days prior to such expiration, of written application for renewal, verified under oath, in such form and containing such information as the Commission shall by regulation require, and accompanied by the required application fee and proof of security, the Commission shall, unless it has received information of cause not to do so, renew the license. If the Commission has information of cause not to renew such license, it shall so notify the applicant, and shall hold a hearing as provided for in Section 18a-400. The Commission may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed. (Source: P.A. 82-616.)

92 III. Adm. Code 1710.22 Policy on Applications

a) Relocator's Licenses.

1) The Commission shall consider, with regard to applications for new or renewed relocator's licenses, the criminal conviction records (see Section 1710.22(b)(1)) of the applicant, its owners or controllers, directors, officers, members, managers, employees and agents; the safety record of those persons; the compliance record of those persons; the equipment, facilities and storage lots of the applicant; and other facts that may bear on their fitness to hold the license.

2) The Fitness Test.

A) No person shall be deemed fit to hold a relocator's license unless the person:

i) Owns, or has exclusive possession of under a written lease with a term of at least 1 year, at least one storage lot that meets the requirements of Subpart M;

ii) Employs sufficient full-time employees at each storage lot to comply with Section 1710.123;

iii) Owns or has under exclusive lease at least 2 tow trucks dedicated to use under the relocator's license;

- iv) **Employs at least 2 individuals who will work as the relocator's operators; and**
 - v) **Is in compliance with Section 4 of the Illinois Workers' Compensation Act [820 ILCS 305/4].**
- B) If the person is an applicant for a new relocator's license or the extension of a relocator's license, the requirements of subsection (a)(2)(A) must be met at the time of the hearing.**
- C) If the person is an applicant for renewal of a relocator's license, the requirements of subsection (a)(2)(A) must have been met throughout the previous year.**
- D) Each applicant for a relocator's license shall have the burden of proving its fitness by clear and convincing evidence.**
- b) Operator's and Dispatcher's Employment Permits.**
- 1) The Commission shall consider, with regard to applications for new or renewed operator's and dispatcher's employment permits, any record of the applicant of convictions involving injury or death to persons, use of a deadly weapon, injury to property, or unlawful taking of property; crimes relevant to the determination of the credibility of a witness; or of violation of the Law or this Part.**
 - 2) No provisional employment permits shall be issued to persons who have been convicted of crimes specified in subsection (b)(1) within the 5 year period preceding filing of the application, or to persons who are defendants in pending criminal proceedings involving those crimes. The Commission may deny a provisional employment permit to any person with a record of violations of the Law or this Part. In determining whether to deny a provisional employment permit on the basis of violations of the Law or this Part, the Commission will consider such factors as the type of violation, when the violation occurred, and the age of the applicant at the time of the violation. The Commission may also deny a provisional employment permit on the basis of the applicant's criminal or driving record, in the case of an application for a provisional operator's employment permit, or on the basis of the applicant's criminal record, in the case of an application for a provisional dispatcher's employment permit. In determining whether to deny a provisional employment permit on the basis of a criminal or driving record, the Commission will consider such factors as the**

type of crime, when the crime occurred, and the age of the applicant at the time of the incident.

- 3) When the applicant has a record of convictions for crimes specified in subsection (b)(1), or the applicant was convicted for those crimes, or the applicant was convicted more than 5 years prior to filing the application, or the applicant has a record of violations of the Law or this Part, the application for a permanent employment permit shall be set for hearing.
 - 4) Applications for operator's employment permits shall be accompanied by written proof from the Secretary of State that the applicant has a valid driver's license.
 - 5) No person under the age of 18 years shall be issued an operator's employment permit.
 - 6) A spotter must obtain a dispatcher's or operator's employment permit prior to performing spotting services for a relocater.
- c) In making the finding that an applicant previously convicted constitutes no threat to public safety (see 625 ILCS 5/18a-404(c)), the Commission will consider such factors as the findings of the convicting court, the sentence imposed, the age of the applicant at the time of conviction, the age at the time of application, the nature of the arrest, and the length of time since the arrest that resulted in the conviction.

(Source: Amended at 34 Ill. Reg. 18470, effective January 1, 2011)

5. Identify why the ICC is conducting this hearing on Fitness to hold Commercial Vehicle Relocator's License against Lincoln Towing at this time.

Staff's decision to recommend a matter for a fitness hearing at this time is based on the following statutory language:

(625 ILCS 5/18a-401) (from Ch. 95 1/2, par. 18a-401)
Sec. 18a-401. Relocator's licenses - Expiration and renewal. All relocater's licenses shall expire 2 years from the date of issuance by the Commission. The Commission may temporarily extend the duration of a license for the pendency of a renewal application until formally approved or denied. Upon filing, no earlier than 90 days nor later than 45 days prior to such expiration, of written application for renewal, verified under oath, in such form and containing such information as the Commission shall by regulation require, and accompanied by the required application fee and proof of security, the Commission shall, unless it has received information of cause not to do so, renew the license. If the Commission has information of cause not to renew such license, it shall so notify the applicant, and shall hold a hearing as provided for in Section 18a-400. The Commission

may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed.
(Source: P.A. 82-616.)(emphasis added)

6. Identify all ICC employees involved in the decision to conduct this hearing on Fitness to Hold Commercial Vehicle Relocator's License. For each person, please identify:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

Objection in part: Staff objects to the disclosure of dates of birth in response to this question. The dates of birth of any individuals disclosed in response to this question have no relevance or materiality to the fitness of Protective Parking Service Corporation to operate as a commercial vehicle relocater.

Answer:

Jennifer Anderson
Technical Advisor II
January 3, 2011 – Present
Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division

Steven Matrisch
Chief Counsel, Transportation Division;
Bureau Chief, Transportation Division;
Deputy Executive Director
December 16, 1998 - Present
Provide legal services to the Staff of the Illinois Commerce Commission, Transportation Division as well as Human Resources and Fiscal Section. Manage the Transportation Bureau, Office of Human Resources, Information Technology Services, and Fiscal Section of the Illinois Commerce Commission.

Kim Castro
Chief of Police
May 27, 2015 – April 7, 2016
Chief of Illinois Commerce Commission Police Department. Responsible for direct or indirect supervision of, management, and administration for all Illinois Commerce Commission Police Staff.

7. Identify all third parties involved in the decision to conduct this hearing on Fitness to Hold Commercial Vehicle Relocator's License at this time. For each person, please identify:

- (a) Name
- (b) Date of Birth
- (c) Job Title/Position
- (d) Start Date
- (e) End Date
- (f) Job Duties

Answer:

None

8. Identify, in general, whether there is a certain number of complaints that must be filed with the ICC in order for the ICC to conduct a Fitness to Hold Commercial Vehicle Relocator's License hearing.

Answer:

There is no certain number.

9. Identify all communications between the Petitioner and Third Parties regarding Petitioner's allegations from year prior to the alleged incidents until present. If said communications are in writing please produce same.

Objection: Staff objects to this request as vague. The phrase "Petitioner's allegations from year prior to the alleged incidents until present" is unclear as to time period and content of communications. Additionally, Staff objects to this request as overly broad and burdensome because the language implies that verbal communications not reduced to writing are to be identified in the response. On information and belief, there are approximately 200 employees at the Illinois Commerce Commission. Based on the definition of the term "Petitioner" contained within this Data Request shall mean and refer to "... the ILLINOIS COMMERCE COMMISSION ("ICC"), including its agents and any person or entity acting under its control or on its behalf." This term is so broad that it would include not only Staff, but also the Administrative Law Judges, Chairman, Commissioners, and their respective assistants. The breadth of this request is overly broad and burdensome in that it would require Staff counsel to interview every single person who works at the Commission to determine whether any oral communications took place, and further assumes that the person being interviewed would remember any oral conversations not reduced to writing. The time that would be required to conduct such interviews would require significant Staff time and would impair the function of the

Transportation Division. Additionally, because the breadth of the term "Petitioner" appears to include Administrative Law Judges, the Chairman, Commissioners, and their respective assistants, the conduct of these interviews would run afoul of 83 Ill. Adm. Code 200.710 concerning ex parte communications between Staff counsel and those involved in the decision making process concerning this docket.

Additionally, Staff objects to this request as unduly burdensome because after obtaining the assistance of CMS and the Illinois Department of Innovation & Technology with running multiple searches through the Commission's E-mail accounts, even after applying narrowed-down search terms in an attempt to reduce the scope of the search based on language that you provided to the Commission in a letter dated June 14, 2016, there are still approximately 20,021 E-mails with respect to Protective Parking Service Corporation, Rendered Services, Inc., and A-1 Citywide Towing & Relocation, Inc. The production of these E-mails will nevertheless unduly burden the operations of the Commission. If all three staff attorneys in the Office of Transportation Counsel ("OTC") devoted their entire work days to reviewing and redacting the E-mails, estimating an average of 7 minutes for reviewing and redacting per E-mail, it would take approximately 359 days to review and redact these messages. This would substantially impede the function of the Transportation Division of the Commission, as these attorneys have other duties and responsibilities which include but are not limited to representing staff at administrative hearings, prosecuting administrative citations, reviewing investigation files, negotiating settlements, reviewing responses to FOIA requests, providing legal advice to Staff, responding to inquiries from the public and other governmental agencies, etc. Estimating on average of 7 minutes for reviewing and redacting per E-mail, it will take approximately 334 days to review and redact 20,021 E-mail messages. Assuming all three staff attorneys would work on nothing else but reviewing and redacting the E-mails, the OTC would have to completely cease performing its every day functions for approximately four months.

10. Identify how many ICC violations Lincoln Towing, in Chicago, has been found guilty of in the last (3) three years.

Objection in part: Staff objects to this request as overly broad in that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket # 92 RTV-R Sub 15.

Answer:

Since July 18, 2013, Protective Parking Service Corporation has had a monetary penalty imposed with respect to 66 administrative citations, including voluntary payments, with or without admission of guilt, and adjudications on the merits.

11. Identify how many ICC violations Rendered Services, Inc., in Chicago, has been found guilty of in the last (3) three years.

Objection: Staff objects to this request as irrelevant to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater.

Answer:

Since July 18, 2013, Rendered Services, Inc. has had a monetary penalty imposed with respect to 185 administrative citations, including voluntary payments, with or without admission of guilt, and adjudications on the merits.

12. Identify how many ICC violations Al Citywide Towing, in Chicago, has been found guilty of in the last (3) three years.

Objection: Staff objects to this request as irrelevant to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater.

Answer:

Since May 15, 2014, A-1 Citywide Towing and Relocation, Inc. has had a monetary penalty imposed with respect to 16 administrative citations, including voluntary payments, with or without admission of guilt, and adjudications on the merits.

13. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Protective Parking Service Corporation d/b/a Lincoln Towing for the last three (3) years.

Objection: Staff objects to this request as vague due to the use of the phrase "claimed violation". It is unclear whether the question is seeking only the listed records with respect to actual violations alleged by Staff in the form of an administrative citation, civil penalty investigation, or other legal instrument, or whether it also seeks information concerning violations alleged by members of the public which may not have resulted in any enforcement action being taken. Additionally, Staff objects to this request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly administrative citations and investigation files containing correspondence, which routinely contain personal information of drivers or members of the public exempt from disclosure. Furthermore, Staff objects to the time period of the request as overly broad in that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket # 92 RTV-R Sub 15.

Answer: See the attached spreadsheet provided in response to Protective Parking Service Corporation's April 5, 2016 FOIA request.

14. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to Rendered Services, Inc. in Chicago for the last three (3) years.

Objection: Staff objects to this request as irrelevant to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. Additionally, Staff objects to this request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly administrative citations and investigation files containing correspondence, which routinely contain personal information of drivers or members of the public exempt from disclosure.

Answer: See the attached spreadsheet provided in response to Protective Parking Service Corporation's April 5, 2016 FOIA request.

15. Copies of any and all tickets, citations, notices, violations, administrative orders, administrative rulings or other correspondence, concerning any violation, claimed violation or penalty issued to A1 Citywide Towing in Chicago for the last three (3) years.

Objection: Staff objects to this request as irrelevant to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. Additionally, Staff objects to this request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly administrative citations and investigation files containing correspondence, which routinely contain personal information of drivers or members of the public exempt from disclosure.

Answer: See the attached spreadsheet containing information concerning A-1 Citywide Towing & Relocation, Inc.'s citations that corresponds to the information provided in response to the April 5, 2016 FOIA request that was limited to Protective Parking Service Corporation and Rendered Services, Inc.

16. Please provide copies of any and all documents Petitioner plans to use at any hearing, Fitness Hearing, trial or other proceeding related to this matter.

Answer: Hearing exhibits have not been prepared at this time. Staff counsel does not anticipate having prepared exhibits until after review of Protective Parking Service Corporation's Response to Staff's Data Request. Staff will provide Protective Parking Service Corporation with all proposed hearing exhibits in advance of the hearing as it will be ordered to by the Administrative Law Judge.

17. Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements,

reports, speeches, etc. between and among any employees, administrators, police officers, staff of the ICC related to Lincoln Towing, Rendered Services, Inc. in Chicago and AI Citywide Towing in Chicago for the last three (3) years.

Objection: Staff objects to this request as irrelevant in so far as it requests copies of correspondence not related to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. The way this request is worded, it seeks a response that would include correspondence identifying Protective Parking Service Corporation not in the context of an enforcement or licensing manner, as well as correspondence concerning two separate relocators, which are not relevant to Protective Parking Service Corporation's fitness. The burden to track down every written document or electronic record between and among any employees, administrators, police officers, and Staff of the ICC related to these three relocators would take an incalculable number of Staff hours.

Additionally, Staff objects to this request as unduly burdensome because after obtaining the assistance of CMS and the Illinois Department of Innovation & Technology with running multiple searches through the Commission's E-mail accounts, even after applying narrowed-down search terms in an attempt to reduce the scope of the search based on language that you provided to the Commission in a letter dated June 14, 2016, there are still approximately 20,021 E-mails with respect to Protective Parking Service Corporation, Rendered Services, Inc., and A-1 Citywide Towing & Relocation, Inc. The production of these E-mails will nevertheless unduly burden the operations of the Commission. If all three staff attorneys in the Office of Transportation Counsel ("OTC") devoted their entire work days to reviewing and redacting the E-mails, estimating an average of 7 minutes for reviewing and redacting per E-mail, it would take approximately 359 days to review and redact these messages. This would substantially impede the function of the Transportation Division of the Commission, as these attorneys have other duties and responsibilities which include but are not limited to representing staff at administrative hearings, prosecuting administrative citations, reviewing investigation files, negotiating settlements, reviewing responses to FOIA requests, providing legal advice to Staff, responding to inquiries from the public and other governmental agencies, etc. Estimating on average of 7 minutes for reviewing and redacting per E-mail, it will take approximately 334 days to review and redact 20,021 E-mail messages. Assuming all three staff attorneys would work on nothing else but reviewing and redacting the E-mails, the OTC would have to completely cease performing its every day functions for approximately four months.

18. Copies of any and all correspondence, communication, email, text message, facsimile, messages, letters, posts, memorandum, announcements, statements, reports, speeches, etc. between the ICC and third parties related to Lincoln Towing, Rendered Services, Inc. in Chicago and AI Citywide Towing in Chicago for the last three (3) years.

Objection: Staff objects to this request as irrelevant in so far as it requests copies of

correspondence to third parties not related to Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. The way this request is worded, it seeks a response that would include correspondence identifying Protective Parking Service Corporation not in the context of an enforcement or licensing manner, as well as correspondence concerning two separate relocators, which are not relevant to Protective Parking Service Corporation's fitness. The burden to track down every written document or electronic record between and among any employees, administrators, police officers, and Staff of the ICC related to these three relocators would take an incalculable number of Staff hours.

Additionally, Staff objects to this request as unduly burdensome because after obtaining the assistance of CMS and the Illinois Department of Innovation & Technology with running multiple searches through the Commission's E-mail accounts, even after applying narrowed-down search terms in an attempt to reduce the scope of the search based on language that you provided to the Commission in a letter dated June 14, 2016, there are still approximately 20,021 E-mails with respect to Protective Parking Service Corporation, Rendered Services, Inc., and A-1 Citywide Towing & Relocation, Inc. The production of these E-mails will nevertheless unduly burden the operations of the Commission. If all three staff attorneys in the Office of Transportation Counsel ("OTC") devoted their entire work days to reviewing and redacting the E-mails, estimating an average of 7 minutes for reviewing and redacting per E-mail, it would take approximately 359 days to review and redact these messages. This would substantially impede the function of the Transportation Division of the Commission, as these attorneys have other duties and responsibilities which include but are not limited to representing staff at administrative hearings, prosecuting administrative citations, reviewing investigation files, negotiating settlements, reviewing responses to FOIA requests, providing legal advice to Staff, responding to inquiries from the public and other governmental agencies, etc. Estimating on average of 7 minutes for reviewing and redacting per E-mail, it will take approximately 334 days to review and redact 20,021 E-mail messages. Assuming all three staff attorneys would work on nothing else but reviewing and redacting the E-mails, the OTC would have to completely cease performing its every day functions for approximately four months.

19. Copies of any and all complaints, citations, grievances, criticisms, etc. filed by any third party against Lincoln Towing, Rendered Services, Inc. in Chicago and A1 Citywide Towing in Chicago for the last three (3) years.

Objection: Staff objects to this request as irrelevant and unduly burdensome. Based on the wording of this request, it appears it seeks in response copies of all consumer complaints received against three relocators for a three year period, regardless of whether the consumer complaint resulted in an enforcement action or the entry of a penalty against the relocater. In so far as it seeks such records concerning Rendered Services, Inc. or A-1 Citywide Towing, the request seeks irrelevant information, as the consumer complaints will not have bearing on Protective Parking Service Corporation's fitness to operate as a commercial vehicle relocater. Additionally, Staff objects to this

request as unduly burdensome. An incalculable number of Staff hours would be required to copy all of these documents, particularly as investigation files routinely contain personal information of drivers or members of the public exempt from disclosure. Furthermore, Staff objects to the time period of the request as overly broad in that the past three year time period encompasses a range of time in which the Commission already evaluated Protective Parking Service Corporation's fitness in Docket # 92 RTV-R Sub 15.

Answer: See the attached spreadsheet provided in response to Protective Parking Service Corporation's April 5, 2016 FOIA request.

20. Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony.

Answer:

Staff is unable to identify all witnesses that it intends to call at this time, as it has not yet received and reviewed a response from Protective Parking Service Corporation to its Data Request. Staff will supplement this response as additional witnesses are added or if the scope of identified witnesses' testimony is anticipated to change. That being said, as of the date of this response, Staff intends to call the following witnesses:

(i) Tim Sulikowski

(ii) Interim Sergeant

July 9, 2012 – Present

Illinois Commerce Commission Police sergeant with supervisory responsibility for day-to-day supervision of Illinois Commerce Commission Police staff at the Des Plaines, Illinois office. Will testify as to Staff review of Protective Parking Service Corporation's response to Staff's Data Request.

(i) John Geisbush

(ii) Commerce Commission Police Officer I

July 9, 2012 – Present

Illinois Commerce Commission Police officer. Will testify as to his findings in Commission Police Investigation # 15-0088.

21. Copies of any and all documents provided to or reviewed by any person whom you intend to call as a lay witness or expert witness at the trial of this case.

Answer:

Staff is unable to identify all documents provided to or reviewed by its witnesses at this time, as it has not yet finalized a witness list. Staff will supplement this response as

additional witnesses are added or if the scope of documents provided to or reviewed by any intended witness in this case changes. That being said, as of the date of this response, Staff is providing a copy of Commission Police Investigation # 15-0088, which was reviewed by Officer John Geisbush.

22. Copies of any and all reports, statements, correspondence, documents, or other memoranda prepared by or at the direction of any lay witness or expert witness.

Answer:

Staff is providing a copy of the following Commission Police Investigations prepared by Officer John Geisbush: 15-0088, 15-0798, 15-0835, 15-0876, 15-0929, 15-0943, 15-0969, 15-1013, 15-1030, 15-1145, 15-1181, 15-1196, 15-1228, 15-1240, 15-1260, 15-1285, 15-1293, 15-1303, 16-0006, 16-0023, 16-0060, 16-0061, 16-0077, 16-0153, 16-0170, 16-0176, 16-0184, 16-0185, 16-0187, 16-0197, 16-0220, 16-0228, 16-0229, 16-0266

23. Copies of any and all written reports and the curriculum vitae of each person whom you expect to call as an expert witness at trial.

Answer:

Staff does not intend to call expert witnesses.

24. The complete file of any expert, consultant, or opinion witness, including but not limited to all notes, diagrams, photographs or other documents prepared or reviewed by any consultant or expert witness in connection with this case and all drafts, working papers and documents generated by each witness whom you intend to call as an expert witness at the Fitness Hearing or trial in this matter.

Answer:

Staff does not intend to call expert witnesses.

25. Each publication or paper that was written or worked on by each expert witness whom you expect will be called to testify at trial on behalf of any party and which refers or relates to the opinions and subjects on which the witness is expected to testify.

Answer:

Staff does not intend to call expert witnesses.

26. Transcripts of any testimony (in this or any other matter) given by each expert witness whom you expect will be called to testify at the Fitness Hearing or trial of this

matter.

Answer:

Staff does not intend to call expert witnesses.

27. Any document (obtained from any source whatsoever) that purports to be, or that you contend was, written, created and/or received by, for, or on behalf of any party to this matter, or any of their respective officers, agents, employees, successors, predecessors, subsidiaries, parent corporations, or any person you contend was acting on behalf of or with the authority of any party to this litigation, which in any way may be construed to be an admission binding on any party to this litigation.

Answer:

None.

28. All written or recorded statements, utterances or communication (whether written or oral, signed or unsigned, verbatim or narrative) of Petitioner, any witness, or the Respondent or of any of their agents, representatives or employees, concerning the subject matter of this action.

Objection in part: Staff objects to this request as overly broad and burdensome because the language implies that verbal communications not reduced to writing are to be identified in the response. On information and belief, there are approximately 200 employees at the Illinois Commerce Commission. Based on the definition of the term "Petitioner" contained within this Data Request shall mean and refer to ". . . the ILLINOIS COMMERCE COMMISSION ("ICC"), including its agents and any person or entity acting under its control or on its behalf." This term is so broad that it would include not only Staff, but also the Administrative Law Judges, Chairman, Commissioners, and their respective assistants. The breadth of this request is overly broad and burdensome in that it would require Staff counsel to interview every single person who works at the Commission to determine whether any oral communications took place, and further assumes that the person being interviewed would remember any oral utterances or communication not reduced to writing. The time that would be required to conduct such interviews would require significant Staff time and would impair the function of the Transportation Division. Additionally, because the breadth of the term "Petitioner" appears to include Administrative Law Judges, the Chairman, Commissioners, and their respective assistants, the conduct of these interviews would run afoul of 83 Ill. Adm. Code 200.710 concerning ex parte communications between Staff counsel and those involved in the decision making process concerning this docket. Furthermore, the follow-up request from Protective Parking Service Corporation dated May 20, 2016 seeking draft versions of the Commission's Order setting docket 92 RTV-R Sub 17 for hearing are likely protected by attorney-client and work product privileges. Staff additionally objects to the

request in so far as it asks for Staff to produce statements made by Protective Parking Service Corporation, its agents, representatives, or employees, as Staff is not in possession or control of such statements.

Answer:

Staff is providing a copy of the February 24, 2016 Regular Open Meeting Minutes at which the Commission voted to set Docket # 92 RTV-R Sub 17 for hearing.

Staff is also providing a copy of the February 10, 2016 Regular Open Meeting Minutes, which were approved at the February 24, 2016 Regular Open Meeting.

29. All documents pertaining to any investigation related to the allegations in the Fitness Hearing or the Pleadings.

Answer:

Staff is providing a copy of Commission Police Investigation # 15-0088, which was prepared by Officer John Geisbush. See also copies of the following investigation files, opened between July 24, 2015 and March 22, 2016 that resulted in the issuance of administrative citations: 15-0763, 15-0798, 15-0808, 15-0809, 15-0815, 15-0835, 15-0850, 15-0876, 15-0893, 15-0906, 15-0918, 15-0929, 15-0930, 15-0942, 15-0943, 15-0950, 15-0957, 15-0963, 15-0969, 15-0982, 15-0999, 15-1000, 15-1009, 15-1013, 15-1030, 15-1032, 15-1037, 15-1045, 15-1053, 15-1066, 15-1093, 15-1120, 15-1127, 15-1135, 15-1145, 15-1181, 15-1185, 15-1187, 15-1196, 15-1218, 15-1228, 15-1229, 15-1235, 15-1239, 15-1240, 15-1260, 15-1261, 15-1275, 15-1278, 15-1285, 15-1293, 15-1294, 15-1296, 15-1299, 15-1303, 15-1307, 16-0006, 16-0023, 16-0038, 16-0039, 16-0041, 16-0053, 16-0059, 16-0060, 16-0061, 16-0064, 16-076, 16-0077, 16-0088, 16-0094, 16-0095, 16-0123, 16-0130, 16-0147, 16-0152, 16-0153, 16-0157, 16-0170, 16-0184, 16-0185, 16-0186, 16-0187, 16-0197, 16-0220, 16-0228, 16-0229, 16-0266.

30. All photographs or videos pertaining to any investigation related to the issue of the Fitness Hearing or allegations made by the Illinois Commerce Commission or any Third Parties or in the Pleadings.

Answer:

See photographs in copies of the following investigation files, opened between July 24, 2015 and March 22, 2016 that resulted in the issuance of administrative citations: 15-0763, 15-0798, 15-0808, 15-0809, 15-0815, 15-0835, 15-0850, 15-0876, 15-0893, 15-0906, 15-0918, 15-0929, 15-0930, 15-0942, 15-0943, 15-0950, 15-0957, 15-0963, 15-0969, 15-0982, 15-0999, 15-1000, 15-1009, 15-1013, 15-1030, 15-1032, 15-1037, 15-1045, 15-1053, 15-1066, 15-1093, 15-1120, 15-1127, 15-1135, 15-1145, 15-1181, 15-1185, 15-1187, 15-1196, 15-1218, 15-1228, 15-1229, 15-1235, 15-1239, 15-1240, 15-1260, 15-1261, 15-1275, 15-1278, 15-1285, 15-1293, 15-1294, 15-1296, 15-1299, 15-

1303, 15-1307, 16-0006, 16-0023, 16-0038, 16-0039, 16-0041, 16-0053, 16-0059, 16-0060, 16-0061, 16-0064, 16-076, 16-0077, 16-0088, 16-0094, 16-0095, 16-0123, 16-0130, 16-0147, 16-0152, 16-0153, 16-0157, 16-0170, 16-0184, 16-0185, 16-0186, 16-0187, 16-0197, 16-0220, 16-0228, 16-0229, 16-0266.

31. Any statements obtained related to any investigation related to the allegations in the above matter/Pleadings.

Objection: Staff objects to this request as vague. The request is unclear as to what constitutes a statement. The phrase "the allegations in the above matter/Pleadings" is also unclear. This request appears to be duplicative of request # 29, which asks for copies of investigations.

Respectfully submitted,

Staff of the Illinois Commerce Commission

By: 

Jennifer Anderson

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janderso@icc.illinois.gov

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re:


Protective Parking Service Corporation
d/b/a Lincoln Towing Service,
Respondent.

Docket No. 92 RTV-R Sub 17
100139 MC

Hearing on fitness to hold a Commercial
Vehicle Relocator's License pursuant to
Section 401 of the Illinois Commercial
Relocation of Trespassing Vehicles Law,
625 ILCS 5/18a-401.

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached **STAFF'S THIRD ANSWER TO PROTECTIVE PARKING SERVICE CORPORATION'S DATA REQUEST** was E-Mailed to counsel of record, Allen Perl, on September 21, 2016.



Jennifer Anderson

EXHIBIT 2

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator’s License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

REPLY IN SUPPORT OF RESPONDENT’S MOTION TO COMPEL DISCOVERY

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant to Sections 200.190 and 200.370 of the Illinois Commerce Commission (“Commission”) Rules of Practice (“Rules”), 83 Ill. Adm. Code 200.10 *et seq.*, hereby replies to the Staff of the Illinois Commerce Commission’s (“Staff”) Response to Respondent’s Motion to Compel Discovery (“Staff’s Response”), and respectfully requests that the Administrative Law Judge issue a ruling compelling the Staff to answer and respond to all outstanding discovery. In support of its motion, Respondent states as follows:

1. Staff initiated the instant Hearing on fitness to hold a Commercial Vehicle Relocator’s License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (the “Fitness Hearing”) by drafting a Memorandum addressed to the Commission on February 19, 2016, a copy of which is attached hereto as Exhibit A.

2. The Memorandum states that on July 8, 2015, the Commission entered an order granting renewal of Respondent's commercial vehicle relocater license; that Respondent subsequently completed further administrative steps necessary to complete the renewal; and that the license was ultimately issued on July 24, 2015, and set to expire on July 24, 2017. Exhibit A.
3. Thereafter, the Memorandum explains that the Commission Police Department had opened a total of 166 investigations into Respondent's relocation towing operations *subsequent* to the issuance of the renewed license on July 24, 2015, but details that fifty-four (54) of these had already been dismissed for lack of jurisdiction, a finding of no violation, or resolution with the motorist. Only 28 of the 166 investigations resulted in the issuance of administrative citations. *Id.*
4. Notwithstanding the aforementioned investigations, the Memorandum continues to discuss 92 pending administrative citations, but explains to the Commission that the vast majority of the pending administrative citations were for incomplete or inaccurate tow invoice and alleged signage-related violations, which total 41 out of the 92 pending citations. *Id.*
5. After that, Staff's Memorandum turns to a particular investigation, Commission Police Investigation # 15-0088, which contains allegations from the time period between October 15, 2014 and November 23, 2014, well before the issuance of a license on July 24, 2015 or the July 8, 2016 Commission order, granting the renewal of Respondent's license. *Id.*
6. According to the Memorandum, "Although the administrative citations themselves are in the process of being resolved through an administrative hearing procedure before the Commission's administrative law judge, and Investigation # 15-0088 has not yet reached a final disposition, . . . Staff recommends that License 92 RTV-R [of Respondent] be set for a fitness hearing as provided for [by statute]." *Id.*

7. Pursuant to Staff's Memorandum, on February 24, 2016, the Commission set the matter for hearing, specifically citing Investigation # 15-0088 and the pending citations referenced in the Memorandum, as set forth in the Order, attached hereto as Exhibit B.
8. However, once the Hearing was initiated, Staff refused to respond to standard discovery requests such as, for example, a request for "All documents reviewed by you in the course of preparing your responses to these Data/Document Requests."
9. Staff must bear the burden to answer discovery and inform Respondent of the basis of its allegations and the nature of its complaint, as it would violate Respondent's constitutional due process right if its license were revoked without a fair hearing on the merits.
10. "Suspension of issued licenses . . . involves state action that adjudicates important interests of the licensees. In such cases the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment." *Dixon v. Love*, 431 U.S. 105, 112 (1977) (citing *Bell v. Burson*, 402 U.S., at 539, 91 S.Ct., at 1589).
11. Furthermore, the hearing required by the Due Process Clause must be "meaningful," and "appropriate to the nature of the case." *Bell v. Burson*, 402 U.S. 535, 541-42 (1971) (Emphasis added).
12. Finally, in Illinois, discovery rules were specifically designed to give those involved in the trial process a degree of certainty and predictability that furthers the administration of justice and eliminates trial by "ambush." *Copeland v. Stebco Products Corp.*, 316 Ill. App. 3d 932, 946 (1st Dist. 2000).
13. The Illinois Supreme Court has long held that the discovery rules clearly provide that "both parties are entitled to full disclosure by discovery of any relevant matter, including matters which relate to the defense of a party. *Shimanovsky v. Gen. Motors Corp.*, 181 Ill. 2d 112, 122 (1998) (Emphasis added).

14. Staff cannot refuse to provide answers to discovery simply if they are not favorable to Staff.
See *Shimanovsky*, 181 Ill. 2d at 122.
15. Staff's objections should be overruled and Staff should be ordered to respond to all outstanding discovery.
16. Staff's primary argument is that it need not comply with discovery requests because Staff has provided "all relevant answers to Respondent's Data Request that would not place an undue burden on Staff nor would require Staff to waive privilege." Staff's Response ¶ 2.
17. If Staff actually produced all documents truly relevant to this fitness hearing, then Staff should be barred from introducing any evidence not produced in either of its three (3) responses on May 9, 2016, July 26, 2016, and September 21, 2016.
18. Furthermore, the Administrative Law Judge should take a negative inference against Staff for failure to produce relevant evidence that may support Respondent's defense.
19. As a secondary matter, Staff fails to provide any statute or case law to support its purported defense of "undue burden."
20. Undue burden is not a valid basis to refuse production of documents in discovery.
21. More specifically, Staff has utterly failed to provide any legal basis that is well grounded in fact and is warranted by existing law (or a good-faith argument for the extension, modification, or reversal of existing law), to supports its claim that that it should not tender relevant documents if it would be an "undue burden," and furthermore cites no authority to substantiate that its objection is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the Fitness Hearing.
22. As discussed at length in Respondent's Motion to Compel, Staff misapplies *People ex rel. Gen. Motors Corp. v. Bua*, 37 Ill. 2d 180, 193 (1967), and purports to claim that its "unduly burdensome" objection is a valid defense to support nonproduction of relevant documents.

23. However, in actuality, the *Bua* court only held that it was improper in the absence of a showing of relevancy or materiality to order the 1960s era manual re-production of the complete records for Corvair model years from 1960 through 1965. *Bua*, 37 Ill. 2d at 193. (Emphasis added).
24. Nowhere in the opinion did the court authorize the obstruction of justice by allowing a party to refuse to produce relevant documents simply because its production would be “unduly burdensome.” See *Bua*, 37 Ill. 2d at 193.
25. The Illinois Supreme Court has long held that “discovery before trial presupposes a range of relevance and materiality which includes not only what is admissible at the trial, but also that which leads to what is admissible at the trial.” *Monier v. Chamberlain*, 35 Ill. 2d 351, 357 (1966) (emphasis added) (citing *Krupp v. Chicago Transit Auth.*, 8 Ill. 2d 37 (1956)).
26. In fact, the Illinois Supreme Court held that discovery may be broad, but must reasonably describe the relevant documents sought, which might well vary from case to case depending upon the circumstances in order to (1) provide a reasonable description of the items requested, enabling those from whom discovery is sought to know what is being demanded of them; and (2) to aid the trial court in ascertaining whether the requested material is exempted or privileged from discovery. *Monier*, 35 Ill. 2d at 356.
27. In this case, it is clear that the discovery requests reasonably described the documents and information sought: all documents pertaining to the instant Fitness Hearing.
28. If Administrative Law Judge relied on Staff’s case law, it could potentially be ordered that Staff does not have to manually photocopy by hand and re-produce to Respondent all of the Commission’s paper records from October 15, 2010 to the present.
29. However, Respondent’s requests only seek documents relevant to the instant Fitness Hearing.

30. In response specifically to the request for “All documents reviewed by [Staff] in the course of preparing [Staff’s] responses to these Data/Document Requests,” Staff claims that there were “hundreds of thousands” of documents, but then in its Response to the instant Motion to Compel, claims that “Staff did not review these documents, due to the fact that reviewing . . . such a voluminous amount of records would require an unprecedented amount of time.” Staff’s Response ¶ 18. (Emphasis added.)
31. However, if Staff did not review these documents, they are not responsive to a request for “All documents reviewed by [Staff] in the course of preparing [Staff’s] responses to these Data/Document Requests,” and its objection is meritless.
32. It is clear that Respondent is seeking relevant documents, specifically tailored to the Fitness Hearing, in order to ascertain the allegations the Fitness Hearing is founded upon.
33. Therefore, the Administrative Law Judge should compel Staff to respond to all outstanding discovery.
34. Next, Staff argues that its statutory citations were sufficient responses to “how the ICC decides to conduct a hearing on Fitness to hold [a] Commercial Vehicle Relocator’s License,” and “why the ICC is conducting this hearing at this time,” because “it is the language Staff references when it decides *how* to conduct a hearing on a relocater’s fitness.” Staff’s Response ¶ 29. (Emphasis in original.)
35. However, merely referencing the statutory basis does not explain how or why the ICC decided to conduct this Fitness Hearing.
36. If a mere statutory citation was sufficient, then the answer to almost every single request directed to both Staff and Respondent would consist solely of the statutory citation, as each and every relocation tow was performed pursuant to the same statute and administrative code.

37. Finally, Staff argues that the Commission “does not need a reason to hold a hearing on the fitness of a relocater,” yet that does not mean that Staff is not obligated to respond to a discovery request to explain why this particular Fitness Hearing was requested.
38. Therefore, Staff should be compelled to explain in detail how it decides to hold a Fitness Hearing and why the ICC is conducting this hearing at this time.
39. Next, Staff objects to the time period for the request, as “Petitioner’s allegations from year prior to the alleged incidents until present,” as “unclear as to the time period.” Staff’s Response ¶ 38.
40. However, Respondent is unsure of exactly what the alleged incidents actually are, except that they may include Commission Police Investigation # 15-0088.
41. It is unclear of what the alleged incidents are because Staff and the Commission are inconsistent in their allegations, when at times Staff insists “Respondent’s license was renewed on July 24, 2015 in Docket # 92 RTV sub 5 and therefore no matters that were previously considered as part of that docket would be part of this fitness hearing,” yet the Commission’s February 24, 2016 order expressly seeks to “inquire into [Respondent’s] relocation towing operations to determine whether it is fit, willing, and able properly to perform the service of a commercial vehicle relocater and to conform to the provisions of the ICRTVL and the Commission’s Administrative Rules, 92 Ill. Adm. Code 1710.10 *et seq.*,” referencing Commission Police Investigation # 15-0088 “during the time period between October 15, 2014 and November 23, 2014.”
42. Although Staff may stipulate to limit the scope of this Fitness Hearing to occurrences subsequent to July 24, 2015, to date, Staff has not done so.

43. Therefore, the Administrative Law Judge should overrule Staff's objections and compel the Staff to answer and respond to all outstanding discovery.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order pursuant to Ill. Admin. Code 200.370 compelling the Staff of the Illinois Commerce Commission to promptly answer Respondent's First Set of Data Requests to Staff; or in the alternative, bar the Staff from introducing any evidence, documentation, or testimony at the hearing in this matter; and grant any such other and further relief as the Administrative Law Judge deems just and proper.

Respectfully submitted,



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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached MOTION TO COMPEL DISCOVERY was E-Mailed to counsel of record, Benjamin Barr, at bbarr@icc.illinois.gov on November 2, 2016.



Vlad V. Chirica

EXHIBIT A

MEMORANDUM

TO: The Commission

FROM: Jennifer Anderson, Transportation Counsel

DATE: February 19, 2016

SUBJECT: Protective Parking Service, Inc.
d/b/a Lincoln Towing Service

RECOMMENDATION: Enter Order setting the commercial vehicle relocater license for a fitness hearing as provided for in Section 18a-401 of the Illinois Commercial Relocation of Trespassing Vehicles Law

The Commission issued Relocator License No. 92 RTV-R to Protective Parking Service Corporation d/b/a Lincoln Towing Service ("Lincoln") on October 27, 1992. On July 8, 2015, the Commission entered an order granting renewal of Lincoln's commercial vehicle relocater's license. Lincoln subsequently completed further administrative steps necessary to complete the renewal, and the renewed commercial vehicle relocater's license was issued on July 24, 2015. The license is valid for a period of two years, and is set to expire on July 24, 2017.

With respect to commercial vehicle relocater licenses, Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law ("ICRTVL") provides in part that ". . . [t]he Commission may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of . . . [the ICRTVL] and the regulations of the Commission promulgated thereunder are being observed." 625 ILCS 5/18a-401. In the context of evaluating an application for renewal of a commercial vehicle relocater license, Section 401 of the ICRTVL requires that if the Commission has information of cause not to renew a commercial vehicle relocater's license, an administrative hearing be held as provided for in Section 400 of the ICRTVL to determine whether a relocater is ". . . fit, willing and able properly to perform the service proposed and to conform to the provisions of [the ICRTVL] and the requirements, rules and regulations of the Commission thereunder . . ." 625 ILCS 5/18a-400, 401. To examine the fitness of a relocater during the term of a previously issued license, a fitness hearing as provided for in Sections 401 and 400 of the ICRTVL would likewise be necessary.

Fitness factors to be considered by the Commission include: 1) the criminal conviction records of the applicant, its owners or controllers, directors, officers, members, managers, employees, and agents; 2) the safety record of those persons; 3) the compliance record of those persons; 4) the equipment, facilities and storage lots of the applicant; and other facts that may bear on their fitness to hold the license. 92 Ill. Adm. Code 1710.22(a)(1).

With regard to Lincoln's compliance record, subsequent to the issuance of the renewed license on July 24, 2015, the Commission Police Department has opened 166 investigations into Lincoln's relocation towing operations. Of those investigations that have been completed as of the date of this memorandum:

- 15 investigations have been closed due to no jurisdiction
- 32 investigations were closed with a finding of no violation
- 28 investigations have resulted in the issuance of administrative citations
- 7 investigations were closed due to the relocater resolving the matter with the motorist without need for enforcement action

Currently, there are 92 pending administrative citations concerning Lincoln. The violations alleged in the pending administrative citations fall into the following categories:

- 23 administrative citations for allegedly issuing a relocation towing invoice with incomplete or inaccurate information
- 18 administrative citations for alleged signage-related violations
- 12 administrative citations for allegedly relocating authorized vehicles
- 8 administrative citations for allegedly relocating by patrolling "call" lots
- 8 administrative citations for allegedly relocating vehicles using non-owned tow trucks without equipment leases on file with the Commission
- 5 administrative citations for allegedly overcharging motorists
- 5 administrative citations for allegedly relocating without a valid contract or other contract-related violations
- 3 administrative citations for allegedly relocating when the owner was present and able to remove the vehicle
- 2 administrative citations for alleged police-notification related violations
- 1 administrative citation for allowing a non-permitted operator to be present in the cab of the tow truck during relocation towing operations
- 1 administrative citation for using an operator with an expired permit
- 1 administrative citation for failing to permit inspection of records by the Commission Police

Additionally, Commission Police Investigation # 15-0088 alleges that during the time period between October 15, 2014 and November 23, 2014, that Lincoln committed 54 violations of issuing incomplete or inaccurate relocation towing invoices, 3 violations of relocating vehicles using non-owned tow trucks without equipment leases on file with the Commission, and 19 violations of using a dispatcher with an expired permit.

Although the administrative citations themselves are in the process of being resolved through an administrative hearing procedure before the Commission's administrative law judge, and Investigation # 15-0088 has not yet reached a final disposition, setting a fitness hearing would permit the Commission to further inquire into the management and conduct of the business to evaluate whether management is taking sufficient action to ensure that Lincoln operates in compliance with the ICRTVL and the Commission's Administrative Rules published at 92 Ill. Adm. Code Part 1710. Commission Staff recommends that License 92 RTV-R be set for a fitness hearing as provided for in Section 18a-401 of the ICRTVL.

EXHIBIT B

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of:

Protective Parking Service Corporation
d/b/a Lincoln Towing Service,
Respondent.

Docket No. 92 RTV-R Sub 17
100139 MC

Hearing on fitness to hold a Commercial
Vehicle Relocator's License pursuant to
Section 401 of the Illinois Commercial
Relocation of Trespassing Vehicles Law,
625 ILCS 5/18a-401.

ORDER

By the Commission:

On July 24, 2015, Protective Parking Service Corporation d/b/a Lincoln Towing Service ("Lincoln") was issued a renewal of its authority to operate as a commercial vehicle relocator under the Illinois Commercial Relocation of Trespassing Vehicles Law ("ICRTVL"), 625 ILCS 5/18a-100 *et seq.* Pursuant to Section 401 of the Law, all relocator licenses expire every two years. 625 ILCS 5/18a-401. That Section further provides that the Commission may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise determine that the provisions of the ICRTVL and the Commission's Administrative Rules promulgated thereunder, 92 Ill. Adm. Code 1710.10 *et seq.* are being observed. *Id.*

Commission Staff has reviewed Commission records to ascertain Lincoln's compliance with Commission regulations and statutory requirements. Since the July 24, 2015 renewal of Lincoln's operating authority, the Commission Police Department has opened 166 investigations into Lincoln's relocation towing operations, 28 of which have both been completed and resulted in administrative citations issued against Lincoln. Commission Police Investigation # 15-0088 alleges that during the time period between October 15, 2014 and November 23, 2014, Lincoln committed 54 violations of issuing incomplete or inaccurate tow invoices in violation of 92 Ill. Adm. Code 1710.170(c), 3 violations of using tow trucks to perform relocations without an equipment lease on file with the Commission as required by 625 ILCS 5/18a-300(16), and 19 violations of using a dispatcher with an expired relocation towing employment permit as required by 625 ILCS 5/18a-300(3). Investigation # 15-0088 remains pending. Currently there are 92 pending administrative citations issued to Lincoln alleging similar and other violations of the ICRTVL and its Administrative Rules.

A fitness hearing should be held to inquire into Lincoln's relocation towing operations to determine whether it is fit, willing, and able properly to perform the service

of a commercial vehicle relocater and to conform to the provisions of the ICRTVL and the Commission's Administrative Rules, 92 Ill. Adm. Code 1710.10 *et seq.*

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that License 92 RTV-R be set for hearing pursuant to 625 ILCS 5/18a-401.

By Order of the Commission this 24th day of February 2016.



BRIEN SHEAHAN
CHAIRMAN

JUDGE
SECTION CHIEF
ORDERS SUPERVISOR

EXHIBIT 3

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re the matter of:	:	
	:	
Protective Parking Service Corporation d/b/a	:	
Lincoln Towing Service,	:	92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial Vehicle	:	Honorable Latrice Kirkland-Montaque
Relocator’s License pursuant to Section 401 of	:	
the Illinois Commercial Relocation of	:	
Trespassing Vehicles Law, 625 ILCS 5/18a-401.	:	

RESPONDENT’S MOTION IN LIMINE TO BAR EXHIBITS

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant to Section 200.420 and Section 200.680 of the Illinois Commerce Commission (“Commission”) Rules of Practice (“Rules”), 83 Ill. Adm. Code 200.10 *et seq.*, respectfully requests the Administrative Law Judge to bar the Trial Exhibits submitted by the STAFF OF THE ILLINOIS COMMERCE COMMISSION. In support of this Motion, Respondent states as follows:

1. On February 24, 2016, the Commission entered an order in which initiated the above-captioned case, known as 92 RTV-R Sub 17 (hereinafter referred to as the “Fitness Hearing”).
2. Thereafter, this Court held statuses in order to narrow down the scope of the proceeding and define the relevant time period for the Fitness Hearing.
3. On February 1, 2017, this Court issued a ruling, defining the scope of the Fitness Hearing.

4. The Court made two specific rulings, first regarding the dates of the tows, and the second regarding the dates of the investigations, as investigations were still being completed in 2017 for tows that occurred in 2015 and early 2016.

5. Specifically, the Court ruled as follows:

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20 JUDGE KIRKLAND-MONTAQUE: Let's say we limit
21 it. Nothing you receive past today, like any new
22 tickets or anything, even if they were within that

Page 146

1 time period, you can't use them.
2 We're going to limit information that
3 Staff has as of February 1st, 2017 even if it's
4 within the time period from July 24th, 2015 to March
5 22nd, 2016. So that's the scope.

February 01, 2017, Status in 92 RTV-R Sub 17.

6. Specifically, Section 200.420 of the Rules states as follows:

If a person fails to comply with a subpoena or a discovery order or refuses to attend or be sworn at a hearing or deposition, the Hearing Examiner may suspend further proceedings until compliance is obtained, or if the person who fails to comply is a party to the proceeding or an officer, agent or employee of a party, the Hearing Examiner may strike all or any part of the pleadings of such party, or refuse to allow the party to support designated claims or defenses, or take such further action as may be appropriate under the circumstances and as provided by law.

83 Ill. Adm. Code 200.420. (Emphasis added).

7. Additionally, Section 200.680 of the Rules provides as follows:

Any evidence offered in whatever form shall be subject to appropriate and timely objections. The Hearing Examiner may, after notice to the parties and staff witnesses, either with or without objection, exclude irrelevant, immaterial, unduly repetitious or otherwise inadmissible evidence. Formal exception to a ruling on admissibility of evidence need not be stated on the record in order to be preserved.

83 Ill. Adm. Code 200.680. (Emphasis Added).

8. Accordingly, it is within the powers of the Administrative Law Judge to exclude irrelevant, immaterial, or otherwise inadmissible evidence, or in the alternative, refuse to allow a party to support designated claims or defenses.

9. On April 5, 2016, Respondent propounded a discovery Data Request to Staff.

10. Respondent's Data Request responses were due on May 3, 2016, pursuant to Section 200.410 of the Rules. 83 Ill. Adm. Code 200.410.

11. On May 9, 2016, Staff emailed Staff's Answer to Protective Parking Service Corporation's Data Request, containing numerous meritless objections, with few actual responses.

12. After countless attempts to resolve discovery differences, including telephonic discussions, in-person conferences, and written correspondence, Respondent had no choice but to file a Motion to Compel discovery on October 13, 2016.

13. As addressed in the Motion to Compel, Ill. Admin. Code 200.340 clearly states that "It is the policy of the Commission to obtain full disclosure of all relevant and material facts to a proceeding. Further, it is the policy of the Commission to encourage voluntary exchange by the parties and staff witnesses of all relevant and material facts to a proceeding through the use of requests for documents and information." Ill. Admin. Code 200.340.

14. Likewise, throughout the Fitness Hearing, Respondent was entitled to all documents that are relevant and responsive to the instant allegations, so as to afford its constitutional due process rights in a hearing to take away its livelihood and license.

15. Request 20 asks Staff to "Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony."

16. On November 18, 2016, this Court issued an order, granting Respondent's Motion to Compel as to Request 20, ordering as follows: "Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date." A copy of the Order is attached hereto as **Exhibit 1**.

17. On December 19, 2016, Staff tendered its Fourth Answer to Protective Parking Service Corporation's Data Request.

18. Since the Fourth Answer to Protective Parking Service Corporation's Data Request came the Fifth Response, and the Sixth Response.

I. Staff Failed to Furnish A Witness to be Cross-Examined With Regard to It's Exhibits, In Direct Violation of this Court's April 25, 2017 Order

19. On April 25, 2017, Staff tendered Staff's Seventh Answer to Protective Parking Service Corporation's Data Request, along with six (6) new, never before tendered, stapled packets of documents.

20. At the hearing, the Court ordered Staff to supplement its response to Request 20, to specifically identify which of Staff's witnesses will testify as to the six (6) new exhibits.

21. Furthermore, the Court ordered Staff to produce said witness for a supplemental deposition, so that Respondent could cross-examine evidence presented against it.

22. Thereafter, Staff tendered Staff's Eighth Answer to Protective Parking Service Corporation's Data Request, which provided that Interim Sergeant Tim Sulikowski "Will testify as to Staff review of the Respondent's 24 Hour Tow Logs and the consistency of the entries contained within these Logs with Commission records."

23. On April 26, 2017, Respondent issued a Notice of Deposition of Tim Sulikowski, by Order of the Chief Administrative Law Judge of the Illinois Commerce Commission on April 25, 2017, and pursuant to the Illinois Public Utilities Act, 220 ILCS 10-106, Illinois Supreme

Court Rules 2014 and 206, the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.360, and all other applicable Illinois Supreme Court Rules and Illinois Commerce Commission Rules (hereinafter referred to as the "Deposition Notice"). A copy of the Deposition Notice is attached hereto as **Exhibit 2**.

24. The Deposition Notice contained a Rider, requesting the following documents:

1. Any documents supporting any allegations made by the Illinois Commerce Commission and the Staff of the Illinois Commerce Commission (hereinafter referred to as the "Staff") in the licensing proceeding known as 92 RTV-R Sub 17 (the "Licensing Proceeding").
2. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Staff** may seek to introduce into evidence in this case or which otherwise tends to prove or disprove the allegations made in the Licensing Proceeding.
3. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Deponent** relied on to form the basis of his testimony at any hearing in this Licensing Proceeding, including any personal factual knowledge and any proffered opinions.
4. All photographs, slides, diagrams, blueprints, layouts, sketches, motion pictures or video taken of the occurrences described in any investigation at issue in the Licensing Proceeding.
5. Any and all documents relating to the fitness of Respondent to hold a commercial vehicle relocater license.
6. Any and all documents which relate, in whole or in part, to any investigation of Respondent between July 24, 2015 and February 1, 2017.
7. Any and all documents or correspondence related to any communication between **Deponent** and **Respondent** between July 24, 2015 and February 1, 2017.
8. All documents referenced or listed in response to any interrogatories, requests for production of documents, or any other data requests served by a party in this matter.

Exhibit 2, Deposition Notice, Rider. (Emphasis in original.)

25. On May 3, 2017, at 2:00 p.m., pursuant to the notice of deposition, a deposition of Sergeant Timothy Sulikowski was held at Respondent's Counsel's office.

26. Despite having received and reviewed the Deposition Notice, Sergeant Sulikowski brought no documents with him to his deposition.

27. Specifically, as set forth in his Deposition Transcript attached hereto as **Exhibit 3**, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

108

4 Did you bring any documents with you here
5 today?

6 A. No.

7 Q. Did you review any documents before
8 today's deposition subsequent to the prior
9 deposition?

10 A. Yes.

11 Q. What did you review?

12 A. I reviewed the documents that we are
13 going to discuss today.

14 Q. But you didn't bring those with you
15 today?

16 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Page 108:4 to 108:16)

28. Thereafter, Sergeant Sulikowski was presented with a copy of the Deposition Notice, which was marked as an Exhibit to the deposition.

29. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

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16 Q. Have you had a chance to see this
17 before today's date?

18 A. Yes.

19 Q. And in regards -- specifically in
20 regards to this document request, did you bring
21 any documents with you here today?

22 A. No.

23 Q. Do you have any documents that are
24 responsive to this document request?

110

1 A. No.

2 Q. Your prior deposition was on
3 March 15, 2017, correct?

4 A. Correct.

5 Q. Since that date have you created any
6 documents for this case?

7 A. I did not create any documents.

8 Q. Have you produced any documents
9 regarding this case?

10 A. No.

11 Q. Have you printed out any documents
12 since that date for this case?

13 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Pages 109:16 to 110:13)

30. Notwithstanding the aforementioned failure of Staff and its witness to produce documents pursuant to a Deposition Notice, in violation of the applicable rules of procedure, Sergeant Sulikowski's deposition made it clear that he did not create any of the documents that had been tendered to Respondent on April 25, 2017.

31. More specifically, Sergeant Sulkowski testified that he did not identify any inconsistencies himself.

32. Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

110

20 **Q. What documents did you review?**

21 A. I reviewed the contracts that are
22 located at MCIS pursuant to the daily log
23 activity that were produced by your client.

24 **Q. Why did you do that?**

111

1 A. Why did I do that?

2 **Q. Yes.**

3 A. I did that in response to the OTC
4 (Sic) lawyers finding inconsistencies in those
5 documents that were handed to them.

6 **Q. So you didn't find any
7 inconsistencies, did you?**

8 A. Upon review I did.

9 **Q. Prior to that you didn't, did you?
10 You didn't find any inconsistencies in the
11 documents prior to being given them by the
12 lawyers, did you?**

13 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Pages 110:20 to 111:13)

33. Once it was established that Sergeant Sulikowski did not find inconsistencies in the documents on his own, he was asked about the documents that were tendered as Exhibits.

34. Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

130

3 Q. Have you seen Exhibit 3 before?

4 A. No.

5 Q. This is your first time reviewing
6 Exhibit 3, correct?

7 A. When I reviewed what I saw on Friday,
8 it was from the call sheets. So seeing 3 is
9 the first time I'm seeing 3.

. . . .

131

7 Q. So there's nowhere you could go to
8 find Exhibit 2. So let me reask you, have you
9 ever seen Exhibit 2 before today?

10 A. No.

11 Q. And you haven't seen Exhibit 3 before
12 today?

13 A. Correct.

In Re Protective Parking (Sulikowski - Part 2), (Pages
130:3 to 133:14)

35. As the deposition progressed, the answers were consistent: Sergeant Sulikowski did not personally create the documents, did not identify the inconsistencies, did not know who created the documents, who printed the documents, was unable to verify the accuracy of either document, found no violations in either document.

36. Sergeant Sulikowski specifically testified that he did not personally go into MCIS and retrieve the information.

37. Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

180

14 Q. You did not create these documents?
15 A. No.
16 Q. You did not print these documents?
17 A. No.
18 Q. You didn't put the information that's
19 on these documents, correct?
20 A. No.
21 Q. And you don't know if this is a
22 printout from a computer, a copy of a printout
23 from a computer, do you?
24 A. No.

181

1 Q. And you don't know if this document
2 has been altered, do you?
3 A. No.
4 Q. And you don't know who created this
5 document, do you?
6 A. No.
7 Q. And you did not input this
8 information into the MCIS, did you?
9 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 180:14 to 181:9)

38. Finally, when asked under oath if he was even the person that retrieved the information from MCIS, Sergeant Sulikowski answered as follows under oath:

181

17 Q. Did you on Friday go into the MCIS
18 and retrieve this information?
19 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 181:17 to 181:19)

39. Sergeant Sulikowski was unable to testify as to any of the information tendered by Staff on April 25, 2017.

40. Sergeant Sulikowski did not retrieve the information, did not compile the information, and was unaware of the accuracy of the documents, which purported to be printouts from MCIS.

41. Accordingly, Sergeant Sulikowski should be barred from testifying regarding the documents tendered as Exhibit 2 through Exhibit 6 on April 25, 2017, despite Staff's Eighth Answer to Protective Parking Service Corporation's Data Request, which provided that Interim Sergeant Tim Sulikowski "Will testify as to Staff review of the Respondent's 24 Hour Tow Logs and the consistency of the entries contained within these Logs with Commission records."

42. It is apparent from Sergeant Sulikowski's sworn testimony that he has no knowledge of the accuracy of the records, nor their consistency with Commission records.

206

3 **Q. When you reviewed this document on**
4 **Friday, did you compare it against something**
5 **else?**

6 A. No.

7 **Q. So if you didn't compare it against**
8 **anything else, do you know whether or not this**
9 **document is consistent or inconsistent with**
10 **Illinois Commerce Commission records?**

11 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Page 206:3 to 206:11)

43. Staff's failure to present for cross examination a witness to testify to the accuracy of the documents tendered on April 25, 2017 is a direct violation of this Court's April 25, 2017 order, directing them to do so.

44. Accordingly, the exhibits should be barred and excluded at the Fitness Hearing.

II. The Documents Tendered Were Created After the Discovery Closure Date and are Outside of the Scope of the Fitness Hearing

45. In addition, as was discovered at the deposition, the documents were not in existence as of March 15, 2017, and were created subsequently.

202

4 Q. As far as you know was this document
5 in existence at the time of your first
6 deposition on March 15, 2017?

7 A. The exhibit or the information?

8 Q. The exhibit.

9 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Page 202:4 to 202:9)

46. Based upon Sergeant Sulikowski's deposition, the documents were created as a part of an unknown investigation by an unknown individual subsequent to March 15, 2017, and only made known to Sergeant Sulikowski on Friday, April 28, 2017.

47. However, as the scope of the Fitness Hearing, as ordered by this Court, was limited to investigations that were completed by February 1, 2017, the documents are untimely and should be excluded from this hearing completely.

III. The Exhibits are Inconsistent with the Previously Tendered Exhibits, and Disclose New Individuals That Purportedly Testify as to their Accuracy, in Violation of this Court's April 25, 2017 Order to Disclose

48. On May 10, 2017, this Court ordered Staff to provide a complete binder with all documents Staff plans to use as exhibits at the Fitness hearing by 10:00 a.m. on May 11, 2017.

49. On May 11, 2017, Staff provided a binder, marked with Exhibit A through Exhibit S.

50. However, some of the documents tendered on May 11, 2017 had never before been produced to Respondent.

51. Accordingly, Respondent was unable to cross-examine any witness regarding any of the documents.

52. Additionally, the Exhibits tendered on April 25, 2017 are not identical to the ones tendered on May 11, 2017.

53. More specifically, the Exhibits contain a never before produced affidavit by a never before identified individual, who purports to be a Transportation Customer Service Supervisor in the Processing and Information Section of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to matters governed by the Illinois Commercial Relocation of Trespassing Vehicles Law. A copy of one of the certificates is attached hereto as **Exhibit 4**.

54. This individual, who appears to be named “Scott Morris,” has never been disclosed to Respondent in the past.

55. Scott Morris has never been identified to be the keeper of records for the ICC.

56. Despite this Court ordering the parties to identify on April 25, 2017 the person that would be authenticating the exhibits, Staff failed to identify Scott Morris.

57. Respondent has not had an opportunity to cross-examine Scott Morris.

58. Scott Morris has not been identified as a witness by any party in this Fitness Hearing.

59. The documents attached as Exhibits are not business records of the ICC, as the ICC does not regularly maintain “screen prints” in its files.

60. Staff’s May 11, 2017 disclosures are not timely and should be barred.

61. Staff’s May 11, 2017 disclosures are in violation of this Court’s orders to furnish an individual that may be cross-examined as to the documents tendered.

IV. Staff's Exhibits Contain Exhibits Never Before Produced, Significantly After the Discovery Closure Date Lapsed, With No Opportunity to Cross-Examine

62. Exhibit P, Exhibit Q, Exhibit R, and Exhibit S are new documents that have never before been tendered to Respondent. The new exhibits are attached hereto as **Exhibit 5**.

63. Each of the four (4) new exhibits are undated spreadsheets in a format that is unlike any other document ever produced by Staff in the past.

64. The documents are not certified by any individual, and it is unclear who created them, what they are, who will testify to them, when they were created, and what they purport to state.

65. The attempted document production is a clear violation of the rules of discovery, this Court's orders regarding discovery closure dates, violation of this Court's order to produce all documents it intends to use at trial by December 19, 2017, and/or presumably, a violation of this Court's ordered scope of the Fitness Hearing by creating new investigations subsequent to the discovery closure date of February 1, 2017.

66. Staff's failure to comply with the discovery orders has resulted in Respondent's inability to adequately defend itself in a hearing, and would directly violate Respondent's constitutional due process right if its license were revoked without a fair hearing on the merits.

67. Respondent's license to operate is its single most valuable asset; losing its license would constitute taking away its entire livelihood and sole source of revenue, putting many employees and independent contractors out of work.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order pursuant to Ill. Admin. Code 200.420 and Ill. Admin. Code 200.680, barring Sergeant Sulikowski and Scott Morris from testifying at the Fitness Hearing as to the Exhibits first produced on April 25, 2017 and May 11, 2017, excluding Staff's Trial Exhibits A through F, as well as Exhibits P through S; and granting any such other and further relief as the Administrative Law Judge deems just and proper.

