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PROTECTING CONSUMERS FROM FRAUDULENT PRACTICES IN THE MOVING INDUSTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

MAY 4, 2006

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PROTECTING CONSUMERS FROM FRAUDULENT PRACTICES IN THE MOVING INDUSTRY

THURSDAY, MAY 4, 2006

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington DC.

The Subcommittee met, pursuant to notice, at 10:05 a.m. in room SD–562, Dirksen Senate Office Building, Hon. Trent Lott, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM MISSISSIPPI

Senator LOTT. The hearing will come to order. Thank you, panel, for being here this morning and for being in your places. We are going to need to move right along this morning because we know that some of you have other commitments, and also the Senate will be having a series of votes beginning at 11 a.m. So I hope we can be done with our proceedings here by about 11:15 a.m. or so. So if you would summarize your statement, we will put your full statement in the record, and then it will give me an opportunity and perhaps other Senators that will be here. We do have an indication that Senator Stevens and Allen and Inouye, Lautenberg, and Pryor and perhaps others will come by this morning. Thank you for this opportunity for us to pursue an issue that we worked on last year. We want to make sure that during this hearing that we think carefully about the best way to protect consumers from fraudulent practices in the moving industry, and also to make sure that the moving industry is not unfairly maligned and that they are part of decisions we make as to how we are going to handle issues and complaints in the future. Without going into the history, we all know that in 1995, before Congress abolished the ICC, the Interstate Commerce Commission, that agency had 94 individuals in field offices available to directly assist customers and consumers that experienced problems. There were an additional 18 headquarters' employees. When Congress abolished the ICC and transferred jurisdiction over the moving industry to the Department of Transportation, only a handful of employees were assigned to work on this problem. So it comes as little surprise that complaints by consumers skyrocketed. And last year, when we were having hearings on this part of SAFETEA–LU, the highway bill, I was frankly

surprised by the number of complaints and the difficulties that had been encountered. It really took me aback because I didn't realize that there were so many and the magnitude of them and the difficulty in how one would get redressed. Mark Pryor, our Senator on the Committee here from Arkansas, former Attorney General, was particularly interested in this and concerned about it, so we tried to come up with language that would allow us to have some better ways to address this problem. And so, we did have language that I included in the bill, the highway bill, entitled Household Goods Mover Oversight Enforcement and Reform Act—try to tip the scale back a little bit on behalf of the consumer. I do feel like consumers should have a clear, accessible, easy way to get redress or to file complaints. I was talking to somebody on behalf of the moving industry this morning who indicated well, they can get online. A lot of people don't get online. I don't get online. When I want to move from Washington, D.C. area to Mississippi, I'm going to look in the phone book. I'm going to look up a dagblame moving company, and I'm going to call them. And so—and if I have a complaint, I am not going to want to have to dig around in the Federal bureaucracy to find somebody to take my call. I want somebody at home in Mississippi that could help me get the right solution. So we did have this provision. We went back and forth. We worked with all sides of the issue. We had input from Senators, DOT, the Department's Inspector General, GAO. We worked with the moving industry. We worked with Senators involved. However, at the last minute, before final passage, after hearing these complaints, the Appropriations Conference Committee report from the DOT basically put these pro-consumer provisions on hold for a year. And I really felt that this was, you know, an inappropriate, unfair act, and I made it clear that I intend for that not to be left in place. I was extremely disappointed that Senator Bond of Missouri handled this matter in this way. I want to—again, I want to work with everybody involved and do the right thing, but I was very disappointed in the way that was handled the last minute by the Appropriations Committee after the authorization committee had acted. So there's the issue, and here we are. We got a distinguished panel with some different views on all of this, I am sure. And we'll be glad to hear from you, but first, I wonder—Senator Allen, you have an opening statement you'd like to put into the record at this point and make some comments?

STATEMENT OF HON. GEORGE ALLEN,
U.S. SENATOR FROM VIRGINIA

Senator ALLEN. Thank you, Mr. Chairman. I appreciate it. I am not going to be able to stay because we have a hearing going on in Energy to get in the new Secretary of Interior, and I want to get there. I would like to applaud your leadership on this issue. I am glad you have convened this hearing. This provision you are talking about expires at some point this year. One of your witnesses is Ms. Edge, who moved from Connecticut to Radford, Virginia, I have read your testimony here and it's an absolutely frustrating, aggravating nightmare of a story. She has taken action, and she used the Internet. And in fact, reading her testimony here, the DOT was supposed to set up a complaint database. They were

mandated to set this up apparently in 1998. The consumers have had to rely on consumer advocacy websites. Granted, not everyone is online. We have seen that in a variety of other areas, but more and more people are getting online. Maybe if a mother or a father is moving and somebody would go check online and say well, this batch of folks here have had, you know, 13 complaints about them. Meanwhile, another one—oh, they don't have any complaints about them. But there ought to be some repository for these rogue movers who blackmail folks, hold their goods, and swindle them. People are frustrated. Moving is a stressful enough event anyway without adding this sort of just absolute aggravation to it, and any of these rogue movers ought to be prosecuted. We have actually passed laws to increase the penalties, now those penalties need to be enforced. As I see this issue, this is interstate commerce, so there is Federal jurisdiction. Sure, there are some people who move within a state, but most of this is interstate commerce, so there is Federal jurisdiction. I think it makes great sense to have national standards so that the contracts—whether the contract's in Connecticut or the contract's in Virginia or the contract's in Mississippi or the contract's in Missouri, that's the standard. Then the question is how do you enforce it. How do you enforce the violations? This is not a discussion of first impression for the whole Commerce Committee. I have worked on issues such as people stealing telephone records—you know, the pretexting. We have an end data breach. There is a national standard. And yes, various Federal agencies enforce those laws, but we have also allowed State Attorneys General to enforce these national standards. And so, the question is why these have not been apparently adequately enforced. What can be done to enforce these laws? The vast majority of moving companies, especially the large reputable ones, do a great job. Their image is tarnished by these fly-by-night operations that change their names, and then it shows up as a clean record. So the question is, Mr. Chairman, and I very much appreciated hearing your remarks, how can we not have more Ms. Edge situations occurring. I think it's in the interest of the Federal Government, it's in the interest of the American Moving and Storage Association to find ways that this can be enforced. I don't know for sure, but I would guarantee that the members of your association are embarrassed, and I know they have taken action to try to remedy situations when people are just left high and dry and their goods are not moved. You have done a lot of good things over the years, but the question is how best to enforce these national standards. I don't think the Chairman has been advocating a patchwork of 50 different laws and different interpretations, but a national standard and then enforce it in the states in a practical way. And to the extent that this Committee, the Subcommittee, the full Committee, the Senate can work on it, I think that is ideal for you all addressing some of these matters. Maybe you don't have the personnel, but regardless, there needs to be a much better concerted effort because this seems to be a continuing problem, a continuing nightmare. There have been some new remedies that have been done by the association itself, but the Chairman here, Senator Lott, has long been an advocate of this. I am an advocate of reasonable regulations, and I do think there should be national standards properly enforced. And to the

extent it seems like there is a debate as to whether or not these should be enforced in state courts or Federal courts, and I am not sure I know what the difference is.

Senator LOTT. The difference is they are worried about class action.

Senator ALLEN. Well, I am not for class action lawsuits.

Senator LOTT. I am not either, and my state wouldn't allow it.

Senator ALLEN. Well, we don't allow it in Virginia either.

Senator LOTT. But other states like Missouri apparently may, so therein is, I guess, one of the considerations.

Senator ALLEN. Then what we might do is not allow class action lawsuits if it's in a Federal court or a state court under this national Federal statute—regardless.

Senator LOTT. Yes. Our language last year did not allow this to be dealt with as a class action lawsuit.

Senator ALLEN. Well, I think that people of goodwill and shared goals and missions can come together on this. And I am not one for over burdensome regulations and more litigation, but if there is a bad actor, those bad actors need to be punished. It could be simple negligence, but if somebody has got a bad record, there needs to be a financial burden put on them. So Mr. Harrison, I, of course, like free enterprise and free markets, and I think that there may be a way to do it. I think Senator Bond's efforts were well-intentioned. I am not sure if his measure actually harms. I think that you still have prosecutions under it, and I am not going to get into process——

Senator LOTT. Yes. But I am the one that's offended by the process. I do want to say you sound like the gentleman from Virginia, Mr. Jefferson, in your comments, so we understand what you're saying.

Senator ALLEN. All right. Well, thank you, Mr. Chairman. I thank all our witnesses. I am going to follow the record of this hearing and look forward to working with all of you all here, and I—there may be—you have shown magical ways of getting disparate parties together on even more contentious issues than this, Mr. Chairman. And I thank all our witnesses and again also welcome Ms. Edge here, and I am sorry that your move—a wise move from Connecticut to Virginia—and that batch was out of Connecticut, right?

Ms. EDGE. New York.

Senator ALLEN. New York. All right, but they weren't out of Virginia. Thank you. I am sorry I have to——

Senator LOTT. Thank you, Senator. And let's go to our witnesses now, and we'll begin with Mr. Todd J. Zinser, the Acting Inspector General of the Department of Transportation. We have enjoyed so much working with your predecessor, and we are looking forward to working with you, and we'll be glad to hear your testimony at this point, sir.

STATEMENT OF TODD J. ZINSER, ACTING INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

Mr. ZINSER. Thank you, Mr. Chairman. We appreciate the opportunity to testify today on household goods moving fraud. First, Mr. Chairman, the vast majority of well over one million household

goods shipments each year are conducted by honest professionals. What I will testify about today is a small, but very serious criminal element operating at the fringes of the industry which has victimized thousands of U.S. citizens. Even though our staff of criminal investigators is relatively small, about a hundred special agents nationwide are very busy investigating fraud in DOT safety and grant programs—over the past 5 years, we have investigated household goods fraud committed against about 8,000 victims nationwide by 25 companies operating under a variety of different names. These investigations resulted in 90 convictions and nearly $16 million in fines and restitution. Jail terms have totaled over 175 years with some defendants receiving prison terms of more than 12 years. Another 25 individuals who were indicted remain fugitives. In the Office of Inspector General, we focus on cases where a mover holds a consumer's goods hostage while demanding more money than what's legal. In committing these crimes, these corrupt movers engage in extortion, conspiracy, wire fraud, mail fraud, money laundering, and false bills of lading and shipment weights. We conduct investigations with the FBI and state and local law enforcement officials. The Federal Motor Carrier Safety Administration also provides critical assistance on these cases. We have also used undercover stings with the FBI to catch these criminals red-handed. The fraud schemes carried out by the now defunct Majesty Moving and Storage of Plantation, Florida are typical. Over the period 2000 to 2003, Majesty defrauded over 1,200 victims out of over $2.3 million. Early on, Majesty advertised through the telephone directories and newspapers and direct mail. Then it expanded to the Internet to lure customers from well beyond its Florida location. Majesty would give customers low estimates, but once the household goods were on a truck, the movers would demand payment two to ten times the original quote. Majesty often put the goods in a rented storage unit unknown to the customer and defaulted on the rent if the customer did not pay the extorted amount. The storage facility would eventually take possession of the customer's goods due to nonpayment of the rent. Some of the Majesty's customers never saw their goods again. In 2004, Majesty's owner was convicted of multiple felony counts and sentenced to over 12 years in Federal prison. The court ordered him to pay nearly a million dollars in fines and restitution. Fifteen other Majesty defendants were convicted, and two remain fugitives. Mr. Chairman, these crimes victimize Americans from all walks of life—retirees, disabled veterans, single parents, young professionals, and families. This morning, the Subcommittee will hear from a victim of one of these extortion schemes. These criminal enterprises came to our attention after regulation of interstate household goods transportation was transferred from the ICC to the Department of Transportation and ultimately to the Federal Motor Carrier Safety Administration. While we have not audited its household goods program, we recognize that FMCSA has taken steps to increase its household goods enforcement and outreach efforts over the last several years. We would also like to commend the industry for its efforts to educate and assist the public in combating the hostage goods problem. As the Federal Motor Carrier Safety Administration moves forward to carry out the SAFETEA–

LU provisions and better protect consumers, we have the following near-term recommendations: First, SAFETEA–LU requires that the department establish and make public a data base of complaints for consumers that they can check. FMCSA has a database that lists complaints by category, and they have a toll-free number that you can call and check for a registration on an operator, but they have not yet made the database public, and they need to do so promptly in time for this year's moving season. Second, state and local enforcement personnel now have the authority to put out of service commercial vehicles who do not have valid registrations with the DOT. We found that many of these fraudulent companies fail to register with DOT and the FMCSA, and the agency needs to ensure that the local enforcement people know they can put these people out of service. Third, FMCSA needs to do more to implement the SAFETEA–LU provisions, especially with respect to state enforcement of some of these Federal consumer protection provisions. Legitimate concerns have been expressed about the potential for inconsistent enforcement by the states. FMCSA needs to devote much greater attention to addressing these concerns. For example, we think that the working group established by SAFETEA–LU on enforcement can be instrumental here, but FMCSA needs to ensure that greater progress is made. We also note that GAO has been directed by SAFETEA–LU to study and report to Congress by early 2007 on the issues surrounding state enforcement of consumer protections concerning household goods.

In conclusion, Mr. Chairman, we pledge in the Office of Inspector General to continue our investigations and to work with Congress, the Department, consumer groups, and the industry to remove the criminal element from this important industry, and I'd be happy to answer any questions that the Subcommittee may have.

[The prepared statement of Mr. Zinser follows:]

PREPARED STATEMENT OF TODD J. ZINSER, ACTING INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

Chairman Lott, Ranking Member Inouye, and Members of the Subcommittee:

Thank you for the opportunity to testify today on household goods transportation fraud. This is a serious problem with thousands of victims across the country. Although the vast majority of the well over one million interstate household goods shipments each year are conducted by hard-working professionals and honest household goods carriers, our investigations have found criminal elements that operate at the fringe of the industry and victimize the public.

In April 2005, we testified before your Committee and highlighted this problem, among other issues related to the surface transportation reauthorization bill. We discussed legislative proposals to better protect consumers from household goods fraud, and Congress subsequently incorporated several provisions in SAFETEA–LU[1] to strengthen consumer protection. We want to continue to work with the Congress and the Department to remove the criminal element from this important industry, and we appreciate the opportunity to update the Committee on our investigative work in this area.

Since 2000, our investigations have led to the prosecution of 25 household goods carriers (many operating under multiple names), along with their officers and employees, for allegedly defrauding about 8,000 victims nationwide. These investigations resulted in 90 convictions and nearly $16 million in fines, restitution, and other monetary recoveries. The offenders were sentenced to jail terms totaling over 175 years, with some receiving prison terms exceeding 12 years. Another 25 individuals who were indicted remain fugitives.

[1] The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

The criminal conduct we have targeted through our investigations consists of holding a customer's household goods hostage while demanding significantly larger sums of money than quoted. In carrying out this crime, the perpetrators engage in extortion, conspiracy, wire fraud, mail fraud, money laundering, and falsification of bills of lading and shipment weight documents. Thanks to SAFETEA–LU, there is now a specific criminal statute that makes holding household goods hostage a Federal felony.

Our household goods criminal investigations are often conducted with the FBI and with the assistance of the Federal Motor Carrier Safety Administration (FMCSA). In several cases, we carried out undercover operations in which our agents and those from the FBI posed as consumers to catch perpetrators in the act. In many cases, state and local law enforcement officials also participate in the investigation. Here are some examples of investigations that resulted in significant and successful prosecutions.

- After extorting over $2.3 million from 1,200 victims, the owner of a now-defunct Florida carrier, Majesty Moving and Storage, was convicted of extortion, wire fraud, conspiracy to commit money laundering, and creating false bills of lading. He was sentenced to more than 12 years in Federal prison. At the defendant's January 2005 sentencing, the judge expressed outrage for the ordeals that victims had been through at the hands of the defendant who had made himself rich "victimizing people who simply wanted their belongings moved . . . " Fifteen other company employees were also convicted, while 2 other employees remain fugitives.
- Four individuals who operated Starving Students Moving and Storage, in Brooklyn, New York, were prosecuted for defrauding approximately 150 customers and holding the customers' household goods hostage. Two received Federal prison sentences of 12½ years. In addition to the prison sentences, the defendants were ordered to pay over $2.5 million in fines and restitution. Starving Students conducted similar business practices under 4 other company names.
- Ego Line Moving & Storage of California defrauded approximately 500 victims nationwide of over $1.5 million during a 3-year period. Sometimes, if a customer refused to pay significantly inflated charges, their household goods were simply tossed out of the truck. Four persons were convicted in Federal court for this scheme, and 3 were imprisoned.
- Three employees of All Points USA, a Florida moving company, were convicted of various offenses in Federal court including wire fraud, mail fraud, extortion and conspiracy. The 1,100 victims of the fraud suffered losses of more than $2 million over the course of the 4-year conspiracy. One employee was sentenced to 7 years in Federal prison while the other 2 received 5-year sentences. All 3 were ordered to pay a total of over $1 million in restitution. The 2 owners of the company are believed to have fled the country and remain fugitives.

The victims of these crimes come from all walks of life. They include retirees, disabled veterans, single parents, young professionals, and families who many times have entrusted almost all of their possessions to companies who appear legitimate but soon reveal their criminal nature. In some instances, the victims never see their belongings again, or they recover their damaged possessions many months later. Sometimes their goods are looted and sold, or end up in the homes of the perpetrators. Here are a few examples of how victims suffered from this particularly cruel form of extortion.

- Household goods belonging to a mother and infant were held hostage for more than a year because the mother did not pay the carrier's demand of a five-fold increase in the cost of their move from New York to Florida.
- A West Virginia couple paid $5,000 in bogus charges after the carrier threatened that they would never again see their household goods, which included a piano that had belonged to the couple's deceased son. Although they eventually received their goods, the piano had been damaged beyond repair.
- An elderly New York couple, intimidated and fearing physical harm from a moving crew, paid $5,000 for a move quoted at $1,500.
- A Massachusetts woman testified at trial that she felt "violated" when a carrier loaded her goods on a truck and demanded $16,000—more than four times the company's estimate of $3,600.
- A family of nine, moving from Illinois to California, took only clothes and a few other personal possessions. The rest of their belongings, including the textbooks for the home-schooled children, were loaded onto a truck. The moving company refused to deliver their household goods until they paid $7,700 for a move

quoted at $1,500. Unable to pay, they were forced to live 6 weeks in an empty house. To this day, family members are overcome with emotion when recalling their ordeal.

Criminal enterprises, like the one that victimized that family, first came to our attention when the Interstate Commerce Commission (ICC) was terminated at the close of 1995, and authority for regulating interstate household goods transportation was transferred to the Department of Transportation. FMCSA now has responsibility for day-to-day regulation of interstate household goods movers, although its role is more limited than the ICC's.

Under current statutory provisions, customers are responsible for resolving their own loss or damage disputes with movers by going to court or using an arbitration program that each household goods carrier is required to establish. Our office has authority to investigate fraud involving any entity regulated by the Department. In the case of household goods fraud, we open investigations when there are allegations that large numbers of consumers have been victimized through schemes to hold their household goods hostage. Generally, we do not investigate individual consumer complaints.

We recognize that FMCSA has increased the attention it pays to household goods enforcement and outreach over the last several years. We have not assessed the effectiveness of the increased activities. However, based on our review of the new SAFETEA–LU provisions and audit work we have carried out in other areas of FMCSA's programs and operations, we would make the following 3 recommendations for FMCSA in the near term as it moves to better protect the consumer.

- First, SAFETEA–LU requires that the Department establish a database for consumer complaints on household goods carriers and make the information available to the public. We understand that FMCSA maintains a database at its headquarters that lists complaints broken into categories, including goods being held hostage.

  FMCSA is working to establish a system meeting the public access requirement. Such a system will enable the public to identify carriers with multiple complaints, and perhaps avoid carriers with a track record of complaints of holding household goods hostage. SAFETEA–LU gives FMCSA until August 2006 to meet the database and public access requirement. FMCSA informed Congress in 2003 that it would develop a web-based report providing public access to mover complaint history in response to a 2001 Government Accountability Office recommendation. As the busiest time for moving—summer—is fast approaching, FMCSA should promptly complete its work to make this information available to the public in time for this year's moving season.

  Aside from providing consumers with a tool for making better-informed decisions when selecting a mover, public access to complaint information may have the added benefit of improving the information FMCSA has to conduct its enforcement and oversight operations. Our audit work regarding motor carrier safety information has shown that when data are made public, greater attention is devoted by the agency to ensuring that the data are complete, timely, and accurate. Such improved data can be used by FMCSA to better target its enforcement work and assess the success of its outreach efforts.

- Second, the Committee's attention to cross-border trucking safety issues raised in our previous audit work helped clearly establish the authority of state enforcement personnel to place commercial vehicles "out of service," if they do not have valid operating authority from FMCSA. By this action, a vehicle must cease operations until proper operating authority is obtained.

  Because our investigations have identified household goods carriers doing business without operating authority or after having their authority revoked, this authority to bar these vehicles from the highways provides state officials with another tool to use against corrupt interstate household goods movers. FMCSA should ensure state enforcement personnel use this tool when possible against unregistered or suspended carriers that hold household goods hostage or commit other fraud. This tool can be used to place "out of service" any vehicles that continue to operate after operating authority is suspended. SAFETEA–LU also allows the Secretary to suspend the registration of a carrier holding a shipment hostage.

- Third, in our view, FMCSA can do more to implement the SAFETEA–LU provision which allows states to enforce Federal consumer protection provisions for individual shippers, as determined by the Secretary. Although legitimate concerns about the potential for inconsistent enforcement by state authorities should be addressed, we view state enforcement as a positive factor. In par-

ticular, it would be beneficial to leverage state enforcement resources against movers who hold household goods hostage.

Common Household Goods Fraud Schemes

Our fraud investigations have been concentrated in South Florida, the greater New York City metropolitan area, and California. However, the problem is not confined to those regions, and other states covered in our investigations include Colorado, Illinois, Oregon and Washington state, with victims from all over the country. The number of household goods criminal cases we have investigated has remained fairly constant over the past 3 years, although the number of complaints we receive concerning household goods on our IG Hotline has increased significantly during that time. FMCSA's hotline for household goods has seen increases as well.

The fraud carried out by Majesty Moving and Storage of Plantation, Florida, illustrates the schemes used by virtually all the operators we have investigated. Majesty, whose owners were sentenced last year, defrauded over 1,200 victims out of over $2.3 million. To conceal their complaint history and to avoid enforcement action, Majesty frequently operated under a variety of names, such as Apollo Van Lines, America's Best Movers, Movers Express, Star Movers, and First Class Moving. They also used the name Mayflower Express, for which they maintained an advertisement in a telephone directory that stated "Mayflower Express—Move with the Name You Trust." This served to confuse consumers into thinking they were dealing with Mayflower Transit, a legitimate and long-established mover. Mayflower Transit successfully sued Mayflower Express to stop the unauthorized use of its Mayflower trade name and logo.

Prior to the advent of the Internet, operators such as Majesty relied primarily on advertising through telephone directories, newspapers, and direct mail. The Internet has broadened the market, and for unscrupulous movers, this enables them to lure customers well beyond their local area.

Majesty used the Internet to bring in most of its customers by subscribing to "find a mover" websites. For a fee, these websites forwarded leads on prospective customers to their subscribers. Carriers such as Majesty in turn contacted potential customers and provided estimates for household goods moves that were often considerably lower than most legitimate carriers.

The estimates were also typically calculated based on volume (as measured in cubic feet) rather than by the common method of calculating based on the actual weight of the goods. Estimating by volume (the amount of space the goods occupied in the truck) created greater opportunities for fraud. Our investigations disclosed that movers would often put small items in large boxes and leave empty space between the truck's bulkhead and the first row of boxes.

Majesty did not provide on-site estimates. Rather, it calculated its volume estimates based upon a written or verbal list of items provided by the customer via telephone, fax or e-mail. To justify charging for additional cubic feet, Majesty often claimed that the customer added items on moving day and withheld items from the original estimate list. Prior to having their household goods picked up by Majesty, customers were required to pay a deposit.

After household goods had been loaded onto the truck, the customer would be informed that they had more goods than originally estimated and that the cost of their move had increased often 2 and even up to 10 times the original price. If a customer protested the price increase and demanded their goods be unloaded, Majesty typically drove away with the customer's goods.

