STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

September 12, 2018

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

Notice of Service

TO ALL PARTIES OF INTEREST:

I hereby certify, as Supervisor of Processing of the Transportation Division, of the Illinois Commerce Commission that on the date stated at the top of this document, a copy of the attached Order of the Illinois Commerce Commission dated September 12, 2018 was served to the persons and entities at the addresses on the attached service list, both electronically by email and by U.S. Mail.

Sincerely,

[redacted]

Scott Morris
Supervisor of Processing
Processing and Information Section

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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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

ORDER

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

ORDER

By the Commission:

I. PROCEDURAL HISTORY

By Order entered February 24, 2016, the Illinois Commerce Commission ("Commission") initiated a hearing to inquire into the relocation towing operations of Protective Parking Service Corporation d/b/a Lincoln Towing Service ("Lincoln" or "Respondent") to determine whether it is fit, willing and able to properly perform the service of a commercial vehicle relocator and to conform to the provisions of the Illinois Commercial Relocation of Trespassing Vehicles Law ("ICRTVL") and the Commission's Administrative Code ("Commission Rules").

The February 24, 2016 Order stated that Commission Staff reviewed Commission records to ascertain Lincoln's compliance with applicable Commission Rules and Illinois state laws. Since the date of Lincoln's last license renewal on July 24, 2015, the Commission Police Department had opened 166 investigations into Lincoln's relocation towing operations, 28 of which resulted in administrative citations issued against Lincoln. Commission Police investigation # 15-0088 alleged that during the time between October 15, 2014 and November 23, 2014, Lincoln had committed 54 violations of issuing incomplete or inaccurate tow invoices in violation of 92 Ill. Adm. Code 1710.170(c), 3 violations of using tow trucks to perform relocations without an equipment lease on file with the Commission as required by 625 ILCS 5/18a-300(16), and 19 violations of 625 ILCS 5/18a-300(3) by using a dispatcher with an expired relocation towing employment permit. Investigation # 15-0088 remained pending at the time of the February 24, 2016 Order. At the time of the Order, there were 92 pending administrative citations issued to Lincoln alleging similar and other violations of the ICRTVL and Commission Rules. Comm'n Initiating Order, 1.

In the Order, the Commission noted that Lincoln was issued a renewal of its authority to operate as a commercial vehicle relocator under the ICRTVL on July 24,

2015. Pursuant to Section 18a-401 of the Law, all relocator licenses expire every two years. 625 ILCS 5/18a-401.

Staff of the Commission ("Staff") participated in this proceeding. No petitions to intervene were filed.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, this matter came to be heard before a duly-authorized Administrative Law Judge ("ALJ") of the Commission at its office in Chicago, Illinois on multiple dates between May 31, 2017, and March 21, 2018. The Staff of the Illinois Commerce Commission ("Staff") appeared by the Office of Transportation Counsel and presented the testimonies of Sergeant Timothy Sulikowski, Officer Bryan Strand, Officer John Geisbush, and Investigator Scott Kassal. The Respondent was represented by counsel and presented the testimony of Robert Munyon, General Manager of Lincoln. Each party cross-examined the opposing party's witnesses. The record was marked "Heard and Taken" on March 21, 2018.

After the conclusion of the evidentiary hearings, Staff and Respondent each submitted written Post-Hearing Briefs. Staff filed its Post-Hearing Brief on May 2, 2018. On May 21, 2018, Lincoln filed an Emergency Motion to Strike Brief of Staff, to Remove Brief from the Commission's Website, and Post Retraction. Staff filed a Response to the Emergency Motion on May 24, 2018. On May 31, 2018, Lincoln filed a Reply in support of its Motion to Strike Brief of Staff. The ALJ denied Lincoln's Motion on June 4, 2018. Lincoln filed its Post-Hearing Brief on June 18, 2018. Staff replied to Lincoln's Post-Hearing Brief on June 25, 2018. Oral Arguments were held at the Commission on June 27, 2018. On July 2, 2018, a Proposed Order was served on the parties. On July 16, 2018, Staff filed its Brief on Exceptions ("BOE") to the Proposed Order. On July 23, 2018, Lincoln filed its Brief in Reply to Exceptions ("RBOE").

At a pre-hearing conference on February 1, 2017, the ALJ ruled that the relevant time period for the Commission's investigation of Lincoln's towing operations is July 24, 2015, through March 23, 2016.

II. ISSUE PRESENTED

Whether Lincoln is fit, willing and able to properly perform the service of a commercial vehicle relocator and to conform to the ICRTVL and the Commission Rules.

III. BACKGROUND AND APPLICABLE LAW

Prior to the enactment of ICRTVL, one who towed an automobile from a private parking lot without the vehicle owner's consent and withheld it for failure to pay a towing and storage fee was guilty of conversion. *Kunde v. Biddle*, 41 Ill. App. 3d 223 (4th Dist. 1976). While it protected vehicle owners, this rule created problems for property owners in urban areas where street parking was scarce. A lot owner could pursue a trespass action against the vehicle owner, but this rarely resulted in a prompt and effective

resolution of the issue. The legislature, in promulgating the ICRTVL, sought to resolve this problem.

The ICRTVL authorizes the towing of a trespassing vehicle by a licensed relocator. 625 ILCS 5/18a-300(7); 625 ILCS 5/18a-302. The towing company obtains a possessory lien on the trespassing vehicle, which is discharged by the payment of the towing fee. 625 ILCS 5/18a-501. In order to obtain the lien, the towing company must comply with numerous regulatory requirements established by the ICRTVL and the Commission Rules. 625 ILCS 5/18a-300(19). The failure to comply with the ICRTVL and the Commission Rules invalidates the lien and makes the company's tows unlawful. 92 Ill. Adm. Code 1710.30; 625 ILCS 5/18a-300.

Section 18a-101 of the ICRTVL vests enforcement authority in the Commission "to supervise and regulate the commercial removal of trespassing vehicles from private property, and the subsequent relocation and storage of such vehicles in such manner as to fairly distribute rights and responsibilities among vehicle owners, private property owners and commercial vehicle relocators." 625 ILCS 5/18a-101. The Commission's jurisdiction to regulate commercial vehicle relocators extends to their employees and agents as well. 625 ILCS 5/18a-200(1).

The towing company, in order to receive or retain its license, must be fit, willing and able to "...conform to provisions of this Chapter and the requirements, rules and regulations of the Commission thereunder." 625 ILCS 5/18a-400(d); 625 ILCS 5/18a-401. In other words, a towing company must meet all of the regulatory requirements for each and every relocation tow. Each license issued to a relocator, operator, or dispatcher is conditioned upon compliance with the provisions of the ICRTVL and the applicable Commission Rules. 92 Ill. Adm. Code 1710.30.

The Commission, "upon its own initiative may, investigate whether any commercial vehicle relocator, operator, dispatcher, or person otherwise required to comply with any provision of this Chapter or any rule promulgated hereunder, has failed to comply with any provision or rule." 625 ILCS 5/18a-200(10). Moreover, Section 18a-401 of the ICRTVL authorizes the Commission to "at any time during the term of the license make inquiry into the management, conduct of business, or otherwise to determine that the provisions of this Chapter 18A and the regulations of the Commission promulgated thereunder are being observed." 625 ILCS 5/18a-401. Pursuant to Section 18a-401, the Commission initiated this investigation into the fitness of Lincoln because of the numerous investigations and citations which were completed or pending at the time. The issue herein is to determine Lincoln's fitness and ability to meet the legal and regulatory requirements for relocation towing in the State of Illinois, during the time period of July 24, 2015 to March 23, 2016. Tr. of 2-01-17 pg. 146.

The ICRTVL enumerates several specific "unlawful practices" for any commercial vehicle relocator to engage in. 625 ILCS 5/18a-300. However, more broadly, the law states that a relocator's failure to comply with the ICRTVL or Commission regulations

constitutes a violation of the ICRTVL. 625 ILCS 5/18c-1701; 625 ILCS 5/18a-307. Several of the abovementioned unlawful practices are listed below.

A relocator is prohibited from employing or using the services of an operator who does not have a valid, current operator's employment permit. 625 ILCS 5/18a-300(2). It shall be unlawful for any commercial vehicle relocator "[t]o employ as an operator, or otherwise so use the services of, any person who does not have at the commencement of employment or service, or at any time during the course of employment or service, a valid, current operator's employment permit, or temporary operator's employment permit issued in accordance with Sections 18a-403 or 18a-405 of this Chapter." 625 ILCS 5/18a-300(2).