Respectfully submitted,



Allen R. Perl
Perl & Goodsnyder, Ltd.
Attorneys for Protective Parking Service
Corporation d/b/a Lincoln Towing Service


Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
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vchirica@perlandgoodsnyder.com

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re the matter of:	:	
	:	
Protective Parking Service Corporation d/b/a	:	
Lincoln Towing Service,	:	92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial Vehicle	:	Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of	:	
the Illinois Commercial Relocation of	:	
Trespassing Vehicles Law, 625 ILCS 5/18a-401.	:	

CERTIFICATE OF SERVICE

I hereby certify under penalties of perjury as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that a copy of the attached RESPONDENT'S MOTION IN LIMINE TO BAR EXHIBITS was E-Mailed to counsel of record, Benjamin Barr and Gabrielle Parker-Okojie, at *bbarr@icc.illinois.gov* and *gokojie@icc.illinois.gov* on May 30, 2017.



Vlad V. Chirica

EXHIBIT 1

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



In re the matter of: :
: :
Protective Parking Service Corporation : 92 RTV-R Sub 17
d/b/a Lincoln Towing Service, : 100139 MC
Respondent. : :
: **SERVED**
Hearing on fitness to hold a Commercial Vehicle Relocator's : **ELECTRONICALLY**
License pursuant to Section 401 of the Illinois Commercial : **OR BY MAIL**
Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a- :
401. :

ADMINISTRATIVE LAW JUDGE'S RULING

Notice is hereby given of the Administrative Law Judge's ("ALJ) rulings regarding specific discovery requests set forth below made by Protective Parking Service Corporation d/b/a Lincoln Towing Service in its Motion to Compel Discovery.

Data Request (DR) 1

Motion granted to the extent that the DR requests all documents actually reviewed by Staff in the course of preparing its responses to the DRs. The DR does not request all documents that potentially exist that Staff has not reviewed.

Data Requests 4 and 5

Motion denied because response provided by Staff is sufficient.

Data Request 9

Motion denied because DR is overly broad.

Data Requests 10 and 13

Motion is denied because Staff has provided Respondent with a spreadsheet detailing all of Respondent's citations dating back to July 25, 2013. In addition, Staff claims it has provided Respondent with copies of all investigation files that resulted in an enforcement action against Respondent dating back to at least July 24, 2015, the date Respondent's authority to operate was last renewed.

Data Requests 14 and 15

Motion is denied because information requested is irrelevant to the instant proceeding.

Data Request 16

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Requests 17, 18 and 19.

Motion denied because information requested regarding Rendered Services, Inc. and A1 Citywide Towing is irrelevant to instant proceeding.

Data Request 20

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Request 28

Motion denied because DR is overly broad.

ENTERED: November 18, 2016



Latrice Kirkland-Montague
Chief Administrative Law Judge
Review and Examination

EXHIBIT 2

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

NOTICE OF DEPOSITION

To: **Benjamin J. Barr**
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601
bbarr@icc.illinois.gov

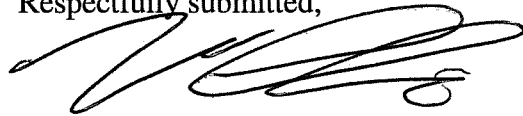
PLEASE TAKE NOTICE that by Order of the Chief Administrative Law Judge of the Illinois Commerce Commission on April 25, 2017, and pursuant to the Illinois Public Utilities Act, 220 ILCS 10-106, Illinois Supreme Court Rule 204 and 206, the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.360, and all other applicable Illinois Supreme Court Rules and Illinois Commerce Commission Rules, Respondent's attorneys shall take the discovery deposition of:

TIM SULIKOWSKI on MAY 3, 2017 at the hour of 2:00 p.m.

at PERL & GOODSNYDER, LTD., 14 N. Peoria, 2-C, Chicago, Illinois 60607, before a Notary Public of Cook County, Illinois, as may then and there be present.

This Notice is served upon you in conformity with the above named Code and Rules and is intended to require the presence of the party, or parties identified herein, at said time and place.

Respectfully submitted,



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

DEPOSITION EXHIBIT "A"

TIM SULIKOWSKI (hereinafter "Deponent") is requested to produce, at the offices of Perl & Goodsnyder, Ltd., 14 North Peoria Street, Suite 2-C, Chicago, Illinois 60607, no less than Seventy-Two hours (72) in advance of the scheduled commencement of Deponent's deposition, the originals (or, if originals are unavailable due to no fault of the deponent, unmodified duplicates) of the following documents:

DOCUMENT REQUEST

YOU ARE COMMANDED ALSO TO BRING THE FOLLOWING: ALL ORIGINAL RECORDS, OR DUPLICATES OF THOSE ORIGINAL RECORDS IF THE ORIGINALS ARE UNAVAILABLE DUE TO NO FAULT OF THE DEPONENT, IN YOUR POSSESSION OR CONTROL, WHICH RELATE, EITHER IN WHOLE OR IN PART TO THE FOLLOWING:

1. Any documents supporting any allegations made by the Illinois Commerce Commission and the Staff of the Illinois Commerce Commission (hereinafter referred to as the "Staff") in the licensing proceeding known as 92 RTV-R Sub 17 (the "Licensing Proceeding").
2. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Staff** may seek to introduce into evidence in this case or which otherwise tends to prove or disprove the allegations made in the Licensing Proceeding.
3. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Deponent** relied on to form the basis of his testimony at any hearing in this Licensing Proceeding, including any personal factual knowledge and any proffered opinions.
4. All photographs, slides, diagrams, blueprints, layouts, sketches, motion pictures or video taken of the occurrences described in any investigation at issue in the Licensing Proceeding.
5. Any and all documents relating to the fitness of Respondent to hold a commercial vehicle relocater license.
6. Any and all documents which relate, in whole or in part, to any investigation of Respondent between July 24, 2015 and February 1, 2017.
7. Any and all documents or correspondence related to any communication between **Deponent** and **Respondent** between July 24, 2015 and February 1, 2017.
8. All documents referenced or listed in response to any interrogatories, requests for production of documents, or any other data requests served by a party in this matter.

CAVEAT: YOUR FAILURE TO PRODUCE ANY OF THE ITEMS HEREIN REQUESTED WILL RESULT IN OUR EXPRESS RESERVATION TO RE-DEPOSE YOU, AT YOUR EXPENSE, AS TO THESE DOCUMENTS WHICH YOU HAVE FAILED OR REFUSED TO PRODUCE AT THE TIME OF YOUR DEPOSITION.

EXHIBIT 3

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

IN RE:)
)
PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN)
TOWING SERVICE,)

Respondent.) Docket No.
) 92 RTV-R Sub 17

Hearing on fitness to hold a)
Commercial Vehicle)
Relocator's License pursuant)
to Section 401 of the)
Illinois Commercial)
Relocation of Trespassing)
Vehicles Law, 625 ILCS)
5/18a-401.)

The continued discovery deposition of
SERGEANT TIMOTHY SULIKOWSKI, taken in the
above-entitled cause, before Carol A. Dorencz,
a Certified Shorthand Reporter for the State of
Illinois, at 14 North Peoria, Chicago,
Illinois, on May 3, 2017, at 2:00 o'clock p.m.

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I N D E X

EXAMINATION	PAGE
MR. PERL	106
MS. PARKER-OKOJIE	268
MR. PERL	271

E X H I B I T S

DEPOSITION EXHIBIT	MARKED
Exhibit No. 1	109
Exhibit No. 2	111
Exhibit No. 3	129
Exhibit No. 4	160
Exhibit No. 5	180
Exhibit No. 6	200
Exhibit No. 7	207
Exhibit No. 8	220

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A P P E A R A N C E S :

THE LAW OFFICES OF:

PERL & GOODSNYDER, LTD.

BY: MR. ALLEN R. PERL and

MR. VLAD V. CHIRICA

14 North Peoria Street

Suite 2-C

Chicago, Illinois 60607

Appeared on behalf of Protective
Parking Service Corporation;

THE LAW OFFICES OF:

ILLINOIS COMMERCE COMMISSION

BY: MR. BENJAMIN J. BARR and

MS. GABRIELLE E. PARKER-OKOJIE

160 North LaSalle Street

Suite C-800

Chicago, Illinois 60601

Appeared on behalf of the
Illinois Commerce Commission.

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MR. PERL: Let the record reflect
this is the discovery deposition of Sergeant
Tim Sulikowski, taken pursuant to notice and
continued to today's date pursuant to all
Illinois local and Supreme Court Rules.

WHEREUPON:

SERGEANT TIMOTHY SULIKOWSKI,
called as a witness herein, having been
previously duly sworn, was examined and
testified as follows:

E X A M I N A T I O N

BY MR. PERL:

Q. Sergeant Sulikowski, I know that
you've been deposed at least once before,
correct?

A. Yes.

Q. Because we were here a couple weeks
ago. Yes?

A. Yes.

Q. So you understand the rules, correct?

A. Yes.

Q. State your name and spell your last
name for the record?

A. Timothy Sulikowski, S, as in Sam,

106

1 u-l-i-k-o-w-s-k-i.
2 Q. And you're here today to give
3 testimony regarding the fitness hearing for
4 Lincoln Towing, correct?
5 A. In specific to the latest introduced
6 evidence.
7 Q. But that's in regard to -- the matter
8 is --
9 A. Yes.
10 Q. -- 92 RTV-R Sub 17 before the
11 Illinois Commerce Commission, correct?
12 A. Yes.
13 Q. And today, yes, you're correct, we're
14 only going to be asking you questions
15 specifically regarding the new documents that
16 were presented to us by the Commerce Commission
17 last week.
18 A. Correct.
19 Q. And just preliminarily again, have
20 you had any alcohol in the last 24 hours?
21 A. No.
22 Q. Is there any reason why your memory
23 would be impaired and you couldn't answer my
24 questions?

107

1 A. No.
2 Q. While we are waiting for the
3 documents to be copied, let me ask you this:
4 Did you bring any documents with you here
5 today?
6 A. No.
7 Q. Did you review any documents before
8 today's deposition subsequent to the prior
9 deposition?
10 A. Yes.
11 Q. What did you review?
12 A. I reviewed the documents that we are
13 going to discuss today.
14 Q. But you didn't bring those with you
15 today?
16 A. No.
17 Q. So let's take a short break, because
18 I don't actually have the documents in front of
19 me.
20 (Whereupon a short
21 recess was had.)
22 MR. PERL: Let's show you what's
23 marked as Sulikowski Exhibit 1.
24 (Whereupon Exhibit No. 1

108

1 was marked for
2 identification.)
3 BY MR. PERL:
4 Q. Do you recognize what Exhibit 1 is?
5 A. Yes.
6 Q. Have you seen this before?
7 A. Yes.
8 Q. And this is a notice of deposition
9 for today's date, correct?
10 A. Correct.
11 Q. And if you turn your attention to
12 Page 2, it says document request?
13 A. Uh-huh.
14 Q. I'm sorry, you got to say yes or no.
15 A. Yes.
16 Q. Have you had a chance to see this
17 before today's date?
18 A. Yes.
19 Q. And in regards -- specifically in
20 regards to this document request, did you bring
21 any documents with you here today?
22 A. No.
23 Q. Do you have any documents that are
24 responsive to this document request?

109

1 A. No.
2 Q. Your prior deposition was on
3 March 15, 2017, correct?
4 A. Correct.
5 Q. Since that date have you created any
6 documents for this case?
7 A. I did not create any documents.
8 Q. Have you produced any documents
9 regarding this case?
10 A. No.
11 Q. Have you printed out any documents
12 since that date for this case?
13 A. No.
14 Q. Have you reviewed a computer to look
15 at documents for this case?
16 A. Yes.
17 Q. What computer did you review? What
18 computer did you review to review documents?
19 A. My state-issued laptop.
20 Q. What documents did you review?
21 A. I reviewed the contracts that are
22 located at MCIS pursuant to the daily log
23 activity that were produced by your client.
24 Q. Why did you do that?

110

1 A. Why did I do that?
 2 Q. Yes.
 3 A. I did that in response to the OTC
 4 (Sic) lawyers finding inconsistencies in those
 5 documents that were handed to them.
 6 Q. So you didn't find any
 7 inconsistencies, did you?
 8 A. Upon review I did.
 9 Q. Prior to that you didn't, did you?
 10 You didn't find any inconsistencies in the
 11 documents prior to being given them by the
 12 lawyers, did you?
 13 A. No.
 14 Q. Let me show you what we are going to
 15 mark as Exhibit 2 and we received from the
 16 Commerce Commission as Exhibit 2 as well, and
 17 this is Bates stamped from the Commerce
 18 Commission 1 through 32 and a cover sheet of
 19 Exhibit 2.
 20 (Whereupon Exhibit No. 2
 21 was marked for
 22 identification.)
 23 BY MR. PERL:
 24 Q. Let me know when you've had a chance

111

1 to look at Exhibit 2.
 2 A. I'm familiar with this report.
 3 Q. Do you know when this document was
 4 tendered to my office from the Commerce
 5 Commission?
 6 A. No.
 7 Q. Do you know whether it was tendered
 8 prior to your first deposition or not?
 9 A. No.
 10 Q. Is it your belief that it was
 11 tendered after your first deposition?
 12 A. Yes.
 13 Q. Do you know why it wasn't tendered
 14 prior to your deposition?
 15 A. I believe because we had not deposed
 16 Bob Munyon or gotten these daily call logs.
 17 Q. By we, you don't mean you?
 18 A. No.
 19 Q. You mean the Commerce Commission?
 20 A. The Commerce Commission.
 21 Q. So do you think that in Mr. Munyon's
 22 deposition all these inconsistencies that you
 23 are claiming were exposed in Mr. Munyon's
 24 deposition?

112

1 A. I don't know.
 2 Q. Do you know if any of these contracts
 3 were looked at in Mr. Munyon's deposition?
 4 A. I don't know. I have not read
 5 Mr. Munyon's deposition, nor was I present.
 6 Q. So if you make a statement that there
 7 are inconsistencies in Mr. Munyon's deposition,
 8 that's not from your knowledge, is it?
 9 A. No.
 10 Q. You don't know that to be the case,
 11 do you?
 12 A. No.
 13 Q. Would it surprise you to find that
 14 none of these contracts or documents were
 15 reviewed in Mr. Munyon's deposition?
 16 A. Okay.
 17 Q. Would that surprise you to find that?
 18 A. No.
 19 Q. So take a look at Exhibit 2. Did you
 20 create this document?
 21 A. No.
 22 Q. Did you print this document?
 23 A. No.
 24 Q. Did you input the information that's

113

1 contained on this document?
 2 A. No.
 3 Q. Do you even know if the information
 4 in this document's accurate?
 5 A. It's your client that inputs this
 6 information, so I would think that it is.
 7 Q. How do you know that?
 8 A. Because that's what the relocators
 9 do.
 10 Q. You know that for a fact?
 11 A. They input the information when they
 12 obtain a contract, they input it into a
 13 relocater. This information is not entered by
 14 the Commerce Commission with the exception if a
 15 contract is cancelled.
 16 Q. So that it is entered into by the
 17 Commerce Commission, correct?
 18 A. One date.
 19 Q. Only one date. So only one contract
 20 can be cancelled, right? It can only be done
 21 once?
 22 A. I'm not sure I understand your
 23 question.
 24 Q. Let me ask you this: Do you know

114

1 whether or not the information contained on
2 this document's accurate?
3 A. No, because I didn't input it.
4 Q. Okay. So you don't know?
5 A. No.
6 Q. And you're not the keeper of records
7 for the Commerce Commission, are you?
8 A. I am not.
9 Q. And again, you didn't print this
10 document, correct?
11 A. Correct.
12 Q. Do you even know when this document
13 was printed?
14 A. No.
15 Q. Do you know who printed it?
16 A. No.
17 Q. Did somebody send you a copy of these
18 documents?
19 A. No.
20 Q. Have you reviewed these documents
21 before today?
22 A. Yes.
23 Q. If someone didn't send it to you and
24 you didn't print it, how did you review them

115

1 before today?
2 A. I went to the office. I was not
3 given these before meeting at the office.
4 Q. Without telling me any conversations
5 with your attorneys, who did you meet with at
6 the office and when did you meet?
7 A. My attorneys.
8 Q. When?
9 A. Last Friday.
10 Q. At your request or their request?
11 A. Their request.
12 Q. And what documents did you review?
13 A. The daily call logs.
14 Q. Did you review the document in front
15 of you right now, Exhibit 2?
16 A. Yes.
17 Q. And you went through it, correct?
18 A. Yes.
19 Q. Just looking at this document, does
20 it tell you anything?
21 A. In conjunction without looking at the
22 call log, no. You have to look at the call
23 log, and then you have to look when the date of
24 the tow was or why it was towed, and then you

116

1 need to look at the information whether there
2 was a valid contract at the date and time of
3 the tow.
4 Q. Was that done prior to your last
5 deposition?
6 A. No.
7 Q. Were there any tickets -- I'm sorry,
8 were there any citations written to Lincoln
9 Towing as a result?
10 A. I'm not aware.
11 Q. You didn't write any, did you?
12 A. I'm not aware.
13 Q. Did you write any?
14 A. Not that I can recall.
15 Q. Well, have you written any tickets or
16 citations to Lincoln Towing since your last
17 deposition?
18 A. No.
19 Q. Had you written any of these tickets
20 prior to your last deposition?
21 A. Possibly.
22 Q. Which ones?
23 A. I don't recall.
24 Q. Look through and tell me which ones

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1 you wrote tickets on?
2 A. I can't do that.
3 Q. Why not?
4 A. Because I write a lot of tickets. I
5 can't recall the specifics that ticket goes
6 with that address or for that violation.
7 Q. So you don't know if you wrote
8 tickets for any of the -- on any of the lots in
9 question in Exhibit 2?
10 A. That's what I've stated.
11 Q. Is there anything that could refresh
12 your recollection as to whether you wrote any
13 citations?
14 A. Not that I'm aware of.
15 Q. So you won't be testifying at the
16 hearing in the middle of this month that you
17 wrote any citations to Lincoln Towing regarding
18 any of these citations, correct?
19 A. I don't know what my testimony -- it
20 will be based on questions that I don't know
21 will be asked of me.
22 Q. I'm asking you right now if I asked
23 you if you were asked a question at the hearing
24 did you write any citations for any of these

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1 violations or tickets -- I'm sorry, any of
2 these lots, what would you say?
3 A. I would say no.
4 Q. When you went on Friday to review
5 these documents, did you take a copy with you?
6 A. Copy of what?
7 Q. Exhibit 2.
8 A. I was not given this prior to that
9 meeting.
10 Q. I'm asking you when you went there
11 that day and you left, did you take a copy of
12 this document with you?
13 A. No.
14 Q. So the only time you ever reviewed
15 the documents is on Friday, last Friday?
16 A. Correct.
17 Q. You didn't send these documents to
18 anybody else, did you?
19 A. No.
20 Q. And you didn't send them to yourself,
21 did you?
22 A. No.
23 Q. Do you know who decided to tender
24 these documents to Lincoln Towing?

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1 A. No.
2 Q. It wasn't you, though?
3 A. No.
4 Q. Other than your attorneys, did you
5 discuss your deposition testimony or this
6 matter subsequent to your last deposition and
7 prior to today's date?
8 A. No.
9 Q. Do you know -- you already stated you
10 don't know who printed these documents or when,
11 correct?
12 A. Yes.
13 Q. Do you know why these documents were
14 printed?
15 A. I can assume why.
16 Q. I just want to know if you have
17 specific knowledge.
18 A. I do not have specific knowledge.
19 Q. And do you specifically know for
20 certainty where these documents were printed
21 from?
22 A. No.
23 Q. Do you know for certainty that this
24 document wasn't altered?

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1 A. No.
2 Q. And you didn't do anything on Friday
3 to ascertain whether these documents were
4 accurate and truthful, did you?
5 A. I reviewed.
6 Q. Well, you reviewed the document,
7 correct?
8 A. Against the call log.
9 Q. I'm not asking about the call log.
10 I'm asking about these documents in Exhibit 2.
11 Did you do anything to authenticate and make
12 sure these were truthful and accurate
13 documents?
14 A. No.
15 Q. Are you planning on using these
16 documents when you testify at your hearing --
17 at the hearing on May 16th and 17th -- 17th and
18 18th? Are you planning on using these
19 documents?
20 A. Me personally?
21 Q. Yeah.
22 A. I'm not sure I understand the
23 question.
24 Q. You understand that you're going to

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1 be called to testify at the hearing for fitness
2 of Lincoln Towing?
3 A. Yes, I do understand that.
4 Q. Are you planning on using these
5 documents in your testimony?
6 A. I'd like to confer with our
7 counsel -- my counsel.
8 Q. Well, I'm really asking what you're
9 planning on doing. Not what your counsel's
10 planning on doing. I just want to know what
11 you're planning on doing.
12 A. I plan on answering the questions
13 asked of me.
14 Q. You're not planning on bringing these
15 documents to the hearing, are you?
16 A. No.
17 Q. And as you sit here today you're not
18 planning on using these documents during your
19 testimony, do you?
20 A. If I'm asked about them. I'm not
21 planning on bringing them as some rogue agent
22 and introducing these documents. I'm not sure
23 I understand your line of questioning. If I'm
24 asked about them, I will speak about them.

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1 Q. Well, I don't think it would make you
 2 a rogue agent if you gave documents to your
 3 attorneys in a case where we asked you in a dep
 4 rider to please produce documents to us. I
 5 don't think that would make you a rogue agent,
 6 would it?
 7 A. I'm not sure.
 8 Q. Because in our document request we
 9 asked you for these documents, didn't we?
 10 A. Okay. You were already given these
 11 documents, so why would I bring another copy of
 12 what you already have.
 13 Q. Okay. So the point is I'm wanting to
 14 find out what you're planning on using at the
 15 hearing. Not necessarily what your attorneys
 16 might give you. That might be something
 17 different, correct?
 18 A. I'm not sure.
 19 Q. Did you call Lincoln Towing to verify
 20 any of the information contained in
 21 Exhibit 2 --
 22 A. No.
 23 Q. -- after you reviewed it?
 24 A. No.

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1 Q. Did you call Rendered Services and
 2 verify any of the information?
 3 MS. PARKER-OKOJIE: Objection,
 4 relevance.
 5 MR. PERL: You can answer.
 6 THE WITNESS: No.
 7 BY MR. PERL:
 8 Q. Did you call Speed Line Towing to
 9 verify any of the information?
 10 A. No.
 11 MS. PARKER-OKOJIE: Objection,
 12 relevance.
 13 BY MR. PERL:
 14 Q. Did you call anybody at the Commerce
 15 Commission to verify the information?
 16 A. No.
 17 Q. Did you call North Shore Towing to
 18 verify any of the information contained in
 19 Exhibit 2?
 20 MS. PARKER-OKOJIE: Relevance
 21 objection.
 22 THE WITNESS: No.
 23 BY MR. PERL:
 24 Q. Did you call Brian and Michael's

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1 Towing to verify any of the information in
 2 Exhibit 2?
 3 MS. PARKER-OKOJIE: Objection,
 4 relevance.
 5 THE WITNESS: No.
 6 BY MR. PERL:
 7 Q. Could you have done that?
 8 A. Sure.
 9 Q. But you didn't, correct?
 10 A. Correct.
 11 Q. Could you take a look at Bates Stamp
 12 No. 31. I think it's the second to last page.
 13 A. Okay.
 14 Q. This appears to be referencing a
 15 property at 6700 Greenview in Chicago,
 16 Illinois, correct?
 17 A. Yes.
 18 Q. Do you know what's at that property?
 19 A. No.
 20 Q. Do you know whether that's private
 21 property or municipal property?
 22 A. I do not.
 23 Q. Does the Illinois Commerce Commission
 24 govern tows from municipality property or just

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1 private property?
 2 A. Private property.
 3 Q. So if this were a municipal property,
 4 the ICC would have no governing authority over
 5 it, would they?
 6 A. Correct.
 7 Q. Did you make a check of any records
 8 with the Recorder of Deeds or the treasurer's
 9 office or anyone else to determine if 6700
 10 North Greenview is a private property or not?
 11 A. No.
 12 Q. Now, each page from 1 all the way to
 13 32 references a different address, correct?
 14 A. Yes.
 15 Q. Did you call any of the property
 16 owners from those addresses to determine who in
 17 fact had contracts or the authority to tow from
 18 their property?
 19 A. No.
 20 Q. Did you specifically call them to
 21 determine who had the authority to tow from
 22 their property during the relevant time period
 23 July 24th, 2015 to March 23rd, 2016?
 24 A. No.

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1 Q. Did you do anything to determine
2 whether or not -- strike that.
3 Did you do anything to determine what
4 entity had the actual contract other than
5 looking at this document for these particular
6 addresses?
7 A. No.
8 Q. Did you review the actual contracts
9 for these lots?
10 A. No.
11 Q. Do you know whether any of these
12 properties listed in here are actually private
13 property?
14 A. Versus municipal?
15 Q. Yes.
16 A. No.
17 Q. And/or versus public property as
18 well.
19 A. Same answer, no.
20 Q. Just this list on its own, do you
21 believe this list on its own has any bearing on
22 whether or not Lincoln Towing is fit to hold a
23 relocator's license?
24 MS. PARKER-OKOJIE: Objection, calls

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1 for a legal conclusion.
2 THE WITNESS: It goes to whether or
3 not they should be cited.
4 BY MR. PERL:
5 Q. I'm saying just this list, looking at
6 no other documents at all, just looking at this
7 list only. Do you think that looking at this
8 list only you can decide whether or not Lincoln
9 Towing is fit to hold a relocator's license?
10 MS. PARKER-OKOJIE: Objection,
11 calls --
12 MR. PERL: Just looking at this list.
13 MS. PARKER-OKOJIE: Calls for a legal
14 conclusion.
15 THE WITNESS: Just looking at this
16 list, no.
17 BY MR. PERL:
18 Q. And you stated in your prior
19 deposition that you don't have an opinion as to
20 whether or not Lincoln is fit to hold a
21 relocator's license, correct?
22 A. Correct.
23 MS. PARKER-OKOJIE: Objection, calls
24 for a legal conclusion.

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1 BY MR. PERL:
2 Q. You looked at this list on Friday,
3 correct?
4 A. Yes.
5 Q. You said you didn't write any
6 citations to Lincoln Towing since then,
7 correct?
8 A. Yes.
9 Q. Do you know if anyone else did?
10 A. I'm not aware.
11 Q. I'm going to show you now what we
12 marked as Exhibit 3.
13 (Whereupon Exhibit No. 3
14 was marked for
15 identification.)
16 BY MR. PERL:
17 Q. If you don't mind, please take a look
18 at Exhibit 3, and let me know when you've had a
19 chance to review it.
20 MR. PERL: For the record, Exhibit 3
21 is a group of documents received from the
22 Commerce Commission labeled Bates Stamp 1
23 through 43 not inclusive of the cover page that
24 says Exhibit 3.

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1 THE WITNESS: Okay.
2 BY MR. PERL:
3 Q. Have you seen Exhibit 3 before?
4 A. No.
5 Q. This is your first time reviewing
6 Exhibit 3, correct?
7 A. When I reviewed what I saw on Friday,
8 it was from the call sheets. So seeing 3 is
9 the first time I'm seeing 3.
10 Q. Well, let me reask you then, had you
11 seen Exhibit 2 before today's date, just to
12 clarify, because I want to make sure we make
13 the record proper.
14 A. Well, I've seen this -- this is what
15 comes up when I review it on the computer, so
16 I've seen this format.
17 Q. But you can't go on the computer and
18 find Exhibit 2 anywhere, can you?
19 A. I can't.
20 Q. You would just find thousands and
21 thousands of lots for Lincoln Towing, correct?
22 A. No. I punch in a specific address.
23 Q. But there's nothing you could punch
24 in to get Exhibit 2, is there?

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1 A. No.
 2 Q. That's 32 specific lots.
 3 A. Yeah. No.
 4 Q. And they are not in order, are they?
 5 On the computer?
 6 A. No.
 7 Q. So there's nowhere you could go to
 8 find Exhibit 2. So let me reask you, have you
 9 ever seen Exhibit 2 before today?
 10 A. No.
 11 Q. And you haven't seen Exhibit 3 before
 12 today?
 13 A. Correct.
 14 Q. So same question, did you create
 15 Exhibit 3?
 16 A. No.
 17 Q. Do you know who did?
 18 A. No.
 19 Q. You didn't print it out, did you?
 20 A. No.
 21 Q. And you didn't input the information
 22 on Exhibit 3, did you?
 23 A. No.
 24 Q. And you don't know when it was

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1 created, do you?
 2 A. No.
 3 Q. And you don't know whether the
 4 information contained in Exhibit 3's accurate,
 5 do you?
 6 A. No.
 7 Q. And you don't know whether or not the
 8 information in Exhibit 3 has been altered, do
 9 you?
 10 A. No.
 11 Q. Somebody could have printed the
 12 document, altered it, and we could be looking
 13 at it right now, and you wouldn't know the
 14 difference?
 15 A. No.
 16 Q. And since you've never seen it
 17 before, you haven't checked any of the
 18 information on here for being accurate, have
 19 you?
 20 A. No.
 21 Q. You couldn't have if you hadn't seen
 22 it before, right?
 23 A. Correct.
 24 Q. And just looking at it, you'd have no

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1 way of knowing whether it's accurate, would
 2 you?
 3 A. No.
 4 Q. I mean, you haven't memorized the
 5 thousands of lots that Lincoln Towing has
 6 contracts on, have you?
 7 A. No.
 8 Q. Or their addresses, have you?
 9 A. No.
 10 Q. Or the dates that they were entered
 11 into, have you?
 12 A. No.
 13 Q. Or the dates they were terminated?
 14 A. No.
 15 Q. By the way, do you know how an
 16 individual goes about terminating a lot with a
 17 tow company once they have a contract with
 18 them?
 19 MS. PARKER-OKOJIE: Objection, it's
 20 beyond the scope of this deposition.
 21 MR. PERL: You're planning on using
 22 the fact that contracts were terminated to
 23 testify. How is that possibly beyond the
 24 scope?

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1 You can answer the question.
 2 MS. PARKER-OKOJIE: This deposition
 3 was merely to discuss Sergeant Sulikowski's
 4 review of the documents, not on process or
 5 procedure.
 6 MR. PERL: So not what he's going to
 7 do with them. So you're telling me the
 8 interrogatory that you redid and the judge
 9 ordered you to tell me what you're using them
 10 for isn't part of the scope of this deposition?
 11 MS. PARKER-OKOJIE: I don't want to
 12 argue with you, Counsel. I want you to be able
 13 to take your deposition. I'm objecting to the
 14 question.
 15 MR. PERL: Okay. You can answer the
 16 question.
 17 THE WITNESS: Could you please repeat
 18 it.
 19 (Record read as requested.)
 20 THE WITNESS: I have a basic
 21 understanding.
 22 BY MR. PERL:
 23 Q. How is that? How is it done?
 24 A. There is a cancellation form that the

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1 property owner fills out, submits it to the ICC
2 office. It's stamped, and then it's faxed to
3 the relocator.
4 Q. And what happens next?
5 MS. PARKER-OKOJIE: Objection just to
6 continuing this scope of questioning as being
7 beyond the scope of this deposition.
8 BY MR. PERL:
9 Q. What happens next?
10 A. That's beyond my law enforcement job
11 duties.
12 Q. Do you know how it actually goes
13 about getting cancelled in the system?
14 A. No.
15 Q. Do you know whether there's a ten-day
16 grace period for the relocator to actually try
17 to save the contract before it's cancelled?
18 A. There is.
19 Q. So it actually isn't cancelled
20 immediately, is it?
21 A. No.
22 Q. It's got to go to the relocator
23 first, correct?
24 A. Correct.

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1 Q. And it's not finalized for ten days,
2 correct?
3 A. Correct.
4 Q. Do you know why that is?
5 A. I have supposition of why.
6 Q. In your experience have you ever
7 found that somebody other than the actual lot
8 owner turns in a cancellation maybe
9 fraudulently and it really wasn't the lot owner
10 cancelling the lot? Have you ever run across
11 that?
12 MS. PARKER-OKOJIE: Objection again
13 to the scope of the question.
14 THE WITNESS: I don't deal with that.
15 BY MR. PERL:
16 Q. But have you ever run across it?
17 A. That's the office personnel.
18 Q. I'm just asking if you've ever run
19 across it?
20 A. No.
21 Q. Have you ever heard about something
22 like that happening?
23 A. Yes.
24 Q. If a relocator were to fraudulently

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1 turn in a cancellation on another relocator's
2 lot, would that be an ICC infraction?
3 MS. PARKER-OKOJIE: Again, objection
4 to scope. Counsel, I don't want to interrupt
5 your deposition, but I do believe we are
6 outside of the scope of the purpose of this
7 deposition at this point by asking questions
8 hypothetical in nature. I think the point of
9 this deposition was to be limited to the
10 documents and their significance to Sergeant
11 Sulikowski in his review of those documents.
12 MR. PERL: That's what I'm doing.
13 MS. PARKER-OKOJIE: Well, we can call
14 the judge --
15 MR. PERL: Call.
16 MS. PARKER-OKOJIE: -- because I do
17 believe this is beyond the scope.
18 MR. PERL: Well, if you don't want me
19 to tell you why I am doing it, I won't, but I
20 could.
21 MS. PARKER-OKOJIE: You can let Judge
22 Kirkland-Montaque know.
23 MR. PERL: Go ahead.
24 MS. PARKER-OKOJIE: Does this have

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1 speaker phone capabilities?
2 MR. PERL: It does.
3
4 (Whereupon a telephone
5 call was placed to
6 Judge
7 Kirkland-Montaque.)
8
9 UNIDENTIFIED SPEAKER: Illinois
10 Commerce Commission?
11 MS. PARKER-OKOJIE: Hi, Yvette. It's
12 Gabrielle, Ben and Counsel for Lincoln Towing.
13 We are currently in a deposition with Sergeant
14 Tim Sulikowski. Is Judge Kirkland-Montaque
15 available?
16 UNIDENTIFIED SPEAKER: Okay. Let me
17 check one moment. You want her to come in?
18 MS. PARKER-OKOJIE: We are off site
19 at opposing counsel's office, so we would have
20 to be transferred to her.
21 UNIDENTIFIED SPEAKER: Let me go see
22 if she's here. Hold on.
23 (Whereupon a short
24 recess was had.)

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1 UNIDENTIFIED SPEAKER: Gabrielle?
2 MS. PARKER-OKOJIE: Yes, Yvette.
3 UNIDENTIFIED SPEAKER: I'm going to
4 transfer you to her. Would you like to take
5 her number down?
6 MS. PARKER-OKOJIE: I will just in
7 case we get disconnected.
8 UNIDENTIFIED SPEAKER: Right. Okay.
9 It's 312-814-4211. Now I'm going to transfer
10 you.
11 MS. PARKER-OKOJIE: Okay. Thank you,
12 Yvette.
13 UNIDENTIFIED SPEAKER: You're
14 welcome.
15 JUDGE KIRKLAND-MONTAQUE: Hello, this
16 is Judge Montaque.
17 MS. PARKER-OKOJIE: Hi, Judge
18 Montaque. This is Gabrielle Parker-Okojie and
19 Ben Barr. We're also here with Allen Perl and
20 Vlad Chirica. We are in the midst of Tim
21 Sulikowski's deposition.
22 There was a question pending, and I
23 have objected to that question as beyond the
24 scope of the purpose of this deposition. So we

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1 wanted to call you just to have you weigh in on
2 that.
3 JUDGE KIRKLAND-MONTAQUE: Okay.
4 MR. PERL: So here's my line of
5 questioning, Judge. As you recall we were
6 tendered some new documents last week or the
7 week before that your Honor let them bring in,
8 but then they were ordered to amend their
9 Interrogatory No. 20 to tell me who's going to
10 be testifying to them and what they are going
11 to use the documents for, which they did.
12 JUDGE KIRKLAND-MONTAQUE: Okay.
13 MR. PERL: I mean, I only object to
14 it, it's still very general, but I wanted to
15 move the case along. What they said was
16 Officer -- Sergeant Sulikowski will testify as
17 to staff review of Protective Parking Service
18 Corporation's response to staff's data request.
19 He'll also testify to staff review of the
20 respondent's 24 hour tow logs and the
21 consistency of the entries contained within
22 these logs with Commission records. So they
23 really didn't tell me anything. They just say
24 he's going to testify to consistency.

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1 What I think they are trying to get
2 at is some of the lots potentially we didn't
3 have contracts for that were cancelled. So now
4 my line of questioning with Sergeant Sulikowski
5 is how do you cancel a lot; is it possible for
6 someone to fraudulently cancel a lot, because
7 we have made a claim with the Commerce
8 Commission before that one of our competitors
9 had actually improperly tried to cancel our
10 lots. We gave them affidavits in this regard
11 by the way, and if in fact potentially there's
12 a lot that was cancelled, it was done by our
13 competitor, not us, and we wouldn't have known
14 about it.
15 Probably would have been done with
16 the question five minutes ago easily, but
17 counsel's objecting that it's beyond the scope,
18 and I don't know how she could, because her
19 interrogatory is so general that almost
20 everything is within the scope, because all
21 they said in their interrogatory was that he's
22 going to testify consistently with all the
23 entries contained in the logs and the
24 Commission records.

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1 JUDGE KIRKLAND-MONTAQUE: And those
2 logs have -- remind me again what's in the
3 logs?
4 MR. PERL: Just literally what
5 they've got now is they've got a printout of
6 something no one here knows really what it is,
7 because this witness didn't print it out. So
8 it's a printout that has addresses of lots that
9 Lincoln Towing or somebody tows from from the
10 Illinois Commerce Commission, and I still don't
11 know what they're planning on using the
12 document for, because this witness has never
13 seen the document before, but they're going to
14 use him somehow to testify about it, and that's
15 fine.
16 The interrogatory doesn't tell me
17 what they're using it for, other than to show,
18 quote unquote, inconsistencies, whatever that
19 means. Inconsistencies in spelling or typing
20 or -- I don't know; the dates involved. They
21 don't tell us because, again, it's hide the
22 ball. We're not going to tell you what we're
23 really doing with these documents.
24 So I'm trying to elicit from this

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1 witness what they're actually using the
2 document for, and counsel's objecting that I'm
3 going beyond the scope by doing that.
4 JUDGE KIRKLAND-MONTAQUE: Okay. So
5 Ms. Parker, what's your objection?
6 MS. PARKER-OKOJIE: Your Honor, my
7 objection is that counsel's questions about how
8 a relocater goes about cancelling contracts,
9 how those contracts could be cancelled, that
10 has nothing to do with the inconsistencies in
11 the logs.
12 If counsel wants to ask Sergeant
13 Sulikowski information about the
14 inconsistencies, where those inconsistencies
15 are, how he determined that they were
16 inconsistencies, those are all perfectly fine
17 avenues of questioning I think and will get
18 more to the heart of what he's looking at,
19 which is why are these documents being used.
20 Questions about how relocators cancel
21 contracts and that procedure is not really even
22 what these documents are related to. So I
23 think those are just broader procedural
24 questions. Counsel's actually -- I've given

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1 him some latitude in asking a few questions
2 about that, but he's persisting in this line of
3 questioning, and I think that he should be
4 focusing his questioning on the inconsistencies
5 in the documents or why these documents are
6 significant to Sergeant Sulikowski.
7 MR. PERL: Which would be great if
8 Sergeant Sulikowski had actually ever seen
9 these documents before this minute, and he
10 hasn't. So how he can tell me what an
11 inconsistency is in a document he's never seen
12 before, that would be a trick for me, because
13 he just testified he's never seen them before
14 and he didn't create them.
15 So I'm trying to figure out how in
16 fact a person who doesn't know what these
17 documents even are can tell me there's
18 inconsistencies in them. Beyond that, because
19 I didn't want to object to those and delay the
20 hearing, I didn't want to be accused of
21 delaying anything, so I didn't. I just went
22 forward.
23 It's my understanding, and by the
24 way, I do have a theory of the case, and I

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1 don't have to follow Commerce Commission's
2 theory. I'm following my own. If they are
3 going to be claiming there's inconsistencies
4 with the contracts, I need to elicit how in
5 fact you actually terminate a contract and how
6 in fact it's possible that somebody else
7 terminated Lincoln's contract, and that's why
8 there's an inconsistency. It's called
9 cross-examination, and I'm entitled to do that,
10 especially in a deposition where all I've got
11 to do is show it leads to relevant information,
12 and if you looked at their interrogatory, it's
13 so broad. I could pretty much ask him anything
14 I wanted to regarding these documents because
15 they don't say what they're using them for,
16 other than to show -- literally show the
17 consistency of the entries. They don't
18 actually say inconsistency. They say the
19 inconsistencies. So I guess what they are saying
20 is the documents are consistent.
21 JUDGE KIRKLAND-MONTAQUE: What did
22 you want to ask?
23 MR. PERL: I'm asking questions
24 regarding -- Judge, literally I don't know what

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1 they're getting at, because now that I'm
2 reading their interrogatory, it says they want
3 to show the consistency of the entries, which
4 would mean they are proving our case for us
5 that the documents are consistent. It should
6 say they want to show the inconsistencies, but
7 they don't say that.
8 So their own document -- if they want
9 to stipulate the documents are consistent, I
10 can end my deposition right now if they can
11 stipulate to the fact that they're living with
12 this interrogatory, which says they're going to
13 show the 24-hour tow sheets and the
14 Commission's records are consistent.
15 JUDGE KIRKLAND-MONTAQUE: I don't see
16 the harm in answering questions. Honestly I
17 don't.
18 MS. PARKER-OKOJIE: Your Honor, if we
19 could just have counsel read back the question,
20 because I think he posed the question what was
21 the question counsel was asking. He did not
22 tell you that.
23 MR. PERL: I'll tell you what I'm
24 trying to get at right now, and I'll pose a new

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1 question if you want.
2 MS. PARKER-OKOJIE: No, if we could
3 have the court reporter to read back the
4 question that was posed. That was the question
5 I objected to.
6 JUDGE KIRKLAND-MONTAQUE: Okay.
7 Let's hear it.
8 (Record read as requested.)
9 MR. PERL: Were you able to hear
10 that, Judge?
11 JUDGE KIRKLAND-MONTAQUE: Yeah, I
12 heard it.
13 MR. PERL: And I'll tell you where
14 I'm going with this, since I don't know where
15 they're going with what they're doing.
16 We have made allegations in the past
17 through affidavits signed by people and
18 notarized that a certain relocater has put in
19 fraudulent terminations of contracts for my
20 client which would then lead to us towing from
21 a lot that really wasn't cancelled, but shows
22 like it is cancelled on the Commerce Commission
23 records.
24 So what I'd like to know is if in

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1 fact that occurs, would Sergeant Sulikowski
2 write a ticket? Would he know about it? What
3 would they do? Because as we sit here today
4 it's very possible, Judge, that my client could
5 have towed from a lot that really wasn't
6 properly terminated without my client's
7 notification, because it was done by an
8 individual with no authority to do so, and
9 really, like I said, Judge, now we're on
10 probably 15 minutes on this issue. And since
11 I'm always the one accused of delaying things
12 and taking so long, we could be done.
13 I'm not sure -- unless this
14 information they think is going to hurt them, I
15 don't understand what we're doing. It's a
16 deposition. I don't have to narrowly ask a
17 question, specific question. It's any evidence
18 that's relevant or leads to relevant evidence.
19 That's the rules for a deposition, period, and
20 if you read Interrogatory 20, it's on them.
21 It's their problem for not being more specific
22 and tell me what he's going to testify to,
23 because I still don't know as I sit here today,
24 and I'll read it to you again, Judge, and I

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1 would ask you if you can tell me what they're
2 going to use it for.
3 This is what they said they're using
4 it for: Will also testify as to staff review
5 of the respondent's 24-hour tow logs and the
6 consistency of the entries contained within
7 these logs with Commission records. They don't
8 even tell me anything other than that. I don't
9 know what they mean. I have no clue, no clue
10 what they're going to do with these documents,
11 and I just got them.
12 JUDGE KIRKLAND-MONTAQUE: I don't see
13 the harm again, and I don't see I think based
14 on the broad -- I mean, the openness of the
15 answer, I don't see how you can make the clue
16 or how can you define that something is outside
17 of the scope of something that's broad like
18 that.
19 MS. PARKER-OKOJIE: Your Honor, if
20 counsel would limit his questions to the
21 documents and if the documents can show this, I
22 don't have a problem with him asking Sergeant
23 Sulikowski if the documents can show a certain
24 theory of the case, because if he has that

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1 theory of the case, then if he has information
2 that he can put forward to show that some fraud
3 or misrepresentation or something else
4 occurred, then fine. That would be information
5 that he would be putting forward.
6 In terms of what Officer Sulikowski
7 may or may not know, if he tailors it to do
8 these documents show that, I don't have that
9 problem, because honestly staff was required to
10 tailor our questioning in deposition of Lincoln
11 Towing's witnesses to quote unquote the
12 relevant time period. Even when we wanted to
13 ask more general questions, more discoverable
14 issues, we were told tailor it to the relevant
15 time period.
16 So since he's already had an
17 opportunity to depose Sergeant Sulikowski, this
18 is not his first time, if there was any
19 indication from his client that there was fraud
20 or misrepresentation or otherwise going on,
21 that could have been explored during that first
22 deposition. So since now he's saying well, we
23 think this might be an issue, we'd like to
24 explore it, I would just ask that his

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1 exploration of it be tailored and limited to
2 what these documents show.
3 MR. PERL: I'm not trying to --
4 JUDGE KIRKLAND-MONTAQUE: Is it
5 possible, Mr. Perl, to say based on looking at
6 this document can you determine, you the
7 officer, determine whether, you know, something
8 was -- you know, can you get to your point
9 focusing on the document?
10 MR. PERL: Here's the beauty of it:
11 When you take a deposition and you want to find
12 something out, you don't go right to the
13 question. You ask questions around it and
14 surrounding it. At least that's how I do it.
15 I don't come straight in to say did you do it,
16 because everyone's just going to say no. First
17 you ask the background questions and leading
18 questions up to it, and then you get to that.
19 And by the way, Judge, I have already
20 asked this witness. He doesn't know -- he's
21 already testified he has no idea if the
22 document's accurate and it could have been
23 altered as far as he knows. He has no clue.
24 He's never seen the document before.

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1 One step further though, Judge, on
2 February 1st we had a hearing in front of you,
3 and on Page 146 of that hearing, and I'll show
4 counsel in a second, you literally said you're
5 limiting the information that staff could use
6 to -- we are going to limit the information
7 that staff has as of February 1st, 2017, even
8 if it's within the time period. They didn't
9 have this information as of February 1st, so
10 they can't even use it, because these documents
11 were just created a week or two ago, and you
12 literally said you can only use information you
13 had as of February 1st, 2017. Clearly they
14 didn't have it, because the dates on here are
15 April 24th, 2017.
16 MR. BARR: Your Honor, it's Ben
17 speaking now if I may. That conversation that
18 counsel is reading back to you is not only
19 taken out of context, your Honor, but only
20 references the tow invoices, because that
21 February 1st date that we were trying to
22 discuss the scope of this hearing and what we
23 were specifically discussing was the scope of
24 new investigation files, when they were -- when

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1 they could be added in, and you cut off the
2 date for new investigation files as of that
3 February 1st date.
4 JUDGE KIRKLAND-MONTAQUE: Okay. Now
5 you guys are moving onto something else.
6 MR. PERL: All I want to do -- Judge,
7 again, now we're on 20 minutes on this issue.
8 JUDGE KIRKLAND-MONTAQUE: Okay. I
9 don't see the harm in answering the question.
10 I don't see the harm, so I would allow the
11 question and an answer.
12 MR. PERL: Thank you, Judge.
13 MS. PARKER-OKOJIE: Your Honor, can
14 it be limited, though, to his review of the
15 documents? That's all we're asking. We're not
16 saying he can't explore that theory of the case
17 with Sergeant Sulikowski, but we're just asking
18 can it be -- because the purpose of this
19 deposition was merely what are these documents?
20 Is he familiar with them? How did he
21 authenticate information on them? Can it be
22 limited to the documents? That's the sole
23 reason that I wanted to call you.
24 MR. PERL: Well, he's already

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1 testified he can't authenticate anything in the
2 document. He's already said that, so I'm going
3 a little bit beyond that and trying to figure
4 out if in fact somebody, another relocater,
5 would actually fraudulently try to terminate
6 someone else's lot, would the Commerce
7 Commission get involved in writing a citation.
8 That's one question. Literally I can move on,
9 but I don't think counsel has the right to tell
10 me I can only ask one question. How I can ask
11 my questions. Which questions I can ask. It's
12 totally improper at a deposition, especially
13 since they just gave me these documents ten
14 days ago, and this hearing's been planned for
15 the last, what, five months, and it's been
16 going on for a year and a half, and I'm just
17 getting these documents now, and if you look at
18 the interrogatory, and I haven't moved yet to
19 bar them, but I'm going to once we are done
20 with this hearing, I'm going to move them
21 barring using these at all because the
22 interrogatory response they gave us is so
23 general, it means nothing, and the witness they
24 have couldn't possibly authenticate them. He's

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1 already said he's never seen them before.
2 JUDGE KIRKLAND-MONTAQUE: That's
3 another issue.
4 MR. PERL: That's a different issue.
5 I just want to finish the deposition.
6 JUDGE KIRKLAND-MONTAQUE: I'm going
7 to allow the question and the answer. I'm not
8 going to limit it to -- I don't see how the
9 answer can in any way be detrimental or harmful
10 or prejudicial, anything like that. So I'll
11 allow the question, and without -- because I
12 don't even know how you can limit it to based
13 on the document. I mean, it's a general
14 question. I mean, what would happen in this
15 certain scenario; I don't see how it's harmful.
16 Hello?
17 MS. PARKER-OKOJIE: I'm sorry, your
18 Honor, we are on a line at counsel's office. I
19 think there might be an incoming call. Can you
20 still hear us?
21 JUDGE KIRKLAND-MONTAQUE: Yeah, I can
22 hear you. So did you hear my answer?
23 MS. PARKER-OKOJIE: I did, your
24 Honor, but I'm just -- the reason I'm asking

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1 about it being limited to the document is
2 because that was the whole purpose of this
3 deposition, to allow questions to be asked
4 about the documents.
5 JUDGE KIRKLAND-MONTAQUE: But how can
6 you say that it isn't?
7 MS. PARKER-OKOJIE: How can I say
8 that what isn't?
9 JUDGE KIRKLAND-MONTAQUE: That the
10 question and answer are not related to the
11 document.
12 MS. PARKER-OKOJIE: Because he asked
13 a general question about how contracts could be
14 cancelled. That's more of a procedural issue.
15 MR. PERL: Judge, this is a
16 deposition.
17 JUDGE KIRKLAND-MONTAQUE: I'm going
18 to allow it.
19 MR. PERL: Thank you. I'm not sure
20 how many times counsel's not going to take no
21 for an answer, but can this be the last time so
22 we can actually finish the deposition?
23 JUDGE KIRKLAND-MONTAQUE: Yeah, I
24 mean, we've gone back and forth a couple times,

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1 and I again am going to repeat myself, I don't
2 see the harm in it. I'm going to allow it.
3 MR. PERL: Thank you, Judge.
4 JUDGE KIRKLAND-MONTAQUE: All right.
5 MS. PARKER-OKOJIE: Thank you.
6 JUDGE KIRKLAND-MONTAQUE: Bye Bye.
7 BY MR. PERL:
8 Q. Okay. You probably don't remember
9 the question any more.
10 A. I'd like it read back please.
11 (Record read as requested.)
12 MS. PARKER-OKOJIE: Objection,
13 relevance.
14 THE WITNESS: It can be.
15 BY MR. PERL:
16 Q. Would you write a citation for that?
17 A. It would create an investigation, and
18 I can't talk about a fictitious investigation.
19 If the evidence led there and it was verified,
20 then yes, I would.
21 Q. And that was my question.
22 Do you know whether or not that
23 occurred within any of the documents in
24 Exhibits 2 or 3?

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1 A. No.
2 Q. Did you do anything to investigate
3 whether it occurred within any of the lots
4 involved in Exhibits 2 or 3?
5 A. No.
6 Q. Are you familiar with the address
7 2111 South Clark Street?
8 A. No.
9 Q. Do you know which relocation company
10 has the towing for that lot?
11 A. No.
12 Q. Do you know whether or not Lincoln
13 Towing has previously submitted an affidavit
14 for that particular lot stating that another
15 individual fraudulently signed the manager's
16 name to cancel the lot with Lincoln Towing?
17 A. No.
18 Q. You're not aware of that one way or
19 the other?
20 A. Correct.
21 Q. And I would direct your attention to
22 Exhibit 3, Bates marked Page 18.
23 A. Okay.
24 Q. Can you see what address this is?

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1 A. 2111 South Clark in Chicago.
 2 Q. And that's the address I previously
 3 asked you if you were aware of that address,
 4 correct?
 5 A. Yes.
 6 Q. And from this document here do you
 7 see an individual's name Ms. Carol Redman? It
 8 looks like it's the first, second, third --
 9 fourth owner down from the top.
 10 A. Yes.
 11 Q. Do you know who Carol Redman is?
 12 A. No.
 13 Q. Do you know if in fact anybody ever
 14 fraudulently signed Carol Redman's name to
 15 cancel a Lincoln Towing lot at 2111 South
 16 Clark?
 17 A. No.
 18 Q. Are you planning on using the
 19 documents contained in Exhibit 3 when you
 20 testify at the hearing for fitness on Lincoln
 21 Towing?
 22 A. I personally am not presenting these
 23 documents.
 24 Q. Is there any information contained

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1 strictly just on Exhibit 3 that would lead you
 2 to believe Lincoln Towing is fit or not fit to
 3 hold a relocater's license?
 4 A. No.
 5 MS. PARKER-OKOJIE: Objection, calls
 6 for a legal conclusion.
 7 THE WITNESS: No.
 8 BY MR. PERL:
 9 Q. Let me show you now what we marked as
 10 Exhibit 4, and this actually is marked as
 11 Exhibit 4 by the Commerce Commission when they
 12 tendered it, and this is a document that is not
 13 Bates stamped, but it says Page 1 of 4
 14 through 4 of 4 in the top right with Exhibit 4
 15 as a cover page.
 16 (Whereupon Exhibit No. 4
 17 was marked for
 18 identification.)
 19 BY MR. PERL:
 20 Q. Take a moment and take a look at
 21 Exhibit 4, please.
 22 A. Okay.
 23 Q. Have you seen Exhibit 4 before today?
 24 A. Yes.

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1 Q. When did you see it?
 2 A. Friday.
 3 Q. So these four pages were actually
 4 shown to you on Friday, correct?
 5 A. Yes.
 6 Q. By your attorneys, correct?
 7 A. Yes.
 8 Q. Did you print this document?
 9 A. No.
 10 Q. Did you input the information
 11 contained in this document?
 12 A. No.
 13 Q. Do you know where the information
 14 from this document came from?
 15 A. Yes.
 16 Q. How do you know that?
 17 A. Because I work with MCIS every day.
 18 Q. But you didn't print the document?
 19 A. I did not.
 20 Q. So isn't it possible that this
 21 document came -- it's possible that somebody
 22 printed this document, made a copy of it, and
 23 that's what you're looking at right now, isn't
 24 it?

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1 A. Yes.
 2 Q. So you don't know whether or not this
 3 document was printed off the MCIS computer, do
 4 you?
 5 A. No.
 6 Q. And you don't know whether the
 7 information contained here is accurate, do you?
 8 A. No.
 9 Q. And you don't even know who inputs
 10 this information in the MCIS computer, do you?
 11 A. No.
 12 Q. Do you know when this information was
 13 input into the MCIS computer?
 14 A. No.
 15 Q. Do you know when this document was
 16 printed?
 17 A. No.
 18 Q. Do you know when it was copied?
 19 A. No.
 20 Q. Do you know if it's been altered or
 21 not?
 22 A. No.
 23 Q. Just looking at this document on its
 24 own can you see whether it's consistent or

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1 inconsistent with anything on its face?
2 A. It's consistent with the format that
3 I am used to seeing in MCIS.
4 Q. But you don't know whether there's
5 inconsistencies on any of the documents just
6 looking at this document itself?
7 A. No.
8 Q. Do you think the information
9 contained on here is accurate?
10 A. Yes.
11 Q. Why do you think that?
12 A. Because I do not believe that our
13 attorneys are the kind of people that would
14 alter documents.
15 Q. Oh, no, no. Strike that.
16 They didn't create this document, did
17 they? They just gave it to you.
18 A. Correct.
19 Q. So I'm not asking that. I wasn't
20 implying that at all. I'm saying do you think
21 the information on this document is accurate?
22 A. Yes.
23 Q. Why?
24 A. Because the information in our MCIS

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1 system is accurate.
2 Q. And you've reviewed everything on
3 here to make sure it's accurate, correct?
4 A. No.
5 Q. Well, did you review anything to see
6 if it was accurate?
7 A. I did not review this information
8 against hard copy applications submitted by
9 these dispatchers, no.
10 Q. So I asked you a question. Do you
11 believe the information in Exhibit 4 is
12 accurate, and what is your answer?
13 A. My answer is yes.
14 Q. So let's take a look at any one of
15 these things. Adam Silverstein, the first one.
16 Do you know when he was issued a license?
17 A. On 4/7 of 2008.
18 Q. That's when he was issued his
19 license?
20 A. Correct.
21 Q. You're looking at this document, and
22 you know that to be the case?
23 A. I do not.
24 Q. Well, why would you think it was 4/7

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1 of 2008?
2 A. Because that's the date I'm looking
3 at.
4 Q. Isn't that actually the expiration
5 date?
6 A. It is.
7 Q. So that's not the date it was issued.
8 A. Well, I'm a human being, Counselor.
9 Q. I'm just asking.
10 A. I'm entitled to make mistakes.
11 Q. I'm not saying you're not. My point
12 is that we all make mistakes, correct?
13 A. Yes.
14 Q. The person that inputs this
15 information could have made mistakes, correct?
16 A. Correct.
17 Q. You wouldn't know that, would you?
18 A. No.
19 Q. This document says his ACT date,
20 which I'm assuming is an activation date or
21 active date?
22 A. I don't know.
23 Q. Says 4/7/2006, doesn't it?
24 A. Yes.

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1 Q. But you don't know if that's accurate
2 or not, do you?
3 A. I do not.
4 Q. You can see two years from that date
5 would be 4/7 of 2008, correct?
6 A. Yes.
7 Q. Do you know whether or not he renewed
8 his license prior to 4/7/2008?
9 A. Not off of this report.
10 Q. It's not on there, is it?
11 A. No.
12 Q. If I went through each and every one
13 of these lines in here where it shows the
14 individual's name and their active date, would
15 you actually know whether that's accurate
16 information or not?
17 A. No.
18 Q. Would you even know who input that
19 information into the system?
20 A. No.
21 Q. But we know it wasn't you, correct?
22 A. Correct.
23 Q. And we know you didn't print this
24 document, correct?

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1 A. Correct.
 2 Q. And we know you don't even know if
 3 this document came from a computer or somebody
 4 printed it from a copy machine, correct?
 5 A. Correct.
 6 Q. Did you do anything once you saw this
 7 on Friday to determine whether the information
 8 on here was accurate?
 9 A. No.
 10 Q. Have you ever been asked upon --
 11 strike that.
 12 How long have you been working for
 13 the Commerce Commission?
 14 A. Nearly five years.
 15 Q. Has anybody ever asked you to review
 16 a document like this and compare it for
 17 inconsistencies with another document?
 18 A. In what context?
 19 Q. The Illinois Commerce Commission
 20 context.
 21 A. In a deposition context?
 22 Q. Ever. I'm assuming you've never been
 23 deposed regarding a document like this before,
 24 correct?

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1 A. Correct.
 2 Q. I'm asking you in your five year
 3 career with the Commerce Commission, has
 4 anybody ever shown you a document like this and
 5 said could you see based upon another document
 6 if there's inconsistencies?
 7 A. No.
 8 Q. That's not even in your job duties
 9 and scope of your duties, is it?
 10 A. It can be.
 11 Q. Is it? You've never done it before,
 12 right?
 13 A. No.
 14 Q. How can it be in your job duties?
 15 A. Because I'm the supervisor in the
 16 police section. This is information that is
 17 relied upon daily by our officers, and if there
 18 are violations, then they use this information
 19 for that violation, so yes.
 20 Q. Was any of this information used to
 21 write a violation or citation for the time
 22 period July 24th, 2015 through March 23rd,
 23 2016?
 24 A. I can't answer that question.

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1 Q. Because you don't know, do you?
 2 A. I do not know. There's many
 3 officers, and did they specifically write for
 4 an expired dispatcher during that time period?
 5 They could have.
 6 Q. But you don't know as you sit here
 7 today whether they did or didn't?
 8 A. I don't know.
 9 Q. So you can't competently testify as
 10 to whether or not there actually were any
 11 citations written because Lincoln Towing had an
 12 expired -- this says dispatcher list; this
 13 dispatcher during the relevant time period, do
 14 you?
 15 MS. PARKER-OKOJIE: Objection, calls
 16 for a legal conclusion as to competent
 17 testimony and what is required for that.
 18 MR. PERL: You can answer if you
 19 know.
 20 THE WITNESS: I would need to review
 21 documents, because I know I personally wrote a
 22 bunch of tickets to Lincoln Towing for using an
 23 expired dispatcher. I can't say or not if that
 24 was in that timeframe unless I review further

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1 documents. So tickets have been issued to
 2 Lincoln Towing.
 3 BY MR. PERL:
 4 Q. During what time period?
 5 A. I can't answer that.
 6 Q. During the relevant time period?
 7 A. Possibly.
 8 Q. But you don't know as you sit here
 9 today?
 10 A. Correct.
 11 Q. And you haven't reviewed anything up
 12 till today that has shown you that any of the
 13 citations were written during the relevant time
 14 period, have you?
 15 A. No.
 16 Q. And you've known about this
 17 deposition, correct?
 18 A. Since Wednesday.
 19 Q. And you knew about your other
 20 deposition for quite a while too, right?
 21 A. Yes.
 22 Q. And you didn't review any documents
 23 prior to your first deposition that would show
 24 you that there were any tickets or -- I'm

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1 sorry, citations written regarding using a
 2 dispatcher that was expired during the relevant
 3 time period, did you?
 4 A. Correct.
 5 Q. Are you planning on looking at more
 6 information yet between now and the hearing
 7 date?
 8 A. If I'm asked to, I will.
 9 Q. If you are not asked to, are you
 10 planning on doing that?
 11 A. Am I self-generating an
 12 investigation --
 13 Q. Yes.
 14 A. -- into certain information? No, I'm
 15 not.
 16 Q. And by the way, Sergeant, I'm not
 17 judging you for doing or not doing. I'm just
 18 asking you a question. I'm just asking you if
 19 you're planning on doing that.
 20 A. I'm not planning on it. Again, if I
 21 am asked to review, I will review.
 22 Q. But you're not planning on looking at
 23 any other documentation you haven't yet seen
 24 before today's date, correct?