Household goods were then often stored in a rented storage unit located near where they had been picked up. Typically, the first month's rent was free to the movers and they would pay only one additional month's rent. If the customer chose not to pay the inflated "hostage" price, the moving company would not make any further rent payments. The storage facility would eventually seize and auction or otherwise dispose of the customer's goods, due to non-payment of the rent. In some instances we found that moving company employees had stolen items from customer shipments—even using some of the stolen shipments to furnish their own homes.

In 2004, Majesty's owner, Yair Malol, was convicted of multiple felony counts of wire fraud, extortion, creating a false bill of lading and conspiracy to commit money laundering. Malol was sentenced to over 12 years in Federal prison and ordered to pay $986,665 in restitution. When his prison term is completed, Malol will be surrendered to the Bureau of Immigration and Customs Enforcement for proceedings to expel him from the United States. Fifteen other Majesty defendants were also convicted, while eight defendants remain fugitives.

Nearly all of our investigations involve fraud schemes similar to those employed by Majesty. In another case, involving a California company named Ego Line Moving & Storage, the movers sometimes simply tossed the victims' possessions from

the truck and onto the pavement, rather than store them. Ego Line defrauded approximately 500 victims nationwide of nearly $1.5 million during a 3-year period.

Owners of a company called Starving Students Moving and Storage, which also did business under three other names, used what Federal prosecutors called a "blizzard of lies" to trick unwitting customers into making large additional payments. If customers balked, their goods were held in a warehouse until more money was paid. The defendants created multiple websites to attract customers, such as "FlatPriceMove.com." Two of the four defendants in this case were each sentenced to over 12 years imprisonment. Restitution and fines in the case totaled over $2.5 million.

Starving Students was preceded by yet another company, Jacoby Moving and Storage (Jacoby), owned by Avinoam Damti. Jacoby had been the subject of numerous complaints, and its interstate operating authority was revoked in September 1996 and its intrastate authority was revoked in February 1997. About 2 weeks later, Starving Students applied for operating authority, listing Damti's brother-in-law as president. Two other companies applied for operating authority in 2000. Each of the three applications listed a different co-defendant as its president, serving to conceal that the fourth defendant, Damti, president and owner of the revoked Jacoby, was the actual owner of all three new companies.

Conclusion

From our perspective, Subtitle B of SAFETEA–LU includes important safeguards for consumers moving their household goods. We also commend the industry for its efforts to educate and assist the public in combating the hostage goods problem. Although it is too early to gauge the full effect of the SAFETEA–LU provisions, we have specific comments on two: the provision creating a Federal felony of holding goods hostage, with a two-year maximum penalty for each count, and another granting states the authority to take enforcement actions under Title 49 of the United States Code and associated regulations.

The new Federal felony sends a strong message that the government takes this criminal conduct very seriously. That alone is likely to have a significant deterrent effect. The existence of a Federal statute may also simplify the prosecution of some of these cases. Up to now, our cases have relied on a number of different Federal statutes, such as wire fraud, conspiracy, and extortion, to convict perpetrators of household goods fraud. One significant concern, which we commented on last year, is that the 2-year maximum penalty established by SAFETEA–LU is not on par with other Federal felonies. Federal felonies typically have at least a 5-year maximum penalty, and prosecutors may be less inclined to use the new statute because of the relatively low sentence.

SAFETEA–LU also provides that states can enforce consumer protection provisions for individual shippers, as determined by the Secretary. We previously supported granting states enforcement authority in this area and continue to do so. Currently, states are limited in their ability to enforce some state laws, including certain consumer protection provisions, because Federal law preempts application of these state laws with respect to interstate moves.[2] While legitimate concerns about the potential for inconsistent enforcement by state authorities should be addressed, we view state enforcement of designated Federal provisions as a positive factor. In particular, it would be beneficial to leverage state enforcement resources against movers who hold household goods hostage.

At present, corrupt household goods movers are generally not Federally prosecuted until numerous victims are identified and a large-scale case is developed. For example, the hostage goods cases we investigate often involve hundreds or even over a thousand victims, with fraud totaling millions of dollars. State authorities are in a better position to pursue cases with fewer victims and smaller losses, and to provide more timely action to stop unscrupulous movers—perhaps even while the hostage goods are still on the truck.

Given the large number of victims and the serious impact this crime has on their lives, investigative and prosecutorial resources at all levels must be used to combat household goods fraud. We will continue to do our part investigating these crimes. We will also continue to work with the Congress and the Department, along with consumer groups and industry, to seek ways to remove these criminal elements from the household goods industry.

This concludes our testimony. We would be glad to answer any questions that you have.

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[2] The Carmack Amendment was enacted in 1906 to establish a uniform system of liability to eliminate uncertainty associated with conflicting state laws on interstate shipments.

Senator LOTT. Thank you very much. I'll have some questions when all the panel has made their statement. So we are delighted to have now Mr. J. Joseph Curran, the Attorney General of the State of Maryland, and we'll be glad to hear from you. I suspect you know a fellow former Attorney General who just arrived here. Perhaps before we go to you, Mr. Curran, if you would bear with me just a second. I don't want to rush you, but Senator Pryor has provided leadership in this area, worked on the legislation last year, and I'd give you an opportunity to make a statement at this point if you'd like, Senator Pryor.

STATEMENT OF HON. MARK PRYOR, U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Well, thank you. I have a statement for the record, but Senator Lott's really shown a lot of leadership in this. We appreciate you and all the things that you are doing. I am sorry I am running late. I just caught a—got caught in traffic. Have you ever—has that ever happened to you?

Senator LOTT. Not in Mississippi.

[Laughter.]

Senator PRYOR. Well anyway, thank you, Mr. Chairman, for doing this and agreeing to this, and I want to thank all the panelists for being here. I know it's taken some time, and the staff has spent a lot of time pulling this together. So thank you all for doing that, and I'll have a few questions. Thank you.

[The prepared statement of Senator Pryor follows:]

PREPARED STATEMENT OF MARK PRYOR, U.S. SENATOR FROM ARKANSAS

This Committee—myself, Senators Lott, Inouye, Stevens, and McCain—spent a lot of time and worked very hard last year to craft a workable and sensible consumer protection framework for household goods movers as a part of SAFETEA–LU

The legislation that ultimately passed represented a compromise between legitimate moving companies, consumer protection groups and advocates, the Administration, states, and Members here on the Committee.

That compromise was temporarily altered during last year's consideration of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act.

Those changes resulted in less—not more—protection to consumers entrusting all their possessions to moving companies.

I believe this watering down of the legislation we all worked so hard to pass is unprecedented in consumer protection law, and we must ensure that all of our colleagues and our constituents understand the ramifications of those changes.

One of the central features of the legislation was to allow states to enforce portions of the Federal law to give consumers immediate recourse when their goods are held hostage.

The changes made in the TTHUD Appropriations legislation would greatly limit that ability, and would force consumers to continue to rely on the FMCSA for redress—an option that has proven over the years to not be the best one for consumers.

FMCSA is a safety agency—they do not have the people power to address every one of the over 3,000 complaints they receive each year on rogue movers. We must fix this problem.

Mr. Chairman, I thank you for holding this hearing, and I want you to know, and I want my colleagues to know, that I think it is very important that we get this right.

I will continue to work hard on this issue until we do.

Senator LOTT. Partially also, I live in Washington, D.C. where I can walk to work. You know, in view of the present gasoline prices, I need that option.

Mr. Curran.

STATEMENT OF J. JOSEPH CURRAN, JR., ATTORNEY GENERAL, STATE OF MARYLAND

Mr. CURRAN. Well, thank you very much for permitting me to stop over this morning and talk about what we need—the State of Maryland—the Attorney General's Office would like to have. And I might add it was but only 2 years ago that I signed a letter with 37 other Attorneys General directed to the House Committee studying this very issue, so it is something that we in the Attorneys General offices across the Nation have had concerns about. Now, let me just share with you the practical realities of what really happens in this area. People do move for a variety of reasons—job changes, come closer to your family, come to the Washington area. And so, the reality is people do move. Now, what happens is that if a Maryland resident were to move, say, from Silver Spring to Baltimore, they are protected by the Maryland Consumer Protection Act, and we are able to help them with their local contact. You had mentioned that if you wanted to move, you would want to deal with somebody local. Well, it's so easy to have access to the Attorney General's Office rather than someplace in the Federal administration or Federal bureaucracy. Where they are in Baltimore, we have at all times some 20 persons answering phone calls from citizens all over the state on a variety of issues, so there is ready access for that person who moves and has an egregious complaint. Whereas—as in the case I think you will hear from another panel person—whereas if you move from Richmond, Virginia to Baltimore, you are not covered by the Maryland Act. The same consumer, the same citizen, the same person who lives in our state now has to deal with what I think is the less than effective Federal Act. So all we really want is the ability to treat consumers the same, whether they move from Richmond to Baltimore or Silver Spring to Baltimore, where there is an egregious act. Now, in the matter of complaints, we are not acting, you know, outrageously, we are dealing with the kinds of complaints that Mr. Zinser just talked about—things where there are fraudulent, deceptive acts covered by our Maryland Act, where if a mover attempts to hold hostage the goods from this person who moved from Richmond until they pay a higher price, our Maryland Act now, if it were able to be covered, would require that the customer only pay the estimate, but the mover has the right to sue in court. In other words, we don't want to deny the mover the right to make a legitimate claim, but do it in a court action, not on the sidewalk complaining that we are not going to move your goods until you pay more. We had to change our law in 2002 because those things actually did happen. So I think I am—although I am speaking today only for the Maryland Attorney General's office, I want to let you know that I did have the chance just 2 years ago to join 47 other Attorneys General who say let us handle the citizen's complaint in our state in our consumer protection office. And I think that's the point that I—although I can't speak for them now, I—it leaves me certain

that they all feel the same way. We have an effective law. We have ready access. We have volunteers on the job. We can mediate. We can turn these things around quickly if you just give us the opportunity. Now, I know that might not be the thrust of the current bill, but I am saying if, in your wisdom, you have the chance to take a look at what we are saying in our statements—and I have given my statements and showed the number of claims we have brought against them—Maryland moving people. We get about 200 complaints a year, half of which are about interstate and half of which are intrastate.

Senator LOTT. How many?

Mr. CURRAN. 200, sir, so that's a volume. Now, I admit some of them may—well, you broke my piano—well, you scratched the furniture, and that's something else. However, when there is a broken piano or there is a scratched cabinet, and if the moving company has said you have insurance and, in fact, you don't have insurance, that's a fraudulent claim. We have had things like that—the moving company charges a premium for insurance, but there is no insurance. So yes, we would step in there on a broken piano or damaged goods, but most of these things are holding hostage, lowball estimates, putting in some term upon arrival that was never in the original estimate. They are things that really offend people, and all we are asking is the ability to go against those persons who are doing bad things, egregious things, things that offend consumers. We are not trying to hurt legitimate businesspeople. In fact, legitimate businesspeople don't do bad things, rarely do bad things, so we are just saying give us the authority in Maryland to use the Maryland law to help a Maryland consumer whether he or she moves from Richmond to Baltimore or Silver Spring to Baltimore. And that's essentially the thrust of my position on behalf of Maryland, but I daresay it's still the position of the other distinguished men and women that I have had a chance to work with, such as the wonderful Senator from Arkansas who did a great job as the Attorney General, and I am convinced is even doing just as great a job here. And if you'll——

Senator LOTT. He's got real potential, and I am working.

[Laughter.]

Senator LOTT. If he'll learn to vote with me a little more, although he is making some movement in that direction. I think he's got great potential, sir.

Mr. CURRAN. Senator, if you would permit me——

Senator LOTT. Thank you, Mr. Attorney General.

Mr. CURRAN.—I had mentioned to the National Association of Attorneys General people—although it is not all that far from here to Baltimore, I am supposed to be back around noon. And if you'll permit me, I am leaving one of our staff.

Senator LOTT. Well, before you leave, I wonder if former Attorney General Pryor might want to address a question or two to you.

Mr. CURRAN. OK.

Senator LOTT. I suspect maybe you're a little antsy to maybe get into this discussion, so you want to jump in here?

Senator PRYOR. I'd just like to ask a couple of questions if I could, Attorney General Curran, and thanks again for being here. I know you had to adjust your schedule to do it, and we really real-

ly appreciate it. You talked about how you have about 200 complaints a year—half interstate, half——

Mr. CURRAN. Yes.

Senator PRYOR.—intrastate. The numbers that you have there, how many are situations where the goods are really being held hostage? You know, there is really a problem, and I understand this problem because in our Attorney General's office we handled a lot of smaller complaints about movers who may have broken this or scratched that, or they didn't have insurance. Do you have a sense from your statistics—and I don't even know if your office keeps that type of statistic—but do you have a sense of how many are actually held hostage?

Mr. CURRAN. Yes, sir, we do. And I have a category from 2003 to 2005, so it's not an expansive one, but we have a category called Failure To Unload Goods, and we interpret that to mean being held hostage.

Senator PRYOR. Right.

Mr. CURRAN. It has not been a large number—22 in 2003, 26 in 2004, and 9 in 2005 on the hostage thing. Now, as I said, primarily in 2002, we passed a law that says you can't hold hostage in Maryland in intrastate, and we require them to pay the estimated price, but let the moving company sue us in court. So there are the numbers. They are not——

Senator PRYOR. OK.

Mr. CURRAN.—large numbers.

Senator PRYOR. So when your office contacts a moving company—generally speaking, is the moving company responsive to your office? Do they try to work with you? Do they try to get it straightened out?

Mr. CURRAN. It's a mixed bag, as you might expect. We do have a mediation service. If it's an intrastate within state borders, we have the leverage of our law. And therefore, we call and say this is the Attorney General's Office, we'd like to talk to you about a problem that has been raised by this consumer. We generally get a pretty good reception because we have the leverage of our law and which—and this is the thing of—we can get restitution, we can get a civil penalty, we can get our costs, and we can get injunctive relief. So we have that leverage. So I would say they are going to pick up the phone and talk to us. And you know, we are not cowboys on these things, we try to be constructive. But if it's interstate, Richmond or Missouri to Baltimore, we don't have that leverage. And therefore, we try to mediate. But in all fairness, they're smart enough to know that we don't have any leverage, and we don't get the cooperation we'd like. Now, some of these things, as I say, are a broken piano or a scratched table, and that's in—on these complaints too. I don't want to mislead you, there are 200 complaints a year about hostage. That's not the case.

Senator PRYOR. Right, I understand. No, I think you have been very clear on that. Mr. Chairman, I think that's all I have.

[The prepared statement of Mr. Curran as follows:]

PREPARED STATEMENT OF J. JOSEPH CURRAN, JR., ATTORNEY GENERAL, STATE OF MARYLAND

Good morning and thank you for the opportunity to address this Committee regarding the need for State Attorneys General to enforce laws to protect consumers who are victims of deceptive practices by interstate movers. We believe we should be able to provide our citizens with the same protection when they move to Rockville, Maryland from Milwaukee, Wisconsin that we are currently able to provide them when they move to Rockville from Baltimore.

Currently, consumers are extremely vulnerable to unscrupulous interstate movers. A 2001 report from the GAO concluded that, since the termination of the Interstate Commerce Commission in 1996, there has been virtually no oversight of interstate movers at the Federal level. While Federal enforcement has increased recently, as the Federal Motor Carrier Safety Administration reported that it fined 17 movers in 2005 for violations, that represents only a small dent in addressing the more than 10,000 consumer complaints it has received since 2001.

Additionally, the Federal authority is limited to imposing fines upon moving companies, while State Attorneys General have the authority under state consumer protection laws to also seek restitution for injured consumers and obtain injunctive relief against deceptive practices. However, many state and Federal courts, interpreting the Carmack Amendment, have held that the Amendment precludes state agencies, including State Attorneys General, from enforcing state consumer protection laws when interstate movers harm consumers. Last year, Congress briefly gave State Attorneys General limited authority to enforce Federal law and regulations against interstate movers, but revoked that authority shortly thereafter.

Each year, my office receives between 150 and 200 complaints from consumers about problems they've experienced with household goods movers. Those complaints are fairly evenly divided between complaints involving interstate moves and complaints involving intrastate moves. Here is an example of a complaint my office received against an interstate mover:

- A consumer who was moving from Rockville, Maryland to Rehoboth Beach, Delaware was given an estimate of $1,495 for the move. On the day of the move, the moving company arrived and told the consumer for the first time that there would be a surcharge of 40 cents per pound for "additional weight" that had not been included in the estimate. On the day of the move, the consumer was told the move would cost $2,847, almost double the original estimate. The consumer paid, having no other choice at that point. Attempts by the consumer and by my office to resolve the complaint with the moving company have been unsuccessful.

At the present time, there was no further action that my office could take to assist the consumer. By contrast, we have been able to address these types of complaints against intrastate movers through our state consumer protection laws.

In 2002, Maryland's General Assembly enacted the Maryland Household Goods Movers Act, which prohibits a household goods mover from enforcing or threatening to enforce a lien against a consumer's household goods in relation to an intrastate move. This law was passed in response to numerous complaints from consumers about household goods movers who would provide consumers with estimates for moving the consumer's goods and then, on the day of the move, refuse to unload the consumer's goods unless the consumer paid a price that significantly exceeded the estimate. Since the law took effect, the number of complaints received by my office concerning a mover refusing to unload a consumer's goods during an intrastate move has dropped each year, from 11 in 2003 after the Maryland law first took effect, to 8 in 2004, to only 2 such complaints in 2005. By contrast, the number of similar complaints involving the refusal to unload a consumer's goods during an interstate move has gone from 10 in 2003, to 15 in 2004, and 7 in 2005.

When we have received complaints about intrastate moves, my office has been able to successfully use our State consumer protection laws to bring enforcement actions to protect Maryland consumers. My office has entered into settlements with moving companies that had generated the most complaints from Maryland consumers, including complaints about:

- lowball estimates
- refusing to unload consumers' goods when consumers were being charged amounts on the day of the move that significantly exceeded estimates
- misrepresenting that consumers were being sold insurance
- failing to disclose material contract terms
- asserting liens that the movers were not legally-authorized to assert, and

- using contracts that made it unreasonably difficult for consumers to file damage claims.

In 2003, my Consumer Protection Division entered into an Assurance of Discontinuance with Starline Van Lines, Inc. d/b/a Prime Movers, Inc., located in Beaver Heights, Maryland. Prime Movers agreed to injunctive relief, including an agreement not to ask consumers to pay more than 110 percent of the estimated price it provided the consumer. Prime Movers agreed to pay restitution of all premiums charged to consumers for insurance it did not procure and 50 percent of the amount by which the price it charged consumers exceeded Prime Movers' estimate. Prime Movers also agreed to pay a civil penalty and costs.

In 2002, my office entered into an Assurance of Discontinuance with Magic Movers of Jessup, which since changed its name to 1st Class Movers. Under the settlement, Magic Movers agreed to injunctive relief designed to prevent the alleged practices, including an agreement by Magic Movers to arbitrate consumer claims through my Consumer Protection Division's arbitration program. Magic Movers also agreed to pay restitution of insurance premiums collected from consumers for insurance that was never procured and costs.

The Division was previously able to reach settlements in 2001 with Mid-Atlantic Moving and Storage of Annapolis, which later became Nationwide Moving and Storage Company of Forestville, Maryland, and with Metro Moving and Storage Company of Hyattsville, Maryland, which later became Metropolitan Moving and Storage Company. Both settlements involved allegations similar to those in the Magic Movers and Prime Movers cases and, in addition to injunctive relief addressing the alleged violations of the Consumer Protection Act, required the companies to pay civil penalties, costs, and restitution to injured consumers.

My Consumer Protection Division is currently preparing to file an enforcement action under Maryland's Consumer Protection Act against another Maryland moving company that engaged in similar practices.

Although the authority that State Attorneys General were briefly provided to address similar complaints involving interstate moves under the Household Goods Mover Oversight and Reform Act of 2005 was limited to enforcement of Federal laws and regulations in Federal courts, that authority would have provided State Attorneys General with some leverage to address many of those complaints. However, as stated in a 2004 letter to Congress in support of H.R. 1070 signed by the Attorneys General of 48 states, we continue to believe that Attorneys General should be able to enforce state consumer protection laws against rogue interstate movers. We have used these laws to great effect in combating fraud in other interstate industries and believe it would greatly assist our efforts to protect our citizens against abusive practices by interstate movers. Additionally, our state consumer protection laws enable us to obtain relief for injured consumers, which is not a remedy available under Federal law. The 2005 law provided for the Comptroller General to study whether State Attorneys General should be given this authority to help supplement limited enforcement at the Federal level.

I strongly urge this Committee to support legislation that would allow State Attorneys General to enforce our consumer protection laws to address abuses by interstate movers just as we are currently able to do with respect to intrastate movers. I look forward to the day when consumers can move their household goods confidently around the country without the fear of fraud and abuse.

ATTACHMENT

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
Washington, DC, January 21, 2004

Representative THOMAS E. PETRI,
Rayburn House Office Building,
Washington, DC.

RE: SECURING CONSUMERS' ASSURANCE IN MOVING ACT OF 2003—H.R. 1070

Honorable Thomas Petri:

We, the undersigned Attorneys General, are writing to express our support for H.R. 1070, which would authorize State Attorneys General to enforce our state laws to protect consumers who are victims of deceptive practices by interstate movers.

Currently, consumers are extremely vulnerable to unscrupulous interstate movers. Since the termination of the Interstate Commerce Commission in 1996, there has been virtually no oversight of interstate movers at the Federal level. At the same time, many State and Federal courts, interpreting the Carmack Amendment, have held that the Amendment precludes state agencies, including State Attorneys

General, from enforcing state consumer protection laws when interstate movers harm consumers.

The results have been disastrous for many consumers. From 1996 to 1999, consumer complaints against interstate movers received by the Federal Department of Transportation rose 107 percent. During that same period, interstate moving complaints to the Better Business Bureau rose 72 percent. From 1996 to 2000, consumer requests for arbitration to the American Moving and Storage Association (the moving industry's trade association) rose 750 percent.

Consumers have been defenseless against a variety of deceptive or fraudulent behaviors including, but not limited to:

- Movers have tripled estimates for a move after they have possession of the consumer's goods. If the consumer refuses to pay the inflated bill, the mover holds the consumer's goods hostage until it receives the money.
- Consumers, who have tried to insure themselves against loss and damage by purchasing "valuation" through their movers, have complained that either the protection was worthless, or that the mover pocketed the money rather than purchasing the promised coverage.
- Consumers have discovered charges on their credit cards for moving services that they neither received nor authorized.

Although State Attorneys General have been able to address these types of complaints against intrastate movers through our state consumer protection laws, there is often very little that we, in the state law enforcement community, can do to protect our citizens against these and other consumer fraud problems in interstate moving.

H.R. 1070 provides a sensible and workable solution to this problem. It explicitly gives States the authority to pursue rogue interstate movers under state consumer protection laws. We have used these laws to great effect in combating fraud in other interstate industries. In fact, interstate movers are one of the only industries arguably exempt from consumer protection laws. Given the record of fraud and abuse in this area, it is time to eliminate this exemption.

The moving industry opposes H.R. 1070 for several reasons, each of which is without merit. The moving industry has protested that H.R. 1070 will hurt legitimate movers—not rogue movers. This is not true. This new law should not affect legitimate movers at all. Consumer protection laws require only that movers not defraud their customers. They are generally enforced by Attorneys General only when the State finds that a mover has engaged in a pattern of fraud or deception. Further, to the extent that interstate movers are also engaged in intrastate moves, they are already subject to these laws.

The moving industry claims that it will face speculative liability risks, such as damages for emotional distress. Consumer protection laws typically allow the Attorney General to seek consumer restitution, injunctive relief, and penalties against businesses that engage in deceptive practices. Penalties generally are capped by statute, at a set amount per violation. This is not the unlimited liability suggested by the movers. While some States allow claims for emotional distress, they must be related to what common law permits and will generally be sought only in actions by individual consumers, not the States. In these situations, the standard is quite high and often not easily attainable by victims of consumer fraud. Typically, these laws are used to redress physical injuries that are caused intentionally and are due to gross negligence.

Meanwhile, the moving industry has proffered several unacceptable suggestions for enforcement. One suggestion has been to provide States with the ability to enforce the Federal regulations that govern interstate moves. These are not consumer protection laws. The current Federal regulations cover primarily the resolution of loss and damage claims. They do not address fraud and deception. They are not designed to make the consumer whole or to provide injunctive relief against future deceptive practices by unscrupulous movers. They do not adequately protect consumers, and therefore provide little incentive for state enforcement.