A relocator shall not relocate a vehicle without first obtaining the required authorization. No vehicle shall be relocated from private property without express, written authorization from the property owner, lessee, or agent in conformance with Section 1710.91. 92 Ill. Adm. Code 1710.41; 625 ILCS 5/18a-300(7).

A relocator has no authorization to relocate trespassing vehicles from a property until the Commission has a copy of a contract between the relocator and the owner of the property from which the relocator will tow improperly parked vehicles. 92 Ill. Adm. Code 1710.91(f)(1). No authorization to tow or contract shall be effective until a completed copy of the Commission's Relocator Contract Summary form covering the authorization or contract has been electronically filed with and accepted by the Commission. 92 Ill. Adm. Code 1710.91(f)(1).

Two or more relocators cannot be authorized to relocate trespassing vehicles from the same property at the same time. 92 Ill. Adm. Code 1710.91(f)(2). Only one authorization to tow or contract shall be in effect for any lot at any time. No other authorization or contract shall become effective until the prior authorization has been cancelled and notice of cancellation is filed with the Commission. 92 Ill. Adm. Code 1710.91(f)(2). It is the responsibility of the relocator to file a notice of cancellation with the Commission when a contract has been terminated between the relocator and the property owner. 92 Ill. Adm. Code 1710.91(f)(4).

A contract filed with the Commission must specify whether the relocator is authorized to relocate trespassing vehicles on a patrol basis, or on a call basis (upon being contacted by a property owner). 92 Ill. Adm. Code 1710.91(f)(3). Relocator Contract Summaries shall state whether trespassing vehicles will be removed from the property on a patrol basis or only when contacted by the property owner, lessee or agent. *Id.* When a contract permits removal of trespassing vehicles by both a property owner's request and a patrol basis, the relocator shall file that contract as a patrol contract. *Id.* When one authorization to tow applies to multiple parking lot locations, each address shall be filed electronically with the Commission. *Id.*

IV. EVIDENCE

A. Stipulated Evidence

Lincoln and Staff have stipulated that Lincoln meets the requirements of Section 1710.22(a)(2) of the Commission Rules. The parties stipulated to the following:

1. Respondent owns, or has exclusive possession of under a written lease with a term of at least one year, at least one storage lot that meets the requirements of Subpart M, 92 Ill. Adm. Code 1710.130, *et seq.*;

2. Respondent employs sufficient full-time employees at each storage lot to comply with Section 1710.123;

3. Respondent owns or has under exclusive lease at least two tow trucks dedicated to use under the relocator's license;

4. Respondent employs at least two individuals who will work as the relocator's operators;

5. Respondent is in compliance with Section 4 of the Illinois Workers' Compensation Act (820 ILCS 305/4);

6. Respondent has sufficient available assets, management with prior experience in the towing industry, possession of adequate and properly maintained equipment, and an ability and willingness to provide commercial relocation service; and

7. Respondent is in compliance with all other procedural application requirements that would be required for a legally sufficient, complete, and proper application pursuant to 92 Ill. Adm. Code 1710.10, *et seq.* and 625 ILCS 5/18a-100, *et seq.*

B. Staff's Evidence

1. Sergeant Sulikowski and Staff's Exhibits

Sergeant Timothy Sulikowski, the Acting Sergeant with the Illinois Commerce Commission Police Department, testified on behalf of the Commission. Sergeant Sulikowski has been an officer with the Commission since July 2012. As Acting Sergeant, he is responsible for supervising three officers, one investigator, and other civilian employees. Tr. of 5-31-17 pgs. 264, 276-277.

Sergeant Sulikowski testified that Commission police and investigators are authorized to enforce the ICRTVL and the Commission Rules by writing administrative citations which are heard by a Commission Administrative Law Judge. Commission police officers are also authorized to write tickets to the motoring public for violations that are not regulated by the Commission, these tickets are brought to hearing before

the Circuit Court. Investigators are not authorized to write tickets. Tr. of 1-30-18 pg. 1225.

During the relevant time period, any investigation regarding Lincoln would have been initiated in response to a consumer complaint. When a consumer's vehicle is towed, the consumer receives a copy of the tow invoice, which has a preprinted complaint form on the reverse side. The consumer may fill out the complaint form and mail it to the Commission's Des Plaines office. The complaint form is date stamped when received and assigned an investigation number. The investigation is then assigned to an officer or an investigator. Tr. of 1-30-18 pgs. 1226-1228.

Once an officer or investigator receives an investigation assignment, he/she calls the complainant to obtain additional information. The officer or investigator would inspect the lot from which the vehicle was towed for proper signage. The Commission's Motor Carrier Information System ("MCIS") contains a relocation towing company's profile, which includes all investigations, tickets written, complaints, property addresses of towing contracts, effective dates of the operator permits and expiration dates, and information pertaining to its operators and dispatchers. Tr. of 5-31-18 pg. 265. The officer or investigator checks the MCIS to verify that there is a valid contract on file for the property on the tow invoice. He/she also verifies whether the contract is listed as a patrol or call contract and compare that information to what appears on the tow invoice. The officer or investigator also reviews the validity of the operator and dispatcher permits, whether the tow occurred within the proper air mileage range of the relocator's assigned territory, and whether the tow was communicated to the local police department within an hour of the tow. Tr. of 1-30-18 pgs. 1232-1233. The MCIS also lists the date that a summary of the contract was received by the Commission and the cancellation date of a contract. Tr. of 5-31-17 pgs. 274-275. Staff's Exhibits A and B consist of contract listings by property address from the MCIS for the period of July 24, 2015 through March 23, 2016. Staff's Exhibit F comprises relocator-operator/operator permit information from the MCIS.

Sergeant Sulikowski testified that Commission Police officers utilize the MCIS daily. In addition to being used for investigations, the MCIS is also used to check officer activity, such as how many citations he/she has written or how many traffic stops he/she has made. Tr. of 5-31-17 pg. 271. Sergeant Sulikowski explained that when he enters an operator's number into the MCIS, data regarding the operator will appear on a screen, such as when a permit was issued and when it expires. The same information is available for dispatchers. Tr. of 5-31-17 pgs. 273-274.

Sergeant Sulikowski testified that he reviewed Lincoln's 24-hour tow reports during the relevant time period. These reports are logs of daily tows Lincoln completes at the time a vehicle is towed and includes the address from where a vehicle was towed, the date of tow, the year make and model of the vehicle towed, and the operator who towed the vehicle. Tr. of 2-14-19, pg. 1713. The reports also indicate whether the tow was on a patrol or call basis. Different tow sheets are maintained for each of the

lots Lincoln maintains to store the towed cars. Lincoln has one lot at 4601 W. Armitage Street ("Armitage Lot") and another lot at 4882 N. Clark Street ("Clark Lot"). Staff's Exhibit J comprises of tow sheets for the Armitage Lot. Staff's Exhibit K comprises of tow sheets for the Clark Lot. The date of the tow is located at the top right of the page. The "Driver" column identifies the operator conducting the tow.

Sergeant Sulikowski cross-referenced the entries in Lincoln's 24-hour tow sheets, such as property address, operator number, and dispatcher number with the information contained in the MCIS. Tr. of 5-31-17 pgs. 285, 287. At the hearing, Sergeant Sulikowski was presented with a report from MCIS ("MCIS report") showing the addresses Staff highlighted. Staff's Exhibit A is the MCIS report of addresses that appear for the Clark Lot and Staff's Exhibit B is the MCIS report of addresses that appear for the Armitage Lot. Sergeant Sulikowski believed that the contracts between relocators and private property owners in the MCIS is based on input from the relocation towing companies. Tr. of 5-31-17 pg. 382. These contracts are electronically submitted to the Commission through eRelocator, a portal on the Commission's website, for which two of Lincoln's employees (including the General Manager) maintain accounts. Tr. of 2-14-18 pg. 1714.

Comparing Lincoln's tow logs with the MCIS report regarding vehicles towed from the addresses listed below revealed the following discrepancies during the relevant time period:

111 S. Halsted: Lincoln towed a total of ten vehicles on July 24, 2015; August 25, 2015; November 14-15, 2016; and November 20-21, 2015. According to the MCIS report, Lincoln did not file its contract for this lot until April 3, 2016. Tr. of 5-31-17 pgs. 394-397, Staff's Exs. B & J.

225 N. Columbus: Lincoln towed one vehicle from this lot on January 29, 2016, although Lincoln's contract for this lot ended on January 25, 2016, and was replaced by another relocator's contract on January 26, 2016. Tr. of 5-31-17 pgs. 410-412, Staff's Exs. B & J.

