

1

BEFORE THE

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ILLINOIS COMMERCE COMMISSION

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IN THE MATTER OF: )  
 PROTECTIVE PARKING SERVICE )  
 CORPORATION d/b/a LINCOLN )  
 TOWING SERVICE, )

5

Respondent. ) Docket No.

6

HEARING ON FITNESS TO HOLD A ) 92 RTV-R Sub 17

7

COMMERCIAL VEHICLE RELOCATOR'S )

8

LICENSE PURSUANT TO SECTION )

9

401 OF THE ILLINOIS COMMERCIAL )

10

RELOCATION OF TRESPASSING )

11

VEHICLES LAW, 625 ILCS )

12

5/18A-401. )

13

Chicago, Illinois

14

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January 30th, 2018

16

Met, pursuant to notice, at 1:45 p.m.

17

18

BEFORE:

19

MS. LATRICE KIRKLAND-MONTAQUE,

20

Administrative Law Judge

21

22

SULLIVAN REPORTING COMPANY, by

23

Cariann Wagner, CSR

24

License No. 084-003836.

1 APPEARANCES:

2

3 ILLINOIS COMMERCE COMMISSION, by

4 MR. MARTIN BURZAWA

5 160 North LaSalle Street

6 Suite C-800

7 Chicago, IL 60601

8 (312) 814-1934

9 on behalf of ICC Staff;

10

11 PERL & GOODSYNDER, LTD., by

12 MR. ALLEN R. PERL

13 MR. VLAD V. CHIRICA

14 14 North Peoria Street

15 Chicago, IL 60607

16 (312) 243-4500

17 for Protective Parking.

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19

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## 1 I N D E X

2 WITNESS EXAMINATION

3 SERGEANT TIMOTHY SULIKOWSKI

4 Cross Exam By Mr. Perl 1219

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## 7 E X H I B I T S

8 NUMBER MARKED FOR ID RECEIVED

9 Lincoln Exhibit Nos. 23 - 26 1291

10 Lincoln Exhibit No. 27 1307 1310

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1           ALJ KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and Illinois  
3 Commerce Commission. I now call docket  
4 No. 92-RTV-R Sub 17 for hearing. This is  
5 Protective Parking Corporation doing business as  
6 Lincoln Towing Service and this is a hearing on  
7 fitness to hold a commercial vehicle relocator's  
8 license

9           May I have the appearances. Please  
10 state your name and who you represent. Let's start  
11 with Lincoln.

12           MR. PERL: Thank you, your Honor. For the  
13 record, my name Alan Perl. I represent Protective  
14 Parking Service Corporation doing business as  
15 Lincoln Towing Service.

16           MR. CHIRICA: Vlad Chirica also from Perl &  
17 Goodsnyder representing Protective Parking Service  
18 doing business as Lincoln Towing Service, the  
19 respondent.

20           MR. BURZAWA: Good afternoon, Judge. My name  
21 is Martin Burzawa for staff of the Illinois  
22 Commerce Commission, and we have the witness on the

1 stand ready to go.

2 ALJ KIRKLAND-MONTAQUE: Sergeant Sulikowski,  
3 remember that you were sworn in and you are still  
4 sworn in this proceeding.

5 THE WITNESS: Yes, I do.

6 ALJ KIRKLAND-MONTAQUE: Mr. Perl, you may have  
7 the floor.

8 TIMOTHY J. SULIKOWSKI,  
9 called as a witness herein, having been previously  
10 duly sworn and having testified, was examined and  
11 testified further as follows:

12 CROSS EXAMINATION

13 BY MR. PERL:

14 Q. Sergeant Sulikowski, can you just state  
15 your name and spell your last name for the record?

16 A. Timothy J. Sulikowski,  
17 S-u-l-i-k-o-w-s-k-i.

18 Q. And Sergeant, do you recall giving  
19 testimony in this case a couple months ago?

20 A. Yes.

21 Q. And did you do anything between then and  
22 now to prepare for the testimony today?

1 A. No.

2 Q. Did you review any documents to review  
3 for the testimony today?

4 A. I reviewed the transcripts.

5 Q. The transcripts of your direct  
6 testimony?

7 A. Yes.

8 Q. Anything else?

9 A. No.

10 Q. Did you review any of the exhibits that  
11 you were shown on your direct?

12 A. No.

13 Q. And you know what exhibits I'm referring  
14 to?

15 A. Yes.

16 Q. Other than your counsel, Mr. Burzawa,  
17 who is here today and any other counsel you have  
18 had in this case, have you spoken to anybody about  
19 this hearing?

20 A. No.

21 Q. Briefly, prior to your working at the  
22 Commerce Commission, where did you work?

1           A.       I worked for the Village of Orland Hills  
2 and I also worked for the Village of Crestwood.

3           Q.       And I skipped over but what do you do  
4 for the Commerce Commission?

5           A.       I'm the acting Sergeant for the Northern  
6 District of Illinois for the Illinois Commerce  
7 Commission Police.

8           Q.       Can you tell me a little bit about your  
9 job duty and title?

10          A.       Yes. My job duty is to obviously  
11 enforce the laws of the state of Illinois. In  
12 particular with the Commerce Commission, we deal  
13 with several sections of transportation law,  
14 relocation towing, safety towing, collateral  
15 recovery, which is also repossession towing, and  
16 household goods, which are moving companies.

17          Q.       So you do not deal just with relocation  
18 towing, correct?

19          A.       Correct.

20          Q.       You have many other responsibilities as  
21 well, correct?

22          A.       Yes.

1           Q.       And prior to being a police officer with  
2 the Commerce Commission, you were a police officer  
3 for two other villages, correct?

4           A.       Yes.

5           Q.       Are your duties and responsibilities the  
6 same today as they were during the relevant time  
7 period, July 24, 2015 through March 23, 2016?

8           A.       Yes.

9           Q.       And do you understand when I refer to  
10 the relevant time period, I'm referring to the time  
11 period of July 24, 2015 through March 23, 2016?

12          A.       Yes.

13          Q.       What training is required in order to  
14 become an Illinois Commerce Commission police  
15 officer and what training did you receive?

16          A.       You need to be a full-time sworn police  
17 officer recognized in the state of Illinois. So we  
18 don't take anybody who hasn't already been in the  
19 police.

20                    When you are hired for the Illinois  
21 Commerce Commission, you then attend a five-week  
22 block of training in Springfield which covers all



1 of the various areas that an Illinois Commerce  
2 Commission police officer deals with.

3 Q. So when somebody becomes an Illinois  
4 Commerce Commission police officer, that could not  
5 have been their first job as a police officer,  
6 correct?

7 A. Yes.

8 Q. Do you know why that is, by chance?

9 A. Not specifically, no.

10 Q. And then elaborate a little bit about  
11 what kind of training you get once you come here to  
12 the Commerce Commission?

13 A. Okay. Like I said before, it's a  
14 five-week block of training down in Springfield.  
15 It covers commercial transportation law, household  
16 good moving law, relocation towing, safety towing,  
17 collateral recovery.

18 We also get recertified in CPR and some  
19 first aid techniques. Through the EPA, a HAZMAT  
20 radiation detector. The Secretary of State comes  
21 in. They do a block on license plates and  
22 registration. The State Police come in and do a

1 block on radio communications and what they expect  
2 because we all utilize the State Police radio band,  
3 things of that nature.

4 Q. And who do you report to directly? Who  
5 is your supervisor?

6 A. The assistant Chief of Police Steve  
7 Weatherford.

8 Q. Is he still the same individual you  
9 reported to during the relevant time period?

10 A. No.

11 Q. Who did you report to during relevant  
12 time period?

13 A. Chief Castro.

14 Q. Do you know Chief Castro's first name?

15 A. I'm sorry. I do not.

16 Q. Male or female?

17 A. Male. His first name is Kim, K-i-m.

18 Q. As a police officer with the Illinois  
19 Commerce Commission, do you ever write citations?

20 A. Yes.

21 Q. Do you ever write tickets?

22 A. Yes.

1           Q.       Can you explain for the Court what the  
2 difference is within the Commerce Commission  
3 setting?

4           A.       We have citations. We have tickets.  
5 Who calls what, what. We can write a citation and  
6 put that here in front of the Commerce Commission  
7 Court. We can write a ticket and put that in front  
8 of a Circuit Court Judge. You know, some officers  
9 call them different things or both things. You  
10 know, we may just call it tickets. Some guys  
11 maybe -- there is no hard set rule of a citation  
12 only means it's coming here.

13          Q.       Would you agree that investigators can't  
14 write tickets?

15          A.       Investigators can't write things that  
16 can go into Circuit Court. They can only write  
17 things that come here to the Commerce Commission.

18          Q.       Would you agree that, generally  
19 speaking, when referring to tickets in the Commerce  
20 Commission setting, those are things that refer to  
21 the Circuit Court, correct?

22          A.       It can be considered that, yes.

1           Q.       I'm just trying to make a distinction  
2 between writing a violation to either a relocation  
3 company or an individual, which would be called a  
4 ticket, which would then go to the Circuit Court,  
5 versus a citation that would then come to the  
6 Commerce Commission that we are here at today,  
7 correct?

8           A.       Yes.

9           Q.       Who has the ability to start or open up  
10 an investigation in regard to either a relocater  
11 company or an individual within the Commerce  
12 Commission setting?

13          A.       We as police officers can. I don't know  
14 that the investigator has.

15          Q.       Do you recall specifically opening any  
16 investigations regarding Lincoln Towing during the  
17 relevant time period?

18          A.       No.

19          Q.       Would that mean that any investigations  
20 that you looked into during the relevant time  
21 period would have come from the public or  
22 consumers; is that correct?



1 sometimes consumers send in more than just a  
2 complaint form. They may send in pictures,  
3 receipts, whatever they want to send in for that  
4 case and all of that would be put into a file  
5 folder with the case number on it.

6 That would then get assigned to an  
7 officer and then they would then investigate that  
8 over a course of time.

9 Q. You said that would have been assigned  
10 to an officer. You mean or an investigator as  
11 well, correct?

12 A. Well, we have to backtrack a little bit.  
13 Currently, the investigator is not handling any  
14 Lincoln cases, any new cases. During the relevant  
15 time period he was.

16 Q. So during the relevant time period when  
17 a consumer complaint came in, it could have been  
18 handed off to either the investigator who at the  
19 time was Investigator Carlson, correct?

20 A. Correct.

21 Q. Or an officer, correct?

22 A. Correct.

1           Q.       When Investigator Carlson was actively  
2 working as an investigator for the Commerce  
3 Commission, he was the only one that was receiving  
4 Lincoln Towing complaints?

5           A.       Yes.

6           Q.       And at some point in time he went on  
7 medical leave, correct?

8           A.       Yes.

9           Q.       Without discussing why that was or what  
10 it was, it wasn't immediate. I think there were  
11 times he would work, then he'd go on leave and then  
12 he'd come back, correct?

13          A.       Yes.

14          Q.       That kind of created a backlog of  
15 Lincoln complaints, didn't it?

16          A.       Yes.

17          Q.       Not because there were so many number of  
18 complaints coming in but because  
19 Investigator Carlson was coming in and out and  
20 couldn't get to some of his complaints, correct?

21          A.       Yes.

22          Q.       During that period of time, initially,

1 you weren't handling any Lincoln Towing complaints,  
2 were you?

3 A. Not while Officer Carlson was still  
4 there.

5 Q. During the relevant time period when a  
6 complaint would come in from a consumer, who would  
7 decide whether or not to investigate the complaint?

8 A. All consumer complaints are  
9 investigated.

10 Q. So when a complaint comes in from a  
11 consumer, basically the individuals who take the  
12 complaint in, they don't judge whether the  
13 complaint is accurate or not. They hand it off to  
14 an investigator or police officer to investigate?

15 A. Yes.

16 Q. And there is a big difference between an  
17 investigation versus a citation or a ticket?

18 A. It's semantics. I mean, do I consider  
19 every complaint that comes in an investigation,  
20 yes, I do.

21 Q. I think I misspoke.

22 A. I don't treat it like a fitness



1 investigation.

2 Q. I meant when an investigation comes in,  
3 there is no determination made yet that a violation  
4 is committed, is there?

5 A. No.

6 Q. So there is a difference between an  
7 investigation versus something that was  
8 investigated already and there is a citation or  
9 ticket, correct?

10 A. Yes.

11 Q. That would mean an officer or an  
12 investigator did an investigation and determined  
13 they were going to write a citation or ticket,  
14 correct?

15 A. Correct.

16 Q. Or not?

17 A. Correct.

18 Q. So there is not much that you can do to  
19 glom from knowing that there is an investigation  
20 regarding Lincoln Towing as to whether or not  
21 Lincoln Towing committed a violation, is there,  
22 until you do an investigation?

1           A.     No.

2           Q.     So take me through the investigative  
3 process.  The individual at the Commerce Commission  
4 starts a file and the consumer complaint and hands  
5 it off to, let's say, Investigator Carlson or an  
6 officer.  What happens next?

7           A.     Okay.  Typically, the investigator or  
8 officer would call the consumer to see if there was  
9 any information that may be in addition to him not  
10 writing it down.  There are facts sometimes that  
11 are omitted when a consumer would send in.  So we  
12 try to qualify that a little bit better than just  
13 here is a written complaint.

14                     Once we do that, then it gets put in the  
15 officer's schedule.  You know, we take complaints  
16 as they come in.  So anything new, we try to touch  
17 base while it's fresh but it may be some time  
18 before that actually gets investigated.

19                     At some point, the officer or  
20 investigator should go to the lot and make sure  
21 that there is appropriate signage with the  
22 appropriate fees.  He is going to check in our MCIS

1 system, which stands for Motor Carrier Information  
2 System, as to whether or not there is a valid  
3 contract on file for the property listed on the  
4 towing invoice. He is going to check whether that  
5 contract is listed as a patrol or a call contract  
6 and then he's going to refer back to the towing  
7 invoice to see how that two was checked, whether it  
8 was a call. He is going to check the validity of  
9 permits for the operators and dispatchers. He is  
10 going to check to make sure it was done within the  
11 appropriate air mileage range of that relocater's  
12 assigned territory and check to make sure that that  
13 tow was phoned into the local police or faxed or  
14 whatever method that he had within an hour.

15           Now depending upon whether it's needed,  
16 sometimes they dig a little further and check  
17 whether there is a lease on a file for a tow truck  
18 and so on and so forth. If it's a heavy duty tow,  
19 we might have to get into the SOS system and find  
20 out if that operator has a CDL license but certain  
21 areas of those the investigator does not have.  
22 That's only for the police.

1 Q. So it's safe to say there is a lot to do  
2 when you go from the investigation stage to  
3 determine whether or not you can write a citation,  
4 correct?

5 A. Yes.

6 Q. In addition to what you stated, the  
7 investigator or officer might also want to visit it  
8 on his own and ask them some questions, correct?