An additional industry proposal would impose the requirement that a State prove that a carrier's violation of the regulations is "knowing and persistent." This unreasonably high standard is not imposed upon States in any other consumer protection laws, which generally require only that the deceptive practices have the capacity and tendency to deceive consumers. Further, the moving industry seeks to preclude effective or meaningful litigation enforcement by State Attorneys General by limiting state recovery in any enforcement action only to an individual consumer rather than all consumers affected by violations.

The movers support the proposal to add $1 million and seven full-time employees to the Federal Motor Carrier Safety Administration (FMCSA) to handle consumer fraud complaints in interstate moving across the country. Although the State Attorneys General welcome increased Federal enforcement to protect consumers, FMCSA has gone on record stating that they do not want this responsibility. Further, given the magnitude of the problem, we believe that seven people would be woefully inadequate to provide effective protection across the country. Instead, we should be utilizing the resources of state and local government consumer protection agencies across the country to complement enforcement at the Federal level. Federal funds could be much more wisely used as proposed under H.R. 1070—to coordinate enforcement by state and Federal agencies and to provide information to the public through a database of complaints about interstate movers.

We applaud you and your colleagues for proposing this important piece of legislation. We look forward to the day when consumers can move their household goods confidently around the country without fear of fraud and abuse.

Sincerely,

Attorney General Gregg Renkes,
Attorney General of Alaska.
Attorney General Terry Goddard,
Attorney General of Arizona.
Attorney General Mike Beebe,
Attorney General of Arkansas.
Attorney General Bill Lockyer,
Attorney General of California.
Attorney General Ken Salazar,
Attorney General of Colorado.
Attorney General Richard Blumenthal,
Attorney General of Connecticut.
Attorney General M. Jane Brady,
Attorney General of Delaware.
Corporation Counsel Robert J. Spagnoletti,
Corporation Counsel of D.C.
Attorney General Charlie Crist,
Attorney General of Florida.
Attorney General Thurbert E. Baker,
Attorney General of Georgia.
Director Mark Recktenwald,*
Office of Consumer Protection of Hawaii.
Attorney General Lawrence Wasden,
Attorney General of Idaho.
Attorney General Lisa Madigan,
Attorney General of Illinois.
Attorney General Stephen Carter,
Attorney General of Indiana.
Attorney General Tom Miller,
Attorney General of Iowa.
Attorney General Phill Kline,
Attorney General of Kansas.
Attorney General Gregory D. Stumbo,
Attorney General of Kentucky.
Attorney General Charles C. Foti, Jr.,
Attorney General of Louisiana.
Attorney General G. Steven Rowe,
Attorney General of Maine.
Attorney General J. Joseph Curran, Jr.,
Attorney General of Maryland.
Attorney General Tom Reilly,
Attorney General of Massachusetts.
Attorney General Michael A. Cox,
Attorney General of Michigan.
Attorney General Mike Hatch,

* Of the states listed, Hawaii is not represented by its Attorney General. Hawaii is represented by its Office of Consumer Protection, an agency which is not a part of the state Attorney General's Office, but which is statutorily authorized to represent the State of Hawaii in consumer protection actions. For the sake of simplicity, the entire group will be referred to as the "Attorneys General," and such designation as it pertains to Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.

Attorney General of Minnesota.
Attorney General Jim Hood,
Attorney General of Mississippi.
Attorney General Jeremiah W. Nixon,
Attorney General of Missouri.
Attorney General Mike McGrath,
Attorney General of Montana.
Attorney General Brian Sandoval,
Attorney General of Nevada.
Attorney General Peter W. Heed,
Attorney General of New Hampshire.
Attorney General Peter C. Harvey,
Attorney General of New Jersey.
Attorney General Patricia Madrid,
Attorney General of New Mexico.
Attorney General Eliot Spitzer,
Attorney General of New York.
Attorney General Roy Cooper,
Attorney General of North Carolina.
Attorney General Wayne Stenehjem,
Attorney General of North Dakota.
Attorney General Jim Petro,
Attorney General of Ohio.
Attorney General W. A. Drew Edmondson,
Attorney General of Oklahoma.
Attorney General Hardy Myers,
Attorney General of Oregon.
Attorney General Gerald J. Pappert,
Attorney General of Pennsylvania.
Attorney General Patrick Lynch,
Attorney General of Rhode Island.
Attorney General Lawrence E. Long,
Attorney General of South Dakota.
Attorney General Paul Summers,
Attorney General of Tennessee.
Attorney General Greg Abbott,
Attorney General of Texas.
Attorney General Mark Shurtleff,
Attorney General of Utah.
Attorney General William H. Sorrell,
Attorney General of Vermont.
Attorney General Iver A. Stridiron,
Attorney General of Virgin Islands.
Attorney General Jerry Kilgore,
Attorney General of Virginia.
Attorney General Christine Gregoire,
Attorney General of Washington.
Attorney General Darrell V. McGraw, Jr.,
Attorney General of West Virginia.
Attorney General Peg Lautenschlager,
Attorney General of Wisconsin.

Co-Sponsors of H.R. 1070

Representatives:

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Senator LOTT. All right. Good, let's proceed then. Mr. Warren Hoemann, Deputy Administrator of Federal Motor Carrier Safety Administration, DOT. We'll be glad to hear from you, sir.

STATEMENT OF WARREN HOEMANN, ACTING ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Mr. HOEMANN. Thank you, Chairman Lott and Senator Pryor. I am pleased to appear before you to discuss FMCSA's programs that help consumers protect themselves and help remove unscrupulous movers and brokers from the household goods industry. We have already talked about how stressful a move is. About 40 million Americans relocate every year. 1.6 million of those moves are interstate in nature, handled by about 4,000 companies. Now, the majority of those go very well, as we have heard. But there are rogue movers who prey upon consumers, as we have heard, from holding hostage loads, and there are brokers exercising deceitful practices on the Internet, requiring a deposit, for example, for a move and then never arranging the move. And when the shipper—the consumer goes to find that broker, that broker is nowhere to be seen. Now, SAFETEA–LU did give us important tools to use, and we are very grateful. With these new tools in hand, we have a two-pronged approach—one is consumer education, and two, is very aggressive enforcement. A well-informed consumer, we believe, is the best defense against a rogue mover. We have developed a consumer education program to inform consumers before the move and help consumers protect themselves against dishonest and rogue companies. We want consumers to have the power to make safe and smart choices. Our consumer education program includes a new website. Sorry to say there is a website, but it is *www.protectyourmove.gov*. We also have a national household goods partnership to help us spread the word on moving fraud, and the partnership members include the Inspector General's Office and state law enforcement, moving industry, and consumer protection groups. Our future consumer education plans include the development of new materials in English and Spanish. We are expanding the website to address Internet moving fraud, and we have an aggressive outreach program through the U.S. Postal Service and the General Services Administration. Now, turning to enforcement—in 2005, FMCSA received approximately 3,000 household goods complaints. Much like the Attorney General, a good portion of those were about loss and damage, which we do not oversee. However, we do oversee the more egregious violations. What we do is monitor the geographic areas generating the highest volume of complaints, and then we conduct enforcement strike forces with our state partners in those targeted areas. The largest volume of complaints historically have come from—involving movers and brokers in California, Florida, New Jersey, and New York, followed closely by Georgia, Illinois, and Texas. Last year, we had strike forces in those states, and we produced approximately 100 household goods compliance reviews—a top-to-bottom physical under compliance, and 20 enforcement cases, which are the civil actions that we are allowed to bring against carriers and brokers. This year, we have already conducted two strike forces—again returning to Florida, Georgia, and Texas, and also taking action in Colorado to nip in the bud some growing complaints there, and we successfully did that. Over the years since 2001, we have significantly increased our enforcement. In 2001, we had 13 compliance reviews. Last year, we had 381. At the

same time, we have increased our enforcement cases from six in 2001 to 43 last year. Earlier, I mentioned SAFETEA–LU made important changes, and we are grateful for the new authority for the State Attorneys General and state enforcement officers to enforce the Federal household goods regulations through a civil action against the carrier or broker. We need these partners. We need them to have the same tools we do. We also appreciate the establishment of the $10,000 penalty for the hostage load violation, a per day penalty—thank you, and the minimum $25,000 penalty for operating without registration. Those put real teeth into our enforcement. On the near horizon is a notice of proposed rulemaking we are preparing for improved household goods broker regulation as also required by SAFETEA–LU. Mr. Chairman, household goods fraud has a potential to affect everyone. The goal of eliminating disreputable companies from the business is one we all share. Our consumer education program increases the awareness of the warning signs of a disreputable mover and gives tools to the consumer. Our enforcement and compliance program has yielded tangible results. We believe the two combined together—education and enforcement—is the surest way to address this threat, combined with the cooperation of all levels of government, which we are pledged to. Thank you, and I'll be happy for some questions.

[The prepared statement of Mr. Hoemann follows:]

PREPARED STATEMENT OF WARREN HOEMANN, ACTING ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Introduction

Chairman Lott, Ranking Member Inouye, and Senators of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA) oversight role in household goods transportation. I am pleased to appear before you to describe FMCSA outreach, education, enforcement, and compliance programs that help consumers protect themselves during a move and help to remove unscrupulous movers from the household goods industry.

Mr. Chairman, a household move can be a stressful undertaking, as many of us in this room know firsthand. An estimated 40 million Americans relocate each year, approximately 1.6 million of which are interstate moves, handled by approximately 4,000 companies. Fortunately, the majority of household moves are completed without incident. Consumers in these moves are well served by registered, legitimate, safe, and trustworthy household goods carriers. However, there exists a small group of unscrupulous and dishonest movers that gives the entire moving industry a bad name. These "rogue movers" prey upon distraught consumers by agreeing to haul their goods and then holding their possessions hostage for exorbitant and unexpected fees. Some of these movers never return the goods to the consumer, selling them instead and pocketing the proceeds.

In addition to the moving companies, FMCSA focuses its attention on those household goods brokers who conduct dishonest business practices. Brokers are persons who act as a go between, arranging household goods moves between a customer and a carrier. Dishonest brokers engage in deceptive practices via the Internet. For example, a dishonest broker may request an initial deposit for a move from the shipper and then never arrange for the move. In the same instances, the shipper cannot locate the broker because the broker does not have a physical address listed or has moved and/or closed. It is these types of movers and brokers that we seek to eliminate from the legitimate marketplace.

Background

The Department of Transportation (DOT) inherited the oversight of the moving industry as a result of the Interstate Commerce Commission (ICC) Termination Act of 1995 (the Act). Until the enactment of this law sunsetting the Commission, the ICC issued and enforced consumer protection regulations to ensure consumers arranging an interstate move received basic information on tariffs, estimating requirements, weighing practices, insurance coverage, and requirements for delivery. DOT's

inherited authority included jurisdiction over household goods carriers and brokers to protect consumers on interstate moves by defining the rights and responsibilities of consumers and household goods carriers and brokers. The Act required motor carriers who transport household goods for-hire in interstate commerce and brokers who arrange the interstate transportation of household goods to comply with Federal commercial regulations.

Among the functions transferred to FMCSA were the registration of for-hire household goods carriers and brokers and the monitoring of compliance with the financial responsibility requirements. In transferring these commercial regulations to DOT, Congress directed the discontinuation of the ICC's dispute resolution functions. Although the ICC did not have the authority to resolve disputes involving loss or damage, it assisted consumers by contacting carriers to encourage timely claims handling. The Act instead encouraged consumers to resolve household goods disputes through arbitration or by bringing a civil action in a court of appropriate jurisdiction. These are the primary means by which consumers can resolve loss and damage claims. The Act did not give the Federal Highway Administration (FHWA), FMCSA's predecessor agency, jurisdiction over dispute settlement. Should consumers elect not to use binding arbitration, they can take the carrier to court. Additionally, the Act established a private right of action for a shipper to recover damages for carrier violations of the commercial regulations. In essence, the ICC Termination Act ended the Federal Government's role in resolving household goods disputes.

It is important to mention that FMCSA has oversight only over interstate moves. Even then, FMCSA does not have jurisdiction over all of these moves. FMCSA's consumer protection regulations apply only to agreements between motor carriers and individual shippers. They do not apply to household goods shipments moved under the terms and conditions of a government bill of lading, which includes military moves, or so-called national account shipments where a company arranges to move its employees.

Until 2001, FMCSA and FHWA addressed household goods complaints with a small number of specialists who handled a broad range of household goods and regulatory matters. These specialists investigated consumer complaints through contact with carriers to resolve instances of alleged noncompliance. As the result of a Government Accountability Office (GAO) audit in 2001, which identified a need to centralize household goods complaint data, FMCSA expanded its program to centrally collect complaint data. In August 2005, the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) further required us to make that data available to the public so that they can make better consumer choices by August 2006. We are now developing the prototype of the database and expect to meet this statutory deadline.

SAFETEA–LU made other important changes affecting FMCSA's oversight of household goods transportation. In order to address these new responsibilities, FMCSA has developed a two-pronged approach. The first is an enhanced outreach program to better educate consumers and the second is an aggressive program to take enforcement actions against noncompliant movers in the industry. I would like to describe each briefly.

Consumer Outreach

A well-informed consumer is the best defense against the rogue mover. Federal and State actions after the fact cannot recompense injured consumers. In 2004, FMCSA's Safety Violation and Household Goods Consumer Complaint Hotline at 1–888–DOT–SAFT (1–888–368–7238) received an increased volume of household goods consumer calls, which suggested a critical need for a more effective outreach and education program. In response to this need, FMCSA developed a Consumer Information Program to provide consumers with information to protect themselves against dishonest and rogue movers. FMCSA relies on public and private organizations, as well as the moving industry, to increase consumer awareness of the moving process thereby enabling the consumer to make a safe and successful move.

In FY 2005, Congress provided $1.5 million to FMCSA to develop outreach initiatives to help educate the general public. We used these funds to develop an outreach and education strategy, conducted market research of the moving industry, and developed a communications plan for deployment. During FY 2006, Congress provided $1 million for household goods outreach and education initiatives. FMCSA will spend these funds to develop new outreach materials in English and Spanish, enhance our *Protect Your Move* website to focus on Internet moving fraud, and evaluate our household goods consumer information program to determine future enforcement and outreach initiatives.

For example, in February 2005, FMCSA established a national Household Goods Partnership comprised of two Federal agencies, the U.S. Postal Service and the Federal Maritime Commission, State law enforcement agencies, consumer protection groups, and several moving industry associations. The DOT Office of the Inspector General (OIG) is also a partner. The group coordinates efforts to address moving fraud. Additionally, the partnership has helped FMCSA launch a consumer education campaign on how to have a successful move and avoid falling victim to rogue movers. This campaign is called *"Protect Your Memories. Your Money. Your Move*."

Following up on the partnership, in April 2005, FMCSA developed a new Moving Fraud Prevention website to assist consumers (*www.protectyourmove.gov*) that provides guidance and best practices to help people avoid being taken advantage of, or worse, getting caught in a scam by a rogue mover or broker. The site provides a list of federally registered and insured movers and brokers. It provides details about household goods regulations governing professional moving companies, information about how to file a complaint in the event of a problem, and moving tips on how to have a successful move. Additionally, the website also serves as a resource for members of the Household Goods Partnership by providing an online campaign toolbox for conducting a "Consumer Education Campaign to Reduce Moving Fraud." The website also provides links to local Better Business Bureaus, consumer protection agencies, State Attorneys General, and moving associations. Since its activation, the website has had more than 2.2 million hits.

A recent enhancement to our outreach efforts is an awareness campaign through the Postal Service. We will soon distribute approximately 11 million leaflets in its Mover's Guides to regions in the United States that have the highest concentration of household goods complaints (i.e., California, Florida, New Jersey, and New York). Also through our partnership with the Postal Service, we expect to reach roughly 1.8 million registrants via its online Change of Address service, which provides an online move planning service for household goods consumers.

Another way we have broadened our distribution of household goods outreach brochures to the general public is through a cooperative agreement with the U.S. General Services Administration's (GSA) Federal Citizen Information Center. To date, GSA has distributed over 43,000 copies of the *Ready to Move—Tips for a Successful Interstate Move* brochure. FMCSA sent copies of this brochure to all registered household goods brokers to provide to their customers, and placed it on our *Protect Your Move* website. In addition, we distributed over 50,000 of the brochures to our field offices, State governments, and Partnership members for dissemination to the general public in their area.

To continue to educate consumers, we recently updated our pamphlet, *Your Rights and Responsibilities When You Move*, for the moving industry to provide to its customers, as required by SAFETEA–LU. We will distribute copies to our field offices and State offices. The updated pamphlet can be downloaded from our website distribution. We published a Federal Register Notice on April 7, 2006, revising the pamphlet to incorporate the SAFETEA–LU changes. As part of our outreach efforts, FMCSA provided over 443,000 *Protect Your Move* brochures and posters to our field offices, State governments, and Partnership members for dissemination to the general public in their area.

It is the Agency's plan to continue to work with our partners to develop outreach initiatives and educate consumers about the moving industry and its business practices. In addition to consumer outreach and education, enforcement is a key tool in eliminating unscrupulous movers from the moving industry.

Enforcement

FMCSA has increased its enforcement efforts in order to protect the American public from illegal activities and deceitful business practices by rogue moving companies. In 2005, we received almost 3,000 household goods complaints, which included 622 calls on hostage freight situations, 575 on unauthorized operations, and 2,281 on pick-up and delivery complaints. A good portion of the calls, 1,644, pertained to lost and damaged goods. As mentioned earlier in this statement, FMCSA does not have jurisdiction to resolve disputed loss and damage claims. Mr. Chairman, as we increase our outreach and enforcement efforts in this area, we expect that complaints will increase initially from these current levels—a good indicator that we are reaching consumers and educating them on ways to ensure a successful move. Once consumers become more aware of the issues and pitfalls to avoid, we anticipate complaints will decrease.

FMCSA enforcement staff continually monitors the geographic areas containing movers who are subject to the highest volume of complaints. FMCSA then conducts enforcement "strike forces" in these areas. The largest volume of complaints involve

movers and brokers located in the States of California, Florida, New Jersey, and New York, followed closely by the States of Georgia, Illinois, and Texas.

In FY 2005, FMCSA conducted strike forces in California and Florida, and combined strike forces in New Jersey and New York, and Illinois and Texas. These activities were conducted with the assistance of various State entities, including the Florida Department of Agriculture, the Texas Department of Public Service, and the New York DOT. These four strike forces produced approximately 100 household goods compliance reviews and 20 enforcement cases, which are civil actions brought by FMCSA against the carrier or broker.

This fiscal year, FMCSA has conducted two of its four planned strike force activities—the first of which was in Colorado. After receiving numerous complaints at our Colorado Division office, our enforcement staff worked closely with the Colorado Public Utilities Commission to conduct this strike force. Of the 16 companies identified for the strike force, all resulted in household goods compliance reviews, which produced 3 enforcement cases. This successful action substantially reduced the volume of household goods complaints received by FMCSA's Colorado Division.

During the second strike force activity in FY 2006, FMCSA focused its efforts in Florida. Additionally, these household goods compliance reviews, based on the number of consumer complaints, were also conducted in Georgia and Texas. A total of 47 household goods compliance reviews were conducted, which resulted in 11 enforcement cases to date. In Florida, we also discovered approximately 30 household goods carriers and brokers that were no longer in business.

Household Goods Compliance Reviews

FMCSA has increased its performance of household goods compliance reviews since 2001. In FY 2001, a total of 13 household goods compliance reviews were conducted. This steadily increased to 20 in FY 2002, 30 in FY 2003, to 52 in FY 2004. FMCSA's goal for household goods compliance reviews in FY 2005 was 300, which included our strike force activities. We exceeded our goal with a total of 381 household goods compliance reviews. FMCSA's goal in FY 2006, which also includes strike force activities, is 450 household goods compliance reviews, a goal we are pursuing aggressively.

Currently, household goods compliance reviews are conducted based on complaint data that is captured in FMCSA's National Commercial Complaint Database. This information is analyzed on a regular basis to determine priorities for conducting reviews on household goods carriers and brokers. When a complaint is received, it is reviewed for substance and the database checked to determine if a pattern of complaints alleging noncompliance exists. If a pattern is identified based on complaints and geographic location, we conduct a household goods compliance review on the operations of these carriers or brokers to determine compliance with FMCSA regulations.

When a compliance review discloses violations of agency regulations, FMCSA's Enforcement team initiates action to assess civil penalties for the violations. Through all of these efforts, FMCSA has been able to increase its compliance and enforcement actions.

Total Number of Household Goods Compliance Enforcement Cases

FY 2001	6
FY 2002	12
FY 2003	3
FY 2004	11
FY 2005	43

SAFETEA–LU Provisions

As a result of SAFETEA–LU's enactment in August 2005, FMCSA was given increased mandates in many areas of household goods enforcement. Household goods carriers are required to offer arbitration to shippers and the level at which binding arbitration is required was increased from $5,000 to $10,000 under SAFETEA–LU. For claims in excess of $10,000, the carrier must agree to arbitration for the shipper to be able to have the claim arbitrated. Additionally, the arbitration requirements, which were previously limited to disputes over loss and damage, have been expanded to include disputes over payment of additional delivery charges.

Section 4206 of SAFETEA–LU enabled State Attorneys General and other State enforcement officials to enforce Federal household goods regulations through civil action against a carrier or broker in U.S. District Court. The FY 2006 Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act placed limitations on State enforcement authority by permitting States to pursue civil actions only against car-

riers and brokers who meet specific statutory criteria. This limitation sunsets on September 30, 2006. To our knowledge, no State has pursued civil action on behalf of consumers based on the authority granted by SAFETEA–LU.

As required by SAFETEA–LU, FMCSA has been working with Federal, State, and local household goods enforcement agencies to better coordinate investigations, to optimize our resources, and to achieve the most effective enforcement results. As a result of these efforts, FMCSA has established a working group to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers. Comprised of representatives from the DOT OIG, the National Association of Attorneys General and various State Attorneys General and U.S. District Attorneys, the Florida Department of Agriculture, and the Maryland Office of Consumer Affairs, the group has opened a dialogue to develop practices and procedures to enhance the Federal/State partnership and make legislative and regulatory recommendations concerning these efforts. This group differs from the Household Goods Partnership in that this working group is designed to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers.

Other sections of SAFETEA–LU worth noting are:

- Established the minimum penalty at $10,000 per violation for carriers holding a shipper's goods hostage after they have received payment necessary to effect delivery under the law. This should be an effective deterrent against carriers who hold consumers' belongings hostage.
- Increased the minimum penalty for operating without registration to $25,000. This increase should dissuade the rogue carrier or broker from attempting to fly below the FMCSA radar.
- Added requirements to the registration process will permit FMCSA to better track carriers and brokers and may help in identifying companies who go out of business and try to return under a new name to avoid FMCSA regulations and penalties.

FMCSA has implemented six of the household goods sections of SAFETEA–LU by policy issuances. These policy documents were recently distributed to our field offices and provide operational guidance on how to apply these new requirements. They include definitions, household goods carrier operations, liability of carriers under receipts and bills of lading, arbitration requirements, civil penalties relating to brokers and unauthorized transportation, and penalties for holding goods hostage. FMCSA is working on a notice of proposed rulemaking for a new household goods broker consumer protection rule that it hopes to publish in the Federal Register in the near future. This rule implements SAFETEA–LU Section 4212 requirements applicable to the household goods broker industry and enhances FMCSA's enforcement tools with regard to that industry. FMCSA is in the process of completing other rulemakings to codify the remainder of the SAFETEA–LU sections into law.

Budgetary Resources

In 2000, FMCSA had three employees working on household goods. Currently, there are twelve total household goods staff—four full-time program and support staff at FMCSA headquarters and eight full-time investigators in the field devoted to household goods reviews. During FY 2005 and 2006, FMCSA trained 75 Safety Investigators to assist in handling household goods investigations. It is important to note that household goods compliance review is not the main function of FMCSA Safety Investigators—it is ancillary to their core safety mission. Currently, we are able to meet our internal goal of household goods reviews.