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1 A. Again, I've answered that question,
 2 Counsel.
 3 Q. And the answer is?
 4 A. I am not planning on myself. If I am
 5 asked to review material, I will review it.
 6 Q. The difficulty, Sergeant, is if I ask
 7 you a yes or no question, and then you answer
 8 it like that, I have to reask it again.
 9 A. Well, it's not a yes or no answer to
 10 that question, so ask me a yes or no question.
 11 Q. My question to you is this: Are you
 12 planning on your own to initiate the review of
 13 any documents you haven't seen before today's
 14 date?
 15 A. No.
 16 Q. Do you know who Albert Solano is?
 17 A. No.
 18 Q. Do you know who Johan Allande is?
 19 A. No.
 20 Q. Do you know who Donald Bagger is?
 21 A. No.
 22 Q. Do you know who Robert Crook is?
 23 A. No.
 24 Q. Do you know who any of the

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1 individuals listed in Exhibit 4 are?
 2 A. No.
 3 Q. Did you ever contact anybody at any
 4 other towing company other than Lincoln Towing
 5 to determine whether or not the information
 6 contained in Exhibit 4 is accurate?
 7 A. No.
 8 Q. Did you ever contact Lincoln Towing
 9 to determine whether or not the information in
 10 Exhibit 4 is accurate?
 11 A. No.
 12 Q. Did you ever contact anybody within
 13 the Illinois Commerce Commission to determine
 14 whether or not the information in Exhibit 4 is
 15 accurate?
 16 A. No.
 17 Q. Do you actually know what Exhibit 4
 18 is a list of?
 19 A. It's a list of dispatchers for
 20 Lincoln Towing.
 21 Q. For what time period?
 22 A. Looks like from the early '90s
 23 through today's date.
 24 Q. The early '90s through today's date?

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1 A. That's what it looks like.
 2 Q. When did Lincoln Towing become in
 3 existence?
 4 A. I'm not sure.
 5 Q. So is this a complete list of all the
 6 dispatchers that have ever worked for Lincoln
 7 Towing?
 8 A. I didn't print this list.
 9 Q. So you don't know?
 10 A. Correct.
 11 Q. How often does a dispatcher have to
 12 renew their license?
 13 MS. PARKER-OKOJIE: Objection, beyond
 14 the scope.
 15 MR. PERL: I'm sorry, you can answer.
 16 THE WITNESS: Every two years.
 17 BY MR. PERL:
 18 Q. And do you know how they go about
 19 doing it?
 20 A. No.
 21 Q. Do you know who they send their
 22 information to?
 23 A. Our processing section.
 24 Q. Who is that -- do you know how that

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1 actually works?
2 A. No.
3 Q. Is there anything the Commerce
4 Commission has to do once they receive the
5 information?
6 A. I'm not sure I understand the
7 question.
8 Q. If somebody inputs the information to
9 renew the license, is it automatic their
10 license is renewed?
11 A. I don't believe so.
12 Q. Is there anything -- strike that.
13 Do you know what the Commerce
14 Commission has to do once they receive
15 information to renew a dispatcher's license?
16 A. Not all the steps.
17 Q. Do you know any of them?
18 A. I know there's an application that
19 the individual submits along with a fee. There
20 is a fingerprint inquiry and a relevant
21 background check, and if that is all passed,
22 then a license is issued.
23 Q. Is that the procedure for initial
24 license or even when you renew?

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1 MS. PARKER-OKOJIE: Continued
2 objection to questions about procedure on
3 renewal of licenses.
4 MR. PERL: Duly noted.
5 THE WITNESS: Both, always, every
6 time.
7 BY MR. PERL:
8 Q. Do you know any particular reasons
9 why a dispatcher wouldn't be renewed or
10 licensed?
11 A. There's various criminal convictions
12 that would prevent them from obtaining a
13 license.
14 Q. Other than that, do you know of any
15 reasons why they wouldn't be renewed or
16 licensed initially?
17 A. I'm not involved in that process,
18 Counsel.
19 Q. Would that be a no then?
20 A. Yes.
21 Q. Let me ask you the question again.
22 A. That would be a no.
23 Q. You've never been involved in the
24 licensing of a dispatcher, have you?

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1 A. Yes.
2 Q. In what sense?
3 A. When there was a timeframe without a
4 chief of police, I was required to review the
5 background checks, and I would make a
6 recommendation as to whether or not a license
7 should be issued or be set for a hearing.
8 Q. And if an individual didn't have a
9 criminal conviction or arrest record, would you
10 still sometimes not approve them?
11 A. No.
12 Q. They would get approved, wouldn't
13 they?
14 A. Yes.
15 Q. You'd only set a hearing if they had
16 an arrest record, correct?
17 A. Correct.
18 Q. During the relevant time period we
19 are talking about did that ever occur with
20 Lincoln Towing?
21 MS. PARKER-OKOJIE: Objection as to
22 scope of the question.
23 MR. PERL: You can answer.
24 THE WITNESS: Maybe.

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1 BY MR. PERL:
2 Q. Do you know specifically that it did?
3 A. No.
4 Q. So when you say maybe, what's that
5 based upon?
6 A. That's based upon many review of many
7 licenses during that timeframe. Were any of
8 them Lincoln Towing? I don't know.
9 Q. Did you review any dispatcher
10 licenses during the period of time July 24th,
11 2015 to March 23rd, 2016?
12 A. Probably.
13 Q. Was that when there was no acting
14 chief and you were doing that?
15 A. There were several periods of time
16 that there were no acting chief.
17 Q. Do you have specific knowledge that
18 during that relevant time period one of Lincoln
19 Towing's dispatchers put in for a renewal and
20 they were denied because they had a criminal
21 background?
22 A. No.
23 Q. Do you have specific knowledge during
24 that time period that any Lincoln Towing

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1 dispatcher wasn't approved for a license?
2 A. No.
3 Q. Do you know who Duane -- I'm sorry?
4 A. I was just checking the time to see
5 if we needed to take a break or if this is --
6 Q. You can take a break whenever you
7 want. You don't have to wait for a time.
8 A. Is this going to go much longer,
9 because I can hold my break if it's not going
10 to.
11 MR. PERL: No, take a break.
12 (Whereupon a short
13 recess was had.)
14 BY MR. PERL:
15 Q. All right. Show you now what's been
16 marked as Exhibit 5, and this is a three-page
17 document including a cover page that we
18 received from the Commerce Commission in their
19 most recent discovery, and its cover sheet says
20 Exhibit 5 and it's two pages.
21 (Whereupon Exhibit No. 5
22 was marked for
23 identification.)
24 BY MR. PERL:

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1 Q. Sir, let me know when you've had a
2 chance to look at these documents.
3 A. Okay. I'm ready.
4 Q. Have you seen these documents before
5 today, this exhibit?
6 A. Something marked Exhibit 5, no, but I
7 have seen these documents before.
8 Q. Now, I'm not saying have you seen
9 this information on a computer somewhere. Have
10 you seen these specific documents before?
11 A. Yes.
12 Q. When?
13 A. Friday.
14 Q. You did not create these documents?
15 A. No.
16 Q. You did not print these documents?
17 A. No.
18 Q. You didn't put the information that's
19 on these documents, correct?
20 A. No.
21 Q. And you don't know if this is a
22 printout from a computer, a copy of a printout
23 from a computer, do you?
24 A. No.

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1 Q. And you don't know if this document
2 has been altered, do you?
3 A. No.
4 Q. And you don't know who created this
5 document, do you?
6 A. No.
7 Q. And you did not input this
8 information into the MCIS, did you?
9 A. No.
10 Q. And where is this information from?
11 What is this information, if you know?
12 A. This is a screen shot of the
13 information that we use to look up a
14 dispatcher, so when we see an invoice and a
15 dispatcher number is listed on there, this is
16 what we will see when we type that into MCIS.
17 Q. Did you on Friday go into the MCIS
18 and retrieve this information?
19 A. No.
20 Q. So all you've done is review these
21 two pages, correct?
22 A. Yes.
23 Q. Are you planning on using these two
24 documents or this exhibit when you testify at

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1 the hearing?
2 A. No.
3 Q. You have no way of knowing whether
4 the information on these two pages is accurate,
5 do you?
6 A. No.
7 Q. And what is contained on here, just
8 so we can make it for the record?
9 A. The dispatcher number, 238, which is
10 in the top left, the dispatcher's name, Duane
11 E. Davenport, his pertinent information which
12 is redacted out, who he works for, when the
13 permit was applied for, issued, activity and
14 expiration date.
15 Q. And this particular individual is
16 Duane Davenport, correct?
17 A. Yes.
18 Q. And there seems to be two pages,
19 correct?
20 A. Correct.
21 Q. How is it possible there's two pages?
22 A. Because he's held more than one
23 license over a two-year period, so when he
24 reapplies, then another page is created.

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1 Q. So it says application type initial,
2 activity status issued, correct?
3 A. On this first sheet that's effective
4 date of 2013?
5 Q. Yes.
6 A. Yes.
7 Q. So it says application type initial,
8 correct?
9 A. Yes.
10 Q. What does that tell you?
11 A. I don't know what the initial stands
12 for. I can see the status that it was issued.
13 Q. But what does initial mean to you?
14 Does it mean it's the first time he's getting a
15 license?
16 A. I don't know.
17 Q. And what does -- and activity status
18 says issued. Do you know what that means
19 specifically?
20 A. Yes, he was issued a license.
21 Q. When?
22 A. Well, when we called the Lincoln
23 Towing, we called him on 11/5. That's when the
24 license becomes effective.

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1 Q. How do you know Lincoln Towing was
2 called?
3 A. Because that's the standard procedure
4 in the office.
5 Q. But you don't really know if anybody
6 called Lincoln on November 5th, 2013, do you?
7 A. Well, that's the date that's puts on
8 the file for when that applicant comes in.
9 Q. Who called Lincoln Towing from the
10 Commerce Commission --
11 A. I can't answer that.
12 Q. Let me finish; who called Lincoln
13 Towing from the Commerce Commission on
14 November 5th, 2013?
15 A. I can't answer that.
16 Q. Do you know specifically somebody
17 actually did call on November 5th?
18 A. No.
19 Q. You don't know that, do you? That
20 might be the standard procedure, but you don't
21 know that it actually occurred in this case, do
22 you?
23 A. Not without seeing the file.
24 Q. And you haven't spoken to the

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1 individual who claims to have called Lincoln
2 Towing on that date, have you?
3 A. I don't know who called.
4 Q. So you haven't spoken to that person?
5 A. I don't know how I can speak to
6 somebody I don't know.
7 Q. And then it says activity date
8 11/21/2103. What does that mean?
9 A. That's when he came in to get the
10 permit. So to stand for his picture, to sign
11 the permit and actually have it handed to him.
12 Q. Do you actually know when
13 Mr. Davenport first applied in 2013 other than
14 this piece of paper here?
15 A. No.
16 Q. It's possible that he applied two
17 months earlier and somehow the Commerce
18 Commission misplaced his application, isn't it?
19 A. I suppose.
20 Q. And do you know whether that happened
21 or not?
22 A. I do not.
23 Q. Do you know how long the Commerce
24 Commission has from when they receive an

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1 application to when they are supposed to either
2 reject or accept a license?
3 A. I don't --
4 MS. PARKER-OKOJIE: Objection as to
5 the question about procedure and the subsequent
6 questions about procedure and practice.
7 THE WITNESS: I do not.
8 BY MR. PERL:
9 Q. Does it appear to you -- from what
10 you are stating, does it appear to you if what
11 you are saying is accurate that the application
12 was received on November 5th, 2013 and actually
13 approved on November 5th, 2013?
14 A. That's what it says.
15 Q. If you look at the next page,
16 application type, again it says initial, but it
17 can't be initial if you already had your
18 license, wouldn't it? Wouldn't it be a
19 renewal?
20 A. Counsel, it's out of my scope. This
21 is a processing question. I don't deal with
22 this and I don't input this, so I don't know
23 that answer.
24 Q. So you're not really the person that

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1 can answer questions about this document, are
 2 you?
 3 MS. PARKER-OKOJIE: Objection, calls
 4 for a legal conclusion.
 5 MR. PERL: Are you?
 6 THE WITNESS: Not about accepting
 7 applications, no, I'm not the person.
 8 BY MR. PERL:
 9 Q. That's the information that's on
 10 this. Isn't that the relevant information?
 11 The other information is just a person's name
 12 and their address and the relocater number,
 13 correct? That's the standard information.
 14 A. No, that's not correct.
 15 MS. PARKER-OKOJIE: Objection. If
 16 you can wait for me to just make my objection,
 17 Sergeant Sulikowski. My objection is to the
 18 question calls for a legal conclusion in terms
 19 of what the relevant information on the
 20 document is.
 21 BY MR. PERL:
 22 Q. So what other information is on here
 23 then?
 24 A. This will tell me as a police officer

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1 conducting an investigation based on a consumer
 2 complaint whether or not this person held a
 3 valid license at the time that he or she put
 4 his number or her number on that invoice.
 5 Q. So the relevant information really is
 6 the permit information, correct, for the most
 7 part?
 8 MS. PARKER-OKOJIE: Objection to
 9 again --
 10 BY MR. PERL:
 11 Q. Let me explain what I'm saying. The
 12 information above, that simply is just
 13 statistical; a person's name, where they live.
 14 That's not open to interpretation, is it?
 15 A. No.
 16 MS. PARKER-OKOJIE: Objection.
 17 BY MR. PERL:
 18 Q. So where it says dispatcher, that's
 19 just his name, correct?
 20 A. Correct.
 21 Q. There's no issue as to that. The
 22 carrier information is just Lincoln's name and
 23 address, correct?
 24 A. Yes.

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1 Q. So the only information that there
 2 might be an issue over is the permit
 3 information, correct?
 4 A. Correct.
 5 Q. And you stated you don't know what
 6 initial means, correct?
 7 A. Yes.
 8 Q. You don't know. So the information
 9 to the core of what's going on here, you really
 10 aren't the person I should ask those questions
 11 of, are you?
 12 MS. PARKER-OKOJIE: Objection, calls
 13 for a legal conclusion.
 14 THE WITNESS: It depends. If you're
 15 asking an application processing question, then
 16 no, I am not the person. If you're asking me
 17 whether or not for a specific date this person
 18 held a valid license, I can answer that
 19 question.
 20 BY MR. PERL:
 21 Q. You can answer it based upon what you
 22 see on the computer, correct?
 23 A. Correct.
 24 Q. And then this particular sheet,

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1 Page 2, says application received 12/9/2015.
 2 You see that?
 3 A. Yes.
 4 Q. Then it says effective date
 5 3/22/2016, you see that?
 6 A. Yes.
 7 Q. That's by my account, let's see --
 8 December to January to February to March --
 9 that's three and a half months later, isn't it?
 10 A. Yes.
 11 Q. What took three and a half months to
 12 approve Mr. Davenport's license?
 13 A. I can't answer that question.
 14 Q. Yet it was approved, correct?
 15 A. Yes.
 16 Q. So he probably didn't have a criminal
 17 conviction, did he?
 18 A. He could have. He could have been
 19 set for hearing. This doesn't tell me that.
 20 That could have been the lapse in time.
 21 Q. But you don't know that, do you?
 22 A. I do not.
 23 Q. Is it your opinion or knowledge that
 24 the Commerce Commission has three and a half

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1 months to deny or accept an application for
2 dispatcher?
3 MS. PARKER-OKOJIE: Objection to any
4 questions, again, about process or procedure.
5 MR. PERL: If you know.
6 THE WITNESS: I do not know.
7 BY MR. PERL:
8 Q. And in this particular case, you
9 don't know what happened, do you?
10 A. No.
11 Q. And you didn't speak to
12 Mr. Davenport, did you?
13 A. No.
14 Q. Are these the only two applications
15 Mr. Davenport's ever made to be a dispatcher
16 ever with the Commerce Commission?
17 A. I do not know.
18 Q. Where's the other ones, do you know?
19 A. I didn't create this document.
20 Q. Well, according to Exhibit 4, the
21 document you were just looking at prior to
22 this, on Page 2 of 4, take a look at that. It
23 appears from this document Mr. Davenport has
24 had a license for dispatcher since 1999.

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1 MS. PARKER-OKOJIE: Objection, again
2 beyond the scope. The relevant time period
3 here is July 24th, 2015 through March 23rd,
4 2016.
5 MR. PERL: So I'm not certain why
6 you're giving me documents that have 1999 on
7 it. These are your documents. How was that
8 relevant? You gave it to me.
9 MS. PARKER-OKOJIE: I'm not being
10 deposed, Counsel.
11 MR. PERL: Okay. So for the record,
12 Counsel, so you know, I'm looking at your
13 document, and you're correct, on your document
14 there's all sorts of stuff on here that is
15 outside the scope of the relevant time period,
16 and we will move to bar that later, but for the
17 moment it's there.
18 BY MR. PERL:
19 Q. So you can see that Mr. Davenport has
20 had a dispatcher license since 1999, correct,
21 from Exhibit 4?
22 A. Yes.
23 Q. If that information's accurate,
24 because we don't know if it is, but if it's

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1 accurate, he's been licensed as a dispatcher
2 since 1999, correct?
3 A. Yes.
4 Q. So where are the printouts of those
5 sheets? Why do we only have these two?
6 MS. PARKER-OKOJIE: Objection, beyond
7 the scope.
8 MR. PERL: You can answer.
9 THE WITNESS: I didn't create these
10 documents.
11 BY MR. PERL:
12 Q. So the answer is you don't know where
13 the other information is regarding the 1999 and
14 forward dispatcher license for Mr. Davenport,
15 correct?
16 A. Well, I can assume because those
17 don't deal with the timeframe of this hearing.
18 Q. So this one does, is that your
19 testimony?
20 A. No.
21 Q. Because it doesn't, does it? Because
22 this has 11/5 of 2013, doesn't it, and that's
23 not the time period for this hearing, is it?
24 MS. PARKER-OKOJIE: Objection.

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1 Again, that's a mischaracterization. The time
2 period of this is July 24th, 2015 through
3 March 23rd, 2016.
4 MR. PERL: So how is it
5 mischaracterizing to say that 11/5/2013 doesn't
6 fall within that time period?
7 MS. PARKER-OKOJIE: There are
8 multiple dates on this application, Counsel.
9 That date may not, but there are other dates on
10 this document that do fall within that
11 timeframe, so that's the mischaracterization.
12 MR. PERL: Well, it isn't, because
13 that date doesn't fall -- I never said the
14 other dates don't. I said that date doesn't,
15 and it doesn't.
16 MS. PARKER-OKOJIE: I'm just putting
17 it in context for the record.
18 BY MR. PERL:
19 Q. Did you write a citation to Duane
20 Davenport for not having a dispatcher license
21 during the relevant time period?
22 MS. PARKER-OKOJIE: Beyond the scope,
23 objection.
24 THE WITNESS: I believe I did.

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1 BY MR. PERL:
 2 Q. Did you?
 3 A. I believe so.
 4 Q. And what was the resolution of that
 5 ticket?
 6 A. I do not know.
 7 Q. Do you know when you personally wrote
 8 that ticket?
 9 A. I probably wrote him about at least a
 10 dozen of those. I remember No. 238 because
 11 it's ingrained in my brain.
 12 Q. During the relevant time period?
 13 A. Possibly.
 14 Q. Just so we are clear, when I ask you
 15 a question about the relevant time period and
 16 you say I wrote him a dozen tickets, do you
 17 mean during the relevant time period?
 18 A. Maybe.
 19 Q. Maybe, but you don't know?
 20 A. I do not.
 21 Q. So maybe not?
 22 A. I remember that number.
 23 Q. Well, because you remember him being
 24 a dispatcher since 1999. He's been there for

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1 20 years.
 2 A. That's not why I remember it. I
 3 remember it because I kept thinking why won't
 4 they fix this. It's so easy to fix.
 5 Q. So since you said that, I'm going to
 6 follow it up. Do you mean the Commerce
 7 Commission or Mr. Davenport?
 8 A. Mr. Davenport and Lincoln Towing
 9 specifically. Why would they keep allowing a
 10 dispatcher to work for them and continue to put
 11 his number on an invoice after they get ticket
 12 after ticket after ticket for that?
 13 Q. Is it possible because the ICC messed
 14 up in not approving him? Is that why?
 15 A. (Indicating.)
 16 Q. Is it possible the Illinois Commerce
 17 Commission lost his fingerprints two times?
 18 A. Is it possible they could -- Lincoln
 19 could have called and said what's going on with
 20 238? Why are we getting all these tickets?
 21 Q. Do you know that they didn't?
 22 A. I do not. Do you know?
 23 Q. Yeah, I do. They did.
 24 A. Okay.

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1 Q. If you want to ask me, I'll tell you.
 2 They lost his blood stuff twice. Not just
 3 once, and they called each time. Does that
 4 change your opinion about what happened?
 5 A. No.
 6 Q. So it's still Lincoln's fault, even
 7 though they're following through the Commerce
 8 Commission, and the Commerce Commission keeps
 9 losing the blood test --
 10 A. I think we're getting off of track
 11 here, because I would really like to leave.
 12 MR. PERL: Well, I appreciate it --
 13 MS. PARKER-OKOJIE: Counsel --
 14 MR. PERL: Hold on, I'm still talking
 15 to the witness.
 16 MS. PARKER-OKOJIE: I know.
 17 MR. PERL: When you --
 18 MS. PARKER-OKOJIE: Counsel, I do
 19 have an objection that I would like to make for
 20 the record. I don't want to speak over you, so
 21 I do apologize, Carol, for that.
 22 Counsel, I believe that your tone now
 23 is argumentative with Sergeant Sulikowski. I
 24 also believe that this questioning him

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1 specifically about Duane Davenport and
 2 citations that might have been written to Duane
 3 Davenport are far beyond the scope of not the
 4 relevant time period necessarily, but certainly
 5 the purpose of this deposition, which is to
 6 indicate does Sergeant Sulikowski know what
 7 this is and how if in any way is this
 8 beneficial to him in what he is testifying
 9 about.
 10 Your tone is becoming elevated, and I
 11 just think that we should calm down and ask
 12 questions in a question and answer format and
 13 not accuse the ICC of doing things or make
 14 assertions on the record. Neither of us can
 15 testify obviously in this proceeding, so I
 16 think that we just need to get back to the
 17 question and answer format.
 18 MR. PERL: Appreciate it. So I would
 19 ask you now to make the record clear, it was
 20 your client accusing my client of doing
 21 improper things that aren't subject to this
 22 investigation and making suppositions about my
 23 client that are improper and wrong, and the
 24 record will show that. It wasn't me taking a

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1 tone with him. It was him taking a tone with
2 me first -- not me, but my client, which is
3 totally improper, outside the scope of this
4 you're correct, outside the relevant time
5 period even, because he doesn't even know if he
6 wrote tickets during the time period, but when
7 he says stuff like I wrote 12 tickets, and then
8 he says I don't know --
9 THE WITNESS: Okay. I'm done. So
10 call the judge. I'm done.
11 MR. PERL: Okay.
12 MS. PARKER-OKOJIE: If we can just
13 have a moment.
14 MR. PERL: He can leave. I'm just
15 going to move to bar him from testifying.
16 MS. PARKER-OKOJIE: No, if we can
17 just have a moment, Counsel, I think we can
18 maybe all just take a break here.
19 MR. PERL: Okay.
20 (Whereupon a short
21 recess was had.)
22 BY MR. PERL:
23 Q. Okay. Let's look at Exhibit 6 now.
24 (Whereupon Exhibit No. 6

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1 was marked for
2 identification.)
3 BY MR. PERL:
4 Q. Exhibit 6 is also Exhibit 6 from the
5 documents that were received from the Commerce
6 Commission, although it's not Bates stamped, at
7 the top it says Page 1 of 14 and goes
8 through 14 of 14, if you see that?
9 A. Yes.
10 Q. Take a look at this document if you
11 would.
12 A. Okay.
13 Q. Have you ever seen this document
14 before?
15 A. Yes.
16 Q. When did you see it?
17 A. Friday.
18 Q. And was that the first time?
19 A. Yes.
20 Q. Have you seen it since then?
21 A. No.
22 Q. Did you create this document?
23 A. No.
24 Q. Did you input the information on this

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1 document?
2 A. No.
3 Q. Do you know when the document was
4 created?
5 A. No.
6 Q. Do you know who created the document?
7 A. No.
8 Q. Do you know whether this document was
9 created off of a computer or a copy machine?
10 A. No.
11 Q. Do you know whether this document was
12 altered in any way?
13 A. No.
14 Q. Do you know specifically whether or
15 not the information contained on here is
16 accurate?
17 A. No.
18 Q. Did you do anything on Friday to
19 ascertain whether the information was accurate?
20 A. No.
21 Q. Does the document on its own give you
22 any insight as to whether or not Lincoln is fit
23 to hold a relocater's license?
24 MS. PARKER-OKOJIE: Objection, calls

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1 for a legal conclusion.
2 THE WITNESS: No.
3 BY MR. PERL:
4 Q. As far as you know was this document
5 in existence at the time of your first
6 deposition on March 15, 2017?
7 A. The exhibit or the information?
8 Q. The exhibit.
9 A. No.
10 Q. Are you planning on using this
11 document when you testify at the hearing for
12 Lincoln Towing's relocation fitness?
13 A. No.
14 Q. Do you know whether or not the
15 Commerce Commission is planning on using this
16 document when you testify?
17 A. I do not know.
18 Q. What document -- what information is
19 contained in this document?
20 A. A summary listing of operators that
21 are employed or have -- are employed or have
22 been employed by Lincoln Towing.
23 Q. Both?
24 A. Yes.

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1 Q. For what time period?
2 A. Back in the '80s.
3 Q. Since back in the '80s?
4 A. (Indicating.)
5 Q. Do you know whether this is an all
6 inclusive list of all the operators that have
7 ever worked for Lincoln since the 1980s?
8 A. I do not know.
9 Q. And it's not in alphabetical order,
10 is it?
11 A. It does not appear to be.
12 Q. And it's not in order by date, is it?
13 A. No.
14 Q. Do you know how this document was
15 created then?
16 A. I believe it grabs it by the numbers,
17 so if you look at 156, the 311, I think it's
18 just grabbing the first number and going down
19 that way.
20 Q. Do you know that to be the case for
21 sure?
22 A. No.
23 Q. Did you do anything subsequent to
24 Friday when you first saw this to ascertain

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1 whether or not the document -- the information
2 it contained is accurate?
3 A. No.
4 Q. Did you ever actually compare it with
5 the actual operator permits?
6 A. No.
7 Q. And you didn't speak to anybody at
8 the Commerce Commission to see whether it's
9 accurate, did you?
10 A. No.
11 Q. So where it says -- let's look at the
12 first page, the top one. It says MC Nbr
13 100139. Is that Lincoln Towing's number?
14 A. Yes.
15 Q. It says here Protective Parking
16 Service Corp.?
17 A. Yes.
18 Q. But we understand that Protective
19 Parking Service Corporation is the corporate
20 name for Lincoln Towing, correct?
21 A. Yes.
22 Q. Then it's got a control number. You
23 see that?
24 A. Yes.

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1 Q. And it's got operator name Eric Ross,
2 you see that?
3 A. Yes.
4 Q. Do you know who Eric Ross is?
5 A. No.
6 Q. Do you know whether he still is
7 employed by Lincoln Towing?
8 A. No.
9 Q. And it says ACT status issued. When
10 it says ACT period status, do you know what the
11 ACT stands for?
12 A. No.
13 Q. And it's got an ACT date 3/9/1999, do
14 you see that?
15 A. Yes.
16 Q. Do you know if that date is accurate
17 or not?
18 A. No.
19 Q. And then it says EXP date 3/9 of
20 2011. Do you know whether that date's accurate
21 or not?
22 A. No.
23 Q. And if I asked you the same questions
24 for everything in these 14 pages, would your

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1 answers still be no?
2 A. Yes.
3 Q. When you reviewed this document on
4 Friday, did you compare it against something
5 else?
6 A. No.
7 Q. So if you didn't compare it against
8 anything else, do you know whether or not this
9 document is consistent or inconsistent with
10 Illinois Commerce Commission records?
11 A. No.
12 Q. I'm going to show you what's been
13 marked as exhibit -- let me ask you this
14 question again. I asked you before. Do you
15 believe the information contained on Exhibit 6
16 is in any way relevant to whether or not
17 Lincoln Towing is fit to hold a relocater's
18 license?
19 MS. PARKER-OKOJIE: Objection, calls
20 for a legal conclusion.
21 THE WITNESS: No.
22 BY MR. PERL:
23 Q. I'm going to show you what we are
24 marking as Exhibit 7.

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1 (Whereupon Exhibit No. 7
 2 was marked for
 3 identification.)
 4 THE WITNESS: Okay.
 5 BY MR. PERL:
 6 Q. Let me back up for one second if you
 7 don't mind.
 8 Exhibit 5, which was the two sheets
 9 of paper regarding Duane Davenport, do you
 10 recall that from a moment ago?
 11 A. Yes.
 12 Q. When you looked at that for the first
 13 time on Friday, did you compare this against
 14 anything to see if there were any
 15 inconsistencies?
 16 A. No.
 17 Q. So you don't know whether or not this
 18 Exhibit 5 shows any consistencies or
 19 inconsistencies with the Commission records, do
 20 you?
 21 A. No.
 22 Q. Exhibit 7 is an exhibit that was
 23 received from the Commerce Commission attorneys
 24 recently. It's one page, says Exhibit 7, and

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1 then there are 13 more pages, but they are not
 2 numbered. Okay?
 3 A. Yes.
 4 Q. You've reviewed this, correct? Just
 5 now?
 6 A. Yes.
 7 Q. And you saw this on Friday, or did
 8 you not see this on Friday?
 9 A. I did not see this on Friday.
 10 Q. So you're seeing this for the first
 11 time now, correct?
 12 A. Yes.
 13 Q. So you don't know whether there's
 14 anything on here that's consistent or
 15 inconsistent with any of the Commerce
 16 Commission records, do you?
 17 A. No.
 18 Q. And you don't know for what purpose
 19 this document would be used for at the hearing,
 20 do you?
 21 A. No.
 22 Q. You didn't input this information,
 23 did you?
 24 A. No.

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1 Q. And you don't know whether it's
 2 accurate, do you?
 3 A. No.
 4 Q. Do you know if there is any
 5 information on here which would lead anyone to
 6 believe that Lincoln Towing is or isn't fit to
 7 have a license?
 8 A. No.
 9 MS. PARKER-OKOJIE: Objection, calls
 10 for a legal conclusion.
 11 BY MR. PERL:
 12 Q. Do you know whether any information
 13 on here led to a citation during the relevant
 14 time period?
 15 A. No.
 16 Q. You didn't do anything to verify this
 17 information, did you -- strike that.
 18 Since you just got it now, my
 19 assumption is you didn't do anything to verify
 20 this information, correct?
 21 A. Correct.
 22 Q. You never contacted any of the
 23 individuals within this document, namely
 24 Michael Perry, Jose Negron, N-e-g-r-o-n, Joey

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1 Crook, Daniel Colon, Albert Solano, Ernest
 2 Munyon, Ronald Phillips, Raul Echevarria,
 3 E-c-h-e-v-a-r-r-i-a, or Bob Munyon, you never
 4 contacted any of them, did you?
 5 A. No.
 6 Q. Regarding the information on this
 7 document?
 8 A. No.
 9 Q. Now, I want to call your attention
 10 for a moment back to Exhibits 2 and 3 -- sorry,
 11 let's go back to Exhibit 4 first.
 12 Have you ever taken the information
 13 on Exhibit 4 and compared it against any other
 14 Commerce Commission records to determine
 15 whether it's accurate or there's
 16 inconsistencies?
 17 A. No.
 18 Q. Do you know whether there's any
 19 information on Exhibit 4 that would go to
 20 whether or not Lincoln Towing is fit to hold a
 21 relocater's license?
 22 MS. PARKER-OKOJIE: Objection, calls
 23 for a legal conclusion.
 24 THE WITNESS: No.

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1 (Whereupon a short
2 recess was had.)
3 BY MR. PERL:
4 Q. Take a look at Exhibit 4 if you
5 would, and Exhibit 4 is the list of
6 dispatchers, correct?
7 A. Yes.
8 Q. Did you ever take this list and
9 compare it to any other document to determine
10 whether there were any inconsistencies?
11 A. No.
12 Q. Did you ever take this list and
13 compare it to the 24-hour tow sheet to
14 determine whether or not there were any
15 violations?
16 A. Not this sheet. The answer is yes.
17 Q. So let me back up.
18 This is Exhibit 4. You said you had
19 or hadn't seen this before today?
20 A. I don't recall. I've seen some. I
21 haven't seen others.
22 Q. On Friday did you see this exhibit,
23 if you recall?
24 A. I don't recall.

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1 Q. Did you take this document ever and
2 compare it with any documents to ascertain
3 whether or not Lincoln Towing committed any ICC
4 violations?
5 A. Not this document.
6 Q. Well, what did you use to do that?
7 A. I used the call sheets and I typed it
8 into my MCIS screen.
9 Q. What call sheets?
10 A. The 24-hour tow sheets.
11 Q. Where are they?
12 A. They are not here.
13 Q. So I'm going to ask you right now --
14 A. You've already asked me that and you
15 already know the answer.
16 Q. You definitely don't know this one
17 yet because I'm still formulating the question.
18 MS. PARKER-OKOJIE: Wait for him to
19 ask the question.
20 BY MR. PERL:
21 Q. As you sit here today specifically
22 what violations did you find on what dates and
23 times regarding the 24-hour tow sheets you
24 looked at?

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1 A. I don't know.
2 Q. You don't know?
3 A. Correct.
4 Q. Did you find violations?
5 A. Yes.
6 Q. Did you write it down anywhere?
7 A. No.
8 Q. What document did you look at to
9 determine there were violations?
10 A. The daily tow sheets provided by
11 Lincoln Towing against the MCIS records.
12 Q. When did you do that?
13 A. Friday.
14 Q. Why didn't you do that before Friday?
15 A. Because I didn't have the tow sheets
16 prior to Friday.
17 Q. Is it your testimony that Lincoln
18 Towing just turned those over recently?
19 A. No.
20 Q. Do you know when Lincoln Towing
21 turned those over?
22 A. I do not.
23 Q. Do you know that they turned them
24 over in June of 2016?

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1 A. I do not.
2 Q. Is there a particular reason why you
3 didn't review them prior to last Friday?
4 MS. PARKER-OKOJIE: Objection, asked
5 and answered.
6 THE WITNESS: No.
7 BY MR. PERL:
8 Q. How did you get to look at the tow
9 sheets? Who gave them to you?
10 A. My legal counsel.
11 Q. What violations did you find on the
12 24-hour tow sheets?
13 A. No active permits.
14 Q. Specifically which ones?
15 A. I can't tell you that.
16 Q. I'm not being facetious, but why
17 can't you tell me that?
18 A. Because I don't have that information
19 in front of me.
20 Q. In the document request that we sent
21 to you, No. 1 says any documents supporting any
22 allegations made by the Illinois Commerce
23 Commission and staff of the Illinois Commerce
24 Commission in the licensing proceeding known as

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1 92 RTV-R Sub 17. You saw that, correct?
2 A. Yes.
3 Q. Would you consider the 24-hour tow
4 sheets that you said you found violations to be
5 documents supporting the allegations made by
6 the Commerce Commission?
7 MS. PARKER-OKOJIE: Objection, calls
8 for a legal conclusion. Further, just to the
9 substance of this matter, Counsel, those are
10 documents that your client turned over to us,
11 so the fact that Sergeant Sulikowski has not
12 somehow produced them back to you, I'm just not
13 sure where we're going here.
14 MR. PERL: I could tell you, since
15 you're asking me. If I'm not going to be
16 ambushed at trial, which I know you want to
17 ambush me, I'm entitled to know what he's going
18 to say at trial. He's literally saying to me
19 he has no idea what he -- he looked at some
20 documents. He found some violations, but he's
21 not prepared to tell me what they are today.
22 So I have to wait until the hearing to find out
23 what they are, correct?
24 MS. PARKER-OKOJIE: Counsel, one, I'm

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1 not being deposed, and two, I don't want to
2 argue with you. I'm just saying that your
3 question about why those documents were not
4 provided to your client is one that needs to be
5 put in context to know that your client is the
6 one that produced those documents to ICC in
7 discovery.
8 MR. PERL: Which isn't relevant,
9 because I produced thousands of documents to
10 you, and you might not use all of them at the
11 hearing. So when I ask you to produce to me
12 the documents, the specific ones you're going
13 to use at the hearing, it isn't sufficient to
14 say to me well, the documents that you gave to
15 me; you could just figure out what they are.
16 MS. PARKER-OKOJIE: I think this is
17 something that we can obviously handle in a
18 forum outside of the deposition, so if you have
19 any other questions, I'm just making my
20 objection for the record that requesting those
21 documents from Sergeant Sulikowski just needs
22 to be put in the context of the fact that the
23 documents you're requesting are documents that
24 your client turned over to ICC. That's all.

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1 MR. PERL: Okay. My response is
2 that's not relevant, because you still have to
3 turn them back to me if you are planning on
4 using them at the hearing. So for the record
5 that wasn't done today, and I don't have the
6 documents I asked for pursuant to the document
7 request, because this witness is testifying
8 that he reviewed documents that he's planning
9 on using but didn't bring them here today.
10 BY MR. PERL:
11 Q. No. 8 states all documents referenced
12 or listed in response to any interrogatories,
13 request for production of documents or any
14 other data requests served by a party in this
15 matter. Did you read No. 8.
16 A. Yes.
17 Q. And the newly revised Interrogatory
18 No. 20 says that you are going to testify as to
19 staff review of respondent's 24-hour tow logs
20 and the consistency of the entries contained
21 within these logs and Commission records. Did
22 you see that?
23 A. No.
24 Q. Take a look at Staff's Eighth Answer

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1 to Protective Parking Service Corporation's
2 data request. Take a look at No. 20, if you
3 will.
4 MS. PARKER-OKOJIE: Counsel, just for
5 the record, I'm going to object to any
6 questions about discovery responses that we've
7 sent to you in terms of Sergeant Sulikowski's
8 legal interpretation of what that means. Just
9 for the record, I'm objecting to any questions.
10 MR. PERL: I only asked him if he
11 brought the documents.
12 MS. PARKER-OKOJIE: I'm just making
13 the objection for the record.
14 MR. PERL: Duly noted. If I ask him
15 questions in that line, then the objection will
16 be relevant, but I haven't yet.
17 BY MR. PERL:
18 Q. Sergeant Sulikowski, are you planning
19 on giving any testimony at the hearing where
20 you would need to use the 24-hour tow sheets?
21 A. Possibly.
22 Q. Let's further visit that right now.
23 Without the tow sheets in front of you, which
24 you don't have today, can you tell me if you

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1 found any inconsistencies and what they are in
2 Exhibit 4 and the 24-hour tow sheets?
3 A. No.
4 Q. You need the documents to do that,
5 don't you?
6 A. Yes.
7 Q. So the only way you're going to be
8 able to testify that there are any
9 inconsistencies or consistencies as
10 Interrogatory Answer No. 20 states is if you
11 look at the 24-hour tow sheets, correct?
12 A. Yes.
13 Q. But you didn't bring those here
14 today, did you?
15 A. No.
16 Q. Let's mark as Exhibit 8 Staff's
17 Eighth Answer to Protective Parking Service
18 Corporation Data Request.
19 (Whereupon Exhibit No. 8
20 was marked for
21 identification.)
22 BY MR. PERL:
23 Q. Now, let me ask you in regard to
24 Exhibit 2, the very first exhibit that we

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1 showed you regarding the ICC information, I
2 know you testified that you didn't create this
3 document, correct? Are you planning on using
4 this document to show that Lincoln Towing
5 somehow violated any ICC rules?
6 A. I believe we have already addressed
7 that situation. Am I planning on --
8 Q. Yeah.
9 A. -- introducing documents?
10 Q. Not introducing. Are you going to
11 use this document in any way or the information
12 contained in this document to show that Lincoln
13 Towing violated any ICC rules?
14 A. If I'm asked in questioning, I will
15 answer.
16 Q. How would you do that, though? I'm
17 asking you right now. Just looking at
18 Exhibit 2, tell me what rule Lincoln Towing
19 violated and when and for which lots and which
20 dates?
21 A. I can't do that.
22 Q. Why not?
23 A. Because I need the 24-hour tow
24 sheets.

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1 Q. So you've seen the 24-hour tow
2 sheets, correct?
3 A. Yes.
4 Q. And you've noticed some discrepancies
5 or inconsistencies with Exhibit 2, haven't you?
6 A. Yes.
7 Q. And you did that on Friday, didn't
8 you?
9 A. Yes.
10 Q. But you don't have the 24-hour tow
11 sheet with you today, do you?
12 A. We've already answered that question.
13 Q. And I'll have to ask it for each
14 exhibit.
15 A. No.
16 Q. You don't have it with you today?
17 A. No.
18 Q. But at the hearing you're planning on
19 testifying with the 24-hour tow sheet based in
20 front of you what violations Lincoln committed
21 based upon Exhibit 2?
22 A. If I'm asked questions.
23 Q. Then you will?
24 A. Yes.

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1 Q. And you've already seen those
2 documents. Did you take any notes on those
3 documents?
4 A. No.
5 Q. As you sit here today you don't know
6 what violations exist, do you?
7 A. Specifically, no.
8 Q. And for the relevant time period you
9 don't know, do you?
10 A. No.
11 Q. Exhibit 3 you said you've never seen
12 before today, correct?
13 A. I'd have to refer back.
14 Q. Well, take a look at it again. I
15 would imagine it would be the same answer.
16 A. It would be the same answer as I
17 answered before.
18 Q. Do you want us to go back in the
19 record or do you want to tell us?
20 A. As I stated before, Counselor, some
21 exhibits I've seen. Some I haven't.
22 Q. Have you seen Exhibit 3 before today?
23 A. I don't recall. I don't recall what
24 I answered earlier.

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1 Q. Did you review Exhibit 3 in
2 conjunction with the 24-hour tow sheets?
3 A. As I stated previously, I did not use
4 Exhibit 3. I used the MCIS sheet against the
5 24-hour tow sheets.
6 Q. But you just said you used Exhibit 2
7 against the 24-hour tow sheets, correct?
8 A. I used the MCIS computer. I did not
9 use the exhibits.
10 Q. So you didn't use Exhibit 2 or
11 Exhibit 3?
12 A. The same information is on MCIS.
13 This is where this all came from.
14 Q. Well, you don't really know that, do
15 you?
16 A. I do know that.
17 Q. Well, you don't know when it came
18 from it, do you? You don't know who input it
19 in?
20 A. Okay. No. No. No.
21 Q. You don't know that, do you?
22 A. Come on. Come on. I got places to
23 be tonight.
24 Q. I can say the same to you. Come on.

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1 You don't really know where the information
2 came from, do you? You already said you don't.
3 MS. PARKER-OKOJIE: Counsel, I just
4 ask that you let Sergeant Sulikowski answer a
5 question before posing another question in
6 rapid succession.
7 BY MR. PERL:
8 Q. You don't know where the information
9 in Exhibit 2 came from, do you?
10 A. MCIS.
11 Q. How do you know that?
12 A. A crystal ball.
13 Q. Okay.
14 MS. PARKER-OKOJIE: Sergeant
15 Sulikowski --
16 MR. PERL: I'll take that as a
17 response.
18 MS. PARKER-OKOJIE: -- please answer
19 his questions.
20 MR. PERL: Crystal ball's good.
21 BY MR. PERL:
22 Q. Is that the same thing that you know
23 for everything today, crystal ball?
24 A. Great.

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1 Q. Would a crystal ball be how you know
2 24-hour tow sheets are improper as well?
3 A. No.
4 Q. Ouija Board?
5 A. No.
6 MS. PARKER-OKOJIE: Objection to the
7 tone and scope of the question, Counsel.
8 MR. PERL: There was no tone at all.
9 You can object to the question, but I didn't
10 have any tone.
11 MS. PARKER-OKOJIE: Counsel, I will
12 object to you asking Sergeant Sulikowski if he
13 used a Ouija Board.
14 MR. PERL: But not a crystal ball.
15 MS. PARKER-OKOJIE: No, both of us
16 are legal professionals, and I know that you
17 did not pose the question about the crystal
18 ball, but I would ask that further questions be
19 posed in a way that is relevant to the scope of
20 this proceeding.
21 MR. PERL: Okay.
22 BY MR. PERL:
23 Q. Did you use a crystal ball for
24 Exhibit 3?

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1 A. No.
2 MS. PARKER-OKOJIE: I'm renewing my
3 objection, Counsel. If you could ask questions
4 that are relevant to scope of this proceeding.
5 BY MR. PERL:
6 Q. So you actually didn't use any of the
7 information on Exhibits 2 and 3 to determine
8 anything, did you? You looked at a screen?
9 A. Yes.
10 Q. So you can't really testify as to
11 whether or not the information contained on
12 Exhibits 2 and 3 are consistent with the
13 24-hour tow logs, can you?
14 MS. PARKER-OKOJIE: Objection, calls
15 for a legal conclusion as to what he can
16 testify to.
17 BY MR. PERL:
18 Q. You can answer.
19 A. It's the same information that's on
20 the screen.
21 Q. But you didn't -- is it the exact
22 same information?
23 A. I don't have the screen in front of
24 me.

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1 Q. Well, you just said it's the same
2 information that's on the screen. You were
3 pretty sure about it then. Is it the exact
4 same information?
5 A. I can't answer if it's exact.
6 Q. So do you want to modify your answer
7 from 30 seconds ago where you said it's the
8 same information?
9 A. It's similar information.
10 Q. Similar information. Okay.
11 The screen that you looked at on
12 Friday, you didn't put that information on
13 there, did you?
14 A. No.
15 Q. You don't know who put it on there,
16 do you?
17 A. No.
18 Q. You don't know when it was put on
19 there, do you?
20 A. No.
21 Q. You don't know if it's accurate, do
22 you?
23 A. No.
24 Q. And you didn't do anything to

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1 determine whether it was accurate or not, did
2 you?
3 A. No.
4 Q. The 24-hour tow sheets you looked at,
5 did you put that information on there?
6 A. No.
7 Q. Do you know whether it's accurate or
8 not?
9 A. No.
10 Q. Do you know when it was put on there?
11 A. No.
12 Q. Did you do anything to determine
13 whether it was accurate or not?
14 A. No.
15 Q. If you were posed with the
16 information that you looked at on the screen
17 and you looked at the 24-hour tow sheet, you
18 wouldn't just write a citation, would you?
19 You'd investigate it, wouldn't you?
20 A. Yes.
21 Q. I asked you earlier a similar
22 question and you said I'd have to do an
23 investigation and figure it out, correct?
24 A. Yes.

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1 Q. So just by looking at the screen and
2 the 24-hour tow sheets, you don't know if
3 there's any violations, do you?
4 MS. PARKER-OKOJIE: Objection, calls
5 for a legal conclusion.
6 MR. PERL: Well, let me ask you a
7 question, since we're talking about legal
8 conclusions, and I don't want to do that.
9 BY MR. PERL:
10 Q. Aren't you the ultimate trier of fact
11 as to whether or not a citation is written?
12 MS. PARKER-OKOJIE: Objection, calls
13 for a legal conclusion.
14 MR. PERL: I don't know how that's a
15 legal conclusion.
16 BY MR. PERL:
17 Q. But don't you determine whether or
18 not -- can't you determine whether or not a
19 citation is written or not?
20 A. Yes.
21 Q. You don't need to ask a lawyer if you
22 can write a citation, do you?
23 A. There are times we ask for opinion.
24 MS. PARKER-OKOJIE: Counsel, I'm

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1 going to object here only because I think we
2 are --
3 MR. PERL: What are you objecting to?
4 MS. PARKER-OKOJIE: I'm objecting to
5 the scope of where this is headed only because
6 I do believe on Sergeant Sulikowski's prior
7 deposition, which was around two and a half
8 hours, you did go into who writes the
9 citations, who decides if citations are
10 written. We have covered this ground before,
11 so if we can just refocus on the scope of
12 today, which are these documents, I think we
13 are treading back into general territory with
14 these questions.
15 MR. PERL: Well, your objections take
16 longer than the questions with the answer, so
17 if you truly want to move it along, just give
18 an objection and move on, but I'm going to ask
19 the question.
20 BY MR. PERL:
21 Q. How often do you ask for legal advice
22 before you determine if you can write a
23 citation?
24 MS. PARKER-OKOJIE: Objection, beyond

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1 the scope. You do not need to answer, Sergeant
2 Sulikowski.
3 MR. PERL: He doesn't need to answer?
4 Let's call the judge again.
5 MS. PARKER-OKOJIE: Okay.
6 MR. PERL: Because I want to get out
7 of here at some point, but I'm not leaving
8 until we're done, and this is 45 minutes of
9 objections that have wasted the time.
10
11 (Whereupon a telephone
12 call was placed to
13 Judge
14 Kirkland-Montaque.)
15
16 JUDGE KIRKLAND-MONTAQUE: Hello, this
17 is Latrice.
18 MS. PARKER-OKOJIE: Hi, Judge
19 Kirkland-Montaque. We are still at the
20 deposition of Sergeant Sulikowski. There are
21 some pending questions now that staff is
22 objecting to because they definitely cover
23 ground that we discussed thoroughly in the
24 first deposition of Sergeant Sulikowski, which

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1 nearly reached a three hour mark. We are
2 nearly at the three hour mark again so --
3 JUDGE KIRKLAND-MONTAQUE: Go ahead.
4 MS. PARKER-OKOJIE: -- and so I will
5 let counsel give you the question, but staff is
6 objecting to going over ground that we have
7 already covered.
8 JUDGE KIRKLAND-MONTAQUE: Okay.
9 MR. PERL: Here's the issue now,
10 Judge --
11 JUDGE KIRKLAND-MONTAQUE: I'm sorry,
12 start over please.
13 MR. PERL: Here's the issue as it
14 stands right now. After two and a half hours
15 of today's deposition I've just learned that
16 this witness didn't even use any of the
17 documents they are presenting today to
18 determine anything. He only looked at a
19 computer screen that has similar information on
20 it. So I will be moving to bar these
21 documents. That's a separate issue.
22 So now I'm trying to determine from
23 this individual how it is he determines whether
24 or not he's going to write a citation, because

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1 the only thing they can try to use this
2 information for is to show that Lincoln Towing
3 did something improper. They're not going to
4 try to use it to show we did things correct.
5 So he's going to want to testify that
6 he looked at a computer screen. Then he looked
7 at the 24-hour tow sheets, which they didn't
8 bring with them today and didn't provide us --
9 that's a separate issue -- and he's going to
10 say that somehow Lincoln Towing violated a
11 rule. So I'm asking him wouldn't you in the
12 ordinary course of business if somebody
13 actually brought you this, wouldn't you then do
14 an investigation? You wouldn't jump to the
15 conclusion they violated a rule.
16 So I'm saying how do you determine
17 when you receive information like you looked
18 at, the 24-hour tow sheets, specifically that
19 information, whether or not they actually
20 violated a rule? You got to do an
21 investigation. As opposed to when they come to
22 the hearing and he's going to want to testify
23 that it's automatically a violation of a rule
24 because there's an inconsistency, when it isn't

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1 the case.
2 So all I'm trying to do is ascertain
3 number one, it's like pinning Jello to a wall,
4 I'm trying to figure out what he actually was
5 looking at, because I don't have it here, to
6 make any determinations, because I don't have
7 the 24-hour tow sheets, and when we get to the
8 point where there's information about to come
9 my way, it's always when the objection comes in
10 it's either asked and answered, it's general
11 information, it's beyond the scope. It's
12 exactly on target to what they did here and
13 exactly why I said, your Honor, it's not even
14 proper to let them use these documents right
15 now, because it's so late in the game, but now
16 it turns out he didn't even use these
17 documents. He looked at a computer screen that
18 he doesn't have in front of him and neither do
19 I.
20 So I think giving me a little
21 latitude to ask him a couple questions, and
22 again, ten minutes on this issue, I could have
23 been done already, but here we are 20 minutes
24 on one issue, five minutes on another, five on

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1 another. We're going to approach three hours
2 because that's where we are. And by the way,
3 the first dep was two and a half hours, not
4 three, because there's a lot of ground to
5 cover.

6 So I want to inquire of him as to
7 when he was looking at this computer screen,
8 wherever it was and whatever existed, and then
9 he looked at the 24-hour tow sheets, what did
10 he do? What did he find? He has no notes, no
11 independent recollection of any specific
12 violations as he sits here today, but they are
13 going to want him to testify to that at the
14 hearing.

15 And I'll bring the motions in that
16 regard later, because again, it's trial by
17 ambush. But now I can't even ask the questions
18 according to counsel, and she instructed him
19 not to answer.

20 So I want to ask a line of questions
21 regarding when you looked at the screen and you
22 compared it to the 24-hour tow sheet, what
23 would you do in the ordinary course of
24 business. That's a relevant question. I'm

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1 going to ask him that same question when we get
2 to the hearing, and I want to know what the
3 answer's going to be now so I'm not surprised.

4 JUDGE KIRKLAND-MONTAQUE: And the
5 problem is the -- Ms. Parker?

6 MS. PARKER-OKOJIE: The problem, your
7 Honor, is that counsel's question was not
8 phrased as he just phrased it for you. His
9 question was how do you decide when to write a
10 citation, and that's a very general question.
11 That's one that we covered. I know that
12 counsel has made a long argument in front of
13 you, and I won't belabor the point, but the
14 questions that he was asking are how do you
15 decide to write a citation? Aren't you the
16 ultimate trier of fact when it comes to
17 citations? I objected to both of those
18 questions, and I just think we are continuing
19 down that path of wait, hold on, how's a
20 citation written, and I think that we covered
21 that ground in the first deposition quite
22 thoroughly.

23 MR. PERL: The reason I said aren't
24 you the ultimate trier, what counsel forgot to

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1 tell you is that when I ask him how do you
2 determine to write a citation, counsel said
3 that's a legal conclusion. That's nonsense. A
4 legal conclusion, if it is, then he must be a
5 lawyer because he's the one that determines
6 every day whether or not to write a citation.
7 It's not a legal conclusion.

8 So then I said aren't you the
9 ultimate trier of fact in determining who shall
10 write a citation, because it's not a legal
11 conclusion. This individual here in front of
12 me is the supervisor for everyone who writes
13 citations at the Illinois Commerce Commission.
14 It's his decision. It's not a legal
15 conclusion. He doesn't have to ask a lawyer
16 should I write them a citation for not having
17 enough signs? That's his decision. That's
18 what I'm getting at when I say aren't you the
19 trier of fact, and counsel knows that. It's
20 not a legal conclusion, and again, we are
21 arguing for all this time; I could be done with
22 this deposition.

23 JUDGE KIRKLAND-MONTAQUE: Okay. I'm
24 going to allow the question. I think with

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1 depositions there should be a lot of latitude
2 in terms of what questions are asked, and, I
3 mean, unless -- I just can't see why anything
4 would be, you know, prejudicial or anything of
5 that nature. So I'm going to allow the
6 question.

7 MS. PARKER-OKOJIE: Your Honor, this
8 isn't about anything being prejudicial. It's
9 about the point of why the court allowed this
10 deposition in the first place. Sergeant
11 Sulikowski was already deposed by counsel, so
12 that already happened.

13 The purpose of this deposition was
14 specifically to focus on these documents.
15 There is no second bite at the apple in terms
16 of going back to issues we have covered in the
17 prior deposition. If that's the case, we would
18 redepose all of Lincoln's witnesses.

19 I mean, the point is this deposition
20 was to be conducted efficiently to cover the
21 ground of what are these documents, how is
22 Sulikowski related to them and what would he
23 use them for. That was what you ruled, but now
24 we are going over ground that has already been

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1 covered, and that is improper, and we will
2 object to that.
3 MR. PERL: Well, they already did
4 object and you ruled. So can we go forward? I
5 mean, to state that I can't ask a question
6 that's relevant to these documents because I
7 asked it in the prior deposition when I didn't
8 have these documents, and I think it's really
9 disingenuous of counsel to say that I shouldn't
10 be able to take a deposition when a year and a
11 half into the case they give me new documents
12 when there's three weeks away from the
13 hearing --
14 JUDGE KIRKLAND-MONTAQUE: All right.
15 I'm ruling. I'll allow the question.
16 MR. PERL: Thank you, Judge.
17 MS. PARKER-OKOJIE: What question are
18 you allowing, your Honor? There were several
19 questions posed by counsel.
20 JUDGE KIRKLAND-MONTAQUE: What's the
21 objection?
22 MS. PARKER-OKOJIE: The objection is
23 to the question why do you decide to write a
24 ticket or what makes you decide to write a

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1 citation. Those questions were asked and
2 answered in a previous deposition and should
3 not be allowed in this deposition because the
4 scope of this deposition was limited.
5 MR. PERL: That's not my question.
6 MS. PARKER-OKOJIE: That's the
7 question that was posed that I objected to,
8 your Honor.
9 MR. PERL: My question is in regard
10 to specifically when this witness looked at a
11 computer screen -- what I'm trying to get at is
12 what he's going to say at the hearing, and I'm
13 entitled to do that. That's why we take
14 depositions, and counsel seems to think that
15 you're supposed to learn things for the first
16 time at the trial, and that's not the case.
17 MS. PARKER-OKOJIE: Your Honor, if we
18 could just have the question --
19 MR. PERL: Maybe in a criminal
20 setting that's how it works in prior life for
21 the court counsel, but in civil litigation we
22 take depositions to elicit the testimony prior
23 to hearing it at the hearing. That's what we
24 do. So I'm trying to figure out, and I still

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1 can't figure out, what this witness is going to
2 testify to, because they didn't bring the
3 documents that he said he looked at, and now he
4 said he looked at a computer screen to make a
5 determination that they never disclosed to me
6 before. So I'm asking --
7 MS. PARKER-OKOJIE: Your Honor, we
8 just want counsel to restate his question,
9 which he is not doing.
10 MR. PERL: It's a subject area. It's
11 not one question. I'm asking him questions
12 about when he looked at the 24-hour tow sheet
13 on Friday, which he didn't bring with him
14 today, and then he looked at some computer
15 screen, how do you decide whether or not it's a
16 violation. That's my question.
17 JUDGE KIRKLAND-MONTAQUE: I don't
18 see -- again, my ruling is I'm going to allow
19 it. It's related to the documents to the
20 extent that you said those documents are a
21 printout of what the (unintelligible). I don't
22 know what -- you know, any way, that's my
23 ruling.
24 MR. PERL: Okay. Thank you, Judge.

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1 MS. PARKER-OKOJIE: Your Honor, I
2 think the problem is that counsel will state
3 the question one way when he is on the phone
4 during the conference, but then we stray
5 quickly back into general topics, so that's the
6 only reason I'm trying to get the question
7 heard by your Honor and ruled on by your Honor,
8 because what will happen is we will hang up
9 with you, and then we will go back into this
10 foray of let's redepose the sergeant on
11 everything we have already asked him for, and
12 so that's the point in which we are trying to
13 move this along.
14 MR. PERL: That being the case,
15 Judge, I invite you to stay on the phone. We
16 won't even hang up, because that's not accurate
17 at all. I'd love for you to stay on the phone
18 so when counsel makes her objections --
19 JUDGE KIRKLAND-MONTAQUE: How much
20 longer do you have?
21 MR. PERL: I could have been done 45
22 minutes ago but for this. Every time I'm
23 asking questions, the objections are longer
24 than the answers, including one time when the

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1 witness almost left, and including the 25
2 minutes we spent last time and the 15 minutes
3 now. I could have been done already.
4 JUDGE KIRKLAND-MONTAQUE: Okay.
5 MR. PERL: Easily.
6 JUDGE KIRKLAND-MONTAQUE: Again, I
7 don't see the reason in upholding the
8 objection. I don't see why you would not allow
9 the question.
10 MR. PERL: Okay. Can we then hang up
11 with you now, Judge? We'll call you back if we
12 need you so we can try to finish.
13 JUDGE KIRKLAND-MONTAQUE: Yes. I'm
14 leaving out the door.
15 MR. PERL: Thank you, Judge.
16 JUDGE KIRKLAND-MONTAQUE: I am
17 scheduled to leave at 4:40, so I don't know
18 what your options are going to be.
19 MR. PERL: Well, let's see if we
20 could finish now without having to call you
21 back again. If not, we could continue the dep
22 to another time and reconvene when you are
23 available, and I'm happy to continue the dep
24 till another date certain.

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1 JUDGE KIRKLAND-MONTAQUE: I'd rather
2 you get it done today.
3 MS. PARKER-OKOJIE: Your Honor, we
4 are fine with questions that are within the
5 scope and related to the purpose of this
6 deposition. We have no objection to that nor
7 have we ever, but what happens is the questions
8 become general, and then we have to have these
9 phone conversations.
10 MR. PERL: And then your Honor rules
11 against counsel, so --
12 JUDGE KIRKLAND-MONTAQUE: Ms. Parker,
13 help me understand.
14 MS. PARKER-OKOJIE: Sure. What is it
15 you are trying to understand, your Honor?
16 JUDGE KIRKLAND-MONTAQUE: Okay. So
17 he asks a question and the purpose of your
18 objection is what?
19 MS. PARKER-OKOJIE: The purpose of my
20 objection is to keep this deposition on track
21 and limited to the scope that your Honor
22 granted it for. Your Honor granted this
23 deposition for the purpose of counsel
24 determining the scope of what these documents

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1 are and what Sergeant Sulikowski's relationship
2 to them are.
3 JUDGE KIRKLAND-MONTAQUE: If the
4 question is in any way related to that
5 document, then I think it's fair game.
6 MS. PARKER-OKOJIE: Okay. Counsel's
7 questions were not. He has rephrased them for
8 your Honor during this conversation --
9 JUDGE KIRKLAND-MONTAQUE: But
10 Counsel, moving forward, if it's some way
11 related to the document, then it's fair.
12 MR. PERL: Judge, this is -- and they
13 are, and this is a deposition, period. You
14 don't come to a deposition saying let me give
15 you -- counsel wants to give me a list of
16 questions I can ask and have to stick to the
17 script, and that's just not the way depositions go.
18 It's relevant or it could lead to admissible
19 evidence, and that's what I'm doing.
20 JUDGE KIRKLAND-MONTAQUE: Okay.
21 MR. PERL: If we could just finish
22 up, I know the witness has to go somewhere.
23 I've got to be somewhere, and I want to get
24 done.

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1 JUDGE KIRKLAND-MONTAQUE: Okay. All
2 right. So you have my ruling, and to the
3 extent you can tie the question to the -- even
4 if it's because the document is a printout of
5 what's on the screen, I think anything relating
6 to what you look at on the screen --
7 MR. PERL: This is what counsel's
8 objecting to: When I ask him a question and I
9 say what did you look at? You looked at the
10 24-hour tow sheet, and then you looked at the
11 screen, and he's going to make a determination
12 based on that, and then my next question's
13 going to be ordinarily wouldn't you do an
14 investigation, and counsel says you can't ask
15 that question. Of course I can. That's
16 exactly trying to cross examine him to show
17 that he's not doing what he's supposed to be
18 doing. I can cross examine him at the
19 deposition. I don't know why I can't, and
20 that's what I'm doing and what I'm allowed to
21 do.
22 JUDGE KIRKLAND-MONTAQUE: My
23 understanding of the deposition, I mean, I
24 don't -- okay.