9 A. Correct.

10 Q. Or solicit documentation from them,  
11 correct?

12 A. Yes.

13 Q. Or go to the Illinois Commerce  
14 Commission and look at documents in the Commerce  
15 Commission, correct?

16 A. Well, we can view the MCIS system.  
17 There aren't documents that we can go to look and  
18 review.

19 Q. Are you sure? When a towing company  
20 sends in an -- when an individual sends an  
21 application in to become a relocater, don't they  
22 send in hardcopy documents?

1           A.       They do. I'm corrected. There is a  
2 file cabinet drawer with applications for operators  
3 and dispatchers.

4           Q.       If they wanted to -- let's say they  
5 wanted to check and see if a certain document came  
6 at a certain time, instead of relying only on MCIS  
7 they can do that, correct?

8           A.       Yes.

9           Q.       So a lot to do between starting an  
10 investigation and deciding whether or not to file a  
11 citation, correct?

12          A.       Yes.

13          Q.       Backing up for a moment, I think you  
14 stated earlier that every invoice on the back of it  
15 has the complaint form for the consumer to complain  
16 to the Commerce Commission, correct?

17          A.       Yes.

18          Q.       And it's pretty much self-explanatory,  
19 correct?

20          A.       Yes.

21          Q.       And all the consumer has to do is fill  
22 in the blanks, correct?

1 A. Yes.

2 Q. So it's a pretty simple process if the  
3 consumer thought they were harmed or wrong to file  
4 a complaint with the Commerce Commission, correct?

5 A. Yes.

6 Q. They don't have to visit the Commerce  
7 Commission office, do they?

8 A. No.

9 Q. They don't have to e-mail the Commerce  
10 Commission, do they?

11 A. No.

12 Q. They don't even ever have to actually  
13 come face to face with you or investigators, do  
14 they?

15 A. No.

16 Q. In fact, isn't most of it done on the  
17 telephone?

18 A. And mail.

19 Q. And so if, in fact, Lincoln Towing towed  
20 hypothetically 13,000 cars in a year -- and let me  
21 ask you this. Have you heard that number before in  
22 reference to Lincoln Towing?

1           A.     I believe I have.

2           Q.     Do you believe that's a fair number they  
3 tow for a year?

4           A.     I don't know.

5           Q.     So if we talked before that the Commerce  
6 Commission charges Lincoln Towing \$10 per invoice,  
7 correct?

8           A.     Yes.

9           Q.     And if Lincoln Towing's tax returns show  
10 that they paid the Commerce Commission \$130,000 for  
11 invoices, simple math that would equate to 13,000  
12 invoices, correct?

13          A.     Yeah, but I don't see their financial  
14 statements. I have no business seeing those  
15 records.

16          Q.     If that's what it said, it would equate  
17 there is 13,000 tows, correct?

18          A.     Yes.

19          Q.     In fact, each and every individual that  
20 gets relocated by Lincoln Towing, all 13,000 in a  
21 year, very simply you could just turn over their  
22 invoices and file a complaint, correct?

1           A.     Yes.

2           Q.     Would you agree that an investigation is  
3 necessary for determining whether or not Lincoln  
4 Towing or any relocater has actually violated any  
5 of the ICC rules or regulations?

6           A.     Yes.

7           Q.     Who decides whether or not to write the  
8 citation or ticket initially?

9           A.     The investigating officer or --

10          Q.     Or investigator?

11          A.     Or investigator.

12          Q.     So the investigating officer or  
13 investigator, he or she does an investigation and  
14 does not need to check with their supervisor to  
15 decide whether or not they are going to write a  
16 citation or not write a citation, correct?

17          A.     Yes.

18          Q.     What do you believe is a standard after  
19 an investigation for whether or not the  
20 investigator or officer will write a citation?

21          A.     What I believe is there is no discretion  
22 when it comes to a consumer what's written in a



1 complaint.

2           By that I mean, if I were to stop  
3 somebody for speeding, I have discretion as the  
4 officer that made that stop depending on the reason  
5 for speeding. But when it comes to consumer  
6 complaints, that's not a complaint that I or any of  
7 the other officers sought out. That it's somebody  
8 who feels they have been wronged in one way or  
9 another and is coming to us as the agency that  
10 regulates the industry. If there is an infraction  
11 in that complaint, whether it's what the consumer  
12 complains about or something that is discovered  
13 from that, then they need to get a citation.

14           Q.     I'll get to that later. Maybe my  
15 question was not understandable. Here is my  
16 question.

17           When the officer does an investigation,  
18 the standard they use is preponderance beyond a  
19 reasonable doubt for them to do that, to write a  
20 citation. In other words, if a consumer says there  
21 was no sign there, correct?

22           A.     Yes.

1           Q.       You don't know whether there was or  
2 wasn't because you weren't there when the tow  
3 occurred, correct?

4           A.       Correct.

5           Q.       But if you do an investigation and  
6 somehow see a picture of the lot 24 hours before  
7 the tow and 24 hours after the tow and there were  
8 signs there, you are not going to write a citation,  
9 are you?

10          A.       Me personally, no.

11          Q.       So after there is an investigation done  
12 and all of those things are completed that you  
13 talked about earlier, is there a standard you would  
14 use in order to write a citation?

15          A.       I can't speak for the other officers  
16 because we all have our own thresholds and our own  
17 mindset.

18          Q.       So what would your threshold be during  
19 the relevant time period?

20          A.       If I were conducting an investigation  
21 during the time period and somebody complained that  
22 there were no signs posted and there was no

1 evidence suggesting there were signs, you know,  
2 like the tow driver took pictures or something that  
3 he could give me that says, here, there is the  
4 sign, here is the car, barring no other evidence to  
5 dispute the consumer's complaint, then I put it  
6 back to the consumer. Is he or she is willing to  
7 come to court to testify -- because I can't  
8 testify. I wasn't there that day. They have to  
9 testify. There were no signs there, your Honor,  
10 and, you know, it's for the honor then to judge the  
11 credibility of the witness, not for me. So if they  
12 are able and willing to come to court, then I'm  
13 obligated to write that citation.

14 Q. That's your opinion?

15 A. That's my opinion.

16 Q. But you are not writing a citation  
17 because you believed the violation occurred because  
18 you don't know whether it occurred or not, correct?

19 A. Correct.

20 Q. You are writing it because, in your  
21 mind, you don't have any -- this is where the  
22 standard comes in -- any evidence going the other

1 way that the sign was there, correct?

2 A. Correct. I can explain it this way.

3 If somebody comes to me and says I was  
4 battered by that person there and I have a mark on  
5 me, can I say that, yes, that person struck the  
6 other person? No. I wasn't there. But if he is  
7 willing to sign a complaint and to come to court to  
8 testify, then I have to take his complaint.

9 Q. That's the exact scenario I was thinking  
10 about when writing my questions.

11 As a police officer somebody comes up to  
12 you and said -- I'll use Vlad -- Vlad punched me in  
13 the face. You didn't see the guy. Prior to  
14 arresting Vlad, wouldn't you want to ask the  
15 individual when did he hit you, where were you  
16 located when he hit you, was anybody else there, do  
17 you have any other evidence to prove that he hit  
18 you. Don't you want to know all of those things  
19 before you go further with your investigation?

20 A. Sure, I do.

21 Q. Because then you can go to Vlad before  
22 arresting him and say, Hey, Vlad, Bob over here

1 says you hit him Tuesday, July 10 at 2:00 p.m.

2 And then Vlad says, Well, wait a minute.

3 Here is my plane ticket. I was in California

4 July 20th at 2:00 p.m.

5 Are you still going to arrest Vlad?

6 A. In your scenario, no. But, again, if  
7 there is no other factors that I can't dispute the  
8 allegation, like I said before, I have to write the  
9 citation.

10 Q. I'm establishing that you don't have to  
11 take as true what a complainant witness says to you  
12 on his face, do you? You can do more investigation  
13 into it, can't you?

14 A. I can and there are times that we don't  
15 receive certain things. Let's say somebody is  
16 towed in Walgreen's and they come back and see  
17 their car is towed. Well, I'll go in there and buy  
18 a pack of gum, and I will have a receipt that says  
19 I was in the Walgreen's. We can look at the time  
20 stamp on the receipt and we can see past things of  
21 those natures and we don't write citations in cases  
22 like those.

1 Q. Or they can go to Walgreen's and find a  
2 receipt on the floor and make it line up with the  
3 time stamp?

4 A. Absolutely.

5 Q. So if you have an investigator or police  
6 officer that says, I received an investigation from  
7 Mrs. Jones. Mrs. Jones said there was no sign. I  
8 never went to the lot. I never asked Lincoln  
9 Towing if there was a sign. I didn't check to see  
10 if Lincoln Towing has proof that there were signs.  
11 They have these guys that put the signs up. I  
12 didn't write -- I write the citation because the  
13 individual said it occurred. Is that proper?

14 A. Well, again, I can't speak to others for  
15 me, no.

16 Q. Have you ever been assigned an  
17 investigation where you didn't write a citation?

18 A. Yes.

19 Q. Happens all of the time?

20 A. It happens.

21 Q. That's because after you do your  
22 investigation, you determine that, in your opinion,

1 the violation didn't occur, correct?

2 A. Yes.

3 Q. During the relevant time period were you  
4 ever assigned an investigation regarding Lincoln  
5 Towing where you didn't write a citation?

6 A. None that I can recall during the  
7 relevant time period.

8 Q. Were you ever assigned an investigation  
9 where you did write a citation?

10 A. In or out of the --

11 Q. During the relevant time period.

12 A. No.

13 Q. So the reason that you don't recall  
14 being assigned any investigations where you didn't  
15 write a citation is because you don't recall  
16 writing any citations during the relevant time  
17 period?

18 A. There wasn't anybody there to give me  
19 cases.

20 Q. I'm saying if you didn't get any  
21 investigations, then you couldn't follow through  
22 with them and determine anything, correct?

1           A.       Correct.

2           Q.       Okay.  Do you know of any investigations  
3 that went to any of the other officers, namely,  
4 Officer Geisbush, Officer Strand or  
5 Investigator Castle during the relevant period of  
6 time, any investigation that went to any of them  
7 where they didn't write a citation after doing an  
8 investigation?

9           A.       There was probably some.

10          Q.       My point for saying that is, again, just  
11 because there is an investigation done, doesn't  
12 mean Lincoln did anything wrong, correct?

13          A.       Not every complaint results in a  
14 citation.

15          Q.       Do you have any idea what percentage of  
16 the time during the relevant time period a  
17 complaint came in, an investigation was performed  
18 but no citation was written?

19          A.       No, I do not have that data.

20          Q.       During the relevant time period when  
21 Investigator Carlson was working at the Illinois  
22 Commerce Commission, he was the only one to receive



1 investigations for Lincoln Towing, correct?

2 A. Yes.

3 Q. Subsequent to Investigator Carlson going  
4 on medical leave, then the Lincoln Towing files  
5 were disseminated among Investigator Castle,  
6 Officer Geisbush and Officer Strand, correct?

7 A. Yes.

8 Q. There was no particular investigations  
9 done by any of them?

10 A. Yes.

11 Q. Were there any times during the relevant  
12 time period when one of your investigators or  
13 officers decided to write a citation to Lincoln  
14 Towing and you voided the citation because you  
15 didn't think that the violation occurred, if you  
16 recall?

17 A. I don't recall.

18 Q. We spoke previously about citations that  
19 are more of administrative in nature versus  
20 affecting the general public.

21 Do you recall that?

22 A. Yes.

1           Q.       And in trying to short circuit it, I was  
2 making the argument with you -- I think we agree  
3 that administrative citations are things like not  
4 accurately filling out an invoice, not having  
5 something e-filed versus directly impacting the  
6 public or towing someone's car who was authorized  
7 to park there, correct?

8           A.       Yes.

9           Q.       Because with administrative citations,  
10 the individual parked illegally -- if they did park  
11 illegally, they would not have known whether a  
12 contract was e-filed or not?

13          A.       No.

14          Q.       So their parking illegally or not had  
15 nothing to do with an administrative issue,  
16 correct?

17          A.       Yes.

18          Q.       Whereas, if you pull up into a lot and  
19 there is no signs at all and you get towed, that  
20 directly impacts the decision to park there,  
21 correct?

22          A.       Yes.

1 Q. Do you see distinction between the two.  
2 I know they are both citations. One has  
3 culpability. Do you see the distinction between  
4 the two?

5 A. I don't know how to answer that  
6 truthfully.

7 Q. Let me give you this:  
8 On a continuum, a crime is a crime,  
9 correct?

10 A. Yes.

11 Q. Stealing a pack of gum and murder are  
12 both crimes, correct?

13 A. Yes.

14 Q. But you see the distinction between the  
15 two, don't you?

16 A. Yes.

17 Q. There is a continuum?

18 A. Sure.

19 Q. So would you say for a relocater who  
20 leaves off one digit on an invoice versus they  
21 intentionally go and tow a vehicle where they know  
22 they have a contract, that's a little bit

1 different, isn't it?

2 A. Yes.

3 Q. So would you agree that there is a  
4 distinction between some of these administrative  
5 citations and the ones that directly impact the  
6 public?

7 A. Yes.

8 Q. Have you ever written a citation --  
9 strike that.

10 During the relevant time period, did you  
11 write any citations of an administrative nature?

12 A. None specifically that I can recall.

13 Q. Do you ever recall writing a citation to  
14 Lincoln Towing for not filling out an invoice  
15 accurately at any time?

16 A. I believe I wrote tickets. Specifically  
17 when, I couldn't tell you.

18 Q. But not during the relevant time period?

19 A. No. Just for the record, I wrote that  
20 ticket to other companies as well.

21 Q. I think you touched on this earlier but  
22 if a consumer sends in a complaint that there was

1 no signs allowed, you investigate everything?

2 A. Yes.

3 Q. You don't investigate whether there were  
4 signs there or not?

5 A. No.

6 Q. So you look into the issue of the signs  
7 but then you look into the totality of the  
8 circumstances surrounding the relocation, correct?

9 A. Yes.

10 Q. And even if it's determined that all of  
11 the signs were there and met all of the criteria  
12 but you find another violation, you will write a  
13 ticket for the other violation -- the other  
14 citation for the other violation, correct?

15 A. Yes.

16 Q. And has that happened on occasion with  
17 Lincoln Towing, if you know?

18 A. During the relevant time period?

19 Q. During the relevant time period.

20 A. I couldn't recall.

21 Q. So you don't specifically recall ever  
22 receiving a consumer complaint regarding an illegal

1 tow and the investigation determines the tow was  
2 legal. However, a citation was written for an  
3 administrative purposes. You don't recall that?

4 A. Not during that time period.

5 Q. So if I showed you an investigative  
6 summary from one of your officers that showed an  
7 individual complained that there were no signs so  
8 it was illegally towed and there was no citation  
9 for no signs but there was a citation for an admin  
10 invoice, would that lead you to believe that the  
11 officer did an investigation and determined that  
12 the signage was proper?

13 A. Yes.

14 Q. Okay. What does it mean to request  
15 administrative closure pending outcome of  
16 administrative hearing on issue of citation, just  
17 generally?