344 N. Canal: According to the MCIS report of the address, the Commission does not have a Lincoln contract on file. Lincoln's 24-hour tow sheet indicates two vehicles were towed from the lot on November 18, 2015. Tr. of 5-31-17 pg. 422, Staff's Exs. B & J.

345 N. Canal: According to the MCIS report of the address, a different relocator had a contract with the lot owner during the relevant time period of July 24, 2015 through March 23, 2016. Lincoln's 24-hour tow sheet indicates that a vehicle was towed from the lot on July 31, 2015. Tr. of 6-01-17 pgs. 436-438, Staff's Exs. B & J.

400 E. South Water: According to the MCIS report of the address, a different relocator had a contract with the lot owner during the relevant time period of July 24,

2015 through March 23, 2016. Lincoln's 24-hour tow sheet indicates that a vehicle was towed from the lot on August 7, 2015. Tr. of 6-01-17 pgs. 438-439, Staff's Exs. B & J.

405 N. Wabash Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 27, 2008 and a cancellation on February 11, 2010. Tr. 442. Lincoln's 24-hour tow sheets indicate that three vehicles were towed between August and December of 2015. Tr. of 6-01-17 pgs. 442-445, Staff's Exs. B & J.

440 N. LaSalle: According to the MCIS report of the address, a different relocator had a contract with the lot owner during the relevant time period of July 24, 2015 through March 23, 2016. The MCIS report also shows that the Commission received notice of a Lincoln contract on March 7, 2007 and of the cancellation of the contract on September 4, 2014. Lincoln's 24-hour tow sheet indicates that a vehicle was towed from the lot on July 24, 2015. Tr. of 6-01-17 pgs. 446-447, Staff's Exs. B & J.

800 N. Kedzie: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 7, 2007 and of the cancellation of the contract on June 27, 2015. Lincoln's 24-hour tow sheet indicates a vehicle was towed from the lot on September 30, 2015. Tr. of 6-01-17 pgs. 448-450, Staff's Exs. B & J.

831 N. Damen Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on December 15, 2015. Lincoln's 24-hour tow sheet indicates a vehicle was towed from the lot on November 27, 2015. Tr. of 6-01-17 pgs. 451-453, Staff's Exs. B & J.

1041 N. Harding: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on December 15, 2015. Lincoln's 24-hour tow sheet indicates a vehicle was towed from the lot on November 27, 2015. Tr. of 6-01-17 pg. 452, Staff's Exs. B & J.

1801 N. St. Louis Ave: Lincoln's 24-hour tow sheets indicate three vehicles were towed from the lot on September 19, 2015, March 8, 2016, and March 14, 2016. According to the MCIS report of the address, no relocator held a contract during the time the vehicles were towed. Tr. of 6-01-17 pgs. 454-459, Staff's Exs. B & J.

1900 N. Austin Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln patrol lot contract on January 5, 2007 but received a cancellation notice on November 6, 2009. The report also indicates the Commission received notice of a Lincoln call lot contract on March 7, 2007, but later received a cancellation notice on October 27, 2009. However, Lincoln's 24-hour tow sheets indicate 34 vehicles were towed from the lot between September 27, 2015 and March 11, 2016. Tr. of 6-01-17 pgs. 460-469, Staff's Exs. B & J.

1919 N. Cicero: Lincoln towed one vehicle on a patrol basis on November 14, 2015, but its contract was filed as a call basis. Staff's Exs. B & J.

2002 S. Wentworth: Lincoln towed eight vehicles on a patrol basis on November 7,2015; November 15, 2015; December 3, 2015; December 25, 2015; January 1, 2016; January 7, 2016; January 9, 2016; and March 18, 2016, but its contract was filed as a call basis on July 21, 2009. Staff's Exs. B & J.

2030 S. State: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on July 12, 2016 that is currently in effect. However, Lincoln's 24-hour tow sheets indicate one vehicle was towed on July 31, 2015. Tr. of 6-01-17 pgs. 472-475, Staff's Exs. B & J.

2111 S. Clark: According to the MCIS report of the address, a different relocator had a contract with the lot owner during the relevant time period of July 24, 2015 through March 23, 2016. Lincoln's 24-hour tow sheets indicate 12 vehicles were towed from the lot between November 2, 2015 and February 20, 2016. Tr. of 6-01-17 pgs. 475-482, Staff's Exs. B & J.

2113 N. Spaulding Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on February 2, 2016. The 24-hour tow sheets indicate two vehicles were towed from the lot on January 30, 2016. Tr. of 6-01-17 pgs. 483-484, Staff's Exs. B & J.

2201 S. Halsted: According to the MCIS report of the address, there is conflicting information on file. The Commission received notice of a contract held by another relocator on May 1, 2006 and there is no cancellation notice received for that contract, thus the contract would appear to be in effect. The Commission, however, also received notice of a Lincoln contract on March 7, 2007 and notice of cancellation on February 1, 2010. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on August 27, 2015. Sergeant Sulikowski stated that he would have to investigate further to determine the reason for the overlapping contract dates. Tr. of 6-01-17 pgs. 485-489, Staff's Exs. B & J.

2233 S. Canal: According to the MCIS report of the address, a different relocator had a contract with the lot owner during the relevant time period of July 24, 2015 through March 23, 2016. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on February 5, 2016. Tr. of 6-01-17 pgs. 489-491, Staff's Exs. B & J.

2249 N. Milwaukee Ave: According to the MCIS report of the address, another relocator has a contract with the lot owner beginning July 19, 2007 to the present. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on August 26, 2015. Tr. of 6-01-17 pgs. 491-493, Staff's Exs. B & J.

2421 W. Madison: According to the MCIS report of the address, another relocator has a contract with the lot owner beginning August 16, 2011, to the present. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on November 12, 2015. Tr. of 6-01-17 pgs. 493-495, Staff's Exs. B & J.

2451 N. Clybourn: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 24, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on March 16, 2016. Tr. of 6-01-17 pgs. 495-497, Staff's Exs. B & J.

2600 S. Michigan Ave: According to the MCIS report of the address, there is conflicting information on file. The Commission received notice of a contract held by another relocator on March 19, 2007 and there is no cancellation notice received for that contract, thus the contract would appear to be in effect. The Commission, however, also received notice of a Lincoln contract on August 21, 2008 and notice of cancellation on February 1, 2010. Lincoln's 24-hour tow sheets indicate six vehicles were towed from the lot between January 21, 2016 and March 23, 2016. Sergeant Sulikowski stated that he would have to investigate further to determine the reason for the overlapping contract dates. Tr. of 6-01-17 pgs. 497-507, Staff's Exs. B & J.

2734 S. Wentworth: Lincoln towed five vehicles on a patrol basis on October 8, 2015; November 3, 2015; January 8, 2016; February 29, 2016; and March 5, 2016, but its contract was filed as a call basis. Staff's Exs. B & J.

2750 W. Grand Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on September 22, 2015 that is currently in effect. Lincoln's 24-hour tow sheets indicate six vehicles were towed from the lot between July 26, 2015 and August 19, 2015. Tr. of 6-01-17 pgs. 507-511, Staff's Exs. B & J.

2801 N. Linder Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 18, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate two vehicles were towed from the lot on March 9, 2016 and March 16, 2016. Tr. of 6-01-17 pgs. 511-512, 524-526, Staff's Exs. B & J.

2805 N. Linder Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 18, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate eight vehicles were towed from the lot between August 16, 2015 and September 12, 2015. Tr. of 6-01-17 pgs. 526-529, Staff's Exs. B & J.

2805 N. Lotus Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 18, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate three vehicles were towed from the lot between August 18, 2015 and September 4, 2015. Tr. of 6-01-17 pgs. 529-532, Staff's Exs. B & J.

2908 W. Fullerton: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on September 8, 2015 that is currently in effect.

Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on September 2, 2015. Tr. of 6-01-17 pgs. 532-533, Staff's Exs. B & J.

2844 W. Armitage: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on August 2, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on January 24, 2016. Tr. of 6-01-17 pgs. 534-535, Staff's Exs. B & J.

3100 N. Central Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on May 16, 2006 and a notice of cancellation on May 14, 2015 effecting a cancellation on May 24, 2015. Lincoln's 24-hour tow sheets indicate 36 vehicles were towed from the lot between July 25, 2015 and March 12, 2016. Tr. of 6-01-17 pgs. 536-559, Staff's Exs. B & J.

3901 W. Madison Ave: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period of July 24, 2015 through March 23, 2016. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on January 16, 2016. Tr. of 6-01-17 pg. 560, Staff's Exs. B & J.