Conclusion

Mr. Chairman, household goods fraud potentially affects consumers across the Nation. The goal of eliminating disreputable companies from the moving business is one we all share. As I mentioned in this testimony, our consumer outreach programs increase both the visibility of the problem and the awareness of warning signs of a disreputable mover. We will continue to develop outreach and education strategies with our household goods partners to help consumers have successful moves. Our enforcement and compliance program has yielded tangible results, as is made evident by rogue carriers leaving the industry or coming into compliance and now operating legitimate businesses. As we have shown through our strike force activities, cooperation among all branches and levels of government is the surest way to eliminate this threat to the American home.

Senator LOTT. Thank you very much, Mr. Hoemann. Senator Stevens, our Committee Chairman, is here. Before we proceed, Mr. Chairman, would you like to make a statement or any comments or questions at this time?

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

The CHAIRMAN. No. Sorry to be late, I was in an Appropriations hearing. I just wanted to catch up on this hearing. Thank you.

Senator LOTT. Right. Well, thank you very much. We are quite interested now to hear the testimony of Ms. Kay Edge, Assistant Professor of Architecture, School of Architecture & Design, Virginia Tech. We understand from Senator Allen that you had some difficulties in getting from Connecticut to Virginia and getting a problem redressed, so we'll be pleased to hear your statement.

STATEMENT OF KAY F. EDGE, ASSISTANT PROFESSOR OF ARCHITECTURE, SCHOOL OF ARCHITECTURE AND DESIGN, VIRGINIA TECH

Ms. EDGE. Thank you, Mr. Chairman, for allowing me to come here and tell my story. In the summer of 2001, I hired a moving company to move my belongings from Connecticut to Virginia. I used the Internet to hire the company, but since I like to think of myself as a savvy consumer, I did extensive research before actually paying them a deposit and setting a moving date. I checked their licensing and insurance status on the DOT website. I called the DOT and asked questions about weight tickets and verification of weight, and I checked with the Better Business Bureau to make sure they had a clean record. None of this research turned up any red flags about the company, and I later learned that this is because companies are able to close under one name and easily reopen under another name, thereby avoiding the consequences of a bad reputation. They are even able to avoid DOT fines levied against them by simply reopening under another name and a new DOT number. The company's written estimate for moving my things from Connecticut to Virginia was $2,230, so I hired them to do the move on August 11th. On moving day, they loaded their truck with my belongings, locked it up, and presented me with a bill for $4,745. I tried to argue and reason with them, but there were five of them and one of me. They had all of my belongings locked on their truck. I had to get out of my apartment, get to Virginia, and start a new job. Once I reached Virginia, I tried again to reason with the moving company owner to no avail. Since from my perspective my belongings were being stolen, I contacted the city police, the state police, and even the FBI. They all told me that this was a civil matter and that I would have to hire an attorney and take the matter to court. The lawyers I contacted were at least honest enough to tell me that their fees would far exceed any settlement I might get from the moving company. The FMCSA was also unable to assist me. This is from a letter I received from the New York division of the FMCSA: "We have no authority to intercede in matters such as contract disputes. You would need to bring a civil action against the company. We are sorry we could not be of assistance to you." In the end, I did in fact have to pay the

amount they demanded—the ransom in cash in order to get my things delivered. The industry, it seems, has failed to police itself, and the problems are manifold. The existing laws seem weak, and they seem as if they are not being enforced. Last I checked, there were nine DOT investigators in the whole country to respond to thousands of complaints. State laws concerning fraud and deceptive practices are currently preempted by the Carmack Amendment. As you know, this outdated amendment lets moving companies off the hook because it prevents consumers from suing in civil court for fraud, extortion, negligence, and intentional misrepresentation. All state laws are overruled by the Carmack Amendment. The consumer has no means by which to stop a scam in progress. And if the moving company is caught, they only have to pay back what they stole with no punitive damages awarded to the victim. As far as I can determine, no other industry enjoys such complete protection from the consequences of willful fraud of negligence. This is a situation in which the consumer is completely powerless and vulnerable to whatever abuse and fraud the company wants to serve up. The moving industry lobby claims that if Carmack goes away, there will be an exponential increase in the number of lawsuits brought by dissatisfied customers, but virtually all other industries that deal with the individual consumer are subject to state laws on fraud and deceptive trade practices. Honest businesses have nothing to fear. The major van lines and AMSA lobbyists who contribute to campaign funds have so far been successful, it seems, in preventing meaningful consumer protection legislation from being passed. And because there are essentially no consumer protections, there are thousands of people just like me. Many of the stories are much worse than mine. Members as well as nonmembers of the AMSA engage in these fraudulent practices, and major van lines, albeit with much less frequency, do it as well because the laws don't provide scammed consumers any recourse. Again, we have no way to stop a scam as it is being carried out. Since the DOT has not been able to set up the complaint database that they were mandated to set up—which by the way, the major van lines have lobbied against, consumers have had to rely on consumer advocacy websites such as the one I volunteer with—*movingscam.com*. We maintain a list of scam companies on that website that consumers can check, but I think we can't do this alone. We need help on this. I thank you for your work on this issue, and thank you again for allowing consumers to have a voice here.

[The prepared statement of Ms. Edge as follows:]

PREPARED STATEMENT OF KAY F. EDGE, ASSISTANT PROFESSOR OF ARCHITECTURE, SCHOOL OF ARCHITECTURE AND DESIGN, VIRGINIA TECH

In the summer of 2001, I hired a moving company to move my belongings from New Haven, Connecticut to Radford, Virginia. I used the Internet to hire the company, but since I like to think of myself as a savvy consumer, I did extensive research before actually paying them a deposit and setting a moving date. I checked their licensing and insurance status on the DOT website; I called the DOT and asked some specific questions about weight tickets and verification of weight, and I checked with the Better Business Bureau to make sure they had a clean record. None of this research turned up any red flags about this company. I later learned that this is because companies are able to close under one name and easily reopen under another name, thereby avoiding the consequences of a bad reputation. They're even able to avoid DOT fines levied against them by simply reopening under a new

name and a new DOT number. The company's estimate for moving my things from Connecticut to Virginia was $2,230, all inclusive. So I hired them to do the move on August 11. On moving day, they loaded their truck with my belongings, locked it up and presented me with a bill for $4,745. I tried to argue and reason with them but there were five of them and one of me, they had all of my belongings on their truck, and I had to get out of my apartment, get to Virginia and start a new job. Once I reached Virginia, I tried again to reason with the moving company owner to no avail. She threatened to place my belongings in storage and sell everything.

My goods were held hostage for a week while I tried to reason with the company and while I tried to get law enforcement and regulatory agencies involved. Since, from my perspective, my belongings were being stolen, I contacted the city police, the state police and even the FBI; they all told me this was a civil matter and that I would have to hire an attorney and take the matter to court. The lawyers I contacted were at least honest enough to tell me that their fees would far exceed any settlement I might get from the moving company—this is due to, as the moving industry well knows, the Carmack Amendment. They recommended that I pay the ransom and get over it. The FMCSA was also unable to assist me. This is from a letter I received from the New York division of the FMCSA: "The Federal Motor Carrier Safety Administration has jurisdiction over violations of the FMC Safety Regulations and Hazardous Materials Regulations by carriers and drivers. We have no authority to intercede in matters such as contract disputes. You would need to bring a civil action against the company . . . We are sorry we could not be of assistance to you." They seemed only able to call the moving company and suggest that they do the right thing. In the end, I did in fact have to pay the amount they demanded, the ransom in cash, in order to get my things back. The movers had the power to name their price, and they knew it. I had no choice but to pay it, all the while being just about forced to scrape and bow to my own extortionist for fear of the safety of my property and of their raising the price even higher.

There are thousands of people like me. Some stories are worse than mine. Consumer protection is practically non-existent in the moving industry, which has been increasingly deregulated since 1980 and essentially unregulated since 1995. The need for protection is urgent, and has two critical components: (1) stringent, robust laws with real penalties so as to punish and deter wrongdoing; and (2) enforcement authority by those many entities out there that are ready, willing and able to hold moving companies to those laws, but whose hands currently are tied. These two components are equally crucial, and so far, the legal regime that is out there purportedly as "consumer protection" utterly fails the consumer on both counts. As for the stringent laws, the FMCSA is charged with promulgating regulations to implement the Household Goods Transportation Act of 1980, which authorizes "binding estimates" as a consumer protection measure. The FMCSA's predecessor, the Federal Highway Administration, acknowledged its abilities and limitations in protecting the consumer in its May 15, 1998 introduction to the proposed rules, where it stated:

> Hostage Freight
>
> The FHWA has been receiving an increasing number of complaints from individual shippers who claim carriers refuse to deliver their goods after the individual shippers offer to pay 110 percent of the estimate as prescribed by 49 CFR 375.3(d). These so-called hostage freight situations defeat the protections of the 110-percent rule and cause serious inconvenience to individual shippers. The FHWA does not have the resources to seek court injunctions to require these carriers to comply with the regulations and release the household goods. The FHWA, therefore, proposes changes to enhance an individual shipper's claim for damages based upon expenses incurred as a result of the carrier's refusal to deliver the household goods, reduce the number of disputes contributing to delays in delivery, and *restore price certainty* to the transaction.

But not only are the existing laws weak insofar as they do not provide for meaningful penalties against moving companies who break the rules, they are not being enforced anyway. Last I checked, there were 9 DOT investigators in the whole country to respond to thousands of complaints; that's up from the 3 investigators employed by the DOT when this first happened to me.

As I alluded to earlier, the lynchpin here is the Carmack Amendment. State laws concerning fraud and deceptive practices are currently preempted by the Carmack Amendment. As you know, this outdated amendment lets moving companies off the hook because it prevents consumers from suing in civil court for fraud, extortion, negligence and intentional misrepresentation. No relief that state laws would otherwise offer to the consumer, including the punitive damages that all agree the abusers so well deserve, is available to the consumer. Even if the consumer just wants

her goods back for the agreed-upon price and is not interested in suing after the fact, she cannot even call the police and get them to force the moving company to release the hostage goods, again because of Carmack. Even in those states, such as Florida, which have enacted laws to allow the police to intervene in what would otherwise be a "civil matter," the police still cannot intervene if the move happened to be interstate. They can get involved only in moves within Florida (intrastate). The private right of action that Carmack gives to a consumer to sue in civil court after the fact is meaningless. That's because the typical ransom demand—from a few hundred to a few thousand dollars per shipper—is still less than what the legal fees would be if the consumer sues after paying the ransom. And, since the only recovery the consumer can get under Carmack is the return of the ransom money, the so-called right of a consumer to sue the moving company is virtually foreclosed.

In other words, currently the only consequence moving companies have to pay for cheating the customer is to give back what they stole, and that's only if they get caught. This is a non-consequence. This situation does not deter abuses and scams. It encourages them. Is it any wonder that so many stories of nightmare moves, overreaching business practices, and outright criminality in the moving industry have come up? As far as I can determine, no other industry enjoys such complete protection from the consequences of gross negligence or willful fraud. It is not an exaggeration to say that any individual who contracts with an interstate moving company is potentially the victim of the perfect crime.

Now, the moving industry lobby claims that if Carmack goes away, there will be an exponential increase in the number of lawsuits brought by dissatisfied customers. But virtually all other industries that deal with the individual consumer are subject to state laws on fraud and deceptive trade practices, and hyperbolic scenarios of massive shutdowns of mom-and-pop businesses in those industries caused by a flood of frivolous lawsuits have not come to pass. There is no reason to grant this one industry, the moving industry, exemption from these laws. Honest businesses have nothing to fear. These laws drive out the unethical from the market, and keep everyone else honest. Why is it that your local retailer, dry cleaner, restauranteur, and so on, can't be expected to get away with lying to customers about a so-called guaranteed price, but your moving company can? It just defies all reason and common sense to protect this industry this way. Furthermore, rolling back Carmack, in addition to finally giving justice to consumers, would not require any Federal expenditures—in fact, it would free up DOT investigators to focus on what they consider their more important task, highway safety. [1]

The major van lines and AMSA lobbyists, for their own reasons, fear changes to Carmack more than the damage that has been done to the industry's reputation. The major van lines and AMSA lobbyists who contribute to campaign funds have, so far, been successful in preventing meaningful consumer protection legislation from being passed, as to both the robustness and enforcement components. For example, they lobbied against Congressman Petri's H.R. 1070 from 2004, supported by consumer protection agencies and advocates everywhere, which would have rolled back Carmack. That proposed provision was eventually taken out and the remaining consumer protection provisions were watered down by the time they became enacted as part of the recently-passed highway plan legislation, SAFETEA–LU. But then the powerful AMSA member Unigroup, parent of two major van lines, prevailed upon a senator in its home state to make last-minute changes on another bill that had the effect of exempting the major van lines from SAFETEA–LU's already-weakened consumer protections. This is just the most recent example of the industry's fight to keep its all-encompassing Carmack protection, at the expense of consumers.

As I said earlier, there are thousands of people like me, people who have been scammed by the moving companies we trusted. As we approach yet another summer moving season with still no consumer protections in place, there inevitably will be more people who will fall victim in the coming months. The moving companies, large or small, carry out these scams because they know they can get away with it. They suffer no consequences for what they do. Members as well as non-members of the AMSA engage in these fraudulent practices, and the affiliates of major van lines do it too, because the laws don't provide scammed consumers any recourse. The scams committed by the affiliates of major van lines may be of a lesser magnitude—the

[1] I am also including with this statement an article from the Winter 2005 issue of the Lewis & Clark Law Review, titled "Needed, Private Attorneys General; Empowering Consumers to Reform the Household Goods Moving Industry," by Joseph L. Franco. This article proposes that, instead of subjecting the moving industry to the various penalty schemes under fifty states' laws (even though those schemes are similar), a penalty scheme to deter and punish unethical moving companies could be written into Carmack itself, whereby the consumer is permitted to seek attorneys fees and treble damages under Carmack itself.

scams are less frequent and generally the ransom demands not as exorbitantly high as the smaller or fly-by-night companies'—but the effect on the individual victim is always devastating.

Since the DOT has not set up the complaint database that they were mandated to set up in 1998 (which, by the way, the AMSA has lobbied against), consumers have had to rely on consumer advocacy websites such as the one I volunteer with, *movingscam.com*. We maintain a list of scam companies on that website that consumers can check. But we can't do this alone. We need your help. Without it, and without Congress finally freeing up the states to enforce the laws that protect consumers, without Congress finally giving individual consumers a remedy other than the chance to get the moving company to return what it stole in the first place—there will be no end to this situation. This has been the third Congressional hearing on the need for consumer protections in the moving industry since 1998. Almost nothing has changed since then. How much longer must we wait to get justice?

ATTACHMENTS

April 26, 2006

Dear Mr. Bertram,

It was a pleasure speaking with you this morning and I appreciate the work you are doing on this important consumer issue. As we discussed, I am faxing some of the materials related to my move from New Haven, Connecticut to Radford, Virginia in August of 2001. After this traumatic experience of having my belongings held hostage for several thousand dollars more than the original estimate, I wrote letters to several Congressmen, Attorneys General and the Department of Transportation. The only Congressman who responded was Senator Lieberman. The Department of Transportation sent me a letter saying that they could not help me. I contacted several attorneys who told me very honestly that their fees would be much more than I could recover from the moving company. Because of the Carmack Amendment, moving companies do not have to pay punitive damages when they are caught breaking the rules. In October of that year, out of the blue, I received a letter from the New York City Police Department asking for the details of my move so that they could pursue a case against this moving company. Their efforts were successful and the owners of my moving company spent a couple of months in jail. I received a restitution check for $410.95.

In addition to this cover letter, I am faxing 17 pages:

Pages 1–2: a faxed estimate that I received from AAA Van Lines in June of 2001.

Page 3: the bill that the moving company wrote up on moving day after my belongings were locked on the truck. It's a little difficult to read but I paid $1,100 on the day of pickup and the remaining bill was to be $3,645, a total that was about twice the amount they estimated. I paid that amount on delivery.

Pages 4–5: a letter I sent to Senator Joseph Lieberman to alert him to this consumer issue.

Page 6: the response I received from Senator Lieberman.

Page 7: a letter I received from the FMCSA, New York division advising me that they could not help.

Page 8: a letter I received from the New York City Police Department asking for the details of my move.

Page 9: a news report about the arrest of the moving company owners.

Page 10: a letter and a copy of my restitution check.

Page 11: a letter I wrote to the USDOT Dockets in response to proposed regulation concerning the protection of consumers who ship household goods via interstate motor carrier.

Pages 12–13: a letter I received from the NYDOT in response to one of my letters of complaint.

Pages 14–15: a letter I received from the Surface Transportation Board in Washington, D.C.

Page 16: a letter I received from the FMCSA in Washington.

Page 17: a letter I received from Attorney General Eliot Spitzer's office in New York.

Mr. Bertram, I hope I have not overwhelmed you with this material. Again, I appreciate the important work you are doing on behalf of consumers. If you need any more information or if this fax is not readable, please do not hesitate to contact me.

Sincerely,

KAY F. EDGE.

AAA VAN LINES
N. Miami, FL.

Hi Kay Edge,

Here is the e-mail I promised, I believe the price is great and here it is in writing for your further examination.

About your move from Connecticut to Virginia, I believe I have the best price for you!!! (If you can find a lower written estimate, we'll beat it by 5 percent!!!)

Your cost for this move will be $2,230.00. Based on .43 cents per lb and an estimated 5,180 lb.

Inventory:

1 love seat,
1 lg. sofa,
1 arm chair,
1 rocker (chair),
1 end table,
1 overstuffed chair,
1 TV<30″,
1 VCR,
1 rug,
6 dining chairs,
1 dining table,
1 sgl dres.,
1 dbl bed,
3 dbl dres.,
2 triple dres.,
1 night table,
3 chairs,
1 breakfast table,
1 microwave,
1 office desk,
2 2-door filing cabinets,
1 computer,
1 suitcase,
15 1.5 cu. ft. boxes,
15 3.0 cu. ft. boxes,
5 4.5 cu. ft. boxes.

This price covers loading, unloading, insurance, and one month free storage!!!

No extra charges for fuel, mileage, tax, or weekend and holiday fees.

The only possible extra would be if you wanted us to pack for you, which would cost from $4–$18 per box depending on size and that includes labor and materials and any extra pounds or cubic feet will be $3–$7 per cubic foot and if you are under the estimated weight you will be reimbursed .43 cents per lb.

Payment is 50 percent on pickup payable by: cash, credit card (Master Card or Visa), personal or cashier's check, money order or debit card.

Fifty percent on delivery payable by: cash, cashiers check, or money order.

Phone: (203) 773–9301 home; (203) 777–2515 work; (203) 648–9421 cell—Emergency only.

Pickup address: 815 Orange Street, New Haven, CT 06511.

Delivery address: 1710 Grove Ave., Radford, VA 24141.

Pickup date: August 11, 2001.

Storage: No, upon request

If you have any questions or if you feel I left something out feel free to contact me at:

"www.aaavanlines.com"
3741 NE 163 Street Suite 290
N. Miami Beach, FL 33162
1–800–361–4192
E-mail *aaavanlines1@aol.com*
Sincerely,
Joy S.

UNIFORM HOUSEHOLD GOODS BILL OF LADING AND FREIGHT BILL

EBID MOVING & STORAGE
130-11 ATLANTIC AVE.
RICHMOND HILL, NY 11418
MC - 384719
(516) 420-9600 (914) 288-0888
(718) 850-5600 (212) 465-1515

VEHICLE NO.

NO.

IN CASE OF NEED: CONTACT TRAFFIC CONTROL MGR. AT ABOVE ADDRESS OR TELEPHONE NUMBER

CONNECTING OR INTERLINING CARRIER (IF ANY) ADDRESS PHONE

RECEIVED, subject to classifications, tariffs, rules and regulations including all terms printed or stamped hereon or on the reverse side hereof in effect on the date of issue of this bill of lading

SHIPPER Ray Edge DATE 8/12/01
ADDRESS 814 Orange St
FLOOR ELEV. TEL (203) 773-9301
CITY New Haven COUNTY CT STATE

CONSIGNED TO
ADDRESS
FLOOR ELEV. TEL.
CITY COUNTY STATE

ACTUAL PICKUP DATE	AGREED PICKUP DATE	GUARANTEED PICKUP DATE	AGREED DELIVERY DATE	GUARANTEED DELIVERY
	(If applicable)	(If applicable)	(If applicable)	(If applicable)

NOTIFICATION OF CHARGES

SHIPPER REQUESTS NOTIFICATION OF ACTUAL CHARGES TO (C.O.D. SHIPPERS ONLY) PARTY SHOWN BELOW ☐
NOTIFY
ADDRESS TEL.
IN CASE OF DELAY, OR IF CHARGES EXCEED ESTIMATE BY MORE THAN 10%
NOTIFY
ADDRESS TEL.
Payment in Cash or Certified Check, Money Order, Traveler's Check or Cashier's Check

BILLING INFORMATION
NAME
ADDRESS
CITY & STATE
ATTENTION OF

INSURANCE: The shipper declares the actual cash value of the shipment to be $
Insurance Rate $ per hundred dollars, premium $
Signature

Notice: Carrier's tariff's, by this reference, are made a part of the bill of lading and may be inspected at carrier's facility, or, on request, carrier will furnish a copy of any tariff provision containing carrier's rates, rules or charges governing the shipment.

Tariff
Section

	ORIGINAL	REWEIGH
Gross		
Tare		
Net		
Min. Wt.		

SERVICES		RATE BASE	RATE ADD'L CWT	CHA
Transportation	Miles	742	3	22
Cartage: To Whse From Whse	Mi	117	3	22
Total Containers Packing & Unpacking				
Add Transp. Charge - Orig	-Dest.			
Storage-in-Transit From	To			
Warehouse Handling				
Extra Pickups or Deliveries: No.	By			
Extra Labor Men	Man Hrs.			
Flight Charge No.				
Excessive Distance Carry:	Feet			
Valuation				
Piano Handling				
Appliance Servicing				
Elevator	Stairs			
Weight Additive				
Other Charges				
Advanced Charges				

SPECIAL SERVICES
☐ EXPEDITED SERVICE ORDERED BY
SHIPPER DELIVERED ON OR BEFORE
☐ SHIPMENT COMPLETELY OCCUPIED A CU. FT. VEHICLE
☐ EXCLUSIVE USE OF A CU. FT. VEHICLE ORDERED
☐ SPACE RESERVATION CU. FT. ORDERED
☐ AIR CONDITIONER ☐ WASHER
☐ ☐

	CONTAINERS CU. FT.	QTY.	RATE	EXT.	PACKING SCHEDULE CU. FT.	QTY.	BY AGT.	RATE	EXT.	UNPACKING SCHEDULE CU. FT.	QTY.	BY AGT.	RATE	EXT.
DRUM DISH PACK, BARREL (OF NOT LESS THAN 5 CU. FT.)	5				5					5				
CARTONS LESS THAN	3				3					3				
CARTONS TAIO	3	20			3				60	3				
CARTONS DIZAIRE	4½	3			4½				30	4½				
CARTONS BADILKARFT	6	30	FT		6				220	6				
CARTONS	6½				6½					6½				
WARDROBE, CARTON	10				10					10				
CRIB MATTRESS CTN.														
MATTRESS CTN., TWIN SIZE (NOT EXCEEDING 39" X 75")														
MATTRESS CTN., REG SIZE (NOT EXCEEDING 54" X 75")														
MATTRESS CTN., KING/QUI. (EXCEEDING 54" X 75")														
MATTRESS CTN., (39" X 80")														
MATTRESS COVER														
CORRUGATED MIRROR CARTONS														
CRATES SHOW TOT. CU. FT. CHARGEABLE (WHEN CU. FT. MIN. APPLIES)														
CRATES WHEN MINIMUM RATE APPLIES														
TOTAL CONTAINERS					TOTAL PACKING				290	TOT. UNPACKING				

FOLLOWING ARE UNPACKING

VALUATION: UNLESS THE SHIPPER EXPRESSLY RELEASES THE SHIPMENT TO A VALUE OF 60 CENTS PER POUND PER ARTICLE, THE CARRIER'S MAXIMUM LIABILITY FOR LOSS AND DAMAGE SHALL BE EITHER THE LUMP SUM VALUE DECLARED BY THE SHIPPER OR AN AMOUNT EQUAL TO $100 FOR EACH POUND OF WEIGHT IN THE SHIPMENT, WHICHEVER IS GREATER.