18 A. It's an internal routing, I guess I  
19 would describe it as that because not every  
20 citation goes to court. Some people choose to pay  
21 them. So if that happens, then once that citation  
22 is paid, then the case file eventually gets sent

1 back to the Des Plaines office. And depending on  
2 the year of the filings, then it goes actually to  
3 Springfield.

4 So instead of every citation issued from  
5 a location sitting in Martin's office, once it's  
6 closed here, it goes back and back down the system.

7 Q. So the citation gets written, correct?

8 A. Yes.

9 Q. And then it gets sent to the Commerce  
10 Commission and the relocator or individual,  
11 correct?

12 A. Yes.

13 Q. And it doesn't get closed out until  
14 there is a final determination, correct?

15 A. Correct.

16 Q. I talked about this with the other  
17 officers and I think you as well. There is a  
18 \$12.50 hourly fee?

19 A. Yes.

20 Q. Do you know what that is?

21 A. No.

22 Q. Have you ever really seen it enforced or

1 what it refers to?

2 A. No.

3 ALJ KIRKLAND-MONTAQUE: When you say the  
4 "fee," where does that appear?

5 MR. PERL: So it's on the -- when the officer  
6 sends in the disposition cover sheet, there is a  
7 box that says \$12.50 per hour and they write the  
8 number of hours. And we covered this. No one  
9 knows what it is. It might have been from 20 years  
10 ago it might have meant something. But none of the  
11 witnesses that I deposed in this case know what it  
12 means. It's not really that relevant for this  
13 case.

14 ALJ KIRKLAND-MONTAQUE: I wondered where that  
15 exists.

16 MR. PERL: On the investigator summary report.

17 ALJ KIRKLAND-MONTAQUE: Okay.

18 THE WITNESS: The gold sheet. The file comes  
19 with the gold sheet on top and there is a little  
20 box there. And, truthfully, I think it's old and  
21 maybe one day it went to an auditor who made \$12.50  
22 an hour. I don't know.



1 BY MR. PERL:

2 Q. During the relevant time period, did you  
3 spend any more time on Lincoln Towing  
4 investigations than you had in the prior 10 months,  
5 assuming you didn't get any investigations during  
6 this time period?

7 A. My officers did.

8 Q. I'm asking for you.

9 A. No.

10 Q. Did you?

11 A. No.

12 Q. Well, your officers must have because  
13 prior to that they weren't doing any investigation  
14 for Lincoln Towing, correct? It was only  
15 Investigator Carlson?

16 A. Yes.

17 Q. If they got one investigation, it would  
18 be one more than the time period before, correct?

19 A. Yes.

20 Q. During the relevant time period, do you  
21 recall ever writing a ticket that was sent to the  
22 Circuit Court of Cook County in regard to Lincoln

1 Towing or its employees?

2 A. I don't recall.

3 Q. And neither you nor the chief of police  
4 have to approve any citations written by the  
5 officers or investigators, correct?

6 A. Yes, correct.

7 Q. And you are aware who Protective Parking  
8 is?

9 A. Yes.

10 Q. And you are aware that they do business  
11 as Lincoln Towing?

12 A. Yes.

13 Q. Do you know what Lincoln Towing does in  
14 their business operation?

15 A. You have to rephrase the question.

16 Q. What does Lincoln Towing do? Do they  
17 relocate?

18 A. Relocation towing.

19 Q. Of what?

20 A. Of vehicles.

21 Q. From private property?

22 A. Yes.

1 Q. I'm only making the distinction that  
2 Lincoln Towing is not in the business of towing the  
3 public streets, unless the Chicago police ask them  
4 to, correct?

5 A. I'm not aware.

6 Q. So Lincoln Towing has a license to tow  
7 illegally parked cars from private property,  
8 correct?

9 A. Yes. That's the definition for us for  
10 relocation towing.

11 Q. I know we know that. I was just trying  
12 to make it for the record.

13 A. Yes.

14 Q. When did you start with the Commerce  
15 Commission?

16 A. July of 2012.

17 Q. You started out as an officer, correct?

18 A. Yes.

19 Q. And within a relatively short time you  
20 became an acting sergeant?

21 A. Yes.

22 Q. About ten months?

1 A. Yes.

2 Q. Were you aware of Lincoln Towing at the  
3 very beginning when you started working in July of  
4 2012?

5 A. By name?

6 Q. By name.

7 A. Correct.

8 Q. You had never been towed by Lincoln  
9 Towing before, had you?

10 A. No.

11 Q. Do you know how many vehicles Lincoln  
12 Towing towed in 2011?

13 A. No.

14 Q. 2012?

15 A. No.

16 Q. 2013?

17 A. No.

18 Q. 2014?

19 A. No.

20 Q. 2015?

21 A. No.

22 Q. 2016?

1 A. No.

2 Q. And again in 2017?

3 A. No.

4 Q. For all of those time periods, do you  
5 know how many citations Lincoln received for any of  
6 those years?

7 A. No.

8 Q. Do you know whether or not the amount of  
9 investigations opened during the relevant time  
10 period was more than a ten-month time period before  
11 that?

12 A. No.

13 Q. I'm asking are you aware that Lincoln  
14 Towing was not renewed in July of 2015, correct?

15 A. Yes.

16 Q. Did you voice an objection to that when  
17 you heard about it to anybody?

18 A. No.

19 Q. Nobody asked you?

20 A. No.

21 Q. You didn't offer them an opinion?

22 A. No.

1 Q. You didn't have an opinion, did you?

2 A. No.

3 Q. During the relevant time period, did you  
4 ever discuss with anybody at the Illinois Commerce  
5 Commission the number of citations or  
6 investigations opened against Lincoln Towing?

7 A. No.

8 Q. During the relevant time period did  
9 anybody at the Illinois Commerce Commission ever  
10 discuss with you with the number of citations or  
11 tickets issued against Lincoln Towing?

12 A. No.

13 Q. During the relevant time period, did  
14 anybody from the Illinois Commerce Commission ever  
15 tell you that Lincoln Towing was receiving more or  
16 less citations than the time period before?

17 A. No.

18 Q. Were there certain types of citations  
19 Lincoln Towing was receiving more than others, if  
20 you know?

21 A. I don't recall.

22 Q. Did you ever discuss with anybody at

1 Lincoln Towing the number of tickets or citations  
2 that were received?

3 A. No.

4 Q. The number of investigations they opened  
5 during the relevant time period?

6 A. No.

7 Q. During the relevant time period, did you  
8 ever tell anybody at Lincoln Towing Lincoln they  
9 was receiving too many citations?

10 A. No.

11 Q. During the relevant time period, did you  
12 ever tell anybody at Lincoln Towing they were  
13 receiving too many investigations?

14 A. No.

15 Q. Same question to anybody at the Illinois  
16 Commerce Commission. During the relevant time  
17 period, did you ever tell anybody that Lincoln  
18 Towing was receiving too many citations?

19 A. No.

20 Q. Or investigations?

21 A. No.

22 Q. Backing up for a moment, earlier we

1 discussed that Lincoln Towing was found by the  
2 Commission to be fit for a relocater's license as  
3 of July 24, 2015. Do you recall that?

4 A. Yes.

5 Q. I'm going to show you what was  
6 previously marked as Exhibit 3.

7 A. Okay.

8 Q. This purports to be an order from the  
9 Illinois Commerce Commission signed by Brian  
10 Sheehan, the chairman, correct?

11 A. Yes.

12 Q. Do you know who Brian Sheehan is -- not  
13 to know him personally but do you know who he is?

14 A. Yes.

15 Q. Who is he?

16 A. He is the Chairman of the Illinois  
17 Commerce Commission.

18 Q. And this order appears to be signed by  
19 him on the 24th day of February, 2016, correct?

20 A. Yes.

21 Q. And the first page it states clearly  
22 that on July 24, 2015, Protective Parking Service



1 Corporation d/b/a Lincoln Towing Service was issued  
2 a renewal of its authority to operate as a  
3 commercial vehicle relocater under the Illinois  
4 Commercial Relocation of Trespassing Vehicles Law  
5 ICR TVL, 625 ILCS 5/18A, et seq. Do you see that?

6 A. Yes.

7 Q. That's what I was referring to earlier  
8 that on or about July 24, 2015, the Commerce  
9 Commission renewed Lincoln's license, correct?

10 A. Yes.

11 Q. And you don't have an opinion that they  
12 shouldn't have done that, do you?

13 A. No.

14 Q. Subsequent to that someone decided to  
15 have this hearing. Nobody asked you ahead of time  
16 should this hearing take plates?

17 A. No.

18 Q. No one from the Commerce Commission said  
19 Officer Sulikowski, we are thinking about doing an  
20 investigation -- anyone other than your  
21 attorneys -- we are thinking of doing an  
22 investigation on Lincoln Towing. Should we do it?

1           MR. BURZAWA:  Objection.  Outside the scope of  
2   the Sergeant asking him of his opinion.  The  
3   Commission is the one that sets up this hearing.  
4   That's where the order comes from.  The order is in  
5   the record.  You know what it says.  Mr. Perl  
6   doesn't have to take every opportunity to read it.  
7   He can refer to it later on in his briefs, if he  
8   wants.  He is not even asking questions of the  
9   witness about this order.  He is just reading it  
10  and asking him to agree to it that that's what it  
11  says.  There is really no basis to keep referring  
12  to it.

13           MR. PERL:  I would agree because then we can  
14  move to strike all of Sergeant Sulikowski's  
15  testimony because all he did was read their  
16  exhibits because he has no basis to testify.  So I  
17  would agree to strike that question and they can  
18  strike all of his testimony regarding just reading  
19  exhibits A through F, for the record.

20           ALJ KIRKLAND-MONTAQUE:  I think the objection  
21  is relevance.  Is that what you are saying?

22           MR. BURZAWA:  Yes.

1           MR. PERL: How could it not be relevant as to  
2 the testimony here today. Somebody had to make a  
3 determination what he says, yeah, they asked me and  
4 I told them to do it.

5           MR. BURZAWA: The order said what standard  
6 they used. Mr. Perl can refer to that. You don't  
7 have to ask the witnesses about irrelevant  
8 conversations that may or may not have occurred  
9 between the witnesses and the Commission. That's  
10 outside of the scope of the duties of all of these  
11 officers and Sergeant Sulikowski. The Commission  
12 doesn't call up the officers and Sergeant  
13 Sulikowski.

14                       I have an objection because I want to  
15 keep moving this along. Mr. Perl keeps asking the  
16 same question over and over in different ways.

17           MR. PERL: Of different witnesses. I think  
18 that's what is called a trial. Each witness I can  
19 show the same type of documents because here is  
20 what I'm not understand can. How in the world does  
21 Brian Sheehan know whether or not the investigation  
22 is going on. Do you really think Brian Sheehan is

1 out there looking at anything? Somebody has got to  
2 tell him something is going on with Lincoln Towing  
3 to do an investigation. I don't know who it is.

4 All this says is --

5 ALJ KIRKLAND-MONTAQUE: Let me cut this short.

6 I'm going to overrule the objection and  
7 you can ask the question. Once you get the answer,  
8 let's move on.

9 MR. PERL: Usually the objection takes longer  
10 than the answer.

11 ALJ KIRKLAND-MONTAQUE: I'm overruling the  
12 objection.

13 Do you remember the question?

14 THE WITNESS: Yes.

15 ALJ KIRKLAND-MONTAQUE: You can answer.

16 BY THE WITNESS:

17 A. The answer is no, no contact was made.

18 BY MR. PERL:

19 Q. You were not involved in the decision to  
20 do this investigation?

21 MR. BURZAWA: Objection. Asked and answered.

22 ALJ KIRKLAND-MONTAQUE: Overruled.

1                   Please refrain from beating a dead  
2 horse.

3 BY MR. PERL:

4           Q.       You were not involved, correct?

5           MR. BURZAWA:  Objection.  Asked and answered.

6           MR. PERL:  He can't keep objecting to it  
7 every.

8           ALJ KIRKLAND-MONTAQUE:  Overruled.

9                   Go ahead.  What was the question?

10 BY THE WITNESS:

11           A.       No.

12 BY MR. PERL:

13           Q.       Do you know, what, if anything, changed  
14 at Lincoln Towing from July 24, 2015 to  
15 February 24, 2016 which would have precipitated  
16 this hearing?

17           MR. BURZAWA:  Objection.  Calls for  
18 speculation.

19           MR. PERL:  I'm asking if you know.

20           ALJ KIRKLAND-MONTAQUE:  Overruled.

21

22 BY THE WITNESS:

1           A.       No.

2   BY MR. PERL:

3           Q.       We discussed somewhere in the area of  
4   13,000 tows of vehicles illegally parked on private  
5   property from what you told me for a year?

6           MR. PERL:  Objection.  Mischaracterizes the  
7   evidence.  Mr. Perl discussed that Lincoln Towing  
8   towed 13,000 vehicles, not that it's 13,000  
9   illegally parked vehicles.  Plus, there's still not  
10  evidence that's in the record.

11          ALJ KIRKLAND-MONTAQUE:  Sustained.

12          MR. PERL:  Except that when their officers --  
13  by the way, it is in the record.  Each one of their  
14  officers testified that's the number of cars  
15  Lincoln has towed.

16          ALJ KIRKLAND-MONTAQUE:  You went through the  
17  whole spiel about whether something is illegal  
18  until you have to go through the hearing.

19          MR. PERL:  I'll rephrase.  The only I said it  
20  that way was because this witness actually talked  
21  about the definition of relocation, which is  
22  removing illegally parked cars on private property.

1 That's what they do.

2 ALJ KIRKLAND-MONTAQUE: But the 13,000 --

3 MR. PERL: That's been every witnesses'  
4 testimony.

5 MR. BURZAWA: He asked him to presume there  
6 was 13,000. They had no reason to dispute it, but  
7 technically that's not in the record.

8 MR. PERL: The record actually is replete with  
9 them agreeing with me that's the number of cars.  
10 One of the officers said 1,000 a month himself  
11 without me saying it. So how can they say their  
12 own witnesses testified about something but it's  
13 not in the record.

14 ALJ KIRKLAND-MONTAQUE: The issue from what I  
15 heard is to say 13,000 illegally. Okay. Just  
16 leave it at all that.

17 MR. PERL: I agree the only reason I said it  
18 was because we were only allowed to tow vehicles  
19 that are illegally parked on private property. We  
20 can't tow from public streets. We can't tow  
21 vehicles that are not illegally parked.

22 I understand what you are saying, your

1 Honor, but I will move -- I mean, regarding the  
2 fact that there is no evidence in the record of how  
3 many vehicles we towed, that's kind of ridiculous.  
4 Every witness has agreed with me but I'll move on.