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1 MR. PERL: I think I can cross
2 examine at the deposition. That's what I do.
3 MS. PARKER-OKOJIE: Our point is not
4 that counsel can't cross examine. Our point is
5 that this is the second deposition for Sergeant
6 Sulikowski, so the scope of it should be
7 limited because he already had an opportunity
8 to ask any of these questions. He already had
9 that opportunity, and so now coming back at a
10 second bite at the apple, we can always think
11 of more questions to ask or more things that
12 might be relevant, but really there's a very
13 limited purpose to today's deposition. We are
14 not talking about depositions in general. He's
15 being redeposed on specific documents. I don't
16 think we can then say well, these documents
17 take us back to the beginning of this case, and
18 so because I said the word "document," the
19 question is now relevant.
20 JUDGE KIRKLAND-MONTAQUE: Weren't the
21 documents related to the tow log of -- the log
22 and a printout of what was on the MCIS in
23 relation to that log?
24 MR. PERL: Which is the beginning of

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1 this case.
2 MS. PARKER-OKOJIE: Your Honor, but
3 what we are doing now is going back and asking
4 questions about process and procedure. The
5 question is what he would have done. That is a
6 hypothetical. He's asked him if citations were
7 written on these. That's fine to ask, and then
8 he said no or he couldn't recall, and then now
9 we're well, would you have written a citation?
10 Well, would you? I mean, I just think that
11 again, the would you, could you hypotheticals
12 are way beyond the scope, way beyond the scope.
13 MR. PERL: Beyond the scope of the
14 questions that you asked my client this morning
15 you mean when you said let me give a
16 hypothetical specifically to Mr. Dennis, and I
17 didn't object, but that's okay, because that's
18 exactly what you did with Mr. Dennis more than
19 one time, and I didn't object, but that's fine.
20 I don't need hypotheticals. I'm asking him
21 what he does in the ordinary course of
22 business, and that's the problem.
23 The problem is they brought no
24 documents with them. The 24-hour tow sheets

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1 that I asked for three times in my document
2 request, they didn't bring. They specifically
3 knew they should have. They said well, those
4 are your documents. Yeah, but you're using
5 them at trial and you're going to have to show
6 me what you're using them for, and they're not
7 doing it, because what they're going to do at
8 the hearing is he's going to have the 24-hour
9 tow sheets in front of him and want to testify
10 to them, and I'm going to be objecting and move
11 to bar them in limine anyway because they
12 didn't bring them to me today. So I need a
13 third deposition now when he actually brings
14 the documents he's going to use at the hearing
15 because counsel says you already deposed him,
16 but I have new documents you didn't depose him
17 on, but I guess I'll surprise you at the
18 hearing with those, and that's great.
19 JUDGE KIRKLAND-MONTAQUE: Okay. My
20 ruling is going to stand. I'm going to allow
21 the questions. I think leave it open-ended for
22 that gathering if you possibly can here. I
23 don't see the reason for the objection. I want
24 you guys to move it along and get it done

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1 today.
2 MR. PERL: Thank you, Judge.
3 MS. PARKER-OKOJIE: Thank you, your
4 Honor.
5 MR. PERL: For the record, we have
6 spent 25 minutes on this issue alone, not to
7 mention 25 minutes on the last one that the
8 judge ruled against counsel. That's 50 minutes
9 where the judge overruled and did not uphold
10 these objections, and I'm going to be seeking
11 an extra 15 minutes in this deposition based
12 upon that alone. So maybe we can move along
13 now.
14 I'm going to try to rephrase the
15 question.
16 BY MR. PERL:
17 Q. You've stated that you didn't use
18 Exhibits 2 and 3 to determine anything with the
19 24-hour tow sheets, correct?
20 A. Yes.
21 Q. You used a computer screen?
22 A. Yes.
23 Q. You don't have the computer screen
24 with you here today, correct?

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1 A. Yes.
 2 Q. Did you see something on the computer
 3 screen that led you to believe that Lincoln
 4 Towing violated the ICC rules?
 5 A. Yes.
 6 Q. Do you recall specifically what you
 7 saw, what dates, what lots, any information on
 8 the violations?
 9 A. Only generalities I can give you.
 10 Q. Did you draw an inference from what
 11 you saw on the 24-hour tow sheets to what you
 12 saw on the computer screen?
 13 A. Yes.
 14 Q. And what was your inference?
 15 A. Based on the information that I saw
 16 there were different things; whether they towed
 17 because a contract was cancelled, whether there
 18 was no contract at all, whether it was a patrol
 19 towing from a call lot only and/or the contract
 20 had not been electronically filed yet, and they
 21 were pretowing before that was entered.
 22 Q. Did you write any violations as a
 23 result?
 24 A. This was not a violation writing

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1 session.
 2 Q. I didn't ask that. I'm asking if you
 3 wrote any violations?
 4 A. No.
 5 Q. Ordinarily when you see from an
 6 investigation being open you've got a 24-hour
 7 tow sheet and you've got information on the
 8 MCIS, correct?
 9 A. Yes.
 10 Q. Would you then do an investigation to
 11 determine whether or not there was a violation?
 12 A. All right. Give me a little leeway
 13 on this, because if I'm looking at that
 14 information, there's already an investigation.
 15 I don't arbitrarily just pull out of a hat let
 16 me look at this lot today. I'm looking at it
 17 because a consumer has already filed a
 18 complaint and an investigation has been
 19 created.
 20 Q. But the first thing you do when you
 21 look at this information is do an
 22 investigation, correct? Before you write a
 23 citation, you would do some investigation,
 24 correct?

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1 A. It's all part of the investigation.
 2 Q. Right. But you haven't done an
 3 investigation since Friday on any of these
 4 situations, have you?
 5 A. No.
 6 Q. So you don't -- you haven't really
 7 performed an investigation in order to
 8 determine that there were any violations, have
 9 you?
 10 A. There's inconsistencies.
 11 Q. I'm not asking for inconsistencies,
 12 and I do know that they want to use the word
 13 "inconsistency," whatever that means. Is an
 14 inconsistency an ICC violation?
 15 MS. PARKER-OKOJIE: Objection, calls
 16 for a legal conclusion.
 17 BY MR. PERL:
 18 Q. Do you know?
 19 A. I don't know.
 20 Q. So when you're ordinarily looking
 21 into whether you're going to write a citation
 22 or not, there's some kind of an investigation
 23 that's done, correct?
 24 A. Yes.

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1 Q. You didn't do an investigation in
 2 this case, have you?
 3 A. I was reviewing data.
 4 Q. All you did was look at a screen, at
 5 24-hour tow sheets; you didn't do an
 6 investigation, did you?
 7 A. No. I reviewed data.
 8 Q. You didn't call anyone at Lincoln
 9 Towing, did you?
 10 A. No.
 11 Q. You didn't call any of the lot
 12 owners, did you?
 13 A. No.
 14 Q. You didn't interview any of the
 15 people that were towed, did you?
 16 A. No.
 17 Q. You didn't interview the driver, did
 18 you?
 19 A. No.
 20 Q. You didn't interview anyone at the
 21 Commerce Commission, did you?
 22 A. No.
 23 Q. You didn't open up a case number, did
 24 you, or a case file?

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1 A. No.
2 Q. You didn't assign it to any of your
3 officers or investigators, did you?
4 A. No.
5 Q. Isn't that what you would normally do
6 in order to determine whether or not there was
7 a violation?
8 A. Not in a fitness hearing. This is
9 data reviewed for the fitness hearing. A
10 consumer complaint is a little different.
11 That's one specific instance.
12 Q. I'm not asking you, and I didn't ask
13 you specifically what you do for the fitness
14 hearing. I didn't. I asked you what you
15 typically would do to determine whether there
16 was a violation, and you would open an
17 investigation.
18 A. But they are not the same is what
19 you're referring to.
20 Q. But see, here's what you're doing
21 now. If I ask you what day it is, I'm not
22 looking for the weather, and I know that you
23 want to fit it into that. I'm asking you a
24 specific question that I'd like the answer to.

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1 I'm not asking you about if it's a fitness
2 hearing or if it's with a violation. I'm
3 asking you in general before you could
4 determine that Lincoln Towing violated any ICC
5 rules, wouldn't you have to do an
6 investigation?
7 MS. PARKER-OKOJIE: Objection, calls
8 for a legal conclusion.
9 THE WITNESS: Yes.
10 BY MR. PERL:
11 Q. Did you do an investigation? That's
12 yes or no. Did you do an investigation since
13 Friday?
14 A. No.
15 Q. Prior to writing a citation to
16 Lincoln Towing for not having e-filed a lot or
17 improper towing without a license, you would do
18 an investigation, correct?
19 A. Yes.
20 Q. And that wasn't done in this case,
21 was it?
22 A. Not since Friday.
23 Q. Not at all, correct?
24 MS. PARKER-OKOJIE: Just to kind of

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1 clarify the scope of not at all, what do you
2 mean by that?
3 BY MR. PERL:
4 Q. Well, you didn't do an investigation
5 on these things prior to Friday, did you?
6 MS. PARKER-OKOJIE: What are you
7 referring to when you say these things?
8 MR. PERL: The things you looked
9 at -- the problem is I don't know what you
10 looked at, so I have to be a little bit
11 general, because --
12 BY MR. PERL:
13 Q. The stuff you looked at on the screen
14 on Friday, did you do an investigation on that
15 prior to Friday?
16 A. If it was involved in a specific
17 consumer complaint, it may have.
18 Q. But you don't know, correct?
19 A. No.
20 Q. How did you know what to look at on
21 Friday?
22 A. Based off the 24-hour tow sheets all
23 those addresses were gone through.
24 Q. How did you know what 24-hour tow

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1 sheets to look at? There was thousands of
2 them.
3 A. And they were all gone through.
4 Q. You looked through 1000 invoices on
5 Friday, you, yourself?
6 A. The team did.
7 Q. I'm not asking about the team.
8 A. I did not.
9 Q. You didn't, did you?
10 A. No, I did not.
11 Q. Someone else did, didn't they, and
12 then they pointed them out to you, didn't they?
13 A. Yes, they did.
14 Q. So you actually didn't go through the
15 tow sheets yourself to find inconsistencies,
16 did you?
17 A. No, I did not.
18 Q. And someone else did, and then they
19 handed you a group of 24-hour tow sheets that
20 they claim have inconsistencies, correct?
21 A. No. I saw all 24-hour tow sheets.
22 Q. All thousand?
23 A. Yes.
24 Q. And then you went through all

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1 thousand of them?
 2 A. Correct.
 3 Q. How long did it take you?
 4 A. Over five hours.
 5 Q. So you reviewed over 1,000 documents
 6 in five hours, and you found the
 7 inconsistencies, not the team?
 8 A. I reviewed the inconsistencies that
 9 the team found.
 10 Q. How would you know there were
 11 inconsistencies? You said you didn't look at
 12 Exhibits 2 and 3, so if you were just looking
 13 at the 24-hour tow sheets, how would you know
 14 anything's inconsistent? On itself it doesn't
 15 speak to you, does it?
 16 A. No.
 17 Q. So how would you know to check it for
 18 inconsistencies? What did you check? Every
 19 single thing on all thousand tow sheets?
 20 There's 50,000 pieces of information there.
 21 You checked all of them?
 22 MS. PARKER-OKOJIE: Counsel, if you
 23 could just pose one question at a time.
 24 MR. PERL: You're right. Let me

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1 withdraw the question.
 2 BY MR. PERL:
 3 Q. Did you individually look through
 4 every single 24-hour tow sheet that we gave
 5 you?
 6 A. Yes.
 7 Q. And how did you determine what was
 8 inconsistent?
 9 A. Those were already found.
 10 Q. By who?
 11 A. Through my staff, through the
 12 lawyers.
 13 Q. The lawyers are your staff?
 14 A. Wrong answer.
 15 Q. I'm just --
 16 A. They're not my staff. They're not my
 17 staff.
 18 Q. Okay. But the reason I said it is
 19 because you do have staff that could have done
 20 this, correct?
 21 A. I don't have staff.
 22 Q. Well, the investigator --
 23 A. I have coworkers.
 24 Q. But you know what I'm saying. That's

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1 why I'm clarifying when you say through my
 2 staff, I think you're referring to the other
 3 investigators or officers. You're actually
 4 referring to the attorneys, correct?
 5 A. Yes.
 6 Q. And they actually pointed out to you
 7 what they believe were inconsistencies,
 8 correct?
 9 A. Yes.
 10 Q. And then you took that and looked at
 11 some screen, correct?
 12 A. Yes.
 13 Q. Did you write anything down?
 14 A. No.
 15 Q. Do you believe the inconsistencies
 16 that you looked at are violations -- are
 17 actually things that are citations or
 18 violations of the code?
 19 MS. PARKER-OKOJIE: Objection, both
 20 relevance and calls for a legal conclusion.
 21 BY MR. PERL:
 22 Q. Do you believe the inconsistencies
 23 that you looked at are code violations?
 24 A. Yes.

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1 Q. Without doing an investigation?
 2 A. Yes.
 3 Q. So why do you do investigations? Why
 4 don't you just write a citation every time
 5 someone makes a complaint? Why do you make an
 6 investigation?
 7 MS. PARKER-OKOJIE: If you could just
 8 rephrase, Counsel, it's a couple of questions.
 9 MR. PERL: Did you understand the
 10 question?
 11 THE WITNESS: I'd like it repeated.
 12 MR. PERL: Sure. I can rephrase it.
 13 BY MR. PERL:
 14 Q. If it's that easy to determine to
 15 write a citation, why do you ever do an
 16 investigation?
 17 A. Again, we're talking about two
 18 separate things. We're talking about reviewing
 19 data and we're talking about conducting a
 20 consumer investigation. These are two separate
 21 issues.
 22 Q. Do you think that Lincoln isn't
 23 entitled to an investigation just because this
 24 is a review of whether or not they are fit?

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1 MS. PARKER-OKOJIE: Objection, calls
 2 for a legal conclusion as to what rises to the
 3 level of an investigation.
 4 MR. PERL: You can answer.
 5 THE WITNESS: Could you repeat the
 6 question, please?
 7 BY MR. PERL:
 8 Q. I'll just rephrase it for you.
 9 Do you believe that because this is a
 10 fitness hearing, Lincoln Towing isn't entitled
 11 to an investigation before you determine if
 12 they have violated the ICC rules?
 13 MS. PARKER-OKOJIE: Objection to the
 14 rephrased question as well for the same
 15 reasons.
 16 MR. PERL: You can answer that
 17 question.
 18 THE WITNESS: No.
 19 BY MR. PERL:
 20 Q. They should be entitled to an
 21 investigation, shouldn't they?
 22 A. Sure.
 23 Q. Kind of a rush to judgment just to
 24 sit there, have someone hand you what they

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1 believe are inconsistencies, then you look at a
 2 computer screen that you didn't even create and
 3 then say okay, I think these are violations?
 4 MS. PARKER-OKOJIE: Objection,
 5 irrelevant, form and calls for a legal
 6 conclusion.
 7 MR. PERL: You think that's fair?
 8 BY MR. PERL:
 9 Q. Do you think it's fair to make a
 10 judgment on Lincoln Towing based upon the fact
 11 that you looked at a computer screen and a
 12 24-hour tow sheet that someone else showed you
 13 is inconsistent without doing an investigation?
 14 Do you think that's fair?
 15 A. I didn't make a judgment.
 16 MS. PARKER-OKOJIE: Same objection to
 17 relevance, form and calling for a legal
 18 conclusion.
 19 THE WITNESS: I didn't make a
 20 judgment, Counsel.
 21 MR. PERL: So --
 22 THE WITNESS: I reviewed data and had
 23 conclusions of that data.
 24 BY MR. PERL:

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1 Q. What's your conclusions?
 2 A. As I stated before.
 3 Q. Which is?
 4 A. There were some inconsistencies based
 5 on whether or not having a contract, having a
 6 contract expired and so on and so forth as I
 7 previously answered.
 8 Q. So there were some inconsistencies,
 9 correct?
 10 A. Yes.
 11 Q. Did those inconsistencies lead you to
 12 form a belief whether or not Lincoln Towing is
 13 fit to hold a license?
 14 A. No.
 15 Q. Did those inconsistencies
 16 definitively tell you that a citation should be
 17 written?
 18 A. No.
 19 Q. In fact, as you sit here today you
 20 don't know whether or not a citation would be
 21 written on those inconsistencies, do you?
 22 MS. PARKER-OKOJIE: Objection to
 23 relevance and calling for a legal conclusion.
 24 THE WITNESS: Correct.

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1 BY MR. PERL:
 2 Q. Because if an investigation shows
 3 that that information isn't correct, then you
 4 wouldn't write a citation, would you?
 5 MS. PARKER-OKOJIE: Relevance
 6 objection.
 7 THE WITNESS: No.
 8 BY MR. PERL:
 9 Q. Do you think it would be prudent
 10 before rushing to judge Lincoln Towing based
 11 upon these inconsistencies to do an
 12 investigation? You think they're owed that?
 13 MS. PARKER-OKOJIE: Objection to
 14 relevance as to what Lincoln Towing is owed and
 15 also to legal conclusion.
 16 MR. PERL: You're objecting to what
 17 Lincoln Towing's owed? Okay.
 18 You can answer the question.
 19 THE WITNESS: Yes.
 20 BY MR. PERL:
 21 Q. You think they're owed that?
 22 MS. PARKER-OKOJIE: Same objection.
 23 THE WITNESS: I've already answered
 24 that. You asked it twice.

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1 BY MR. PERL:
 2 Q. I know, but counsel's talking.
 3 Is the answer yes?
 4 A. Yes.
 5 Q. Is there any way for you as you sit
 6 here today to prove to me what screens you
 7 looked at on Friday?
 8 A. No.
 9 Q. You didn't make copies of them and
 10 save them, did you?
 11 A. No.
 12 MR. PERL: Give me one minute. I
 13 think I'm just about done.
 14 (Whereupon a short
 15 recess was had.)
 16 MR. PERL: Nothing further at this
 17 time. Now, I would ask that you would
 18 hopefully give us the same courtesy we gave you
 19 of waiving signature today, because we need
 20 these documents printed as soon as possible.
 21 MS. PARKER-OKOJIE: Sure. We don't
 22 have a problem with that. We just have a few
 23 questions to ask.
 24 MR. PERL: Oh, yeah. Sorry.

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1 MS. PARKER-OKOJIE: That's fine. We
 2 can do that to expedite the transcript.
 3 E X A M I N A T I O N
 4 BY MS. PARKER-OKOJIE:
 5 Q. Sergeant Sulikowski, there were a
 6 number of questions to you about what you did
 7 on this past Friday, and just for the record, I
 8 don't have the calendar in front of me, just so
 9 we could talk about the date, it was
 10 April 26 -- or I'm sorry, April 28. Is that --
 11 when we say Friday, is it your understanding
 12 that Friday was April 28?
 13 A. Yes.
 14 Q. Okay. What did you do on April 28 at
 15 the ICC offices?
 16 A. I reviewed the 24-hour tow sheets
 17 from both Lincoln locations. There were
 18 portions of it for me to double check
 19 information, and that's what I did in MCIS.
 20 Q. Can you explain a little bit about
 21 the process of going into MCIS? What does that
 22 involve?
 23 A. MC --
 24 Q. To clarify the information.

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1 A. Yeah, MCIS is a computerized screen
 2 that lists information for not only relocators,
 3 but motor carriers and safety towers and so on
 4 and so forth. So you actually go into
 5 relocation towing and you do a search for
 6 property addresses and you type in the specific
 7 address from which a tow has occurred from, and
 8 the information will pop up as to who holds a
 9 contract on it, who had previously owned a
 10 contract on it, you know, what dates those
 11 were, you know, if it was cancelled or not, who
 12 the property owner or the management company
 13 is, what their phone number is, all that
 14 information is listed in that screen.
 15 Q. So earlier counsel for Lincoln Towing
 16 asked you if you did anything to authenticate
 17 the documents, and authenticate is kind of a
 18 legalese word for checking to see if the
 19 information is what it says it is.
 20 Did you do anything to check to see
 21 if information in Exhibits 2 through 7 was what
 22 it said it was?
 23 A. I'm not sure I understand your
 24 question.

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1 Q. Sure. I can rephrase it.
 2 Do you understand what it means to
 3 check something to see if the information is
 4 matching or accurate?
 5 A. Again, I don't understand. Are you
 6 asking me to check an exhibit against what's in
 7 the screen shot?
 8 Q. No, I'm asking you your understanding
 9 of authenticate. What is your understanding of
 10 what that means when someone asks you if you
 11 authenticated something?
 12 MR. PERL: I'm going to object. It
 13 calls for a legal conclusion.
 14 MS. PARKER-OKOJIE: You can answer.
 15 BY MS. PARKER-OKOJIE:
 16 Q. What does that mean to you when
 17 someone says did you authenticate something?
 18 A. I'm not sure. You know, the
 19 information that -- I didn't fabricate the
 20 information. The information is what I saw on
 21 that screen, okay. I did not input it. I
 22 believe it to be valid, because most of that
 23 information is entered by the relocators
 24 themselves.

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1 Q. Is there anything during the time
2 that you spent at the ICC office on Friday that
3 led you to believe that the information was not
4 accurate, meaning the information on the
5 printout?
6 A. No.
7 MS. PARKER-OKOJIE: I don't have any
8 other questions for Sergeant Sulikowski at this
9 time -- I'm sorry, I just want to confer with
10 counsel.
11 MR. PERL: Go ahead. I'm doing the
12 same.
13 (Whereupon a short
14 recess was had.)
15 EXAMINATION
16 BY MR. PERL:
17 Q. So Sergeant, you looked at
18 information on the exhibits, and I think
19 Counsel was asking did you authenticate it.
20 Now, that means a lot of things to different
21 people. Actually in our profession it means
22 something way different than in your profession
23 being a police officer, but authenticate means
24 did you attempt to ascertain whether that

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1 just said. She said she asked you if you did
2 anything to see if the information was
3 accurate. Did you?
4 A. My answer is I believe the
5 information that I see on the screen at the
6 time I see it is accurate.
7 Q. Okay. So let me show you Exhibit 6.
8 Take a look at Exhibit 6, first page. We've
9 already been through this ad nauseam; you
10 didn't create this document, correct?
11 A. Yes.
12 Q. But if this information was on a
13 screen, you would assume it's accurate,
14 correct?
15 A. Yes.
16 Q. Take a look at the information for --
17 it's about 24 down where it says -- I'm sorry,
18 where it says Kenneth Ubay. You see where it
19 says Kenneth Ubay?
20 A. Yes.
21 Q. Look at the second information for
22 Kenneth Ubay. When was his ACT date?
23 A. It's listed as 1899.
24 Q. So that's accurate, right? Must be,

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1 information is accurate or not, correct?
2 A. I don't know.
3 Q. Well, I'm not sure --
4 A. I don't know the definition of
5 authenticate.
6 Q. When you were answering Counsel, what
7 were you answering when she said did you
8 authenticate it?
9 MS. PARKER-OKOJIE: Oh, Counsel, just
10 to clarify, I didn't ask him if he
11 authenticated it. I was asking him what his
12 understanding of authenticate meant from your
13 question about did he do anything to
14 authenticate the documents. I just wanted to
15 kind of demystify that. I was not asking him
16 if he authenticated. I said did he check to
17 see if the information was accurate and if
18 there was anything that led him to believe that
19 it was not.
20 BY MR. PERL:
21 Q. So did you check to see if the
22 information was accurate?
23 A. With who?
24 Q. I'm just following up on what counsel

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1 because it was on the screen.
2 A. I guess it must be.
3 Q. So you think Kenneth Ubay --
4 A. No, I do not.
5 Q. So you don't think that's accurate,
6 do you?
7 A. I think that's a typo.
8 Q. A typo as opposed to saying it's not
9 accurate. Is that the same thing? Is the
10 information accurate, yes or no?
11 A. No.
12 Q. Are there any other bits of
13 information on any of these documents that
14 aren't accurate, or did you even look at them
15 to determine that before you said they're
16 accurate?
17 A. I looked at it.
18 Q. Look at the next page. Look at Bobby
19 Gene Hall, about two-thirds of the way down.
20 When did Bobby Gene Hall get activated as an
21 operator?
22 A. On Page 2?
23 Q. It's Page 2 of 14, yeah. It's about
24 two-thirds of the way down.

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1 A. 1899.
 2 Q. 1899. Very old person, correct?
 3 A. Yes.
 4 Q. Or this information isn't accurate,
 5 is it?
 6 A. Correct.
 7 Q. It's not accurate, right? So what
 8 else on here isn't accurate?
 9 A. Yeah, there are other dates.
 10 Q. And that information is actually on
 11 the computer screen, isn't it, the 1899?
 12 A. Yes, it is.
 13 Q. So certainly that's not accurate, is
 14 it?
 15 A. No, it's not.
 16 Q. What other information isn't
 17 accurate? Tell you what, let's look at the
 18 next page, Page 3 of 14. Page 3 of 14, let's
 19 see how many times we can find 1899 on there.
 20 Second one, John Speropulos. When was John
 21 Speropulos activated?
 22 A. 1899.
 23 Q. And how about James Murillo?
 24 A. 1899.

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1 Q. And how about John Sporrer?
 2 A. 1899.
 3 Q. Do you believe that information's
 4 accurate?
 5 A. No.
 6 Q. It isn't, right?
 7 And keep going down, William
 8 Hunter -- I'm sorry, go back up. Andrew Demma,
 9 when did Andrew Demma get activated?
 10 A. 1899.
 11 Q. How about Jack Hatfield?
 12 A. Okay. I will stipulate to all these
 13 1899 dates.
 14 Q. Couple more. Bear with me. Jack
 15 Hatfield. And by the way, you can't stipulate.
 16 It would have to be your attorney, but Jack
 17 Hatfield, 1899, correct?
 18 A. Yes.
 19 Q. And how about William Hunter; 1899,
 20 correct?
 21 A. Yes.
 22 Q. How about Patrick Daniels at the
 23 bottom of the page, 1899, correct?
 24 A. Yes.

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1 Q. Go to the next page, Page 4, Steven
 2 Bieniek, 1899, correct?
 3 A. Yes.
 4 Q. Keep going down. How about Leonard
 5 Hayes; 1899, correct?
 6 A. Yes.
 7 Q. Keep going down -- so all of that
 8 information is incorrect, isn't it?
 9 A. Those dates are.
 10 Q. Well, that's definitely incorrect,
 11 right? The dates are definitely incorrect.
 12 Nobody that's working at Lincoln got activated
 13 in 1899, did they?
 14 A. No.
 15 Q. And this is the same information and
 16 screen you looked at that you relied upon to
 17 make your determinations, isn't it?
 18 A. Yes.
 19 Q. Yet you did no investigation to make
 20 sure the information you looked at was
 21 accurate, did you?
 22 A. I have already answered that, yes.
 23 Q. So I ask you one more time, is the
 24 information on the screen that you look at

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1 accurate?
 2 A. No.
 3 MR. PERL: Nothing further.
 4 MR. BARR: We have nothing else.
 5 MR. PERL: Okay. Signature?
 6 MR. BARR: Waive.
 7 MS. PARKER-OKOJIE: We'll waive.
 8 MR. PERL: Great. Thank you very
 9 much for your time.
 10
 11 FURTHER DEPONENT SAITH NOT...
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<p>1 2 STATE OF ILLINOIS)) Ss. 3 COUNTY OF C O O K) 4 5 I, Carol A. Dorencz, a Certified 6 Shorthand Reporter for the State of Illinois, 7 do hereby certify: 8 That previous to the commencement of 9 the examination of the witness, the witness was 10 duly sworn to testify the whole truth 11 concerning the matters herein; 12 That the foregoing deposition 13 transcript was reported stenographically by me, 14 was thereafter reduced to typewriting under my 15 personal direction, and constitutes a true 16 record of the testimony given and the 17 proceedings had; 18 That the said deposition was taken 19 before me at the time and place specified; 20 That the said deposition was 21 adjourned as stated herein; 22 That I am not a relative or employee 23 or attorney or counsel, nor a relative or 24 employee of such attorney or counsel for any of</p> <p style="text-align: right;">279</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: right;">281</p>
<p>1 the parties hereto, nor interested directly or 2 indirectly in the outcome of this action. 3 IN WITNESS WHEREOF, I do hereunto set 4 my hand and affix my seal of office at Chicago, 5 Illinois, this 7th day of May, 2017. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: center;">_____ Carol A. Dorencz License No. 084-002632</p> <p style="text-align: right;">280</p>	

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EXHIBIT 4



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

C E R T I F I C A T E

I, Scott Morris, do hereby certify that I am the Transportation Customer Service Supervisor in the Processing and Information Section of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to matters governed by the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-100 *et seq.*, and its administrative rules.

I further certify that the above and foregoing is a true, correct, and complete copy of the following:

1. Screen print from the Illinois Commerce Commission's Motor Carrier Information System ("MCIS") electronic database pertaining to the relocation towing contract status for the property at 223 Custer Avenue, Evanston, IL 60202.
2. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 834 West Leland Avenue, Chicago, IL 60640.
3. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 850 West Eastwood Avenue, Chicago, IL 60640.
4. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1415 West Morse Avenue, Chicago, IL 60626.
5. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1415 West Morse Avenue, Chicago, IL 60626.

6. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1730 West Terra Cotta Place, Chicago, IL 60614.
7. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2001 West Devon Avenue, Chicago, IL 60659.
8. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2245 North Halsted Street, Chicago, IL 60614.
9. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2454 West Peterson Avenue, Chicago, IL 60659.
10. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2626 North Lincoln Avenue, Chicago, IL 60614.
11. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2801 West Devon Avenue, Chicago, IL 60659.
12. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2801 West Devon Avenue, Chicago, IL 60659.
13. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2828 North Broadway, Chicago, IL 60657.
14. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3214 North Kimball Avenue, Chicago, IL 60618.
15. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3620 North Clark Street, Chicago, IL 60613.

16. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3700 North Broadway Street, Chicago, IL 60613.
17. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3700 North Broadway Street, Chicago, IL 60613.
18. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3923 North Clarendon Avenue, Chicago, IL 60613.
19. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4102 North Sheridan Road, Chicago, IL 60613.
20. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4420 North Winchester Avenue, Chicago, IL 60640.
21. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4801 North Ravenswood Avenue, Chicago, IL 60640.
22. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5440 North Clark Street, Chicago, IL 60640.
23. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5440 North Clark Street, Chicago, IL 60640.
24. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5501 North Kedzie Avenue, Chicago, IL 60625.
25. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5623 North Clark Street, Chicago, IL 60660.
26. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5713 North Kenmore Avenue, Chicago, IL 60660.

27. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5754 North Western Avenue, Chicago, IL 60659.
28. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5853 North Artesian Avenue, Chicago, IL 60659.
29. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6105 North Broadway Street, Chicago, IL 60660.
30. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6550 North Sheridan Road, Chicago, IL 60626.
31. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6700 North Greenview Avenue, Chicago, IL 60626.
32. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 7000 N. Ridge, Chicago, IL 60645.

Given under my hand and seal of said Illinois Commerce Commission at Springfield, Illinois, on this 10th day of May 2017.



Scott Morris
Transportation Customer Service Supervisor
Processing and Information Section



EXHIBIT 5

Operator	RTV-O #	Ineligible Period Start- End	Bates Stamped Pages	Total Tows
Phillips	4394	8/17/15 - 2/15/16	73; 74; 75; 76; 77 (3); 84; 85(2); 86(2); 87; 88; 89; 93(2); 94; 106 (3); 107(4); 108(2); 109; 111; 112; 113; 114 (3); 119(2); 126 (2); 127; 130; 140(2); 147; 149 (2); 151(2); 152; 153; 154(2); 156(3); 157; 163 (4); 164; 168 (3); 174; 177(2); 178; 182; 186; 194; 195; 196; 197; 198; 204; 212; 214(2); 215; 217 (2); 218; 219(2); 220(2); 221; 226; 227(2); 230; 237 (2); 239 (2); 240; 241; 245; 247; 248; 249 (2); 250; 251(2); 257; 258(2); 263(2); 266; 267; 276; 277 (3); 278(2); 279 (3); 280 (3); 282 (2); 283(3); 284; 285; 286 (2); 292 (2); 310 (4); 311; 314(2); 315; 327 (2); 328; 332	147

Operator	RTV-O #	Ineligible Period Start- End	Bates Stamped Pages	Total Tows
Negron	2515	11/18/15 - 6/27/16	145;161; 266	3
Solano	4190	2/14/16 - 4/22/16	240; 241; 244(3); 245; 246; 248;	9

Address	Status	Total Tows	Bate Stamped Pages (000)
223 N. Custer	Lot Under Contract w/ Another Relocator	4	291; 313; 347; 424
834 W. Leland	Towed Prior to E-file date. E-filed: 3/24/16	2	352; 393
850 W. Eastwood	Towed Prior to E-file date. E-filed: 3/9/17	3	269; 332; 445
1415 W. Morse	Patrol from Call	3	330; 370; 427
1465 W. Webster	Lot Under Contract w/ Another Relocator	2	25; 26
1730 W. Terra Cotta	Lot Under Contract w/ Another Relocator	3	560; 625; 643
2001 W. Devon	Towed Prior to E-file date. Efiled: 12/14/15	18	6; 18; 37; 60; 72; 95; 115; 130; 132; 143; 153; 171; 244; 326
2245 N. Halsted	Lot Under Contract w/ Another Relocator	1	13
2454 W. Peterson	Patrol from Call	2	429; 506
2626 N. Lincoln	Towed Prior to E-file date. Efiled: 12/7/16	1	36
2801 W. Devon	Towed Prior to E-file date. Efiled: 4/12/16	75	24; 61(2); 62(6); 63(6); 67(2); 85; 117; 120; 150; 154(4); 164(3); 197; 199; 224; 227; 239 (2); 242; 243; 265; 266; 267; 269; 301; 324; 329; 338; 348(2); 374; 380; 383;384; 404; 413; 419; 432; 436; 437(3); 441; 442; 443; 447; 453; 457; 461; 464; 472(2); 473(3); 477; 558; 565; 598
2828 N. Broadway	Patrol from Call	2	56; 399
3214 N. Kimball	Towed After Cancellation: Contract Cancelled: 2/19/2009	1	431
3620 N. Clark	Lot Under Contract w/ Another Relocator	33	21; 61(2); 91; 150; 225; 227(2); 231(2); 284; 285; 380; 402; 408(2); 414; 452(2); 454; 466; 475; 489(1); 490(3); 544; 574; 576(2); 595(2); 609
3700 N. Broadway	Towed Prior to E-file date. E-filed: 3/18/16	8	9; 46; 138; 496(2); 574(2); 631
3923 N. Clarendon	Towed Prior to E-file date. E-filed: 10/7/16	4	128; 143; 463; 494
4100 W. Lawrence	Towed After Cancellation. Contract Cancelled: 11/9/2009	6	137; 452; 467; 470; 474; 628
4102 N. Sheridan	Towed After Cancellation. Contract Cancelled: 10/27/2009	21	11; 14; 136; 140; 148; 172; 174; 184; 211; 238; 278; 296; 315; 358; 421; 455; 535; 650; 658; 662; 668
4420 N. Winchester	Patrol from Call	1	349
4801 N. Linden	Towed Prior to E-file date. E-filed: 12/3/15	6	352(2); 353; 356; 357; 360
4801 W. Ravenswood	Towed Prior to E-file date. E-filed: 8/11/16	2	10; 72
5440 N. Clark	Lot Under Contract w/ Another Relocator	10	58; 66(2); 109(2); 195; 519; 560; 601; 628
5501 N. Kedzie	Lot Under Contract w/ Another Relocator	5	541; 542; 597; 610(2)
5623 N. Clark	Lot Under Contract w/ Another Relocator	6	59; 266; 365; 377; 441; 476
5713 N. Kenmore	Lot Under Contract w/ Another Relocator	5	31; 55; 99; 119; 140
5754 N. Western	Towed Prior to E-file date. E-filed: 3/12/17	5	90(3); 91; 455
5853 W. Artesian	Patrol from Call	1	574
6105 N. Broadway	Towed Prior to E-file date. E-filed: 1/9/17	44	18; 19; 23(5); 67; 77; 89; 95; 96; 105; 127; 130(2); 146; 170; 174; 190(2); 197; 238 (2); 296; 299 (2); 317; 326; 358; 375; 385; 401; 414; 418; 424; 431; 442; 497; 502; 529; 560; 587; 609
6550 N. Sheridan	Towed Prior to E-file date. E-filed: 10/21/16	3	3; 18; 22
6700 N. Greenview	Lot Under Contract w/ Another Relocator	10	6(2); 59; 82; 303; 403; 528; 577; 670; 671
7000 N. Ridge	Towed Prior to E-file date. E-filed: 1/4/16	1	428

Address	Notes	Total Tows	Bate Stamped Pages (000)
110 W. Grand	Towed After Cancellation; Contract Canceled: 4.17.2007	1	210
111 S. Halsted	Towed Prior to E-File Date; E-Filed: 4.3.2016	10	2; 47; 135(2); 136; 137; 144(2); 145; 146
225 N. Columbus	Towed After Cancellation; Contract Canceled: 1.15.2016	3	122; 208; 220
344 N. Canal	Lot Under Contract w/ Another Relocator	2	142; 276
345 N. Canal	Lot Under Contract w/ Another Relocator	1	11
400 E. South Water	Lot Under Contract w/ Another Relocator	1	20
405 N. Wabash	Towed After Cancellation; Contract Canceled: 2.11.2010	3	17; 130; 173
440 N. La Salle	Lot Under Contract w/ Another Relocator	1	1
800 N. Kedzie	Towed After Cancellation; Contract Canceled: 6.27.2015	1	78
831 N. Damen	Towed Prior to E-File Date; E-Filed:12.15.2015	1	151
1041 N. Harding	Towed Prior to E-File Date; E-filed: 9.2.2015	1	41
1400 N. Lake Shore Drive	Lot Under Contract w/ Another Relocator	1	12
1801 N. St. Louis	Towed Prior to E-File Date; E-filed: 8.8.2016	2	70; 261; 267
1900 N. Austin	Towed After Cancellation; Contract Canceled:11.6.2009	34	76; 95; 164; 165; 190; 206; 208; 216(9); 217(8); 236(2); 254(7); 264
1919 N. Cicero	Patrol from Call	1	136
2002 S. Wentworth	Patrol from Call	8	127; 139; 159; 181; 187; 194; 198; 272(2)
2030 S. State	Lot Under Contract w/ Another Relocator	1	12
2111 S. Clark	Towed Prior to E-File Date; E-Filed: 7.12.2016	12	121; 199; 202; 206; 207(2); 209; 211; 214; 232; 239; 240; 243
2113 N. Spaulding	Towed Prior to E-File Date; E-Filed: 2.2.2016	2	221(2)
2201 S. Halsted	Towed After Cancellation; Contract Canceled: 2.11.2010	1	45
2233 S. Canal	Lot Under Contract w/ Another Relocator	1	227
2249 N. Milwaukee	Lot Under Contract w/ Another Relocator	1	44
2421 W. Madison	Lot Under Contract w/ Another Relocator	1	133
2451 N. Clybourn	Towed Prior to E-File Date; E-Filed: 3.24.16	1	268
2600 S. Michigan	Towed After Cancellation; Contract Canceled: 2.11.2010	6	209; 234; 270; 271(2); 276
2734 S. Wentworth	Patrol from Call	3	90;122; 195; 253; 258
2750 W. Grand	Towed Prior to E-File Date; E-Filed: 9.22.2015	6	6(4); 27; 36
2801 N. Linder	Towed Prior to E-File Date; E-Filed: 3.18.16	2	262; 268
2805 N. Linder	Towed Prior to E-File Date; E-Filed: 3.18.2016	8	31 (3); 36; 48; 55(2); 59
2805 N. Lotus	Towed Prior to E-File Date; E-Filed: 3.24.2016	3	34; 35; 53
2844 W. Armitage	Towed Prior to E-File Date; E-filed: 8.2.2016	1	214
2908 W. Fullerton	Towed Prior to E-File Date; E-filed: 9.8.2015	1	51
3100 N. Central	Towed After Cancellation; Contract Canceled: 5.24.2015	36	3; 4(4); 23(3); 53; 60; 75; 83(2); 93; 118(2);174; 212; 222(2); 227(2); 228(7); 230(3); 243; 250; 257(2); 264; 265
3901 W. Madison	Towed After Cancellation; Contract Canceled: 8.24.2013	1	204
4645 W. Belmont	Patrol from Call	1	103; 271
4946 S. Drexel	Towed Prior to E-File Date; E-filed: 11.3.2015	1	108
5000 W. Madison	Patrol from Call	5	98 ;196; 209; 234; 238
5200 W. North	Lot Under Contract w/ Another Relocator	1	37
5531 W. North	Lot Under Contract w/ Another Relocator	1	30
7118 W. Grand	Towed After Cancellation; Contract Canceled: 6.18.2012	3	230(3)

EXHIBIT 4

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on the **10th day of July, 2017**, the Respondent, **Protective Parking Service Corporation d/b/a Lincoln Towing Service**, by and through its attorneys, PERL & GOODSNYDER, LTD., filed its **EMERGENCY MOTION TO STRIKE TESTIMONY AND CONTINUE HEARING**, with the Office of the Processing and Information Section by mailing a copy to 527 East Capitol Avenue, Springfield, Illinois 62701 pursuant to 83 Ill. Adm. Code 200.70.



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

CERTIFICATE OF SERVICE

TO: See attached Service List.

I, an attorney under oath, hereby certify under penalties as provided by law pursuant to §1-109 of the Illinois Code of Civil Procedure, that I caused the following documents of the Defendant, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE:**

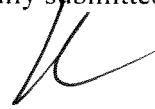
- (1) **Notice of Filing**
- (2) **Certificate of Service**
- (3) **Service List**
- (4) **Emergency Motion to Strike Testimony and Continue Hearing**

to be served upon each attorney to whom directed at their respective addresses via:

X **Via Hand Delivery**, by tendering the same in a properly addressed, sealed and secure envelope, before 1:30 P.M. on the **10th day of July, 2017**.

X **Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein with consent of the recipient where permissible under 83 Ill. Adm. Code 200.1050, before 11:59 P.M. on the **10th day of July, 2017**.

Respectfully submitted,



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
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SERVICE LIST

ATTORNEYS FOR STAFF OF THE ICC:

Benjamin J. Barr

Transportation Counsel
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
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ATTORNEYS FOR RESPONDENT:

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CLERK OF THE ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission

Processing and Information Section
527 East Capitol Avenue
Springfield, Illinois 62701
via U.S. MAIL ONLY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

In re the matter of: :

Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC

Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator’s License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

EMERGENCY MOTION TO STRIKE TESTIMONY AND CONTINUE HEARING

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant to Section 200.420, Section 200.680, Section 200.500, and Section 200.560 of the Illinois Commerce Commission (“Commission”) Rules of Practice (“Rules”), 83 Ill. Adm. Code 200.10 *et seq.*, respectfully requests that the Administrative Law Judge strike the oral testimony proffered by Sergeant Timothy Sulikowski at the hearing in the above captioned matter, or in the alternative, to continue the Hearing. In support of this Motion, Respondent states as follows:

1. On February 24, 2016, the Commission entered an order in which initiated the above-captioned case, known as 92 RTV-R Sub 17 (hereinafter referred to as the “Fitness Hearing”).
2. Thereafter, this Court held statuses in order to narrow down the scope of the proceeding and define the relevant time period for the Fitness Hearing.
3. On February 1, 2017, this Court issued a ruling, defining the scope of the Fitness Hearing.

4. The Court made two specific rulings, first regarding the dates of the tows, and the second regarding the dates of the investigations, as investigations were still being completed in 2017 for tows that occurred in 2015 and early 2016.

5. Specifically, the Court ruled as follows:

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20 JUDGE KIRKLAND-MONTAQUE: Let's say we limit
21 it. Nothing you receive past today, like any new
22 tickets or anything, even if they were within that

Page 146

1 time period, you can't use them.
2 We're going to limit information that
3 Staff has as of February 1st, 2017 even if it's
4 within the time period from July 24th, 2015 to March
5 22nd, 2016. So that's the scope.

February 01, 2017, Status in 92 RTV-R Sub 17.

6. Specifically, Section 200.420 of the Rules states as follows:

If a person fails to comply with a subpoena or a discovery order or refuses to attend or be sworn at a hearing or deposition, the Hearing Examiner may suspend further proceedings until compliance is obtained, or if the person who fails to comply is a party to the proceeding or an officer, agent or employee of a party, the Hearing Examiner may strike all or any part of the pleadings of such party, or refuse to allow the party to support designated claims or defenses, or take such further action as may be appropriate under the circumstances and as provided by law.

83 Ill. Adm. Code 200.420. (Emphasis added).

7. Additionally, Section 200.680 of the Rules provides as follows:

Any evidence offered in whatever form shall be subject to appropriate and timely objections. The Hearing Examiner may, after notice to the parties and staff witnesses, either with or without objection, exclude irrelevant, immaterial, unduly repetitious or otherwise inadmissible evidence. Formal exception to a ruling on admissibility of evidence need not be stated on the record in order to be preserved.

83 Ill. Adm. Code 200.680. (Emphasis Added).

8. Accordingly, it is within the powers of the Administrative Law Judge to exclude irrelevant, immaterial, or otherwise inadmissible evidence, or in the alternative, refuse to allow a party to support designated claims or defenses.

9. On April 5, 2016, Respondent propounded a discovery Data Request to Staff.

10. Respondent's Data Request responses were due on May 3, 2016, pursuant to Section 200.410 of the Rules. 83 Ill. Adm. Code 200.410.

11. On May 9, 2016, Staff emailed Staff's Answer to Protective Parking Service Corporation's Data Request, containing numerous meritless objections, with few actual responses.

12. After countless attempts to resolve discovery differences, including telephonic discussions, in-person conferences, and written correspondence, Respondent had no choice but to file a Motion to Compel discovery on October 13, 2016.

13. As addressed in the Motion to Compel, Ill. Admin. Code 200.340 clearly states that "It is the policy of the Commission to obtain full disclosure of all relevant and material facts to a proceeding. Further, it is the policy of the Commission to encourage voluntary exchange by the parties and staff witnesses of all relevant and material facts to a proceeding through the use of requests for documents and information." Ill. Admin. Code 200.340 (emphasis added).

14. Likewise, throughout the Fitness Hearing, Respondent was entitled to all documents that are relevant and responsive to the instant allegations, so as to afford its constitutional due process rights in a hearing to take away its livelihood and license.

15. Request 20 asks Staff to "Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony."

16. On November 18, 2016, this Court issued an order, granting Respondent's Motion to Compel as to Request 20, ordering as follows: "Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date." A copy of the Order is attached hereto as **Exhibit 1**.

17. On December 19, 2016, Staff tendered its Fourth Answer to Protective Parking Service Corporation's Data Request.

18. Since the Fourth Answer to Protective Parking Service Corporation's Data Request came the Fifth Response, and the Sixth Response.

I. Staff Failed to Furnish A Witness to be Cross-Examined With Regard to Its Exhibits, In Direct Violation of this Court's April 25, 2017 Order

19. On April 25, 2017, Staff tendered Staff's Seventh Answer to Protective Parking Service Corporation's Data Request, along with six (6) new, never before tendered, stapled packets of documents.

20. At the hearing, the Court ordered Staff to supplement its response to Request 20, to specifically identify which of Staff's witnesses will testify as to the six (6) new exhibits.

21. Furthermore, the Court ordered Staff to produce said witness for a supplemental deposition, so that Respondent could cross-examine evidence presented against it.

22. Thereafter, Staff tendered Staff's Eighth Answer to Protective Parking Service Corporation's Data Request, which provided that Interim Sergeant Tim Sulikowski "Will testify as to Staff review of the Respondent's 24 Hour Tow Logs and the consistency of the entries contained within these Logs with Commission records."

23. On April 26, 2017, Respondent issued a Notice of Deposition of Tim Sulikowski, by Order of the Chief Administrative Law Judge of the Illinois Commerce Commission on April 25, 2017, and pursuant to the Illinois Public Utilities Act, 220 ILCS 10-106, Illinois Supreme

Court Rules 2014 and 206, the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.360, and all other applicable Illinois Supreme Court Rules and Illinois Commerce Commission Rules (hereinafter referred to as the "Deposition Notice"). A copy of the Deposition Notice is attached hereto as **Exhibit 2**.

24. The Deposition Notice contained a Rider, requesting the following documents:

1. Any documents supporting any allegations made by the Illinois Commerce Commission and the Staff of the Illinois Commerce Commission (hereinafter referred to as the "Staff") in the licensing proceeding known as 92 RTV-R Sub 17 (the "Licensing Proceeding").
2. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Staff** may seek to introduce into evidence in this case or which otherwise tends to prove or disprove the allegations made in the Licensing Proceeding.
3. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Deponent** relied on to form the basis of his testimony at any hearing in this Licensing Proceeding, including any personal factual knowledge and any proffered opinions.
4. All photographs, slides, diagrams, blueprints, layouts, sketches, motion pictures or video taken of the occurrences described in any investigation at issue in the Licensing Proceeding.
5. Any and all documents relating to the fitness of Respondent to hold a commercial vehicle relocater license.
6. Any and all documents which relate, in whole or in part, to any investigation of Respondent between July 24, 2015 and February 1, 2017.
7. Any and all documents or correspondence related to any communication between **Deponent** and **Respondent** between July 24, 2015 and February 1, 2017.
8. All documents referenced or listed in response to any interrogatories, requests for production of documents, or any other data requests served by a party in this matter.

Exhibit 2, Deposition Notice, Rider. (Emphasis in original.)

25. On May 3, 2017, at 2:00 p.m., pursuant to the notice of deposition, a deposition of Sergeant Timothy Sulikowski was held at Respondent's Counsel's office.

26. Despite having received and reviewed the Deposition Notice, Sergeant Sulikowski brought no documents with him to his deposition.

27. Specifically, as set forth in his Deposition Transcript attached hereto as **Exhibit 3**, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

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4 **Did you bring any documents with you here**
5 **today?**

6 A. No.

7 **Q. Did you review any documents before**
8 **today's deposition subsequent to the prior**
9 **deposition?**

10 A. Yes.

11 **Q. What did you review?**

12 A. I reviewed the documents that we are
13 going to discuss today.

14 **Q. But you didn't bring those with you**
15 **today?**

16 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Page 108:4 to 108:16)

28. Thereafter, Sergeant Sulikowski was presented with a copy of the Deposition Notice, which was marked as an Exhibit to the deposition.

29. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

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16 Q. Have you had a chance to see this
17 before today's date?
18 A. Yes.
19 Q. And in regards -- specifically in
20 regards to this document request, did you bring
21 any documents with you here today?
22 A. No.
23 Q. Do you have any documents that are
24 responsive to this document request?

110

1 A. No.
2 Q. Your prior deposition was on
3 March 15, 2017, correct?
4 A. Correct.
5 Q. Since that date have you created any
6 documents for this case?
7 A. I did not create any documents.
8 Q. Have you produced any documents
9 regarding this case?
10 A. No.
11 Q. Have you printed out any documents
12 since that date for this case?
13 A. No.

In Re Protective Parking (Sulikowski - Part 2)
(Pages 109:16 to 110:13)

30. Notwithstanding the aforementioned failure of Staff and its witness to produce documents pursuant to a Deposition Notice, in violation of the applicable rules of procedure, Sergeant Sulikowski's deposition made it clear that he had no intention of using the documents to testify at the Fitness Hearing.

31. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

18 **Q. Are you planning on using the**
19 **documents contained in Exhibit 3 when you**
20 **testify at the hearing for fitness on Lincoln**
21 **Towing?**

22 A. I personally am not presenting these
23 documents.

In Re Protective Parking (Sulikowski - Part 2), (Page
159:18 to 159:23)

32. Subsequently in his deposition, Sergeant Sulikowski answered consistent with the above testimony, and when he was asked the following questions, he answered with the following answers under oath:

4 **Q. As far as you know was this document**
5 **in existence at the time of your first**
6 **deposition on March 15, 2017?**

7 A. The exhibit or the information?

8 **Q. The exhibit.**

9 A. No.

10 **Q. Are you planning on using this**
11 **document when you testify at the hearing for**
12 **Lincoln Towing's relocation fitness?**

13 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Page
202:4 to 202:13)

33. In addition to claiming that he had no intention of testifying regarding these documents, Sergeant Sulikowski was unable to provide answers regarding the subject of any testimony that would be offered at the fitness hearing.

34. Accordingly, Respondent was unable to cross examine Sergeant Sulikowski as to any purportedly unintended and supposedly unplanned testimony regarding the documents.

35. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

214

11 Q. What violations did you find on the
12 24-hour tow sheets?

13 A. No active permits.

14 Q. Specifically which ones?

15 A. I can't tell you that.

16 Q. I'm not being facetious, but why
17 can't you tell me that?

18 A. Because I don't have that information
19 in front of me.

In Re Protective Parking (Sulikowski - Part 2), (Page
214:11 to 214:19)

36. Sergeant Sulikowski was unable to identify any single inconsistency in the documents, and claimed to know nothing about the accuracy of the documents. Sergeant Sulikowski was unable to identify the subject of his testimony at the Fitness Hearing.

37. Accordingly, it became impossible for Respondent to examine evidence brought against it and to cross-examine the only witness that Staff proffered, in order to challenge his testimony with other evidence or documents.

38. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

218

22 Q. Let's further visit that right now.
23 Without the tow sheets in front of you, which
24 you don't have today, can you tell me if you

219

1 found any inconsistencies and what they are in
2 Exhibit 4 and the 24-hour tow sheets?

3 A. No.

4 Q. You need the documents to do that,

5 don't you?
6 A. Yes.
7 Q. So the only way you're going to be
8 able to testify that there are any
9 inconsistencies or consistencies as
10 Interrogatory Answer No. 20 states is if you
11 look at the 24-hour tow sheets, correct?
12 A. Yes.
13 Q. But you didn't bring those here
14 today, did you?
15 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 218:22 to 219:15)

39. Sergeant Sulikowski continued to claim that he was unable to identify any violations during his deposition, and was unable to identify the subject of his testimony at the Fitness Hearing.

40. Specifically, pertaining to the 24-hour tow sheets, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

222

1 Q. And you've already seen those
2 documents. Did you take any notes on those
3 documents?
4 A. No.
5 Q. As you sit here today you don't know
6 what violations exist, do you?
7 A. Specifically, no.
8 Q. And for the relevant time period you
9 don't know, do you?
10 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 222:1 to 222:10)

41. Throughout his deposition, Sergeant Sulikowski perpetuated the resounding testimony that he was unable to identify any violations. He was asked the following questions, and answered with the following answers under oath:

251

6 **Q. Do you recall specifically what you**
7 **saw, what dates, what lots, any information on**
8 **the violations?**

9 A. Only generalities I can give you.

In Re Protective Parking (Sulikowski - Part 2), (Pages 251:6 to 251:9)

42. In fact, Sergeant Sulikowski clarified that no violations were actually written by him. He was asked the following questions, and answered with the following answers under oath:

251

22 **Q. Did you write any violations as a**
23 **result?**

24 A. This was not a violation writing

252

1 session.

2 **Q. I didn't ask that. I'm asking if you**
3 **wrote any violations?**

4 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 251:22 to 252:4)

43. After additional questioning, it was then revealed that Sergeant Sulikowski never actually identified any single violation, which was the reason he could not identify any of them.

44. Accordingly, it was clearly impossible to cross examine Sergeant Sulikowski on the alleged inconsistencies, as they were unknown, unidentified, and seemingly compiled by an unknown individual.

45. Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

257

24 **Q. How did you know what 24-hour tow**

258

1 **sheets to look at? There was thousands of**
2 **them.**

3 A. And they were all gone through.

4 **Q. You looked through 1000 invoices on**
5 **Friday, you, yourself?**

6 A. The team did.

7 **Q. I'm not asking about the team.**

8 A. I did not.

9 **Q. You didn't, did you?**

10 A. No, I did not.

11 **Q. Someone else did, didn't they, and**
12 **then they pointed them out to you, didn't they?**

13 A. Yes, they did.

14 **Q. So you actually didn't go through the**
15 **tow sheets yourself to find inconsistencies,**
16 **did you?**

17 A. No, I did not.

In Re Protective Parking (Sulikowski - Part 2), (Pages 257:24 to 258:17)

46. Not only did Sergeant Sulikowski not identify the inconsistencies in the first place, and not only was he unable to identify them in his deposition, Sergeant Sulikowski had no record of any inconsistencies such that Respondent was unable to even ascertain what alleged violations Staff would be attempting to claim at the Fitness Hearing.

47. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

260

24 Q. But you know what I'm saying. That's

261

1 why I'm clarifying when you say through my
2 staff, I think you're referring to the other
3 investigators or officers. You're actually
4 referring to the attorneys, correct?

5 A. Yes.

6 Q. And they actually pointed out to you
7 what they believe were inconsistencies,
8 correct?

9 A. Yes.

10 Q. And then you took that and looked at
11 some screen, correct?

12 A. Yes.

13 Q. Did you write anything down?

14 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Pages 260:24 to 261:14)

48. It became clear that Respondent had no possible way of knowing what the alleged inconsistencies were as Sergeant Sulikowski was unable to testify at his deposition about them. He was asked the following questions, and answered with the following answers under oath:

267

5 Q. Is there any way for you as you sit
6 here today to prove to me what screens you
7 looked at on Friday?

8 A. No.

9 Q. You didn't make copies of them and
10 save them, did you?

11 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Page 267:5 to 267:11)

49. Even if Sergeant Sulikowski would have been to identify any alleged inconsistency, Sergeant Sulikowski was unable to confirm the accuracy of any of the documents.

50. Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

204

4 Q. Did you ever actually compare it with
5 the actual operator permits?

6 A. No.

7 Q. And you didn't speak to anybody at
8 the Commerce Commission to see whether it's
9 accurate, did you?

10 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Page
204:4 to 204:10)

51. Notwithstanding the aforementioned failure of Staff and its witness to produce documents pursuant to a Deposition Notice, in violation of the applicable rules of procedure, Sergeant Sulikowski's deposition made it clear that he did not create any of the documents that had been tendered to Respondent on April 25, 2017.

52. More specifically, Sergeant Sulkowski testified that he did not identify any inconsistencies himself.

53. Consequently, Respondent was unable to examine the evidence offered against it, and was not afforded a reasonable opportunity to cross-examine the evidence.

54. Staff's failure to present for cross examination a witness to testify to the accuracy of the documents tendered on April 25, 2017 is a direct violation of this Court's April 25, 2017 order, directing them to do so.

55. Accordingly, Sergeant Sulikowski's hearing testimony should be stricken in its entirety.

56. In the alternative, Respondent seeks additional time to conduct discovery as to the alleged violations which were first disclosed during the Fitness Hearing, so as to effectively cross-examine the witness and the evidence brought against it.

57. Staff's failure to comply with the discovery orders has resulted in Respondent's inability to adequately defend itself in a hearing, and would directly violate Respondent's constitutional due process right if its license were revoked without a fair hearing on the merits.

58. Respondent's license to operate is its single most valuable asset; losing its license would constitute taking away its entire livelihood and sole source of revenue, putting many employees and independent contractors out of work.

II. The Exhibits are Inconsistent with the Previously Tendered Exhibits, and Disclose New Individuals That Purportedly Testify as to their Accuracy, in Violation of this Court's April 25, 2017 Order to Disclose

59. On May 10, 2017, this Court ordered Staff to provide a complete binder with all documents Staff plans to use as exhibits at the Fitness hearing by 10:00 a.m. on May 11, 2017.

60. On May 11, 2017, Staff provided a binder, marked with Exhibit A through Exhibit S.

61. However, some of the documents tendered on May 11, 2017 had never before been produced to Respondent.

62. Accordingly, Respondent was unable to cross-examine any witness regarding any of the documents.

63. Additionally, the Exhibits tendered on April 25, 2017 are not identical to the ones tendered on May 11, 2017.

64. More specifically, the Exhibits contain a never before produced affidavit by a never before identified individual, who purports to be a Transportation Customer Service

Supervisor in the Processing and Information Section of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to matters governed by the Illinois Commercial Relocation of Trespassing Vehicles Law. A copy of one of the certificates is attached hereto as **Exhibit 4**.

65. This individual, who appears to be named “Scott Morris,” has never been disclosed to Respondent in the past.

66. Scott Morris has never been identified to be the keeper of records for the ICC.

67. Despite this Court ordering the parties to identify on April 25, 2017 the person that would be authenticating the exhibits, Staff failed to identify Scott Morris.

68. Respondent has not had an opportunity to cross-examine Scott Morris.

69. Scott Morris has not been identified as a witness by any party in this Fitness Hearing.

70. The documents attached as Exhibits are not business records of the ICC, as the ICC does not regularly maintain “screen prints” in its files.

71. Staff’s May 11, 2017 disclosures are in violation of this Court’s orders to furnish an individual that may be cross-examined as to the documents tendered.

72. Respondent requires additional time to conduct discovery as to the accuracy of these documents, as they were not previously disclosed, and to verify the accuracy of the documents contained therein.

73. Staff’s failure to comply with the discovery orders has resulted in Respondent’s inability to adequately defend itself in a hearing, and would directly violate Respondent’s constitutional due process right if its license were revoked without a fair hearing on the merits.

74. Respondent's license to operate is its single most valuable asset; losing its license would constitute taking away its entire livelihood and sole source of revenue, putting many employees and independent contractors out of work.

III. The Illinois Commerce Commission has Improperly Refused to Turn Over Records Pursuant to a Freedom of Information Act Request that would Refute the Testimony Proffered Against Respondent

75. On or about June 1, 2017, Staff called Sergeant Sulikowski to the witness stand to testify regarding the 24-tow sheets and the recently disclosed reports from MCIS.

76. For the first time since February 24, 2016, Staff identified alleged violations to Respondent through Sergeant Sulikowski live testimony in open court, with no opportunity for Respondent to review the inconsistencies prior to June 1, 2017, and no opportunity to subpoena knowledgeable parties, obtain records, or otherwise conduct discovery to refute the claims.

77. On or about June 9, 2017, Respondent submitted a Freedom of Information Act Records Request, seeking the following:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service

regarding e-filing of contracts through eRelocator and/or into the MCIS database.

Freedom of Information Act Records Request, T17-84, a true and accurate copy of which is attached hereto as **Exhibit 6**.

78. On or about June 19, 2017, the Illinois Commerce Commission demanded an additional 5 business days to respond to requests 2 and 6, and claimed that the remaining requests were “voluminous,” consisting of approximately 1,921 pages of responsive documents. A true and accurate copy of the Illinois Commerce Commission’s correspondence is attached hereto as **Exhibit 7**.