THE SHIPMENT WILL MOVE SUBJECT TO THE RULES AND CONDITIONS OF THE CARRIER'S TARIFF. SHIPPER HEREBY RELEASES THE ENTIRE SHIPMENT TO A VALUE NOT EXCEEDING $ 60,000 (TO BE COMPLETED BY PERSON SIGNING BELOW)

NOTICE: THE SHIPPER SIGNING THIS CONTRACT MUST INSERT IN THE SPACE ABOVE, IN HIS OWN HANDWRITING, EITHER HIS DECLARATION OF THE ACTUAL VALUE OF THE SHIPMENT, OR THE WORDS "99 cents per pound per article." OTHERWISE THE SHIPMENT WILL BE DEEMED RELEASED TO A MAXIMUM VALUE EQUAL TO PLUS TIMES THE WEIGHT OF THE SHIPMENT, IN POUNDS.

X SHIPPER 8/12/01 DATE

Extraordinary (Unusual) Value Article Declaration

I acknowledge that I have prepared and retained a copy of the "Inventory of Items Valued in Excess of $100 Per Pound Per Article" that are included in my shipment and that I have given a copy of this inventory to the carrier's representative. I also acknowledge that the carrier's liability for loss of or damaged to any article valued in excess of $100 per pound will be limited to $100 per pound for each pound of such lost or damaged article based on actual article weight, not to exceed the declared value of the entire shipment, unless I have specifically identified such articles for which a claim for loss or damage is made on the attached inventory.

Shipper X Date 8/12/01

Minimum Weight or Volume Charge
Terms & Conditions for Payment of Total Charges Charges ☐ Prepaid ☐ C.O.D. X
Maximum amount to be paid at time of delivery to obtain delivery of an estimated C.O.D. shipment
BALANCE DUE (30 Working Days, Credit Extended If Requested)
Prepayment Collected By
BALANCE DUE

DELIVERY ACKNOWLEDGEMENT: SHIPMENT WAS RECEIVED IN APPARENT GOOD CONDITION EXCEPT AS NOTED ON INVENTORY, AND SERVICES ORDERED WERE PERFORMED.

SIGNED

RECD FOR STORAGE CONSIGNEE
(WAREHOUSE)
BY

Radford, VA, September 2, 2001

Senator JOSEPH I. LIEBERMAN,
Hart Senate Building,
Washington, DC.

Dear Senator Lieberman,

I am writing to tell you about the thousands of consumers who get bilked out of thousands of dollars every year by disreputable moving companies that operate brazenly and with impunity. Many of the victims are your constituents and I know about this because it recently happened to me.

My harrowing experience with one of these companies took place this past week when I moved from New Haven, Connecticut to Radford, Virginia. I like to think of myself as a rather savvy consumer and being aware of moving company scams, I did extensive Internet research before engaging AAAVanlines of Miami, Florida (DOT#888804, MC#386956). Research and phone calls to the Department of Transportation turned up no red flags on this company. I e-mailed them a list of my household goods and they responded with an estimate of 5,180 pounds for which I would be charged .43 per pound. The dollar estimate was $2,230 with "no add-ons or extra charges." The driver of the truck was supposed to weigh the truck with and without my belongings to determine the exact weight. I paid a $50 deposit by American Express and booked August 11. When the truck FINALLY showed up at midday on August 12, it was an entirely different company than the one I had booked; instead of AAAVanlines, it was Eilid Moving and Storage of Richmond Hill, New York (MC#384719). The driver had no ticket to show his empty weight and proceeded to try to convince me that my move would be cheaper if computed by cubic foot instead of by pound. He had a fax from AAAVanlines showing the estimate at .43 per pound. He assured me that weight could be verified and that I would get the least expensive rate. When all of my belongings were loaded the driver wrote up a bill for $4,700, more than twice the original estimate. With no other choice, (I had to get out of my apartment and all of my things were on the truck) I asked him to verify the weight, provide proof of weight and to charge me that way. He agreed to do that and I paid him $1,100 with the balance to be determined and paid at the destination. When I reached Virginia, the company called and demanded $3,500 additional IN CASH for the delivery of my goods and they refused to verify weight. I fought with them for a week in which they made numerous threats to place my things in a warehouse and leave them there for weeks. By Thursday they agreed to provide weight verification and I gave them the go-ahead to deliver. On Saturday the driver showed up with no proof of weight and demanded a balance of $3,500 in cash to open the truck and take out my things. He threatened to take the truck back to New York and place my goods in storage unless I paid. I had no choice. To get the money I had to get a cash advance from a credit card at a very high rate of interest. The company I originally hired, AAAVanlines, takes no responsibility. I recognize that this is a long and involved story but this is a widespread problem that desperately needs your attention. It is my understanding that in the mid 1990s certain codes that would have regulated this industry and possibly prevented this problem were abolished by Congress. Since then, these companies have mushroomed and operated with impunity. No agency even seems able to enforce the weak regulations that are already in place. I cannot afford an attorney and I have no time to pursue this matter so I know that I will never get my money back. But I would like to prevent this from happening to someone else. Please, please help me do that. I am sending this as both an e-mail and a letter and anxiously await your response.

Sincerely,

KAY F. EDGE.

October 22, 2001

Ms. KAY F. EDGE,
1710 Grove Avenue,
Radford, VA.

Dear Ms. Edge:

Thank you for contacting me concerning the difficulties you experienced with the moving company which you hired to transport your belongings from Connecticut to Virginia.

Your letter was written from the heart concerning a very difficult and painful situation. As you indicated in your letter, these types of disputes are under state juris-

diction, not federal, and generally need to be addressed through legal action, often in small claims court. There is, however, a piece of legislation, Senate Bill 1316 (S. 1316), which Senator John Kerry introduced which may assist people in your situation who file a lawsuit. I have enclosed a copy of S. 1316 for your reference, and I will keep your comments in mind should this or other legislation come before the Senate which would assist people in your situation. In addition, I have forwarded your letter to U.S. Senator George Allen in Virginia to share your concerns with him. A copy of that letter is also enclosed.

Thank you for taking the time to contact me regarding this important issue. Please do not hesitate to contact me again if I can be of assistance in any other matter.

Sincerely,

JOSEPH I. LIEBERMAN,
United States Senator.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, NEW YORK DIVISION
Albany, NY, October 16, 2001

Ms. KAY F. EDGE,
1710 Grove Avenue,
Radford, VA.

CONSUMER COMPLAINT—EILID MOVING & STORAGE

Dear Ms. Edge,

We have received your correspondence detailing your complaint against the subject carrier.

The Federal Motor Carrier Safety Administration has jurisdiction over violations of the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations by carriers and drivers. We have no authority to intercede in matters such as contract disputes. You would need to bring a civil action against the company, either through an attorney or small claims court. We would also suggest you contact your Better Business Bureau so that they can alert other consumers who may contract with this company.

We are sorry we could not be of assistance to you.

Sincerely yours,

BRIAN K. TEMPERINE,
Division Administrator.

NY CITY POLICE DEPARTMENT
Richmond Hill, NY, October 30, 2001

Dear Sir or Madam:

I am currently conducting an investigation into the deplorable moving practices of the following Moving and Storage Companies, Eilid Moving and Storage 131–11 Atlantic Ave, In & Out Moving and Storage 131–11 Atlantic Ave, Allstate Moving and Storage 1940 Deer Park Ave, Online Moving and Storage 131–11 Atlantic Ave, On Budget Van Line Inc. 1940 Deer Park Ave, Red Line Moving and Storage 131–11 Atlantic Ave.

If you have moved recently and have used any one of these moving companies Detective William Whelan and I would like to speak with you. Could you please respond with a telephone number or new address where we would be able to contact you regarding this matter. We are also looking for copies (not your originals) of any documents re: contracts, legal proceedings etc., that you might still have from your move.

Also if you haven't already, would you please register a complaint with the U.S. Department of Transportation 1 (212) 264–8700 and the Better Business Bureau in New York 1 (212) 533–7500.

Detective Whelan can be reached at Criminal Intelligence Division 80–45 Winchester Blvd., Bldg. # 70, Queens Village, NY 11427, Phone # 1 (718) 468–5225. You may contact me at the 102 Precinct, 87–34 118 Street, Richmond Hill, NY 11418 Phone # 1 (718) 805–3200.

Sincerely yours,

SERGEANT MICHAEL LIBERATORE

The New York Times, February 14, 2002

MOVERS ACCUSED OF HOLDING FURNITURE HOSTAGE

By Robert F. Worth

Three owners of a group of unlicensed Queens moving companies were arrested yesterday and charged with stealing hundreds of thousands of dollars a year from customers by demanding vastly inflated cash payments on their moving day, and holding the customers' belongings hostage if they refused to pay, the authorities said.

The arrests, a result of a five-month investigation by a state and Federal task force, are believed to be the first in which moving companies have been charged with racketeering under the state's Organized Crime Control Act, said the Queens district attorney, Richard A. Brown.

The owners of the five companies, which functioned as a single entity with the same employees, would begin by offering a low estimate for the moves, Mr. Brown said. Then, after loading the customer's belongings onto a company van, they would demand a cash payment five to seven times the original estimate. If the customer refused to pay, the belongings would be driven away and held until they paid $2,000 to $5,000 to have them returned, prosecutors said.

"They were trying to rip off as many people as they could," Mr. Brown said.

The investigation began after authorities received at least 60 complaints from people who said they had paid excessive fees to the moving companies. The companies' owners made $500,000 to $1 million a year, the authorities said. The owners were identified as Daniel Mantoza, 37, his wife, Ronit Mantoza, 35, and Morad Alfar, 32, all of Queens.

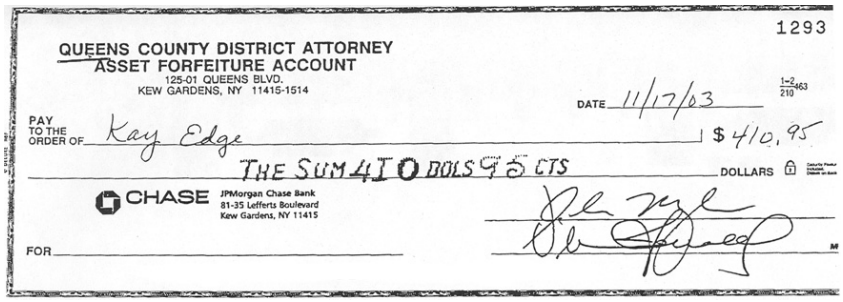
They were charged with enterprise corruption, grand larceny, criminal possession of stolen property, and other crimes, and could face up to 25 years in prison if convicted, prosecutors said.

Prosecutors described one case in which a customer received a quote of $1,700 from Online Moving and Storage to move his belongings from Norwalk, Conn., to Maple Valley, Wash. After his property was loaded onto a truck, the driver told him the move would cost $7,000 in cash immediately, or $3,500 in cash to unload the truck. The customer refused to pay, and the truck drove off with his belongings, which he has not seen since.

The moving companies, which advertised through the Yellow Pages, on the Internet, and in leaflets, were identified as Eilid Moving and Storage; Allstate Moving and Storage; On Budget Van Lines; Online Moving and Storage; and In and Out Moving and Storage.

Yesterday, investigators seized trucks, computer files and $500,000 in merchandise at the companies' warehouse on Atlantic Avenue in Jamaica, Queens. It was unknown how much of that merchandise was legitimately stored, officials said.

A licensed moving company can legally charge an additional 10 percent above the original estimate for interstate moves and 25 percent for moves within the state, Mr. Brown said. Movers can withhold part of a customer's merchandise until any fee disputes are resolved, but they cannot retain them all, he added.


1293

QUEENS COUNTY DISTRICT ATTORNEY
ASSET FORFEITURE ACCOUNT
125-01 QUEENS BLVD.
KEW GARDENS, NY 11415-1514

DATE 11/17/03

PAY TO THE ORDER OF Kay Edge $ 410.95

THE SUM 410 DOLS 95 CTS DOLLARS

CHASE JPMorgan Chase Bank
81-35 Lefferts Boulevard
Kew Gardens, NY 11415

FOR

KAY EDGE,
1710 Grove Avenue,
Radford, VA.

RE: PEOPLE V. RONIT MANTOZA, DANIEL MANTOZA AND MORAD ALFAR (IN AND OUT/EILID MOVING)

Dear Ms. Edge:

On July 31, 2002, Ronit Mantoza, Daniel Mantoza and Morad Alfar who operated several moving companies at 131–11 Atlantic Avenue including In and Out Moving, Eilid Moving, On Line Moving, Budget Moving and AllState, pleaded guilty to defrauding certain customers by intentionally giving low estimates and then forcing customers to pay higher moving fees.

On October 30, 2002, pursuant to a plea agreement, all of the defendants plead guilty and were sentenced to several months of jail and to terms of probation, the conditions of which included a prohibition against any of the defendants engaging directly or in directly in the moving and storage business in the future. In addition, the defendants forfeited cash that was seized pursuant to search warrants executed at the time of their arrest to be divided on a pro rata basis among the consumers defrauded who had filed complaints prior to July 31, 2002. Said restitution is only to refund part of the increased price that customers were forced to pay. It was further agreed that, in addition to the restitution, any damage or loss claims are to be processed by the defendants and forwarded to their insurance company.

Under the terms of the plea agreement, you were scheduled to receive the total sum of $1,300.00 in restitution. A check in the amount of $410.95, which represents a pro rata share of the restitution monies currently available, is enclosed herewith. This disposition in no way precludes you from pursuing a civil claim for any additional funds that you believe are due to you.

I am pleased that our office has been able to have been of assistance to you in this matter.

Yours very truly,

DIANE M. PERESS,
Assistant District Attorney, Economic Crimes Bureau.

NATIONAL ASSOCIATION OF PROFESSIONAL MOVERS (THE AMSA) THUMBS ITS NOSE AT CONSUMERS

Consumer protection is urgently needed in the moving industry, which has been essentially unregulated since 1995. Two competing bills addressing this topic have recently been introduced in the House of Representatives. One is H.R. 1070, introduced by Rep. Thomas Petri (R–Wisconsin), Chair of the House Subcommittee on Highways and Transit, at the behest of consumer advocacy groups concerned about rampant abuse. The other is H.R. 2928, which was introduced by Rep. Sherwood Boehlert (R–New York) after he received a $2,500 campaign contribution from the national association of professional movers, the American Moving and Storage Association (the AMSA).

H.R. 1070 is a good first step toward protecting consumers from being victimized by an out-of-control moving industry. In contrast, the AMSA-supported H.R. 2928 only exacerbates the current situation. These are the facts:

1) H.R. 1070 will finally enable local and state police to enforce Federal laws regulating interstate moving companies. State Attorneys General will be able to prosecute moving companies under state fraud and deceptive practices laws which are currently preempted by the Carmack Amendment. (This outdated amendment lets moving companies off the hook because it prevents consumers from suing in civil court for fraud, extortion [hostage freight] negligence, breach of insurance contract, breach of contract of carriage, conversion, intentional misrepresentation, negligent misrepresentation, and negligent infliction of emotional distress. All state laws are overruled by the Carmack Amendment.) *No other industry enjoys such complete protection from the consequences of willful fraud or negligence*.

If you've ever been a victim of a hostage load situation in which a mover held your belongings and demanded thousands more than the original estimate, you probably know that local and state police will decline to get involved. Usually they will tell you that it's a civil matter—a contract dispute between you and the moving company—and that you must take the company to court. Again, if you've been a victim of a scam mover, you know that most attorneys will refuse to take such a case, even when there's unmistakable fraud, because all you

stand to collect is the amount of the overcharge and/or the depreciated value of lost or damaged goods. The Carmack Amendment prevents you from suing for fraud, so you can't get punitive damages, and your legal fees will amount to more than the moving company is trying to steal from you.

Rather than supporting a worthy bill like H.R. 1070 to remedy this situation, the AMSA has belatedly introduced a rival bill, H.R. 2928, that does not have a clear provision allowing state Attorneys General to act against moving companies engaging in interstate fraud. In defense of this consumer-unfriendly position, the AMSA has argued only that H.R. 1070 will promote "frivolous lawsuits."

2) H.R. 1070 codifies current regulations stating that a mover, upon delivery of goods, cannot charge more than 110 percent of the original job estimate. In theory, consumers are now able to bring a civil suit when movers attempt to hold their goods hostage for more than 110 percent of the estimate. In practice, this rarely happens because so little in damages can be recovered. The AMSA, with H.R. 2928, seeks to withhold even this minimal protection from the consumer, and leaves completely open-ended the amount that can be charged, *even when a customer has been given a "binding" estimate*. Under H.R. 2928, before unloading a customer's belongings, moving companies will be allowed to demand whatever amount they want. With no maximum collection rule, H.R. 2928 in effect legalizes the practice of holding people's goods for ransom.

The AMSA keeps on trying to buy influence in Congress, as is shown by this statement in the August 1, 2003, issue of its newsletter "AMPAC [the AMSA's Political Action Committee, a lobbying group] needs to raise a minimum of $15,500.00 by September 30, 2003, in order to gain the necessary political access to the thirty-one (31) Members of Congress serving on the House Transportation and Infrastructure Committee who have not yet received campaign contributions from AMPAC this year." One of AMPAC's top priorities is defeating H.R. 1070.

However much it may be concerned about ensuring the survival of its own members, the AMSA is taking a stance that harms consumers and protects scam movers by continuing the status quo. Lawmakers who will decide this issue must understand that the AMSA-supported H.R. 2928, by eliminating the 110 percent restriction and by not being clear about whether State Attorneys General can pursue legitimate redress, takes away what little legal recourse consumers have. Without H.R. 1070, it is certain that consumers will keep on getting scammed because there is no deterrent. Honest movers who do not scam their customers should not be afraid of a bill that levels the playing field and protects consumers from the morally challenged in the moving industry.

The situation is urgent. Please support H.R. 1070 by writing to your Representative in Congress and to the members of the House Subcommittee on Highways and Transit. You can find your Representative's name and address at *http://www.house.gov/*. The Chair of the Subcommittee is Rep. Thomas E. Petri, and his contact information is as follows: 2462 Rayburn House Office Building, Washington, D.C. 20515–4906, phone (202) 225–2476, fax (202) 225–2356. The names and addresses of the other members of the House Transportation and Infrastructure Committee are available at *http://clerk.house.gov/committee/index.php?subcomcode=HPW12*

Honest moving companies have nothing to fear from H.R. 1070, but if H.R. 2928 passes, it will be "open season" on consumers.

STATE OF NEW YORK DEPARTMENT OF TRANSPORTATION
Albany, NY, October 5, 2001

KAY F. EDGE
1710 Grove Avenue,
Radford, VA.

Dear Ms. Edge:

This letter will acknowledge receipt of your letter of complaint against Eilid Moving & Storage, received on October 4. 2001.

The move in question is an interstate move (outside the State) and therefore not within this Department's jurisdiction. This Department regulates moves within the State of New York. Your move falls under the jurisdiction of the U.S. Department of Transportation. I have forwarded your complaint to that agency and enclosed a copy for your reference. You may also contact the Washington, D.C. office at (888) 368–7238 for advisement.

Claims involving loss, damage or overcharge that cannot be resolved by the parties involved will have to be resolved in Civil Court.

I do regret I cannot be of further assistance and if you have any questions, please call me at (518) 457–4600.

Sincerely,

RAYMOND DECKER,
Transportation Analyst.

STATE OF NEW YORK DEPARTMENT OF TRANSPORTATION
Albany, NY, October 4, 2001

U.S. DOT,
FHWA Office of Motor Carriers,
Leo W. O'Brien Federal Bldg.,
Albany, NY.

RE: EILID MOVING & STORAGE

Complainant: Kay F. Edge

The attached complaint from a consumer is being referred to your agency for review and possible action.

If this is not within your jurisdiction, please advise the complainant directly and forward to the appropriate agency.

Thank you for your cooperation,

RAYMOND DECKER,
Transportation Analyst.

SURFACE TRANSPORTATION BOARD, OFFICE OF COMPLIANCE AND ENFORCEMENT
Washington, DC, December 6, 2001

Ms. KAY EDGE,
1710 Grove Avenue,
Radford, VA.

Dear Ms. Edge:

This has reference to your request for assistance regarding your move from New Haven, CT to Radford, VA, via Eilid Moving & Storage, Inc. I have requested that the manager of Eilid Moving & Storage, Inc. furnish me with a report concerning the charges on your shipment. (See enclosed.) Additionally, I thought that the following information might be of some assistance to you.

When the ICC was abolished by the ICC Termination Act of 1995 (ICCTA), a number of the ICC's functions were eliminated. Remaining rail and certain non-rail functions were transferred to the Surface Transportation Board and remaining motor carrier functions, including many matters relating to the movement of household goods, were transferred to the U.S. Department of Transportation (DOT). The DOT's Federal Motor Carrier Safety Administration (FMCSA) now oversees licensing, insurance, estimating practices, loss and damage arbitration and other functions related to motor carriers.

In regard to claims handling, the regulations, which were continued in effect and are now the responsibility of the FMCSA, require motor carriers to either pay, deny, make a settlement offer, or advise a claimant of the status of a claim and the reason for any delay in the disposition within 120 days of its receipt. The law mandates further that carriers are to provide a period of not less than 9 months from the date of delivery for the filing of loss and damage claims and a period of 2 years from the date of any declination of a claim to file a civil action. This Board and the FMCSA do not have jurisdiction over the formal adjudication of loss claims.

The ICC maintained an informal dispute resolution program for consumer complaints involving household goods moves. However, when the ICC was abolished by the ICCTA, the Congress eliminated the program as a part of the sunset of the ICC. The legislative history of the ICCTA indicates that Congress intended for statutory "self-help-mechanisms, such as arbitration or a court proceeding, to be the prevailing means for individuals to remedy situations caused by violations of the commercial regulations governing household goods carriers which are now administered by the FMCSA. Information concerning a carrier's cargo insurer and consumer rights under the FMCSA's regulations covering household goods moves may be obtained by telephone by contacting the FMCSA on 202–358–7027, 7028, or 7029 or 1–888–368–7238, or by mail at the following address:

Federal Motor Carrier Safety Administration,
Public and Consumer Affairs, Suite 600,
400 Virginia Avenue, S.W.,
Washington, DC 20024.

The ICCTA did establish certain dispute-related provisions that require a household goods carrier, as a condition to licensing, to offer arbitration as a means of settling such disputes as may relate to loss and damage. Specifically, if a shipper requests arbitration of a disputed loss and damage claim over $5,000, the claim will be submitted to arbitration only if the carrier consents to binding arbitration. However, shipper requests for arbitration on disputed claims of $5,000 or less must be submitted to binding arbitration by the carrier. Thus, if it develops that you are unable to resolve your claim, you may wish to request arbitration. Most major moving companies participate in an arbitration program sponsored by the American Moving and Storage Association (AMSA). The AMSA may be contacted at 1611 Duke Street, Alexandria, VA 22314–3482, phone 703–683–7410.

Under that portion of the ICCTA administered by this Board, the charges assessed by a household goods carrier or freight forwarder operating in interstate commerce must be supported by rates or related rules or practices contained in a tariff published by the carrier. Under the provisions of 49 U.S.C. 13702(c) and 14706(c)(1)(B) a household goods carrier is bound by the terms of its tariffs and must allow inspection of the tariffs by both the Board and prospective shippers. The Board has adopted regulations governing the tariffs that motor carriers and freight forwarders are required to maintain for the transportation of household goods.

Sincerely,

LAWRENCE C. HERZIG,
Chief, Section of Tariffs, Rates and Informal Cases.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, INSURANCE COMPLIANCE DIVISION
Washington, DC, October 12, 2001
REFER TO: MC-ECI

Ms. KAY EDGE,
1710 Grove Avenue,
Radford, VA.

RE: AAA VANLINES

Dear Ms. Edge:

This is to acknowledge receipt of your letter dated September 3, 2001 (Complaint No: MC–ECI–02–0089), to the U.S. Department of Transportation's Federal Motor Carrier Safety Administration.

The agency received a high volume of correspondence involving household goods complaints. Your inquiry will be reviewed in the order received and an appropriate reply will be forthcoming.

Sincerely yours,

GLADYS M. COLE,
Chief, Insurance Compliance Division.

STATE OF NEW YORK, OFFICE OF THE ATTORNEY GENERAL
Broadway, NY, October 1, 2001

KAY F. EDGE,
1710 Grove Avenue,
Radford, VA.

OUR FILE NUMBER: CFN01R12330

Company: Eilid Moving & Storage

Dear Kay F. Edge:

On behalf of Attorney General Eliot Spitzer, I am writing to notify you that we have received your correspondence.