5 ALJ KIRKLAND-MONTAQUE: Please.

6 BY MR. PERL:

7 Q. Do you recall your prior testimony when  
8 we discussed 13,000 being relocated by Lincoln  
9 Towing in a year?

10 A. Yes.

11 Q. And the relevant time here is  
12 approximately 10 months, correct?

13 A. Yes.

14 Q. And that would mean if you extrapolate  
15 Lincoln Towing would tow somewhere around 9 or  
16 10,000 vehicles during the relevant time period,  
17 correct?

18 A. Yes.

19 Q. And this border, if it's accurate and  
20 truthful, says the relevant time period up until  
21 February 24, 2016, which is one month prior to the  
22 end of the relevant time period, there have only



1 been 166 investigations open regarding Lincoln  
2 Towing. That's what it says, correct?

3 A. Yes.

4 Q. And you believe -- I asked this before  
5 in the dep but 166 investigations out of 10,000  
6 tows, that's not a lot of investigations, is it?

7 A. Yes.

8 Q. That's a lot?

9 A. No. You asked.

10 Q. That's not a lot. Is that a lot of  
11 investigations is a better question.

12 When I asked you a negative and you say  
13 "yes," it doesn't play out.

14 A. Right.

15 Q. Is that a lot of investigations on  
16 10,000 tows?

17 A. I don't know because I don't know what  
18 every relocater does. I don't have the data.

19 Q. Well, I'm asking you in general  
20 basically it's 1.5 percent -- you already said that  
21 just having an investigation doesn't mean they  
22 violated anything correct?

1           A.     Yes.

2           Q.     So does it appear to you that in an  
3 industry where if 10,000 vehicles were towed and  
4 all someone has got to do is turn over the invoice  
5 to file a complaint and only 166 people do that,  
6 that's not a lot, is it?

7           A.     No.

8           Q.     And if also during the relevant time  
9 period up until February 24, 2016 only 28 citations  
10 were written on 10,000 tows, that's a really small  
11 amount, isn't it?

12           MR. BURZAWA:  Objection.  Misstating the  
13 record.  We went over this the last time.  Mr. Perl  
14 is saying 28 citations during the relevant time  
15 period.  Each officer and Investigator Castle  
16 testified to scores of citations during the  
17 relevant time period.

18           MR. PERL:  He didn't testify to scores.  
19 Castle was the least.  Castle had like 26.

20           MR. BURZAWA:  Officer Strand was 75.  
21 officer Geisbush had approximately many.  So it's  
22 scores.

1 ALJ KIRKLAND-MONTAQUE: Wait. Wait. Wait.

2 What's the question?

3 MR. PERL: My question wasn't that anyway.

4 This is my dilemma.

5 ALJ KIRKLAND-MONTAQUE: I want to hear the

6 question. What's the question?

7 BY MR. PERL:

8 Q. My question simply is: 10,000 tows only  
9 28 result in citations written. That's a really  
10 small number, isn't it?

11 MR. BURZAWA: That wasn't the question. The  
12 question was -- again, misstating the record. He's  
13 saying 28 citations during the relevant time  
14 period.

15 MR. PERL: I said February 24th in my  
16 question. I did not say the relevant time period.

17 ALJ KIRKLAND-MONTAQUE: Read back the original  
18 question.

19 (WHEREUPON, the record was read by  
20 the reporter.)

21 ALJ KIRKLAND-MONTAQUE: I'm going to allow it  
22 because the record is what it is. He is really

1 asking a math problem.

2 I understand. I'm not going to get into  
3 the debate of whether only 28 citations were  
4 written or not. The question I think is  
5 permissible because you are presenting it as if out  
6 of this number this many were written, that's fine.  
7 I'm not going to have a fight with that right now.  
8 And then you will all have access to the record in  
9 terms of citations.

10 MR. PERL: Then they can present a witness to  
11 say when they wrote 28 they meant something else.

12 ALJ KIRKLAND-MONTAQUE: I don't want a debate  
13 right now. I'll allow the question.

14 THE WITNESS: I'm going to need the question  
15 repeated.

16 (WHEREUPON, the record was read by  
17 the reporter.)

18 BY THE WITNESS:

19 A. Yes.

20 BY MR. PERL:

21 Q. That's what this order says, isn't it,  
22 that only 28 citations were written through

1 February 24, 2016?

2 MR. BURZAWA: Objection. Asked and answered.

3 It's in the record. The order is in the record.

4 You don't have to keep referring to what he says.

5 MR. PERL: I'm asking him a question. I mean,

6 why do we have trials. Why don't we just submit

7 documents.

8 ALJ KIRKLAND-MONTAQUE: Overruled.

9 BY MR. PERL:

10 Q. That's what it says, correct?

11 A. Yes.

12 Q. By the way, are you aware that a  
13 relocater's license when it's renewed is for  
14 two years. Are you aware of that?

15 A. Yes.

16 Q. So Lincoln's license when it was renewed  
17 February 24th of 2015 would have run until  
18 February 24, 2017, correct?

19 A. Yes.

20 MR. PERL: Assuming there will be no Leap  
21 Year.

22

1 BY MR. PERL:

2 Q. I'm sorry. July 24, 2015 to July 24,  
3 2017?

4 A. It's a two-year period.

5 Q. Okay. During the relevant time period,  
6 did you have occasion to speak to any of the  
7 management of Lincoln Towing about anything, if you  
8 recall?

9 A. I believe I did.

10 Q. Do you know who Bob Munyon is?

11 A. Yes.

12 Q. He is the individual sitting to my left,  
13 correct?

14 A. Yes.

15 Q. During the relevant time period was  
16 Mr. Munyon cooperative with you if you spoke to him  
17 about any investigations of Lincoln Towing, if you  
18 had any?

19 A. I don't think I had dealings with  
20 Mr. Munyon.

21 Q. But you have in the past?

22 A. Not many, e-mail maybe. I don't think

1 we ever had face-to-face.

2 Q. Nothing stands out as him not being  
3 cooperating with you?

4 A. No.

5 Q. Or anyone in Lincoln's management -- as  
6 management not being cooperative to you during the  
7 relevant time period?

8 A. I'm going to say no.

9 Q. Do you know how many citations during  
10 the relevant time period there was a hearing and  
11 Lincoln Towing was found liable or guilty?

12 A. No.

13 Q. Do you know during the relevant time  
14 period how many hearings there were on Lincoln  
15 Towing citations?

16 A. No.

17 Q. Are you aware that in October of 2016  
18 Lincoln Towing installed a new computer system?

19 A. No.

20 MR. PERL: Judge, can we take a ten-minute  
21 break now?

22 (WHEREUPON, a break was taken.)

1 ALJ KIRKLAND-MONTAQUE: Back on the record.

2 BY MR. PERL:

3 Q. Sergeant Sulikowski, prior to getting  
4 into the specifics of the exhibits and specifically  
5 A through F, I want to ask you some general  
6 questions about the documents. Okay?

7 A. Yes.

8 Q. You recall on direct you were shown,  
9 among other things by the Commerce Commission, what  
10 they marked as their Exhibits A through F, correct?

11 A. Yes.

12 Q. And do you recall in this case you gave  
13 two depositions, correct?

14 A. Yes.

15 Q. Do you know why it is you had to give a  
16 second deposition, if you know? And I don't want  
17 you to guess.

18 MR. BURZAWA: Objection. Irrelevant. What  
19 issue is this going to help resolve?

20 MR. PERL: I don't know if I have to respond  
21 to it but I could.

22 ALJ KIRKLAND-MONTAQUE: Overruled.



1 BY THE WITNESS:

2 A. I believe because there were additional  
3 documents let in.

4 BY MR. PERL:

5 Q. At the point in time there were  
6 additional documents to you?

7 A. Yes.

8 Q. At your first deposition they had not  
9 yet been presented to you, correct?

10 MR. BURZAWA: Objection. Irrelevant.

11 ALJ KIRKLAND-MONTAQUE: Overruled.

12 BY THE WITNESS:

13 A. I don't believe so.

14 BY MR. PERL:

15 Q. The documents I'm referring to did you  
16 create those documents?

17 A. No.

18 Q. I'm going to show you first what's been  
19 marked as Commerce Commission Exhibit A.

20 MR. PERL: Your Honor, may I approach the  
21 witness?

22 ALJ KIRKLAND-MONTAQUE: You may.

1 BY MR. PERL:

2 Q. It's a little bit cumbersome. The book  
3 and the binder is a little bit overstretched here.

4 Take a look at just generally speaking  
5 exhibit A, if you would.

6 A. I don't know where this begins or ends.

7 Q. It goes from this page and goes up to  
8 where it says Exhibit B.

9 A. Okay.

10 Q. For the record, while you are looking  
11 Exhibit A is Bates stamped 00032 through -- well,  
12 they are not in the correct order. Once we are  
13 done for the record, I'll give the Bates stamps. I  
14 apologize.

15 Go ahead.

16 A. Okay.

17 Q. When was the first time that you  
18 actually saw the documents contained in Exhibit A?

19 A. You would have refer back to my  
20 deposition because I think I answered the date in  
21 there, but I don't recall as we a specific date  
22 today.

1           Q.     I can't do that because I'm not  
2     impeaching you.  Is there a document you can look  
3     at that would refresh your recollection as to when  
4     the last time was you saw Exhibit A, assuming it  
5     was prior to today?

6                     Let me start with that.  Have you seen  
7     Exhibit A prior to today?

8           A.     Yes.

9           Q.     You saw it at your direct testimony,  
10    correct?

11          A.     Yes.

12          Q.     Do you recall seeing this document prior  
13    to your deposition?

14          A.     Yes.

15          Q.     How many times?

16          A.     Once.

17          Q.     So prior to your deposition, you had  
18    only seen Exhibit A one time, correct?

19          A.     Yes.

20          Q.     Do you know who printed the documents  
21    contained in Exhibit A?

22          A.     No.

1 Q. Do you know when they were printed?

2 A. No.

3 Q. Do you know what time these documents  
4 covered? It's a little different than when they  
5 were printed.

6 Do you have any idea what time period  
7 they covered, like, just the relevant time period,  
8 the beginning of time until now?

9 A. Yeah, they covered more than the  
10 relevant time period.

11 Q. Do you know that for a fact?

12 A. Based on my recollection --

13 Q. But you don't know when they were  
14 printed or who printed them, correct?

15 A. Correct.

16 Q. You don't know how they came into  
17 existence, do you?

18 A. No.

19 Q. So you don't know, as you sit there,  
20 whether or not somebody went to a computer screen  
21 and actually printed verbatim in a row who was  
22 there or just picked and chose and picked certain

1 things out and not other things?

2 A. I do not know at all.

3 Q. So it's possible that somebody looked at  
4 a computer screen, decided what information they  
5 wanted to print and then printed it, correct?

6 MR. BURZAWA: Objection. Calls for  
7 speculation. Plus Exhibit A is already admitted  
8 into evidence, Judge, as a public record certified.  
9 Public records are inherently reliable and  
10 certified by the custodian. So there is really no  
11 more cause for this type of question to try to  
12 attack the accuracy of these documents. They are  
13 already admitted as presumptively accurate  
14 statements.

15 MR. PERL: First of all, I move to strike.  
16 That's not the case. That's totally improper.  
17 Talking about a speaking objection? That's wholly  
18 improper what he just did and it's not true. If  
19 you want to talk about it, I'll show you 20  
20 mistakes they made in them -- well, we'll get to  
21 that.

22 I move to strike what he stated as a

1 speaking objection and not proper.

2 ALJ KIRKLAND-MONTAQUE: Okay. I'm going to  
3 overrule the objection. Because something is  
4 admitted doesn't mean it's accurate. That's the  
5 whole purpose of the trial.

6 MR. PERL: Actually, you said the opposite.

7 First of all, I thought nothing was  
8 admitted yet and we were going to do it at the end.

9 Second of all, you said even when it's  
10 admitted, you can always attack the credibility.  
11 It's just admitted. So --

12 ALJ KIRKLAND-MONTAQUE: Overruled. Go ahead.

13 MR. PERL: I move to strike from the record  
14 the speaking objection regarding the document being  
15 publicly inherently reliable. Move to strike all  
16 of that, Judge, from the record.

17 MR. BURZAWA: We don't need a basis to strike  
18 my objection. It may have been an improper  
19 objection as a speaking objection but public  
20 documents are considered by the court and  
21 inherently reliable. That's why they are in the  
22 rules of evidence and you get them in just by

1 certification.

2 MR. PERL: Move to strike again because an  
3 objection is what it is. It's not supposed to be  
4 for something else for your purpose of getting in  
5 your documents. Either you can object as to  
6 relevance or foundation. You can't move to object  
7 based upon that. Even if it was true, the witness  
8 still gets to testify to it. I don't know. So I'm  
9 moving to strike both the first and second speech  
10 made by counsel. Anything other where he said  
11 "objection."

12 ALJ KIRKLAND-MONTAQUE: I'm going to deny.  
13 It's in the record.

14 MR. PERL: I know but it shouldn't be in the  
15 record because it's objectionable. That's why I'm  
16 moving to strike it.

17 ALJ KIRKLAND-MONTAQUE: To whom? I'm  
18 determining all of this.

19 MR. PERL: I know, Judge.

20 ALJ KIRKLAND-MONTAQUE: I know what you are  
21 saying.

22 MR. PERL: Going down the line, I don't want

1 the record to show that because, first of all, let  
2 counsel show you that somewhere. He is making it  
3 up, first of all.

4 And second of all, it's not appropriate  
5 during his objection to bring that up. All I ask  
6 -- I'm asking the question of the witness. That's  
7 it. The objections should be succinct. They  
8 aren't.

9 ALJ KIRKLAND-MONTAQUE: I'm going to deny it  
10 only because other objections have not been as  
11 succinct.

12 Just move forward.

13 (WHEREUPON, the record was read by  
14 the reporter.)

15 MR. BURZAWA: Speculation.

16 ALJ KIRKLAND-MONTAQUE: Overruled.

17 Go ahead.

18 BY THE WITNESS:

19 A. It's possible.

20 BY MR. PERL:

21 Q. Actually, you don't know how this  
22 document came into existence, correct? You don't



1 know if somebody copied something off of a screen  
2 or copied a document they were given, correct?

3 A. Correct.

4 Q. A person who gave this to you could have  
5 copied off a document somebody else gave to them  
6 that somebody else had given to them, correct?

7 MR. BURZAWA: Objection. Speculation.

8 ALJ KIRKLAND-MONTAQUE: I think it's more  
9 asked and answered because you already said --

10 MR. PERL: That was my last question on that.  
11 Whether you want him to testify to that or not,  
12 he's answered that. He doesn't know who created  
13 it.

14 BY MR. PERL:

15 Q. Let me ask this:

16 Do you know if it's actually a copy of a  
17 screen shot versus a copy of a copy?

18 ALJ KIRKLAND-MONTAQUE: Go ahead.

19 BY THE WITNESS:

20 A. I do not know.

21 BY MR. PERL:

22 Q. Do you know whether the information

1 contained in Exhibit A has been altered?