79. Thereafter, on or about June 26, 2017, the Illinois Commerce Commission sent additional correspondence, claiming that requests 2 and 6 were also “voluminous,” consisting of approximately 1,064 emails, of single or multiple pages each, and potentially with attachments. Additionally there were approximately 38 additional pages of documents responsive to paragraph 2. A true and accurate copy of the Illinois Commerce Commission’s correspondence is attached hereto as **Exhibit 8**.

80. On or about June 29, 2017, Respondent agreed to pay the statutory fees for voluminous data requests, pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the “FOIA Act”). A true and accurate copy of Respondent’s correspondence is attached hereto as **Exhibit 9**.

81. On or about July 7, 2017, the Illinois Commerce Commission denied the request in its entirety and produced no responsive documents whatsoever in response to Respondent’s requests. A true and accurate copy of the Illinois Commerce Commission’s correspondence is attached hereto as **Exhibit 10**.

82. The Illinois Commerce Commission directed Respondent to seek judicial review of the denial of the request by filing a lawsuit in the State Circuit Court, citing 5 ILCS 140/11.

83. Respondent sought the documents in the FOIA request in order to cross-examine evidence presented against it at the Fitness Hearing.

84. The documents Respondent seeks to cross-examine are ones that were (1) created after the February 1, 2017 document creation deadline; (2) created after Sergeant Sulikowski's March 15, 2017 deposition; and (3) tendered to Respondent on April 25, 2017, long after discovery had closed, and just a month before the Fitness Hearing was scheduled to commence.

85. The testimony Respondent seeks to cross-examine was proffered by Sergeant Sulikowski for the first time on June 1, 2017 at the Fitness Hearing, although he was unaware of the alleged violations at his deposition.

86. Respondent has not been afforded an opportunity to examine the evidence presented against it, or an opportunity to cross-examine the witness regarding the evidence.

87. The allegations revealed for the first time on June 1, 2017 involve alleged failures to have an electronically filed contract on the date of various purported tows.

88. Respondent requires the documents sought in its FOIA request, such as, for example, the request for an "Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner," or the request for "Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding efilling of contracts through eRelocator and/or into the MCIS database."

89. The Illinois Commerce Commission's refusal to comply with the FOIA Act is an attempt to deny Respondent its constitutional due process rights.

90. The Illinois Commerce Commission's attempts to force Respondent to face trial by ambush clearly violate Respondent's constitutional due process rights.

91. Accordingly, Sergeant Sulikowski's hearing testimony should be stricken in its entirety.

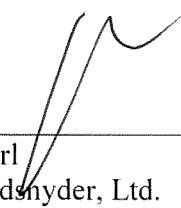
92. In the alternative, Respondent seeks a continuance of the hearing until it can conduct further discovery to verify the accuracy of the purported inconsistencies only first disclosed to Respondent on June 1, 2017 in open court.

93. Proceeding to hearing without an opportunity to examine the evidence against it would grossly and unduly prejudice Respondent.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order pursuant to Ill. Admin. Code Section 200.420, Ill. Admin. Code Section 200.680, Ill. Admin. Code Section 200.500, and Ill. Admin. Code Section 200.560, strike the oral testimony proffered by Sergeant Timothy Sulikowski at the hearing in the above captioned matter, or in the alternative, to continue the Hearing until after Respondents have a chance to conduct further discovery; and granting any such other and further relief as the Administrative Law Judge deems just and proper.

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

Respectfully submitted,



Allen R. Perl
Perl & Goodsnyder, Ltd.
Attorneys for Protective Parking Service
Corporation d/b/a Lincoln Towing Service

EXHIBIT 1

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



In re the matter of: :
: :
Protective Parking Service Corporation : 92 RTV-R Sub 17
d/b/a Lincoln Towing Service, : 100139 MC
Respondent. : :
: **SERVED**
Hearing on fitness to hold a Commercial Vehicle Relocator's : **ELECTRONICALLY**
License pursuant to Section 401 of the Illinois Commercial : **OR BY MAIL**
Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a- :
401. :

ADMINISTRATIVE LAW JUDGE'S RULING

Notice is hereby given of the Administrative Law Judge's ("ALJ) rulings regarding specific discovery requests set forth below made by Protective Parking Service Corporation d/b/a Lincoln Towing Service in its Motion to Compel Discovery.

Data Request (DR) 1

Motion granted to the extent that the DR requests all documents actually reviewed by Staff in the course of preparing its responses to the DRs. The DR does not request all documents that potentially exist that Staff has not reviewed.

Data Requests 4 and 5

Motion denied because response provided by Staff is sufficient.

Data Request 9

Motion denied because DR is overly broad.

Data Requests 10 and 13

Motion is denied because Staff has provided Respondent with a spreadsheet detailing all of Respondent's citations dating back to July 25, 2013. In addition, Staff claims it has provided Respondent with copies of all investigation files that resulted in an enforcement action against Respondent dating back to at least July 24, 2015, the date Respondent's authority to operate was last renewed.

Data Requests 14 and 15

Motion is denied because information requested is irrelevant to the instant proceeding.

Data Request 16

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Requests 17, 18 and 19.

Motion denied because information requested regarding Rendered Services, Inc. and A1 Citywide Towing is irrelevant to instant proceeding.

Data Request 20

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Request 28

Motion denied because DR is overly broad.

ENTERED: November 18, 2016



Latrice Kirkland-Montague
Chief Administrative Law Judge
Review and Examination

EXHIBIT 2

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

NOTICE OF DEPOSITION

To: **Benjamin J. Barr**
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601
bbarr@icc.illinois.gov

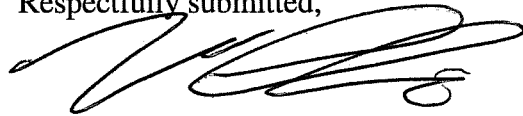
PLEASE TAKE NOTICE that by Order of the Chief Administrative Law Judge of the Illinois Commerce Commission on April 25, 2017, and pursuant to the Illinois Public Utilities Act, 220 ILCS 10-106, Illinois Supreme Court Rule 204 and 206, the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.360, and all other applicable Illinois Supreme Court Rules and Illinois Commerce Commission Rules, Respondent's attorneys shall take the discovery deposition of:

TIM SULIKOWSKI on MAY 3, 2017 at the hour of 2:00 p.m.

at PERL & GOODSNYDER, LTD., 14 N. Peoria, 2-C, Chicago, Illinois 60607, before a Notary Public of Cook County, Illinois, as may then and there be present.

This Notice is served upon you in conformity with the above named Code and Rules and is intended to require the presence of the party, or parties identified herein, at said time and place.

Respectfully submitted,



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
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Chicago, Illinois 60607
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vchirica@perlandgoodsnyder.com

DEPOSITION EXHIBIT "A"

TIM SULIKOWSKI (hereinafter "Deponent") is requested to produce, at the offices of Perl & Goodsnyder, Ltd., 14 North Peoria Street, Suite 2-C, Chicago, Illinois 60607, no less than Seventy-Two hours (72) in advance of the scheduled commencement of Deponent's deposition, the originals (or, if originals are unavailable due to no fault of the deponent, unmodified duplicates) of the following documents:

DOCUMENT REQUEST

YOU ARE COMMANDED ALSO TO BRING THE FOLLOWING: ALL ORIGINAL RECORDS, OR DUPLICATES OF THOSE ORIGINAL RECORDS IF THE ORIGINALS ARE UNAVAILABLE DUE TO NO FAULT OF THE DEPONENT, IN YOUR POSSESSION OR CONTROL, WHICH RELATE, EITHER IN WHOLE OR IN PART TO THE FOLLOWING:

1. Any documents supporting any allegations made by the Illinois Commerce Commission and the Staff of the Illinois Commerce Commission (hereinafter referred to as the "Staff") in the licensing proceeding known as 92 RTV-R Sub 17 (the "Licensing Proceeding").
2. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Staff** may seek to introduce into evidence in this case or which otherwise tends to prove or disprove the allegations made in the Licensing Proceeding.
3. Any and all correspondence, memoranda, documents, forms, statements, logs, blueprints, computer printouts, e-mails records, voicemail recordings and/or transcriptions, and all other computer data, or any other tangible items of any kind or description, which **Deponent** relied on to form the basis of his testimony at any hearing in this Licensing Proceeding, including any personal factual knowledge and any proffered opinions.
4. All photographs, slides, diagrams, blueprints, layouts, sketches, motion pictures or video taken of the occurrences described in any investigation at issue in the Licensing Proceeding.
5. Any and all documents relating to the fitness of Respondent to hold a commercial vehicle relocater license.
6. Any and all documents which relate, in whole or in part, to any investigation of Respondent between July 24, 2015 and February 1, 2017.
7. Any and all documents or correspondence related to any communication between **Deponent** and **Respondent** between July 24, 2015 and February 1, 2017.
8. All documents referenced or listed in response to any interrogatories, requests for production of documents, or any other data requests served by a party in this matter.

CAVEAT: YOUR FAILURE TO PRODUCE ANY OF THE ITEMS HEREIN REQUESTED WILL RESULT IN OUR EXPRESS RESERVATION TO RE-DEPOSE YOU, AT YOUR EXPENSE, AS TO THESE DOCUMENTS WHICH YOU HAVE FAILED OR REFUSED TO PRODUCE AT THE TIME OF YOUR DEPOSITION.

EXHIBIT 3

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

IN RE:)
)
PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN)
TOWING SERVICE,)

Respondent.) Docket No.
) 92 RTV-R Sub 17

Hearing on fitness to hold a)
Commercial Vehicle)
Relocator's License pursuant)
to Section 401 of the)
Illinois Commercial)
Relocation of Trespassing)
Vehicles Law, 625 ILCS)
5/18a-401.)

The continued discovery deposition of
SERGEANT TIMOTHY SULIKOWSKI, taken in the
above-entitled cause, before Carol A. Dorencz,
a Certified Shorthand Reporter for the State of
Illinois, at 14 North Peoria, Chicago,
Illinois, on May 3, 2017, at 2:00 o'clock p.m.

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I N D E X

EXAMINATION	PAGE
MR. PERL	106
MS. PARKER-OKOJIE	268
MR. PERL	271

E X H I B I T S

DEPOSITION EXHIBIT	MARKED
Exhibit No. 1	109
Exhibit No. 2	111
Exhibit No. 3	129
Exhibit No. 4	160
Exhibit No. 5	180
Exhibit No. 6	200
Exhibit No. 7	207
Exhibit No. 8	220

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A P P E A R A N C E S :

THE LAW OFFICES OF:

PERL & GOODSNYDER, LTD.

BY: MR. ALLEN R. PERL and

MR. VLAD V. CHIRICA

14 North Peoria Street

Suite 2-C

Chicago, Illinois 60607

Appeared on behalf of Protective
Parking Service Corporation;

THE LAW OFFICES OF:

ILLINOIS COMMERCE COMMISSION

BY: MR. BENJAMIN J. BARR and

MS. GABRIELLE E. PARKER-OKOJIE

160 North LaSalle Street

Suite C-800

Chicago, Illinois 60601

Appeared on behalf of the
Illinois Commerce Commission.

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MR. PERL: Let the record reflect

this is the discovery deposition of Sergeant
Tim Sulikowski, taken pursuant to notice and
continued to today's date pursuant to all
Illinois local and Supreme Court Rules.

WHEREUPON:

SERGEANT TIMOTHY SULIKOWSKI,
called as a witness herein, having been
previously duly sworn, was examined and
testified as follows:

E X A M I N A T I O N

BY MR. PERL:

Q. Sergeant Sulikowski, I know that
you've been deposed at least once before,
correct?

A. Yes.

Q. Because we were here a couple weeks
ago. Yes?

A. Yes.

Q. So you understand the rules, correct?

A. Yes.

Q. State your name and spell your last
name for the record?

A. Timothy Sulikowski, S, as in Sam,

106

1 u-l-i-k-o-w-s-k-i.
 2 Q. And you're here today to give
 3 testimony regarding the fitness hearing for
 4 Lincoln Towing, correct?
 5 A. In specific to the latest introduced
 6 evidence.
 7 Q. But that's in regard to -- the matter
 8 is --
 9 A. Yes.
 10 Q. -- 92 RTV-R Sub 17 before the
 11 Illinois Commerce Commission, correct?
 12 A. Yes.
 13 Q. And today, yes, you're correct, we're
 14 only going to be asking you questions
 15 specifically regarding the new documents that
 16 were presented to us by the Commerce Commission
 17 last week.
 18 A. Correct.
 19 Q. And just preliminarily again, have
 20 you had any alcohol in the last 24 hours?
 21 A. No.
 22 Q. Is there any reason why your memory
 23 would be impaired and you couldn't answer my
 24 questions?

107

1 A. No.
 2 Q. While we are waiting for the
 3 documents to be copied, let me ask you this:
 4 Did you bring any documents with you here
 5 today?
 6 A. No.
 7 Q. Did you review any documents before
 8 today's deposition subsequent to the prior
 9 deposition?
 10 A. Yes.
 11 Q. What did you review?
 12 A. I reviewed the documents that we are
 13 going to discuss today.
 14 Q. But you didn't bring those with you
 15 today?
 16 A. No.
 17 Q. So let's take a short break, because
 18 I don't actually have the documents in front of
 19 me.
 20 (Whereupon a short
 21 recess was had.)
 22 MR. PERL: Let's show you what's
 23 marked as Sulikowski Exhibit 1.
 24 (Whereupon Exhibit No. 1

108

1 was marked for
 2 identification.)
 3 BY MR. PERL:
 4 Q. Do you recognize what Exhibit 1 is?
 5 A. Yes.
 6 Q. Have you seen this before?
 7 A. Yes.
 8 Q. And this is a notice of deposition
 9 for today's date, correct?
 10 A. Correct.
 11 Q. And if you turn your attention to
 12 Page 2, it says document request?
 13 A. Uh-huh.
 14 Q. I'm sorry, you got to say yes or no.
 15 A. Yes.
 16 Q. Have you had a chance to see this
 17 before today's date?
 18 A. Yes.
 19 Q. And in regards -- specifically in
 20 regards to this document request, did you bring
 21 any documents with you here today?
 22 A. No.
 23 Q. Do you have any documents that are
 24 responsive to this document request?

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1 A. No.
 2 Q. Your prior deposition was on
 3 March 15, 2017, correct?
 4 A. Correct.
 5 Q. Since that date have you created any
 6 documents for this case?
 7 A. I did not create any documents.
 8 Q. Have you produced any documents
 9 regarding this case?
 10 A. No.
 11 Q. Have you printed out any documents
 12 since that date for this case?
 13 A. No.
 14 Q. Have you reviewed a computer to look
 15 at documents for this case?
 16 A. Yes.
 17 Q. What computer did you review? What
 18 computer did you review to review documents?
 19 A. My state-issued laptop.
 20 Q. What documents did you review?
 21 A. I reviewed the contracts that are
 22 located at MCIS pursuant to the daily log
 23 activity that were produced by your client.
 24 Q. Why did you do that?

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1 A. Why did I do that?
 2 Q. Yes.
 3 A. I did that in response to the OTC
 4 (Sic) lawyers finding inconsistencies in those
 5 documents that were handed to them.
 6 Q. So you didn't find any
 7 inconsistencies, did you?
 8 A. Upon review I did.
 9 Q. Prior to that you didn't, did you?
 10 You didn't find any inconsistencies in the
 11 documents prior to being given them by the
 12 lawyers, did you?
 13 A. No.
 14 Q. Let me show you what we are going to
 15 mark as Exhibit 2 and we received from the
 16 Commerce Commission as Exhibit 2 as well, and
 17 this is Bates stamped from the Commerce
 18 Commission 1 through 32 and a cover sheet of
 19 Exhibit 2.
 20 (Whereupon Exhibit No. 2
 21 was marked for
 22 identification.)
 23 BY MR. PERL:
 24 Q. Let me know when you've had a chance

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1 to look at Exhibit 2.
 2 A. I'm familiar with this report.
 3 Q. Do you know when this document was
 4 tendered to my office from the Commerce
 5 Commission?
 6 A. No.
 7 Q. Do you know whether it was tendered
 8 prior to your first deposition or not?
 9 A. No.
 10 Q. Is it your belief that it was
 11 tendered after your first deposition?
 12 A. Yes.
 13 Q. Do you know why it wasn't tendered
 14 prior to your deposition?
 15 A. I believe because we had not deposed
 16 Bob Munyon or gotten these daily call logs.
 17 Q. By we, you don't mean you?
 18 A. No.
 19 Q. You mean the Commerce Commission?
 20 A. The Commerce Commission.
 21 Q. So do you think that in Mr. Munyon's
 22 deposition all these inconsistencies that you
 23 are claiming were exposed in Mr. Munyon's
 24 deposition?

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1 A. I don't know.
 2 Q. Do you know if any of these contracts
 3 were looked at in Mr. Munyon's deposition?
 4 A. I don't know. I have not read
 5 Mr. Munyon's deposition, nor was I present.
 6 Q. So if you make a statement that there
 7 are inconsistencies in Mr. Munyon's deposition,
 8 that's not from your knowledge, is it?
 9 A. No.
 10 Q. You don't know that to be the case,
 11 do you?
 12 A. No.
 13 Q. Would it surprise you to find that
 14 none of these contracts or documents were
 15 reviewed in Mr. Munyon's deposition?
 16 A. Okay.
 17 Q. Would that surprise you to find that?
 18 A. No.
 19 Q. So take a look at Exhibit 2. Did you
 20 create this document?
 21 A. No.
 22 Q. Did you print this document?
 23 A. No.
 24 Q. Did you input the information that's

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1 contained on this document?
 2 A. No.
 3 Q. Do you even know if the information
 4 in this document's accurate?
 5 A. It's your client that inputs this
 6 information, so I would think that it is.
 7 Q. How do you know that?
 8 A. Because that's what the relocators
 9 do.
 10 Q. You know that for a fact?
 11 A. They input the information when they
 12 obtain a contract, they input it into a
 13 relocater. This information is not entered by
 14 the Commerce Commission with the exception if a
 15 contract is cancelled.
 16 Q. So that it is entered into by the
 17 Commerce Commission, correct?
 18 A. One date.
 19 Q. Only one date. So only one contract
 20 can be cancelled, right? It can only be done
 21 once?
 22 A. I'm not sure I understand your
 23 question.
 24 Q. Let me ask you this: Do you know

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1 whether or not the information contained on
2 this document's accurate?
3 A. No, because I didn't input it.
4 Q. Okay. So you don't know?
5 A. No.
6 Q. And you're not the keeper of records
7 for the Commerce Commission, are you?
8 A. I am not.
9 Q. And again, you didn't print this
10 document, correct?
11 A. Correct.
12 Q. Do you even know when this document
13 was printed?
14 A. No.
15 Q. Do you know who printed it?
16 A. No.
17 Q. Did somebody send you a copy of these
18 documents?
19 A. No.
20 Q. Have you reviewed these documents
21 before today?
22 A. Yes.
23 Q. If someone didn't send it to you and
24 you didn't print it, how did you review them

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1 before today?
2 A. I went to the office. I was not
3 given these before meeting at the office.
4 Q. Without telling me any conversations
5 with your attorneys, who did you meet with at
6 the office and when did you meet?
7 A. My attorneys.
8 Q. When?
9 A. Last Friday.
10 Q. At your request or their request?
11 A. Their request.
12 Q. And what documents did you review?
13 A. The daily call logs.
14 Q. Did you review the document in front
15 of you right now, Exhibit 2?
16 A. Yes.
17 Q. And you went through it, correct?
18 A. Yes.
19 Q. Just looking at this document, does
20 it tell you anything?
21 A. In conjunction without looking at the
22 call log, no. You have to look at the call
23 log, and then you have to look when the date of
24 the tow was or why it was towed, and then you

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1 need to look at the information whether there
2 was a valid contract at the date and time of
3 the tow.
4 Q. Was that done prior to your last
5 deposition?
6 A. No.
7 Q. Were there any tickets -- I'm sorry,
8 were there any citations written to Lincoln
9 Towing as a result?
10 A. I'm not aware.
11 Q. You didn't write any, did you?
12 A. I'm not aware.
13 Q. Did you write any?
14 A. Not that I can recall.
15 Q. Well, have you written any tickets or
16 citations to Lincoln Towing since your last
17 deposition?
18 A. No.
19 Q. Had you written any of these tickets
20 prior to your last deposition?
21 A. Possibly.
22 Q. Which ones?
23 A. I don't recall.
24 Q. Look through and tell me which ones

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1 you wrote tickets on?
2 A. I can't do that.
3 Q. Why not?
4 A. Because I write a lot of tickets. I
5 can't recall the specifics that ticket goes
6 with that address or for that violation.
7 Q. So you don't know if you wrote
8 tickets for any of the -- on any of the lots in
9 question in Exhibit 2?
10 A. That's what I've stated.
11 Q. Is there anything that could refresh
12 your recollection as to whether you wrote any
13 citations?
14 A. Not that I'm aware of.
15 Q. So you won't be testifying at the
16 hearing in the middle of this month that you
17 wrote any citations to Lincoln Towing regarding
18 any of these citations, correct?
19 A. I don't know what my testimony -- it
20 will be based on questions that I don't know
21 will be asked of me.
22 Q. I'm asking you right now if I asked
23 you if you were asked a question at the hearing
24 did you write any citations for any of these

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1 violations or tickets -- I'm sorry, any of
2 these lots, what would you say?
3 A. I would say no.
4 Q. When you went on Friday to review
5 these documents, did you take a copy with you?
6 A. Copy of what?
7 Q. Exhibit 2.
8 A. I was not given this prior to that
9 meeting.
10 Q. I'm asking you when you went there
11 that day and you left, did you take a copy of
12 this document with you?
13 A. No.
14 Q. So the only time you ever reviewed
15 the documents is on Friday, last Friday?
16 A. Correct.
17 Q. You didn't send these documents to
18 anybody else, did you?
19 A. No.
20 Q. And you didn't send them to yourself,
21 did you?
22 A. No.
23 Q. Do you know who decided to tender
24 these documents to Lincoln Towing?

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1 A. No.
2 Q. It wasn't you, though?
3 A. No.
4 Q. Other than your attorneys, did you
5 discuss your deposition testimony or this
6 matter subsequent to your last deposition and
7 prior to today's date?
8 A. No.
9 Q. Do you know -- you already stated you
10 don't know who printed these documents or when,
11 correct?
12 A. Yes.
13 Q. Do you know why these documents were
14 printed?
15 A. I can assume why.
16 Q. I just want to know if you have
17 specific knowledge.
18 A. I do not have specific knowledge.
19 Q. And do you specifically know for
20 certainty where these documents were printed
21 from?
22 A. No.
23 Q. Do you know for certainty that this
24 document wasn't altered?

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1 A. No.
2 Q. And you didn't do anything on Friday
3 to ascertain whether these documents were
4 accurate and truthful, did you?
5 A. I reviewed.
6 Q. Well, you reviewed the document,
7 correct?
8 A. Against the call log.
9 Q. I'm not asking about the call log.
10 I'm asking about these documents in Exhibit 2.
11 Did you do anything to authenticate and make
12 sure these were truthful and accurate
13 documents?
14 A. No.
15 Q. Are you planning on using these
16 documents when you testify at your hearing --
17 at the hearing on May 16th and 17th -- 17th and
18 18th? Are you planning on using these
19 documents?
20 A. Me personally?
21 Q. Yeah.
22 A. I'm not sure I understand the
23 question.
24 Q. You understand that you're going to

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1 be called to testify at the hearing for fitness
2 of Lincoln Towing?
3 A. Yes, I do understand that.
4 Q. Are you planning on using these
5 documents in your testimony?
6 A. I'd like to confer with our
7 counsel -- my counsel.
8 Q. Well, I'm really asking what you're
9 planning on doing. Not what your counsel's
10 planning on doing. I just want to know what
11 you're planning on doing.
12 A. I plan on answering the questions
13 asked of me.
14 Q. You're not planning on bringing these
15 documents to the hearing, are you?
16 A. No.
17 Q. And as you sit here today you're not
18 planning on using these documents during your
19 testimony, do you?
20 A. If I'm asked about them. I'm not
21 planning on bringing them as some rogue agent
22 and introducing these documents. I'm not sure
23 I understand your line of questioning. If I'm
24 asked about them, I will speak about them.

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1 Q. Well, I don't think it would make you
 2 a rogue agent if you gave documents to your
 3 attorneys in a case where we asked you in a dep
 4 rider to please produce documents to us. I
 5 don't think that would make you a rogue agent,
 6 would it?
 7 A. I'm not sure.
 8 Q. Because in our document request we
 9 asked you for these documents, didn't we?
 10 A. Okay. You were already given these
 11 documents, so why would I bring another copy of
 12 what you already have.
 13 Q. Okay. So the point is I'm wanting to
 14 find out what you're planning on using at the
 15 hearing. Not necessarily what your attorneys
 16 might give you. That might be something
 17 different, correct?
 18 A. I'm not sure.
 19 Q. Did you call Lincoln Towing to verify
 20 any of the information contained in
 21 Exhibit 2 --
 22 A. No.
 23 Q. -- after you reviewed it?
 24 A. No.

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1 Q. Did you call Rendered Services and
 2 verify any of the information?
 3 MS. PARKER-OKOJIE: Objection,
 4 relevance.
 5 MR. PERL: You can answer.
 6 THE WITNESS: No.
 7 BY MR. PERL:
 8 Q. Did you call Speed Line Towing to
 9 verify any of the information?
 10 A. No.
 11 MS. PARKER-OKOJIE: Objection,
 12 relevance.
 13 BY MR. PERL:
 14 Q. Did you call anybody at the Commerce
 15 Commission to verify the information?
 16 A. No.
 17 Q. Did you call North Shore Towing to
 18 verify any of the information contained in
 19 Exhibit 2?
 20 MS. PARKER-OKOJIE: Relevance
 21 objection.
 22 THE WITNESS: No.
 23 BY MR. PERL:
 24 Q. Did you call Brian and Michael's

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1 Towing to verify any of the information in
 2 Exhibit 2?
 3 MS. PARKER-OKOJIE: Objection,
 4 relevance.
 5 THE WITNESS: No.
 6 BY MR. PERL:
 7 Q. Could you have done that?
 8 A. Sure.
 9 Q. But you didn't, correct?
 10 A. Correct.
 11 Q. Could you take a look at Bates Stamp
 12 No. 31. I think it's the second to last page.
 13 A. Okay.
 14 Q. This appears to be referencing a
 15 property at 6700 Greenview in Chicago,
 16 Illinois, correct?
 17 A. Yes.
 18 Q. Do you know what's at that property?
 19 A. No.
 20 Q. Do you know whether that's private
 21 property or municipal property?
 22 A. I do not.
 23 Q. Does the Illinois Commerce Commission
 24 govern tows from municipality property or just

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1 private property?
 2 A. Private property.
 3 Q. So if this were a municipal property,
 4 the ICC would have no governing authority over
 5 it, would they?
 6 A. Correct.
 7 Q. Did you make a check of any records
 8 with the Recorder of Deeds or the treasurer's
 9 office or anyone else to determine if 6700
 10 North Greenview is a private property or not?
 11 A. No.
 12 Q. Now, each page from 1 all the way to
 13 32 references a different address, correct?
 14 A. Yes.
 15 Q. Did you call any of the property
 16 owners from those addresses to determine who in
 17 fact had contracts or the authority to tow from
 18 their property?
 19 A. No.
 20 Q. Did you specifically call them to
 21 determine who had the authority to tow from
 22 their property during the relevant time period
 23 July 24th, 2015 to March 23rd, 2016?
 24 A. No.

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1 Q. Did you do anything to determine
2 whether or not -- strike that.
3 Did you do anything to determine what
4 entity had the actual contract other than
5 looking at this document for these particular
6 addresses?
7 A. No.
8 Q. Did you review the actual contracts
9 for these lots?
10 A. No.
11 Q. Do you know whether any of these
12 properties listed in here are actually private
13 property?
14 A. Versus municipal?
15 Q. Yes.
16 A. No.
17 Q. And/or versus public property as
18 well.
19 A. Same answer, no.
20 Q. Just this list on its own, do you
21 believe this list on its own has any bearing on
22 whether or not Lincoln Towing is fit to hold a
23 relocator's license?
24 MS. PARKER-OKOJIE: Objection, calls

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1 for a legal conclusion.
2 THE WITNESS: It goes to whether or
3 not they should be cited.
4 BY MR. PERL:
5 Q. I'm saying just this list, looking at
6 no other documents at all, just looking at this
7 list only. Do you think that looking at this
8 list only you can decide whether or not Lincoln
9 Towing is fit to hold a relocator's license?
10 MS. PARKER-OKOJIE: Objection,
11 calls --
12 MR. PERL: Just looking at this list.
13 MS. PARKER-OKOJIE: Calls for a legal
14 conclusion.
15 THE WITNESS: Just looking at this
16 list, no.
17 BY MR. PERL:
18 Q. And you stated in your prior
19 deposition that you don't have an opinion as to
20 whether or not Lincoln is fit to hold a
21 relocator's license, correct?
22 A. Correct.
23 MS. PARKER-OKOJIE: Objection, calls
24 for a legal conclusion.

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1 BY MR. PERL:
2 Q. You looked at this list on Friday,
3 correct?
4 A. Yes.
5 Q. You said you didn't write any
6 citations to Lincoln Towing since then,
7 correct?
8 A. Yes.
9 Q. Do you know if anyone else did?
10 A. I'm not aware.
11 Q. I'm going to show you now what we
12 marked as Exhibit 3.
13 (Whereupon Exhibit No. 3
14 was marked for
15 identification.)
16 BY MR. PERL:
17 Q. If you don't mind, please take a look
18 at Exhibit 3, and let me know when you've had a
19 chance to review it.
20 MR. PERL: For the record, Exhibit 3
21 is a group of documents received from the
22 Commerce Commission labeled Bates Stamp 1
23 through 43 not inclusive of the cover page that
24 says Exhibit 3.

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1 THE WITNESS: Okay.
2 BY MR. PERL:
3 Q. Have you seen Exhibit 3 before?
4 A. No.
5 Q. This is your first time reviewing
6 Exhibit 3, correct?
7 A. When I reviewed what I saw on Friday,
8 it was from the call sheets. So seeing 3 is
9 the first time I'm seeing 3.
10 Q. Well, let me reask you then, had you
11 seen Exhibit 2 before today's date, just to
12 clarify, because I want to make sure we make
13 the record proper.
14 A. Well, I've seen this -- this is what
15 comes up when I review it on the computer, so
16 I've seen this format.
17 Q. But you can't go on the computer and
18 find Exhibit 2 anywhere, can you?
19 A. I can't.
20 Q. You would just find thousands and
21 thousands of lots for Lincoln Towing, correct?
22 A. No. I punch in a specific address.
23 Q. But there's nothing you could punch
24 in to get Exhibit 2, is there?

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1 A. No.
 2 Q. That's 32 specific lots.
 3 A. Yeah. No.
 4 Q. And they are not in order, are they?
 5 On the computer?
 6 A. No.
 7 Q. So there's nowhere you could go to
 8 find Exhibit 2. So let me reask you, have you
 9 ever seen Exhibit 2 before today?
 10 A. No.
 11 Q. And you haven't seen Exhibit 3 before
 12 today?
 13 A. Correct.
 14 Q. So same question, did you create
 15 Exhibit 3?
 16 A. No.
 17 Q. Do you know who did?
 18 A. No.
 19 Q. You didn't print it out, did you?
 20 A. No.
 21 Q. And you didn't input the information
 22 on Exhibit 3, did you?
 23 A. No.
 24 Q. And you don't know when it was

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1 created, do you?
 2 A. No.
 3 Q. And you don't know whether the
 4 information contained in Exhibit 3's accurate,
 5 do you?
 6 A. No.
 7 Q. And you don't know whether or not the
 8 information in Exhibit 3 has been altered, do
 9 you?
 10 A. No.
 11 Q. Somebody could have printed the
 12 document, altered it, and we could be looking
 13 at it right now, and you wouldn't know the
 14 difference?
 15 A. No.
 16 Q. And since you've never seen it
 17 before, you haven't checked any of the
 18 information on here for being accurate, have
 19 you?
 20 A. No.
 21 Q. You couldn't have if you hadn't seen
 22 it before, right?
 23 A. Correct.
 24 Q. And just looking at it, you'd have no

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1 way of knowing whether it's accurate, would
 2 you?
 3 A. No.
 4 Q. I mean, you haven't memorized the
 5 thousands of lots that Lincoln Towing has
 6 contracts on, have you?
 7 A. No.
 8 Q. Or their addresses, have you?
 9 A. No.
 10 Q. Or the dates that they were entered
 11 into, have you?
 12 A. No.
 13 Q. Or the dates they were terminated?
 14 A. No.
 15 Q. By the way, do you know how an
 16 individual goes about terminating a lot with a
 17 tow company once they have a contract with
 18 them?
 19 MS. PARKER-OKOJIE: Objection, it's
 20 beyond the scope of this deposition.
 21 MR. PERL: You're planning on using
 22 the fact that contracts were terminated to
 23 testify. How is that possibly beyond the
 24 scope?

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1 You can answer the question.
 2 MS. PARKER-OKOJIE: This deposition
 3 was merely to discuss Sergeant Sulikowski's
 4 review of the documents, not on process or
 5 procedure.
 6 MR. PERL: So not what he's going to
 7 do with them. So you're telling me the
 8 interrogatory that you redid and the judge
 9 ordered you to tell me what you're using them
 10 for isn't part of the scope of this deposition?
 11 MS. PARKER-OKOJIE: I don't want to
 12 argue with you, Counsel. I want you to be able
 13 to take your deposition. I'm objecting to the
 14 question.
 15 MR. PERL: Okay. You can answer the
 16 question.
 17 THE WITNESS: Could you please repeat
 18 it.
 19 (Record read as requested.)
 20 THE WITNESS: I have a basic
 21 understanding.
 22 BY MR. PERL:
 23 Q. How is that? How is it done?
 24 A. There is a cancellation form that the

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1 property owner fills out, submits it to the ICC
2 office. It's stamped, and then it's faxed to
3 the relocator.
4 Q. And what happens next?
5 MS. PARKER-OKOJIE: Objection just to
6 continuing this scope of questioning as being
7 beyond the scope of this deposition.
8 BY MR. PERL:
9 Q. What happens next?
10 A. That's beyond my law enforcement job
11 duties.
12 Q. Do you know how it actually goes
13 about getting cancelled in the system?
14 A. No.
15 Q. Do you know whether there's a ten-day
16 grace period for the relocator to actually try
17 to save the contract before it's cancelled?
18 A. There is.
19 Q. So it actually isn't cancelled
20 immediately, is it?
21 A. No.
22 Q. It's got to go to the relocator
23 first, correct?
24 A. Correct.

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1 Q. And it's not finalized for ten days,
2 correct?
3 A. Correct.
4 Q. Do you know why that is?
5 A. I have supposition of why.
6 Q. In your experience have you ever
7 found that somebody other than the actual lot
8 owner turns in a cancellation maybe
9 fraudulently and it really wasn't the lot owner
10 cancelling the lot? Have you ever run across
11 that?
12 MS. PARKER-OKOJIE: Objection again
13 to the scope of the question.
14 THE WITNESS: I don't deal with that.
15 BY MR. PERL:
16 Q. But have you ever run across it?
17 A. That's the office personnel.
18 Q. I'm just asking if you've ever run
19 across it?
20 A. No.
21 Q. Have you ever heard about something
22 like that happening?
23 A. Yes.
24 Q. If a relocator were to fraudulently

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1 turn in a cancellation on another relocator's
2 lot, would that be an ICC infraction?
3 MS. PARKER-OKOJIE: Again, objection
4 to scope. Counsel, I don't want to interrupt
5 your deposition, but I do believe we are
6 outside of the scope of the purpose of this
7 deposition at this point by asking questions
8 hypothetical in nature. I think the point of
9 this deposition was to be limited to the
10 documents and their significance to Sergeant
11 Sulikowski in his review of those documents.
12 MR. PERL: That's what I'm doing.
13 MS. PARKER-OKOJIE: Well, we can call
14 the judge --
15 MR. PERL: Call.
16 MS. PARKER-OKOJIE: -- because I do
17 believe this is beyond the scope.
18 MR. PERL: Well, if you don't want me
19 to tell you why I am doing it, I won't, but I
20 could.
21 MS. PARKER-OKOJIE: You can let Judge
22 Kirkland-Montaque know.
23 MR. PERL: Go ahead.
24 MS. PARKER-OKOJIE: Does this have

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1 speaker phone capabilities?
2 MR. PERL: It does.
3
4 (Whereupon a telephone
5 call was placed to
6 Judge
7 Kirkland-Montaque.)
8
9 UNIDENTIFIED SPEAKER: Illinois
10 Commerce Commission?
11 MS. PARKER-OKOJIE: Hi, Yvette. It's
12 Gabrielle, Ben and Counsel for Lincoln Towing.
13 We are currently in a deposition with Sergeant
14 Tim Sulikowski. Is Judge Kirkland-Montaque
15 available?
16 UNIDENTIFIED SPEAKER: Okay. Let me
17 check one moment. You want her to come in?
18 MS. PARKER-OKOJIE: We are off site
19 at opposing counsel's office, so we would have
20 to be transferred to her.
21 UNIDENTIFIED SPEAKER: Let me go see
22 if she's here. Hold on.
23 (Whereupon a short
24 recess was had.)

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1 UNIDENTIFIED SPEAKER: Gabrielle?
2 MS. PARKER-OKOJIE: Yes, Yvette.
3 UNIDENTIFIED SPEAKER: I'm going to
4 transfer you to her. Would you like to take
5 her number down?
6 MS. PARKER-OKOJIE: I will just in
7 case we get disconnected.
8 UNIDENTIFIED SPEAKER: Right. Okay.
9 It's 312-814-4211. Now I'm going to transfer
10 you.
11 MS. PARKER-OKOJIE: Okay. Thank you,
12 Yvette.
13 UNIDENTIFIED SPEAKER: You're
14 welcome.
15 JUDGE KIRKLAND-MONTAQUE: Hello, this
16 is Judge Montaque.
17 MS. PARKER-OKOJIE: Hi, Judge
18 Montaque. This is Gabrielle Parker-Okojie and
19 Ben Barr. We're also here with Allen Perl and
20 Vlad Chirica. We are in the midst of Tim
21 Sulikowski's deposition.
22 There was a question pending, and I
23 have objected to that question as beyond the
24 scope of the purpose of this deposition. So we

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1 wanted to call you just to have you weigh in on
2 that.
3 JUDGE KIRKLAND-MONTAQUE: Okay.
4 MR. PERL: So here's my line of
5 questioning, Judge. As you recall we were
6 tendered some new documents last week or the
7 week before that your Honor let them bring in,
8 but then they were ordered to amend their
9 Interrogatory No. 20 to tell me who's going to
10 be testifying to them and what they are going
11 to use the documents for, which they did.
12 JUDGE KIRKLAND-MONTAQUE: Okay.
13 MR. PERL: I mean, I only object to
14 it, it's still very general, but I wanted to
15 move the case along. What they said was
16 Officer -- Sergeant Sulikowski will testify as
17 to staff review of Protective Parking Service
18 Corporation's response to staff's data request.
19 He'll also testify to staff review of the
20 respondent's 24 hour tow logs and the
21 consistency of the entries contained within
22 these logs with Commission records. So they
23 really didn't tell me anything. They just say
24 he's going to testify to consistency.

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1 What I think they are trying to get
2 at is some of the lots potentially we didn't
3 have contracts for that were cancelled. So now
4 my line of questioning with Sergeant Sulikowski
5 is how do you cancel a lot; is it possible for
6 someone to fraudulently cancel a lot, because
7 we have made a claim with the Commerce
8 Commission before that one of our competitors
9 had actually improperly tried to cancel our
10 lots. We gave them affidavits in this regard
11 by the way, and if in fact potentially there's
12 a lot that was cancelled, it was done by our
13 competitor, not us, and we wouldn't have known
14 about it.
15 Probably would have been done with
16 the question five minutes ago easily, but
17 counsel's objecting that it's beyond the scope,
18 and I don't know how she could, because her
19 interrogatory is so general that almost
20 everything is within the scope, because all
21 they said in their interrogatory was that he's
22 going to testify consistently with all the
23 entries contained in the logs and the
24 Commission records.

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1 JUDGE KIRKLAND-MONTAQUE: And those
2 logs have -- remind me again what's in the
3 logs?
4 MR. PERL: Just literally what
5 they've got now is they've got a printout of
6 something no one here knows really what it is,
7 because this witness didn't print it out. So
8 it's a printout that has addresses of lots that
9 Lincoln Towing or somebody tows from from the
10 Illinois Commerce Commission, and I still don't
11 know what they're planning on using the
12 document for, because this witness has never
13 seen the document before, but they're going to
14 use him somehow to testify about it, and that's
15 fine.
16 The interrogatory doesn't tell me
17 what they're using it for, other than to show,
18 quote unquote, inconsistencies, whatever that
19 means. Inconsistencies in spelling or typing
20 or -- I don't know; the dates involved. They
21 don't tell us because, again, it's hide the
22 ball. We're not going to tell you what we're
23 really doing with these documents.
24 So I'm trying to elicit from this

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1 witness what they're actually using the
2 document for, and counsel's objecting that I'm
3 going beyond the scope by doing that.
4 JUDGE KIRKLAND-MONTAQUE: Okay. So
5 Ms. Parker, what's your objection?
6 MS. PARKER-OKOJIE: Your Honor, my
7 objection is that counsel's questions about how
8 a relocater goes about cancelling contracts,
9 how those contracts could be cancelled, that
10 has nothing to do with the inconsistencies in
11 the logs.
12 If counsel wants to ask Sergeant
13 Sulikowski information about the
14 inconsistencies, where those inconsistencies
15 are, how he determined that they were
16 inconsistencies, those are all perfectly fine
17 avenues of questioning I think and will get
18 more to the heart of what he's looking at,
19 which is why are these documents being used.
20 Questions about how relocators cancel
21 contracts and that procedure is not really even
22 what these documents are related to. So I
23 think those are just broader procedural
24 questions. Counsel's actually -- I've given

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1 him some latitude in asking a few questions
2 about that, but he's persisting in this line of
3 questioning, and I think that he should be
4 focusing his questioning on the inconsistencies
5 in the documents or why these documents are
6 significant to Sergeant Sulikowski.
7 MR. PERL: Which would be great if
8 Sergeant Sulikowski had actually ever seen
9 these documents before this minute, and he
10 hasn't. So how he can tell me what an
11 inconsistency is in a document he's never seen
12 before, that would be a trick for me, because
13 he just testified he's never seen them before
14 and he didn't create them.
15 So I'm trying to figure out how in
16 fact a person who doesn't know what these
17 documents even are can tell me there's
18 inconsistencies in them. Beyond that, because
19 I didn't want to object to those and delay the
20 hearing, I didn't want to be accused of
21 delaying anything, so I didn't. I just went
22 forward.
23 It's my understanding, and by the
24 way, I do have a theory of the case, and I

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1 don't have to follow Commerce Commission's
2 theory. I'm following my own. If they are
3 going to be claiming there's inconsistencies
4 with the contracts, I need to elicit how in
5 fact you actually terminate a contract and how
6 in fact it's possible that somebody else
7 terminated Lincoln's contract, and that's why
8 there's an inconsistency. It's called
9 cross-examination, and I'm entitled to do that,
10 especially in a deposition where all I've got
11 to do is show it leads to relevant information,
12 and if you looked at their interrogatory, it's
13 so broad. I could pretty much ask him anything
14 I wanted to regarding these documents because
15 they don't say what they're using them for,
16 other than to show -- literally show the
17 consistency of the entries. They don't
18 actually say inconsistency. They say the
19 inconsistencies. So I guess what they are saying
20 is the documents are consistent.
21 JUDGE KIRKLAND-MONTAQUE: What did
22 you want to ask?
23 MR. PERL: I'm asking questions
24 regarding -- Judge, literally I don't know what

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1 they're getting at, because now that I'm
2 reading their interrogatory, it says they want
3 to show the consistency of the entries, which
4 would mean they are proving our case for us
5 that the documents are consistent. It should
6 say they want to show the inconsistencies, but
7 they don't say that.
8 So their own document -- if they want
9 to stipulate the documents are consistent, I
10 can end my deposition right now if they can
11 stipulate to the fact that they're living with
12 this interrogatory, which says they're going to
13 show the 24-hour tow sheets and the
14 Commission's records are consistent.
15 JUDGE KIRKLAND-MONTAQUE: I don't see
16 the harm in answering questions. Honestly I
17 don't.
18 MS. PARKER-OKOJIE: Your Honor, if we
19 could just have counsel read back the question,
20 because I think he posed the question what was
21 the question counsel was asking. He did not
22 tell you that.
23 MR. PERL: I'll tell you what I'm
24 trying to get at right now, and I'll pose a new

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1 question if you want.
2 MS. PARKER-OKOJIE: No, if we could
3 have the court reporter to read back the
4 question that was posed. That was the question
5 I objected to.
6 JUDGE KIRKLAND-MONTAQUE: Okay.
7 Let's hear it.
8 (Record read as requested.)
9 MR. PERL: Were you able to hear
10 that, Judge?
11 JUDGE KIRKLAND-MONTAQUE: Yeah, I
12 heard it.
13 MR. PERL: And I'll tell you where
14 I'm going with this, since I don't know where
15 they're going with what they're doing.
16 We have made allegations in the past
17 through affidavits signed by people and
18 notarized that a certain relocater has put in
19 fraudulent terminations of contracts for my
20 client which would then lead to us towing from
21 a lot that really wasn't cancelled, but shows
22 like it is cancelled on the Commerce Commission
23 records.
24 So what I'd like to know is if in

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1 fact that occurs, would Sergeant Sulikowski
2 write a ticket? Would he know about it? What
3 would they do? Because as we sit here today
4 it's very possible, Judge, that my client could
5 have towed from a lot that really wasn't
6 properly terminated without my client's
7 notification, because it was done by an
8 individual with no authority to do so, and
9 really, like I said, Judge, now we're on
10 probably 15 minutes on this issue. And since
11 I'm always the one accused of delaying things
12 and taking so long, we could be done.
13 I'm not sure -- unless this
14 information they think is going to hurt them, I
15 don't understand what we're doing. It's a
16 deposition. I don't have to narrowly ask a
17 question, specific question. It's any evidence
18 that's relevant or leads to relevant evidence.
19 That's the rules for a deposition, period, and
20 if you read Interrogatory 20, it's on them.
21 It's their problem for not being more specific
22 and tell me what he's going to testify to,
23 because I still don't know as I sit here today,
24 and I'll read it to you again, Judge, and I

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1 would ask you if you can tell me what they're
2 going to use it for.
3 This is what they said they're using
4 it for: Will also testify as to staff review
5 of the respondent's 24-hour tow logs and the
6 consistency of the entries contained within
7 these logs with Commission records. They don't
8 even tell me anything other than that. I don't
9 know what they mean. I have no clue, no clue
10 what they're going to do with these documents,
11 and I just got them.
12 JUDGE KIRKLAND-MONTAQUE: I don't see
13 the harm again, and I don't see I think based
14 on the broad -- I mean, the openness of the
15 answer, I don't see how you can make the clue
16 or how can you define that something is outside
17 of the scope of something that's broad like
18 that.
19 MS. PARKER-OKOJIE: Your Honor, if
20 counsel would limit his questions to the
21 documents and if the documents can show this, I
22 don't have a problem with him asking Sergeant
23 Sulikowski if the documents can show a certain
24 theory of the case, because if he has that

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1 theory of the case, then if he has information
2 that he can put forward to show that some fraud
3 or misrepresentation or something else
4 occurred, then fine. That would be information
5 that he would be putting forward.
6 In terms of what Officer Sulikowski
7 may or may not know, if he tailors it to do
8 these documents show that, I don't have that
9 problem, because honestly staff was required to
10 tailor our questioning in deposition of Lincoln
11 Towing's witnesses to quote unquote the
12 relevant time period. Even when we wanted to
13 ask more general questions, more discoverable
14 issues, we were told tailor it to the relevant
15 time period.
16 So since he's already had an
17 opportunity to depose Sergeant Sulikowski, this
18 is not his first time, if there was any
19 indication from his client that there was fraud
20 or misrepresentation or otherwise going on,
21 that could have been explored during that first
22 deposition. So since now he's saying well, we
23 think this might be an issue, we'd like to
24 explore it, I would just ask that his

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1 exploration of it be tailored and limited to
2 what these documents show.
3 MR. PERL: I'm not trying to --
4 JUDGE KIRKLAND-MONTAQUE: Is it
5 possible, Mr. Perl, to say based on looking at
6 this document can you determine, you the
7 officer, determine whether, you know, something
8 was -- you know, can you get to your point
9 focusing on the document?
10 MR. PERL: Here's the beauty of it:
11 When you take a deposition and you want to find
12 something out, you don't go right to the
13 question. You ask questions around it and
14 surrounding it. At least that's how I do it.
15 I don't come straight in to say did you do it,
16 because everyone's just going to say no. First
17 you ask the background questions and leading
18 questions up to it, and then you get to that.
19 And by the way, Judge, I have already
20 asked this witness. He doesn't know -- he's
21 already testified he has no idea if the
22 document's accurate and it could have been
23 altered as far as he knows. He has no clue.
24 He's never seen the document before.

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1 One step further though, Judge, on
2 February 1st we had a hearing in front of you,
3 and on Page 146 of that hearing, and I'll show
4 counsel in a second, you literally said you're
5 limiting the information that staff could use
6 to -- we are going to limit the information
7 that staff has as of February 1st, 2017, even
8 if it's within the time period. They didn't
9 have this information as of February 1st, so
10 they can't even use it, because these documents
11 were just created a week or two ago, and you
12 literally said you can only use information you
13 had as of February 1st, 2017. Clearly they
14 didn't have it, because the dates on here are
15 April 24th, 2017.
16 MR. BARR: Your Honor, it's Ben
17 speaking now if I may. That conversation that
18 counsel is reading back to you is not only
19 taken out of context, your Honor, but only
20 references the tow invoices, because that
21 February 1st date that we were trying to
22 discuss the scope of this hearing and what we
23 were specifically discussing was the scope of
24 new investigation files, when they were -- when

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1 they could be added in, and you cut off the
2 date for new investigation files as of that
3 February 1st date.
4 JUDGE KIRKLAND-MONTAQUE: Okay. Now
5 you guys are moving onto something else.
6 MR. PERL: All I want to do -- Judge,
7 again, now we're on 20 minutes on this issue.
8 JUDGE KIRKLAND-MONTAQUE: Okay. I
9 don't see the harm in answering the question.
10 I don't see the harm, so I would allow the
11 question and an answer.
12 MR. PERL: Thank you, Judge.
13 MS. PARKER-OKOJIE: Your Honor, can
14 it be limited, though, to his review of the
15 documents? That's all we're asking. We're not
16 saying he can't explore that theory of the case
17 with Sergeant Sulikowski, but we're just asking
18 can it be -- because the purpose of this
19 deposition was merely what are these documents?
20 Is he familiar with them? How did he
21 authenticate information on them? Can it be
22 limited to the documents? That's the sole
23 reason that I wanted to call you.
24 MR. PERL: Well, he's already

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1 testified he can't authenticate anything in the
2 document. He's already said that, so I'm going
3 a little bit beyond that and trying to figure
4 out if in fact somebody, another relocater,
5 would actually fraudulently try to terminate
6 someone else's lot, would the Commerce
7 Commission get involved in writing a citation.
8 That's one question. Literally I can move on,
9 but I don't think counsel has the right to tell
10 me I can only ask one question. How I can ask
11 my questions. Which questions I can ask. It's
12 totally improper at a deposition, especially
13 since they just gave me these documents ten
14 days ago, and this hearing's been planned for
15 the last, what, five months, and it's been
16 going on for a year and a half, and I'm just
17 getting these documents now, and if you look at
18 the interrogatory, and I haven't moved yet to
19 bar them, but I'm going to once we are done
20 with this hearing, I'm going to move them
21 barring using these at all because the
22 interrogatory response they gave us is so
23 general, it means nothing, and the witness they
24 have couldn't possibly authenticate them. He's

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1 already said he's never seen them before.
2 JUDGE KIRKLAND-MONTAQUE: That's
3 another issue.
4 MR. PERL: That's a different issue.
5 I just want to finish the deposition.
6 JUDGE KIRKLAND-MONTAQUE: I'm going
7 to allow the question and the answer. I'm not
8 going to limit it to -- I don't see how the
9 answer can in any way be detrimental or harmful
10 or prejudicial, anything like that. So I'll
11 allow the question, and without -- because I
12 don't even know how you can limit it to based
13 on the document. I mean, it's a general
14 question. I mean, what would happen in this
15 certain scenario; I don't see how it's harmful.
16 Hello?
17 MS. PARKER-OKOJIE: I'm sorry, your
18 Honor, we are on a line at counsel's office. I
19 think there might be an incoming call. Can you
20 still hear us?
21 JUDGE KIRKLAND-MONTAQUE: Yeah, I can
22 hear you. So did you hear my answer?
23 MS. PARKER-OKOJIE: I did, your
24 Honor, but I'm just -- the reason I'm asking

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1 about it being limited to the document is
2 because that was the whole purpose of this
3 deposition, to allow questions to be asked
4 about the documents.
5 JUDGE KIRKLAND-MONTAQUE: But how can
6 you say that it isn't?
7 MS. PARKER-OKOJIE: How can I say
8 that what isn't?
9 JUDGE KIRKLAND-MONTAQUE: That the
10 question and answer are not related to the
11 document.
12 MS. PARKER-OKOJIE: Because he asked
13 a general question about how contracts could be
14 cancelled. That's more of a procedural issue.
15 MR. PERL: Judge, this is a
16 deposition.
17 JUDGE KIRKLAND-MONTAQUE: I'm going
18 to allow it.
19 MR. PERL: Thank you. I'm not sure
20 how many times counsel's not going to take no
21 for an answer, but can this be the last time so
22 we can actually finish the deposition?
23 JUDGE KIRKLAND-MONTAQUE: Yeah, I
24 mean, we've gone back and forth a couple times,

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1 and I again am going to repeat myself, I don't
2 see the harm in it. I'm going to allow it.
3 MR. PERL: Thank you, Judge.
4 JUDGE KIRKLAND-MONTAQUE: All right.
5 MS. PARKER-OKOJIE: Thank you.
6 JUDGE KIRKLAND-MONTAQUE: Bye Bye.
7 BY MR. PERL:
8 Q. Okay. You probably don't remember
9 the question any more.
10 A. I'd like it read back please.
11 (Record read as requested.)
12 MS. PARKER-OKOJIE: Objection,
13 relevance.
14 THE WITNESS: It can be.
15 BY MR. PERL:
16 Q. Would you write a citation for that?
17 A. It would create an investigation, and
18 I can't talk about a fictitious investigation.
19 If the evidence led there and it was verified,
20 then yes, I would.
21 Q. And that was my question.
22 Do you know whether or not that
23 occurred within any of the documents in
24 Exhibits 2 or 3?

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1 A. No.
2 Q. Did you do anything to investigate
3 whether it occurred within any of the lots
4 involved in Exhibits 2 or 3?
5 A. No.
6 Q. Are you familiar with the address
7 2111 South Clark Street?
8 A. No.
9 Q. Do you know which relocation company
10 has the towing for that lot?
11 A. No.
12 Q. Do you know whether or not Lincoln
13 Towing has previously submitted an affidavit
14 for that particular lot stating that another
15 individual fraudulently signed the manager's
16 name to cancel the lot with Lincoln Towing?
17 A. No.
18 Q. You're not aware of that one way or
19 the other?
20 A. Correct.
21 Q. And I would direct your attention to
22 Exhibit 3, Bates marked Page 18.
23 A. Okay.
24 Q. Can you see what address this is?

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1 A. 2111 South Clark in Chicago.
 2 Q. And that's the address I previously
 3 asked you if you were aware of that address,
 4 correct?
 5 A. Yes.
 6 Q. And from this document here do you
 7 see an individual's name Ms. Carol Redman? It
 8 looks like it's the first, second, third --
 9 fourth owner down from the top.
 10 A. Yes.
 11 Q. Do you know who Carol Redman is?
 12 A. No.
 13 Q. Do you know if in fact anybody ever
 14 fraudulently signed Carol Redman's name to
 15 cancel a Lincoln Towing lot at 2111 South
 16 Clark?
 17 A. No.
 18 Q. Are you planning on using the
 19 documents contained in Exhibit 3 when you
 20 testify at the hearing for fitness on Lincoln
 21 Towing?
 22 A. I personally am not presenting these
 23 documents.
 24 Q. Is there any information contained

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1 strictly just on Exhibit 3 that would lead you
 2 to believe Lincoln Towing is fit or not fit to
 3 hold a relocater's license?
 4 A. No.
 5 MS. PARKER-OKOJIE: Objection, calls
 6 for a legal conclusion.
 7 THE WITNESS: No.
 8 BY MR. PERL:
 9 Q. Let me show you now what we marked as
 10 Exhibit 4, and this actually is marked as
 11 Exhibit 4 by the Commerce Commission when they
 12 tendered it, and this is a document that is not
 13 Bates stamped, but it says Page 1 of 4
 14 through 4 of 4 in the top right with Exhibit 4
 15 as a cover page.
 16 (Whereupon Exhibit No. 4
 17 was marked for
 18 identification.)
 19 BY MR. PERL:
 20 Q. Take a moment and take a look at
 21 Exhibit 4, please.
 22 A. Okay.
 23 Q. Have you seen Exhibit 4 before today?
 24 A. Yes.

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1 Q. When did you see it?
 2 A. Friday.
 3 Q. So these four pages were actually
 4 shown to you on Friday, correct?
 5 A. Yes.
 6 Q. By your attorneys, correct?
 7 A. Yes.
 8 Q. Did you print this document?
 9 A. No.
 10 Q. Did you input the information
 11 contained in this document?
 12 A. No.
 13 Q. Do you know where the information
 14 from this document came from?
 15 A. Yes.
 16 Q. How do you know that?
 17 A. Because I work with MCIS every day.
 18 Q. But you didn't print the document?
 19 A. I did not.
 20 Q. So isn't it possible that this
 21 document came -- it's possible that somebody
 22 printed this document, made a copy of it, and
 23 that's what you're looking at right now, isn't
 24 it?

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1 A. Yes.
 2 Q. So you don't know whether or not this
 3 document was printed off the MCIS computer, do
 4 you?
 5 A. No.
 6 Q. And you don't know whether the
 7 information contained here is accurate, do you?
 8 A. No.
 9 Q. And you don't even know who inputs
 10 this information in the MCIS computer, do you?
 11 A. No.
 12 Q. Do you know when this information was
 13 input into the MCIS computer?
 14 A. No.
 15 Q. Do you know when this document was
 16 printed?
 17 A. No.
 18 Q. Do you know when it was copied?
 19 A. No.
 20 Q. Do you know if it's been altered or
 21 not?
 22 A. No.
 23 Q. Just looking at this document on its
 24 own can you see whether it's consistent or

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1 inconsistent with anything on its face?
2 A. It's consistent with the format that
3 I am used to seeing in MCIS.
4 Q. But you don't know whether there's
5 inconsistencies on any of the documents just
6 looking at this document itself?
7 A. No.
8 Q. Do you think the information
9 contained on here is accurate?
10 A. Yes.
11 Q. Why do you think that?
12 A. Because I do not believe that our
13 attorneys are the kind of people that would
14 alter documents.
15 Q. Oh, no, no. Strike that.
16 They didn't create this document, did
17 they? They just gave it to you.
18 A. Correct.
19 Q. So I'm not asking that. I wasn't
20 implying that at all. I'm saying do you think
21 the information on this document is accurate?
22 A. Yes.
23 Q. Why?
24 A. Because the information in our MCIS

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1 system is accurate.
2 Q. And you've reviewed everything on
3 here to make sure it's accurate, correct?
4 A. No.
5 Q. Well, did you review anything to see
6 if it was accurate?
7 A. I did not review this information
8 against hard copy applications submitted by
9 these dispatchers, no.
10 Q. So I asked you a question. Do you
11 believe the information in Exhibit 4 is
12 accurate, and what is your answer?
13 A. My answer is yes.
14 Q. So let's take a look at any one of
15 these things. Adam Silverstein, the first one.
16 Do you know when he was issued a license?
17 A. On 4/7 of 2008.
18 Q. That's when he was issued his
19 license?
20 A. Correct.
21 Q. You're looking at this document, and
22 you know that to be the case?
23 A. I do not.
24 Q. Well, why would you think it was 4/7

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1 of 2008?
2 A. Because that's the date I'm looking
3 at.
4 Q. Isn't that actually the expiration
5 date?
6 A. It is.
7 Q. So that's not the date it was issued.
8 A. Well, I'm a human being, Counselor.
9 Q. I'm just asking.
10 A. I'm entitled to make mistakes.
11 Q. I'm not saying you're not. My point
12 is that we all make mistakes, correct?
13 A. Yes.
14 Q. The person that inputs this
15 information could have made mistakes, correct?
16 A. Correct.
17 Q. You wouldn't know that, would you?
18 A. No.
19 Q. This document says his ACT date,
20 which I'm assuming is an activation date or
21 active date?
22 A. I don't know.
23 Q. Says 4/7/2006, doesn't it?
24 A. Yes.

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1 Q. But you don't know if that's accurate
2 or not, do you?
3 A. I do not.
4 Q. You can see two years from that date
5 would be 4/7 of 2008, correct?
6 A. Yes.
7 Q. Do you know whether or not he renewed
8 his license prior to 4/7/2008?
9 A. Not off of this report.
10 Q. It's not on there, is it?
11 A. No.
12 Q. If I went through each and every one
13 of these lines in here where it shows the
14 individual's name and their active date, would
15 you actually know whether that's accurate
16 information or not?
17 A. No.
18 Q. Would you even know who input that
19 information into the system?
20 A. No.
21 Q. But we know it wasn't you, correct?
22 A. Correct.
23 Q. And we know you didn't print this
24 document, correct?

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1 A. Correct.
 2 Q. And we know you don't even know if
 3 this document came from a computer or somebody
 4 printed it from a copy machine, correct?
 5 A. Correct.
 6 Q. Did you do anything once you saw this
 7 on Friday to determine whether the information
 8 on here was accurate?
 9 A. No.
 10 Q. Have you ever been asked upon --
 11 strike that.
 12 How long have you been working for
 13 the Commerce Commission?
 14 A. Nearly five years.
 15 Q. Has anybody ever asked you to review
 16 a document like this and compare it for
 17 inconsistencies with another document?
 18 A. In what context?
 19 Q. The Illinois Commerce Commission
 20 context.
 21 A. In a deposition context?
 22 Q. Ever. I'm assuming you've never been
 23 deposed regarding a document like this before,
 24 correct?