We appreciate your alerting us to this matter. We believe the organization shown below may be able to assist you and we are forwarding your correspondence there.

If you do not receive a response in the near future, please follow up directly with that organization. I suggest you attach a copy of this letter or, if appropriate, mention that you are adding new information.

Thank you for contacting us.

Very truly yours,

BARBARA ANDERSON,
Bureau of Consumer Frauds and Protection.

Senator LOTT. Thank you, Ms. Edge, and I cannot restrain myself. I have to ask you—as Paul Harvey would say, what is the rest of the story? I assume this company that you had difficulty with has been maybe put out of business, hopefully criminal action taken against them and that you received your entire—your check back and punitive damages and you have been greatly rewarded and enriched because you had the temerity to speak up. Is that the rest of the story?

Ms. EDGE. Not at all.

Senator LOTT. What's the end of the story? I mean, did—was that it?

Ms. EDGE. It was actually a whole network of movers. I hired what I thought was a mover, and it ended up being a broker, and they sold the job to a mover in New York, and they—thanks to Eliot Spitzer, they were eventually arrested. They spent a couple of months in jail, and I got a $410 restitution check.

Senator LOTT. So you got a little relief——

Ms. EDGE. Right.

Senator LOTT.—but not a whole lot and after a lot of difficulties?

Ms. EDGE. Right.

The CHAIRMAN. Mr. Chairman, can I get in here——

Senator LOTT. Sure.

The CHAIRMAN.—a little bit?

Senator LOTT. Yes, sir, Mr. Chairman.

The CHAIRMAN. Can I ask you—you say since DOT has not set up the company database they were mandated to set up in 1998, consumers had to rely on consumer advocacy websites. Have you inquired of DOT why they didn't do that? Have you had anyone involved?

Ms. EDGE. No, I don't know why they didn't do it.

Senator LOTT. Ask the guy sitting to your right before you leave about that.

The CHAIRMAN. Well, I think Mr. Kelly could take—should take it as a request from the full Committee that you deliver to us within 30 days a reply to this lady and tell us why you have not complied with the 1998 Act.

Senator LOTT. Mr. Hoemann.

Mr. KELLY. I'm from Florida.

Senator LOTT. This guy over here.

Mr. HOEMANN. That's right. And Senator Stevens——

The CHAIRMAN. Mr. Hoemann, all right. Within 30 days, we want a document, and we'll have a hearing if we are not satisfied.

Mr. HOEMANN. Absolutely, sir.

Senator LOTT. Thank you, Ms. Edge. We may come back to you later. Mr. J.R. Kelly now, Director, Division of Consumer Services, Florida Department of Agriculture and Consumer Services. We'll be delighted to hear from you, sir.

STATEMENT OF J.R. KELLY, DIRECTOR, DIVISION OF CONSUMER SERVICES, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Mr. KELLY. Thank you, sir. And I'm not going to talk about hogs and chickens, I'm going to talk about the other part of the Department of Agriculture that I work with, which is the Division of Consumer Services. Thank you very much for the opportunity to come here and talk with you today. In our division, we run the state's consumer hotline for Florida. We are designated as the complaint clearing house for Florida, and we also have regulatory oversight of about 12 to 14 different industries, one of which is intrastate moving and is obviously the reason I am here today. Florida passed a law in 2002 requiring the regulation of intrastate movers, a law that I will add was supported very favorably by the Florida Movers and Warehousemen's Association and the moving industry as a whole. Under our law, movers must register with me, provide proof of insurance. They are also required to provide written estimates to consumers. Prior to providing any moving services, they have to have that estimate signed by both the mover and the consumer. In addition, under the law, you cannot demand only cash, you have to allow the consumer to pay two of three types of payments—cash, personal check, or credit card, whichever of those two you prefer. That has to be disclosed to consumers up front. In addition, one of the strongest parts of our Florida law is that if a consumer tenders payment or makes payment in the amount of the written estimate—if the mover does not deliver their—the consumer's goods into their dwelling—they can't just throw them on the front lawn—if they do not deliver them into the destination dwelling, it is a third degree felony in Florida. We also handle consumer complaints in my office, and we look at complaints from two different areas. Number one, we always attempt to informally mediate to resolve the consumer's dispute. We contact the business on behalf of the consumer and—in attempt to resolve the dispute. The other thing we do is we review the complaint to make sure the mover is not operating out of compliance with the Florida intrastate moving law. Believe it or not, we are successful in a little over 50 percent of the time in resolving the complaints satisfactorily. We also engage in enforcement activity when necessary. Our goal is not to put anybody out of business, Senator. Our job—we look at it—is to make sure it's an even playing field and that all businesses follow the same rules. And therefore, that creates a competitive atmosphere—environment for consumers. The last thing we do in our office is consumer education. There have been some comments about databases. We have a complaint database that is public record and open to the public, have had it for over 15 years, and that information is available to consumers. All they have to do is call our toll-free hotline and ask us what is the background of a mover, are they registered with you, what is their complaint history. We also diclose to the consumer how the complaints were resolved and what was the nature of the subject matter of the particular complaint. So we do our best to educate our consumers as much as possible. As I mentioned, we are also the complaint clearing house in the State of Florida, which means that we handle complaints in areas we do not regulate, which would include interstate com-

plaints. In that area, unfortunately, we are not as successful in resolving the complaints satisfactorily. It's a little less than 30 percent, and the main reason is very similar to what the gentlemen from Maryland mentioned, we don't have authority over interstate movers. And therefore, we don't have a hammer we can hold over their head to make them respond to us. In addition, we always copy every one of our interstate complaints to the FMCSA so that they get an opportunity to review the complaint and know what's happening, at least from our Florida consumers. The complaints we get, generally speaking, fall into three different categories—broadly speaking—the consumers allege damaged or lost goods and denied insurance claims, increased costs that were over the estimates, and then the late arrival of a moving company. It's supposed to be here on one day, and it doesn't arrive till two or three days later or both—that's at both the pickup and at the destination. The 2005 law that I know is the subject of your concern, it's really too early for us to say as a state agency what effect it has had with respect to our mediation, if you will, of the interstate complaints. We do believe it should result in more businesses responding to our informal mediation efforts, but only time will tell. And so, I don't have a whole lot I can offer, but I'll answer your direct questions on that area. But again, I appreciate the opportunity to be here, and I'll answer any questions that you guys have.

[The prepared statement of Mr. Kelly as follows]

PREPARED STATEMENT OF J.R. KELLY, DIRECTOR, DIVISION OF CONSUMER SERVICES, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Chairman Lott, Senator Inouye and members of the Committee: Good Morning and thank you for the opportunity to present Florida's perspective on the moving industry. My name is J.R. Kelly and I am the Director of the Division of Consumer Services at the Florida Department of Agriculture and Consumer Services (FDACS). The mission of the Division of Consumer Services is to protect, inform and empower Florida's consumers and businesses, while promoting a positive business environment in the state. FDACS has regulatory responsibility over Business Opportunities, Motor Vehicle Repair Shops, Charitable Organizations, Florida Do Not Call Program, Dance Studios, Pawnbrokers, Health Studios, Sellers of Travel, *Intrastate Movers*, Sweepstakes/Game Promotions, Lemon Law and Telemarketing; however, we serve as the state clearinghouse for all consumer complaints, regardless of whether we regulate that particular industry. We also function as the U.S. Consumer Product Safety Commission's agent in Florida when it comes to product recalls, inspections and investigations. We make every possible effort to assist consumers by directing them to the appropriate federal, state or county agency.

FDACS began regulating *intrastate* moving companies on July 1, 2002, pursuant to a Florida Legislative mandate. Under Florida law, all persons engaged in the intrastate transportation or shipment of household goods for compensation must register with FDACS, provide proof of liability insurance and provide a signed written estimate of the cost of the move to the shipper. All complaints related to intrastate movers are handled by FDACS. State law is enforced through both administrative and civil actions in state courts. In addition to having the ability to assess administrative and civil monetary penalties, under Florida law, if a mover fails to deliver a shipper's goods after a shipper has paid, or attempted to pay, the amount of the written estimate, it is considered a third degree felony.

While FDACS does process all consumer complaints related to *interstate* moves, our ability to assist consumers is somewhat limited given that the companies are not required to respond to our inquiries. When an interstate moving complaint is received by FDACS, we use informal mediation to attempt to resolve the dispute while, at the same time, forwarding a copy of the complaint to the Federal Motor Carrier Safety Administration (FMCSA). On average, about half of the consumer complaints FDACS receives related to intrastate moving are resolved by Department employees and the case is "closed satisfactorily", indicating that a company has satisfactorily responded to a consumer complaint. Only 30 percent of the inter-

state moving complaints are resolved with this outcome. Whether the move is intrastate or interstate, complaints relating to either fall into three common categories:

1. Damaged or lost goods with denied insurance claims;
2. Contract or end of move costs differ from written estimate;
3. Late arrival of mover for pick up or delivery. Late delivery often results in consumers thinking their items are being held hostage.

Each complaint is unique but generally they relate in some way to one of these three broad categories.

The Household Goods Mover Oversight Enforcement and Reform Act of 2005 (Public Law 109–59) and its subsequent modification in Public Law 109–115, provided authority for state entities that regulate intrastate moving to enforce provisions of Federal law regulating interstate movers in Federal court. Under the legislation, states are limited to bringing an action on behalf of an individual shipper to enforce applicable consumer protection provisions of the Federal law. States may seek either an injunction or impose civil penalties but such actions must be brought in Federal District Court. As the legislation passed a few short months ago, it is difficult to say with any certainty how beneficial these additional enforcement authorities will be to states. While some of the bill's provisions could serve as impediments to its widespread use, passage of the bill will likely mean that many companies who otherwise would not engage in mediation with a state pursuant to a consumer complaint, may now do so given that an enforcement provisions is now available to us.

Mr. Chairman and Members of the Committee, in closing, let me again thank you for the invitation to appear here today and for the leadership you are providing on this issue. Florida recognizes that given the diversity of our population, the potential is there for unscrupulous businesses to take advantage of our consumers. Working with the tools given to us by our Legislature, we are doing everything we can to create a favorable business climate while at the same time protecting our citizens. I think we are succeeding. I would be happy to answer any questions you or Members of the Committee may have.

Senator LOTT. Thank you very much, Mr. Kelly, and now we'll hear from Mr. Joe Harrison, President, American Moving and Storage Association, Alexandria, VA. We thank you for being here, Mr. Harrison.

STATEMENT OF JOSEPH M. HARRISON, PRESIDENT, AMERICAN MOVING AND STORAGE ASSOCIATION

Mr. HARRISON. Good morning, Mr. Chairman, Senator Pryor. I am Joe Harrison, President of the American Moving and Storage Association headquartered in Alexandria, Virginia. AMSA is the national trade association of the moving and storage industry, representing 3,500 movers worldwide, 2,100 of whom are interstate motor carriers regulated by the DOT, Federal Motor Carrier Safety Administration, and the Surface Transportation Board. My complete statement to the Subcommittee addresses the many positive steps Congress took to assist consumers when it enacted the Household Goods Mover Act last year. Members of this Subcommittee and your staff are to be congratulated for your important role in fashioning this legislation. My industry's vigorous support of several significant measures included in that legislation attests to our similar commitment to improving the experience of all interstate consumer shippers. While we know we have increased the regulatory burden our industry must bear, we enthusiastically supported every provision interstate movers should comply with when dealing with consumers. Your Subcommittee should also be complimented for authorizing additional funds to the Federal Motor Carrier Safety Administration for consumer-oriented initiatives and increased enforcement and oversight of our industry. This

action has helped transform Federal Motor Carrier into a significantly more effective enforcement agency. AMSA will continue its cooperation with the agency staff and investigators, on the operations conducted by movers and compliance with the consumer protection regulations. We will also continue our involvement in several of the rulemaking proceedings that the agency will be issuing affecting consumers in the near future. My complete statement also describes several important steps AMSA has taken to improve the public's understanding of the moving process and what they should expect when dealing with legitimate movers. I will not use my limited time this morning to further explain those details. Instead, I believe it is appropriate that I use my time to emphasize the importance of regulation of the interstate moving and storage industry by the Federal Government. A strong Federal presence in the interstate regulatory arena provides explicit regulatory boundaries within which all movers should operate. Most importantly, the Federal regulations should be designed to effectively assist the 1.5 million American families that rely on my industry each year for their interstate moves. Legitimate movers comply with the Federal regulations, rogue movers do not—therefore, setting a clear demarcation between the two classes of operators. You can rest assured that the legitimate movers AMSA represents strive to comply with all of the requirements of the Federal consumer protection regulations. I need not waste this Committee's time detailing the many ways in which rogue movers ignore these same regulations and many others as they take advantage of consumers. In the past, AMSA has enthusiastically supported all Federal appropriations efforts to strengthen the DOT's effectiveness in regulating the moving industry. We recognize that this will help consumers and legitimate movers while further isolating rogue movers. We will continue our support for all proposals that would improve this situation. The legitimate moving and storage industry, which AMSA represents, recognizes that the critical service we perform for the public often becomes entangled in operating difficulties. While we believe our overall service record is extremely good, missed delivery dates do occur, loss or damage does occur, as do other circumstances that are endemic to the moving process. However, legitimate operators strive to correct the difficulties these situations create to the satisfaction of the involved consumers. We are not like the rogue mover, we do not ignore our responsibilities. Our enthusiastic support of Federal regulation of the interstate moving industry is driven by our understanding of the nature of the service we provide to the moving public. We are physically engaged in the interstate transportation of household goods. Ours is not a theoretical exercise involving interstate commerce. Like the railroads, the airline industry, the bus industry, and the balance of the trucking industry, we move goods across state lines, and we rely upon a strong Federal regulatory system to oversee that process—that includes Federal investigators, Federal prosecutions when appropriate, and jurisdiction vested in the Federal district courts when construing and imposing the consequences of violations of Federal statutes or regulations. It should be acknowledged that the moving industry, like the railroad, airline and bus industries, also deals with consumers and should not be set apart for unique treatment

in the form of state enforcement of the interstate commerce we are engaged in, including the Federal regulations that dictate every aspect of our daily operations. My statement notes say the GAO only 5 years ago recommended to Congress that sufficient time should pass to assess the effects of DOT's enforcement actions before the state enforcement of Federal statutes and regulations is considered, and AMSA wholeheartedly agrees with that recommendation. We recognize that DOT is on track to do its job, as evidenced by its industry compliance audits and strike force actions. Those aggressive enforcement efforts should continue. States can deal with carriers or brokers of household goods that possess certain unlawful characteristics. State efforts to identify and terminate the operations of these operators should continue. The result is a sensible, effective state/Federal partnership to stop unlawful activities, a goal that benefits all consumers that require interstate moving services. AMSA would welcome the opportunity to continue to work with Members of this Subcommittee and your staff to ensure that this objective is met. Thank you, Mr. Chairman.

[The prepared statement of Mr. Harrison as follows:]

PREPARED STATEMENT OF JOSEPH M. HARRISON, PRESIDENT, AMERICAN MOVING AND STORAGE ASSOCIATION

My name is Joseph M. Harrison. I am the President of the American Moving and Storage Association (AMSA) with offices at 1611 Duke Street, Alexandria, VA 22314.

AMSA is the national trade association of the regulated moving and storage industry with 3,475 members worldwide representing the entire spectrum of the industry, including approximately 20 national van lines, 2,120 independent regulated carriers, 760 agents of van lines, and over 300 international movers. These entities contract with 30,000 independent owner-operators (drivers) who own equipment and perform much of the physical transportation of household goods. Many, if not most, AMSA members are small business owners, many of whom are 3rd and 4th generation movers.

The industry employs roughly 450,000 workers, operates 41,000 trailers, 26,000 tractors and 23,000 straight trucks and generates revenues of $10 billion annually. We operate in every city, town, borough and hamlet in the United States. In addition to our interstate transportation service, we perform the intrastate and local moving and storage services that are required by consumers, industry and the government, most notably, our military men and women, whom we are proud and honored to serve. AMSA members perform nearly 1.5 million interstate household goods moves each year, the majority of which occur to the satisfaction of the customer.

AMSA members are routinely trusted with not only the personal effects of their customers, the relocation of high-ranking officials, but also uniquely "sensitive" items such as the National Christmas Tree displayed on the Capitol Mall each year; this past year, transported by National Van Lines, headquartered in Chicago, IL; Allied Van Lines, also headquartered in Chicago, relocated an ancient dinosaur collection to the Chicago Museum of Art; and Security Moving & Storage, an agent for United Van Lines, relocated President and Mrs. Bush from Texas to the White House. Speaking of President Bush, one of our members, Chuck Kuhn, President and CEO of JK Moving and Storage, headquartered in Sterling, VA, recently hosted a town hall meeting in which President Bush addressed the Nation on issues affecting small businesses—the engine of our national economy. Towards that end, AMSA has consistently supported Congressional efforts to remove barriers impeding small business growth, such as excessive taxation, excessive regulation, and excessive litigation. In addition, AMSA has worked with Congress and the Administration to rid the marketplace of a small band of "rogue" movers who prey on unsuspecting consumers, and who in their blatant disregard for Federal regulations, operate on an "uneven playing field" and thus, at a competitive advantage over regulatory-compliant AMSA members.

This statement is submitted in response to the Subcommittee's invitation to participate in its hearing on Protecting Consumers from Fraudulent Practices in the Moving Industry.

The Positive Effects of the 2005 Legislation

Members of this Subcommittee are to be congratulated for your important role in fashioning the "Household Goods Mover Oversight Enforcement and Reform Act of 2005." This legislation was a major step towards improvement of many aspects of the moving process consumers must deal with when contracting for an interstate move.

From the moving and storage industry's perspective, we believe we possess a clear understanding of the added steps movers should be required to follow to improve the consumers' moving experience. That is why the industry vigorously supported the following measures that were enacted as part of the 2005 legislation:

- Full replacement value carrier liability for loss or damage.
- Expanded mandatory arbitration for loss or damage and transportation charges to $10,000 from $5,000.
- Criminal and civil penalties for holding shipments hostage.
- Written estimates of charges based on actual surveys of goods.
- Written binding or non-binding estimates of charges.
- Use of actual shipment weight as the basis for charges on all nonbinding estimates.
- Tougher broker operating requirements.
- Tougher licensing requirements for motor carriers and brokers.
- A DOT database for shipper complaints weighted by size of mover (shipments) with public access on the Web.
- Collection at delivery of charges for services requested by the customer only and the billing of balances due after delivery.
- Providing all prospective shippers with the DOT brochure "Ready to Move."

Quite naturally, these provisions have added to the regulatory burden legitimate movers must bear when they transport interstate shipments. My industry is well aware of this fact. Nonetheless, we enthusiastically supported enactment of each provision because we believe all movers should comply with these requirements when dealing with consumers. We also believe that, as the shipping public becomes more aware of the responsibilities of interstate movers, they will be better able to distinguish between legitimate movers and the rogues that prey upon the public and, not surprisingly, do not comply with any of the DOT FMCSA Consumer Protection Regulations or any other Federal regulatory requirements.

Your Subcommittee should also be complimented for authorizing funds to FMCSA for consumer oriented outreach initiatives and increased enforcement and oversight of the moving industry. This action has transformed FMCSA into a significantly more effective enforcement agency. For its part, AMSA has assisted the FMCSA staff with certain aspects of those activities. AMSA staff members and member carriers have worked closely with FMCSA investigators to provide them with information on the operational aspects of the services performed by movers and on interpretation of the Consumer Protection Regulations.

AMSA is committed to continuing its cooperation with FMCSA and its investigators as they conduct compliance audits of the operations of established household goods carriers, including AMSA members, and pursue unlawful operators. AMSA also intends to participate in several rulemaking proceedings FMCSA will initiate to implement those provisions of the 2005 legislation that require amendments to the Consumer Protection Regulations. AMSA will also continue its vigilance in all matters that are designed to assist consumers when selecting and utilizing the services of interstate movers. This includes the AMSA Arbitration Program which, during the last 5 years, has processed 3,000 consumer inquiries and successfully concluded nearly 1,300 arbitration cases. In addition, we will continue to impress upon our members the importance of the AMSA Certified Mover Program through which the AMSA staff receives and endeavors to resolve consumer service complaints.[1]

In addition to assisting consumers with complaints and service problems associated with their move, AMSA provides educational materials regarding the entire moving process. Providing consumers with information and the help they require to make informed moving decisions, including the best way to select a mover, is as important as the Federal regulations that are designed for their protection. For a num-

[1] A voluntary self-policing program designed to promote ethical principles and practices in the moving and storage industry. Members pledge to conduct their operations in a manner that encourages high professional standards and quality service. Information about the program is on the AMSA consumer website *www.moving.org*.

ber of years AMSA has maintained a consumer website *www.moving.org* devoted exclusively to the education of consumers, information on the Federal regulatory requirements, how to avoid moving scams, and a link to the FMCSA educational website *www.protectyourmove.gov*.

AMSA has also worked with FMCSA on the development of materials for their educational consumer outreach efforts. We also recently provided consumer educational moving-related information to Lowes, Apartments.com, Verizon, Bell South and AT&T, which will become part of each company's "moving tips" websites resulting in even greater opportunities to educate consumers about the relocating process.

AMSA and its members are committed to the proposition that educated consumers are better able to avoid unlawful operators and the practices they employ. One of our members took a major step in this direction when it established a program identified as "Move Rescue" that assists consumers that have been deceived by unscrupulous operators. Through this program shippers can call an "800" number to speak to a moving expert and obtain guidance on how best to address their problem including, if necessary, assistance in retrieving goods that are being held hostage since, while enforcement officials have the badges, they do not have the trucks and crews that are necessary to actually finish a move and ensure that a family's possessions are delivered to their rightful owners.

State Enforcement of the Federal Consumer Protection Regulations

AMSA and its members have approached the need for consumer friendly legislation in a cooperative manner. We have not resisted sensible changes that work to the benefit of consumers and curb the ability of rogue movers to take advantage of the moving public. That said, AMSA has also supported State enforcement of the Consumer Protection Regulations provided those enforcement efforts were directed against operators that possess the indicia of unlawful or rogue movers (e.g., unlicensed by DOT; failure to maintain required insurance; failure to publish a tariff or participate in an arbitration program, etc.) and, provided further, that the States' enforcement actions, if they require court involvement, would occur in the Federal district courts with jurisdiction in all such matters just as they do today with all DOT FMCSA enforcement actions.

Enforcement by 50 States of every aspect of the physical operations conducted by legitimate movers, in our view, would be a seriously flawed proposition. Our business is the clearest possible example of interstate commerce. Consistency in the interpretation and enforcement of regulations and statutes is critical to consumers and to the moving industry.

AMSA has been a vigorous supporter of increased Federal enforcement. In fact, FMCSA's significant progress in this area through its compliance audits should be commended by Congress. These audits involve reputable carriers as well as unlawful operators that may or may not be licensed by FMCSA. They are initiated by either consumer complaints or as part of a safety compliance survey. It is my understanding that nearly 400 such surveys were conducted by FMCSA in its most recent fiscal year.

Just 5 years ago, the General Accountability Office noted that no State enforcement of the Federal operating regulations would be appropriate until a strong Federal regulatory system was in place.[2] GAO also recommended that sufficient time should pass to assess the effects of DOT's enforcement actions before State enforcement of Federal statutes and regulations is considered.[3] Therefore, AMSA believes, just as GAO does, that the full effects of the FMCSA enforcement efforts should be realized before consideration is given to an additional enforcement role for the States. State enforcement activities should be directed with precision at those elements of the moving industry that have demonstrated their contempt for the well-being of consumers. And all of those enforcement actions should be initiated in the Federal courts.

It is generally understood that an enforcement action exercised by a government agency is intended to compel compliance with a law or regulation. This contemplates that an enforcement agency charged with this responsibility understands the regulation it is required to enforce and, most importantly, the nuances of permissible and impermissible actions by those that must comply with the regulation or body of regulations. Clearly, this will not be the case if expanded State authority authorizes enforcement of the Federal consumer regulations and particularly if this occurs in State courts. To understand this situation it is appropriate to review the effectiveness of State regulation of the intrastate transportation of household goods.

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[2] GAO Report *Consumer Protection—Federal Actions Are Needed to Improve Oversight of the Household Goods Moving Industry*, March 2001, p. 6.

[3] *Id.*, p. 23.