2 A. I do not know.

3 Q. Do you know whether the information in  
4 Exhibit A is accurate?

5 A. I do not know.

6 Q. Do you know positively who inputs this  
7 information into the MCIS?

8 A. No.

9 Q. Do you know who at the ICC Illinois  
10 Commerce Commission has access to this information  
11 in the MCIS?

12 A. Viewing or editing?

13 Q. Either one. Let's talk about editing.

14 A. I do not know who was the capabilities  
15 of editing MCIS.

16 Q. Do you know the answer to that question  
17 for the relevant time period?

18 A. No, I do not know who would have had  
19 that access.

20 Q. Do you know who actually input this  
21 information into the MCIS?

22 A. No.

1 Q. If in fact it was put in the MCIS. You  
2 don't know that, do you?

3 A. No.

4 Q. Do you know what these documents in  
5 Exhibit A even are?

6 A. You are going to have to rephrase that  
7 question.

8 Q. Exhibit A. Take a look at that. There  
9 is printed material on a white page, correct?

10 A. Yes.

11 Q. Do you actually know what that document  
12 is?

13 A. Do I know the name of it? I mean, I can  
14 only read what's preprinted here.

15 Q. My next question exactly. So for the  
16 record, the witness was pointing to the top middle  
17 of page 1 of 1 for 4102 North Sheridan Avenue,  
18 which is, I believe, Bates stamped 000021. It's  
19 the same on every top of the page, correct?

20 A. Yes.

21 Q. So if I were to cover up the print,  
22 those three lines at the top of the page, would you

1 have any idea what this document was?

2 A. By appearance, I would.

3 Q. Well, I know that. I can't erase your  
4 memory. So you have already seen it and someone  
5 might have told you what they think it is or it is.

6 Beyond that, if I took off -- by the  
7 way, what it says there on the top, Illinois  
8 Commerce Commission, Motor Carrier Information  
9 System, Contract Listing by Property Address.

10 You see that, correct?

11 A. Yes.

12 Q. Now certainly you can look at a document  
13 and say, Oh, that's what it is, correct?

14 A. Correct.

15 Q. But if you had never seen these three  
16 lines, hadn't been given this page, would you know  
17 what it is?

18 A. Yes.

19 Q. How?

20 A. Because I have seen this before these  
21 proceedings.

22 Q. Okay. I'm going to show you now what

1 we're going to mark as exhibit -- I'm going to show  
2 you now following that line of questioning what we  
3 have marked as Exhibits 23, 24, 25 and 26.

4 (WHEREUPON, certain documents were  
5 marked Lincoln Exhibit Nos. 23-26,  
6 for identification.)

7 ALJ KIRKLAND-MONTAQUE: Lincoln?

8 MR. PERL: Lincoln exhibits. I'm sorry.

9 BY MR. PERL:

10 Q. Do you know what these documents are?

11 MR. BURZAWA: Object to these documents. It  
12 doesn't appear that they were in the hearing  
13 exhibit binder from Lincoln. This is the first  
14 time I'm seeing them. One of them says it's from  
15 the Indiana Commerce Commission, so I don't know  
16 why that's relevant. And if Mr. Perl intends on  
17 presenting these as some type of public documents,  
18 he can submit a certification with them.

19 ALJ KIRKLAND-MONTAQUE: Okay. What are you  
20 doing?

21 MR. PERL: In response to that, I don't need a  
22 certification because I don't believe that's

1 accurate anyway.

2                   Second of all, this is to impeach  
3 testimony of the witness who says that he knows  
4 what the documents are just by looking at them and  
5 I didn't know that he was going to say that. So  
6 these documents are new documents. They have not  
7 been introduced into evidence yet. However, you  
8 are allowed to question witnesses regarding  
9 documents that aren't admitted yet, obviously, and  
10 I'm going to do that for rebuttal. This is what  
11 they are for. They are for rebuttal documents to  
12 rebut that he doesn't know what they are. He  
13 testified that he knows what they are even if he  
14 doesn't look at the top. I'm going to rebut that  
15 testimony with these documents in a very short  
16 time. It won't take me very long.

17                   MR. BURZAWA: These were never properly  
18 disclosed, Judge. I don't understand this line of  
19 questioning. Mr. Perl is asking the witness if I  
20 hide something will you able to know what it is.  
21 That doesn't make any sense. This is how these  
22 documents are generated. Computer-generated

1 documents are considered originals. So if we go  
2 into the MCIS system and print something, that's an  
3 original document and they are certified. So,  
4 again, they are already considered true and  
5 accurate copies.

6 ALJ KIRKLAND-MONTAQUE: So let me --

7 MR. PERL: They are not certified as accurate  
8 at all. All their certification said was -- and  
9 even though we objected and I renew my objection  
10 that they shouldn't come in, all of their  
11 certification says was some guy named Scott Morris  
12 said this is what the screen shot looks like. He  
13 is not saying it's accurate. He doesn't know. He  
14 didn't say this information is accurate or  
15 reliable. It's not what he said at all.

16 By the way, neither does Dorothy Brown.  
17 All they do is they say this is what the screen  
18 shot looks like. If you look at Scott Morris'  
19 somewhat certification, he doesn't say what day it  
20 was done, who generated the documents, just that  
21 this is what it looks like. I'll show you it  
22 couldn't be any way. That's part of what I'm doing

1 now.

2 I'm going show you, Judge, that Scott  
3 Morris' certification isn't reliable and isn't  
4 accurate. He couldn't have read the documents he  
5 is claiming are certified by doing what I'm doing  
6 right now.

7 ALJ KIRKLAND-MONTAQUE: That's not the issue  
8 at hand. The issue at hand is whether these  
9 documents you are showing the witness wasn't part  
10 of your --

11 MR. PERL: You don't put rebuttal  
12 documentation -- how do you know what you have to  
13 rebut. You don't put your rebuttal evidence to  
14 identify it because you don't know what you're  
15 going to have to do.

16 ALJ KIRKLAND-MONTAQUE: Let make sure I'm  
17 tracking. Your question was how would you know  
18 what these documents are without the heading?

19 MR. PERL: I'll ask him with the heading if he  
20 knows what they are.

21 ALJ KIRKLAND-MONTAQUE: No. No. The  
22 documents in the binder.



1           MR. PERL: The reason I had to do that, Judge,  
2 this witness is a very intelligent man. He's been  
3 a police chief and I believe he is intelligent.

4           So if you are read the top of the  
5 document, it says right on there what the Commerce  
6 Commission claims they are. So if I ask him what  
7 they are like this, he is going to say, yeah, it's  
8 Motor Carrier Information System contracting by  
9 property address.

10           My question was if that wasn't on there,  
11 would you know what this document is? In other  
12 words, if I showed you a page from your favorite  
13 book, Moby Dick, whatever it is, Harry Potter, with  
14 nothing on it but you could recognize it because  
15 you've read the book 100 times versus if you  
16 haven't read the book you wouldn't know.

17           So my question was: If we covered up  
18 what this is, do you know what it is? The  
19 witness -- I think he testified he would know what  
20 it is. I'm going to rebut that testimony now and  
21 show you that he wouldn't know based upon -- and  
22 again, I would be done by now. But for these

1 objections, I would be finished.

2 MR. BURZAWA: It doesn't matter if he would be  
3 finished or not if it's improper. We're dealing  
4 with public documents. Public documents are  
5 titled. You wouldn't find a public document like  
6 this without a heading. If I hide this document  
7 heading and ask do you know what it is, that  
8 doesn't make sense because this heading would never  
9 be missing from this document. All public  
10 documents are titled. There is a heading. Plus,  
11 there is a certification from the custodian and it  
12 does say that they are true, correct and complete.

13 ALJ KIRKLAND-MONTAQUE: The question is would  
14 he recognize it without that?

15 MR. PERL: Right.

16 MR. BURZAWA: How does that resolve any issue  
17 in dispute? We know what the document is because  
18 of what it says and because of the certification.

19 MR. PERL: Actually, I don't know about this  
20 fallacy that all public documents have a heading on  
21 them. Is there something written on a statute in a  
22 book that says all public documents have a heading?

1 I don't know where that comes from but we don't  
2 know that to be true and accurate. That's why we  
3 have trial.

4 ALJ KIRKLAND-MONTAQUE: I'm going to overrule  
5 the objection and allow you maybe go one or two of  
6 those. You are not going to spend all day.

7 MR. PERL: I'm not spending all day.

8 MR. BURZAWA: They were never properly  
9 disclosed. This is not rebuttal. This is still  
10 case in chief.

11 ALJ KIRKLAND-MONTAQUE: Listen, I'm overruling  
12 only to rebut an issue that had just come up and we  
13 are not offering to admit them or anything of that  
14 nature.

15 So go ahead, Mr. Perl.

16 BY MR. PERL:

17 Q. Please take a look at 23, 24, 25 and 26.

18 A. Okay.

19 Q. Do you know what these documents are?

20 A. They appear to be copied along the same  
21 format of material that's in this book. But they  
22 are not accurate, I can see changes have been made.

1 Q. Sure. You can see that now because you  
2 reviewed it.

3 What changes have been made?

4 A. One of them definitely has the Indiana  
5 Commerce Commission. But if you look at the  
6 different things here, you've got different  
7 relocators assigned to properties that aren't on  
8 other sheets. You know, I haven't gone through all  
9 of these.

10 Q. Well, there is four of them.

11 A. Yes.

12 Q. Do they look the same as the documents  
13 contained in Exhibit A?

14 A. They do.

15 Q. And you can see that the date in the  
16 left-hand corner and the time are the exact same,  
17 correct?

18 A. Yes.

19 Q. Yet some of these are altered?

20 A. I don't know. I would presume.

21 Q. Do you know that for a fact?

22 A. I do not.

1           Q.       Which one is accurate, based upon  
2 whatever Exhibit A shows, without looking at  
3 Exhibit A?

4           A.       No, I do not.

5           Q.       So there is no way for you to know which  
6 of these documents, if any of them, are actually  
7 accurate, is there?

8           MR. BURZAWA:  Objection.  Irrelevant.  These  
9 documents themselves are irrelevant to the  
10 proceeding.  We know that the documents in  
11 Exhibit A are accurate because they are certified  
12 and they were already admitted on July 7th by you,  
13 Judge.

14          MR. PERL:  This witness already said they are  
15 not accurate.  This witness testified under oath  
16 they are not accurate.

17          ALJ KIRKLAND-MONTAQUE:  Just now?

18          MR. PERL:  I asked him if the documents in  
19 Exhibit A were accurate and he said no.

20                 If you want to go back as to what he  
21 said.  Let's go back.  Because every time I say  
22 something, counsel doubts me.  So let's go back.

1 It was about 10 minutes ago. I asked this witness  
2 are the documents in Exhibit A accurate and he said  
3 no.

4 ALJ KIRKLAND-MONTAQUE: You asked did he know  
5 they were accurate?

6 MR. BURZAWA: You asked if you know for  
7 certain. No one can know anything for certain.

8 MR. PERL: Are you kidding? Seriously?

9 ALJ KIRKLAND-MONTAQUE: We're not going down a  
10 road of argument.

11 MR. PERL: Judge, I have to ask him if he  
12 knows for certain because I don't want him to  
13 guess.

14 Here is the thing -- this is what  
15 happens, Judge. I say something. Counsel says it  
16 didn't happen. I prove it happened. Then he adds  
17 something else to it.

18 First, he is telling you he didn't say  
19 that. Now he is telling you he was not certain if  
20 they were accurate or not.

21 MR. BURZAWA: He never answered the -- the  
22 witness never stated that the documents in

1 Exhibit A are inaccurate.

2 MR. PERL: I would like the court reporter to  
3 read it back.

4 MR. BURZAWA: We'll need to review the record.  
5 Sergeant Sulikowski never testified that the  
6 documents in Exhibit A are inaccurate. That was  
7 never stated.

8 ALJ KIRKLAND-MONTAQUE: Can you go back?

9 (WHEREUPON, the record was read by  
10 the reporter.)

11 ALJ KIRKLAND-MONTAQUE: Back on the record.

12 BY MR. PERL:

13 Q. Going back to Exhibits 23 through 26, do  
14 you know if the information contained on there is  
15 accurate?

16 A. No.

17 Q. And, therefore, you don't know whether  
18 it's inaccurate either, correct?

19 A. Correct.

20 Q. Have you ever input any information in  
21 the MCIS system?

22 A. No.

1 Q. Could you if you wanted to? I mean, do  
2 you have the ability to go do that, get a  
3 password?

4 A. I don't believe I do. I have editing  
5 capabilities in other areas but not in this area.

6 Q. Not in the area covered by Exhibit A,  
7 correct?

8 A. Correct.

9 Q. Did you ever do any investigation to  
10 determine if the information contained in Exhibit A  
11 was accurate?

12 MR. BURZAWA: Objection. Exhibit A wasn't in  
13 existence during the relevant time period. It was  
14 an exhibit introduced at trial.

15 ALJ KIRKLAND-MONTAQUE: He used this document  
16 to testify for a period of days. I'm going to let  
17 him ask the question.

18 Overruled.

19 BY THE WITNESS:

20 A. No.

21 BY MR. PERL:

22 Q. Just for my purposes to make the record,



1 did you ever do any investigation to determine if  
2 the information contained in Exhibit A was  
3 accurate?

4 A. No.

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

7 A. No.

8 Q. Did you check with the ICC with the hard  
9 copies?

10 A. The ICC doesn't have hard copies of the  
11 contracts.

12 Q. Are you sure?

13 A. Relatively sure.

14 Q. Not positive, are you?

15 A. No, I'm not positive.

16 Q. Because that's not your area that you  
17 cover?

18 A. No.

19 Q. So did you ever ask anybody at the  
20 Illinois Commerce Commission if they had copies of  
21 the contracts with Lincoln Towing during the  
22 relevant time period?

1           A.     I wouldn't because I believed they don't  
2 exist at the Commerce Commission.

3           Q.     Okay.

4           A.     So I would not have asked anybody for  
5 documents that I don't think we have.

6           Q.     But you are not sure if you have them or  
7 not, correct?

8           A.     Yes.

9           Q.     So just yes or no on this one.

10                    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.

14           Q.     You have already testified that you do  
15 not know whether or not the information in  
16 Exhibit A is accurate. I'm not saying you said  
17 it's inaccurate. You don't know whether it's  
18 accurate.

19                    I will get to your deposition testimony  
20 where you said what later.

21                    You already testified that you don't  
22 know whether the information in Exhibit A is

1 accurate, correct?

2 A. Yes.

3 Q. What is the information contained in  
4 Exhibit A?

5 (WHEREUPON, discussion was had off  
6 the record.)

7 BY MR. PERL:

8 Q. Generally speaking, what is the  
9 information contained in Exhibit A?

10 A. The contract listing information for an  
11 MCIS.

12 Q. For relocators?

13 A. Yes, for relocation towing.

14 Q. And I'm sorry that you and I know that  
15 but we have to explain to the Court what actually  
16 is in Exhibit A.

17 A. Yes.

18 Q. So Exhibit A has information regarding  
19 contracts between carriers and -- I'm sorry,  
20 between Lincoln Towing and their customers or  
21 clients, correct?