4000 W. Grand: According to the MCIS report of the address, Lincoln towed one vehicle on July 26, 2015 although its contract for this lot was cancelled on February 15, 2010. Staff's Ex. B & J.

4032 W. Armitage: According to the MCIS report of the address, Lincoln towed four vehicles on August 18, 2015; August 19, 2015; October 6, 2016; and October 11, 2015, although it did not file its contract for this lot until May 4, 2016. Staff's Ex. J.

4645 W. Belmont: According to the MCIS report of the address, Lincoln towed two vehicles on a patrol basis on October 19, 2015 and March 17, 2016 although its contract for this lot was filed as a call lot. Staff's Ex. J.

4946 S. Drexel: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on November 3, 2015 that is currently in effect. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on October 23, 2015. Tr. of 6-01-17 pgs. 561-562, Staff's Exs. B & J.

5000 W. Madison: According to the MCIS report of the address, Lincoln towed five vehicles on a patrol basis on October 15, 2015; January 8, 2016; January 21, 2016; February 9, 2016; and February 13, 2016 although its contract for this lot was filed as a call lot. Staff's Exs. B & J.

5200 W. North: According to the MCIS report of the address, Lincoln towed one vehicle on August 31, 2015 although this lot was already under contract with another relocator. Staff's Exs. B & J.

5531 W. North Ave: According to the MCIS report of the address, there were no relocator contracts on file with the Commission for the lot owner during the relevant time

period. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on August 15, 2015. Tr. of 6-01-17 pgs. 564-566, Staff's Exs. B & J.

7118 W. Grand Ave: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate Lincoln towed three vehicles from the lot on February 6, 2016. Tr. of 6-01-17 pgs. 567-569, Staff's Exs. J.

223 N. Custer: According to the MCIS report of the address, Lincoln's held a contract for this lot that was cancelled on February 11, 2010 and was replaced by another relocator's contract on March 12, 2012. Lincoln's 24-hour tow sheets indicate Lincoln towed four vehicles from this lot on October 28, 2015; November 4, 2015; November 16, 2015; and December 15, 2015. Staff's Exs. A & K.

834 W. Leland Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 24, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate two vehicles were towed from the lot on November 19, 2015 and December 3, 2015. Tr. of 7-07-17 pgs. 582-585, Staff's Exs. A & K.

850 W. Eastwood Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 9, 2017 that is currently in effect. Lincoln's 24-hour tow sheets indicate three vehicles were towed from the lot between October 19, 2015 and December 22, 2015. Tr. of 7-07-17 pgs. 587-589, Staff's Exs. A & K.

1415 W. Morse: According to the MCIS report of the address, Lincoln towed three vehicles on a patrol basis on November 10, 2015; November 24, 2015; and December 15, 2015 although its contract for this lot was filed as a call lot on March 7, 2007. Tr. of 7-07-17 pg. 589. Staff's Ex. A.

1730 W. Terra Cotta Place: According to the MCIS report of the address, the Commission received notice of cancellation of a Lincoln contract on December 21, 2015, effectuating a cancellation on December 31, 2015 and replaced with another relocator's contract on the same day. However, Lincoln's 24-hour tow sheets indicate three vehicles were towed from the lot on February 6, 2016; March 6, 2016; and March 12, 2016. Tr. of 7-07-17 pgs. 589-590, Staff's Exs. A & K.

2001 W. Devon Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on December 14, 2015 that is currently in effect. Lincoln's 24-hour tow sheets indicate 19 vehicles were towed from the lot between July 25, 2015 and November 8, 2015. Tr. of 7-07-17 pgs. 591-598; Staff's Exs. A & K.

2245 N. Halsted: According to the MCIS report of the address, Lincoln towed one vehicle on July 28, 2015 although this lot was already under contract with another relocator. Staff's Ex. A.

2454 W. Peterson: According to the MCIS report of the address, Lincoln towed two vehicles on a patrol basis on December 16, 2015 and January 16, 2016 although its contract for this lot was filed as a call lot. Staff's Ex. A.

2626 N. Lincoln Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on December 7, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on August 6, 2015. Tr. of 7-07-17 pgs. 598-599, Staff's Exs. A & K.

2801 W. Devon Ave: According to the MCIS report of the address, there were no relocator contracts on file with the Commission during the relevant time period. Lincoln's 24-hour tow sheets indicate 78 vehicles were towed from the lot between August 1, 2015 and February 6, 2016. Tr. of 7-07-17 pgs. 599-616, Staff's Exs. A & K.

2828 N. Broadway: According to the MCIS report of the address, Lincoln towed two vehicles on a patrol basis on August 13, 2015 and December 5, 2015 although its contract for this lot was filed as a call lot on March 7, 2007. Staff's Exs. A & K.

3214 N. Kimball Ave: According to the MCIS report of the address, the Commission received notice of cancellation of a Lincoln contract on February 9, 2009, effectuating a cancellation on February 19, 2009. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on December 16, 2015. Tr. of 7-07-17 pgs. 616-617, Staff's Exs. A & K.

3620 N. Clark: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate 34 vehicles were towed from the lot between August 22, 2015 and February 13, 2016. Tr. of 7-07-17 pgs. 617-625, Staff's Exs. A & K.

3700 N. Broadway: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on March 18, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate eight vehicles were towed from the lot between August 8, 2015 and March 9, 2016. Tr. of 7-07-17 pgs. 625-627, Staff's Exs. A & K.

3923 N. Clarendon Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on October 7, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate four vehicles were towed from the lot between September 5, 2015 and January 10, 2016. Tr. of 7-07-17 pgs. 628-629, Staff's Exs. A & K.

4102 N. Sheridan: According to the MCIS report of the address, there were no relocator contracts on file with the Commission during the relevant time period. Lincoln's 24-hour tow sheets indicate 23 vehicles were towed from the lot between July 26, 2015 and March 22, 2016. Tr. of 7-07-17 pgs. 629-635, Staff's Exs. A & K.

4420 N. Winchester: According to the MCIS report of the address, Lincoln towed one vehicle on a patrol basis on November 18, 2015 although its contract for this lot was filed as a call lot on March 7, 2007. Staff's Ex. A.

4801 N. Ravenswood Ave: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on August 11, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate two vehicles were towed from the lot on July 26, 2015 and August 16, 2015. Tr. of 7-07-17 pgs. 635-638, Staff's Exs. A & K.

5440 N. Clark: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate ten vehicles were towed from the lot between August 14, 2015 and March 6, 2016. Tr. of 7-07-17 pgs. 638-641, Staff's Exs. A & K.

5501 N. Kedzie: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate six vehicles were towed from the lot between January 29, 2016 and February 27, 2016. Tr. of 7-07-17 pgs. 641-642, Staff's Exs. A & K.

5623 N. Clark: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate six vehicles were towed from the lot in between August 14, 2015 and January 3, 2016. Tr. of 7-07-17 pgs. 642-645, Staff's Exs. A & K.

5713 N. Kenmore: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate five vehicles were towed from the lot in between August 3, 2015 and September 8, 2015. Tr. of 7-07-17 pgs. 645-647, Staff's Exs. A & K.

5754 N. Western Ave: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate six vehicles were towed from the lot on August 22, 2015 and December 27, 2015. Tr. of 7-07-17 pgs. 647-649, Staff's Exs. A & K.

5853 W. Artesian: According to the MCIS report of the address, Lincoln towed one vehicle on a patrol basis on February 12, 2016 although its contract for this lot was filed as a call lot on June 11, 2009. Staff's Ex. A.

6105 N. Broadway: According to the MCIS report of the address, another relocator had a contract with the lot owner during the relevant time period. Lincoln's 24-hour tow sheets indicate 47 vehicles were towed from the lot between July 31, 2015 and February 27, 2016. Tr. of 7-07-17 pgs. 649-659, Staff's Exs. A & K.

6550 N. Sheridan: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on October 21, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate three vehicles were towed from the lot between July 24, 2015 and August 1, 2015. Tr. of 7-07-17 pgs. 659-661, Staff's Exs. A & K.

6700 N. Greenview: According to the MCIS report of the address, there were no relocator contracts on file with the Commission during the relevant time period. Lincoln's 24-hour tow sheets indicate ten vehicles were towed from the lot between July 25, 2015 and March 23, 2016. Tr. of 7-07-17 pgs. 661-664, Staff's Exs. A & K.