As many as 14 States do not require a license to engage in the intrastate transportation of household goods.[4] There is virtually no regulation of movers in those States and, obviously, there are no operating standards or regulations of any sort much less regulations that are as comprehensive as the Federal regulations. Taken as a whole, the States' regulation of household goods transportation is a collage of inconsistencies.[5] AMSA's 2,100 regulated interstate movers are thoroughly familiar with this situation since they also perform local and intrastate moving services in every State and it is accurate to say that no State enforces operating regulations that even closely resemble the Federal regulations in their comprehensiveness.

It is not necessary that I explain in detail the attributes possessed by the Federal courts when called upon to interpret and enforce Federal statutes and regulations. They are routinely doing it today as they process FMCSA cases involving violations of the agency's safety regulations or household goods regulations. The consistency resulting from that process is essential to the sound administration and enforcement of Federal regulations.

The highly successful "strike force" enforcement initiatives conducted by the DOT have ferreted out and prosecuted scores of unlawful movers and brokers that operated from various sections of the country taking advantage of unwary consumers. The background and *modus operandi* of those operators confirms that most possess certain common characteristics that many other, as yet, undetected unlawful operators also possess:

- They failed to register with and obtain a license from FMCSA to engage in the interstate transportation of household goods;
- if they possess an FMCSA license or permit, it is in a pending status or has been revoked for failure to provide evidence of bodily injury and cargo liability insurance;
- if the carrier has been issued an FMCSA license, it has an unsatisfactory safety rating or it has not been rated by FMCSA;
- if the carrier or broker is licensed, the license was issued less than 5 years before the enforcement action.

Today, State enforcement authorities that encounter carriers or brokers that possess one or more of these characteristics can effectively deal with them. The States should continue their efforts to identify and terminate the operations of unlawful operators, thus, delivering a major blow to their operations. The end result is a sensible, effective State/Federal partnership to stop unlawful activities, an objective that benefits all consumers that require the services of interstate household goods carriers. AMSA would welcome the opportunity to continue to work with Members of this Subcommittee and your staff to ensure that this objective is met.

Senator LOTT. Thank you very much, Mr. Harrison. Thanks to the panel. Let me yield to Senator Pryor for questions that he might like to ask at this time.

Senator PRYOR. Thank you, Mr. Chairman. Let me start, if I may, with Mr. Zinser. When the IG's Office has taken an enforcement action against a mover, what are you able to recover for consumers? Is it restitution, punitive damages, refunds—what's the nature of your recovery?

Mr. ZINSER. Generally, I think the first thing that we are able to do for the consumers is put the corrupt mover out of business. That's the first thing. When they get prosecuted and they are thrown in jail, you know, I think that helps the consumer. Beyond that, I think that there are mixed results. There are a lot of fines and restitution ordered by the Federal courts and then, as you may

[4] AK, AR, AZ, CO, DE, ID, MD, ME, SD, TN, UT, VT, WI and WY. The State Moving and Storage Associations in several of these States have urged State officials to, at a minimum, establish a State registration system for movers, without success. The most common venue for shipper recourse against an intrastate mover in these States is a small claims court.

[5] Many State PUCs or other agencies having some role in intrastate regulation are also required to oversee the operations of tow truck operators, taxicabs, bus operators and trash haulers.

be familiar with, the ability to collect those fines and restitutions. I think it's probably mixed, Senator Pryor.

Senator PRYOR. Yes. Just a moment ago, Ms. Edge testified that some of these movers may get a new DOT number. They may close down a business and open up another business. Have you experienced that in some of your investigations?

Mr. ZINSER. Absolutely. We have defendants who have, you know, had their authority revoked. They'll turn around to their brother-in-law, they'll turn around to their wife, and their wife will apply for the number and become a motor carrier or a registered household goods mover.

Senator PRYOR. As I understand it, you don't pursue every single complaint that you get just because the volume is so great. Is there a certain number of complaints or allegations against a particular moving company that triggers action by your office?

Mr. ZINSER. I can't say that there is a specific number. I think the Federal Motor Carrier Safety Administration has come up with a general number of five or six complaints where they start really looking at a motor carrier, and then we generally take a lead from them to tell us who the problem carriers are in their caseload, and then that will trigger an investigation by our office.

Senator PRYOR. So you may investigate if you get five or six complaints or—we understand that that number's not engraved in stone. What happens if you only get one complaint? What does that consumer do? What recourse does that consumer have?

Mr. ZINSER. Well, I think that's why we support the idea of getting the state enforcement officials involved. We think the real key here is that if a consumer has somebody who is holding their goods hostage and they can get a hold of somebody that the mover knows has authority to put them out of business, then that will benefit the consumer. Right now, if they call the police, the police will show up and say I'm sorry, I don't really have jurisdiction to help you here, you know, call the Federal Government, and the Federal Government isn't all over the place when it comes to household goods issues.

Senator PRYOR. Do you have a concern that if the states have that authority that they'll be inconsistent in how they utilize or apply that authority?

Mr. ZINSER. I personally don't have concerns. I can see where the industry may have those concerns, but I think we have had experience in regulated industries—you know, in other parts of transportation where there has been good joint cooperation between state enforcement, the regulated industry, and the Federal enforcement offices, and I think this working group that you all set up through SAFETEA–LU is one of the vehicles that can be used to check those concerns.

Senator PRYOR. Thank you, and have you done any investigations into activities in Arkansas?

Mr. ZINSER. Yes, sir. I am familiar with at least one or two cases. One, I think, involved a move from Arkansas to Idaho, and I think there was a move from California to Arkansas that we are familiar with. In one case, I know there was a successful Federal prosecution.

Senator PRYOR. OK. Mr. Hoemann, if I can, you heard my questions here just a moment ago. I saw you shaking your head or nodding your head yes on the questions about the states and the state's involvement. Could you comment on that?

Mr. HOEMANN. Yes. Senator Pryor, Chairman Lott, we were glad to see the adoption of the language giving authority to the State Attorneys General and the state enforcement officials to enforce the Federal household goods regulations so we have the same tool for a cooperation basis. We have begun work with the working group established under SAFETEA–LU. We have had two meetings so far. It'll be a process of setting up how we communicate with each other on complaints and the actions each of them will take, and we know we will have to build on that platform, but we are looking forward to having more hands out there in the field actually enforcing it. We do not have the same concerns, although we can understand them, about disparate treatment of carriers because built into SAFETEA–LU is a provision that FMCSA be notified of actions being taken at the state level, and that purpose is there so that we can help with uniform treatment. Well, we want carriers obviously to play by the same rules everywhere and consumers to know when they have an interstate move, the same rules apply everywhere.

Senator PRYOR. Great. Mr. Zinser, if I may, one last question for you, and that is, in your view, does the FMCSA have the authority to intervene on behalf of individual consumers based on the interpretation of House report language?

Mr. ZINSER. Senator, I think we would have to study that issue a little bit more. I know that when the ICC was terminated, there was language in that Act that talked about the Federal Government getting out of disputes, and I think the issue comes down to, well, is this a dispute, or is the consumer being the victim of a fraud here. And so, I think one of the things this working group probably needs to look at is that very question.

Senator PRYOR. OK. Mr. Hoemann, if I may, the temporary modifications to the authority that was included last year in the Congress for FY06 Federal transportation appropriations bill, do you think that that language has deterred states from utilizing that authority?

Mr. HOEMANN. Senator, we don't know if there has been a deterrence there. We do know that we have yet to go through a full moving season, and we will certainly gain experience under all the SAFETEA–LU provisions as we go through this. Plus we have just begun to work, as I said, with the working group as we educate each other about how we can best cooperate.

Senator PRYOR. There is also an enforcement outreach plan that you all are in the process of deploying under SAFETEA–LU. Will that help ensure consistency state to state?

Mr. HOEMANN. Senator, we certainly hope so. We do the equivalent thing on the safety side of our business where we work with our state partners in enforcing safety regulations. We have training, and we have information, and we also reach out to the judicial section to be sure that laws are enforced in court properly.

Senator PRYOR. Sure, I understand. Mr. Chairman?

Senator LOTT. Well, thank you, Senator Pryor. We will be having a vote or votes on the floor of the Senate here soon, and maybe we could just both kind of get involved in the questions here. Let me ask some specific questions, but first, Mr. Zinser, I think maybe you are relying on language that really is not there on something you said a while ago. The general policy of DOT, as I understand it, since the termination of ICC has been to not get involved in individual cases. Is that right or wrong?

Mr. ZINSER. I think that has been the policy of the Motor Carrier——

Senator LOTT. OK.

Mr. ZINSER.—Safety Administration.

Senator LOTT. In fact, Ms. Edge received a letter from DOT specifically saying that they don't get involved. The Department cites report language in a House Committee report accompanying the ICC Termination Act, and I actually was Chairman of the Surface Transportation Subcommittee back then when this occurred. I would point out that the conference report did not include such language. We have it. We'd like to call it to your attention. And so, you know, I think that the Department should get involved in individual cases, and I think you are relying maybe on a misinterpretation.

Mr. ZINSER. Well, the——

Senator LOTT. Can you give me a response there?

Mr. ZINSER. Yes, sir. The Office of Inspector General really has not studied that issue——

Senator LOTT. All right.

Mr. ZINSER.—and what we have concentrated on are fraud cases against consumers, and we have tried to bring criminal prosecutions. I think there are several areas where the Motor Carrier Safety Administration needs to look at the law and make sure that their interpretation of the law is consistent with the intent of Congress because I think I could point out a couple——

Senator LOTT. Right.

Mr. ZINSER.—of other areas——

Senator LOTT. OK.

Mr. ZINSER.—where that's not happening.

Senator LOTT. OK. Well, Mr. Hoemann, I guess I need to direct it to you, so we'll get this language to you, and we hope that you will get more involved in the individual cases. Mr. Kelly, do you feel that you have the tools you need to deal with interstate problems? You said that well, you know, it's only been in effect a year, and therefore you don't really know. As a matter of fact, it's been on hold for a year.

Mr. KELLY. Yes, sir.

Senator LOTT. So just kind of sum up—do you feel like in the interstate cases you have what you need to protect consumers against these bad players?

Mr. KELLY. Probably not. I think under the law that was finally passed, I think it's a little unlikely that our office would get involved in suing someone in Federal court. I think there are a lot of obstacles that have to be overcome that certainly we don't have to overcome when we are looking at intrastate because we are in our own state.

Senator LOTT. You know, as a lawyer and one that used to be a defense lawyer, but now one who is a plaintiff in a case against an insurance company, my attitudes have moved around over the years. But, you know, to have to go to court to get redress is the—what should be the last resort.

Mr. KELLY. Yes, sir.

Senator LOTT. You shouldn't have to go to a state or certainly not to a Federal court. You ought to have the authority, and you ought to have the authority to whack these people upside the head and make them do the right thing quickly for the consumers. Now, remember, in the beginning, I am a pro-business, you know, free market capitalist conservative Republican, but damn, bad behavior is unacceptable——

Mr. KELLY. Well——

Senator LOTT.—and I think that the states, whether it's Arkansas or Florida or Maryland or Mississippi or Missouri, ought to be able to move aggressively to help the consumers when they are trapped like Ms. Edge. You can't have that kind of stuff, and you shouldn't have to hire a lawyer and go to a Federal court to get redress.

Mr. KELLY. Well, I would agree. There were comments about handling individual cases. We do handle every individual complaint that comes into our office. We don't——

Senator LOTT. Are you—are your hands tied? Are you limited when it involves interstate transfer of these goods?

Mr. KELLY. Yes, sir.

Senator LOTT. We have got to stop that.

Mr. KELLY. Yes, sir. The first thing, interstate companies are not even required to respond to my office, so many times, they don't, and someone mentioned——

Senator LOTT. Then the law we passed will—hopefully will address that, won't it?

Unknown: Once the one-year ban comes off.

Senator LOTT. OK. The answer from the very effective staff back here. Of course, Chris Bertram, who worked with me on that, says once the ban comes off, and that leads me to my next question. But before I get to that, one other quick question to you, Mr. Zinser—two quick questions. Do you think the present system is working adequately? And if not, is it really just a basic question of people and money, or do you need this law or some additional laws to be able to do the job effectively?

Mr. ZINSER. I don't think the current system is working effectively. I think that the—I think SAFETEA–LU has some provisions that can help fix this, but I think that the states, as you have heard here this morning, the states need some guidance from the Federal Government about what they can and cannot do now with the provisions under SAFETEA–LU.

Senator LOTT. All righty. Now, Mr. Harrison, you know, I started off on this, I guess, a little bit uneducated. In my years in Mississippi along the Gulf Coast, I found movers to be—the local people—I knew them, they did a good job. I think I almost never got any complaints, so I was a little taken aback when I found what was happening—this type of criminal misconduct by people. But I—do you feel like we worked with your association last year fairly

and adequately in trying to develop some language that would provide some relief, but not mistreat, you know, the actors in your industry that do a good job—the big companies that generally do well?

Mr. HARRISON. Yes, we worked very well with the staff and everyone involved in trying to fashion the legislation that we thought was reasonable. Our mantra has always been, you know, to get rid of these rogue movers.

Senator LOTT. They hurt your industry.

Mr. HARRISON. Absolutely. We support the legislation as long as it doesn't economically burden the good guys, while getting rid of all these rogue movers. We are with you all the way. We worked with the staff on the majority of the provisions that are in there. We don't like all the provisions that are in there, but I would say for the most part, most of the provisions that were enacted are good provisions. They give us a little bit of a burden, but nonetheless, I think they will make a difference in terms of getting rid of these rogue movers.

Senator LOTT. Did you support the last-minute move by the Appropriations Subcommittee to put these provisions on hold for a year?

Mr. HARRISON. We didn't ask the Appropriations Committee to do that as an association, but we certainly support the outcome because our mantra has been, again, that we support getting rid of these rogue movers. If that means the state needs to go after these rogues, we won't have a problem with that. A state like Florida can—could do that. Of course, they have been doing that under their criminal statutes. And now under the current legislation, they can do that. We have absolutely no problem with that. All we would like, as far as the legitimate industry is concerned, is to be able to have enforcement of Federal rules in Federal court when it relates to legitimate movers. These rogue movers that we have been talking about all morning are a real problem.

Senator LOTT. Did you support the delay or not?

Mr. HARRISON. Did we support the outcome?

Senator LOTT. Delay that was put in that conference report.

Mr. HARRISON. Once it was accomplished, we supported it, yes.

Senator LOTT. I just want you to know that's one of the reasons why you have a problem with me. You can call it process if you want to, but I considered it an act of bad faith, and it's turned me—I got my stinger out. Now, you better work with us to get this fixed. And in that connection, what are your problems with what we had in the SAFETEA–LU bill? I mean, you said there are some points you don't agree with. Look, it isn't going to be good enough to say you have to go to Federal court to get redress, we are going to have to have some local and state opportunity here to enforce Federal law. Now, if you got some specific concerns, I want to hear it because I intend to put the law that we passed back on the books just like it was done, and it may make it harder—tougher. But if you have some legitimate complaints, let me know what it is. But I—you know, there has got to be some reasonableness here, Mr. Harrison. So you want to identify a couple of things that you are—is it just that you don't want to have state courts involved? Look, I understand. No offense to—some Attorneys General will get a lit-

tle carried away with class actions. I mean, they are not generally—I mean, a lot of them are, you know, plaintiff lawyers, Democrats, which, you know, make me a little nervous.

[Laughter.]

Mr. HARRISON. Until your house——

Senator LOTT. I don't want to——

Mr. HARRISON. Until your house gets hit by a hurricane.

Senator LOTT. Until my house gets wiped away by a hurricane and my insurance company won't pay, but——

[Laughter.]

Senator LOTT.—I am trying to find a balance here. I am not out to get anybody, but I just—I am thinking, you know, look, I am thinking about blue-collar shipyard workers in my hometown. Now, we are all sophisticated. We live in northern Virginia, Internet, and we can—know how to call the Federal Government. Look, I want to know how the average blue-collar Joe Six–Pack gets help, let alone the Assistant Professor of Architecture——

[Laughter.]

Senator LOTT.—at Virginia Tech. Help us solve this problem for your own industry's sake.

Mr. HARRISON. Well——

Senator LOTT. You——

Mr. HARRISON.—Senator——

Senator LOTT. Right.

Mr. HARRISON.—you know, I agree with the premise that the real problem here are rogue brokers, rogue movers, and I think the current legislation, you know, addresses that adequately. Now, in terms of our position, in terms of state enforcement in state court, basically we just simply want a consistent uniform interpretation and enforcement of the regulations. That's our goal. That's what we want to maintain. Now, the Attorney General from Maryland indicated, you know, in his testimony that they have been able to prosecute some of these bad actors in Maryland, and that's good, but the State of Maryland doesn't even have regulations on household goods. In other words, when you move within the state of Maryland, there are no household goods regulations. And therefore, absent regulations, a mover in Maryland could do whatever they want to do. And obviously, the rogues operate in Maryland just as they operate in other areas. Now, to have the State of Maryland then try to figure out what the difference is between what an interstate mover has to abide by in terms of the regulations and liability versus Maryland where they have absolutely no regulation, you know, could be difficult and may end up being in a situation where we have an inconsistent interpretation of the Federal law.

Senator LOTT. I understand this is interstate commerce, and it makes it difficult for the industry if you have to deal with, you know, 50 different sets——

Mr. HARRISON. Yes.

Senator LOTT.—of laws. So I support, you know, a national set of standards, it's the implementation and the enforcement ability at the local and state level enforcing the national standards is what I am interested in. So with all due respect and appreciation, you know, we are not going to let go of this bone. We are going to keep chewing on it, and we would like to have your support in coming

up with a good solution that will protect, you know, the Gallot brothers in Biloxi, Mississippi, but will give the blue-collar worker a way to get at these people without having to go through—to hire a damn lawyer and go to a Federal court. I am one.

Mr. HARRISON. Well, I'd be glad to work with the Subcommittee as best I can. If you——

Senator LOTT. Yes. Well, we'd appreciate that. And we are running out of time here, but in case we do have to leave pretty quickly—the vote hasn't started—I want to again thank you all. I want us to get a good solution here. I want the Federal Government to do a better job. I want to make sure we give you the tools to do a better job—people, money. The gentleman here is also on Appropriations. We'll get more money in this area if we have to, and I know the Chairman of the Appropriations Committee by—you know, very closely, very personally—Senator Cochran. So we can do that, but we want to work with the states to make sure that their concerns are addressed. We want to work with the industry. Do not—we don't want to be unfair to you, but I do think that as an association representing the entire industry and a lot of good actors, you need to help make sure we can get at the bad actors.

Mr. HARRISON. Absolutely.

Senator LOTT. Senator Pryor, you want to get back into this——

Senator PRYOR. I do.

Senator LOTT.—activity?

Senator PRYOR. Thank you. Thank you, Mr. Chairman, and I concur with your comments. Mr. Harrison, basically I think what the Subcommittee wants to do is try to help clean up the marketplace, and I agree with you that there are these rogue movers out there. My sense is that your membership—I don't know how many members you have in your association, but——

Mr. HARRISON. About 3,000.

Senator PRYOR.—my sense is that by and large, your members, by the nature of their membership in your association, they don't hold people's furniture hostage, and——

Mr. HARRISON. That's correct.

Senator PRYOR.—that's just a business practice that they don't engage in. It's probably one that you as an association don't tolerate, but it does go on. And I guess the thing I don't understand—and I'd like to continue the dialogue with you and Senator Lott and others—is I don't understand why you are concerned if what we are going after is activity that your members don't engage in. To me, it's almost the Do Right Rule. If you are doing right and you are taking care of your customers the way you should be and you have a contract—it's in writing, it's clear, everything is done and paid for and it's all fair and square, then you don't have any problem in the world. But by putting a strong law on the books, it allows us to go after and allows us—I mean along with the states, to go after the rogue movers or the bad actors, whatever they may be in the industry, and it allows us to clean up the marketplace to make it better for your members. Now, do you have a comment on that?

Mr. HARRISON. Sure do. I agree with that premise. I mean, we want to get rid of these rogue movers and clean it up because it gives us a bad image. And so, we are with you 100 percent on that. Now, the nuance here is, I think, is the reason why we prefer a

uniform, consistent interpretation in the enforcement of the Federal role—of the Federal regulations in Federal court, if it has—if it comes to that, is because we—yes, we do not hold shipment hostages. But, you know, in our business, we don't get paid up front, we get paid after we make the delivery. And in many cases—not many cases, but in some cases, there are disagreements between the mover and the customer—have nothing to do with perpetrating fraud, it's just a disagreement about, you know, the payment. For instance, or—if I give you a good example that happens—it's not often, but it happens. We try to deliver a shipment, and we can't find the customer destination. We have got this truck we have got two shipments on. We have the customer's shipment, and we have another shipment that needs to go somewhere else after we deliver this one. And for whatever reason, we can't seem to find the customer. We don't have the right phone number, or we didn't get the right phone number. Whatever the reason, that driver has to stay there for several hours trying to contact the carrier, contacting whoever is involved in this move to try get a hold of the customer. If you can't get a hold of the customer, we, by law, can put the household goods in storage until we do find that customer. And then when we find the customer, we say we had your goods, we put them in storage, since we haven't been able to find you for two days—whatever the reason is, then we are ready to deliver, but we charge for the storage of those goods for maybe two days, three days. Not a lot of money, but nonetheless, more money than the customer perhaps thought he would had to pay. So then we have a dispute as to what is owed that particular carrier. Now, maybe that customer, and I know it's happened occasionally in the 20 years I have been doing this, gets irate because they say well, you didn't tell me you were going to put it into storage and it's going to cost me more money. All the mover did was exactly what he is entitled to do, and it cost another $250. That customer says no, I am, not going to pay, I am going to go get some law enforcement people or something to get involved in this thing because you are holding my shipment hostage. Well, the mover is not holding the shipment hostage, he is just trying to get paid for the services rendered.

Senator PRYOR. Well——

Mr. HARRISON. So that's our real problem—the disputes we have between our customers that have nothing to do with perpetrating fraud—simply misunderstandings, miscommunications, bad paperwork on the part of either our movers or even the customer on occasion results in these disagreements. And we do not want to have the states come in and say you are going to be required to do this, and we are going to, you know, take you to court or take some sort of action because you are holding the shipment hostage when in fact we are not.

Senator PRYOR. Well, I think under the scenario that you have given us—first, I would assume your companies would have that in the contract—that if they move it, and for some reason the customer is not there, there is a——

Mr. HARRISON. Yes.

Senator PRYOR.—provision in the contract. So there again, I think you are automatically acting in good faith, you are——

Mr. HARRISON. Yes.

Senator PRYOR.—you are complying with the contract. If there is a dispute, maybe a local Attorney General or someone will look at it, and they'll say well, look, Mr. Consumer, it's in the contract right here, and you have to pay the difference because you didn't comply with your end of the contract.

Mr. HARRISON. Right.

Senator PRYOR. You weren't there when the goods were delivered, and they have the right to do this. So all that—again, that's fair and square because it's under the terms of the contract. So again, I'd love to work with you on that. I think you have some fears that quite frankly, when you get down to the reality of the situation, probably won't come to pass, and it may be just a fear of the unknown. Let me ask you, if I may—I know we are about to have a vote here any moment. Attorney General Curran's deputy came in. Can you identify yourself please?

STATEMENT OF STEVE SAKAMOTO–WENGEL, DEPUTY CHIEF, CONSUMER PROTECTION DIVISION, OFFICE OF THE ATTORNEY GENERAL, STATE OF MARYLAND

Mr. SAKAMOTO-WENGEL. I am Steve Sakamoto–Wengel. I am Deputy Chief of the Consumer Protection Division in Attorney General Curran's office.

Senator PRYOR. Great, and you have sat in here and heard most of the testimony. Do you feel confident—speaking for your Attorney General's Office—and do you feel confident that you all have the expertise at looking at statutes, interpreting Federal law? Do you have the confidence that you, the state of Maryland, will not abuse any authority you are given under Federal law?

Mr. SAKAMOTO-WENGEL. Yes, I do, Senator, as I believe you were—that you were an Attorney General, you would know that the Attorneys General do not have a history of bringing, you know, frivolous actions. They do take action where there are serious practices harming our consumers, and that's been the history. I mean, Maryland, we have brought four actions involving intrastate movers where we have had egregious practices like holding goods hostage and unfortunately have not had the similar authority to take that action where it involves an interstate move.