22 A. Well, it's not only Lincoln Towing.

1 It's really for that property address because it's  
2 going to list other relocators that held contracts  
3 against that property.

4 Q. Now, is it your testimony that you  
5 believe that Lincoln Towing never sends an Illinois  
6 Commerce Commission relocator contract summary form  
7 to the Commerce Commission?

8 MR. BURZAWA: Objection. Misstating the  
9 witness' testimony.

10 MR. PERL: I'm not saying it was.

11 ALJ KIRKLAND-MONTAQUE: He is asking.

12 Overruled.

13 BY THE WITNESS:

14 A. The question was in summary form. It  
15 was contract. And the relocators don't send us the  
16 contract. They may send us a summary, which I'm  
17 not aware of, but we don't get the contract and  
18 that's the question I was answering.

19 BY MR. PERL:

20 Q. Well, I'm -- is it your belief that the  
21 Commerce Commission does receive a contract summary  
22 form from Lincoln Towing and it's on file at the

1 Commerce Commission?

2 A. I'm unaware of a summary.

3 Q. I'm going to show you what we're going  
4 to mark as Exhibit 27.

5 (WHEREUPON, a certain document was  
6 marked Lincoln Exhibit No. 27, for  
7 identification.)

8 BY MR. PERL:

9 Q. Lincoln Exhibit 27. I won't take long  
10 with this. Do you know what Exhibit 27 is?

11 A. No.

12 Q. Well, okay. Do you see what it's  
13 titled?

14 A. It's titled, Relocator Contract Summary  
15 Form.

16 Q. And who stamped it that they received  
17 it?

18 A. The Illinois Commerce Commission.

19 Q. So does this -- I know it's not your  
20 area that you deal with at the Commerce Commission.

21 Does this show you that Lincoln Towing  
22 does send contract summary forms to the Illinois

1 Commerce Commission?

2 MR. BURZAWA: Objection. Outside the witness'  
3 personal knowledge. He just testified he doesn't  
4 know what the document is. Mr. Perl is instructing  
5 him to read the face of the document, which a few  
6 minutes ago the witness wasn't allowed to rely on,  
7 so there is no basis to keep questioning.

8 MR. PERL: Except that he is their witness and  
9 he is the one that just said the reason he didn't  
10 contact the Commerce Commission is they don't have  
11 written documents and this is showing that they do.  
12 It directly rebuts his testimony.

13 MR. BURZAWA: He said he didn't know.

14 ALJ KIRKLAND-MONTAQUE: He said he didn't  
15 know.

16 BY MR. PERL:

17 Q. You would agree with me --

18 ALJ KIRKLAND-MONTAQUE: I'll allow you to ask  
19 another question.

20 MR. PERL: I'm almost done.

21 BY MR. PERL:

22 Q. You would agree with me there is a stamp

1 that says Illinois Commerce Commission contract  
2 approved agent and someone signed it and dated it,  
3 correct?

4 MR. BURZAWA: Objection. Foundation.

5 MR. PERL: You know what, Judge, I'm going to  
6 move to admit this because it's a public record.  
7 It's a Commerce Commission record.

8 MR. BURZAWA: It's not certified.

9 MR. PERL: It is certified.

10 MR. BURZAWA: No, it's not.

11 MR. PERL: Yeah, it is. Illinois Commerce  
12 Commission right there -- and by the way, none of  
13 their documents are certified except for one.

14 ALJ KIRKLAND-MONTAQUE: All right. I'm not  
15 going into certification. I think I can take  
16 administrative notice that it has a stamp of the  
17 Illinois Commerce Commission. It also has a stamp  
18 of ICC Police.

19 So this does appear to be a record that  
20 the Commerce Commission would take administrative  
21 notice. It would be in the record.

22 MR. PERL: I move to admit 27.

1           MR. BURZAWA:  Objection.  Improperly  
2 disclosed.

3           MR. PERL:  Rebuttal.  I can't disclose  
4 something that I don't know about before the  
5 hearing.

6           ALJ KIRKLAND-MONTAQUE:  I'm going to admit it  
7 over the objection.

8                                 (WHEREUPON, said document,  
9                                 previously marked Lincoln Exhibit  
10                                No. 27, for identification, was  
11                                offered and received in evidence.)

12 BY MR. PERL:

13           Q.       And this actually does say it was  
14 received by the ICC Police, correct?

15           A.       It does.

16           Q.       So somebody within the ICC Police --  
17 maybe not yourself -- would have stamped that they  
18 received this document, correct?

19           A.       Yes.

20           Q.       Do you now believe that the Commerce  
21 Commission does have on file the written documents  
22 called relocator summary forms which actually



1 depict the contracts for the lots Lincoln Towing  
2 has with their customers?

3 A. I do but that was not the original  
4 question I answered.

5 Q. Okay.

6 A. You asked me if we had the contracts and  
7 the answer was no because we don't have the  
8 contracts. In my opinion, a one-page summary is  
9 different from possibly a 20-page document.

10 Q. I agree.

11 A. That was the question I was answering.

12 Q. Sergeant, just so you know, I'm not  
13 intimating you answered the question wrong or  
14 improper because I did ask you about the contracts  
15 and summary form.

16 Now I'm asking you about the summary  
17 form, not the contract. Do you believe, as we sit  
18 here today, that the Commerce Commission has a  
19 contract summary form for Lincoln's lots?

20 A. Yes.

21 Q. And you did not look for those to  
22 authenticate whether the information on Exhibit A

1 is accurate, did you?

2 A. No.

3 Q. You didn't see Exhibit A for the first  
4 time at trial, did you?

5 A. No, I saw it prior to trial.

6 Q. You saw it prior to your second  
7 deposition, didn't you?

8 A. When we reviewed it?

9 Q. Correct.

10 A. Yes.

11 Q. So counsel's statement that you didn't  
12 see it until trial isn't accurate, is it?

13 MR. BURZAWA: Objection. You're misstating  
14 the objection. I stated that the Sergeant didn't  
15 see Exhibit A. He may have viewed those documents,  
16 but in its current form Sergeant Sulikowski didn't  
17 see Exhibit A as it's put together for trial.

18 ALJ KIRKLAND-MONTAQUE: Until when, ever?

19 MR. BURZAWA: Not ever. It's introduced into  
20 evidence. It's in evidence as Exhibit A but when  
21 he reviewed these documents, they weren't,  
22 quote-unquote, Exhibit A. They were just ICC

1 documents. They were the printouts from the MCIS.

2 So to phrase it in terms of Exhibit A is  
3 inaccurate and misleading.

4 MR. PERL: Inaccurate and misleading is what  
5 counsel is trying to do with the Court now. These  
6 documents that are Exhibit A were in their binder  
7 book before trial. I know that.

8 ALJ KIRKLAND-MONTAQUE: Your only point this  
9 was not entitled Exhibit A at the time he saw it?

10 MR. BURZAWA: Yes, it is misleading.

11 ALJ KIRKLAND-MONTAQUE: It is what it is.  
12 It's now in Exhibit A. This is how we are all  
13 going to be able to track documents. How is that  
14 misleading? It's identifying --

15 MR. PERL: It was called Exhibit 2 at his  
16 deposition but it's the same document. You will  
17 recall, your Honor, when I objected to them being  
18 allowed to use these documents. He said turn over  
19 the documents, take a deposition. That's what I  
20 did. This individual testified regarding these  
21 documents at his deposition prior to the hearing.

22 So to state that he couldn't investigate

1 it because he never saw it before, that's  
2 misleading to you because I asked him at his  
3 deposition did you do any investigation regarding  
4 these documents and he said, no, he had not seen  
5 them.

6 I don't know why counsel said he  
7 couldn't have done an investigation because he saw  
8 them for the first time at trial. That's  
9 misleading to you. These documents -- and you're  
10 correct. Maybe they weren't titled Exhibit A when  
11 he first saw them but he saw them in group.

12 ALJ KIRKLAND-MONTAQUE: What's the question?

13 MR. PERL: I don't know my question.

14 I'll rephrase the question.

15 BY MR. PERL:

16 Q. The documents contained in Exhibit A,  
17 you saw those documents before the trial, didn't  
18 you?

19 A. Yes.

20 Q. And you saw those documents before your  
21 deposition, didn't you?

22 A. Yes.

1 Q. You would have had to have, correct?

2 A. Yes.

3 Q. And you didn't do any investigation to  
4 determine whether or not the information on these  
5 documents is accurate ever, did you?

6 A. No.

7 Q. Just looking at the documents, there is  
8 no way to know whether they are accurate or not for  
9 you, is there?

10 A. I used the MCIS system daily and the  
11 information that I viewed I perceive to be  
12 accurate.

13 Q. How do you know? You don't input the  
14 information in there, do you?

15 A. I do not.

16 Q. You do not check it against anything  
17 else, do you?

18 A. No, I do not.

19 Q. And there is six exhibits here, correct?

20 A. Yes.

21 Q. And from the MCIS information, correct?

22 A. Yes.

1 Q. Is it all accurate?

2 A. We know it's not.

3 Q. We know it's not, don't we?

4 A. Just because 1889 appears.

5 Q. We'll get to that.

6 About 15 different times we see on these  
7 documents later that either a dispatcher or a  
8 relocator started towing in 1899?

9 A. Correct.

10 Q. And you already told me at your dep that  
11 can't be accurate, correct?

12 A. Correct.

13 Q. So the information on these documents  
14 isn't accurate, is it?

15 A. Not all of it.

16 Q. Okay. So if it's not all accurate, how  
17 would you know which parts are accurate and which  
18 parts aren't without actually doing an  
19 investigation?

20 A. I would have to use common sense and  
21 realize that 1899 could not be possible. That that  
22 had to be human error as input whatever was input.

1 Q. Well, error is error, correct? How do  
2 you know it's human error versus computer error?  
3 How do you know someone didn't type in 1999 into  
4 the computer and misread it as 1899? How do you  
5 know that?

6 A. I don't know. I'm not an IT person.

7 Q. And you didn't put any of the  
8 information in there, did you?

9 A. No, I did not.

10 Q. I'll get to that in a moment and that's  
11 in the other exhibits.

12 Let's take a look at Exhibit B.

13 Have you seen the documents contained in  
14 Exhibit B before?

15 A. It appears so.

16 Q. Did you input any of the information in  
17 Exhibit B?

18 A. No.

19 Q. Do you know who inputted any of the  
20 information in Exhibit B?

21 A. No.

22 Q. Do you know when it was input?

1 A. No.

2 Q. Do you know how it was input?

3 A. No.

4 Q. Do you even know for certain -- and I'm  
5 going to use the word for certain because at trial  
6 we want to be certain, correct?

7 MR. BURZAWA: Objection. That's not the  
8 standard.

9 ALJ KIRKLAND-MONTAQUE: What was your  
10 objection?

11 MR. BURZAWA: It's a preponderance of the  
12 evidence standard here, not certainty.

13 MR. PERL: That's for you preponderance of  
14 evidence. For the witness it's certainty.

15 ALJ KIRKLAND-MONTAQUE: What was the question?  
16 BY MR. PERL:

17 Q. Do you know whether or not the  
18 information contained in Exhibit B was printed off  
19 of a screen or off of a copy?

20 A. I do not know.

21 Q. So whether I say certain or not you just  
22 don't know?



1           A.     No.

2           Q.     Okay.  And you don't know when it was  
3 copied, do you?

4           A.     No.

5           Q.     Do you know what the MCIS screen showed  
6 during the relevant time period for all of the  
7 information in Exhibit A?

8           A.     No.

9           Q.     Because you don't know when it was  
10 printed, do you?

11          A.     Correct.

12          Q.     So it's possible that during the  
13 relevant time period the documentation for  
14 Exhibit A would be different than it is what you  
15 are looking at now, isn't it?

16          A.     Yes.

17          Q.     Do you know during the relevant time  
18 period whether the information contained in  
19 Exhibit B is accurate or not?

20          A.     No.

21          Q.     Do you even know what the MCIS screen  
22 looked like during the relevant time period

1 regarding the documents in Exhibit A or B?

2 A. I know what the screen looked like, but  
3 I don't know what information was on that screen.

4 Q. I know you know the screen was blue in  
5 color but you don't know the information, do you?

6 A. No.

7 Q. Because you didn't look at the MCIS  
8 screen during the relevant time period to establish  
9 whether A and B are accurate, did you?

10 A. No.

11 Q. Okay. You don't know whether or not the  
12 information in Exhibit B is accurate or not, do  
13 you?

14 A. Again, as I answered prior, when I used  
15 MCIS in my daily activities, I perceived this  
16 information to be accurate.

17 Q. When you say "perceived," define that  
18 for me.

19 A. I take it at its face value.

20 Q. So let me ask you a question.

21 Look at Bates stamped page 0004. That  
22 states 345 North Canal Street.

1 Do you see that?

2 A. Yes.

3 Q. There is some information on this page,  
4 correct?

5 A. Yes.

6 Q. This page shows it was received  
7 1/18/2012.

8 Do you know that to be true?

9 A. No.

10 Q. Do you know when it was received?

11 A. No.

12 Q. You don't have a copy of the document,  
13 do you?

14 A. No.

15 Q. Now if you had the contract summary  
16 form, you could verify that, couldn't you?

17 A. I don't know that that's accurate  
18 either.

19 Q. But it would be a handwritten document  
20 stamped by the Commerce Commission, why would you  
21 doubt that?

22 A. Because we're going along this line of

1 question that every document must be questioned,  
2 whether it's legitimate or not or accurate.

3 Q. No. No. I'm not going down that line of  
4 questioning. If you actually had a document with  
5 you today that was a written piece of paper  
6 submitted by Lincoln Towing with a file stamp on  
7 it, it would be a lot easier to determine whether  
8 that was accurate than a blank white piece of paper  
9 just with some letters on it, wouldn't it?

10 A. But that also requires somebody every  
11 day to change the dates on that stamper and there  
12 are quite a few days that I know that I have  
13 stamped something and it hasn't been changed. So I  
14 could not 100 percent say just because it had a  
15 stamp that's the day it happened.

16 Q. Do you don't know whether any of the  
17 information that the ICC has is accurate, do you?

18 A. Not along that line. I do not believe  
19 so.

20 Q. Let's stick to these documents. I know  
21 you are trying to make an argument for the position  
22 that you don't know but -- strike that.

1                   When I ask you a question, it doesn't  
2 mean I think you know the answer. You know that,  
3 correct? You might not know, correct?

4           A.       Correct.

5           Q.       So if I said to you do you know -- can  
6 you verify any of the information on Exhibits A or  
7 B as being accurate and truthful, you, yourself?

8           A.       No. We already established that.

9           Q.       You don't know, right?

10          A.       I already answered that.

11          Q.       So you do not know?

12          A.       I do not for the third or fourth time.

13          Q.       But there are things that you could do  
14 if you wanted to to see if they were accurate,  
15 isn't there?