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1 A. Correct.
 2 Q. I'm asking you in your five year
 3 career with the Commerce Commission, has
 4 anybody ever shown you a document like this and
 5 said could you see based upon another document
 6 if there's inconsistencies?
 7 A. No.
 8 Q. That's not even in your job duties
 9 and scope of your duties, is it?
 10 A. It can be.
 11 Q. Is it? You've never done it before,
 12 right?
 13 A. No.
 14 Q. How can it be in your job duties?
 15 A. Because I'm the supervisor in the
 16 police section. This is information that is
 17 relied upon daily by our officers, and if there
 18 are violations, then they use this information
 19 for that violation, so yes.
 20 Q. Was any of this information used to
 21 write a violation or citation for the time
 22 period July 24th, 2015 through March 23rd,
 23 2016?
 24 A. I can't answer that question.

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1 Q. Because you don't know, do you?
 2 A. I do not know. There's many
 3 officers, and did they specifically write for
 4 an expired dispatcher during that time period?
 5 They could have.
 6 Q. But you don't know as you sit here
 7 today whether they did or didn't?
 8 A. I don't know.
 9 Q. So you can't competently testify as
 10 to whether or not there actually were any
 11 citations written because Lincoln Towing had an
 12 expired -- this says dispatcher list; this
 13 dispatcher during the relevant time period, do
 14 you?
 15 MS. PARKER-OKOJIE: Objection, calls
 16 for a legal conclusion as to competent
 17 testimony and what is required for that.
 18 MR. PERL: You can answer if you
 19 know.
 20 THE WITNESS: I would need to review
 21 documents, because I know I personally wrote a
 22 bunch of tickets to Lincoln Towing for using an
 23 expired dispatcher. I can't say or not if that
 24 was in that timeframe unless I review further

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1 documents. So tickets have been issued to
 2 Lincoln Towing.
 3 BY MR. PERL:
 4 Q. During what time period?
 5 A. I can't answer that.
 6 Q. During the relevant time period?
 7 A. Possibly.
 8 Q. But you don't know as you sit here
 9 today?
 10 A. Correct.
 11 Q. And you haven't reviewed anything up
 12 till today that has shown you that any of the
 13 citations were written during the relevant time
 14 period, have you?
 15 A. No.
 16 Q. And you've known about this
 17 deposition, correct?
 18 A. Since Wednesday.
 19 Q. And you knew about your other
 20 deposition for quite a while too, right?
 21 A. Yes.
 22 Q. And you didn't review any documents
 23 prior to your first deposition that would show
 24 you that there were any tickets or -- I'm

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1 sorry, citations written regarding using a
 2 dispatcher that was expired during the relevant
 3 time period, did you?
 4 A. Correct.
 5 Q. Are you planning on looking at more
 6 information yet between now and the hearing
 7 date?
 8 A. If I'm asked to, I will.
 9 Q. If you are not asked to, are you
 10 planning on doing that?
 11 A. Am I self-generating an
 12 investigation --
 13 Q. Yes.
 14 A. -- into certain information? No, I'm
 15 not.
 16 Q. And by the way, Sergeant, I'm not
 17 judging you for doing or not doing. I'm just
 18 asking you a question. I'm just asking you if
 19 you're planning on doing that.
 20 A. I'm not planning on it. Again, if I
 21 am asked to review, I will review.
 22 Q. But you're not planning on looking at
 23 any other documentation you haven't yet seen
 24 before today's date, correct?

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1 A. Again, I've answered that question,
 2 Counsel.
 3 Q. And the answer is?
 4 A. I am not planning on myself. If I am
 5 asked to review material, I will review it.
 6 Q. The difficulty, Sergeant, is if I ask
 7 you a yes or no question, and then you answer
 8 it like that, I have to reask it again.
 9 A. Well, it's not a yes or no answer to
 10 that question, so ask me a yes or no question.
 11 Q. My question to you is this: Are you
 12 planning on your own to initiate the review of
 13 any documents you haven't seen before today's
 14 date?
 15 A. No.
 16 Q. Do you know who Albert Solano is?
 17 A. No.
 18 Q. Do you know who Johan Allande is?
 19 A. No.
 20 Q. Do you know who Donald Bagger is?
 21 A. No.
 22 Q. Do you know who Robert Crook is?
 23 A. No.
 24 Q. Do you know who any of the

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1 individuals listed in Exhibit 4 are?
 2 A. No.
 3 Q. Did you ever contact anybody at any
 4 other towing company other than Lincoln Towing
 5 to determine whether or not the information
 6 contained in Exhibit 4 is accurate?
 7 A. No.
 8 Q. Did you ever contact Lincoln Towing
 9 to determine whether or not the information in
 10 Exhibit 4 is accurate?
 11 A. No.
 12 Q. Did you ever contact anybody within
 13 the Illinois Commerce Commission to determine
 14 whether or not the information in Exhibit 4 is
 15 accurate?
 16 A. No.
 17 Q. Do you actually know what Exhibit 4
 18 is a list of?
 19 A. It's a list of dispatchers for
 20 Lincoln Towing.
 21 Q. For what time period?
 22 A. Looks like from the early '90s
 23 through today's date.
 24 Q. The early '90s through today's date?

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1 A. That's what it looks like.
 2 Q. When did Lincoln Towing become in
 3 existence?
 4 A. I'm not sure.
 5 Q. So is this a complete list of all the
 6 dispatchers that have ever worked for Lincoln
 7 Towing?
 8 A. I didn't print this list.
 9 Q. So you don't know?
 10 A. Correct.
 11 Q. How often does a dispatcher have to
 12 renew their license?
 13 MS. PARKER-OKOJIE: Objection, beyond
 14 the scope.
 15 MR. PERL: I'm sorry, you can answer.
 16 THE WITNESS: Every two years.
 17 BY MR. PERL:
 18 Q. And do you know how they go about
 19 doing it?
 20 A. No.
 21 Q. Do you know who they send their
 22 information to?
 23 A. Our processing section.
 24 Q. Who is that -- do you know how that

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1 actually works?
2 A. No.
3 Q. Is there anything the Commerce
4 Commission has to do once they receive the
5 information?
6 A. I'm not sure I understand the
7 question.
8 Q. If somebody inputs the information to
9 renew the license, is it automatic their
10 license is renewed?
11 A. I don't believe so.
12 Q. Is there anything -- strike that.
13 Do you know what the Commerce
14 Commission has to do once they receive
15 information to renew a dispatcher's license?
16 A. Not all the steps.
17 Q. Do you know any of them?
18 A. I know there's an application that
19 the individual submits along with a fee. There
20 is a fingerprint inquiry and a relevant
21 background check, and if that is all passed,
22 then a license is issued.
23 Q. Is that the procedure for initial
24 license or even when you renew?

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1 MS. PARKER-OKOJIE: Continued
2 objection to questions about procedure on
3 renewal of licenses.
4 MR. PERL: Duly noted.
5 THE WITNESS: Both, always, every
6 time.
7 BY MR. PERL:
8 Q. Do you know any particular reasons
9 why a dispatcher wouldn't be renewed or
10 licensed?
11 A. There's various criminal convictions
12 that would prevent them from obtaining a
13 license.
14 Q. Other than that, do you know of any
15 reasons why they wouldn't be renewed or
16 licensed initially?
17 A. I'm not involved in that process,
18 Counsel.
19 Q. Would that be a no then?
20 A. Yes.
21 Q. Let me ask you the question again.
22 A. That would be a no.
23 Q. You've never been involved in the
24 licensing of a dispatcher, have you?

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1 A. Yes.
2 Q. In what sense?
3 A. When there was a timeframe without a
4 chief of police, I was required to review the
5 background checks, and I would make a
6 recommendation as to whether or not a license
7 should be issued or be set for a hearing.
8 Q. And if an individual didn't have a
9 criminal conviction or arrest record, would you
10 still sometimes not approve them?
11 A. No.
12 Q. They would get approved, wouldn't
13 they?
14 A. Yes.
15 Q. You'd only set a hearing if they had
16 an arrest record, correct?
17 A. Correct.
18 Q. During the relevant time period we
19 are talking about did that ever occur with
20 Lincoln Towing?
21 MS. PARKER-OKOJIE: Objection as to
22 scope of the question.
23 MR. PERL: You can answer.
24 THE WITNESS: Maybe.

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1 BY MR. PERL:
2 Q. Do you know specifically that it did?
3 A. No.
4 Q. So when you say maybe, what's that
5 based upon?
6 A. That's based upon many review of many
7 licenses during that timeframe. Were any of
8 them Lincoln Towing? I don't know.
9 Q. Did you review any dispatcher
10 licenses during the period of time July 24th,
11 2015 to March 23rd, 2016?
12 A. Probably.
13 Q. Was that when there was no acting
14 chief and you were doing that?
15 A. There were several periods of time
16 that there were no acting chief.
17 Q. Do you have specific knowledge that
18 during that relevant time period one of Lincoln
19 Towing's dispatchers put in for a renewal and
20 they were denied because they had a criminal
21 background?
22 A. No.
23 Q. Do you have specific knowledge during
24 that time period that any Lincoln Towing

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1 dispatcher wasn't approved for a license?
2 A. No.
3 Q. Do you know who Duane -- I'm sorry?
4 A. I was just checking the time to see
5 if we needed to take a break or if this is --
6 Q. You can take a break whenever you
7 want. You don't have to wait for a time.
8 A. Is this going to go much longer,
9 because I can hold my break if it's not going
10 to.
11 MR. PERL: No, take a break.
12 (Whereupon a short
13 recess was had.)
14 BY MR. PERL:
15 Q. All right. Show you now what's been
16 marked as Exhibit 5, and this is a three-page
17 document including a cover page that we
18 received from the Commerce Commission in their
19 most recent discovery, and its cover sheet says
20 Exhibit 5 and it's two pages.
21 (Whereupon Exhibit No. 5
22 was marked for
23 identification.)
24 BY MR. PERL:

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1 Q. Sir, let me know when you've had a
2 chance to look at these documents.
3 A. Okay. I'm ready.
4 Q. Have you seen these documents before
5 today, this exhibit?
6 A. Something marked Exhibit 5, no, but I
7 have seen these documents before.
8 Q. Now, I'm not saying have you seen
9 this information on a computer somewhere. Have
10 you seen these specific documents before?
11 A. Yes.
12 Q. When?
13 A. Friday.
14 Q. You did not create these documents?
15 A. No.
16 Q. You did not print these documents?
17 A. No.
18 Q. You didn't put the information that's
19 on these documents, correct?
20 A. No.
21 Q. And you don't know if this is a
22 printout from a computer, a copy of a printout
23 from a computer, do you?
24 A. No.

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1 Q. And you don't know if this document
2 has been altered, do you?
3 A. No.
4 Q. And you don't know who created this
5 document, do you?
6 A. No.
7 Q. And you did not input this
8 information into the MCIS, did you?
9 A. No.
10 Q. And where is this information from?
11 What is this information, if you know?
12 A. This is a screen shot of the
13 information that we use to look up a
14 dispatcher, so when we see an invoice and a
15 dispatcher number is listed on there, this is
16 what we will see when we type that into MCIS.
17 Q. Did you on Friday go into the MCIS
18 and retrieve this information?
19 A. No.
20 Q. So all you've done is review these
21 two pages, correct?
22 A. Yes.
23 Q. Are you planning on using these two
24 documents or this exhibit when you testify at

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1 the hearing?
2 A. No.
3 Q. You have no way of knowing whether
4 the information on these two pages is accurate,
5 do you?
6 A. No.
7 Q. And what is contained on here, just
8 so we can make it for the record?
9 A. The dispatcher number, 238, which is
10 in the top left, the dispatcher's name, Duane
11 E. Davenport, his pertinent information which
12 is redacted out, who he works for, when the
13 permit was applied for, issued, activity and
14 expiration date.
15 Q. And this particular individual is
16 Duane Davenport, correct?
17 A. Yes.
18 Q. And there seems to be two pages,
19 correct?
20 A. Correct.
21 Q. How is it possible there's two pages?
22 A. Because he's held more than one
23 license over a two-year period, so when he
24 reapplies, then another page is created.

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1 Q. So it says application type initial,
2 activity status issued, correct?
3 A. On this first sheet that's effective
4 date of 2013?
5 Q. Yes.
6 A. Yes.
7 Q. So it says application type initial,
8 correct?
9 A. Yes.
10 Q. What does that tell you?
11 A. I don't know what the initial stands
12 for. I can see the status that it was issued.
13 Q. But what does initial mean to you?
14 Does it mean it's the first time he's getting a
15 license?
16 A. I don't know.
17 Q. And what does -- and activity status
18 says issued. Do you know what that means
19 specifically?
20 A. Yes, he was issued a license.
21 Q. When?
22 A. Well, when we called the Lincoln
23 Towing, we called him on 11/5. That's when the
24 license becomes effective.

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1 Q. How do you know Lincoln Towing was
2 called?
3 A. Because that's the standard procedure
4 in the office.
5 Q. But you don't really know if anybody
6 called Lincoln on November 5th, 2013, do you?
7 A. Well, that's the date that's puts on
8 the file for when that applicant comes in.
9 Q. Who called Lincoln Towing from the
10 Commerce Commission --
11 A. I can't answer that.
12 Q. Let me finish; who called Lincoln
13 Towing from the Commerce Commission on
14 November 5th, 2013?
15 A. I can't answer that.
16 Q. Do you know specifically somebody
17 actually did call on November 5th?
18 A. No.
19 Q. You don't know that, do you? That
20 might be the standard procedure, but you don't
21 know that it actually occurred in this case, do
22 you?
23 A. Not without seeing the file.
24 Q. And you haven't spoken to the

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1 individual who claims to have called Lincoln
2 Towing on that date, have you?
3 A. I don't know who called.
4 Q. So you haven't spoken to that person?
5 A. I don't know how I can speak to
6 somebody I don't know.
7 Q. And then it says activity date
8 11/21/2103. What does that mean?
9 A. That's when he came in to get the
10 permit. So to stand for his picture, to sign
11 the permit and actually have it handed to him.
12 Q. Do you actually know when
13 Mr. Davenport first applied in 2013 other than
14 this piece of paper here?
15 A. No.
16 Q. It's possible that he applied two
17 months earlier and somehow the Commerce
18 Commission misplaced his application, isn't it?
19 A. I suppose.
20 Q. And do you know whether that happened
21 or not?
22 A. I do not.
23 Q. Do you know how long the Commerce
24 Commission has from when they receive an

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1 application to when they are supposed to either
2 reject or accept a license?
3 A. I don't --
4 MS. PARKER-OKOJIE: Objection as to
5 the question about procedure and the subsequent
6 questions about procedure and practice.
7 THE WITNESS: I do not.
8 BY MR. PERL:
9 Q. Does it appear to you -- from what
10 you are stating, does it appear to you if what
11 you are saying is accurate that the application
12 was received on November 5th, 2013 and actually
13 approved on November 5th, 2013?
14 A. That's what it says.
15 Q. If you look at the next page,
16 application type, again it says initial, but it
17 can't be initial if you already had your
18 license, wouldn't it? Wouldn't it be a
19 renewal?
20 A. Counsel, it's out of my scope. This
21 is a processing question. I don't deal with
22 this and I don't input this, so I don't know
23 that answer.
24 Q. So you're not really the person that

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1 can answer questions about this document, are
 2 you?
 3 MS. PARKER-OKOJIE: Objection, calls
 4 for a legal conclusion.
 5 MR. PERL: Are you?
 6 THE WITNESS: Not about accepting
 7 applications, no, I'm not the person.
 8 BY MR. PERL:
 9 Q. That's the information that's on
 10 this. Isn't that the relevant information?
 11 The other information is just a person's name
 12 and their address and the relocater number,
 13 correct? That's the standard information.
 14 A. No, that's not correct.
 15 MS. PARKER-OKOJIE: Objection. If
 16 you can wait for me to just make my objection,
 17 Sergeant Sulikowski. My objection is to the
 18 question calls for a legal conclusion in terms
 19 of what the relevant information on the
 20 document is.
 21 BY MR. PERL:
 22 Q. So what other information is on here
 23 then?
 24 A. This will tell me as a police officer

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1 conducting an investigation based on a consumer
 2 complaint whether or not this person held a
 3 valid license at the time that he or she put
 4 his number or her number on that invoice.
 5 Q. So the relevant information really is
 6 the permit information, correct, for the most
 7 part?
 8 MS. PARKER-OKOJIE: Objection to
 9 again --
 10 BY MR. PERL:
 11 Q. Let me explain what I'm saying. The
 12 information above, that simply is just
 13 statistical; a person's name, where they live.
 14 That's not open to interpretation, is it?
 15 A. No.
 16 MS. PARKER-OKOJIE: Objection.
 17 BY MR. PERL:
 18 Q. So where it says dispatcher, that's
 19 just his name, correct?
 20 A. Correct.
 21 Q. There's no issue as to that. The
 22 carrier information is just Lincoln's name and
 23 address, correct?
 24 A. Yes.

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1 Q. So the only information that there
 2 might be an issue over is the permit
 3 information, correct?
 4 A. Correct.
 5 Q. And you stated you don't know what
 6 initial means, correct?
 7 A. Yes.
 8 Q. You don't know. So the information
 9 to the core of what's going on here, you really
 10 aren't the person I should ask those questions
 11 of, are you?
 12 MS. PARKER-OKOJIE: Objection, calls
 13 for a legal conclusion.
 14 THE WITNESS: It depends. If you're
 15 asking an application processing question, then
 16 no, I am not the person. If you're asking me
 17 whether or not for a specific date this person
 18 held a valid license, I can answer that
 19 question.
 20 BY MR. PERL:
 21 Q. You can answer it based upon what you
 22 see on the computer, correct?
 23 A. Correct.
 24 Q. And then this particular sheet,

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1 Page 2, says application received 12/9/2015.
 2 You see that?
 3 A. Yes.
 4 Q. Then it says effective date
 5 3/22/2016, you see that?
 6 A. Yes.
 7 Q. That's by my account, let's see --
 8 December to January to February to March --
 9 that's three and a half months later, isn't it?
 10 A. Yes.
 11 Q. What took three and a half months to
 12 approve Mr. Davenport's license?
 13 A. I can't answer that question.
 14 Q. Yet it was approved, correct?
 15 A. Yes.
 16 Q. So he probably didn't have a criminal
 17 conviction, did he?
 18 A. He could have. He could have been
 19 set for hearing. This doesn't tell me that.
 20 That could have been the lapse in time.
 21 Q. But you don't know that, do you?
 22 A. I do not.
 23 Q. Is it your opinion or knowledge that
 24 the Commerce Commission has three and a half

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1 months to deny or accept an application for
2 dispatcher?
3 MS. PARKER-OKOJIE: Objection to any
4 questions, again, about process or procedure.
5 MR. PERL: If you know.
6 THE WITNESS: I do not know.
7 BY MR. PERL:
8 Q. And in this particular case, you
9 don't know what happened, do you?
10 A. No.
11 Q. And you didn't speak to
12 Mr. Davenport, did you?
13 A. No.
14 Q. Are these the only two applications
15 Mr. Davenport's ever made to be a dispatcher
16 ever with the Commerce Commission?
17 A. I do not know.
18 Q. Where's the other ones, do you know?
19 A. I didn't create this document.
20 Q. Well, according to Exhibit 4, the
21 document you were just looking at prior to
22 this, on Page 2 of 4, take a look at that. It
23 appears from this document Mr. Davenport has
24 had a license for dispatcher since 1999.

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1 MS. PARKER-OKOJIE: Objection, again
2 beyond the scope. The relevant time period
3 here is July 24th, 2015 through March 23rd,
4 2016.
5 MR. PERL: So I'm not certain why
6 you're giving me documents that have 1999 on
7 it. These are your documents. How was that
8 relevant? You gave it to me.
9 MS. PARKER-OKOJIE: I'm not being
10 deposed, Counsel.
11 MR. PERL: Okay. So for the record,
12 Counsel, so you know, I'm looking at your
13 document, and you're correct, on your document
14 there's all sorts of stuff on here that is
15 outside the scope of the relevant time period,
16 and we will move to bar that later, but for the
17 moment it's there.
18 BY MR. PERL:
19 Q. So you can see that Mr. Davenport has
20 had a dispatcher license since 1999, correct,
21 from Exhibit 4?
22 A. Yes.
23 Q. If that information's accurate,
24 because we don't know if it is, but if it's

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1 accurate, he's been licensed as a dispatcher
2 since 1999, correct?
3 A. Yes.
4 Q. So where are the printouts of those
5 sheets? Why do we only have these two?
6 MS. PARKER-OKOJIE: Objection, beyond
7 the scope.
8 MR. PERL: You can answer.
9 THE WITNESS: I didn't create these
10 documents.
11 BY MR. PERL:
12 Q. So the answer is you don't know where
13 the other information is regarding the 1999 and
14 forward dispatcher license for Mr. Davenport,
15 correct?
16 A. Well, I can assume because those
17 don't deal with the timeframe of this hearing.
18 Q. So this one does, is that your
19 testimony?
20 A. No.
21 Q. Because it doesn't, does it? Because
22 this has 11/5 of 2013, doesn't it, and that's
23 not the time period for this hearing, is it?
24 MS. PARKER-OKOJIE: Objection.

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1 Again, that's a mischaracterization. The time
2 period of this is July 24th, 2015 through
3 March 23rd, 2016.
4 MR. PERL: So how is it
5 mischaracterizing to say that 11/5/2013 doesn't
6 fall within that time period?
7 MS. PARKER-OKOJIE: There are
8 multiple dates on this application, Counsel.
9 That date may not, but there are other dates on
10 this document that do fall within that
11 timeframe, so that's the mischaracterization.
12 MR. PERL: Well, it isn't, because
13 that date doesn't fall -- I never said the
14 other dates don't. I said that date doesn't,
15 and it doesn't.
16 MS. PARKER-OKOJIE: I'm just putting
17 it in context for the record.
18 BY MR. PERL:
19 Q. Did you write a citation to Duane
20 Davenport for not having a dispatcher license
21 during the relevant time period?
22 MS. PARKER-OKOJIE: Beyond the scope,
23 objection.
24 THE WITNESS: I believe I did.

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1 BY MR. PERL:
 2 Q. Did you?
 3 A. I believe so.
 4 Q. And what was the resolution of that
 5 ticket?
 6 A. I do not know.
 7 Q. Do you know when you personally wrote
 8 that ticket?
 9 A. I probably wrote him about at least a
 10 dozen of those. I remember No. 238 because
 11 it's ingrained in my brain.
 12 Q. During the relevant time period?
 13 A. Possibly.
 14 Q. Just so we are clear, when I ask you
 15 a question about the relevant time period and
 16 you say I wrote him a dozen tickets, do you
 17 mean during the relevant time period?
 18 A. Maybe.
 19 Q. Maybe, but you don't know?
 20 A. I do not.
 21 Q. So maybe not?
 22 A. I remember that number.
 23 Q. Well, because you remember him being
 24 a dispatcher since 1999. He's been there for

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1 20 years.
 2 A. That's not why I remember it. I
 3 remember it because I kept thinking why won't
 4 they fix this. It's so easy to fix.
 5 Q. So since you said that, I'm going to
 6 follow it up. Do you mean the Commerce
 7 Commission or Mr. Davenport?
 8 A. Mr. Davenport and Lincoln Towing
 9 specifically. Why would they keep allowing a
 10 dispatcher to work for them and continue to put
 11 his number on an invoice after they get ticket
 12 after ticket after ticket for that?
 13 Q. Is it possible because the ICC messed
 14 up in not approving him? Is that why?
 15 A. (Indicating.)
 16 Q. Is it possible the Illinois Commerce
 17 Commission lost his fingerprints two times?
 18 A. Is it possible they could -- Lincoln
 19 could have called and said what's going on with
 20 238? Why are we getting all these tickets?
 21 Q. Do you know that they didn't?
 22 A. I do not. Do you know?
 23 Q. Yeah, I do. They did.
 24 A. Okay.

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1 Q. If you want to ask me, I'll tell you.
 2 They lost his blood stuff twice. Not just
 3 once, and they called each time. Does that
 4 change your opinion about what happened?
 5 A. No.
 6 Q. So it's still Lincoln's fault, even
 7 though they're following through the Commerce
 8 Commission, and the Commerce Commission keeps
 9 losing the blood test --
 10 A. I think we're getting off of track
 11 here, because I would really like to leave.
 12 MR. PERL: Well, I appreciate it --
 13 MS. PARKER-OKOJIE: Counsel --
 14 MR. PERL: Hold on, I'm still talking
 15 to the witness.
 16 MS. PARKER-OKOJIE: I know.
 17 MR. PERL: When you --
 18 MS. PARKER-OKOJIE: Counsel, I do
 19 have an objection that I would like to make for
 20 the record. I don't want to speak over you, so
 21 I do apologize, Carol, for that.
 22 Counsel, I believe that your tone now
 23 is argumentative with Sergeant Sulikowski. I
 24 also believe that this questioning him

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1 specifically about Duane Davenport and
 2 citations that might have been written to Duane
 3 Davenport are far beyond the scope of not the
 4 relevant time period necessarily, but certainly
 5 the purpose of this deposition, which is to
 6 indicate does Sergeant Sulikowski know what
 7 this is and how if in any way is this
 8 beneficial to him in what he is testifying
 9 about.
 10 Your tone is becoming elevated, and I
 11 just think that we should calm down and ask
 12 questions in a question and answer format and
 13 not accuse the ICC of doing things or make
 14 assertions on the record. Neither of us can
 15 testify obviously in this proceeding, so I
 16 think that we just need to get back to the
 17 question and answer format.
 18 MR. PERL: Appreciate it. So I would
 19 ask you now to make the record clear, it was
 20 your client accusing my client of doing
 21 improper things that aren't subject to this
 22 investigation and making suppositions about my
 23 client that are improper and wrong, and the
 24 record will show that. It wasn't me taking a

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1 tone with him. It was him taking a tone with
 2 me first -- not me, but my client, which is
 3 totally improper, outside the scope of this
 4 you're correct, outside the relevant time
 5 period even, because he doesn't even know if he
 6 wrote tickets during the time period, but when
 7 he says stuff like I wrote 12 tickets, and then
 8 he says I don't know --
 9 THE WITNESS: Okay. I'm done. So
 10 call the judge. I'm done.
 11 MR. PERL: Okay.
 12 MS. PARKER-OKOJIE: If we can just
 13 have a moment.
 14 MR. PERL: He can leave. I'm just
 15 going to move to bar him from testifying.
 16 MS. PARKER-OKOJIE: No, if we can
 17 just have a moment, Counsel, I think we can
 18 maybe all just take a break here.
 19 MR. PERL: Okay.
 20 (Whereupon a short
 21 recess was had.)
 22 BY MR. PERL:
 23 Q. Okay. Let's look at Exhibit 6 now.
 24 (Whereupon Exhibit No. 6

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1 was marked for
 2 identification.)
 3 BY MR. PERL:
 4 Q. Exhibit 6 is also Exhibit 6 from the
 5 documents that were received from the Commerce
 6 Commission, although it's not Bates stamped, at
 7 the top it says Page 1 of 14 and goes
 8 through 14 of 14, if you see that?
 9 A. Yes.
 10 Q. Take a look at this document if you
 11 would.
 12 A. Okay.
 13 Q. Have you ever seen this document
 14 before?
 15 A. Yes.
 16 Q. When did you see it?
 17 A. Friday.
 18 Q. And was that the first time?
 19 A. Yes.
 20 Q. Have you seen it since then?
 21 A. No.
 22 Q. Did you create this document?
 23 A. No.
 24 Q. Did you input the information on this

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1 document?
 2 A. No.
 3 Q. Do you know when the document was
 4 created?
 5 A. No.
 6 Q. Do you know who created the document?
 7 A. No.
 8 Q. Do you know whether this document was
 9 created off of a computer or a copy machine?
 10 A. No.
 11 Q. Do you know whether this document was
 12 altered in any way?
 13 A. No.
 14 Q. Do you know specifically whether or
 15 not the information contained on here is
 16 accurate?
 17 A. No.
 18 Q. Did you do anything on Friday to
 19 ascertain whether the information was accurate?
 20 A. No.
 21 Q. Does the document on its own give you
 22 any insight as to whether or not Lincoln is fit
 23 to hold a relocater's license?
 24 MS. PARKER-OKOJIE: Objection, calls

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1 for a legal conclusion.
 2 THE WITNESS: No.
 3 BY MR. PERL:
 4 Q. As far as you know was this document
 5 in existence at the time of your first
 6 deposition on March 15, 2017?
 7 A. The exhibit or the information?
 8 Q. The exhibit.
 9 A. No.
 10 Q. Are you planning on using this
 11 document when you testify at the hearing for
 12 Lincoln Towing's relocation fitness?
 13 A. No.
 14 Q. Do you know whether or not the
 15 Commerce Commission is planning on using this
 16 document when you testify?
 17 A. I do not know.
 18 Q. What document -- what information is
 19 contained in this document?
 20 A. A summary listing of operators that
 21 are employed or have -- are employed or have
 22 been employed by Lincoln Towing.
 23 Q. Both?
 24 A. Yes.

202

1 Q. For what time period?
2 A. Back in the '80s.
3 Q. Since back in the '80s?
4 A. (Indicating.)
5 Q. Do you know whether this is an all
6 inclusive list of all the operators that have
7 ever worked for Lincoln since the 1980s?
8 A. I do not know.
9 Q. And it's not in alphabetical order,
10 is it?
11 A. It does not appear to be.
12 Q. And it's not in order by date, is it?
13 A. No.
14 Q. Do you know how this document was
15 created then?
16 A. I believe it grabs it by the numbers,
17 so if you look at 156, the 311, I think it's
18 just grabbing the first number and going down
19 that way.
20 Q. Do you know that to be the case for
21 sure?
22 A. No.
23 Q. Did you do anything subsequent to
24 Friday when you first saw this to ascertain

203

1 whether or not the document -- the information
2 it contained is accurate?
3 A. No.
4 Q. Did you ever actually compare it with
5 the actual operator permits?
6 A. No.
7 Q. And you didn't speak to anybody at
8 the Commerce Commission to see whether it's
9 accurate, did you?
10 A. No.
11 Q. So where it says -- let's look at the
12 first page, the top one. It says MC Nbr
13 100139. Is that Lincoln Towing's number?
14 A. Yes.
15 Q. It says here Protective Parking
16 Service Corp.?
17 A. Yes.
18 Q. But we understand that Protective
19 Parking Service Corporation is the corporate
20 name for Lincoln Towing, correct?
21 A. Yes.
22 Q. Then it's got a control number. You
23 see that?
24 A. Yes.

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1 Q. And it's got operator name Eric Ross,
2 you see that?
3 A. Yes.
4 Q. Do you know who Eric Ross is?
5 A. No.
6 Q. Do you know whether he still is
7 employed by Lincoln Towing?
8 A. No.
9 Q. And it says ACT status issued. When
10 it says ACT period status, do you know what the
11 ACT stands for?
12 A. No.
13 Q. And it's got an ACT date 3/9/1999, do
14 you see that?
15 A. Yes.
16 Q. Do you know if that date is accurate
17 or not?
18 A. No.
19 Q. And then it says EXP date 3/9 of
20 2011. Do you know whether that date's accurate
21 or not?
22 A. No.
23 Q. And if I asked you the same questions
24 for everything in these 14 pages, would your

205

1 answers still be no?
2 A. Yes.
3 Q. When you reviewed this document on
4 Friday, did you compare it against something
5 else?
6 A. No.
7 Q. So if you didn't compare it against
8 anything else, do you know whether or not this
9 document is consistent or inconsistent with
10 Illinois Commerce Commission records?
11 A. No.
12 Q. I'm going to show you what's been
13 marked as exhibit -- let me ask you this
14 question again. I asked you before. Do you
15 believe the information contained on Exhibit 6
16 is in any way relevant to whether or not
17 Lincoln Towing is fit to hold a relocater's
18 license?
19 MS. PARKER-OKOJIE: Objection, calls
20 for a legal conclusion.
21 THE WITNESS: No.
22 BY MR. PERL:
23 Q. I'm going to show you what we are
24 marking as Exhibit 7.

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1 (Whereupon Exhibit No. 7
 2 was marked for
 3 identification.)
 4 THE WITNESS: Okay.
 5 BY MR. PERL:
 6 Q. Let me back up for one second if you
 7 don't mind.
 8 Exhibit 5, which was the two sheets
 9 of paper regarding Duane Davenport, do you
 10 recall that from a moment ago?
 11 A. Yes.
 12 Q. When you looked at that for the first
 13 time on Friday, did you compare this against
 14 anything to see if there were any
 15 inconsistencies?
 16 A. No.
 17 Q. So you don't know whether or not this
 18 Exhibit 5 shows any consistencies or
 19 inconsistencies with the Commission records, do
 20 you?
 21 A. No.
 22 Q. Exhibit 7 is an exhibit that was
 23 received from the Commerce Commission attorneys
 24 recently. It's one page, says Exhibit 7, and

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1 then there are 13 more pages, but they are not
 2 numbered. Okay?
 3 A. Yes.
 4 Q. You've reviewed this, correct? Just
 5 now?
 6 A. Yes.
 7 Q. And you saw this on Friday, or did
 8 you not see this on Friday?
 9 A. I did not see this on Friday.
 10 Q. So you're seeing this for the first
 11 time now, correct?
 12 A. Yes.
 13 Q. So you don't know whether there's
 14 anything on here that's consistent or
 15 inconsistent with any of the Commerce
 16 Commission records, do you?
 17 A. No.
 18 Q. And you don't know for what purpose
 19 this document would be used for at the hearing,
 20 do you?
 21 A. No.
 22 Q. You didn't input this information,
 23 did you?
 24 A. No.

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1 Q. And you don't know whether it's
 2 accurate, do you?
 3 A. No.
 4 Q. Do you know if there is any
 5 information on here which would lead anyone to
 6 believe that Lincoln Towing is or isn't fit to
 7 have a license?
 8 A. No.
 9 MS. PARKER-OKOJIE: Objection, calls
 10 for a legal conclusion.
 11 BY MR. PERL:
 12 Q. Do you know whether any information
 13 on here led to a citation during the relevant
 14 time period?
 15 A. No.
 16 Q. You didn't do anything to verify this
 17 information, did you -- strike that.
 18 Since you just got it now, my
 19 assumption is you didn't do anything to verify
 20 this information, correct?
 21 A. Correct.
 22 Q. You never contacted any of the
 23 individuals within this document, namely
 24 Michael Perry, Jose Negron, N-e-g-r-o-n, Joey

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1 Crook, Daniel Colon, Albert Solano, Ernest
 2 Munyon, Ronald Phillips, Raul Echevarria,
 3 E-c-h-e-v-a-r-r-i-a, or Bob Munyon, you never
 4 contacted any of them, did you?
 5 A. No.
 6 Q. Regarding the information on this
 7 document?
 8 A. No.
 9 Q. Now, I want to call your attention
 10 for a moment back to Exhibits 2 and 3 -- sorry,
 11 let's go back to Exhibit 4 first.
 12 Have you ever taken the information
 13 on Exhibit 4 and compared it against any other
 14 Commerce Commission records to determine
 15 whether it's accurate or there's
 16 inconsistencies?
 17 A. No.
 18 Q. Do you know whether there's any
 19 information on Exhibit 4 that would go to
 20 whether or not Lincoln Towing is fit to hold a
 21 relocater's license?
 22 MS. PARKER-OKOJIE: Objection, calls
 23 for a legal conclusion.
 24 THE WITNESS: No.

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1 (Whereupon a short
2 recess was had.)
3 BY MR. PERL:
4 Q. Take a look at Exhibit 4 if you
5 would, and Exhibit 4 is the list of
6 dispatchers, correct?
7 A. Yes.
8 Q. Did you ever take this list and
9 compare it to any other document to determine
10 whether there were any inconsistencies?
11 A. No.
12 Q. Did you ever take this list and
13 compare it to the 24-hour tow sheet to
14 determine whether or not there were any
15 violations?
16 A. Not this sheet. The answer is yes.
17 Q. So let me back up.
18 This is Exhibit 4. You said you had
19 or hadn't seen this before today?
20 A. I don't recall. I've seen some. I
21 haven't seen others.
22 Q. On Friday did you see this exhibit,
23 if you recall?
24 A. I don't recall.

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1 Q. Did you take this document ever and
2 compare it with any documents to ascertain
3 whether or not Lincoln Towing committed any ICC
4 violations?
5 A. Not this document.
6 Q. Well, what did you use to do that?
7 A. I used the call sheets and I typed it
8 into my MCIS screen.
9 Q. What call sheets?
10 A. The 24-hour tow sheets.
11 Q. Where are they?
12 A. They are not here.
13 Q. So I'm going to ask you right now --
14 A. You've already asked me that and you
15 already know the answer.
16 Q. You definitely don't know this one
17 yet because I'm still formulating the question.
18 MS. PARKER-OKOJIE: Wait for him to
19 ask the question.
20 BY MR. PERL:
21 Q. As you sit here today specifically
22 what violations did you find on what dates and
23 times regarding the 24-hour tow sheets you
24 looked at?

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1 A. I don't know.
2 Q. You don't know?
3 A. Correct.
4 Q. Did you find violations?
5 A. Yes.
6 Q. Did you write it down anywhere?
7 A. No.
8 Q. What document did you look at to
9 determine there were violations?
10 A. The daily tow sheets provided by
11 Lincoln Towing against the MCIS records.
12 Q. When did you do that?
13 A. Friday.
14 Q. Why didn't you do that before Friday?
15 A. Because I didn't have the tow sheets
16 prior to Friday.
17 Q. Is it your testimony that Lincoln
18 Towing just turned those over recently?
19 A. No.
20 Q. Do you know when Lincoln Towing
21 turned those over?
22 A. I do not.
23 Q. Do you know that they turned them
24 over in June of 2016?

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1 A. I do not.
2 Q. Is there a particular reason why you
3 didn't review them prior to last Friday?
4 MS. PARKER-OKOJIE: Objection, asked
5 and answered.
6 THE WITNESS: No.
7 BY MR. PERL:
8 Q. How did you get to look at the tow
9 sheets? Who gave them to you?
10 A. My legal counsel.
11 Q. What violations did you find on the
12 24-hour tow sheets?
13 A. No active permits.
14 Q. Specifically which ones?
15 A. I can't tell you that.
16 Q. I'm not being facetious, but why
17 can't you tell me that?
18 A. Because I don't have that information
19 in front of me.
20 Q. In the document request that we sent
21 to you, No. 1 says any documents supporting any
22 allegations made by the Illinois Commerce
23 Commission and staff of the Illinois Commerce
24 Commission in the licensing proceeding known as

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1 92 RTV-R Sub 17. You saw that, correct?
2 A. Yes.
3 Q. Would you consider the 24-hour tow
4 sheets that you said you found violations to be
5 documents supporting the allegations made by
6 the Commerce Commission?
7 MS. PARKER-OKOJIE: Objection, calls
8 for a legal conclusion. Further, just to the
9 substance of this matter, Counsel, those are
10 documents that your client turned over to us,
11 so the fact that Sergeant Sulikowski has not
12 somehow produced them back to you, I'm just not
13 sure where we're going here.
14 MR. PERL: I could tell you, since
15 you're asking me. If I'm not going to be
16 ambushed at trial, which I know you want to
17 ambush me, I'm entitled to know what he's going
18 to say at trial. He's literally saying to me
19 he has no idea what he -- he looked at some
20 documents. He found some violations, but he's
21 not prepared to tell me what they are today.
22 So I have to wait until the hearing to find out
23 what they are, correct?
24 MS. PARKER-OKOJIE: Counsel, one, I'm

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1 not being deposed, and two, I don't want to
2 argue with you. I'm just saying that your
3 question about why those documents were not
4 provided to your client is one that needs to be
5 put in context to know that your client is the
6 one that produced those documents to ICC in
7 discovery.
8 MR. PERL: Which isn't relevant,
9 because I produced thousands of documents to
10 you, and you might not use all of them at the
11 hearing. So when I ask you to produce to me
12 the documents, the specific ones you're going
13 to use at the hearing, it isn't sufficient to
14 say to me well, the documents that you gave to
15 me; you could just figure out what they are.
16 MS. PARKER-OKOJIE: I think this is
17 something that we can obviously handle in a
18 forum outside of the deposition, so if you have
19 any other questions, I'm just making my
20 objection for the record that requesting those
21 documents from Sergeant Sulikowski just needs
22 to be put in the context of the fact that the
23 documents you're requesting are documents that
24 your client turned over to ICC. That's all.

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1 MR. PERL: Okay. My response is
2 that's not relevant, because you still have to
3 turn them back to me if you are planning on
4 using them at the hearing. So for the record
5 that wasn't done today, and I don't have the
6 documents I asked for pursuant to the document
7 request, because this witness is testifying
8 that he reviewed documents that he's planning
9 on using but didn't bring them here today.
10 BY MR. PERL:
11 Q. No. 8 states all documents referenced
12 or listed in response to any interrogatories,
13 request for production of documents or any
14 other data requests served by a party in this
15 matter. Did you read No. 8.
16 A. Yes.
17 Q. And the newly revised Interrogatory
18 No. 20 says that you are going to testify as to
19 staff review of respondent's 24-hour tow logs
20 and the consistency of the entries contained
21 within these logs and Commission records. Did
22 you see that?
23 A. No.
24 Q. Take a look at Staff's Eighth Answer

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1 to Protective Parking Service Corporation's
2 data request. Take a look at No. 20, if you
3 will.
4 MS. PARKER-OKOJIE: Counsel, just for
5 the record, I'm going to object to any
6 questions about discovery responses that we've
7 sent to you in terms of Sergeant Sulikowski's
8 legal interpretation of what that means. Just
9 for the record, I'm objecting to any questions.
10 MR. PERL: I only asked him if he
11 brought the documents.
12 MS. PARKER-OKOJIE: I'm just making
13 the objection for the record.
14 MR. PERL: Duly noted. If I ask him
15 questions in that line, then the objection will
16 be relevant, but I haven't yet.
17 BY MR. PERL:
18 Q. Sergeant Sulikowski, are you planning
19 on giving any testimony at the hearing where
20 you would need to use the 24-hour tow sheets?
21 A. Possibly.
22 Q. Let's further visit that right now.
23 Without the tow sheets in front of you, which
24 you don't have today, can you tell me if you

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1 found any inconsistencies and what they are in
2 Exhibit 4 and the 24-hour tow sheets?
3 A. No.
4 Q. You need the documents to do that,
5 don't you?
6 A. Yes.
7 Q. So the only way you're going to be
8 able to testify that there are any
9 inconsistencies or consistencies as
10 Interrogatory Answer No. 20 states is if you
11 look at the 24-hour tow sheets, correct?
12 A. Yes.
13 Q. But you didn't bring those here
14 today, did you?
15 A. No.
16 Q. Let's mark as Exhibit 8 Staff's
17 Eighth Answer to Protective Parking Service
18 Corporation Data Request.
19 (Whereupon Exhibit No. 8
20 was marked for
21 identification.)
22 BY MR. PERL:
23 Q. Now, let me ask you in regard to
24 Exhibit 2, the very first exhibit that we

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1 showed you regarding the ICC information, I
2 know you testified that you didn't create this
3 document, correct? Are you planning on using
4 this document to show that Lincoln Towing
5 somehow violated any ICC rules?
6 A. I believe we have already addressed
7 that situation. Am I planning on --
8 Q. Yeah.
9 A. -- introducing documents?
10 Q. Not introducing. Are you going to
11 use this document in any way or the information
12 contained in this document to show that Lincoln
13 Towing violated any ICC rules?
14 A. If I'm asked in questioning, I will
15 answer.
16 Q. How would you do that, though? I'm
17 asking you right now. Just looking at
18 Exhibit 2, tell me what rule Lincoln Towing
19 violated and when and for which lots and which
20 dates?
21 A. I can't do that.
22 Q. Why not?
23 A. Because I need the 24-hour tow
24 sheets.

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1 Q. So you've seen the 24-hour tow
2 sheets, correct?
3 A. Yes.
4 Q. And you've noticed some discrepancies
5 or inconsistencies with Exhibit 2, haven't you?
6 A. Yes.
7 Q. And you did that on Friday, didn't
8 you?
9 A. Yes.
10 Q. But you don't have the 24-hour tow
11 sheet with you today, do you?
12 A. We've already answered that question.
13 Q. And I'll have to ask it for each
14 exhibit.
15 A. No.
16 Q. You don't have it with you today?
17 A. No.
18 Q. But at the hearing you're planning on
19 testifying with the 24-hour tow sheet based in
20 front of you what violations Lincoln committed
21 based upon Exhibit 2?
22 A. If I'm asked questions.
23 Q. Then you will?
24 A. Yes.

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1 Q. And you've already seen those
2 documents. Did you take any notes on those
3 documents?
4 A. No.
5 Q. As you sit here today you don't know
6 what violations exist, do you?
7 A. Specifically, no.
8 Q. And for the relevant time period you
9 don't know, do you?
10 A. No.
11 Q. Exhibit 3 you said you've never seen
12 before today, correct?
13 A. I'd have to refer back.
14 Q. Well, take a look at it again. I
15 would imagine it would be the same answer.
16 A. It would be the same answer as I
17 answered before.
18 Q. Do you want us to go back in the
19 record or do you want to tell us?
20 A. As I stated before, Counselor, some
21 exhibits I've seen. Some I haven't.
22 Q. Have you seen Exhibit 3 before today?
23 A. I don't recall. I don't recall what
24 I answered earlier.

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1 Q. Did you review Exhibit 3 in
2 conjunction with the 24-hour tow sheets?
3 A. As I stated previously, I did not use
4 Exhibit 3. I used the MCIS sheet against the
5 24-hour tow sheets.
6 Q. But you just said you used Exhibit 2
7 against the 24-hour tow sheets, correct?
8 A. I used the MCIS computer. I did not
9 use the exhibits.
10 Q. So you didn't use Exhibit 2 or
11 Exhibit 3?
12 A. The same information is on MCIS.
13 This is where this all came from.
14 Q. Well, you don't really know that, do
15 you?
16 A. I do know that.
17 Q. Well, you don't know when it came
18 from it, do you? You don't know who input it
19 in?
20 A. Okay. No. No. No.
21 Q. You don't know that, do you?
22 A. Come on. Come on. I got places to
23 be tonight.
24 Q. I can say the same to you. Come on.

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1 You don't really know where the information
2 came from, do you? You already said you don't.
3 MS. PARKER-OKOJIE: Counsel, I just
4 ask that you let Sergeant Sulikowski answer a
5 question before posing another question in
6 rapid succession.
7 BY MR. PERL:
8 Q. You don't know where the information
9 in Exhibit 2 came from, do you?
10 A. MCIS.
11 Q. How do you know that?
12 A. A crystal ball.
13 Q. Okay.
14 MS. PARKER-OKOJIE: Sergeant
15 Sulikowski --
16 MR. PERL: I'll take that as a
17 response.
18 MS. PARKER-OKOJIE: -- please answer
19 his questions.
20 MR. PERL: Crystal ball's good.
21 BY MR. PERL:
22 Q. Is that the same thing that you know
23 for everything today, crystal ball?
24 A. Great.

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1 Q. Would a crystal ball be how you know
2 24-hour tow sheets are improper as well?
3 A. No.
4 Q. Ouija Board?
5 A. No.
6 MS. PARKER-OKOJIE: Objection to the
7 tone and scope of the question, Counsel.
8 MR. PERL: There was no tone at all.
9 You can object to the question, but I didn't
10 have any tone.
11 MS. PARKER-OKOJIE: Counsel, I will
12 object to you asking Sergeant Sulikowski if he
13 used a Ouija Board.
14 MR. PERL: But not a crystal ball.
15 MS. PARKER-OKOJIE: No, both of us
16 are legal professionals, and I know that you
17 did not pose the question about the crystal
18 ball, but I would ask that further questions be
19 posed in a way that is relevant to the scope of
20 this proceeding.
21 MR. PERL: Okay.
22 BY MR. PERL:
23 Q. Did you use a crystal ball for
24 Exhibit 3?

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1 A. No.
2 MS. PARKER-OKOJIE: I'm renewing my
3 objection, Counsel. If you could ask questions
4 that are relevant to scope of this proceeding.
5 BY MR. PERL:
6 Q. So you actually didn't use any of the
7 information on Exhibits 2 and 3 to determine
8 anything, did you? You looked at a screen?
9 A. Yes.
10 Q. So you can't really testify as to
11 whether or not the information contained on
12 Exhibits 2 and 3 are consistent with the
13 24-hour tow logs, can you?
14 MS. PARKER-OKOJIE: Objection, calls
15 for a legal conclusion as to what he can
16 testify to.
17 BY MR. PERL:
18 Q. You can answer.
19 A. It's the same information that's on
20 the screen.
21 Q. But you didn't -- is it the exact
22 same information?
23 A. I don't have the screen in front of
24 me.

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1 Q. Well, you just said it's the same
2 information that's on the screen. You were
3 pretty sure about it then. Is it the exact
4 same information?
5 A. I can't answer if it's exact.
6 Q. So do you want to modify your answer
7 from 30 seconds ago where you said it's the
8 same information?
9 A. It's similar information.
10 Q. Similar information. Okay.
11 The screen that you looked at on
12 Friday, you didn't put that information on
13 there, did you?
14 A. No.
15 Q. You don't know who put it on there,
16 do you?
17 A. No.
18 Q. You don't know when it was put on
19 there, do you?
20 A. No.
21 Q. You don't know if it's accurate, do
22 you?
23 A. No.
24 Q. And you didn't do anything to

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1 determine whether it was accurate or not, did
2 you?
3 A. No.
4 Q. The 24-hour tow sheets you looked at,
5 did you put that information on there?
6 A. No.
7 Q. Do you know whether it's accurate or
8 not?
9 A. No.
10 Q. Do you know when it was put on there?
11 A. No.
12 Q. Did you do anything to determine
13 whether it was accurate or not?
14 A. No.
15 Q. If you were posed with the
16 information that you looked at on the screen
17 and you looked at the 24-hour tow sheet, you
18 wouldn't just write a citation, would you?
19 You'd investigate it, wouldn't you?
20 A. Yes.
21 Q. I asked you earlier a similar
22 question and you said I'd have to do an
23 investigation and figure it out, correct?
24 A. Yes.

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1 Q. So just by looking at the screen and
2 the 24-hour tow sheets, you don't know if
3 there's any violations, do you?
4 MS. PARKER-OKOJIE: Objection, calls
5 for a legal conclusion.
6 MR. PERL: Well, let me ask you a
7 question, since we're talking about legal
8 conclusions, and I don't want to do that.
9 BY MR. PERL:
10 Q. Aren't you the ultimate trier of fact
11 as to whether or not a citation is written?
12 MS. PARKER-OKOJIE: Objection, calls
13 for a legal conclusion.
14 MR. PERL: I don't know how that's a
15 legal conclusion.
16 BY MR. PERL:
17 Q. But don't you determine whether or
18 not -- can't you determine whether or not a
19 citation is written or not?
20 A. Yes.
21 Q. You don't need to ask a lawyer if you
22 can write a citation, do you?
23 A. There are times we ask for opinion.
24 MS. PARKER-OKOJIE: Counsel, I'm

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1 going to object here only because I think we
2 are --
3 MR. PERL: What are you objecting to?
4 MS. PARKER-OKOJIE: I'm objecting to
5 the scope of where this is headed only because
6 I do believe on Sergeant Sulikowski's prior
7 deposition, which was around two and a half
8 hours, you did go into who writes the
9 citations, who decides if citations are
10 written. We have covered this ground before,
11 so if we can just refocus on the scope of
12 today, which are these documents, I think we
13 are treading back into general territory with
14 these questions.
15 MR. PERL: Well, your objections take
16 longer than the questions with the answer, so
17 if you truly want to move it along, just give
18 an objection and move on, but I'm going to ask
19 the question.
20 BY MR. PERL:
21 Q. How often do you ask for legal advice
22 before you determine if you can write a
23 citation?
24 MS. PARKER-OKOJIE: Objection, beyond

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1 the scope. You do not need to answer, Sergeant
2 Sulikowski.
3 MR. PERL: He doesn't need to answer?
4 Let's call the judge again.
5 MS. PARKER-OKOJIE: Okay.
6 MR. PERL: Because I want to get out
7 of here at some point, but I'm not leaving
8 until we're done, and this is 45 minutes of
9 objections that have wasted the time.
10
11 (Whereupon a telephone
12 call was placed to
13 Judge
14 Kirkland-Montaque.)
15
16 JUDGE KIRKLAND-MONTAQUE: Hello, this
17 is Latrice.
18 MS. PARKER-OKOJIE: Hi, Judge
19 Kirkland-Montaque. We are still at the
20 deposition of Sergeant Sulikowski. There are
21 some pending questions now that staff is
22 objecting to because they definitely cover
23 ground that we discussed thoroughly in the
24 first deposition of Sergeant Sulikowski, which

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1 nearly reached a three hour mark. We are
2 nearly at the three hour mark again so --
3 JUDGE KIRKLAND-MONTAQUE: Go ahead.
4 MS. PARKER-OKOJIE: -- and so I will
5 let counsel give you the question, but staff is
6 objecting to going over ground that we have
7 already covered.
8 JUDGE KIRKLAND-MONTAQUE: Okay.
9 MR. PERL: Here's the issue now,
10 Judge --
11 JUDGE KIRKLAND-MONTAQUE: I'm sorry,
12 start over please.
13 MR. PERL: Here's the issue as it
14 stands right now. After two and a half hours
15 of today's deposition I've just learned that
16 this witness didn't even use any of the
17 documents they are presenting today to
18 determine anything. He only looked at a
19 computer screen that has similar information on
20 it. So I will be moving to bar these
21 documents. That's a separate issue.
22 So now I'm trying to determine from
23 this individual how it is he determines whether
24 or not he's going to write a citation, because

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1 the only thing they can try to use this
2 information for is to show that Lincoln Towing
3 did something improper. They're not going to
4 try to use it to show we did things correct.
5 So he's going to want to testify that
6 he looked at a computer screen. Then he looked
7 at the 24-hour tow sheets, which they didn't
8 bring with them today and didn't provide us --
9 that's a separate issue -- and he's going to
10 say that somehow Lincoln Towing violated a
11 rule. So I'm asking him wouldn't you in the
12 ordinary course of business if somebody
13 actually brought you this, wouldn't you then do
14 an investigation? You wouldn't jump to the
15 conclusion they violated a rule.
16 So I'm saying how do you determine
17 when you receive information like you looked
18 at, the 24-hour tow sheets, specifically that
19 information, whether or not they actually
20 violated a rule? You got to do an
21 investigation. As opposed to when they come to
22 the hearing and he's going to want to testify
23 that it's automatically a violation of a rule
24 because there's an inconsistency, when it isn't

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1 the case.
2 So all I'm trying to do is ascertain
3 number one, it's like pinning Jello to a wall,
4 I'm trying to figure out what he actually was
5 looking at, because I don't have it here, to
6 make any determinations, because I don't have
7 the 24-hour tow sheets, and when we get to the
8 point where there's information about to come
9 my way, it's always when the objection comes in
10 it's either asked and answered, it's general
11 information, it's beyond the scope. It's
12 exactly on target to what they did here and
13 exactly why I said, your Honor, it's not even
14 proper to let them use these documents right
15 now, because it's so late in the game, but now
16 it turns out he didn't even use these
17 documents. He looked at a computer screen that
18 he doesn't have in front of him and neither do
19 I.
20 So I think giving me a little
21 latitude to ask him a couple questions, and
22 again, ten minutes on this issue, I could have
23 been done already, but here we are 20 minutes
24 on one issue, five minutes on another, five on

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1 another. We're going to approach three hours
2 because that's where we are. And by the way,
3 the first dep was two and a half hours, not
4 three, because there's a lot of ground to
5 cover.

6 So I want to inquire of him as to
7 when he was looking at this computer screen,
8 wherever it was and whatever existed, and then
9 he looked at the 24-hour tow sheets, what did
10 he do? What did he find? He has no notes, no
11 independent recollection of any specific
12 violations as he sits here today, but they are
13 going to want him to testify to that at the
14 hearing.

15 And I'll bring the motions in that
16 regard later, because again, it's trial by
17 ambush. But now I can't even ask the questions
18 according to counsel, and she instructed him
19 not to answer.

20 So I want to ask a line of questions
21 regarding when you looked at the screen and you
22 compared it to the 24-hour tow sheet, what
23 would you do in the ordinary course of
24 business. That's a relevant question. I'm

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1 going to ask him that same question when we get
2 to the hearing, and I want to know what the
3 answer's going to be now so I'm not surprised.

4 JUDGE KIRKLAND-MONTAQUE: And the
5 problem is the -- Ms. Parker?

6 MS. PARKER-OKOJIE: The problem, your
7 Honor, is that counsel's question was not
8 phrased as he just phrased it for you. His
9 question was how do you decide when to write a
10 citation, and that's a very general question.
11 That's one that we covered. I know that
12 counsel has made a long argument in front of
13 you, and I won't belabor the point, but the
14 questions that he was asking are how do you
15 decide to write a citation? Aren't you the
16 ultimate trier of fact when it comes to
17 citations? I objected to both of those
18 questions, and I just think we are continuing
19 down that path of wait, hold on, how's a
20 citation written, and I think that we covered
21 that ground in the first deposition quite
22 thoroughly.

23 MR. PERL: The reason I said aren't
24 you the ultimate trier, what counsel forgot to

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1 tell you is that when I ask him how do you
2 determine to write a citation, counsel said
3 that's a legal conclusion. That's nonsense. A
4 legal conclusion, if it is, then he must be a
5 lawyer because he's the one that determines
6 every day whether or not to write a citation.
7 It's not a legal conclusion.

8 So then I said aren't you the
9 ultimate trier of fact in determining who shall
10 write a citation, because it's not a legal
11 conclusion. This individual here in front of
12 me is the supervisor for everyone who writes
13 citations at the Illinois Commerce Commission.
14 It's his decision. It's not a legal
15 conclusion. He doesn't have to ask a lawyer
16 should I write them a citation for not having
17 enough signs? That's his decision. That's
18 what I'm getting at when I say aren't you the
19 trier of fact, and counsel knows that. It's
20 not a legal conclusion, and again, we are
21 arguing for all this time; I could be done with
22 this deposition.

23 JUDGE KIRKLAND-MONTAQUE: Okay. I'm
24 going to allow the question. I think with

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1 depositions there should be a lot of latitude
2 in terms of what questions are asked, and, I
3 mean, unless -- I just can't see why anything
4 would be, you know, prejudicial or anything of
5 that nature. So I'm going to allow the
6 question.

7 MS. PARKER-OKOJIE: Your Honor, this
8 isn't about anything being prejudicial. It's
9 about the point of why the court allowed this
10 deposition in the first place. Sergeant
11 Sulikowski was already deposed by counsel, so
12 that already happened.

13 The purpose of this deposition was
14 specifically to focus on these documents.
15 There is no second bite at the apple in terms
16 of going back to issues we have covered in the
17 prior deposition. If that's the case, we would
18 redepose all of Lincoln's witnesses.

19 I mean, the point is this deposition
20 was to be conducted efficiently to cover the
21 ground of what are these documents, how is
22 Sulikowski related to them and what would he
23 use them for. That was what you ruled, but now
24 we are going over ground that has already been

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1 covered, and that is improper, and we will
2 object to that.
3 MR. PERL: Well, they already did
4 object and you ruled. So can we go forward? I
5 mean, to state that I can't ask a question
6 that's relevant to these documents because I
7 asked it in the prior deposition when I didn't
8 have these documents, and I think it's really
9 disingenuous of counsel to say that I shouldn't
10 be able to take a deposition when a year and a
11 half into the case they give me new documents
12 when there's three weeks away from the
13 hearing --
14 JUDGE KIRKLAND-MONTAQUE: All right.
15 I'm ruling. I'll allow the question.
16 MR. PERL: Thank you, Judge.
17 MS. PARKER-OKOJIE: What question are
18 you allowing, your Honor? There were several
19 questions posed by counsel.
20 JUDGE KIRKLAND-MONTAQUE: What's the
21 objection?
22 MS. PARKER-OKOJIE: The objection is
23 to the question why do you decide to write a
24 ticket or what makes you decide to write a

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1 citation. Those questions were asked and
2 answered in a previous deposition and should
3 not be allowed in this deposition because the
4 scope of this deposition was limited.
5 MR. PERL: That's not my question.
6 MS. PARKER-OKOJIE: That's the
7 question that was posed that I objected to,
8 your Honor.
9 MR. PERL: My question is in regard
10 to specifically when this witness looked at a
11 computer screen -- what I'm trying to get at is
12 what he's going to say at the hearing, and I'm
13 entitled to do that. That's why we take
14 depositions, and counsel seems to think that
15 you're supposed to learn things for the first
16 time at the trial, and that's not the case.
17 MS. PARKER-OKOJIE: Your Honor, if we
18 could just have the question --
19 MR. PERL: Maybe in a criminal
20 setting that's how it works in prior life for
21 the court counsel, but in civil litigation we
22 take depositions to elicit the testimony prior
23 to hearing it at the hearing. That's what we
24 do. So I'm trying to figure out, and I still

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1 can't figure out, what this witness is going to
2 testify to, because they didn't bring the
3 documents that he said he looked at, and now he
4 said he looked at a computer screen to make a
5 determination that they never disclosed to me
6 before. So I'm asking --
7 MS. PARKER-OKOJIE: Your Honor, we
8 just want counsel to restate his question,
9 which he is not doing.
10 MR. PERL: It's a subject area. It's
11 not one question. I'm asking him questions
12 about when he looked at the 24-hour tow sheet
13 on Friday, which he didn't bring with him
14 today, and then he looked at some computer
15 screen, how do you decide whether or not it's a
16 violation. That's my question.
17 JUDGE KIRKLAND-MONTAQUE: I don't
18 see -- again, my ruling is I'm going to allow
19 it. It's related to the documents to the
20 extent that you said those documents are a
21 printout of what the (unintelligible). I don't
22 know what -- you know, any way, that's my
23 ruling.
24 MR. PERL: Okay. Thank you, Judge.

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1 MS. PARKER-OKOJIE: Your Honor, I
2 think the problem is that counsel will state
3 the question one way when he is on the phone
4 during the conference, but then we stray
5 quickly back into general topics, so that's the
6 only reason I'm trying to get the question
7 heard by your Honor and ruled on by your Honor,
8 because what will happen is we will hang up
9 with you, and then we will go back into this
10 foray of let's redepose the sergeant on
11 everything we have already asked him for, and
12 so that's the point in which we are trying to
13 move this along.
14 MR. PERL: That being the case,
15 Judge, I invite you to stay on the phone. We
16 won't even hang up, because that's not accurate
17 at all. I'd love for you to stay on the phone
18 so when counsel makes her objections --
19 JUDGE KIRKLAND-MONTAQUE: How much
20 longer do you have?
21 MR. PERL: I could have been done 45
22 minutes ago but for this. Every time I'm
23 asking questions, the objections are longer
24 than the answers, including one time when the

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1 witness almost left, and including the 25
2 minutes we spent last time and the 15 minutes
3 now. I could have been done already.
4 JUDGE KIRKLAND-MONTAQUE: Okay.
5 MR. PERL: Easily.
6 JUDGE KIRKLAND-MONTAQUE: Again, I
7 don't see the reason in upholding the
8 objection. I don't see why you would not allow
9 the question.
10 MR. PERL: Okay. Can we then hang up
11 with you now, Judge? We'll call you back if we
12 need you so we can try to finish.
13 JUDGE KIRKLAND-MONTAQUE: Yes. I'm
14 leaving out the door.
15 MR. PERL: Thank you, Judge.
16 JUDGE KIRKLAND-MONTAQUE: I am
17 scheduled to leave at 4:40, so I don't know
18 what your options are going to be.
19 MR. PERL: Well, let's see if we
20 could finish now without having to call you
21 back again. If not, we could continue the dep
22 to another time and reconvene when you are
23 available, and I'm happy to continue the dep
24 till another date certain.