7000 N. Ridge: According to the MCIS report of the address, the Commission received notice of a Lincoln contract on January 4, 2016 that is currently in effect. Lincoln's 24-hour tow sheets indicate a vehicle was towed from the lot on December 15, 2015. Tr. of 7-07-17 pgs. 665-666, Staff's Exs. A & K.

Sergeant Sulikowski testified on cross examination that no investigations were conducted for any of the unauthorized tows he identified between the MCIS reports and Lincoln's 24-hour tow sheets. Tr. of 1-31-18 pgs. 1436, 1442. No citations were written for any of the tows cross-referenced on the 24-hour tow sheets contained in Staff's Exhibits J and K, and the MCIS Reports contained in Staff's Exhibits A and B. *Id.* at 1441.

Operator Permits

Sergeant Sulikowski testified that there were discrepancies between Lincoln's 24-hour tow sheets and the MCIS report regarding the validity of the permits of operators who towed vehicles during the relevant time period. Sergeant Sulikowski cross-referenced Lincoln's 24-hour tow sheets from the Clark and Armitage lots with the MCIS print out of operator license information contained in Staff's Exhibit F.

Sergeant Sulikowski testified that an operator may continue to work on an existing operator's permit during the pendency of a renewal application if the renewal application is filed prior to the expiration of the existing permit. Tr. of 7-07-17 pgs. 670-671.

Sergeant Sulikowski was presented with the MCIS report's relocator operator permit screenshots for three of Lincoln's relocation operators, Ronald Phillips with operator number 4394, Jose Negron with operator number 2515, and Albert Solano with operator number 4190.

Operator No. 4394 – Ronald Phillips – 358 tows

According to the MCIS report, Ronald Phillips' initial operator's permit was received by the Commission on August 13, 2013, and effective from August 16, 2013 to August 16, 2015. The Commission received a renewal application on September 17, 2015, which became effective February 16, 2016 and expired on February 16, 2018. Tr. of 7-07-17 pgs. 668-670, Staff's Ex. F. Sergeant Sulikowski testified that according to the MCIS report, Mr. Phillips did not have an operator's permit from August 16, 2015 to February 16, 2016 because the renewal application was not received before the original permit expired. Tr. of 7-07-17 pg. 671. A review of Lincoln's 24-hour tow logs between August 16, 2015 and February 16, 2016, indicate Mr. Phillips performed 358 tows during that time. Tr. of 7-07-17 pgs. 671-717, Staff's Ex. F.

Sergeant Sulikowski testified on cross-examination that he did not have personal knowledge regarding whether Mr. Phillips relocated vehicles between August 16, 2015 and February 16, 2016. No investigation was initiated and no citation was issued for the tows as no complaints were filed. Tr. of 1-31-18 pgs. 1488-1489.

Operator No. 2515 – Jose Negron – 2 tows

According to the MCIS report, the Commission received Jose Negron's initial operator permit application on November 5, 2013. The permit was issued with an effective date of November 8, 2013 to November 8, 2015. A renewal Application was received on June 27, 2016, and it was issued and effective from December 6, 2016 to December 6, 2018. Sergeant Sulikowski testified that according to the MCIS report, Mr. Negron did not have an operator's permit from November 8, 2015 to December 6, 2016. Tr. of 7-10-17 pgs. 820-822. A review of Lincoln's 24-hour tow logs between November 8, 2015 and December 6, 2016 indicate Mr. Negron performed two tows on November 21, 2015 and March 13, 2016. Tr. of 7-10-17 pgs. 824-825, Staff Ex. J pg. 145.

Sergeant Sulikowski testified on cross-examination that he did not know whether Mr. Negron was actually licensed on November 21, 2015. No investigation was initiated and no citation was issued for the tows as no complaint was filed. Tr. of 1-31-18 pg. 1495.

Operator No. 4190 – Albert Solano – 9 tows

According to the MCIS report, the Commission received Albert Solano's initial operator permit application on February 11, 2014. The permit was issued with an effective date of February 14, 2014 to February 14, 2016. A renewal application was received on March 7, 2016 and issued with an effective date of April 22, 2016 to April 22, 2018. Sergeant Sulikowski testified that according to the MCIS report, Mr. Solano did not have an operator's permit between February 14, 2016 and April 22, 2016. A review of Lincoln's 24-hour tow logs between February 14, 2016 and April 22, 2016, indicate Mr. Solano performed nine tows during that period of time. Tr. of 7-10-17 pgs. 829-833, Staff's Ex. J.

Sergeant Sulikowski testified on cross-examination that he did not have personal knowledge when Mr. Solano sought to renew his license or whether Mr. Solano had a license between February 14, 2016 and April 22, 2016. No investigations were initiated and no citations were issued for the tows as no complaints were filed. Tr. of 1-31-18 pg. 1496.

2. Investigator Scott Kassal

Investigator Scott Kassal testified that he is a Transportation Investigator with the Illinois Commerce Commission Police. He has been an Investigator since 1996. During the relevant time period, Investigator Kassal reviewed consumer complaints regarding relocation towing companies. Tr. of 7-26-17 pg. 905. He explained the guidelines

typically followed when investigating consumer complaints. Once a consumer complaint is received, it is assigned to an investigator or officer who will then use the MCIS to check the validity of the operator and dispatcher permits and whether the relocation company has a contract with the property from which a vehicle was towed. Tr. of 7-26-17 pg. 906. If any of the required fields on the tow invoice, which is on the reverse side of the consumer complaint, are found to be incorrect or expired, the officer or investigator would issue an administrative citation to the towing company. The three outcomes of an investigation are finding in favor of the towing company with no further action by the Commission; finding an alleged violation and issuing an administrative citation; or reaching an agreement with the towing company whereby the towing company agrees to refund the complainant's money instead of receiving an administrative citation. Tr. of 7-26-17 pg. 908. Administrative citations are issued with a fine and the recipient company can either pay the fine imposed or request an administrative hearing on the citation. Tr. of 1-17-18 pg. 910.

Investigator Kassal testified that he issued 16 administrative citations to Lincoln during the relevant time period for various alleged violations. Tr. of 1-17-18 pgs. 912-930; Staff's Exs. L, M, & N.

On cross-examination, Investigator Kassal testified that during the relevant time period, he opened 12 investigations relating to Lincoln and issued 16 administrative citations. Tr. of 1-17-18 pgs. 1006-1007. Four of the 16 citations were issued for improper signage (one was regarding a lot under the Chicago Transit Authority elevated train track); one was issued because the tow truck driver's operator's permit was expired; one was issued because the contract summary between Lincoln and the lot owner was not e-filed; eight were issued because the tow invoices were not accurately completed. The eight citations for inaccurate invoices were issued because the invoices lacked either or both the contract number or tow truck license plate number. In each instance where a contract number was omitted from the invoice, Investigator Kassal determined that a contract existed between the lot owner and Lincoln. Tr. of 1-17-18 pgs. 993-994.

Two of the 16 administrative citations issued by Investigator Kassal for invalid dispatcher permits should not have been written because there is no requirement that the person who releases a vehicle to its owner have a dispatcher permit. Tr. of 1-17-18 pg. 1006; 625 ILCS 5/18a-100(6).

3. Officer Bryan Strand

Officer Bryan Strand testified that he has been employed by the Illinois Commerce Commission Police Department for five years. Officer Strand described the consumer complaint process for relocation towing. Consumer complaints are received by the Commission via U.S. mail, assigned an investigation file number, and assigned to an officer or investigator. Once he receives a complaint, he reviews the invoice on the reverse side of the complaint for accuracy and completeness. Tr. of 7-26-17 pgs.

938-939. At the end of an investigation, Officer Strand will either close it without issuing any administrative citations or issue citations of alleged violations. Tr. of 7-26-17 pgs. 944-945.

Officer Strand testified that he issued 52 administrative citations to Lincoln during the relevant time period for various alleged violations. Tr. of 7-26-17 pgs. 946-992, Staff's Exs. L, M, & N. Six of the 52 administrative citations issued by Officer Strand for expired dispatcher permits should not have been written because there is no requirement that the person who releases a vehicle to its owner have a dispatcher permit. Tr. of 7-26-17 pgs. 962, 973, 974, 976, 978, 979, 991; Tr. of 2-13-18 pgs. 1541, 1542, 1547, 1581; 625 ILCS 5/18a-100(6).

On cross-examination, Officer Strand testified that while he may decide a consumer complaint is unfounded after investigation he could write citations for other issues that appear while investigating the complaint, such as incomplete invoices or expired operator permits. Whether these issues in fact constitute a violation of the law is determined at a hearing. Tr. of 1-16-18 pgs. 702-704, 765. Officer Strand did not know if there was a determination of a violation at hearings on any of the citations he issued to Lincoln during the relevant time period. Tr. of 1-16-18 pg. 704.