16          A.       I suppose so.

17          Q.       For instance, if this document were to  
18 show that Lincoln Towing had a contract for a lot  
19 that was canceled in 2012, Renters Services now had  
20 the contract, you could easily pick up the phone to  
21 Renters and say, Do you have the contract for this  
22 lot, couldn't you?

- 1           A.     Sure.
- 2           Q.     Did you do that?
- 3           A.     No.
- 4           Q.     On any of these?
- 5           A.     I already answered that, no.
- 6           Q.     Okay. Did you call Lincoln to say was  
7 the contract canceled?
- 8           A.     Again, no.
- 9           Q.     Okay. When a contract gets canceled,  
10 there is paperwork, isn't there?
- 11          A.     There is.
- 12          Q.     A ten-day notice gets sent in to the  
13 Commerce Commission, doesn't it?
- 14          A.     Yes, it does.
- 15          Q.     So for any of these lots in Exhibit A  
16 and B that were canceled or allegedly canceled, did  
17 you ever check ever to see if there was a ten-day  
18 cancellation?
- 19          A.     No.
- 20          Q.     But you could have done that, correct?
- 21          A.     Yes.
- 22          Q.     And that would have given you more

1 information about whether or not Lincoln actually  
2 had a contract with that lot, wouldn't it?

3 A. Yes.

4 Q. Because if you went to the MCIS and saw  
5 some information and you checked up on it and you  
6 called Renters and Renters said to you, No, we  
7 don't have a contract with that lot. And Lincoln  
8 says they do and they showed it to you and you went  
9 to the lot and you saw the signs out there for  
10 Lincoln Towing and you talked to the owner of the  
11 lot and he said, My contract is with Lincoln  
12 Towing. I don't know what your MCIS says but they  
13 have been towing for me for 20 years. If you did  
14 all of that, certainly the MCIS information would  
15 be incorrect, wouldn't it?

16 A. Yes.

17 Q. And you don't know how it was that the  
18 information would be incorrect? You don't know if  
19 it's human error or the computer made an error, do  
20 you?

21 A. No.

22 Q. Let's take a look at Exhibit C for a

1 moment. Exhibit C. You didn't create this  
2 document, did you?

3 A. No.

4 Q. Do you know who created this document?

5 A. No.

6 Q. Do you know when it was created?

7 A. No.

8 Q. Do you know how it was created?

9 A. No.

10 Q. Did you know if it's a complete and  
11 accurate copy of everything on the MCIS screen  
12 regarding Lincoln Towing dispatchers?

13 A. No.

14 Q. You don't know if somebody just went  
15 into the MCIS and picked and chose what information  
16 they wanted to print out, do you?

17 A. I do not.

18 Q. Did you do anything -- strike that.

19 I think you testified you had never seen  
20 this document before your deposition, had you?

21 A. Not in this format, not in a complete  
22 listing. When I viewed things on MCIS, I am



1 looking at one specific.

2 Q. But did anybody ever show you this  
3 document prior to your deposition, not the  
4 information, the document?

5 A. I can't -- truthfully, I can't recall  
6 that. I have looked at it the day we looked at the  
7 other documents.

8 Q. Did you check anywhere to determine  
9 whether the information on here was accurate or  
10 not?

11 A. No.

12 Q. Prior to your deposition testimony, did  
13 you review this document in full?

14 A. Again, I can't recall who reviewed it  
15 that day or not.

16 Q. Prior to your testimony on direct in  
17 this case, did you review Exhibit C in full?

18 A. I don't recall.

19 Q. But you testified under oath regarding  
20 inconsistencies with Exhibit C, correct?

21 A. If it's in the transcripts.

22 Q. Well, were there inconsistencies with

1 Exhibit C in any of the tows Lincoln Towing  
2 performed?

3 A. I would have to review this again. I  
4 don't remember. It was several months since my  
5 testimony, so truthfully I don't recall.

6 Q. I believe you when you say that. I'm  
7 not doubting you. It was a long time. That's why  
8 I'm establishing if you remember. Then you can  
9 take a look at it to refresh your recollection.

10 A. Right. I mean, I don't know what we're  
11 looking for. I probably reviewed these. It was a  
12 relationship to who towed this particular vehicle  
13 and then I might -- may have used this to then  
14 ascertain whether or not they were valid at the  
15 time. Sitting here staring at it, you know, the  
16 answer is not popping up at me?

17 Q. Is the information contained on this  
18 sheet accurate?

19 A. From what I believe it is.

20 Q. So let's take a look at.

21 You can tell me whether you think the  
22 information regarding Heather Gill, G-i-l-l, is

1 accurate.

2 A. Yeah. Clearly it's not, 1889 there is a  
3 date. So that's what I perceive as a human input  
4 error.

5 Q. That's page 2 of 4, correct?

6 A. Correct.

7 Q. Now who inputs this information into the  
8 MCI system, do you know?

9 A. I do know this portion because this  
10 deals with permits of operators and dispatchers.  
11 So after they apply and they go through the  
12 application process and the Des Plaines office is  
13 told this person is okay, a phone call is made to a  
14 relocater, in this case, Heather's permit is ready.

15 Heather then has to come to the  
16 Des Plaines office where she receives her permit,  
17 her picture is taken. It's laminated. So at the  
18 time the office staff then inputs that date because  
19 where I'm going with this is we may have called  
20 somebody and they don't show up for months until  
21 after we told them their permit is ready. So  
22 that's when a new date gets entered in there, and

1 that's what I perceive happened here is the office  
2 staff --

3 Q. So someone called her in 1889 and she  
4 didn't come to the office?

5 A. No, that's not what I testified.

6 Q. Well, did anybody call Heather Gill in  
7 1889?

8 MR. BURZAWA: Objection. Argumentative.

9 ALJ KIRKLAND-MONTAQUE: Overruled.

10 BY MR. PERL:

11 Q. You are trying to state that there is  
12 human error because somebody called Heather Gill  
13 and she didn't come for a long time to pick up her  
14 license. Do you know that for a fact?

15 A. No, and that's not what I said. No one  
16 called Heather Gill. They called the relocater.  
17 So they would call Lincoln Towing and say Heather  
18 permit is ready. Lincoln then needs to tell  
19 Heather, go get your permit. If Heather doesn't do  
20 that for several weeks or several months -- and I'm  
21 not saying this is the case with her, we have had  
22 this case with other operators and dispatchers from

1 all companies -- the date gets put in.

2           Because if a permit is issued -- it's a  
3 two-year permit. If he doesn't come in for  
4 two months, he doesn't get two years from the date  
5 he comes in. He gets two years from when that  
6 phone call was made the permit is being issued.

7           Q.       Wouldn't it be the case if you don't  
8 come in your permit expires?

9           A.       Actually not.

10          Q.       So you can put in for a permit, never  
11 come in and just keep working. You don't have --

12          A.       You can work. That's the point I'm  
13 trying to make.

14          Q.       But I don't know the point you are  
15 trying to make. Are you saying that because  
16 Heather Gill didn't come in on time, they put her  
17 license came in 1889?

18          A.       No. No. I don't know that Heather did or  
19 did not come in on time. I'm saying whenever an  
20 operator and dispatcher comes in to get their  
21 permit, the office staff has to edit that date that  
22 they came in to get the permit actually in the

1 office.

2 Q. When you say edit, they put in the date  
3 when they came in to get it, correct? They put in  
4 the date so-and-so came in.

5 By the way, do you know this all  
6 actually to be a fact what you just described?

7 A. I do, yes.

8 Q. Have you ever seen it happen?

9 A. Yes.

10 Q. You have?

11 A. Yes.

12 Q. Where someone came in late and because  
13 of it they put 1889 on the date they got --

14 A. That's not the question.

15 ALJ KIRKLAND-MONTAQUE: I think you are  
16 getting off base here.

17 MR. PERL: I think the witness is getting off  
18 base.

19 ALJ KIRKLAND-MONTAQUE: I think there is a  
20 misunderstanding. The witness is testifying that  
21 it's possible to be an error because at a point in  
22 time people come in and then at that point in time

1 someone in the office inputs it into MCIS. So,  
2 therefore, there could be an error. That's the  
3 point -- that was the question you asked.

4 BY MR. PERL:

5 Q. Is that what you are saying?

6 A. It is what I'm saying.

7 Q. So somebody at MCIS makes an error when  
8 they input the information into the system,  
9 correct -- I'm sorry, somebody at the Commerce  
10 Commission.

11 ALJ KIRKLAND-MONTAQUE: Could possibly.

12 MR. PERL: Well, Judge, I appreciate -- I  
13 appreciate it. Let me let him answer, not you.

14 ALJ KIRKLAND-MONTAQUE: I'm just trying to --

15 MR. PERL: I like you as a judge, not his  
16 attorney.

17 BY MR. PERL:

18 Q. Because Lincoln Towing didn't type in  
19 1889, did they?

20 A. No, they did not.

21 Q. So somebody at the Commerce Commission  
22 typed it in or the computer made an error?

1           MR. BURZAWA:  Objection.  Asked and answered.  
2  We are going over the same thing just asked in  
3  different ways.  It's okay for Mr. Perl to  
4  speculate about all of these possibilities.  But  
5  when the witness is trying to answer his question  
6  as to what may have happened in this situation,  
7  that's not good enough because he doesn't want the  
8  witness speculate and takes him at his literal word  
9  that Ms. Gill came in at 1889.

10           MR. PERL:  I guess he wants him to speculate.

11           ALJ KIRKLAND-MONTAQUE:  I'm going to overrule  
12  and I think the question was related only to the  
13  testimony for clarity.

14                        What was the question?

15  BY MR. PERL:

16           Q.        The question I believe was:  Do you  
17  think -- I'll ask a new question.

18           ALJ KIRKLAND-MONTAQUE:  And if you asked it  
19  already, let's not go there.

20           MR. PERL:  Here is the problem making the  
21  record.  I like having questions and answers, not  
22  question, four pages of objections and an answer.



1 Usually that's what we do. We reask the question  
2 and get the answer so it's right next to each  
3 other.

4 ALJ KIRKLAND-MONTAQUE: Got you.

5 Go ahead.

6 BY MR. PERL:

7 Q. Do you believe -- first of all, do you  
8 know whether Heather Gill came in when they called  
9 Lincoln Towing? You don't know how long it took  
10 her to get there, do you?

11 A. No, I don't.

12 Q. Her license wasn't expired, was it? Was  
13 it?

14 A. I would have to review these documents.

15 Q. Take a look. It's right in front of  
16 you.

17 A. No. She is good.

18 Q. So if she's good, it means she would  
19 have had to come in with the allotted time.  
20 Otherwise, the time would have elapsed, wouldn't  
21 it?

22 A. You are misunderstanding where -- what I

1 was saying.

2 Q. But I'm just asking a different  
3 question. It's not important for you to  
4 understand. I'm asking you a different question.

5 A. Her license was not expired.

6 Q. So that means that she must have come in  
7 during the allotted period of time, correct?

8 A. Yes.

9 Q. Otherwise, it would is been expired,  
10 correct?

11 A. Yes.

12 Q. So that whole thing you gave us before  
13 about maybe she didn't come in time, that doesn't  
14 apply to this case, does it? She wasn't expired.  
15 She came in during the allotted time period, didn't  
16 she?

17 A. And I was explaining why the 1889 could  
18 appear on that.

19 Q. But it couldn't in this case because she  
20 didn't come in late. She came in on time, didn't  
21 she?

22 A. It's irrelevant. Somebody still has to

1 put that date in the system. A human being has to  
2 put that date in whether she is expired or not or  
3 on time or not.

4 The day that person whoever it is,  
5 Heather or John Smith comes in, somebody at the  
6 office has to physically put a date.

7 Q. So somebody put in 1889?

8 A. Yes.

9 Q. That information is not accurate then,  
10 right?

11 A. No.

12 Q. Let me ask you this: The information  
13 regarding Jacquelyn Spot on page 2 of 4 where it  
14 says her license was issued on 3/20 of 1992, do you  
15 know if that's accurate?

16 A. I do not.

17 Q. If I asked you the question for every  
18 single one of these, you don't know if any of it is  
19 accurate?

20 A. No, I do not.

21 Q. And now you know for sure one of them is  
22 not accurate, correct?

1           A.     Yes.

2           Q.     Does call into question the rest of the  
3 document for you? That maybe some of these other  
4 ones aren't accurate, too? It's possible, isn't  
5 it?

6           A.     Maybe if I saw another 1889 but if I see  
7 proper dates, I would not -- there is not a red  
8 flag for me to question that.

9           Q.     Let's skip forward, then, for a second  
10 real quick. I wasn't going to do this but he said  
11 maybe if he saw another 1889, correct? What if I  
12 showed you 14 more?

13          A.     I would believe you. You don't have to  
14 show it to me.

15          Q.     Oh, but i want to because you just said  
16 when I asked you does the 1889 on the document lead  
17 you to believe the other information isn't accurate  
18 and you said, well, maybe if I saw it again, right?

19                    So let's take a look now at exhibit --

20          ALJ KIRKLAND-MONTAQUE: Excuse me. Now let me  
21 just ask so I understand. When you said if you saw  
22 more, did you mean anywhere or did you mean on this

1 document?

2 THE WITNESS: Your Honor --

3 ALJ KIRKLAND-MONTAQUE: Exhibit B.

4 BY THE WITNESS:

5 A. What I'm trying to say is I believe --  
6 this information to be reliable. Now when I see  
7 the 1889, we know that can't be. Human error is a  
8 factor because humans do make errors. No one is  
9 incapable of making an error. So if I saw 1889  
10 appear on another document, my red flag would go  
11 up. It would not go up if I did not see that, if  
12 all of the other information looked correct in the  
13 proper time frame. I'm not going to question every  
14 document that comes before me because I wouldn't  
15 have time in my day to complete what I need to  
16 complete.

17 BY MR. PERL:

18 Q. I want to follow-up on that.

19 How does something look correct to you  
20 if you don't know whether it's correct or not. Let  
21 me ask you a question: If I show this information  
22 to you, how would you know it looks correct, just

1 because it doesn't have 1889 on it? How do you  
2 know? You are not the keeper of the records for  
3 the Commerce Commission, are you?

4 A. No.

5 Q. You don't see the information when it  
6 comes in, do you?

7 A. I do not.

8 Q. You didn't review any documents to see  
9 whether it was accurate or not, correct?

10 A. Yes.

11 Q. How does something look correct to  
12 somebody that doesn't actually have any idea about  
13 the document itself? How does something look  
14 correct to you?

15 A. Well, Mr. Perl --

16 MR. PERL: Judge, can you instruct the witness  
17 to answer. I know what he is trying to do, and I  
18 appreciate it. He works at the Commerce Commission  
19 and he is trying to wiggle out of the fact that the  
20 document is inaccurate and that's okay.

21 ALJ KIRKLAND-MONTAQUE: I don't think that's  
22 fair. He's trying to answer the question to the

1 best of his ability.