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1 JUDGE KIRKLAND-MONTAQUE: I'd rather
2 you get it done today.
3 MS. PARKER-OKOJIE: Your Honor, we
4 are fine with questions that are within the
5 scope and related to the purpose of this
6 deposition. We have no objection to that nor
7 have we ever, but what happens is the questions
8 become general, and then we have to have these
9 phone conversations.
10 MR. PERL: And then your Honor rules
11 against counsel, so --
12 JUDGE KIRKLAND-MONTAQUE: Ms. Parker,
13 help me understand.
14 MS. PARKER-OKOJIE: Sure. What is it
15 you are trying to understand, your Honor?
16 JUDGE KIRKLAND-MONTAQUE: Okay. So
17 he asks a question and the purpose of your
18 objection is what?
19 MS. PARKER-OKOJIE: The purpose of my
20 objection is to keep this deposition on track
21 and limited to the scope that your Honor
22 granted it for. Your Honor granted this
23 deposition for the purpose of counsel
24 determining the scope of what these documents

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1 are and what Sergeant Sulikowski's relationship
2 to them are.
3 JUDGE KIRKLAND-MONTAQUE: If the
4 question is in any way related to that
5 document, then I think it's fair game.
6 MS. PARKER-OKOJIE: Okay. Counsel's
7 questions were not. He has rephrased them for
8 your Honor during this conversation --
9 JUDGE KIRKLAND-MONTAQUE: But
10 Counsel, moving forward, if it's some way
11 related to the document, then it's fair.
12 MR. PERL: Judge, this is -- and they
13 are, and this is a deposition, period. You
14 don't come to a deposition saying let me give
15 you -- counsel wants to give me a list of
16 questions I can ask and have to stick to the
17 script, and that's just not the way depositions go.
18 It's relevant or it could lead to admissible
19 evidence, and that's what I'm doing.
20 JUDGE KIRKLAND-MONTAQUE: Okay.
21 MR. PERL: If we could just finish
22 up, I know the witness has to go somewhere.
23 I've got to be somewhere, and I want to get
24 done.

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1 JUDGE KIRKLAND-MONTAQUE: Okay. All
2 right. So you have my ruling, and to the
3 extent you can tie the question to the -- even
4 if it's because the document is a printout of
5 what's on the screen, I think anything relating
6 to what you look at on the screen --
7 MR. PERL: This is what counsel's
8 objecting to: When I ask him a question and I
9 say what did you look at? You looked at the
10 24-hour tow sheet, and then you looked at the
11 screen, and he's going to make a determination
12 based on that, and then my next question's
13 going to be ordinarily wouldn't you do an
14 investigation, and counsel says you can't ask
15 that question. Of course I can. That's
16 exactly trying to cross examine him to show
17 that he's not doing what he's supposed to be
18 doing. I can cross examine him at the
19 deposition. I don't know why I can't, and
20 that's what I'm doing and what I'm allowed to
21 do.
22 JUDGE KIRKLAND-MONTAQUE: My
23 understanding of the deposition, I mean, I
24 don't -- okay.

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1 MR. PERL: I think I can cross
2 examine at the deposition. That's what I do.
3 MS. PARKER-OKOJIE: Our point is not
4 that counsel can't cross examine. Our point is
5 that this is the second deposition for Sergeant
6 Sulikowski, so the scope of it should be
7 limited because he already had an opportunity
8 to ask any of these questions. He already had
9 that opportunity, and so now coming back at a
10 second bite at the apple, we can always think
11 of more questions to ask or more things that
12 might be relevant, but really there's a very
13 limited purpose to today's deposition. We are
14 not talking about depositions in general. He's
15 being redeposed on specific documents. I don't
16 think we can then say well, these documents
17 take us back to the beginning of this case, and
18 so because I said the word "document," the
19 question is now relevant.
20 JUDGE KIRKLAND-MONTAQUE: Weren't the
21 documents related to the tow log of -- the log
22 and a printout of what was on the MCIS in
23 relation to that log?
24 MR. PERL: Which is the beginning of

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1 this case.
2 MS. PARKER-OKOJIE: Your Honor, but
3 what we are doing now is going back and asking
4 questions about process and procedure. The
5 question is what he would have done. That is a
6 hypothetical. He's asked him if citations were
7 written on these. That's fine to ask, and then
8 he said no or he couldn't recall, and then now
9 we're well, would you have written a citation?
10 Well, would you? I mean, I just think that
11 again, the would you, could you hypotheticals
12 are way beyond the scope, way beyond the scope.
13 MR. PERL: Beyond the scope of the
14 questions that you asked my client this morning
15 you mean when you said let me give a
16 hypothetical specifically to Mr. Dennis, and I
17 didn't object, but that's okay, because that's
18 exactly what you did with Mr. Dennis more than
19 one time, and I didn't object, but that's fine.
20 I don't need hypotheticals. I'm asking him
21 what he does in the ordinary course of
22 business, and that's the problem.
23 The problem is they brought no
24 documents with them. The 24-hour tow sheets

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1 that I asked for three times in my document
2 request, they didn't bring. They specifically
3 knew they should have. They said well, those
4 are your documents. Yeah, but you're using
5 them at trial and you're going to have to show
6 me what you're using them for, and they're not
7 doing it, because what they're going to do at
8 the hearing is he's going to have the 24-hour
9 tow sheets in front of him and want to testify
10 to them, and I'm going to be objecting and move
11 to bar them in limine anyway because they
12 didn't bring them to me today. So I need a
13 third deposition now when he actually brings
14 the documents he's going to use at the hearing
15 because counsel says you already deposed him,
16 but I have new documents you didn't depose him
17 on, but I guess I'll surprise you at the
18 hearing with those, and that's great.
19 JUDGE KIRKLAND-MONTAQUE: Okay. My
20 ruling is going to stand. I'm going to allow
21 the questions. I think leave it open-ended for
22 that gathering if you possibly can here. I
23 don't see the reason for the objection. I want
24 you guys to move it along and get it done

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1 today.
2 MR. PERL: Thank you, Judge.
3 MS. PARKER-OKOJIE: Thank you, your
4 Honor.
5 MR. PERL: For the record, we have
6 spent 25 minutes on this issue alone, not to
7 mention 25 minutes on the last one that the
8 judge ruled against counsel. That's 50 minutes
9 where the judge overruled and did not uphold
10 these objections, and I'm going to be seeking
11 an extra 15 minutes in this deposition based
12 upon that alone. So maybe we can move along
13 now.
14 I'm going to try to rephrase the
15 question.
16 BY MR. PERL:
17 Q. You've stated that you didn't use
18 Exhibits 2 and 3 to determine anything with the
19 24-hour tow sheets, correct?
20 A. Yes.
21 Q. You used a computer screen?
22 A. Yes.
23 Q. You don't have the computer screen
24 with you here today, correct?

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1 A. Yes.
 2 Q. Did you see something on the computer
 3 screen that led you to believe that Lincoln
 4 Towing violated the ICC rules?
 5 A. Yes.
 6 Q. Do you recall specifically what you
 7 saw, what dates, what lots, any information on
 8 the violations?
 9 A. Only generalities I can give you.
 10 Q. Did you draw an inference from what
 11 you saw on the 24-hour tow sheets to what you
 12 saw on the computer screen?
 13 A. Yes.
 14 Q. And what was your inference?
 15 A. Based on the information that I saw
 16 there were different things; whether they towed
 17 because a contract was cancelled, whether there
 18 was no contract at all, whether it was a patrol
 19 towing from a call lot only and/or the contract
 20 had not been electronically filed yet, and they
 21 were pretowing before that was entered.
 22 Q. Did you write any violations as a
 23 result?
 24 A. This was not a violation writing

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1 session.
 2 Q. I didn't ask that. I'm asking if you
 3 wrote any violations?
 4 A. No.
 5 Q. Ordinarily when you see from an
 6 investigation being open you've got a 24-hour
 7 tow sheet and you've got information on the
 8 MCIS, correct?
 9 A. Yes.
 10 Q. Would you then do an investigation to
 11 determine whether or not there was a violation?
 12 A. All right. Give me a little leeway
 13 on this, because if I'm looking at that
 14 information, there's already an investigation.
 15 I don't arbitrarily just pull out of a hat let
 16 me look at this lot today. I'm looking at it
 17 because a consumer has already filed a
 18 complaint and an investigation has been
 19 created.
 20 Q. But the first thing you do when you
 21 look at this information is do an
 22 investigation, correct? Before you write a
 23 citation, you would do some investigation,
 24 correct?

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1 A. It's all part of the investigation.
 2 Q. Right. But you haven't done an
 3 investigation since Friday on any of these
 4 situations, have you?
 5 A. No.
 6 Q. So you don't -- you haven't really
 7 performed an investigation in order to
 8 determine that there were any violations, have
 9 you?
 10 A. There's inconsistencies.
 11 Q. I'm not asking for inconsistencies,
 12 and I do know that they want to use the word
 13 "inconsistency," whatever that means. Is an
 14 inconsistency an ICC violation?
 15 MS. PARKER-OKOJIE: Objection, calls
 16 for a legal conclusion.
 17 BY MR. PERL:
 18 Q. Do you know?
 19 A. I don't know.
 20 Q. So when you're ordinarily looking
 21 into whether you're going to write a citation
 22 or not, there's some kind of an investigation
 23 that's done, correct?
 24 A. Yes.

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1 Q. You didn't do an investigation in
 2 this case, have you?
 3 A. I was reviewing data.
 4 Q. All you did was look at a screen, at
 5 24-hour tow sheets; you didn't do an
 6 investigation, did you?
 7 A. No. I reviewed data.
 8 Q. You didn't call anyone at Lincoln
 9 Towing, did you?
 10 A. No.
 11 Q. You didn't call any of the lot
 12 owners, did you?
 13 A. No.
 14 Q. You didn't interview any of the
 15 people that were towed, did you?
 16 A. No.
 17 Q. You didn't interview the driver, did
 18 you?
 19 A. No.
 20 Q. You didn't interview anyone at the
 21 Commerce Commission, did you?
 22 A. No.
 23 Q. You didn't open up a case number, did
 24 you, or a case file?

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1 A. No.
2 Q. You didn't assign it to any of your
3 officers or investigators, did you?
4 A. No.
5 Q. Isn't that what you would normally do
6 in order to determine whether or not there was
7 a violation?
8 A. Not in a fitness hearing. This is
9 data reviewed for the fitness hearing. A
10 consumer complaint is a little different.
11 That's one specific instance.
12 Q. I'm not asking you, and I didn't ask
13 you specifically what you do for the fitness
14 hearing. I didn't. I asked you what you
15 typically would do to determine whether there
16 was a violation, and you would open an
17 investigation.
18 A. But they are not the same is what
19 you're referring to.
20 Q. But see, here's what you're doing
21 now. If I ask you what day it is, I'm not
22 looking for the weather, and I know that you
23 want to fit it into that. I'm asking you a
24 specific question that I'd like the answer to.

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1 I'm not asking you about if it's a fitness
2 hearing or if it's with a violation. I'm
3 asking you in general before you could
4 determine that Lincoln Towing violated any ICC
5 rules, wouldn't you have to do an
6 investigation?
7 MS. PARKER-OKOJIE: Objection, calls
8 for a legal conclusion.
9 THE WITNESS: Yes.
10 BY MR. PERL:
11 Q. Did you do an investigation? That's
12 yes or no. Did you do an investigation since
13 Friday?
14 A. No.
15 Q. Prior to writing a citation to
16 Lincoln Towing for not having e-filed a lot or
17 improper towing without a license, you would do
18 an investigation, correct?
19 A. Yes.
20 Q. And that wasn't done in this case,
21 was it?
22 A. Not since Friday.
23 Q. Not at all, correct?
24 MS. PARKER-OKOJIE: Just to kind of

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1 clarify the scope of not at all, what do you
2 mean by that?
3 BY MR. PERL:
4 Q. Well, you didn't do an investigation
5 on these things prior to Friday, did you?
6 MS. PARKER-OKOJIE: What are you
7 referring to when you say these things?
8 MR. PERL: The things you looked
9 at -- the problem is I don't know what you
10 looked at, so I have to be a little bit
11 general, because --
12 BY MR. PERL:
13 Q. The stuff you looked at on the screen
14 on Friday, did you do an investigation on that
15 prior to Friday?
16 A. If it was involved in a specific
17 consumer complaint, it may have.
18 Q. But you don't know, correct?
19 A. No.
20 Q. How did you know what to look at on
21 Friday?
22 A. Based off the 24-hour tow sheets all
23 those addresses were gone through.
24 Q. How did you know what 24-hour tow

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1 sheets to look at? There was thousands of
2 them.
3 A. And they were all gone through.
4 Q. You looked through 1000 invoices on
5 Friday, you, yourself?
6 A. The team did.
7 Q. I'm not asking about the team.
8 A. I did not.
9 Q. You didn't, did you?
10 A. No, I did not.
11 Q. Someone else did, didn't they, and
12 then they pointed them out to you, didn't they?
13 A. Yes, they did.
14 Q. So you actually didn't go through the
15 tow sheets yourself to find inconsistencies,
16 did you?
17 A. No, I did not.
18 Q. And someone else did, and then they
19 handed you a group of 24-hour tow sheets that
20 they claim have inconsistencies, correct?
21 A. No. I saw all 24-hour tow sheets.
22 Q. All thousand?
23 A. Yes.
24 Q. And then you went through all

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1 thousand of them?
 2 A. Correct.
 3 Q. How long did it take you?
 4 A. Over five hours.
 5 Q. So you reviewed over 1,000 documents
 6 in five hours, and you found the
 7 inconsistencies, not the team?
 8 A. I reviewed the inconsistencies that
 9 the team found.
 10 Q. How would you know there were
 11 inconsistencies? You said you didn't look at
 12 Exhibits 2 and 3, so if you were just looking
 13 at the 24-hour tow sheets, how would you know
 14 anything's inconsistent? On itself it doesn't
 15 speak to you, does it?
 16 A. No.
 17 Q. So how would you know to check it for
 18 inconsistencies? What did you check? Every
 19 single thing on all thousand tow sheets?
 20 There's 50,000 pieces of information there.
 21 You checked all of them?
 22 MS. PARKER-OKOJIE: Counsel, if you
 23 could just pose one question at a time.
 24 MR. PERL: You're right. Let me

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1 withdraw the question.
 2 BY MR. PERL:
 3 Q. Did you individually look through
 4 every single 24-hour tow sheet that we gave
 5 you?
 6 A. Yes.
 7 Q. And how did you determine what was
 8 inconsistent?
 9 A. Those were already found.
 10 Q. By who?
 11 A. Through my staff, through the
 12 lawyers.
 13 Q. The lawyers are your staff?
 14 A. Wrong answer.
 15 Q. I'm just --
 16 A. They're not my staff. They're not my
 17 staff.
 18 Q. Okay. But the reason I said it is
 19 because you do have staff that could have done
 20 this, correct?
 21 A. I don't have staff.
 22 Q. Well, the investigator --
 23 A. I have coworkers.
 24 Q. But you know what I'm saying. That's

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1 why I'm clarifying when you say through my
 2 staff, I think you're referring to the other
 3 investigators or officers. You're actually
 4 referring to the attorneys, correct?
 5 A. Yes.
 6 Q. And they actually pointed out to you
 7 what they believe were inconsistencies,
 8 correct?
 9 A. Yes.
 10 Q. And then you took that and looked at
 11 some screen, correct?
 12 A. Yes.
 13 Q. Did you write anything down?
 14 A. No.
 15 Q. Do you believe the inconsistencies
 16 that you looked at are violations -- are
 17 actually things that are citations or
 18 violations of the code?
 19 MS. PARKER-OKOJIE: Objection, both
 20 relevance and calls for a legal conclusion.
 21 BY MR. PERL:
 22 Q. Do you believe the inconsistencies
 23 that you looked at are code violations?
 24 A. Yes.

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1 Q. Without doing an investigation?
 2 A. Yes.
 3 Q. So why do you do investigations? Why
 4 don't you just write a citation every time
 5 someone makes a complaint? Why do you make an
 6 investigation?
 7 MS. PARKER-OKOJIE: If you could just
 8 rephrase, Counsel, it's a couple of questions.
 9 MR. PERL: Did you understand the
 10 question?
 11 THE WITNESS: I'd like it repeated.
 12 MR. PERL: Sure. I can rephrase it.
 13 BY MR. PERL:
 14 Q. If it's that easy to determine to
 15 write a citation, why do you ever do an
 16 investigation?
 17 A. Again, we're talking about two
 18 separate things. We're talking about reviewing
 19 data and we're talking about conducting a
 20 consumer investigation. These are two separate
 21 issues.
 22 Q. Do you think that Lincoln isn't
 23 entitled to an investigation just because this
 24 is a review of whether or not they are fit?

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1 MS. PARKER-OKOJIE: Objection, calls
 2 for a legal conclusion as to what rises to the
 3 level of an investigation.
 4 MR. PERL: You can answer.
 5 THE WITNESS: Could you repeat the
 6 question, please?
 7 BY MR. PERL:
 8 Q. I'll just rephrase it for you.
 9 Do you believe that because this is a
 10 fitness hearing, Lincoln Towing isn't entitled
 11 to an investigation before you determine if
 12 they have violated the ICC rules?
 13 MS. PARKER-OKOJIE: Objection to the
 14 rephrased question as well for the same
 15 reasons.
 16 MR. PERL: You can answer that
 17 question.
 18 THE WITNESS: No.
 19 BY MR. PERL:
 20 Q. They should be entitled to an
 21 investigation, shouldn't they?
 22 A. Sure.
 23 Q. Kind of a rush to judgment just to
 24 sit there, have someone hand you what they

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1 believe are inconsistencies, then you look at a
 2 computer screen that you didn't even create and
 3 then say okay, I think these are violations?
 4 MS. PARKER-OKOJIE: Objection,
 5 irrelevant, form and calls for a legal
 6 conclusion.
 7 MR. PERL: You think that's fair?
 8 BY MR. PERL:
 9 Q. Do you think it's fair to make a
 10 judgment on Lincoln Towing based upon the fact
 11 that you looked at a computer screen and a
 12 24-hour tow sheet that someone else showed you
 13 is inconsistent without doing an investigation?
 14 Do you think that's fair?
 15 A. I didn't make a judgment.
 16 MS. PARKER-OKOJIE: Same objection to
 17 relevance, form and calling for a legal
 18 conclusion.
 19 THE WITNESS: I didn't make a
 20 judgment, Counsel.
 21 MR. PERL: So --
 22 THE WITNESS: I reviewed data and had
 23 conclusions of that data.
 24 BY MR. PERL:

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1 Q. What's your conclusions?
 2 A. As I stated before.
 3 Q. Which is?
 4 A. There were some inconsistencies based
 5 on whether or not having a contract, having a
 6 contract expired and so on and so forth as I
 7 previously answered.
 8 Q. So there were some inconsistencies,
 9 correct?
 10 A. Yes.
 11 Q. Did those inconsistencies lead you to
 12 form a belief whether or not Lincoln Towing is
 13 fit to hold a license?
 14 A. No.
 15 Q. Did those inconsistencies
 16 definitively tell you that a citation should be
 17 written?
 18 A. No.
 19 Q. In fact, as you sit here today you
 20 don't know whether or not a citation would be
 21 written on those inconsistencies, do you?
 22 MS. PARKER-OKOJIE: Objection to
 23 relevance and calling for a legal conclusion.
 24 THE WITNESS: Correct.

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1 BY MR. PERL:
 2 Q. Because if an investigation shows
 3 that that information isn't correct, then you
 4 wouldn't write a citation, would you?
 5 MS. PARKER-OKOJIE: Relevance
 6 objection.
 7 THE WITNESS: No.
 8 BY MR. PERL:
 9 Q. Do you think it would be prudent
 10 before rushing to judge Lincoln Towing based
 11 upon these inconsistencies to do an
 12 investigation? You think they're owed that?
 13 MS. PARKER-OKOJIE: Objection to
 14 relevance as to what Lincoln Towing is owed and
 15 also to legal conclusion.
 16 MR. PERL: You're objecting to what
 17 Lincoln Towing's owed? Okay.
 18 You can answer the question.
 19 THE WITNESS: Yes.
 20 BY MR. PERL:
 21 Q. You think they're owed that?
 22 MS. PARKER-OKOJIE: Same objection.
 23 THE WITNESS: I've already answered
 24 that. You asked it twice.

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1 BY MR. PERL:
2 Q. I know, but counsel's talking.
3 Is the answer yes?
4 A. Yes.
5 Q. Is there any way for you as you sit
6 here today to prove to me what screens you
7 looked at on Friday?
8 A. No.
9 Q. You didn't make copies of them and
10 save them, did you?
11 A. No.
12 MR. PERL: Give me one minute. I
13 think I'm just about done.
14 (Whereupon a short
15 recess was had.)
16 MR. PERL: Nothing further at this
17 time. Now, I would ask that you would
18 hopefully give us the same courtesy we gave you
19 of waiving signature today, because we need
20 these documents printed as soon as possible.
21 MS. PARKER-OKOJIE: Sure. We don't
22 have a problem with that. We just have a few
23 questions to ask.
24 MR. PERL: Oh, yeah. Sorry.

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1 MS. PARKER-OKOJIE: That's fine. We
2 can do that to expedite the transcript.
3 E X A M I N A T I O N
4 BY MS. PARKER-OKOJIE:
5 Q. Sergeant Sulikowski, there were a
6 number of questions to you about what you did
7 on this past Friday, and just for the record, I
8 don't have the calendar in front of me, just so
9 we could talk about the date, it was
10 April 26 -- or I'm sorry, April 28. Is that --
11 when we say Friday, is it your understanding
12 that Friday was April 28?
13 A. Yes.
14 Q. Okay. What did you do on April 28 at
15 the ICC offices?
16 A. I reviewed the 24-hour tow sheets
17 from both Lincoln locations. There were
18 portions of it for me to double check
19 information, and that's what I did in MCIS.
20 Q. Can you explain a little bit about
21 the process of going into MCIS? What does that
22 involve?
23 A. MC --
24 Q. To clarify the information.

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1 A. Yeah, MCIS is a computerized screen
2 that lists information for not only relocators,
3 but motor carriers and safety towers and so on
4 and so forth. So you actually go into
5 relocation towing and you do a search for
6 property addresses and you type in the specific
7 address from which a tow has occurred from, and
8 the information will pop up as to who holds a
9 contract on it, who had previously owned a
10 contract on it, you know, what dates those
11 were, you know, if it was cancelled or not, who
12 the property owner or the management company
13 is, what their phone number is, all that
14 information is listed in that screen.
15 Q. So earlier counsel for Lincoln Towing
16 asked you if you did anything to authenticate
17 the documents, and authenticate is kind of a
18 legalese word for checking to see if the
19 information is what it says it is.
20 Did you do anything to check to see
21 if information in Exhibits 2 through 7 was what
22 it said it was?
23 A. I'm not sure I understand your
24 question.

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1 Q. Sure. I can rephrase it.
2 Do you understand what it means to
3 check something to see if the information is
4 matching or accurate?
5 A. Again, I don't understand. Are you
6 asking me to check an exhibit against what's in
7 the screen shot?
8 Q. No, I'm asking you your understanding
9 of authenticate. What is your understanding of
10 what that means when someone asks you if you
11 authenticated something?
12 MR. PERL: I'm going to object. It
13 calls for a legal conclusion.
14 MS. PARKER-OKOJIE: You can answer.
15 BY MS. PARKER-OKOJIE:
16 Q. What does that mean to you when
17 someone says did you authenticate something?
18 A. I'm not sure. You know, the
19 information that -- I didn't fabricate the
20 information. The information is what I saw on
21 that screen, okay. I did not input it. I
22 believe it to be valid, because most of that
23 information is entered by the relocator
24 themselves.

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1 Q. Is there anything during the time
2 that you spent at the ICC office on Friday that
3 led you to believe that the information was not
4 accurate, meaning the information on the
5 printout?
6 A. No.
7 MS. PARKER-OKOJIE: I don't have any
8 other questions for Sergeant Sulikowski at this
9 time -- I'm sorry, I just want to confer with
10 counsel.
11 MR. PERL: Go ahead. I'm doing the
12 same.
13 (Whereupon a short
14 recess was had.)
15 EXAMINATION
16 BY MR. PERL:
17 Q. So Sergeant, you looked at
18 information on the exhibits, and I think
19 Counsel was asking did you authenticate it.
20 Now, that means a lot of things to different
21 people. Actually in our profession it means
22 something way different than in your profession
23 being a police officer, but authenticate means
24 did you attempt to ascertain whether that

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1 information is accurate or not, correct?
2 A. I don't know.
3 Q. Well, I'm not sure --
4 A. I don't know the definition of
5 authenticate.
6 Q. When you were answering Counsel, what
7 were you answering when she said did you
8 authenticate it?
9 MS. PARKER-OKOJIE: Oh, Counsel, just
10 to clarify, I didn't ask him if he
11 authenticated it. I was asking him what his
12 understanding of authenticate meant from your
13 question about did he do anything to
14 authenticate the documents. I just wanted to
15 kind of demystify that. I was not asking him
16 if he authenticated. I said did he check to
17 see if the information was accurate and if
18 there was anything that led him to believe that
19 it was not.
20 BY MR. PERL:
21 Q. So did you check to see if the
22 information was accurate?
23 A. With who?
24 Q. I'm just following up on what counsel

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1 just said. She said she asked you if you did
2 anything to see if the information was
3 accurate. Did you?
4 A. My answer is I believe the
5 information that I see on the screen at the
6 time I see it is accurate.
7 Q. Okay. So let me show you Exhibit 6.
8 Take a look at Exhibit 6, first page. We've
9 already been through this ad nauseam; you
10 didn't create this document, correct?
11 A. Yes.
12 Q. But if this information was on a
13 screen, you would assume it's accurate,
14 correct?
15 A. Yes.
16 Q. Take a look at the information for --
17 it's about 24 down where it says -- I'm sorry,
18 where it says Kenneth Ubay. You see where it
19 says Kenneth Ubay?
20 A. Yes.
21 Q. Look at the second information for
22 Kenneth Ubay. When was his ACT date?
23 A. It's listed as 1899.
24 Q. So that's accurate, right? Must be,

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1 because it was on the screen.
2 A. I guess it must be.
3 Q. So you think Kenneth Ubay --
4 A. No, I do not.
5 Q. So you don't think that's accurate,
6 do you?
7 A. I think that's a typo.
8 Q. A typo as opposed to saying it's not
9 accurate. Is that the same thing? Is the
10 information accurate, yes or no?
11 A. No.
12 Q. Are there any other bits of
13 information on any of these documents that
14 aren't accurate, or did you even look at them
15 to determine that before you said they're
16 accurate?
17 A. I looked at it.
18 Q. Look at the next page. Look at Bobby
19 Gene Hall, about two-thirds of the way down.
20 When did Bobby Gene Hall get activated as an
21 operator?
22 A. On Page 2?
23 Q. It's Page 2 of 14, yeah. It's about
24 two-thirds of the way down.

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1 A. 1899.
 2 Q. 1899. Very old person, correct?
 3 A. Yes.
 4 Q. Or this information isn't accurate,
 5 is it?
 6 A. Correct.
 7 Q. It's not accurate, right? So what
 8 else on here isn't accurate?
 9 A. Yeah, there are other dates.
 10 Q. And that information is actually on
 11 the computer screen, isn't it, the 1899?
 12 A. Yes, it is.
 13 Q. So certainly that's not accurate, is
 14 it?
 15 A. No, it's not.
 16 Q. What other information isn't
 17 accurate? Tell you what, let's look at the
 18 next page, Page 3 of 14. Page 3 of 14, let's
 19 see how many times we can find 1899 on there.
 20 Second one, John Speropulos. When was John
 21 Speropulos activated?
 22 A. 1899.
 23 Q. And how about James Murillo?
 24 A. 1899.

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1 Q. And how about John Sporrer?
 2 A. 1899.
 3 Q. Do you believe that information's
 4 accurate?
 5 A. No.
 6 Q. It isn't, right?
 7 And keep going down, William
 8 Hunter -- I'm sorry, go back up. Andrew Demma,
 9 when did Andrew Demma get activated?
 10 A. 1899.
 11 Q. How about Jack Hatfield?
 12 A. Okay. I will stipulate to all these
 13 1899 dates.
 14 Q. Couple more. Bear with me. Jack
 15 Hatfield. And by the way, you can't stipulate.
 16 It would have to be your attorney, but Jack
 17 Hatfield, 1899, correct?
 18 A. Yes.
 19 Q. And how about William Hunter; 1899,
 20 correct?
 21 A. Yes.
 22 Q. How about Patrick Daniels at the
 23 bottom of the page, 1899, correct?
 24 A. Yes.

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1 Q. Go to the next page, Page 4, Steven
 2 Bieniek, 1899, correct?
 3 A. Yes.
 4 Q. Keep going down. How about Leonard
 5 Hayes; 1899, correct?
 6 A. Yes.
 7 Q. Keep going down -- so all of that
 8 information is incorrect, isn't it?
 9 A. Those dates are.
 10 Q. Well, that's definitely incorrect,
 11 right? The dates are definitely incorrect.
 12 Nobody that's working at Lincoln got activated
 13 in 1899, did they?
 14 A. No.
 15 Q. And this is the same information and
 16 screen you looked at that you relied upon to
 17 make your determinations, isn't it?
 18 A. Yes.
 19 Q. Yet you did no investigation to make
 20 sure the information you looked at was
 21 accurate, did you?
 22 A. I have already answered that, yes.
 23 Q. So I ask you one more time, is the
 24 information on the screen that you look at

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1 accurate?
 2 A. No.
 3 MR. PERL: Nothing further.
 4 MR. BARR: We have nothing else.
 5 MR. PERL: Okay. Signature?
 6 MR. BARR: Waive.
 7 MS. PARKER-OKOJIE: We'll waive.
 8 MR. PERL: Great. Thank you very
 9 much for your time.
 10
 11 FURTHER DEPONENT SAITH NOT...
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<p>1 2 STATE OF ILLINOIS)) Ss. 3 COUNTY OF C O O K) 4 5 I, Carol A. Dorencz, a Certified 6 Shorthand Reporter for the State of Illinois, 7 do hereby certify: 8 That previous to the commencement of 9 the examination of the witness, the witness was 10 duly sworn to testify the whole truth 11 concerning the matters herein; 12 That the foregoing deposition 13 transcript was reported stenographically by me, 14 was thereafter reduced to typewriting under my 15 personal direction, and constitutes a true 16 record of the testimony given and the 17 proceedings had; 18 That the said deposition was taken 19 before me at the time and place specified; 20 That the said deposition was 21 adjourned as stated herein; 22 That I am not a relative or employee 23 or attorney or counsel, nor a relative or 24 employee of such attorney or counsel for any of</p> <p style="text-align: right;">279</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: right;">281</p>
<p>1 the parties hereto, nor interested directly or 2 indirectly in the outcome of this action. 3 IN WITNESS WHEREOF, I do hereunto set 4 my hand and affix my seal of office at Chicago, 5 Illinois, this 7th day of May, 2017. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: center;">_____ Carol A. Dorencz License No. 084-002632</p> <p style="text-align: right;">280</p>	

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EXHIBIT 4



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

C E R T I F I C A T E

I, Scott Morris, do hereby certify that I am the Transportation Customer Service Supervisor in the Processing and Information Section of the Illinois Commerce Commission of the State of Illinois and keeper of the records and seal of said Commission with respect to matters governed by the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-100 *et seq.*, and its administrative rules.

I further certify that the above and foregoing is a true, correct, and complete copy of the following:

1. Screen print from the Illinois Commerce Commission's Motor Carrier Information System ("MCIS") electronic database pertaining to the relocation towing contract status for the property at 223 Custer Avenue, Evanston, IL 60202.
2. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 834 West Leland Avenue, Chicago, IL 60640.
3. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 850 West Eastwood Avenue, Chicago, IL 60640.
4. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1415 West Morse Avenue, Chicago, IL 60626.
5. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1415 West Morse Avenue, Chicago, IL 60626.

6. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 1730 West Terra Cotta Place, Chicago, IL 60614.
7. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2001 West Devon Avenue, Chicago, IL 60659.
8. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2245 North Halsted Street, Chicago, IL 60614.
9. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2454 West Peterson Avenue, Chicago, IL 60659.
10. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2626 North Lincoln Avenue, Chicago, IL 60614.
11. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2801 West Devon Avenue, Chicago, IL 60659.
12. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2801 West Devon Avenue, Chicago, IL 60659.
13. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 2828 North Broadway, Chicago, IL 60657.
14. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3214 North Kimball Avenue, Chicago, IL 60618.
15. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3620 North Clark Street, Chicago, IL 60613.

16. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3700 North Broadway Street, Chicago, IL 60613.
17. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3700 North Broadway Street, Chicago, IL 60613.
18. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 3923 North Clarendon Avenue, Chicago, IL 60613.
19. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4102 North Sheridan Road, Chicago, IL 60613.
20. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4420 North Winchester Avenue, Chicago, IL 60640.
21. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 4801 North Ravenswood Avenue, Chicago, IL 60640.
22. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5440 North Clark Street, Chicago, IL 60640.
23. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5440 North Clark Street, Chicago, IL 60640.
24. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5501 North Kedzie Avenue, Chicago, IL 60625.
25. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5623 North Clark Street, Chicago, IL 60660.
26. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5713 North Kenmore Avenue, Chicago, IL 60660.

27. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5754 North Western Avenue, Chicago, IL 60659.
28. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 5853 North Artesian Avenue, Chicago, IL 60659.
29. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6105 North Broadway Street, Chicago, IL 60660.
30. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6550 North Sheridan Road, Chicago, IL 60626.
31. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 6700 North Greenview Avenue, Chicago, IL 60626.
32. Screen print from the Illinois Commerce Commission's MCIS electronic database pertaining to the relocation towing contract status for the property at 7000 N. Ridge, Chicago, IL 60645.

Given under my hand and seal of said Illinois Commerce Commission at Springfield, Illinois, on this 10th day of May 2017.



Scott Morris
Transportation Customer Service Supervisor
Processing and Information Section



EXHIBIT 5

Operator	RTV-O #	Ineligible Period Start- End	Bates Stamped Pages	Total Tows
Phillips	4394	8/17/15 - 2/15/16	73; 74; 75; 76; 77 (3); 84; 85(2); 86(2); 87; 88; 89; 93(2); 94; 106 (3); 107(4); 108(2); 109; 111; 112; 113; 114 (3); 119(2); 126 (2); 127; 130; 140(2); 147; 149 (2); 151(2); 152; 153; 154(2); 156(3); 157; 163 (4); 164; 168 (3); 174; 177(2); 178; 182; 186; 194; 195; 196; 197; 198; 204; 212; 214(2); 215; 217 (2); 218; 219(2); 220(2); 221; 226; 227(2); 230; 237 (2); 239 (2); 240; 241; 245; 247; 248; 249 (2); 250; 251(2); 257; 258(2); 263(2); 266; 267; 276; 277 (3); 278(2); 279 (3); 280 (3); 282 (2); 283(3); 284; 285; 286 (2); 292 (2); 310 (4); 311; 314(2); 315; 327 (2); 328; 332	147

Operator	RTV-O #	Ineligible Period Start- End	Bates Stamped Pages	Total Tows
Negron	2515	11/18/15 - 6/27/16	145;161; 266	3
Solano	4190	2/14/16 - 4/22/16	240; 241; 244(3); 245; 246; 248;	9

Address	Status	Total Tows	Bate Stamped Pages (000)
223 N. Custer	Lot Under Contract w/ Another Relocator	4	291; 313; 347; 424
834 W. Leland	Towed Prior to E-file date. E-filed: 3/24/16	2	352; 393
850 W. Eastwood	Towed Prior to E-file date. E-filed: 3/9/17	3	269; 332; 445
1415 W. Morse	Patrol from Call	3	330; 370; 427
1465 W. Webster	Lot Under Contract w/ Another Relocator	2	25; 26
1730 W. Terra Cotta	Lot Under Contract w/ Another Relocator	3	560; 625; 643
2001 W. Devon	Towed Prior to E-file date. Efiled: 12/14/15	18	6; 18; 37; 60; 72; 95; 115; 130; 132; 143; 153; 171; 244; 326
2245 N. Halsted	Lot Under Contract w/ Another Relocator	1	13
2454 W. Peterson	Patrol from Call	2	429; 506
2626 N. Lincoln	Towed Prior to E-file date. Efiled: 12/7/16	1	36
2801 W. Devon	Towed Prior to E-file date. Efiled: 4/12/16	75	24; 61(2); 62(6); 63(6); 67(2); 85; 117; 120; 150; 154(4); 164(3); 197; 199; 224; 227; 239 (2); 242; 243; 265; 266; 267; 269; 301; 324; 329; 338; 348(2); 374; 380; 383;384; 404; 413; 419; 432; 436; 437(3); 441; 442; 443; 447; 453; 457; 461; 464; 472(2); 473(3); 477; 558; 565; 598
2828 N. Broadway	Patrol from Call	2	56; 399
3214 N. Kimball	Towed After Cancellation: Contract Cancelled: 2/19/2009	1	431
3620 N. Clark	Lot Under Contract w/ Another Relocator	33	21; 61(2); 91; 150; 225; 227(2); 231(2); 284; 285; 380; 402; 408(2); 414; 452(2); 454; 466; 475; 489(1); 490(3); 544; 574; 576(2); 595(2); 609
3700 N. Broadway	Towed Prior to E-file date. E-filed: 3/18/16	8	9; 46; 138; 496(2); 574(2); 631
3923 N. Clarendon	Towed Prior to E-file date. E-filed: 10/7/16	4	128; 143; 463; 494
4100 W. Lawrence	Towed After Cancellation. Contract Cancelled: 11/9/2009	6	137; 452; 467; 470; 474; 628
4102 N. Sheridan	Towed After Cancellation. Contract Cancelled: 10/27/2009	21	11; 14; 136; 140; 148; 172; 174; 184; 211; 238; 278; 296; 315; 358; 421; 455; 535; 650; 658; 662; 668
4420 N. Winchester	Patrol from Call	1	349
4801 N. Linden	Towed Prior to E-file date. E-filed: 12/3/15	6	352(2); 353; 356; 357; 360
4801 W. Ravenswood	Towed Prior to E-file date. E-filed: 8/11/16	2	10; 72
5440 N. Clark	Lot Under Contract w/ Another Relocator	10	58; 66(2); 109(2); 195; 519; 560; 601; 628
5501 N. Kedzie	Lot Under Contract w/ Another Relocator	5	541; 542; 597; 610(2)
5623 N. Clark	Lot Under Contract w/ Another Relocator	6	59; 266; 365; 377; 441; 476
5713 N. Kenmore	Lot Under Contract w/ Another Relocator	5	31; 55; 99; 119; 140
5754 N. Western	Towed Prior to E-file date. E-filed: 3/12/17	5	90(3); 91; 455
5853 W. Artesian	Patrol from Call	1	574
6105 N. Broadway	Towed Prior to E-file date. E-filed: 1/9/17	44	18; 19; 23(5); 67; 77; 89; 95; 96; 105; 127; 130(2); 146; 170; 174; 190(2); 197; 238 (2); 296; 299 (2); 317; 326; 358; 375; 385; 401; 414; 418; 424; 431; 442; 497; 502; 529; 560; 587; 609
6550 N. Sheridan	Towed Prior to E-file date. E-filed: 10/21/16	3	3; 18; 22
6700 N. Greenview	Lot Under Contract w/ Another Relocator	10	6(2); 59; 82; 303; 403; 528; 577; 670; 671
7000 N. Ridge	Towed Prior to E-file date. E-filed: 1/4/16	1	428

Address	Notes	Total Tows	Bate Stamped Pages (000)
110 W. Grand	Towed After Cancellation; Contract Canceled: 4.17.2007	1	210
111 S. Halsted	Towed Prior to E-File Date; E-Filed: 4.3.2016	10	2; 47; 135(2); 136; 137; 144(2); 145; 146
225 N. Columbus	Towed After Cancellation; Contract Canceled: 1.15.2016	3	122; 208; 220
344 N. Canal	Lot Under Contract w/ Another Relocator	2	142; 276
345 N. Canal	Lot Under Contract w/ Another Relocator	1	11
400 E. South Water	Lot Under Contract w/ Another Relocator	1	20
405 N. Wabash	Towed After Cancellation; Contract Canceled: 2.11.2010	3	17; 130; 173
440 N. La Salle	Lot Under Contract w/ Another Relocator	1	1
800 N. Kedzie	Towed After Cancellation; Contract Canceled: 6.27.2015	1	78
831 N. Damen	Towed Prior to E-File Date; E-Filed:12.15.2015	1	151
1041 N. Harding	Towed Prior to E-File Date; E-filed: 9.2.2015	1	41
1400 N. Lake Shore Drive	Lot Under Contract w/ Another Relocator	1	12
1801 N. St. Louis	Towed Prior to E-File Date; E-filed: 8.8.2016	2	70; 261; 267
1900 N. Austin	Towed After Cancellation; Contract Canceled:11.6.2009	34	76; 95; 164; 165; 190; 206; 208; 216(9); 217(8); 236(2); 254(7); 264
1919 N. Cicero	Patrol from Call	1	136
2002 S. Wentworth	Patrol from Call	8	127; 139; 159; 181; 187; 194; 198; 272(2)
2030 S. State	Lot Under Contract w/ Another Relocator	1	12
2111 S. Clark	Towed Prior to E-File Date; E-Filed: 7.12.2016	12	121; 199; 202; 206; 207(2); 209; 211; 214; 232; 239; 240; 243
2113 N. Spaulding	Towed Prior to E-File Date; E-Filed: 2.2.2016	2	221(2)
2201 S. Halsted	Towed After Cancellation; Contract Canceled: 2.11.2010	1	45
2233 S. Canal	Lot Under Contract w/ Another Relocator	1	227
2249 N. Milwaukee	Lot Under Contract w/ Another Relocator	1	44
2421 W. Madison	Lot Under Contract w/ Another Relocator	1	133
2451 N. Clybourn	Towed Prior to E-File Date; E-Filed: 3.24.16	1	268
2600 S. Michigan	Towed After Cancellation; Contract Canceled: 2.11.2010	6	209; 234; 270; 271(2); 276
2734 S. Wentworth	Patrol from Call	3	90;122; 195; 253; 258
2750 W. Grand	Towed Prior to E-File Date; E-Filed: 9.22.2015	6	6(4); 27; 36
2801 N. Linder	Towed Prior to E-File Date; E-Filed: 3.18.16	2	262; 268
2805 N. Linder	Towed Prior to E-File Date; E-Filed: 3.18.2016	8	31 (3); 36; 48; 55(2); 59
2805 N. Lotus	Towed Prior to E-File Date; E-Filed: 3.24.2016	3	34; 35; 53
2844 W. Armitage	Towed Prior to E-File Date; E-filed: 8.2.2016	1	214
2908 W. Fullerton	Towed Prior to E-File Date; E-filed: 9.8.2015	1	51
3100 N. Central	Towed After Cancellation; Contract Canceled: 5.24.2015	36	3; 4(4); 23(3); 53; 60; 75; 83(2); 93; 118(2);174; 212; 222(2); 227(2); 228(7); 230(3); 243; 250; 257(2); 264; 265
3901 W. Madison	Towed After Cancellation; Contract Canceled: 8.24.2013	1	204
4645 W. Belmont	Patrol from Call	1	103; 271
4946 S. Drexel	Towed Prior to E-File Date; E-filed: 11.3.2015	1	108
5000 W. Madison	Patrol from Call	5	98 ;196; 209; 234; 238
5200 W. North	Lot Under Contract w/ Another Relocator	1	37
5531 W. North	Lot Under Contract w/ Another Relocator	1	30
7118 W. Grand	Towed After Cancellation; Contract Canceled: 6.18.2012	3	230(3)

EXHIBIT 6



Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500
Fax: 312-243-0806
perlrandgoodsnyder.com

June 9, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska
Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

TRANSPORTATION

JUN 12 2017

DIVISION

T17-84

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC

Ms. Kowalska:

This is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*, for a non-commercial purpose, which is being made upon the **Illinois Commerce Commission** (the "ICC"). I request copies of the following documents:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding e-filing of contracts through eRelocator and/or into the MCIS database.

In the interest of expediency, and to minimize the research and/or duplication burden on your staff, please send records electronically. Therefore, I am requesting that you waive all applicable fees associated with this request as this request is not for a commercial purpose, and because the document is "maintained in an electronic format," as described by 5 ILCS 140/6, and is requested in the same electronic format. See 5 ILCS 140/6.



PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3. Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

From: [Vlad Chirica](#)
To: [Kowalska, Katarzyna](#)
Cc: [Allen Perl](#)
Subject: [External] FOIA Request
Date: Friday, June 9, 2017 6:16:47 PM
Attachments: [2017-06-09 FOIA Request.pdf](#)

Ms. Kowalska:

Please see attached Freedom of Information Act request dated June 9, 2017.

Thanks,
Vlad

Vlad V. Chirica
Associate Attorney
PERL & GOODSNYDER, LTD.
14 North Peoria Street
Suite 2-C
Chicago IL 60607
Phone: 312-243-4500
Fax: 312-243-0806
vchirica@perlandgoodsnyder.com
www.perlandgoodsnyder.com

This communication is intended only for the individual or entity to whom it is addressed. It may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law.

Dissemination, distribution or copying of the communication by anyone other than the intended recipient, or a duly designated employee or agent of such recipient, is prohibited.

EXHIBIT 7

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 19, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xis or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

With respect to paragraphs 2 and 6 of your request, the Illinois Commerce Commission is extending the time to respond to those parts of your request by 5 business days. Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. 5 ILCS 140/3(e). The Illinois Commerce Commission is extending the time to respond to your request by 5 business days for the following reason(s):

- The request is couched in categorical terms and requires an extensive search for the records responsive to it, 5 ILCS 140/3(e)(iii).
- The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions, 5 ILCS 140/3(e)(v).

With respect to paragraphs 1, 3, 4 and 5 of your request, please be advised that a preliminary search of the Commission's records revealed that there were approximately 1,921 pages of responsive documents. As a result, the Commission is treating those parts of the request as voluminous.

You must respond to the Commission within 10 business days after June 19, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 8

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 26, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xis or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

With respect to paragraphs 2 and 6 of your request, please be advised that a preliminary search of the Commission's records revealed that there are approximately 1,064 emails, of single or multiple pages each and potentially with attachments, responsive to your search query. Also, there are approximately 38 additional pages of documents responsive to paragraph 2. As a result, the Commission is treating those parts of the request as voluminous.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

You must respond to the Commission within 10 business days after June 26, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 9



PERL & GOODSNYDER, LTD.

ATTORNEYS & COUNSELORS AT LAW

14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500

Fax: 312-243-0806

perlanguoodsnyder.com

Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

June 29, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska

Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC T17-84

Ms. Kowalska:

This correspondence is in reply to your June 19, 2017 response, in addition to your June 26, 2017 response. As you are aware, this is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the "FOIA Act"), for a non-commercial purpose, which is being made upon the **Illinois Commerce Commission** (the "ICC").

The FOIA Act specifically addresses electronic records, and created the authority to charge fees. The statute reads as follows:

If a voluminous request is for electronic records and those records are not in a portable document format (PDF), the public body may charge up to \$20 for not more than 2 megabytes of data, up to \$40 for more than 2 but not more than 4 megabytes of data, and up to \$100 for more than 4 megabytes of data. If a voluminous request is for electronic records and those records are in a portable document format, the public body may charge up to \$20 for not more than 80 megabytes of data, up to \$40 for more than 80 megabytes but not more than 160 megabytes of data, and up to \$100 for more than 160 megabytes of data. If the responsive electronic records are in both a portable document format and not in a portable document format, the public body may separate the fees and charge the requester under both fee scales. 5 ILCS 140/6(a-5).

Accordingly, please produce the documents requested, subject to the statutory fee guidelines set forth in the FOIA Act. Additionally, please provide an accounting of all fees, costs, and personnel hours in connection with the request for public records, as required by the FOIA Act. 5 ILCS 140/6(a-5).

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3.6(a)(5). Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

EXHIBIT 10

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

July 7, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

This letter is in response to your reply dated June 29, 2017. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. As a result, since the request continues to be a voluminous request and is unduly burdensome, the request is denied.

According to Section 140/3.6(c) of the Illinois Freedom of Information Act ("Act"),

If a request continues to be a voluminous request following the requester's response under subsection (b) of this Section or the requester fails to respond, the public body shall respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to the public body's notification under this subsection. The response shall: (i) provide an estimate of the fees to be charged, which the public body may require the person to pay in full before copying the requested documents; **(ii) deny the request pursuant to one or more of the exemptions set out in this Act;** (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested.

5 ILCS 140/3.6(c) (emphasis added).

Furthermore, pursuant to Section 1 of the Act "[t]his Act is not intended to . . . allow the requests of a commercial enterprise to unduly burden public resources, or to disrupt the duly-undertaken work of any public body." 5 ILCS 140/1.

Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

on the public body outweighs the public interest in the information. **Before invoking this exemption**, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision.

5 ILCS 140/3(g) (emphasis added).

In its responses dated June 19, 2017 and June 26, 2017, the Illinois Commerce Commission ("Commission") extended the opportunity to you to reduce the request to manageable proportions by asking you to specify whether you would like to amend the request in such a way that the Commission would no longer treat the request as a voluminous request. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. Given the refusal to amend your request to manageable proportions, the Commission is treating your request as a voluminous request that is unduly burdensome for the Commission to comply with.

Estimating on average of 7 minutes for reviewing and redacting each e-mail, it will take approximately 21 days to review and redact just the 1,064 e-mail messages. There are an additional 1,959 pages of responsive documents that also require review and redaction. Estimating on average of 4 minutes for reviewing and redacting each page, it will take approximately 22 days to review and redact just the 1,959 pages. Assuming that Staff of the Office of Transportation Counsel ("OTC") works on nothing else but reviewing and redacting the responsive documents and e-mails, OTC would have to completely cease performing its every day functions for approximately two months. As a result your request is denied.

Section 11 of the Act provides you with the right to judicial review of the denial of your request by filing a lawsuit in the State Circuit Court. 5 ILCS 140/11. You also have the right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Springfield, Illinois 62706

Phone:

1-877-299-FOIA

(1-877-299-3642)

Fax: (217) 782-1396

E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 5

STATE OF ILLINOIS

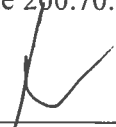
ILLINOIS COMMERCE COMMISSION

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on the **26th day of July, 2017**, the Respondent, **Protective Parking Service Corporation d/b/a Lincoln Towing Service**, by and through its attorneys, **PERL & GOODSNYDER, LTD.**, filed its **EMERGENCY MOTION TO STAY HEARING**, with the Office of the Processing and Information Section by mailing a copy to 527 East Capitol Avenue, Springfield, Illinois 62701 pursuant to 83 Ill. Adm. Code 200.70.



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

CERTIFICATE OF SERVICE

TO: See attached Service List.

I, an attorney under oath, hereby certify under penalties as provided by law pursuant to §1-109 of the Illinois Code of Civil Procedure, that I caused the following documents of the Defendant, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE:**

- (1) **Notice of Filing**
- (2) **Certificate of Service**
- (3) **Service List**
- (4) **Emergency Motion to Stay Hearing**

to be served upon each attorney to whom directed at their respective addresses via:

 X **Via Hand Delivery**, by tendering the same in a properly addressed, sealed and secure envelope, before 1:30 P.M. on the **26th day of July, 2017**.

 X **Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein with consent of the recipient where permissible under 83 Ill. Adm. Code 200.1050, before 11:59 P.M. on the **26th day of July, 2017**.

Respectfully submitted,

Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

SERVICE LIST

ATTORNEYS FOR STAFF OF THE ICC:

Benjamin J. Barr

Transportation Counsel
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601
bbarr@icc.illinois.gov

ATTORNEYS FOR RESPONDENT:

Allen R. Perl

Vlad V. Chirica

Perl & Goodsnyder, Ltd.
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

CLERK OF THE ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission

Processing and Information Section
527 East Capitol Avenue
Springfield, Illinois 62701
via U.S. MAIL ONLY

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of: :
: :
Protective Parking Service Corporation d/b/a :
Lincoln Towing Service, : 92 RTV-R Sub 17
Respondent. : 100139 MC
: :
Hearing on fitness to hold a Commercial Vehicle : Honorable Latrice Kirkland-Montaque
Relocator's License pursuant to Section 401 of :
the Illinois Commercial Relocation of :
Trespassing Vehicles Law, 625 ILCS 5/18a-401. :

EMERGENCY MOTION TO STAY HEARING

NOW COMES the Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, by and through its attorneys, PERL & GOODSNYDER, LTD., and pursuant to Section 200.500, and Section 200.560 of the Illinois Commerce Commission ("Commission") Rules of Practice ("Rules"), 83 Ill. Adm. Code 200.10 *et seq.*, respectfully requests that the Administrative Law Judge stay the hearing in the above captioned matter pending resolution of the Verified Complaint For Declaratory And Injunctive Relief currently pending in the Circuit Court of Cook County, Chancery Division. In support of this Motion, Respondent states as follows:

1. On or about June 1, 2017, Staff called Sergeant Sulikowski to the witness stand to testify regarding the 24-tow sheets and the recently disclosed reports from MCIS.
2. For the first time since February 24, 2016, Staff identified alleged violations to Respondent through Sergeant Sulikowski live testimony in open court, with no opportunity for Respondent to review the inconsistencies prior to June 1, 2017, and no opportunity to subpoena knowledgeable parties, obtain records, or otherwise conduct discovery to refute the claims.

3. In order to refute Staff's allegations, on June 9, 2017, Respondent submitted a Freedom of Information Act Records Request, seeking the following:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding e-filing of contracts through eRelocator and/or into the MCIS database.

Freedom of Information Act Records Request, T17-84, a true and accurate copy of which is attached hereto as **Exhibit 1**.

4. On or about June 19, 2017, the Illinois Commerce Commission demanded an additional 5 business days to respond to requests 2 and 6, and claimed that the remaining requests were "voluminous," consisting of approximately 1,921 pages of responsive documents. A true and accurate copy of the Illinois Commerce Commission's correspondence is attached hereto as **Exhibit 2**.

5. Thereafter, on or about June 26, 2017, the Illinois Commerce Commission sent additional correspondence, claiming that requests 2 and 6 were also "voluminous," consisting of approximately 1,064 emails, of single or multiple pages each, and potentially with attachments.

Additionally there were approximately 38 additional pages of documents responsive to paragraph 2. A true and accurate copy of the Illinois Commerce Commission's correspondence is attached hereto as **Exhibit 3**.

6. On or about June 29, 2017, Respondent agreed to pay the statutory fees for voluminous data requests, pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the "FOIA Act"). A true and accurate copy of Respondent's correspondence is attached hereto as **Exhibit 4**.

7. On or about July 7, 2017, the Illinois Commerce Commission denied the request in its entirety and produced no responsive documents whatsoever in response to Respondent's requests. A true and accurate copy of the Illinois Commerce Commission's correspondence is attached hereto as **Exhibit 5**.

8. The Illinois Commerce Commission directed Respondent to seek judicial review of the denial of the request by filing a lawsuit in the State Circuit Court, citing 5 ILCS 140/11.

9. Respondent sought the documents in the FOIA request in order to cross-examine evidence presented against it at the Fitness Hearing.

10. The documents Respondent seeks to cross-examine are ones that were (1) created after the February 1, 2017 document creation deadline; (2) created after Sergeant Sulikowski's March 15, 2017 deposition; and (3) tendered to Respondent on April 25, 2017, long after discovery had closed, and just a month before the Fitness Hearing was scheduled to commence.

11. The testimony Respondent seeks to cross-examine was proffered by Sergeant Sulikowski for the first time on June 1, 2017 at the Fitness Hearing, although he was unaware of the alleged violations at his deposition.

12. Respondent has not been afforded an opportunity to examine the evidence presented against it, or an opportunity to cross-examine the witness regarding the evidence.

13. The allegations revealed for the first time on June 1, 2017 involve alleged failures to have an electronically filed contract on the date of various purported tows.

14. Respondent requires the documents sought in its FOIA request, such as, for example, the request for an “Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner,” or the request for “Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database.”

15. The Illinois Commerce Commission’s refusal to comply with the FOIA Act is an attempt to deny Respondent its constitutional due process rights.

16. The Illinois Commerce Commission’s attempts to force Respondent to face trial by ambush clearly violate Respondent’s constitutional due process rights.

17. Accordingly, Respondent filed a Verified Complaint for Declaratory and Injunctive Relief in the Circuit Court of Cook County, Chancery Division, against the ILLINOIS COMMERCE COMMISSION, a Public Body; STEVEN L. MATRISCH, Deputy Executive Director of Transportation; and KATARZYNA ANNA KOWALSKA, Freedom of Information Officer for the Transportation Division of the Illinois Commerce Commission, a true and accurate copy of which is attached hereto as **Exhibit 6**.

18. In addition, Respondent filed a Motion and Memorandum in Support of Temporary Restraining Order and Preliminary Injunction, a true and accurate copy of which is attached hereto as **Exhibit 7**.

19. Proceeding to hearing prior to the Circuit Court ruling on Respondent's Verified Complaint for Declaratory and Injunctive Relief, and without an opportunity to examine the evidence against it, would grossly and unduly prejudice Respondent.

WHEREFORE, Respondent respectfully requests that the Administrative Law Judge enter an order pursuant to Ill. Admin. Code Section 200.500 and Ill. Admin. Code Section 200.560, stay the hearing in the above captioned matter pending resolution of the Verified Complaint For Declaratory And Injunctive Relief currently pending in the Circuit Court of Cook County, Chancery Division; and granting any such other and further relief as the Administrative Law Judge deems just and proper.

Respectfully submitted,



Allen R. Perl
Perl & Goodsnyder, Ltd.
Attorneys for Protective Parking Service
Corporation d/b/a Lincoln Towing Service

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Respondent
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

EXHIBIT 1



Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500
Fax: 312-243-0806
perlandgoodsnyder.com

June 9, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska
Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

TRANSPORTATION

JUN 12 2017

DIVISION

T17-84

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC

Ms. Kowalska:

This is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*, for a non-commercial purpose, which is being made upon the **Illinois Commerce Commission** (the "ICC"). I request copies of the following documents:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database.

In the interest of expediency, and to minimize the research and/or duplication burden on your staff, please send records electronically. Therefore, I am requesting that you waive all applicable fees associated with this request as this request is not for a commercial purpose, and because the document is "maintained in an electronic format," as described by 5 ILCS 140/6, and is requested in the same electronic format. See 5 ILCS 140/6.



PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3. Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

From: [Vlad Chirica](#)
To: [Kowalska, Katarzyna](#)
Cc: [Allen Perl](#)
Subject: [External] FOIA Request
Date: Friday, June 9, 2017 6:16:47 PM
Attachments: [2017-06-09 FOIA Request.pdf](#)

Ms. Kowalska:

Please see attached Freedom of Information Act request dated June 9, 2017.

Thanks,
Vlad

Vlad V. Chirica
Associate Attorney
PERL & GOODSNYDER, LTD.
14 North Peoria Street
Suite 2-C
Chicago IL 60607
Phone: 312-243-4500
Fax: 312-243-0806
vchirica@perlandgoodsnyder.com
www.perlandgoodsnyder.com

This communication is intended only for the individual or entity to whom it is addressed. It may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law.

Dissemination, distribution or copying of the communication by anyone other than the intended recipient, or a duly designated employee or agent of such recipient, is prohibited.

EXHIBIT 2

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 19, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xis or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

With respect to paragraphs 2 and 6 of your request, the Illinois Commerce Commission is extending the time to respond to those parts of your request by 5 business days. Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. 5 ILCS 140/3(e). The Illinois Commerce Commission is extending the time to respond to your request by 5 business days for the following reason(s):

- The request is couched in categorical terms and requires an extensive search for the records responsive to it, 5 ILCS 140/3(e)(iii).
- The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions, 5 ILCS 140/3(e)(v).

With respect to paragraphs 1, 3, 4 and 5 of your request, please be advised that a preliminary search of the Commission's records revealed that there were approximately 1,921 pages of responsive documents. As a result, the Commission is treating those parts of the request as voluminous.

You must respond to the Commission within 10 business days after June 19, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 3

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 26, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xis or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

With respect to paragraphs 2 and 6 of your request, please be advised that a preliminary search of the Commission's records revealed that there are approximately 1,064 emails, of single or multiple pages each and potentially with attachments, responsive to your search query. Also, there are approximately 38 additional pages of documents responsive to paragraph 2. As a result, the Commission is treating those parts of the request as voluminous.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

You must respond to the Commission within 10 business days after June 26, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 4



PERL & GOODSNYDER, LTD.

ATTORNEYS & COUNSELORS AT LAW

14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

Phone: 312-243-4500
Fax: 312-243-0806
perlandgoodsnyder.com

June 29, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska
Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC T17-84

Ms. Kowalska:

This correspondence is in reply to your June 19, 2017 response, in addition to your June 26, 2017 response. As you are aware, this is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the "FOIA Act"), for a non-commercial purpose, which is being made upon the **Illinois Commerce Commission** (the "ICC").

The FOIA Act specifically addresses electronic records, and created the authority to charge fees. The statute reads as follows:

If a voluminous request is for electronic records and those records are not in a portable document format (PDF), the public body may charge up to \$20 for not more than 2 megabytes of data, up to \$40 for more than 2 but not more than 4 megabytes of data, and up to \$100 for more than 4 megabytes of data. If a voluminous request is for electronic records and those records are in a portable document format, the public body may charge up to \$20 for not more than 80 megabytes of data, up to \$40 for more than 80 megabytes but not more than 160 megabytes of data, and up to \$100 for more than 160 megabytes of data. If the responsive electronic records are in both a portable document format and not in a portable document format, the public body may separate the fees and charge the requester under both fee scales. 5 ILCS 140/6(a-5).

Accordingly, please produce the documents requested, subject to the statutory fee guidelines set forth in the FOIA Act. Additionally, please provide an accounting of all fees, costs, and personnel hours in connection with the request for public records, as required by the FOIA Act. 5 ILCS 140/6(a-5).