4. Officer John Geisbush

Officer Geisbush testified that he has been employed by the Illinois Commerce Commission since July of 2012. One of his duties is to enforce relocation towing regulations. The relocation towing industry is primarily regulated through investigating consumer complaints. When he receives a consumer complaint he will review it. He may then go to the location of the tow, call the tow company and ask them about the incident, or ask the complainant for additional information. Tr. of 7-26-17 pgs. 1005-1006. In the course of his investigation, he may find issues that the consumer did not complain about. *Id.* at 1009. The possible outcomes of an investigation are that citations are issued to the towing company, no citations are issued and the investigation is closed; or the towing company agrees to refund the vehicle owner's money. *Id.* at 1010.

Officer Geisbush testified on direct examination that he issued 86 administrative citations to Lincoln during the relevant time period for various alleged violations. Tr. of 7-26-17 pgs. 1011-1096, Staff's Exs. L, M, & N.

On cross-examination, Officer Geisbush testified that 85 citations were issued by him (a difference of one from direct examination), 22 were for improper signage (Tr. of 1-25-18 pgs. 1148-1150), 13 were for improper invoices (*Id.* at 1159), 10 were for overcharges (*Id.* at 1174), 10 were for no equipment lease on file (*Id.* at 1177), 2 were for towing while owner being present (*Id.* at 1189), 4 were for patrolling from a call lot (*Id.* at 1193), 1 was for towing from a cancelled lot; 11 were for not having written authorization to relocate (Tr. of 1-25-18 pg. 1199), and 12 were for removing authorized vehicles (Tr. of 1-25-18 pgs. 1199-1201). Officer Geisbush testified that an

administrative citation is an allegation of a violation, not an adjudication that there is a violation. He did not know if any hearings were held on the citations he issued. Tr. of 1-25-18 pgs. 1041, 1213.

5. Administrative Notice of Citations Issued, Administrative Law Judge Rulings, and Commission Order

Staff's Exhibits G, H, I, L, M, and N were admitted into the record under administrative notice pursuant to 83 Ill. Adm. Code 200.640(2). Tr. of 2-14-18 pgs. 1728, 1731. Exhibit G consists of Administrative Law Judge Rulings of "guilty" on citations issued by Officers Strand, Geisbush and Investigator Kassal during the relevant time period. Exhibit H consists of Administrative Law Judge Rulings dismissing citations issued by the Officers and Investigator. Exhibit I consists of Administrative Law Judge Rulings acknowledging voluntary settlement of citations without adjudication. Exhibits L, M, and N contain copies of citations issued by the Officers and Investigator during the relevant time period.

Of the 16 citations issued to Lincoln by Investigator Kassal, five were found guilty by ALJ ruling, six were dismissed, and five were voluntarily settled without adjudication. Tr. of 7-26-17 pgs. 912-930; Staff's Exs. G, H, I, L, M, & N.

Of the 52 citations written to Lincoln by Officer Strand, 14 were found guilty by ALJ ruling, 35 were dismissed, and three were voluntarily settled without adjudication. Tr. of 7-26-17 pgs. 946-992; Staff's Exs. G, H, I, L, M, & N.

Of the 86 citations issued to Lincoln by Officer Geisbush, two were found guilty by ALJ ruling, 70 were dismissed, and 14 were voluntarily settled without adjudication. There is a discrepancy of one citation between the testimony and the ALJ rulings. Tr. of 7-26-17 pgs. 1011-1096; Staff's Exs. G, H, I, L, M, & N.

In sum, of the 154 citations issued to Lincoln during the relevant time period, 21 received guilty findings, 111 were dismissed; 22 were voluntarily settled without adjudication.

The ALJ also admitted under administrative notice pursuant to 83 Ill. Adm. Code 200.640(2), the Commission Order entered on July 8, 2015 in the matter of Lincoln Service Corporation: Application for Renewal of a Commercial Relocator's License. 92 RTV-R Sub 15. This Order is the Commission's decision granting Lincoln's last renewal application.

C. Lincoln's Evidence

Robert Munyon testified that he currently is, and was during the relevant time period, General Manager of Lincoln. He has worked for Lincoln for 32 years and as the General Manager for 17 years. He stated Lincoln has approximately 20,000 contracts with private property owners to tow from their lots.

Mr. Munyon testified that, according to Lincoln's 24-hour tow sheets provided to the Commission, Lincoln towed 9,470 vehicles during the relevant time period. Tr. of 3-15-18 pgs. 1799-1802. Staff's Exs. J and K.

V. PARTIES' POSITIONS

A. Staff's Position

Staff argues in its Post-Hearing Brief that Lincoln's repeated violations of the ICRTVL and Commission Rules show it is not fit to perform the service of a commercial vehicle relocator and not able to conform to the provisions of the ICRTVL and the Commission Rules. In summary, Staff asserts the following in support of this argument:

(1) Based on Staff's Exhibits B and J, Respondent conducted unauthorized tows to the 4601 W. Armitage St. Facility for failure to have an effective contract on file with the Commission in violation of 92 Ill. Admin. Code 1710.91(f)(1) fifty-four (54) times between July 24, 2015, and March 23, 2016.[1]

(2) Based on Staff's Exhibits B and J, Respondent conducted unauthorized tows to the 4601 W. Armitage St. Facility for failure to have authorization from the property owner in violation of 92 Ill. Admin. Code 1710.41 one-hundred (100) times between July 24, 2015, and March 23, 2016.

(3) Based on Staff's Exhibits B and J, Respondent conducted unauthorized tows to the 4601 W. Armitage St. Facility for towing vehicles on a patrol basis when its contract was filed as a call lot in violation of 92 Ill. Admin. Code 1710.91(f)(3) twenty-one (21) times between July 24, 2015, and March 23, 2016.

(4) Based on Staff's Exhibits A and K, Respondent conducted unauthorized tows to the 4882 N. Clark St. Facility for failure to have an effective contract on file with the Commission in violation of 92 Ill. Admin. Code 1710.91(f)(1) one-hundred-ninety-eight (198) times between July 24, 2015, and March 23, 2016.[2]

(5) Based on Staff's Exhibits A and K, Respondent conducted unauthorized tows to the 4882 N. Clark St. Facility for failure to have authorization from the property owner in violation of 92 Ill. Admin. Code 1710.41 seventy-nine (79) times between July 24, 2015, and March 23, 2016.

(6) Based on Staff's Exhibits A and K, Respondent conducted unauthorized tows to the 4882 N. Clark St. Facility by towing vehicles

[1] The Commission has corrected the number of violations from 55 to 54 using the record relied upon by Staff in their Post-Hearing Brief.

[2] The Commission has corrected the number of violations from 200 to 198 using the record relied upon by Staff in their Post-Hearing Brief.

on a patrol basis when its contract was filed as a call lot in violation of 92 Ill. Admin. Code 1710.91(f)(3) nine (9) times between July 24, 2015, and March 23, 2016.

(7) Based on Staff's Exhibits J, K, and F, Respondent used the services of an operator without a valid, current operator's permit in violation of Section 18a-300(2) of the ICRTVL three-hundred sixty-nine (369) times between July 24, 2015, and March 23, 2016.

(8) Respondent violated the ICRTVL and Commission Rules a total of eight-hundred-thirty (830) times between July 24, 2015 and March 23, 2016.[3]

(9) Respondent's pattern and practice of conducting unauthorized relocations harms the public and demonstrates that Lincoln is incompetent and unfit to hold a Commercial Vehicle Relocator's License.

(10) While the issuance of an administrative citation is not dispositive of a violation of a particular rule or statute, the administrative citations in evidence are indicative of Respondent's incompetence to properly manage its business operations to ensure regulatory compliance.

(11) Thus, given the ongoing pattern and practice of violations found, Lincoln is unfit to hold a Commercial Vehicle Relocator's License pursuant to Section 18a-401 of the ICRTVL.

B. Lincoln's Position

Lincoln argues that the evidence adduced is not sufficient to substantiate any of the alleged violations claimed by Staff. Sergeant Sulikowski only testified to the inconsistencies between Lincoln's 24-hour tow sheets and the MCIS reports. The testimony adduced at trial was that the testifying officer did not initiate or complete any investigation, did not write any citations, did not testify at a hearing on a citation, and no violation was determined by an Administrative Law Judge.