2 I think you already asked this question  
3 whether he knows if it's accurate or not.

4 MR. PERL: He says he doesn't but now he is  
5 saying it's reliable because it looks correct.

6 ALJ KIRKLAND-MONTAQUE: I think he also  
7 testified that he takes them at face value.

8 MR. PERL: I want to know -- and he also  
9 testified that he does investigations to determine  
10 if things are accurate or not. He never takes them  
11 at face value.

12 ALJ KIRKLAND-MONTAQUE: Where are we going  
13 with this?

14 BY MR. PERL:

15 Q. We are still looking at Exhibit C. You  
16 stated earlier on cross-examination for me that you  
17 wouldn't write a citation before doing an  
18 investigation, correct?

19 A. Correct.

20 Q. So just looking at the documentation on  
21 Exhibit C, you have no idea whether or not Lincoln  
22 violated any ICC rules, would you?

1 A. No.

2 Q. You would have to do an investigation,  
3 correct?

4 A. Yes.

5 Q. You would have to look at -- maybe look  
6 at the actual license because that paperwork does  
7 come to the ICC?

8 A. It does.

9 Q. And you could do that, correct?

10 A. Correct.

11 Q. You didn't do that in this case, did  
12 you?

13 A. I didn't write any citations in this  
14 case.

15 Q. You didn't do it?

16 A. No.

17 Q. So you don't have an opinion as to  
18 whether or not this document shows any violations  
19 on the part of Lincoln Towing during the relevant  
20 time period, do you?

21 A. I do not have an opinion.

22 Q. Because you didn't do the investigation?



1           A.     I don't have an opinion.

2           Q.     If you did an investigation, then you  
3 could formulate an opinion, correct?

4           A.     Yes.

5           Q.     But you didn't do it?

6           A.     Correct.

7           Q.     So for all of the times that you  
8 testified on direct examination a couple months  
9 ago, all of that testimony was just you saying this  
10 is what the document shows. Do you recall that?

11          A.     Yes, and I believe that's in the record.  
12 It was just me reading what the document says.

13          Q.     And no opinion on whether or not there  
14 was a violation?

15          A.     Correct.

16          Q.     Let's skip to Exhibit F.

17                 Take a look at Exhibit F. What does it  
18 purport to be?

19          A.     It purports to be the operator listings  
20 for Lincoln Towing.

21          Q.     You didn't print this document, did you?

22          A.     I did not.

1 Q. Do you know who printed it?

2 A. No, I do not.

3 Q. Do you know when it was printed?

4 A. No.

5 Q. Do you know whether or not the  
6 information on here is accurate and reliable?

7 A. No.

8 Q. Is the information on here accurate and  
9 reliable?

10 A. I don't know.

11 Q. You don't know. Okay. So let me ask  
12 you this: Does -- I'm shortcutting and then I'll  
13 go back.

14 Does this information show on 14  
15 separate occasions with 14 separate operators that  
16 they began their relocation for Lincoln Towing in  
17 1899, 14 different times and they are all tabbed?

18 ALJ KIRKLAND-MONTAQUE: What exhibit?

19 MR. PERL: F.

20 ALJ KIRKLAND-MONTAQUE: Mine is different.

21 MR. PERL: The screen shot you have is D and  
22 E. So E.

1 BY THE WITNESS:

2 A. It does.

3 BY MR. PERL:

4 Q. Exhibit E. First of all, do you know if  
5 this is a screen shot or a copy of something?

6 A. I do not know.

7 Q. Do you know whether or not this document  
8 accurately depicts the status of any Lincoln Towing  
9 operators during the relevant time period?

10 A. I do not know.

11 Q. You didn't see this document during the  
12 relevant time period, correct?

13 A. Correct.

14 Q. And you don't know if this document was  
15 created during relevant time period, do you?

16 A. Correct.

17 Q. And as we stated earlier it's also  
18 possible that somebody made a copy of a screen shot  
19 and that's what this is as opposed to the actual  
20 screen shot itself, correct?

21 MR. BURZAWA: Objection. This is not a screen  
22 shot, Judge. It's a printout to be accurate. And

1 whether or not it's a printout or a copy is  
2 irrelevant because both of them are admissible  
3 under the rules of evidence. So that question is  
4 irrelevant.

5 ALJ KIRKLAND-MONTAQUE: Give me one basis for  
6 the objection. The screen shots might be  
7 incorrect. It's a listing, a printout of something  
8 or another. So rephrase your question, Mr. Perl.  
9 It's not a screen shot.

10 MR. BURZAWA: Misstating the record. It's not  
11 a screen shot and an additional objection is  
12 whether or not it's an original printout or a copy  
13 is irrelevant because both are admissible under the  
14 rules of evidence.

15 MR. PERL: This is not going to admissibility.  
16 How is it relevant whether it's admissible or not.  
17 That's not what I'm asking.

18 ALJ KIRKLAND-MONTAQUE: The description of the  
19 document. It's not a screen hot.

20 MR. PERL: I asked him if it was a screen  
21 shot. Again, just because I asked him it as a  
22 question doesn't mean I'm saying that's what it is.

1 BY MR. PERL:

2 Q. Is this a screen shot, if you know?

3 A. I don't know.

4 ALJ KIRKLAND-MONTAQUE: There is your answer.

5 BY MR. PERL:

6 Q. Is it a printout from the MCIS? Do you  
7 know for certain that that's what it is?

8 A. I do not know.

9 Q. Is it impossible that this is a copy of  
10 a copy of a printout from the MCIS?

11 A. Yes.

12 Q. Is it possible that somebody altered or  
13 changed that exhibit before you reviewed it?

14 MR. BURZAWA: Objection. Speculation.

15 ALJ KIRKLAND-MONTAQUE: He is not asking did  
16 anyone do it. He is asking is it possible.

17 MR. BURZAWA: That's the definition of  
18 speculation. I realize that you keep overruling  
19 speculation objections, but I really don't  
20 understand why.

21 If you start out a question "is this  
22 possible," you know, that's the textbook

1 speculation. And we get it. You know, there is a  
2 vast conspiracy against Lincoln, according to  
3 Mr. Perl. We get it. You as a judge are allowed  
4 to limit cumulative and repetitious evidence we  
5 don't need to keep doing the same thing over.

6 MR. PERL: No, let's just take their license  
7 away without doing it. That's what the Commerce  
8 Commission wants. Let's just take their license  
9 away. Why do we have the hearing because  
10 everything counsel says just get to the ruling  
11 already is what he wants.

12 ALJ KIRKLAND-MONTAQUE: Overruled.

13 MR. PERL: By the way, in all of the years  
14 that we have all been doing this, I've asked the  
15 question many times "isn't it possible." I've  
16 never heard anybody say you can't start a question  
17 like that.

18 ALJ KIRKLAND-MONTAQUE: You are fighting over  
19 this and up until this point I'm going to allow it  
20 again.

21 BY MR. PERL:

22 Q. Isn't it possible that somebody changed

1 the information on here before you saw it?

2 A. Yes.

3 Q. Just like we did on those Exhibit 23  
4 through 26 before you saw it, correct?

5 A. Yes.

6 Q. But they look pretty good, don't they?

7 A. Yes.

8 Q. And you never would have known and you  
9 still didn't pick out the one that was incorrect,  
10 did you?

11 A. I would have to reevaluate them but,  
12 yes.

13 Q. Without doing it, you couldn't pick it  
14 out, could you?

15 A. No.

16 Q. So did you evaluate Exhibit E anywhere  
17 to make sure the information is correct?

18 A. No.

19 Q. Let's take a look at page 1, Kenneth  
20 Ubay says in the middle of the page, Issued  
21 12/31/1889. Expiration 3/30/1997.

22 Do you see that?

1 ALJ KIRKLAND-MONTAQUE: Page what?

2 MR. PERL: Page 1 in the middle of the page

3 BY MR. PERL:

4 Q. Kenneth Ubay issued 12/31/1889.

5 Expiration date, 3/30/97. Do you see that?

6 A. Yes.

7 Q. That's not accurate?

8 A. Correct.

9 Q. You don't know how that mistake came  
10 about, do you? I'm not asking you to speculate  
11 because counsel doesn't want you to but you don't  
12 know, do you?

13 A. No.

14 Q. You don't even know who put that  
15 information in there?

16 A. No.

17 Q. Let's look at the next page.

18 Bobby Jean Hawk, page 2 of 14, issued  
19 12/31/1889. Expiration date, 4/10/1997.

20 Do you see that?

21 A. Yes.

22 Q. That's not accurate, is it?



1 A. No.

2 Q. Two down from there, Jimmy Ciprulis  
3 (phonetic) issued 12/31/1889, expiration date  
4 3/30/1997.

5 That's not accurate, is it?

6 A. No.

7 Q. Robert Driscoll, issued 12/31/1889.  
8 Expiration 3/30/1997. That's not accurate, is it?

9 A. No.

10 Q. Next page, fourth from the top, James H.  
11 Murillo, Issued 12/31/1889. Expiration date,  
12 2/9/1996. That's not accurate?

13 A. No.

14 Q. Halfway down, John Sporrer, issued  
15 12/31/1889. Expiration date, 2/18/1996.

16 Do you see that?

17 A. Yes.

18 Q. That's not accurate?

19 MR. BURZAWA: Objection. Cumulative. We  
20 don't need to go through each one.

21 MR. BARR: They did for each tow.

22 ALJ KIRKLAND-MONTAQUE: He can go through the

1 evidence of the document he presented.

2 MR. PERL: They went through every single one  
3 of these.

4 ALJ KIRKLAND-MONTAQUE: Overruled.

5 Keep going.

6 BY MR. PERL:

7 Q. Andrew Demma, issued 12/31/1889.  
8 Expired 10/4/1995. That's not accurate, is it?

9 A. No.

10 Q. Jack Hatfield, issued 12/31/1889.  
11 Expiration, 3/10/1996.

12 Do you see that?

13 A. Yes.

14 Q. That's not accurate, is it?

15 A. No.

16 Q. William D. Hunter, issued 12/31/1889.  
17 Expiration, 4/29/1996.

18 Do you see that?

19 A. Yes.

20 Q. That's not accurate?

21 A. No.

22 Q. Last one on that page, Patrick M.

1 Daniels, issued 12/31/1889. Expiration, 4/10/1997.

2 Do you see that?

3 A. Yes.

4 Q. These are all for operators for Lincoln  
5 Towing, correct?

6 A. Yes.

7 Q. Next page, Steven Bieniek, issued  
8 12/31/1889. Expiration, 4/17/1997.

9 Do you see that?

10 A. Yes.

11 Q. That's not accurate?

12 A. No.

13 Q. Leonard Hayes, 12/31/1889. Expiration  
14 date, 11/6/1997.

15 Do you see that?

16 A. Yes.

17 Q. That's not accurate, is it?

18 A. No.

19 Q. Whether these fell off -- give me a  
20 moment.

21 While we were doing this, there is one  
22 more, I believe. Even if I can't find the final

1 one, there is 12 instances on Exhibit E where the  
2 date issued of the permit is 1889.

3 Do you see that? Correct?

4 A. Yes.

5 Q. Now previously from Exhibit C you said,  
6 well, if I saw it, you know, more than one time,  
7 that might mean something, something like that.

8 Do you recall that?

9 A. Yeah, my red flag would go up.

10 Q. Well, how about 12 or 13 times, would  
11 your red flag go up?

12 A. Yeah.

13 Q. Isn't it safe to say the information on  
14 Exhibit F isn't accurate?

15 A. For those people. I don't discount the  
16 whole document because of an error, a key error?

17 Q. So how many times does there have to be  
18 mistakes before you would say the document is not  
19 accurate?

20 A. My definition would be for that person.  
21 That doesn't mean the person who has correct dates  
22 is wrong.

1           Q.       Show me when there is a correct date.  
2 Show me where there is a correct date that you know  
3 for sure?

4           A.       I don't know for sure. You know that  
5 answer.

6           Q.       I didn't know. Here is what I don't  
7 understand. Since you don't know if any of the  
8 information is correct but you do know that a lot  
9 of is not correct, how can you say that information  
10 is not accurate?

11          MR. BURZAWA: Objection. Argumentative.

12          MR. PERL: I'm asking him a question. It's  
13 cross-examination.

14          ALJ KIRKLAND-MONTAQUE: I believe it's a  
15 little argumentative. I think you have the answers  
16 to the questions you need.

17          MR. PERL: I'm trying to understand from this  
18 witness who said earlier that just seeing one date  
19 of 1889 would make it totally inaccurate but maybe  
20 if I saw more.

21                    So now I showed him a document with 12  
22 or 13 instances and then I asked the question is

1 the information accurate and now he wants to say,  
2 well, as to those people it's not.

3 So my follow-up is: Show me one  
4 operator here that has accurate information.

5 ALJ KIRKLAND-MONTAQUE: And you asked and he  
6 said he couldn't. So now what's your next  
7 question?

8 BY MR. PERL:

9 Q. Take a look at page 6 of 14 for --  
10 strike that.

11 Take a look at page 6 of 14 at the very  
12 bottom, Robert Dillon. Is the information for  
13 Robert Dillon accurate?

14 A. I would have to question that.

15 Q. Why?

16 A. Because there are two entries.

17 Q. Right. Because it's actually not  
18 possible because the one entry says his contract --  
19 his license was issued 9/7/1999 and expired  
20 9/7/2001. And directly below that it says it was  
21 issued 10/21/99 and expires 10/21/2001 and that's  
22 not possible, just so you know, same exact control

1 number and operator number.

2 A. It's possible there are many factors but  
3 I can't testify to what they were.

4 Q. Well, it's possible if there was a  
5 mistake made?

6 A. It's possible that he was also suspended  
7 and then reentered. I don't know that.

8 Q. So where does it say that?

9 A. It doesn't.

10 Q. So it would show here suspended,  
11 wouldn't it, unless there is a mistake made and  
12 they didn't enter the suspension?

13 A. I can't testify as to why there is two  
14 entries.

15 Q. But that's not correct, is it?

16 A. No. That would also raise the flag.

17 Q. Okay. So now you got 12 or 13 flags  
18 raised on the date. Now you got another flag  
19 raised on that.

20 How many more flags do I have to raise  
21 for you before you would say this document is not  
22 accurate?

1 MR. BURZAWA: Objection. Argumentative.

2 MR. PERL: I was trying to figure out how much  
3 more time I have to spend showing this witness  
4 inaccuracies before the witness will say it's  
5 inaccurate.

6 MR. BURZAWA: He gave his answer.

7 ALJ KIRKLAND-MONTAQUE: I'm going to sustain  
8 the objection. I mean, the answer -- I don't  
9 think the answer goes toward -- I mean, you have  
10 got the fact that there is inaccuracy. I don't  
11 think the answer to that last question would lead  
12 you to anything meaningful.

13 ALJ KIRKLAND-MONTAQUE: Let me ask you  
14 something off.

15 (WHEREUPON, discussion was had off  
16 the record.)

17 ALJ KIRKLAND-MONTAQUE: We are wrapping up for  
18 today.

19 (WHEREUPON, the hearing was  
20 adjourned.)

21

22