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3.6(a)(5). Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

EXHIBIT 5

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

July 7, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

This letter is in response to your reply dated June 29, 2017. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. As a result, since the request continues to be a voluminous request and is unduly burdensome, the request is denied.

According to Section 140/3.6(c) of the Illinois Freedom of Information Act ("Act"),

If a request continues to be a voluminous request following the requester's response under subsection (b) of this Section or the requester fails to respond, the public body shall respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to the public body's notification under this subsection. The response shall: (i) provide an estimate of the fees to be charged, which the public body may require the person to pay in full before copying the requested documents; **(ii) deny the request pursuant to one or more of the exemptions set out in this Act;** (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested.

5 ILCS 140/3.6(c) (emphasis added).

Furthermore, pursuant to Section 1 of the Act "[t]his Act is not intended to . . . allow the requests of a commercial enterprise to unduly burden public resources, or to disrupt the duly-undertaken work of any public body." 5 ILCS 140/1.

Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

on the public body outweighs the public interest in the information. ***Before invoking this exemption***, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision.

5 ILCS 140/3(g) (emphasis added).

In its responses dated June 19, 2017 and June 26, 2017, the Illinois Commerce Commission ("Commission") extended the opportunity to you to reduce the request to manageable proportions by asking you to specify whether you would like to amend the request in such a way that the Commission would no longer treat the request as a voluminous request. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. Given the refusal to amend your request to manageable proportions, the Commission is treating your request as a voluminous request that is unduly burdensome for the Commission to comply with.

Estimating on average of 7 minutes for reviewing and redacting each e-mail, it will take approximately 21 days to review and redact just the 1,064 e-mail messages. There are an additional 1,959 pages of responsive documents that also require review and redaction. Estimating on average of 4 minutes for reviewing and redacting each page, it will take approximately 22 days to review and redact just the 1,959 pages. Assuming that Staff of the Office of Transportation Counsel ("OTC") works on nothing else but reviewing and redacting the responsive documents and e-mails, OTC would have to completely cease performing its every day functions for approximately two months. As a result your request is denied.

Section 11 of the Act provides you with the right to judicial review of the denial of your request by filing a lawsuit in the State Circuit Court. 5 ILCS 140/11. You also have the right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Springfield, Illinois 62706

Phone:

1-877-299-FOIA

(1-877-299-3642)

Fax: (217) 782-1396

E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel

Steve Matrisch – Deputy Executive Director

EXHIBIT 6

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN TOWING)
SERVICE, an Illinois corporation,)
))
Plaintiff,)
))
v.)
))
ILLINOIS COMMERCE COMMISSION, a)
Public Body; STEVEN L. MATRISCH, Deputy)
Executive Director of Transportation; and)
KATARZYNA ANNA KOWALSKA, Freedom)
of Information Officer for the Transportation)
Division of the Illinois Commerce Commission;)
))
Defendants.)

Case No.: 2017CH10152
CALENDAR/ROOM 06
TIME 00:00
Injunction

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

NOW COMES the Plaintiff, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE, an Illinois corporation (hereinafter referred to as "Plaintiff"), by and through its attorneys, PERL & GOODSNYDER, LTD., and hereby complains of the Defendants, the ILLINOIS COMMERCE COMMISSION, a Public Body (hereinafter referred to as the "ICC"); STEVEN L. MATRISCH, Deputy Executive Director of Transportation (hereinafter referred to as "Matrisch"); and KATARZYNA ANNA KOWALSKA, Freedom of Information Officer for the Transportation Division of the Illinois Commerce Commission (hereinafter referred to as "Kowalska")(at times hereinafter, the Defendants are collectively referred to as "Defendants"). In support thereof, Plaintiff alleges as follows:

NATURE OF THIS ACTION

1. Plaintiff brings this action against Defendants under § 11(d) of the Illinois Freedom of Information Act, 5 ILCS § 140, *et seq.* (hereinafter referred to as “FOIA”), to enjoin Defendants from withholding certain public records as described herein and to order the production of those records. 5 ILCS § 140/11.

2. Plaintiff is an Illinois Commercial Vehicle Relocator, licensed by Defendant, the ICC, pursuant to 25 ILCS 5/18a-100, *et al.*

3. In its ordinary course of business, Plaintiff performs services pursuant to the Illinois Commercial Relocation of Trespassing Vehicles Law, pursuant to the Illinois Administrative Code, and pursuant to its written contract for services with various owners and management companies of real estate in Cook County.

4. On or about February 24, 2016, the ICC entered an order initiating a hearing on fitness to hold a Commercial Vehicle Relocator’s License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (hereinafter referred to as the (“ICRTVL”), which is docketed as 92 RTV-R Sub 17 (hereinafter referred to as the “Fitness Hearing”).

5. Section 401 of the ICRTVL provides, in part, that “The Commission may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed.” 625 ILCS 5/18a-401.

6. Throughout the course of discovery, Plaintiff requested documents through conventional discovery request, as well as through FOIA requests, in order to attempt to ascertain the nature and cause of the accusations made against it, review and confront the evidence against it, and obtain evidence in its favor.

7. Despite several FOIA requests and after eight (8) amended discovery responses from the ICC, the ICC still failed to turn over documents, despite Court orders to do so.

8. During the hearing as 92 RTV-R Sub 17, the ICC introduced new documents as evidence, over the objection of Plaintiff, that were not disclosed to Plaintiff in discovery.

9. In an attempt to obtain evidence to cross-examine the proffered evidence, Plaintiff submitted a FOIA request to the ICC.

10. The ICC refused to turn over any responsive documents.

11. The FOIA Act mandates that the ICC “shall make available to any person for inspection or copying all public records,” unless specifically exempted in the FOIA Act. 5 ILCS 140/3.

12. In violation of this mandate, the ICC has refused to produce public records to Plaintiff, which has prevented Plaintiff from discovery all facts relevant to its Fitness Hearing.

13. Plaintiff believes that production of the withheld public records will yield further evidence that the ICC’s attempts at revoking its license are pretextual and unfounded.

NATURE OF THE PARTIES

14. At all relevant times, Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE**, was an Illinois corporation with its principal office in the City of Chicago, Cook County, Illinois.

15. At all relevant times, Defendant, **ILLINOIS COMMERCE COMMISSION**, is an agency of the State of Illinois created pursuant to § 2-101 of the Public Utilities Act of Illinois, 220 ILCS § 5/2-101, and, as such, is a public body under § 2(a) of the Illinois Freedom of Information Act, 5 ILCS § 140/2(a)(hereinafter referred to as “FOIA”).

16. At all relevant times, Defendant **STEVEN L. MATRISCH** (hereinafter referred to as “Matrisch”), was the Deputy Executive Director of Transportation and, as such, is the administrative head of that division. Matrisch is joined in that capacity.

17. At all relevant times, Defendant **KATARZYNA ANNA KOWALSKA** (hereinafter referred to as “Kowalska”), was the Freedom of Information Officer for the Transportation Division of the Illinois Commerce Commission. Kowalska is joined in that capacity.

JURISDICTION

18. This Honorable Court has subject matter jurisdiction over this action and the parties hereto pursuant to § 9 of Article VI of the Illinois Constitution and § 11(d) of the FOIA Act (mandating that “The Circuit Court shall have jurisdiction to enjoin the public body from withholding public records and to order the production of public records improperly withheld from the person seeking access.” 11 ILCS 140/11(d)).

19. The State Lawsuit Immunity Act, 745 ILCS § 5/0.01 *et seq.*, does not deprive this Court of jurisdiction in that this suit seeks prospective relief designed to compel Defendants to act in accordance with their statutory duties and to prevent the taking of action in derogation of Plaintiff’s rights.

VENUE

20. Venue is proper in this Court pursuant to § 11(b) of the FOIA Act, in addition to 735 ILCS 5/2-103 because, the **ILLINOIS COMMERCE COMMISSION** is a governmental corporation and the county out of which the cause of action arose is Cook County.

THE FITNESS HEARING

21. On or about February 19, 2016, counsel for the ICC circulated a memorandum to the ICC, seeking the entry of an order setting the commercial vehicle relocater license for a fitness hearing.

22. On or about February 24, 2016, the ICC initiated a hearing on fitness to hold a Commercial Vehicle Relocator's License against Plaintiff, but filed no formal written complaint and offered no written allegations.

23. Despite formal written discovery requests throughout the discovery process, Plaintiff only obtained copies of the February 19, 2016 memorandum and the February 24, 2016 order from a third-party journalist working on a news piece. The ICC refused to provide copies of the same.

24. On April 5, 2016, Plaintiff propounded discovery requests to the ICC, and submitted a FOIA request.

25. On or about April 12, 2016, the ICC claimed (1) the request requires the collection of a substantial number of specified records, (2) the request is couched in categorical terms and requires an extensive search for the records responsive to it, and (3) the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure, and sought a 5 business day extension of time to respond.

26. It was not until June 29, 2016, eighty-five (85) days after the FOIA request was submitted, that the ICC finally provided an excel spreadsheet containing a summary of the documents requested.

27. Thereafter, the ICC provided a USB flash drive containing some, but not all of the responsive documents. To date, the ICC has failed to provide many of the documents requested.

TRANSCRIPTS OF HEARINGS AND STATUS CALLS

28. Throughout the course of discovery, various disputes arose regarding statements made by the parties during statuses before the Administrative Law Judge.

29. Each hearing and status call is routinely transcribed by Court reporters, and the transcripts are routinely prepared and kept in the ordinary course of business by the ICC in the electronic file for each pending matter.

30. Despite repeated requests by Plaintiff's counsel, the ICC refused to provide transcripts of any hearing, and directed Plaintiff's counsel to submit FOIA requests to obtain the transcripts.

31. Accordingly, Plaintiff's counsel sought, and was subsequently provided with the transcripts, after Plaintiff's counsel sent a FOIA request on January 26, 2017, seeking the "Electronic copies in Portable Document Format ("PDF") of each and every transcript from any and all hearings held in the motor carrier case commonly known as "92 RTV-R Sub 17/100139 MC" which have taken place since January 1, 2016."

32. Thereafter, Plaintiff's counsel again was directed to submit additional FOIA requests for additional transcripts as they were transcribed.

33. On February 27, 2017, Plaintiff's counsel requested the following through FOIA request: "Electronic copies in Portable Document Format ("PDF") of each and every transcript from any and all hearings held in the motor carrier case commonly known as "92 RTV-R Sub 17/100139 MC" which have taken place since January 11, 2017."

34. On March 6, 2017, ICC refused to turn over transcripts, claiming that none existed at the time the request was submitted.

35. On March 9, 2017, Plaintiff's counsel resubmitted the February 27, 2017 FOIA request and finally received the transcripts.

36. On March 27, 2017, Plaintiff's counsel renewed its FOIA request, seeking supplemental responses to its previous requests. The ICC did not provide responsive documents until April 18, 2017.

37. Finally, as further discussed herein, the ICC has refused to provide any additional transcripts since April 18, 2017, despite having provided them in the past.

38. The ICC has provided no explanation for its refusal, except that it believes the electronic transcripts in PDF format are "voluminous."

**EVIDENCE ADMITTED OVER PLAINTIFF'S OBJECTION
AFTER THE CLOSE OF DISCOVERY**

39. On February 1, 2017, the Administrative Law Judge (hereinafter referred to as the "ALJ") issued a ruling, defining the scope of the Fitness Hearing.

40. The ALJ made two specific rulings, first regarding the dates of the tows, and the second regarding the dates of the investigations, as investigations were still being completed in 2017 for tows that occurred in 2015 and early 2016.

41. Specifically, the ALJ ruled as follows:

Page 146

20 JUDGE KIRKLAND-MONTAQUE: Let's say we limit
21 it. Nothing you receive past today, like any new
22 tickets or anything, even if they were within that

Page 146

1 time period, you can't use them.
2 We're going to limit information that
3 Staff has as of February 1st, 2017 even if it's
4 within the time period from July 24th, 2015 to March
5 22nd, 2016. So that's the scope.

February 01, 2017, Status in 92 RTV-R Sub 17.

42. Plaintiff propounded its initial discovery request to the ICC on April 5, 2016,

43. Responses to Plaintiff's Data Request were due on May 3, 2016, pursuant to Section 200.410 of the Rules. 83 Ill. Adm. Code 200.410.

44. On May 9, 2016, the ICC emailed "[the ICC's] Answer to Protective Parking Service Corporation's Data Request," containing numerous meritless objections, with few actual responses.

45. After countless attempts to resolve discovery differences, including telephonic discussions, in-person conferences, and written correspondence, Plaintiff had no choice but to file a Motion to Compel discovery on October 13, 2016.

46. As addressed in the Motion to Compel, Ill. Admin. Code 200.340 clearly states that "It is the policy of the Commission to obtain full disclosure of all relevant and material facts to a proceeding. Further, it is the policy of the Commission to encourage voluntary exchange by the parties and staff witnesses of all relevant and material facts to a proceeding through the use of requests for documents and information." Ill. Admin. Code 200.340.

47. Likewise, throughout the Fitness Hearing, Plaintiff was entitled to all documents that are relevant and responsive to the instant allegations, so as to afford its constitutional due process rights in a hearing to take away its livelihood and license.

48. Among the requests was Request 20, which asked the ICC to "Identify all witnesses that Petitioner intends to present on its behalf with regard to the fitness hearing. Please identify (i) the name of each witness (ii) the witnesses' relationship to Petitioner and the substance of the witnesses testimony."

49. On November 18, 2016, the ALJ issued an order, granting [Plaintiff's] Motion to Compel as to Request 20, ordering as follows: "Motion is granted and response should be provided to [Plaintiff] by December 19, 2016, unless parties mutually agree to another date."

50. On December 19, 2016, the ICC tendered its then Fourth Answer to Protective Parking Service Corporation's Data Request.

51. Since the Fourth Answer to Protective Parking Service Corporation's Data Request came the Fifth Response, and the Sixth Response.

52. Each of the responses were replete with countless objections.

53. On April 25, 2017, the ICC tendered [ICC's] Seventh Answer to [Plaintiff's] Data Request, along with six (6) new, never before tendered, stapled packets of documents.

54. At the court ordered status call the morning of April 25, 2017, upon Plaintiff's oral motion, the ALJ ordered the ICC to supplement its response to Request 20, to specifically identify which of the ICC's witnesses will testify as to the six (6) new exhibits.

55. Furthermore, the ALJ ordered the ICC to produce said witness for a supplemental deposition, so that Plaintiff could cross-examine evidence presented against it.

56. Thereafter, the ICC tendered its Eighth Answer to Protective Parking Service Corporation's Data Request, which provided that Interim Sergeant Tim Sulikowski "Will testify as to [the ICC's] review of the [Plaintiff's] 24 Hour Tow Logs and the consistency of the entries contained within these Logs with Commission records."

57. On April 26, 2017, Plaintiff issued a Notice of Deposition of Tim Sulikowski, by Order of the Chief Administrative Law Judge of the Illinois Commerce Commission on April 25, 2017, and pursuant to the Illinois Public Utilities Act, 220 ILCS 10-106, Illinois Supreme Court Rules 2014 and 206, the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.360, and all other applicable Illinois Supreme Court Rules and Illinois Commerce Commission Rules (hereinafter referred to as the "Deposition Notice").

58. On May 3, 2017, at 2:00 p.m., pursuant to the notice of deposition, a deposition of Sergeant Timothy Sulikowski was held at Plaintiff's Counsel's office.

59. Despite having received and reviewed the Deposition Notice, the ICC brought no documents to the deposition.

60. Notwithstanding the aforementioned failure of the ICC and its witness to produce documents pursuant to a Deposition Notice, in violation of the applicable rules of procedure, Sergeant Sulikowski's deposition made it clear that the ICC had no intention of using the documents at the Fitness Hearing.

61. Specifically, Sergeant Sulikowski was asked the following questions, and answered with the following answers under oath:

159

18 Q. Are you planning on using the
19 documents contained in Exhibit 3 when you
20 testify at the hearing for fitness on Lincoln
21 Towing?

22 A. I personally am not presenting these
23 documents.

In Re Protective Parking (Sulikowski - Part 2), (Page 159:18 to 159:23)

62. Subsequently in his deposition, Sergeant Sulikowski answered consistent with the above testimony, and when he was asked the following questions, he answered with the following answers under oath:

202

4 Q. As far as you know was this document
5 in existence at the time of your first
6 deposition on March 15, 2017?

7 A. The exhibit or the information?

8 Q. The exhibit.

9 A. No.

10 Q. Are you planning on using this
11 document when you testify at the hearing for
12 Lincoln Towing's relocation fitness?
13 A. No.

In Re Protective Parking (Sulikowski - Part 2), (Page
202:4 to 202:13)

63. In addition to claiming that he had no intention of testifying regarding these documents, Sergeant Sulikowski was unable to provide answers regarding the subject of any testimony that would be offered at the fitness hearing.

64. Accordingly, Plaintiff was unable to cross examine Sergeant Sulikowski as to any purportedly unintended and supposedly unplanned testimony regarding the documents.

65. On or about June 1, 2017, during the Fitness Hearing trial, the ICC called Sergeant Sulikowski to the witness stand to testify regarding the 24-tow sheets and the recently disclosed reports from MCIS.

66. For the first time since February 24, 2016, the ICC identified alleged violations to Plaintiff through Sergeant Sulikowski's live testimony in open court, with absolutely no opportunity for Plaintiff to review the purported inconsistencies in Plaintiff's records prior to the trial on June 1, 2017, and no opportunity to subpoena knowledgeable parties, obtain records, or otherwise conduct discovery to refute the claims.

67. The ICC intentionally ambushed Plaintiff at trial, in violation of its constitutional due process rights.

FOIA REQUEST T17-84

68. On or about June 9, 2017, Plaintiff submitted a Freedom of Information Act Records Request, seeking the following:

1. Electronic copies in Portable Document Format (“PDF”) of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database.

Freedom of Information Act Records Request, T17-84, a true and accurate copy of which is attached hereto as **Exhibit 1**.

69. On or about June 19, 2017, the Defendants demanded an additional 5 business days to respond to requests 2 and 6, and claimed that the remaining requests were “voluminous,” consisting of approximately 1,921 pages of responsive documents. A true and accurate copy of Defendants’ correspondence is attached hereto as **Exhibit 2**.

70. Thereafter, on or about June 26, 2017, the Defendants sent additional correspondence, claiming that requests 2 and 6 were also “voluminous,” consisting of approximately 1,064 emails, of single or multiple pages each, and potentially with attachments. Additionally there were approximately 38 additional pages of documents responsive to paragraph 2. A true and accurate copy of Defendants’ correspondence is attached hereto as **Exhibit 3**.

71. On or about June 29, 2017, Plaintiff agreed to pay the statutory fees for voluminous data requests, pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the “FOIA Act”). A true and accurate copy of Plaintiff’s correspondence is attached hereto as **Exhibit 4**.

72. On or about July 7, 2017, Defendants denied the request in its entirety and produced no responsive documents whatsoever in response to Plaintiff’s requests. A true and accurate copy of Defendants’ correspondence is attached hereto as **Exhibit 5**.

73. Defendants expressly directed Plaintiff to seek judicial review of the denial of the request by filing a lawsuit in the State Circuit Court, citing 5 ILCS § 140/11.

74. Plaintiff sought the documents in the FOIA request in order to cross-examine evidence presented against it at the Fitness Hearing.

75. The documents Plaintiff seeks to cross-examine are ones that were (1) created after the February 1, 2017 document creation deadline; (2) created after Sergeant Sulikowski’s March 15, 2017 deposition; and (3) tendered to Plaintiff on April 25, 2017, long after discovery had closed, and just a month before the Fitness Hearing was scheduled to commence.

76. The testimony Plaintiff seeks to cross-examine was proffered by Sergeant Sulikowski for the first time on June 1, 2017 at the Fitness Hearing, although he was unaware of the alleged violations at his deposition.

77. Plaintiff has not been afforded an opportunity to examine the evidence presented against it, or an opportunity to cross-examine the witness regarding the evidence.

78. The allegations revealed for the first time on June 1, 2017 involve alleged failures to have an electronically filed contract on the date of various purported tows.

79. Plaintiff requires the documents sought in its FOIA request, such as, for example, the request for an “Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner,” or the request for “Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database.”

80. Defendants’ refusal to comply with the FOIA Act is an attempt to deny Plaintiff its constitutional due process rights.

81. Defendants’ attempts to force Plaintiff to face trial by ambush clearly violate Plaintiff’s constitutional due process rights.

82. On or about July 10, 2017, Plaintiff filed an Emergency Motion to Strike Testimony and Continue Hearing, seeking to bar the evidence and strike the testimony, or in the alternative, seeks a continuance of the hearing until it can conduct further discovery to verify the accuracy of the purported inconsistencies only first disclosed to Plaintiff on June 1, 2017 in open court.

83. Plaintiff argued that proceeding to hearing without an opportunity to examine the evidence against it would grossly and unduly prejudice Plaintiff.

84. Notwithstanding the aforementioned, the ALJ denied Plaintiff’s Motion.

85. Although Defendants provided transcripts in the past to Plaintiff, the ICC currently refuses to provide even the transcripts of hearings in the Fitness Hearing.

86. Defendants' refusal to provide public records to Plaintiff is a willful and intentional violation of FOIA.

COUNT I – FOIA

87. Pursuant to Supreme Court Rule 134, Plaintiffs re-allege Paragraphs 1 through 86 of this **Verified Complaint for Declaratory and Injunctive Relief**, as Paragraph 1 through 86 of Count I, as though fully restated herein in their entirety.

88. “Any public body that asserts that a record is exempt from disclosure has the burden of proving that it is exempt by clear and convincing evidence.” *Dumke v. City of Chicago*, 2013 IL App (1st) 121668 ¶ 10 (citing 5 ILCS 140/11(f)).

89. “Where, as here, the requesting party challenges the public body's denial of a FOIA request, the public body must demonstrate that the records requested fall within the claimed exception.” *Id.* (citing *Stern v. Wheaton–Warrenville Community Unit School District 200*, 233 Ill.2d 396, 406 (2009)).

90. Electronic copies in Portable Document Format (“PDF”) of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

91. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater

license, within the past ten (10) years, are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

92. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13, are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

93. Electronic copies in Portable Document Format (“PDF”) of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017, are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

94. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner, are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

95. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding e-filing of contracts through eRelocator and/or into the MCIS database, are not exempt pursuant to any exemption in the FOIA Act and are not voluminous.

96. Defendants violated FOIA by refusing to produce the requested records on the basis of inapplicable exemptions.

97. Defendants’ refusal to provide Plaintiffs with public records that are stored electronically and are easily accessible is a willful and intentional violation of FOIA.

98. Plaintiff is entitled to reasonable attorneys' fees and costs in enforcing its rights under FOIA.

WHEREFORE, Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION** d/b/a **LINCOLN TOWING SERVICE**, an Illinois corporation (heretofore referred to as "Plaintiff"), by and through its attorneys, **PERL & GOODSNYDER, LTD.**, prays that this Honorable Court enter an order against Defendants, the **ILLINOIS COMMERCE COMMISSION**, a Public Body (heretofore referred to as the "ICC"); **STEVEN L. MATRISCH**, Deputy Executive Director of Transportation (heretofore referred to as "Matrisch"); and **KATARZYNA ANNA KOWALSKA**, Transportation Counsel (heretofore referred to as "Kowalska")(at times heretofore, the Defendants were collectively referred to as "Defendants") and their officers, agents, servants, affiliates, employees, attorneys, and any and all persons acting in concert or participation with them and order as follow:

- i. in accordance with § 11(f) of the Illinois Freedom of Information Act, 5 ILCS § 140/11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. in accordance with § 11(e) of the Illinois Freedom of Information Act, 5 ILCS § 140/11(e), order Defendants to provide the documents which have been denied to Plaintiff;
- iii. declare that Defendants violated the Illinois Freedom of Information Act;
- iv. enjoin Defendants from withholding non-exempt public records under FOIA;

- v. order Defendants to pay civil penalties for its willful and intentional violations;
- vi. award Plaintiff reasonable attorneys' fees and costs; and
- vii. such further, additional and/or alternative relief as this Honorable Court and the trier of fact deems fair, just and reasonable.

COUNT II – INJUNCTION

99. Pursuant to Supreme Court Rule 134, Plaintiffs re-allege Paragraphs 1 through 98 of this **Verified Complaint for Declaratory and Injunctive Relief**, as Paragraph 1 through 98 of Count II, as though fully restated herein in their entirety.

100. Plaintiff has a right to inspect the transcripts and the records pertaining to its license that the ICC has in its possession as public records.

101. Without these records, Plaintiff is unable to defend itself and have an opportunity to cross-examine witness presenting against it.

102. Plaintiff is threatened with irreparable harm for which there is no adequate legal remedy because the Fitness Hearing is currently scheduled to proceed, before Plaintiff will have an opportunity to review, and develop additional arguments based on, the withheld materials, which, as stated, will provide further evidence for Plaintiff's cross-examination.

103. As a result, the failure of the ICC to turn over all requested public records that are subject to disclosure has impaired Plaintiff's ability to effectively safeguard its license to operate.

104. Considering that Plaintiff's license is its single, most valuable asset, and considering that loss of its license would immediately destroy all of Plaintiff's business, effectively lifting most parking restrictions throughout Chicagoland's most dense urban neighborhoods, including, but not limited to, a majority of the lots around Wrigley Field, the public in general have

a substantial interest in assuring that the status quo is preserved, and the Plaintiff has an opportunity to defend itself.

105. If the ICC revokes Plaintiff's license without an opportunity to inspect all evidence offered against it, and/or all evidence in its favor that is withheld by the ICC, Plaintiff will be irreparably harmed with no adequate remedy at law to address that harm.

106. Accordingly, the Court should issue a temporary restraining order and thereafter a preliminary injunction, barring the ICC from proceeding with the Fitness Hearing until (a) Plaintiff has been provided with the documents requested in its FOIA Request; (b) Plaintiff has been provided an opportunity to review and cross examine the documents provided, and (c) Plaintiff has had an opportunity to use the documents to cross-examine witnesses called by the ICC in the Fitness Hearing.

WHEREFORE, Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION** d/b/a **LINCOLN TOWING SERVICE**, an Illinois corporation (heretofore referred to as "Plaintiff"), by and through its attorneys, **PERL & GOODSNYDER, LTD.**, prays that this Honorable Court temporarily, preliminarily, and permanently enjoin Defendants, the **ILLINOIS COMMERCE COMMISSION**, a Public Body (heretofore referred to as the "ICC"); **STEVEN L. MATRISCH**, Deputy Executive Director of Transportation (heretofore referred to as "Matrisch"); and **KATARZYNA ANNA KOWALSKA**, Transportation Counsel (heretofore referred to as "Kowalska")(at times heretofore, the Defendants were collectively referred to as "Defendants") and their officers, agents, servants, affiliates, employees, attorneys, and any and all persons acting in concert or participation with them from the following:

- i. Withholding any documents requested in the T17-84 Freedom of Information Act;

- ii. Conducting any hearings in the proceeding docketed as 92 RTV-R Sub 17 until Plaintiff has had an opportunity to review the FOIA documents; and
- iii. Considering, reviewing, determining, or acting upon in any manner, in the hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (heretofore referred to as the ("ICRTVL")), which is docketed as 92 RTV-R Sub 17 (heretofore referred to as the "Fitness Hearing").

Plaintiff also prays that the Court award attorneys' fees and costs to bring said action, and such further, additional and/or alternative relief as this Honorable Court and the trier of fact deems fair, just and reasonable.

Dated: July 26, 2017

Respectfully Submitted on Behalf of Plaintiff:

PROTECTIVE PARKING SERVICE CORPORATION
d/b/a **LINCOLN TOWING SERVICE**, an Illinois
corporation



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Plaintiff
Attorney No.: 39611
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aperl@perlandgoodsnyder.com
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VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true. 735 ILCS 5/1-109.



ALLEN R. PERL

EXHIBIT 1



Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500
Fax: 312-243-0806
perlandgoodsnyder.com

June 9, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska
Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

TRANSPORTATION

JUN 12 2017

DIVISION

T17-84

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC

Ms. Kowalska:

This is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*, for a non-commercial purpose, which is being made upon the Illinois Commerce Commission (the "ICC"). I request copies of the following documents:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding e-filing of contracts through eRelocator and/or into the MCIS database.

In the interest of expediency, and to minimize the research and/or duplication burden on your staff, please send records electronically. Therefore, I am requesting that you waive all applicable fees associated with this request as this request is not for a commercial purpose, and because the document is "maintained in an electronic format," as described by 5 ILCS 140/6, and is requested in the same electronic format. See 5 ILCS 140/6.



PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3. Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

From: [Vlad Chirica](#)
To: [Kowalska, Katarzyna](#)
Cc: [Allen Perl](#)
Subject: [External] FOIA Request
Date: Friday, June 9, 2017 6:16:47 PM
Attachments: [2017-06-09 FOIA Request.pdf](#)

Ms. Kowalska:

Please see attached Freedom of Information Act request dated June 9, 2017.

Thanks,
Vlad

Vlad V. Chirica
Associate Attorney
PERL & GOODSNYDER, LTD.
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Phone: 312-243-4500
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Dissemination, distribution or copying of the communication by anyone other than the intended recipient, or a duly designated employee or agent of such recipient, is prohibited.*

EXHIBIT 2

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 19, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

With respect to paragraphs 2 and 6 of your request, the Illinois Commerce Commission is extending the time to respond to those parts of your request by 5 business days. Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. 5 ILCS 140/3(e). The Illinois Commerce Commission is extending the time to respond to your request by 5 business days for the following reason(s):

- The request is couched in categorical terms and requires an extensive search for the records responsive to it, 5 ILCS 140/3(e)(iii).
- The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions, 5 ILCS 140/3(e)(v).

With respect to paragraphs 1, 3, 4 and 5 of your request, please be advised that a preliminary search of the Commission's records revealed that there were approximately 1,921 pages of responsive documents. As a result, the Commission is treating those parts of the request as voluminous.

You must respond to the Commission within 10 business days after June 19, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 3

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

June 26, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

On June 12, 2017, the Illinois Commerce Commission received from you a request for records pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* Specifically, you requested:

1. "Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding eFiling of contracts through eRelocator and/or into the MCIS database."

With respect to paragraphs 2 and 6 of your request, please be advised that a preliminary search of the Commission's records revealed that there are approximately 1,064 emails, of single or multiple pages each and potentially with attachments, responsive to your search query. Also, there are approximately 38 additional pages of documents responsive to paragraph 2. As a result, the Commission is treating those parts of the request as voluminous.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

You must respond to the Commission within 10 business days after June 26, 2017 and specify whether you would like to amend the request in such a way that the Commission will no longer treat the request as a voluminous request. 5 ILCS 140/3.6(a)(iii).

If you do not respond within 10 business days or if the request continues to be a voluminous request following your response, the Commission will respond to the request and assess any fees the Commission charges pursuant to Section 6 of this Act. 5 ILCS 140/3.6(a)(iv). The Commission has 5 business days after receipt of your response or 5 business days from the last day for you to amend your request, whichever is sooner, to respond to the request. 5 ILCS 140/3.6(a)(v). The Commission may request an additional 10 business days to comply with the request. 5 ILCS 140/3.6(a)(vi). If you fail to accept or collect the responsive records, the Commission may still charge you for its response pursuant to Section 6 of this Act and your failure to pay will be considered a debt due and owing to the Commission and may be collected in accordance with applicable law. 5 ILCS 140/3.6(a)(viii).

You have the right to review of the Commission's determination by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/3.6(a)(vii). The Public Access Counselor's contact information is as follows:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone:
1-877-299-FOIA
(1-877-299-3642)
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you have any questions regarding your request, feel free to contact me.

Sincerely,

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 4



Allen R. Perl
Christopher M. Goodsnyder
Flavia Pocari
Vlad V. Chirica

PERL & GOODSNYDER, LTD.
ATTORNEYS & COUNSELORS AT LAW

14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Phone: 312-243-4500
Fax: 312-243-0806
perlandgoodsnyder.com

June 29, 2017

SENT VIA VIA ELECTRONIC MAIL

Katarzyna Kowalska
Transportation Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
kkowalska@icc.illinois.gov

Re: Freedom of Information Act Records Request, 92 RTV-R Sub 17; 100139 MC T17-84

Ms. Kowalska:

This correspondence is in reply to your June 19, 2017 response, in addition to your June 26, 2017 response. As you are aware, this is a request for information under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the "FOIA Act"), for a non-commercial purpose, which is being made upon the **Illinois Commerce Commission** (the "ICC").

The FOIA Act specifically addresses electronic records, and created the authority to charge fees. The statute reads as follows:

If a voluminous request is for electronic records and those records are not in a portable document format (PDF), the public body may charge up to \$20 for not more than 2 megabytes of data, up to \$40 for more than 2 but not more than 4 megabytes of data, and up to \$100 for more than 4 megabytes of data. If a voluminous request is for electronic records and those records are in a portable document format, the public body may charge up to \$20 for not more than 80 megabytes of data, up to \$40 for more than 80 megabytes but not more than 160 megabytes of data, and up to \$100 for more than 160 megabytes of data. If the responsive electronic records are in both a portable document format and not in a portable document format, the public body may separate the fees and charge the requester under both fee scales. 5 ILCS 140/6(a-5).

Accordingly, please produce the documents requested, subject to the statutory fee guidelines set forth in the FOIA Act. Additionally, please provide an accounting of all fees, costs, and personnel hours in connection with the request for public records, as required by the FOIA Act. 5 ILCS 140/6(a-5).

I look forward to hearing from you in writing within five (5) business days, as required by the Act. See 5 ILCS 140/3.6(a)(5). Please contact me if you have any questions about this request.

Sincerely,

Allen R. Perl

EXHIBIT 5

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

July 7, 2017

Allen Perl
Perl & Goodsnyder, Ltd.
14 N. Peoria, Suite 2C
Chicago, Illinois 60607

Via E-mail: aperl@perlandgoodsnyder.com

RE: Freedom of Information Act Request
T17-84

Dear Mr. Perl,

This letter is in response to your reply dated June 29, 2017. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. As a result, since the request continues to be a voluminous request and is unduly burdensome, the request is denied.

According to Section 140/3.6(c) of the Illinois Freedom of Information Act ("Act"),

If a request continues to be a voluminous request following the requester's response under subsection (b) of this Section or the requester fails to respond, the public body shall respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to the public body's notification under this subsection. The response shall: (i) provide an estimate of the fees to be charged, which the public body may require the person to pay in full before copying the requested documents; **(ii) deny the request pursuant to one or more of the exemptions set out in this Act;** (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested.

5 ILCS 140/3.6(c) (emphasis added).

Furthermore, pursuant to Section 1 of the Act "[t]his Act is not intended to . . . allow the requests of a commercial enterprise to unduly burden public resources, or to disrupt the duly-undertaken work of any public body." 5 ILCS 140/1.

Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

on the public body outweighs the public interest in the information. *Before invoking this exemption*, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision.

5 ILCS 140/3(g) (emphasis added).

In its responses dated June 19, 2017 and June 26, 2017, the Illinois Commerce Commission ("Commission") extended the opportunity to you to reduce the request to manageable proportions by asking you to specify whether you would like to amend the request in such a way that the Commission would no longer treat the request as a voluminous request. In your reply you ask the Commission to produce the records as originally requested and do not amend the request in a way that the Commission will not treat the request as a voluminous request. Given the refusal to amend your request to manageable proportions, the Commission is treating your request as a voluminous request that is unduly burdensome for the Commission to comply with.

Estimating on average of 7 minutes for reviewing and redacting each e-mail, it will take approximately 21 days to review and redact just the 1,064 e-mail messages. There are an additional 1,959 pages of responsive documents that also require review and redaction. Estimating on average of 4 minutes for reviewing and redacting each page, it will take approximately 22 days to review and redact just the 1,959 pages. Assuming that Staff of the Office of Transportation Counsel ("OTC") works on nothing else but reviewing and redacting the responsive documents and e-mails, OTC would have to completely cease performing its every day functions for approximately two months. As a result your request is denied.

Section 11 of the Act provides you with the right to judicial review of the denial of your request by filing a lawsuit in the State Circuit Court. 5 ILCS 140/11. You also have the right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



TRANSPORTATION BUREAU

Springfield, Illinois 62706

Phone:

1-877-299-FOIA

(1-877-299-3642)

Fax: (217) 782-1396

E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Kowalska".

Katarzyna Kowalska
Transportation Counsel

Personnel determining the response to this FOIA Request:

Katarzyna Kowalska – Transportation Counsel
Steve Matrisch – Deputy Executive Director

EXHIBIT 7

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN TOWING)
SERVICE, an Illinois corporation,)
))
Plaintiff,)
))
v.)
))
ILLINOIS COMMERCE COMMISSION, a)
Public Body; STEVEN L. MATRISCH, Deputy)
Executive Director of Transportation; and)
KATARZYNA ANNA KOWALSKA, Freedom)
of Information Officer for the Transportation)
Division of the Illinois Commerce Commission;)
))
Defendants.)

Case No.:

2017CH10152
CALENDAR/ROOM 06
TIME 00:00
Injunction

NOTICE OF MOTION

To: See attached service list.

PLEASE TAKE NOTICE that on _____ at _____ .m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable _____ or any Judge sitting in _____ stead, in Courtroom _____ of the Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, and then and there present Plaintiff's **MOTION AND MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**, a true and accurate copy of which is attached hereto and hereby served upon you.



Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Plaintiff
Attorney No.: 39611
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

CERTIFICATE OF SERVICE

TO: See attached Service List.

I, an attorney under oath, hereby certify under penalties as provided by law pursuant to §1-109 of the Illinois Code of Civil Procedure, that I caused the following documents of the Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION, an Illinois Corporation d/b/a LINCOLN TOWING SERVICE:**

- (1) **Notice of Motion**
- (2) **Certificate of Service**
- (3) **Motion and Memorandum in Support of Temporary Restraining Order and Preliminary Injunction**

to be sent to each attorney to whom directed at their respective addresses via:

 X **Via Electronic Mail**, by transmitting a copy in PDF format to the email addresses listed herein with consent of the recipient where permissible under Ill. S. Ct. Rule 11, before 4:00 P.M. on the **26th day of July, 2017.**

 X **Via Federal Express (FedEx)**, standard priority, overnight delivery, by depositing the same in the Fedex drop box location/shipping center, with shipping charges paid by the sender, in a properly addressed, sealed and secure envelope, at 1 South Sangamon Street, Chicago, IL 60607, Chicago, Illinois 60607, before 4:00 P.M. on the on the **26th day of July, 2017.**

 X **Via Special Process Server**, pursuant to §5/2-202(a-5) of the Illinois Code of Civil Procedure, and pursuant to the appointment by the Court of **SCOTT FORREST STERN & ASSOCIATES, INC** and **CLUTTER INVESTIGATIONS INC** to serve the above referenced documents, through its registered employees who are above the age of eighteen (18) and not parties to this action, as special process servers, by causing to be tendering the same in a properly addressed, sealed and secure envelope.

Respectfully submitted,

Perl & Goodsnyder, Ltd.
By one of its Attorneys

Allen R. Perl
Vlad V. Chirica
PERL & GOODSNYDER, LTD.
Attorneys for Plaintiff
Attorney No.: 39611
14 N. Peoria Street, Suite 2-C
Chicago, Illinois 60607
(312) 243-4500
aperl@perlandgoodsnyder.com
vchirica@perlandgoodsnyder.com

SERVICE LIST

ATTORNEYS FOR PLAINTIFF:

Allen R. Perl

Vlad V. Chirica

Perl & Goodsnyder, Ltd.

14 N. Peoria Street, Suite 2-C

Chicago, Illinois 60607

aperl@perlandgoodsnyder.com

vchirica@perlandgoodsnyder.com

DEFENDANTS:

Illinois Commerce Commission

c/o Cholly Smith

Executive Director of the Illinois Commerce Commission

160 North LaSalle Street, Suite C-800

Chicago, Illinois 62701

csmith@icc.illinois.gov

Steven L. Matrisch

Deputy Executive Director of Transportation

527 East Capitol Avenue

Springfield, Illinois 62702

smatrisc@icc.illinois.gov

Katarzyna Anna Kowalska

Freedom of Information Officer for the

Transportation Division of the

Illinois Commerce Commission

527 East Capitol Avenue

Springfield, Illinois 62702

kkowalska@icc.illinois.gov

CLERK OF THE CIRCUIT COOK COUNTY

Clerk of Circuit Court of Cook County

Richard J. Daley Center

Chancery Division

Room 802

50 West Washington Street

Chicago, Illinois 60602

via Hand Delivery Only

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN TOWING)
SERVICE, an Illinois corporation,)
))
Plaintiff,)
))
v.)
))
ILLINOIS COMMERCE COMMISSION, a)
Public Body; STEVEN L. MATRISCH, Deputy)
Executive Director of Transportation; and)
KATARZYNA ANNA KOWALSKA, Freedom)
of Information Officer for the Transportation)
Division of the Illinois Commerce Commission;)
))
Defendants.)

Case No.:

**PLAINTIFF’S MOTION AND MEMORANDUM IN SUPPORT OF
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

NOW COMES the Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION** d/b/a **LINCOLN TOWING SERVICE**, an Illinois corporation (hereinafter referred to as “Plaintiff”), by and through its attorneys, **PERL & GOODSNYDER, LTD.**, pursuant to 735 ILCS § 5/11-101 and 735 ILCS § 5/11-102 and hereby seeks a Temporary Restraining Order and a Preliminary Injunction against Defendants, the **ILLINOIS COMMERCE COMMISSION**, a Public Body (hereinafter referred to as the “ICC”); **STEVEN L. MATRISCH**, Deputy Executive Director of Transportation (hereinafter referred to as “Matrisch”); and **KATARZYNA ANNA KOWALSKA**, Freedom of Information Officer for the Transportation Division of the Illinois Commerce Commission (hereinafter referred to as “Kowalska”)(at times hereinafter, the Defendants are collectively referred to as “Defendants”). In support thereof, Plaintiff alleges as follows:

NATURE OF THIS ACTION

1. Plaintiff brings this action against Defendants under § 11(d) of the Illinois Freedom of Information Act, 5 ILCS § 140, *et seq.* (hereinafter referred to as “FOIA”), to enjoin Defendants from withholding certain public records as described herein and to order the production of those records. 5 ILCS § 140/11.

2. Plaintiff is an Illinois Commercial Vehicle Relocator, licensed by Defendant, the ICC, pursuant to 25 ILCS 5/18a-100, *et al.*

3. In its ordinary course of business, Plaintiff performs services pursuant to the Illinois Commercial Relocation of Trespassing Vehicles Law, pursuant to the Illinois Administrative Code, and pursuant to its written contract for services with various owners and management companies of real estate in Cook County.

4. On or about February 24, 2016, the ICC entered an order initiating a hearing on fitness to hold a Commercial Vehicle Relocator’s License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (hereinafter referred to as the (“ICRTVL”), which is docketed as 92 RTV-R Sub 17 (hereinafter referred to as the “Fitness Hearing”).

5. Section 401 of the ICRTVL provides, in part, that “The Commission may at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed.” 625 ILCS 5/18a-401.

6. Throughout the course of discovery, Plaintiff requested documents through conventional discovery request, as well as through FOIA requests, in order to attempt to ascertain the nature and cause of the accusations made against it, review and confront the evidence against it, and obtain evidence in its favor.

7. Despite several FOIA requests and after eight (8) amended discovery responses from the ICC, the ICC still failed to turn over documents, despite Court orders to do so.

8. During the hearing as 92 RTV-R Sub 17, the ICC introduced new documents as evidence, over the objection of Plaintiff, that were not disclosed to Plaintiff in discovery.

9. In an attempt to obtain evidence to cross-examine the proffered evidence, Plaintiff submitted a FOIA request to the ICC.

10. The ICC refused to turn over any responsive documents.

11. The FOIA Act mandates that the ICC “shall make available to any person for inspection or copying all public records,” unless specifically exempted in the FOIA Act. 5 ILCS 140/3.

12. In violation of this mandate, the ICC has refused to produce public records to Plaintiff, which has prevented Plaintiff from discovery all facts relevant to its Fitness Hearing.

13. Plaintiff believes that production of the withheld public records will yield further evidence that the ICC’s attempts at revoking its license are pretextual and unfounded.

NATURE OF THE PARTIES

14. At all relevant times, Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE**, was an Illinois corporation with its principal office in the City of Chicago, Cook County, Illinois.

15. At all relevant times, Defendant, **ILLINOIS COMMERCE COMMISSION**, is an agency of the State of Illinois created pursuant to § 2-101 of the Public Utilities Act of Illinois, 220 ILCS § 5/2-101, and, as such, is a public body under § 2(a) of the Illinois Freedom of Information Act, 5 ILCS § 140/2(a)(hereinafter referred to as “FOIA”).

16. At all relevant times, Defendant **STEVEN L. MATRISCH** (hereinafter referred to as “Matrisch”), was the Deputy Executive Director of Transportation and, as such, is the administrative head of that division. Matrisch is joined in that capacity.

17. At all relevant times, Defendant **KATARZYNA ANNA KOWALSKA** (hereinafter referred to as “Kowalska”), was the Freedom of Information Officer for the Transportation Division of the Illinois Commerce Commission. Kowalska is joined in that capacity.

LEGAL STANDARD

When seeking injunctive relief, the party seeking a preliminary injunction or temporary restraining order must establish facts demonstrating the traditional equitable elements that (1) it has a protected right; (2) it will suffer irreparable harm if injunctive relief is not granted; (3) its remedy at law is inadequate; and (4) there is a likelihood of success on the merits. *County of Du Page v. Gavrilos*, 359 Ill. App. 3d 629, 634–35 (2005). In either case, the party seeking relief is not required to make out its entire case that would entitle it to relief on the merits; rather, it need show only that it raises a “fair question” about the existence of its right and that the court should preserve the status quo until the case can be decided on the merits. *Id.* Further, section 11–101 of the Code of Civil Procedure (735 ILCS 5/11–101 (West 2004)) allows the trial court to grant a TRO based upon the specific facts shown in the affidavits accompanying the petition or in a verified complaint on file. *Id.* (citing 735 ILCS 5/11–101).

ARGUMENT

I. Plaintiff Has a Protectable Interest

A license constitutes a protectable property interest for the purposes of constitutional due process. *Consiglio v. Dep't of Fin. & Prof'l Regulation*, 2013 IL App (1st) 121142, ¶ 19 (aff'd sub nom. *Hayashi v. Illinois Dept. of Fin. & Prof'l Regulation*, 2014 IL 116023, ¶ 28). On or about February 24, 2016, the ICC entered an order initiating a hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (hereinafter referred to as the ("ICRTVL")), which is docketed as 92 RTV-R Sub 17 (hereinafter referred to as the "Fitness Hearing").

Despite conducting discovery for over twelve (12) months, on June 1, 2017, during the Fitness Hearing trial, the ICC called its witness, Sergeant Tim Sulikowski, to the witness stand to testify regarding the 24-tow sheets and the recently disclosed reports from MCIS. For the first time since the case was opened on February 24, 2016, the ICC identified alleged violations to Plaintiff through Sergeant Sulikowski's live testimony in open court, with absolutely no opportunity for Plaintiff to review the purported inconsistencies in Plaintiff's records prior to the trial on June 1, 2017, and no opportunity to subpoena knowledgeable parties, obtain records, or otherwise conduct discovery to refute the claims.

On or about June 9, 2017, Plaintiff submitted a Freedom of Information Act Records Request in order to cross-examine evidence presented against it at the Fitness Hearing, specifically, ones that were (1) created after the February 1, 2017 document creation deadline; (2) created after Sergeant Sulikowski's March 15, 2017 deposition; and (3) tendered to Plaintiff on April 25, 2017, long after discovery had closed, and just a month before the Fitness Hearing was scheduled to commence.

Plaintiff's FOIA request sought the following:

1. Electronic copies in Portable Document Format ("PDF") of each and every application for a commercial relocater license submitted to the ICC within the past twenty-four (24) months;
2. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in any docket number proceeding before the Illinois Commerce Commission in which Rendered Services had its license revoked, suspended, terminated, or otherwise was deemed unfit to hold a commercial vehicle relocater license, within the past ten (10) years.
3. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 74 RTV-R Sub 13.
4. Electronic copies in Portable Document Format ("PDF") of each and every filing, including but not limited to each transcript of every hearing, in docket number 92 RTV-R Sub 17 since March 27, 2017.
5. Electronic spreadsheet in Microsoft Excel (.xls or .xlsx) of all contracts in MCIS for Protective Parking Service Corporation d/b/a Lincoln Towing Service that were cancelled by the Illinois Commerce Commission without any cancellation request from the lot owner.
6. Any and all correspondence between the Illinois Commerce Commission and Protective Parking Service Corporation d/b/a Lincoln Towing Service regarding e-filing of contracts through eRelocator and/or into the MCIS database.

Freedom of Information Act Records Request, T17-84.

On or about June 19, 2017, the Defendants demanded an additional 5 business days to respond to requests 2 and 6, and claimed that the remaining requests were "voluminous," consisting of approximately 1,921 pages of responsive documents. Thereafter, on or about June 26, 2017, the Defendants sent additional correspondence, claiming that requests 2 and 6 were also "voluminous," consisting of approximately 1,064 emails, of single or multiple pages each, and potentially with attachments. Additionally Defendants claimed there were approximately 38 additional pages of documents responsive to paragraph 2.

At Defendant's request, on June 29, 2017, Plaintiff agreed to pay the statutory fees for voluminous data requests, pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.* (hereinafter referred to as the "FOIA Act"). However, on July 7, 2017, Defendants changed

their position and denied the request in its entirety and produced no responsive documents whatsoever in response to Plaintiff's requests.

The testimony Plaintiff seeks to cross-examine was proffered by Sergeant Sulikowski for the first time on June 1, 2017 at the Fitness Hearing, although he was unaware of the alleged violations at his deposition. Plaintiff has not been afforded an opportunity to examine the evidence presented against it, or an opportunity to cross-examine the witness regarding the evidence. The allegations revealed for the first time on June 1, 2017 involve alleged failures to have an electronically filed contract on the date of various purported tows. Accordingly, Plaintiff's license is a protectable property interest and Plaintiff is entitled to its constitutional due process rights.

II. Plaintiff has a Likelihood of Success on the Merits

To establish a likelihood of success, "[t]he plaintiff is not required to make out a case which would entitle him to judgment at trial; rather, he only needs to show that he raises a "fair question" about the existence of his right and that the court should preserve the status quo until the cause can be decided on the merits. *Stocker Hinge Mfg. Co. v. Darnel Indus., Inc.*, 94 Ill. 2d 535, 542 (1983).

In this case, Defendants' refusal to comply with the FOIA Act is an attempt to deny Plaintiff its constitutional due process rights. "Any public body that asserts that a record is exempt from disclosure has the burden of proving that it is exempt by clear and convincing evidence." *Dumke v. City of Chicago*, 2013 IL App (1st) 121668 ¶ 10 (citing 5 ILCS 140/11(f)). "Where, as here, the requesting party challenges the public body's denial of a FOIA request, the public body must demonstrate that the records requested fall within the claimed exception." *Id.* (citing *Stern v. Wheaton-Warrenville Community Unit School District 200*, 233 Ill.2d 396, 406 (2009)).

However, none of the FOIA requests were exempt pursuant to any exemption in the FOIA Act and were not voluminous. Although Defendants provided transcripts in the past to Plaintiff, the ICC currently refuses to provide even the transcripts of hearings in the Fitness Hearing.

Defendants' refusal to provide public records to Plaintiff is a willful and intentional violation of FOIA.

Defendants violated FOIA by refusing to produce the requested records on the basis of inapplicable exemptions. Defendants' refusal to provide Plaintiffs with public records that are stored electronically and are easily accessible is a willful and intentional violation of FOIA. Accordingly, Plaintiff has a likelihood of success on the merits.

III. Plaintiff has No Adequate Remedy at Law

The loss of customers and sales and the threat of continuation of such losses to a legitimate business interest is sufficient to show that plaintiff will suffer irreparable injury unless protected. *Gold v. Ziff Communications Co.*, 196 Ill. App. 3d 425, 434 (1989). In this case, revocation of Plaintiff's license would result in immediate loss of customers, as many of its customers have daily towing needs to maintain open parking spaces for their customers. Any revocation or suspension of Plaintiff's license would result in an immediate and permanent injury. Such injury is a legitimate business interest which has no adequate remedy at law.

IV. Absent Injunctive Relief, Plaintiff Will Incur Irreparable Harm

Once a protectable interest is established, irreparable injury is presumed to follow if the interest is not protected. *McRand, Inc. v. van Beelen*, 138 Ill. App. 3d 1045, 1054 (1985). To show irreparable injury, the plaintiff is not required to show that the injury is beyond repair or compensation in damages, but need show only transgressions of a continuing nature. *Stenstrom Petroleum Services Group, Inc. v. Mesch*, 375 Ill. App. 3d 1077, 1096 (2007). Several courts have held that it is not necessary that a party seeking an injunction wait until an injury occurs before relief will be granted. *Gannett Outdoor of Chicago v. Baise*, 163 Ill. App. 3d 717, 722-23 (1987).

V. The Balancing of Equities Weighs in Favor of Injunctive Relief

In balancing the equities, the court must weigh the benefits of granting the injunction against the possible injury to the opposing party from the injunction. *Schweickart v. Powers*, 245 Ill. App. 3d 281, 291 (1993). This general rule, however, is not applied where the violation is willful, where the existence of a private right and the violation thereof are clear, or where the act complained of is tortious in itself. *Barrett v. Lawrence*, 110 Ill. App. 3d 587, 593 (1982). In balancing these equities, the court should also consider the effect of the injunction on the public. *Vill. of Bensenville v. City of Chicago*, 389 Ill. App. 3d 446, 493 (2009)

Defendants violated FOIA by refusing to produce the requested records on the basis of inapplicable exemptions. Defendants' refusal to provide Plaintiffs with public records that are stored electronically and are easily accessible is a willful and intentional violation of FOIA.

CONCLUSION

Plaintiff has a right to inspect the transcripts and the records pertaining to its license that the ICC has in its possession as public records. Without these records, Plaintiff is unable to defend itself and have an opportunity to cross-examine witness presenting against it. Plaintiff is threatened with irreparable harm for which there is no adequate legal remedy because the Fitness Hearing is currently scheduled to proceed, before Plaintiff will have an opportunity to review, and develop additional arguments based on, the withheld materials, which, as stated, will provide further evidence for Plaintiff's cross-examination. As a result, the failure of the ICC to turn over all requested public records that are subject to disclosure has impaired Plaintiff's ability to effectively safeguard its license to operate.

Considering that Plaintiff's license is its single, most valuable asset, and considering that loss of its license would immediately destroy all of Plaintiff's business, effectively lifting most parking restrictions throughout Chicagoland's most dense urban neighborhoods, including, but not

limited to, a majority of the lots around Wrigley Field, the public in general have a substantial interest in assuring that the status quo is preserved, and the Plaintiff has an opportunity to defend itself. If the ICC revokes Plaintiff's license without an opportunity to inspect all evidence offered against it, and/or all evidence in its favor that is withheld by the ICC, Plaintiff will be irreparably harmed with no adequate remedy at law to address that harm.

Accordingly, the Court should issue a temporary restraining order and thereafter a preliminary injunction, barring the ICC from proceeding with the Fitness Hearing until (a) Plaintiff has been provided with the documents requested in its FOIA Request; (b) Plaintiff has been provided an opportunity to review and cross examine the documents provided, and (c) Plaintiff has had an opportunity to use the documents to cross-examine witnesses called by the ICC in the Fitness Hearing.

WHEREFORE, Plaintiff, **PROTECTIVE PARKING SERVICE CORPORATION** d/b/a **LINCOLN TOWING SERVICE**, an Illinois corporation (heretofore referred to as "Plaintiff"), by and through its attorneys, **PERL & GOODSNYDER, LTD.**, prays that this Honorable Court temporarily, preliminarily, and permanently enjoin Defendants, the **ILLINOIS COMMERCE COMMISSION**, a Public Body (heretofore referred to as the "ICC"); **STEVEN L. MATRISCH**, Deputy Executive Director of Transportation (heretofore referred to as "Matrisch"); and **KATARZYNA ANNA KOWALSKA**, Transportation Counsel (heretofore referred to as "Kowalska")(at times heretofore, the Defendants were collectively referred to as "Defendants") and their officers, agents, servants, affiliates, employees, attorneys, and any and all persons acting in concert or participation with them from the following:

- i. Withholding any documents requested in the T17-84 Freedom of Information Act;


- ii. Conducting any hearings in the proceeding docketed as 92 RTV-R Sub 17 until Plaintiff has had an opportunity to review the FOIA documents; and
- iii. Considering, reviewing, determining, or acting upon in any manner, in the hearing on fitness to hold a Commercial Vehicle Relocator's License pursuant to Section 401 of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-401 (heretofore referred to as the ("ICRTVL")), which is docketed as 92 RTV-R Sub 17 (heretofore referred to as the "Fitness Hearing").

Plaintiff also prays that the Court award attorneys' fees and costs to bring said action, and such further, additional and/or alternative relief as this Honorable Court and the trier of fact deems fair, just and reasonable.

Dated: July 26, 2017

Respectfully Submitted on Behalf of Plaintiff:

PROTECTIVE PARKING SERVICE CORPORATION
d/b/a **LINCOLN TOWING SERVICE**, an Illinois
corporation



Perl & Goodsnyder, Ltd.
By one of its Attorneys

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EXHIBIT 6

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION



In re the matter of: :
: :
Protective Parking Service Corporation : 92 RTV-R Sub 17
d/b/a Lincoln Towing Service, : 100139 MC
Respondent. : :
: **SERVED**
Hearing on fitness to hold a Commercial Vehicle Relocator's : **ELECTRONICALLY**
License pursuant to Section 401 of the Illinois Commercial : **OR BY MAIL**
Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a- :
401. :

ADMINISTRATIVE LAW JUDGE'S RULING

Notice is hereby given of the Administrative Law Judge's ("ALJ) rulings regarding specific discovery requests set forth below made by Protective Parking Service Corporation d/b/a Lincoln Towing Service in its Motion to Compel Discovery.

Data Request (DR) 1

Motion granted to the extent that the DR requests all documents actually reviewed by Staff in the course of preparing its responses to the DRs. The DR does not request all documents that potentially exist that Staff has not reviewed.

Data Requests 4 and 5

Motion denied because response provided by Staff is sufficient.

Data Request 9

Motion denied because DR is overly broad.

Data Requests 10 and 13

Motion is denied because Staff has provided Respondent with a spreadsheet detailing all of Respondent's citations dating back to July 25, 2013. In addition, Staff claims it has provided Respondent with copies of all investigation files that resulted in an enforcement action against Respondent dating back to at least July 24, 2015, the date Respondent's authority to operate was last renewed.

Data Requests 14 and 15

Motion is denied because information requested is irrelevant to the instant proceeding.

Data Request 16

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Requests 17, 18 and 19.

Motion denied because information requested regarding Rendered Services, Inc. and A1 Citywide Towing is irrelevant to instant proceeding.

Data Request 20

Motion is granted and response should be provided to Respondent by December 19, 2016, unless parties mutually agree to another date.

Data Request 28

Motion denied because DR is overly broad.

ENTERED: November 18, 2016

A handwritten signature in blue ink that reads "Latrice Kirkland Montague". The signature is written in a cursive, flowing style.

Latrice Kirkland-Montague
Chief Administrative Law Judge
Review and Examination

EXHIBIT 7

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

In re the matter of:	:	
	:	
Protective Parking Service Corporation d/b/a	:	
Lincoln Towing Service,	:	92 RTV-R Sub 17
Respondent.	:	100139 MC
	:	
Hearing on fitness to hold a Commercial Vehicle	:	Honorable Latrice Kirkland-Montaque
Relocator’s License pursuant to Section 401 of	:	
the Illinois Commercial Relocation of	:	
Trespassing Vehicles Law, 625 ILCS 5/18a-401.	:	

STIPULATION REGARDING UNCONTESTED FACTUAL EVIDENCE

WHEREAS, Respondent, PROTECTIVE PARKING SERVICE CORPORATION d/b/a LINCOLN TOWING SERVICE (hereinafter referred to as “Respondent”), is a Commercial Vehicle Relocator as defined in the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-100, *et seq.* (hereinafter referred to as the “Law”), and currently holds a relocator’s license from the Illinois Commerce Commission (hereinafter referred to as the “Commission”) pursuant to Section 1710 of the Illinois Commerce Commission regulations on Relocation Towing, 92 Ill. Adm. Code 1710.10, *et seq.*;

WHEREAS, the Commission has initiated this proceeding pursuant to 625 ILCS 5/18a-401, in order to “make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed;” and pursuant to the Commission’s February 24, 2016 Order, “to inquire into [Respondent’s] relocation towing operations to determine whether it is fit, willing, and able properly to perform the service of a commercial

vehicle relocater and to conform to the provisions of the ICRTVL and the Commission's Administrative Rule, 92 Ill. Admin. Code 1710.10 *et seq.*”

WHEREAS, the Staff of the Illinois Commerce Commission has conducted its inquiry into the management and conduct of business of Respondent for the relevant time period of July 24, 2015, through March 23, 2016, and introduced the results thereof;

WHEREAS, the Commission has jurisdiction over the Respondent and the subject-matter of this proceeding, in accordance with Section 18a-200(1) of the relocation towing law (625 ILCS 5/18a-200(1)); and

WHEREAS, counsel for Respondent and the Staff of the Illinois Commerce Commission are desirous of expediting this proceeding to the extent possible, as requested by Honorable Judge Latrice Kirkland-Montaque.

NOW, THEREFORE, IT IS HEREBY STIPULATED, by and between the Staff of the Illinois Commerce Commission, on the one hand, and counsel for Respondent Protective Parking Service Corporation d/b/a Lincoln Towing Service, on the other hand, subject to the approval and order of Chief Administrative Law Judge, Honorable Latrice Kirkland-Montaque, as follows:

1. Respondent owns, or has exclusive possession of under a written lease with a term of at least 1 year, at least one storage lot that meets the requirements of Subpart M, 92 Ill. Adm. Code 1710.130, *et seq.*;

2. Respondent employs sufficient full-time employees at each storage lot to comply with Section 1710.123;

3. Respondent owns or has under exclusive lease at least 2 tow trucks dedicated to use under the relocater's license;

4. Respondent employs at least 2 individuals who will work as the relocater's operators;

5. Respondent is in compliance with Section 4 of the Illinois Workers' Compensation Act [820 ILCS 305/4];

6. Respondent has sufficient available assets, management with prior experience in the towing industry, possession of adequate and properly maintained equipment, and an ability and willingness to provide commercial vehicle relocation service; and

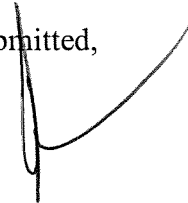
7. Respondent is in compliance with all other procedural application requirements that would be required for a legally sufficient, complete, and proper application pursuant to of 92 Ill. Adm. Code 1710.10, *et seq.* and 625 ILCS 5/18a-100, *et seq.*

Respectfully submitted,



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Respectfully submitted,



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