Lincoln also argues that Staff has stipulated that Lincoln meets each and every requirement of the required fitness test enumerated by 92 Ill. Adm. Code 1710.22(a)(2), and based on the stipulation alone, it should be determined that it is fit, willing, and able to hold a Commercial Vehicle Relocator's License.

VI. ANALYSIS AND CONCLUSION

The Commission must "supervise and regulate the commercial removal of trespassing vehicles from private property, and the subsequent relocation and storage of such vehicles in such manner as to fairly distribute rights and responsibilities among vehicle owners, private property owners and commercial vehicle relocators." 625 ILCS

[3] The Commission has corrected the total number of violations from 831 to 830 using the record relied upon by Staff in their Post-Hearing Brief.

5/18a-101. The Commission does not take this role lightly. The purpose of relocating towing regulations is no different from other State licensing regulations, to prevent injury to the public by "assuring that the occupation will be practiced with honesty and integrity, excluding from the profession those who are incompetent or unworthy." *Alexander v. Director, Dep't. of Agriculture,* 111 Ill. App. 3d 927, 931 (3d Dist. 1983). Given that a relocator's license allows the seizing of a person's property without his/her explicit consent, to preserve the public peace, the Commission must be vigilant in ensuring that its rules are being strictly observed as to "fairly distribute rights and responsibilities among vehicle owners, private property owners and commercial vehicle relocators." 625 ILCS 5/18a-101.

In February of 2016, the Commission launched an investigation to determine whether Lincoln is fit, willing and able to hold a relocator's license in Illinois. The Commission initiated the investigation with its authority vested under Section 18a-401 of the ICRTVL, to inquire into the management, conduct of business or otherwise to determine that applicable law and Commission Rules are observed. 625 ILCS 5/18a-401.

Although the parties have stipulated that Lincoln satisfies each element of the "fitness test" under Section 1710.22 of the Commission Rules, it is not sufficient to find that Lincoln is fit and able to comply with Commission Rules and the ICRTVL. The Section 1710.22 test is a minimal operational requirements checklist for relocation towers, such as owning tow trucks and storage space that a relocator must possess to hold a license. "No person shall be deemed fit to hold a relocator's license unless...." 92 Ill. Adm. Code 1710.22(a)(2)(A). The rule does not state a company *shall be deemed fit* if it meets the requirements, it states that it cannot be deemed fit if *it does not meet* the requirements.

Moreover, the Commission Rules allow "other facts" to be considered in a fitness proceeding. 92 Ill. Adm. Code 1710.22(a)(1). The relevant "other facts" in the instant proceeding go to the determination of whether Lincoln is complying with the other applicable Commission Rules and state laws. "Each license issued to a relocator, operator, or dispatcher is conditioned upon compliance with the provisions of the Law and this Part. Operations in violation of the Law or this Part are unauthorized and render the license subject to suspension or revocation." 92 Ill. Adm. Code 1710.30.

A. Lincoln's Compliance with Commission Rules & the ICRTVL

Over the relevant time period of 8 months and 9,470 tows, Staff has uncovered evidence for over 800 unauthorized tows by Lincoln. Staff Post-Hearing Brief at 8-23. Each incidence was revealed by comparing Lincoln's 24-hour tow sheet, which lists all tows from a specific property, with the Commission's MCIS, an electronic database that stores contracts, licenses, and other pertinent information on relocation towers. Staff Post-Hearing Brief at 5-7. To illustrate Staff's evidence and argument with an example, Staff's Exhibit J, pg. 220, which are copies of Lincoln's 24-hour tow reports, shows that

Lincoln towed one vehicle from 225 N. Columbus on January 29, 2016. Staff's Exhibit B, pg. 2, records from the Commission's MCIS, shows that Lincoln's contract for 225 N. Columbus was cancelled on January 25, 2016, and replaced by another relocator's contract on January 26, 2016. A relocation tower cannot tow from a property without an active contract with that property filed with the Commission. 92 Ill. Adm. Code 1710.91(f)(1). Therefore, Lincoln made an unauthorized tow from 225 N. Columbus. It is difficult to find Lincoln's contention against Staff's argument and evidence here convincing because Lincoln is the source and legally responsible for much of the underlying information. 92 Ill. Adm. Code 1710.91(f). The tow contract summaries and records of all tows undertaken during the period from the MCIS are supplied by Lincoln. Tr. of 2-14-18 pg. 1714. Lincoln's 24-hour tow sheets are maintained and submitted by Lincoln. Tr. of 2-14-19 pg. 1713.

In an attempt to trivialize the evidence produced by Staff as mere "inconsistencies," Lincoln argues that such evidence has no bearing and should not be addressed by the Commission unless a separate citation or investigation has already been held in each instance. Lincoln RBOE at 18-19. This argument has no legal basis. Nowhere in Commission Rules or applicable law suggest individual citation hearings must be held for each instance of violation. Such a requirement would make it impractical for the Commission to carry out its responsibilities of ensuring compliance from relocation towers. The Illinois General Assembly could not have intended to specifically grant the Commission broad investigative powers under Section 18a-401 to only render it impotent by requiring separate citation hearings to adjudicate on the findings. We cannot give the statute a construction that would render the phrase superfluous or meaningless; we must give it some reasonable meaning. *Huskey v. Bd. of Managers of Condos. of Edelweiss*, 297 Ill. App. 3d 292, 295 (1st Dist. 1998).

In its persistence to argue that certain Staff witnesses believed Lincoln to be fit is relevant to the outcome of this proceeding, Lincoln seems to misunderstand the role of witnesses in a legal proceeding. It is well settled that "expert testimony as to legal conclusions that will determine the outcome of the case is inadmissible." *Todd W. Musburger, Ltd. v. Meier*, 394 Ill. App. 3d 781, 800 (1st Dist. 2009) citing *Good Shepherd Manor Found., Inc. v. City of Momence,* 323 F.3d 557, 564 (7th Cir. 2003). The determination of overall fitness is a legal conclusion, and therefore under the purview of the Commission, not the witnesses testifying in its proceedings. 625 ILCS 5/18a-400(d); 625 ILCS 5/18a-401.

The only substantial evidence Lincoln submitted to contest Staff's argument is the testimony of the General Manager and recordkeeper for Lincoln, Robert Munyon. Mr. Munyon claimed that Lincoln had a towing contract during the applicable period for *every lot* listed in Staff's Exhibits A and B. Tr. of 3-15-18 pgs. 1805, 1811-25. His testimony to this claim was not corroborated by any supporting documentation.

It begs the question: If such contracts did exist, as Mr. Munyon claims, and the Commission's records were in error, why did Lincoln fail to submit those contracts or

contract summaries into evidence? Lincoln's contention in oral arguments it was denied the opportunity to submit such evidence is simply false. The ALJ in this proceeding properly denied Lincoln's Motion to Stay the Hearing and Reopen Discovery because it was clear that Lincoln's intention at the time was to redepose the *same witnesses*. Tr. of 4-25-2017 pgs. 76-77, 104,112; Tr. of 7-10-2017, pgs. 777-780. The Company instead opted for numerous procedural objections to deny the admissibility of evidence submitted by Staff. Without contrary evidence, the Commission is left with no other choice, based on a preponderance of evidence standard, to find Staff's evidence and argument compelling.

B. Admissibility of Staff's Evidence

Lincoln argues that most of Staff's evidence is inadmissible and should not be considered by the Commission. Lincoln's argument against the admissibility of Staff's evidence can be summarized to two grounds: 1) no witnesses can testify as to how and when the original entry behind the Commission's records were created; and 2) certain inaccuracies make Staff's evidence unreliable and therefore inadmissible. The Commission finds both arguments to lack legal merit.

In Illinois, public records are admissible evidence. Ill. R. Evid. 803(8). The Commission's records of contract summaries of relocation towers' and operators' licenses are public records maintained by public officials or employees in connection with the performance of their official duties. *Village of Arlington Heights v. Anderson,* 2011 IL App (1st) 110748, ¶ 14.

Certified public records do not need witness testimony for their admissibility or presumption of accuracy. Public records can be self-certified through an official certification. Ill. R. Evid. 803(8); Ill. R. Evid. 902(1). The Commission has authority to certify its transportation records. 625 ILCS 5/18c-1204b. Certified copies of records are admissible if relevant, *i.e.,* if they tend to prove or disprove a matter in controversy. *Trimble v. Olympic Tavern, Inc.*, 239 Ill. App. 3d 393, 402 (2d Dist. 1993). In this proceeding, the Commission's records, submitted as evidence by Staff, were properly certified by a Commission recordkeeper. Furthermore, public records "are seen as inherently trustworthy based on the assumptions that public officers will perform their duties and are without motive to falsify." *Eastman v. Dep't of Public Aid*, 178 Ill. App. 3d 993, 997 (2d Dist. 1989). No motives to falsify were raised in this proceeding. Thus, Lincoln's contentions concerning the admissibility of the Commission's records based on lack of witness testimonies have no legal basis.

The Commission's records, however, are not perfect. Lincoln was able to identify an activation date of "12/31/1899" for "about 15" licenses that expired in the 1990s. Tr. of 1-30-2018 pg. 1316. But these errors have no bearing on the present investigation. None of the operators that were identified to have towed vehicles without their operator's license were misidentified because of this error. This was simply a scrivener's error. *Eddards v. Illinois Workers' Compensation Comm'n*, 2017 IL App (3d)

150757WC, ¶ 19 (typographical or scrivener's errors can include dates). Such harmless errors do not render public records inadmissible. *See People v. Wyzgowski*, 323 Ill. App. 3d 604, 605-607 (3d Dist. 2001) (The Court found "scrivener's error" in an officer's sworn report "merely a formal defect" where the report incorrectly stated the date of arrest as July 7, 2000, as opposed to July 6, 2000). Pointing out the same harmless error over a series of hearings and briefs does not raise its relevance. Lincoln also misrepresented the testimony of Sergeant Sulikowski when Lincoln argued Sergeant Sulikowski testified that the Commission's records are inaccurate and unreliable. Sergeant Sulikowski merely agreed in recognizing the obvious scrivener's errors. Sergeant Sulikowski affirmed the general reliability of the information in the Exhibits and the MCIS. Tr. of 1-30-18. pg. 1339. Thus, the Commission finds that these scrivener's errors have no relation to the issues raised in this proceeding and are not relevant in determining the admissibility of Staff's evidence.

C. Notice & Due Process

A commercial vehicle relocation towing license constitutes a property right that cannot be deprived without due process of law. *Pioneer Towing, Inc. v. Illinois Commerce Comm'n,* 99 Ill. App. 3d 403, 404 (1st Dist. 1981). Due process, however, is a flexible concept which "requires only such procedural protections as fundamental principles of justice and the particular situation demand." *Abrahamson v. Illinois Dep't of Prof'l Regulation,* 153 Ill. 2d 76, 92 (1992). An administrative proceeding need not involve a hearing in the nature of a judicial proceeding in order to comply with due process. *Id.*

Lincoln asserts it was deprived of due process because Staff did not file a formal complaint that would have properly notified Lincoln of the claims against it. Although Illinois Civil Procedure requires notice and hearings to be held in revoking a license (5 ILCS 100/10-65(d)), it does not require the filing of a formal complaint in the instant proceeding. Lincoln's citation to Section 200.170 of the Illinois Public Utilities Act does not substantiate its argument. Lincoln Post-Hearing Brief at 3. Section 200.170 simply defines the elements of a formal complaint. 83 Ill. Adm. Code 200.170. Furthermore, even if it did apply, in construing the sufficiency of the notice, courts focus not on "whether the notice is formally and technically correct, but whether the object and intent of the law were substantially attained thereby." *Fienhold v. Babcock*, 275 Ill. 282, 289-290 (1916); *Conrad v. Conrad*, 329 Ill. App. 33, 37 (4th Dist. 1946) *aff'd*, 396 Ill. 101 (1947). In the context of administrative proceedings, notice is sufficient if the respondent is "reasonably apprised of the case against him to intelligently prepare his defense." *Rasky v. Dep't of Reg. & Educ.,* 87 Ill. App. 3d 580, 585 (1st Dist. 1980); *see also Tarr v. Hallihan*, 375 Ill. 38, 42 (1940); *Strickland v. Dept. of Regis. & Educ.*, 60 Ill. App. 3d 1, 17 (1st Dist. 1978); *Carrao v. Bd. of Educ.,* 46 Ill. App. 3d 33, 37 (1st Dist. 1977); *Kelly v. Police Bd. of City of Chicago,* 25 Ill. App. 3d 559, 564 (1st Dist. 1975).

Lincoln was undoubtedly aware of the case against it. This investigation began in early 2016 with a Commission Order that spelled out the intent of this fitness

proceeding, to investigate and determine whether Lincoln is fit to hold a relocator's license. Comm'n Initiating Order, 1. It is unbeknownst to the Commission how Lincoln can argue it was not notified of the case against it, or that the Commission failed to hold hearings as required by Section 18a-401. 625 ILCS 5/18a-401. More than 25 hearings and statuses were held in this docket. Although the citations and investigations referenced in the Commission's Initiating Order did not form the total basis for our decision here, the sheer volume of issues referenced in the Initiating Order served its purpose of putting Lincoln on notice - that the Commission was seeking to determine whether Lincoln is fit to hold a relocator's license and able to comply with the laws and regulations its license is conditioned upon.

The new evidence introduced against Lincoln as the investigation proceeded did not create a trial by ambush. The purpose of investigations is to uncover evidence, and in this proceeding, the investigation did just that. The Exhibits that form the basis of Staff's case were submitted by April 25, 2017. Tr. of 4-25-17 pgs. 36-39, 43, 45-47, 49; Tr. of 5-31-17 pg. 141. Staff called Sergeant Sulikowski in June of 2017 to testify on the purpose of the Exhibits, dispelling any pretension of ignorance or confusion by Lincoln. Instead of submitting contrary evidence to prove its case, Lincoln raised numerous procedural objections to evade the evidence. Its procedural objections made it clear that Lincoln had the opportunity to respond and was well aware of the evidence and adverse allegations.

In summary, the Commission's role in this proceeding is to determine whether Lincoln meets the statutory requirements to hold a Commercial Vehicle Relocators License and is in fact fit to do so. The privilege of holding such a license is significant as it entitles the licensee to seize the private property of others without their knowledge or consent under certain lawful circumstances. A licensee's solemn obligation is to strictly comply with Illinois law and Commission Rules, and to do so with honesty and integrity in order to prevent injury to the public.

After an extensive proceeding during which Staff presented evidence for over 800 unauthorized property seizures by the licensee, the Commission finds, based on a preponderance of the evidence, that Protective Parking Service Corporation d/b/a Lincoln Towing has not conducted its business with honesty and integrity, that it is—in fact—incompetent or unworthy to be entitled to hold a Commercial Vehicle Relocators License and that its license shall be immediately revoked and Lincoln Towing be ordered to immediately cease and desist from operating a relocation towing business in the State of Illinois.

VII. COMMISSION FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record, finds that:

(1) the Commission has jurisdiction over the Respondent and the subject-matter of this proceeding, pursuant to Section 18a-200(1) of the relocation towing law (625 ILCS 5/18a-200(1));

(2) the facts recited and the conclusions reached in the prefatory portion of this Order are supported by the record herein and are hereby adopted as findings of fact and conclusions of law;

(3) during the relevant time period of July 24, 2015 through March 23, 2016, Respondent has towed without proper authorization over eight-hundred (800) times;

(4) the evidence shows that Lincoln has no regard for Commission Rules and the ICRTVL, therefore it is unfit to hold a Commercial Vehicle Relocator's License as provided by Section 18a-401 of the ICRTVL; and

(5) the Commercial Vehicle Relocator's License 92 RTV-R held by Lincoln shall be immediately revoked, and Lincoln shall be ordered to immediately cease and desist from operating a relocation towing business.

WHEREFORE, IT IS HEREBY ORDERED by the Illinois Commerce Commission that the Commercial Vehicle Relocator's License issued to Protective Parking Service Corporation d/b/a Lincoln Towing Service, 92 RTV-R, be immediately revoked.

IT IS FURTHER ORDERED that Protective Parking Service Corporation d/b/a Lincoln Towing Service, shall immediately cease and desist from operating a relocation towing business and/or from providing any relocation towing services to the general public in the State of Illinois.

IT IS FURTHER ORDERED that the Commission retains jurisdiction over Respondent and the subject-matter of this proceeding for the purpose of issuing such other Orders as it may deem appropriate.

IT IS FURTHER ORDERED that this is a final Order subject to the Administrative Review Law, 735 ILCS 5/3-101 *et seq.*, in accordance with Chapter 625 ILCS 5/18c-2201 through 2206 of the Illinois Commercial Transportation Law.

By Order of the Commission this 12th day of September, 2018.

[redacted]

BRIEN SHEAHAN

CHAIRMAN