Senator PRYOR. And let me ask this—you heard Mr. Harrison's testimony a few moments ago that says basically the states—the state Attorneys General offices really do not have the understanding or the ability to interpret and fairly apply the law in this instance. So, as I understand your testimony, you are disagreeing with that?

Mr. SAKAMOTO-WENGEL. Correct. I mean, I think that we have a long history of enforcing our consumer protection laws in the states. We know what an acceptable practice is when we see it. And I think, you know, even if we don't have individual regulations in each of the states, we know that lying and cheating to customers is a violation of the law in all 50 states. And I think if you treat your customers fairly, you won't have anything to worry about.

Senator PRYOR. And I assume, as in your capacity in the Maryland office, you work with other sort of equivalent assistant or Deputy Attorneys General in other states around the union, and what's

your impression of other Attorneys General offices' Consumer Protection Division or the lawyers involved there?

Mr. SAKAMOTO-WENGEL. All of the lawyers that I have worked with, including the wonderful lawyers that were in your office, have been very professional, very knowledgeable about, you know, consumer protection laws, consumer protection issues and are concerned about being able to protect consumers where they are the subject of egregious practices. And we are not looking to, you know, get people on technical violations, what we are looking for is where our consumers are being harmed—to be able to protect them, and to provide them with the kind of protection that we provide in other areas.

Senator PRYOR. Mr. Kelly, as I understand it, you are not in the Florida Attorney General's Office, you just have a different structure there in the state. Is that right?

Mr. KELLY. Yes, sir.

Senator PRYOR. But you do basically the consumer protection. Your office does the consumer protection in Florida, and you heard Mr. Harrison's testimony as well that basically—not to misquote him or misconstrue what he said, but basically that he has concerns that states may not be able to understand, interpret, or enforce these Federal regulations fairly. Do you share that concern?

Mr. KELLY. No, sir, I don't. I think that both our office and the Attorney General's Office in Florida would enforce the law fairly, equitably. In addition, we are part of the education effort that FMCSA is doing now. And certainly, as in any partnership, I am certain we would call upon their expertise when we were looking to interpret the laws to help us—to help guide us. So no, sir, I don't share those concerns.

Senator PRYOR. Ms. Edge, let me ask you—best-case scenario from your standpoint—you mentioned these new DOT numbers and some of the games that some of these rogue carriers can play to manipulate the system. You also mentioned the Carmack Amendment. Best-case scenario, would we find ways to stop these practices by these rogue carriers in terms of new DOT numbers, et cetera? And also, best-case scenario, should we, the Congress, repeal the Carmack Amendment?

Ms. EDGE. I think so and offer state enforcement authority.

Senator PRYOR. All right. Mr. Chairman, I think our vote starts in about five or ten minutes. Do you have any other questions? I may have just one or two more. Let me review my notes here for just a moment please because Senator Inouye was unable to join us today, and I think I have covered most of his questions. Let me ask just this. I just want to make sure that Senator Inouye's questions were covered.

Senator LOTT. I do want to make sure you understand that Senator Stevens asked for a specific action within 30 days. Please let us know you did that because he——

Mr. HOEMANN. Mr. Chairman, we will follow through expeditiously.

Senator LOTT.—good because he will remember that.

Senator PRYOR. Believe me, he will remember that. Let me say this, Mr. Chairman, thank you again for doing this. I think I have

covered all of Senator Inouye's questions. But in the event I haven't, could we leave the record open just for a couple of days?

Senator LOTT. Certainly. We'd be happy to do that. We'll keep the record open for 2 days for additional questions and the response from the panel of witnesses.

Senator PRYOR. Great. Mr. Chairman, again, thank you for your leadership on this and your determination to try to help people all over this country. I want to thank all the witnesses for coming today as well. Thank you.

Senator LOTT. And I again thank you, and this hearing is concluded.

[Whereupon at 11:30 a.m, the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

This Committee worked diligently on the Highway bill last year. We fought to develop stronger Federal protections for consumers who hire moving companies to ship their belongings across state lines. Our provisions addressed a variety of fraudulent practices that some movers use to take advantage of consumers. Most notably, some companies take consumers' goods "hostage" and request excessive fees in exchange for the release of their possessions.

The Federal Motor Carrier Safety Administration (FMCSA) oversees household goods carriers. Its standards were inadequate, and its resources limited, leaving the interstate moving industry essentially without any Federal oversight. The FMCSA has received nearly 20,000 consumer complaints since January 2001, and yet until last year, it had only two employees dedicated to household goods regulation and enforcement for the entire Nation.

This is precisely why the provisions we introduced in the Highway bill granted limited authority to state Attorneys General and other state agencies to enforce Federal household goods laws. By empowering the states to help consumers, we provided an effective way to address consumer complaints.

I understand that some in the moving industry were opposed to strong oversight, preferring to maintain the Federal oversight vacuum. Unfortunately, the industry sought, and succeeded, in forestalling any enforcement as part of this year's Transportation Appropriations bill. I consider those changes temporary and will work with my colleagues to ensure that the protections granted in the Highway bill are restored.

Moving is stressful, whether it is around the corner or across the country. By providing consumers protection against fraudulent practices, we are helping to make it less so. I hope that we can work together to ensure that this package is fully reinstated, so that American consumers receive the protection they deserve.

PREPARED STATEMENT OF THE U.S. CHAMBER OF COMMERCE

On behalf of the U.S. Chamber of Commerce (U.S. Chamber), the world's largest business federation representing more than three million business and organizations of every size, sector and region, we appreciate this opportunity to provide the Subcommittee with a statement for today's hearing on "Protecting Consumers from Fraudulent Practices in the Moving Industry."

Each year, approximately 1.5 million households use commercial moving firms to move their household goods to another state, according to industry estimates. There are approximately 3,000 motor carriers that transport household goods across state lines that are registered with the United States Department of Transportation.

We recognize the actions of rogue movers have come to this Subcommittee's attention. There is no place for these unscrupulous movers in the household good moving industry, and we urge law enforcement officials to use existing Federal law to fully prosecute these companies.

We support the efforts of the American Moving and Storage Association in proactively undertaking a campaign to educate consumers about their rights and provide consumers a list of companies that do business the right way. Use of the "Mover Referral Service" can provide consumers with valuable information when choosing a moving company.

We understand illegitimate movers that scam customers exist in the industry; however, we do not believe that further regulating the entire industry will more successfully protect consumers from scams. Federal consumer protective regulations currently exist that, if adequately enforced by the Federal and state governments, provide protection to consumers without detrimentally affecting licensed, legitimate moving companies. We feel that more regulation placed on the legitimate movers in the industry would only open the door to frivolous lawsuits and additional com-

plications for reputable movers, resulting in increased costs that would be passed on to the customer.

To increase enforcement of current Federal law for the household goods industry, we were supportive of provisions included in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or SAFETEA–LU (Pub. L. 109–59) to allow state authorities to provide assistance to the Federal Motor Carrier Safety Administration in this area.

We also were supportive of a provision in the Fiscal Year 2006 Transportation Appropriations bill (Pub. L. 109–119) clarifying that state attorneys generals and other state regulatory agencies should bring all enforcement actions in Federal courts, not state courts. We supported this provision for several reasons. First, Federal courts are experts on Federal law and have the resources and experience to handle these cases. Second, having one standard for interpretation of Federal law allows the industry to know that there will be a consistent interpretation and application of Federal law, as they complete each interstate move.

States have full authority to regulate and enforce state law over all moves taking place solely within their state. However, Federal law applies to the regulation of all interstate moves. Thus, we believe that Federal courts must have jurisdiction over enforcement actions involving Federal law, while state courts will maintain jurisdiction over enforcement actions involving state law.

The U.S. Chamber has tong been concerned about bringing actions into state court where the law is far more likely to be subject to differing interpretations depending on the state. These differing interpretations would cause uncertainty within the household goods moving industry and will lead to state-by-state differences in the interpretation and application of Federal law, which was never the intent of Congress.

The U.S. Chamber also believes that plaintiffs' trial lawyers will use state courts because of a belief that state judges are generally unsympathetic to out-of-state business defendants.

We hope that this Subcommittee will work to maintain the requirement of state attorneys general and other state authorities to bring interstate household mover infractions to Federal authorities for Federal prosecution.

The U.S. Chamber strongly supports increased enforcement of Federal law against rogue moving companies. We believe positive steps have been taken in adding additional enforcement resources. We expect these added resources to result in increased enforcement and prosecution. Most moving companies are honest and provide a vital service, and increased education from industry and increased enforcement against unscrupulous companies are the best courses of action in dealing with these issues.

The U.S. Chamber thanks the Subcommittee for holding this hearing and allowing us to provide our perspective.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO TODD J. ZINSER

Question 1. In your testimony, you state your support for the SAFETEA–LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) provisions allowing states to help enforce Federal law and regulations relating to interstate moving companies and that this authority could help individual consumers find more immediate relief from the fraudulent acts of bad movers. In granting such authority to the states, you suggest that action should be taken to ensure consistent enforcement by state authorities. Do you have some suggestions on how to do that?

Answer. We believe that the Federal Motor Carrier Safety Administration (FMCSA) can take a number of steps to help conform State enforcement of Federal laws and regulations within a generally accepted range and minimize the possibility of disparities. For example, FMCSA could:

- Identify which statutes and regulations can be enforced by States under Title 49, Sections 14710 and 14711, and determine if additional interpretative guidance is required to address potential ambiguities.
- Reach out to States and national organizations, such as the Association of Attorneys General and the American Moving and Storage Association, to develop practical and uniform enforcement strategies and model approaches. Conduct periodic reviews of State enforcement efforts to ensure that Federal laws and regulations are being interpreted correctly and enforced consistently and, as necessary, determine whether additional guidance is needed to address any resulting disparities.

- Have those state and local authorities that wish to enforce Federal laws involving household goods execute a formal document such as a Memorandum of Understanding (MOU) with FMCSA. The MOU would define the scope and limitation/coordination of the authority to be exercised, as well as certain standard operational areas such as officer selection criteria, training, standards of conduct and the coordinated complaint/inquiry process governing officer conduct with regard to HHG enforcement activities.

Question 2. Could the Federal Motor Carrier Safety Administration's (FMCSA) Outreach Plan to state authorities, required by SAFETEA–LU, be a means to accomplish this?

Answer. We do believe that intergovernmental coordination and information-sharing among the key entities is critical to the success of State enforcement initiatives. The FMCSA Working Group, established pursuant to SAFETEA–LU, can be a vital mechanism to accomplish these objectives.

While still in its incipient stages, the Working Group can help FMCSA develop model approaches, strategies, and best practices for State enforcement. It can also assist in identifying and addressing any Federal laws or regulations which may need to be clarified by FMCSA through interpretative guidance.

While the two meetings of the Working Group held so far have been conducted via telephone, we also recommend that FMCSA consider sponsoring an annual conference that would bring together appropriate Federal, State, and local law enforcement, regulatory, and consumer authorities. The Working Group should also consult with interested parties, such as the public, Congress and industry organizations. The objectives would be to highlight successful initiatives, facilitate intergovernmental and industry coordination and cooperation, develop strategies to address emerging issues, and identify any areas in which State enforcement has been inconsistent.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO TODD J. ZINSER

Question. Based on a 2001 GAO recommendation, the Federal Motor Carrier Safety Administration told Congress in 2003 that it would develop a publicly accessible report on the Internet showing the public what moving companies have the most complaints. Yet, no such database exists today. What is causing the delay in putting this database together and will it be done by this summer's peak moving period?

Answer. We have not conducted any audit work examining why FMCSA has not followed through on its statement to Congress in 2003 that it would "develop a quarterly Web-based report that provides the public basic mover complaint history by mover name, number of complaints, and by most egregious type of complaint."

FMCSA officials have informed us that they have hired a contractor to establish a database that will meet the requirements on consumer complaint information set forth in Section 4214 of SAFETEA–LU. These requirements include establishing a procedure for the public to have access to aggregated information on consumer complaints and a procedure for carriers to challenge duplicate or fraudulent information. FMCSA officials have stated that they are on target to meet the August 2006 deadline for establishing the system. However, we have no indication that this task will be finished before the beginning of the summer, which is the peak time for moving.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO J. JOSEPH CURRAN, JR.

Question. You make a strong case for why states should be allowed to not only enforce Federal law, but also use state law to protect consumers against fraud, extortion and other unfair business practices in the interstate moving industry. How do you respond to concerns by the moving industry that applying state law will create a patchwork of differing requirements and authorities that would make operation of their business almost impossible? Do you have ideas about how we could protect against this, while still offering consumers a remedy against abusive behavior?

Answer. The moving industry's concerns about inconsistent requirements are unfounded. What the state consumer protection laws in all 50 states require is that movers not engage in practices that deceive their customers. Movers are currently required to meet this standard under the Federal Trade Commission Act as well as when they perform intrastate moves. Compliance with basic consumer protection re-

quirements has not, nor should it, have an impact on the business practices of the significant majority of household goods movers.

When my office and other State Attorneys General have received complaints about intrastate moves, we have been able to successfully use our state consumer protection laws to bring enforcement actions to protect our consumers. My office has entered into settlements with moving companies that had generated the most complaints from Maryland consumers, including complaints about:

- lowball estimates
- refusing to unload consumers' goods when consumers were being charged amounts on the day of the move that significantly exceeded estimates
- misrepresenting that consumers were being sold insurance, and
- failing to disclose material contract terms.

Under the settlements, my office succeeded in stopping the deceptive practices and obtaining restitution for consumers who were the victims of those practices.

We continue to believe that Attorneys General should be able to enforce state consumer protection laws against interstate movers who engage in these and other deceptive practices. We have used these laws to great effect in combating fraud in other interstate industries and believe it would greatly assist our efforts to protect our citizens against abusive practices by interstate movers. As noted in the 2001 report from the GAO concerning the need to improve oversight of the household goods moving industry, "[t]he Congress has already expanded state authority in certain other areas of commerce, including telemarketing and fair credit reporting, in which the Congress has recognized that the states can contribute to addressing abusive business practices that extend beyond their borders." Additionally, our state consumer protection laws enable us to obtain relief for injured consumers, which is not a remedy available under Federal law. If the Attorneys General are given the authority to enforce our state consumer protection laws against interstate movers, we would expect any cases would be similar to those currently brought against intrastate movers requiring them to provide legitimate estimates, deliver consumers' goods in their custody, and fairly represent their services to consumers.

I strongly urge the Committee to support legislation that would allow State Attorneys General to enforce our consumer protection laws to address abuses by interstate movers just as we are currently able to do with respect to intrastate movers.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO WARREN HOEMANN

Question 1. Is FMCSA preparing the Enforcement Outreach Plan, as required by Section 4206 of SAFETEA–LU? When will this Plan be completed?

Answer. The enforcement workgroup mandated by SAFETEA-LU Section 4206, comprised of State Attorneys General, State consumer protection administrators, and State and local law enforcement officials, is drafting a Charter to assist in the implementation of SAFETEA–LU requirements. The charter will cover developing practices and procedures to enhance the Federal-State enforcement efforts as well as exchanging information related to the transportation of household goods. The group will also recommend legislative and regulatory recommendations to the Secretary regarding HHG enforcement initiatives. The workgroup will also develop an enforcement plan by December 31, 2006. The enforcement plan will include proposed strategies to educate Federal and State law enforcement agencies regarding the impact of new and existing commercial regulations governing the interstate movement of household goods transportation.

Question 2. Do you believe the intervention authority granted to the Secretary as part of the original State enforcement provisions of SAFETEA–LU provides the Secretary with an adequate ability to ensure cases pursued by State Attorneys General against interstate movers are consistent with the Department's own interpretation of Federal law and any guidelines promulgated through the Enforcement Plan?

Answer. Yes. SAFETEA–LU requires that the State has to serve written notice to the Secretary of any civil action prior to initiating such action. The SAFETEA–LU provision provides the Secretary with the ability to review State Attorneys General cases against interstate movers.

Through the requirement of setting up a working group for enforcement related purposes, the uniformity of enforcement shall be consistent. This working group will conduct a two-phased approach. The first phase is to identify our partners and communicate FMCSA's plans concerning enforcement in this area. Two conference calls have been completed to initiate this process. Phase I will also include the working

group identifying their needs and coordinating its own universal plan that identifies proper procedures when involved in HHG cases.

Phase II will include the implementation and communication of the aforementioned plan to all involved parties. This working group is scheduled to last until September 2009.

Question 3. Do you have data on the number of customer-interstate mover disputes that are resolved by arbitration or civil action each year? Do you have data on the outcomes of such actions? Have you heard feedback from consumers about whether they are generally satisfied with these options as the main way to resolve disputes?

Answer. No, FMCSA does not currently gather data regarding the number of customer-interstate mover disputes that are resolved by arbitration or civil action each year. SAFETEA-LU requires quarterly reporting from carriers covering the number of shipments, number of claims for loss and damage in excess of $500, number of claims resolved, number of claims declined, and the number of claims pending. FMCSA is coordinating a project that will include sending surveys to different parties involved in HHG arbitration.

Question 4. I understand that the Federal Motor Carrier Safety Administration (FMCSA) has stated in the past that it does not believe that it has the authority to intervene on behalf of individual consumers who have a complaint against a mover based on an interpretation of House report language accompanying the Interstate Commerce Commission Termination Act. Do you agree with this interpretation?

Answer. Yes. The Interstate Commerce Commission (ICC) assisted in resolving consumer HHG complaints, although the ICC had no statutory authority to resolve these complaints. The ICC Termination Act House report language stated that it does not believe that DOT should allocate scarce resources to resolve private disputes and directed that DOT should not continue the dispute resolution function in these areas, since private parties may bring actions in court.

Question 5. From your testimony, I understand that FMCSA conducts two types of enforcement activities: "strike-forces" that focus on areas with large numbers of consumer complaints and household goods carrier compliance reviews, which focus on specific movers with numerous complaints. In either of these cases, is FMCSA investigating specific complaints on behalf of consumers or looking at general non-compliance with Federal statute or regulations? Have these investigations resulted in restitution or damages to consumers who filed complaints with FMCSA? Are punitive damages available?

Answer. FMCSA investigates both specific complaints on behalf of consumers and general non-compliance cases. These investigations may result in the assessment of civil penalties against the HHG carriers. In some cases, when a review is conducted on a household goods mover, specific complaint information is investigated. The commercial carrier review is the primary tool for addressing non-compliant HHG carriers. A strike force is a concentrated effort in a confined geographic area where many commercial compliance reviews are completed in a short time. These commercial compliance reviews may result in civil penalties based upon a carrier's overall non-compliance. FMCSA has no mechanism or authority to provide restitution or punitive damages to customers, therefore, both the carrier and shipper are advised of their rights and responsibilities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO WARREN HOEMANN

Question 1. It appears New Jersey is one of the top four States in terms of mover complaints, yet not even in the top ten in moves according to the American Moving and Storage Association. This suggests that many of the bad actors are operating in New Jersey. What are you doing to focus your limited resources and enforcement tools on New Jersey to counter this disparity?

Answer. FMCSA has two HHG Investigators permanently assigned to New Jersey. This is one-quarter of the entire dedicated commercial investigators. The investigators conduct HHG compliance operations daily in New Jersey. In addition, FMCSA has conducted strike force activities in New Jersey. The strike force is a concentrated focused effort supported by as many as 20 investigators from around the country deployed in small geographic areas. FMCSA has conducted as many as 40 investigations during these strike forces. FMCSA will focus our resources on conducting HHG strike forces in the New Jersey and New York area during the remainder of FY 2006.

Question 2. Based on a 2001 GAO recommendation, the Federal Motor Carrier Safety Administration told Congress in 2003 that it would develop a publicly accessible report on the Internet showing the public what moving companies have the most complaints. Yet, no such database exists today. What is causing the delay in putting this database together and will it be done by this summer's peak moving period?

Answer. FMCSA anticipates completing the Consumer Complaint Information database system by the end of August 2006. The system will allow consumers to file, log, and access complaint information lodged against HHG motor carriers. The database will support analyses of HHG motor carriers identifying and prioritizing carriers who are most non-compliant with the commercial regulations for a Commercial Review. The development and implementation of the database system will meet all the requirements of Section 4214, Consumer Complaint Information, of SAFETEA–LU.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO KAY F. EDGE

Question 1. When you decided to contact a lawyer, after being told by FMCSA, the FBI, and state and local police that this was your only option to seek justice, what did the lawyers suggest it would cost you to pursue a case against the moving company? Did you discuss arbitration with a lawyer? What was their recommendation about that possibility?

Answer. The attorneys I contacted did not discuss their fees in terms of a specific dollar amount but they were all dismissive and clearly not interested in taking the case. They all indicated that considering their fees and what I might stand to recover from the moving company, it would not be worthwhile to go after the moving company. The attorneys at Virginia Tech advised me that they were not in a position to get involved and one attorney I e-mailed in a larger city close to Blacksburg (an attorney whose specialties included transportation law) did not even bother to return my call.

The extreme economical impracticality (and for most people, impossibility) of enlisting a lawyer's aid and getting justice through the civil court system will be demonstrated by what I have subsequently learned about lawyers' fees and possible actions they could have undertaken. Remember, as I stated in my testimony, the moving company was holding my goods hostage for an additional $2,515. (They had originally quoted me $2,230, but were now demanding $4,745 in cash.) They were also threatening to assess storage fees for each day that I did not hand over the money and to sell off my goods at auction.

Had I hired a lawyer at that point to apply for a court order (preliminary injunction) to get my goods back, and assuming the lawyer charged a rate of $200 per hour, I could avail myself of less than 13 hours' worth of the lawyer's time before his fees exceeded the moving company's ransom. Even a layperson could see that the time it would take to talk with me, talk with the moving company, review documentation, do even the most cursory research, draft a motion for the court order, and prepare for and argue at the hearing, would easily exceed 13 hours. This money I would pay my attorney would be in addition to the original price quote of $2,230 and/or whatever amounts I might have "legitimately" owed the moving company. If the moving company continued to litigate after the return of my goods (assuming the court issued the injunction order), I would have no choice but to drop the case as I could not afford more legal fees for continued litigation, and then I would be at risk of having a judgment entered against me for whatever inflated amount the moving company claimed was owed to it. This is not even mentioning that I still would have had to wait additional days or weeks in my empty house pending the processing of the application for a court order, all the while not knowing whether the moving company might damage or destroy my property in retaliation.

Of course, I ended up paying the ransom. Had I hired a lawyer after that, under the Carmack Amendment, the most I could recover through litigation is the amount of the overcharge (the ransom amount). Again, the amount of time it would have taken a lawyer to prove to a judge that the moving company overcharged me would easily—greatly—exceed 13 hours.

As I mentioned earlier, the most I could get back had I sued the moving company is the amount of the overcharge (pursuant to the Carmack Amendment). There would be no punitive damages under state fraud laws, and no treble damages or attorneys' fees under state deceptive trade practices statutes. In other words, there is no incentive for an attorney to take this case on a contingency basis. And, regardless of whether a consumer hires an attorney or decides to go it alone and represent

him/herself in court, there is no penalty for a moving company to suffer for even the most blatant instances of fraud and extortion. There is not even a penalty *that the consumer can enforce* (as opposed to an understaffed FMCSA who only goes after a moving company after dozens or maybe hundreds of complaints have been reported about the company) in the Federal regulations against a moving company that takes a shipment hostage (i.e., violates the 110 percent rule). A consumer cannot even call the police to stop a scam-in-progress because of the Carmack Amendment. Even in those states, such as Florida, which have enacted statutes allowing the police to intervene in what would on its face be a "civil dispute," the Carmack Amendment prevents the states from empowering the police to intervene where the move crosses state lines. (In other words, the Florida statute applies only to intrastate moves.)

The reality is that the moving company's only consequence is to give back what it stole, and that's only if it gets caught. That is a non-consequence. Indeed, that is an incentive to continue careless, unethical, and criminal practices. It would be naïve to think that moving companies—including the larger, well-established companies (more on that later)—are not well aware of this situation.

As for arbitration, during the time of my move in 2001, the arbitration option as set forth in Federal law provided for arbitration only in cases of loss or damage to goods, not for disputes about charges for the moving service itself. SAFETEA–LU, at Section 4208, has now provided for arbitration for disputes about charges. But there is a giant loophole. The text reads that arbitration will now be available to "determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods." As phrased in this way, a consumer could compel a moving company to enter arbitration to settle a dispute over only those additional amounts that were billed to the customer *after* delivery, *not amounts that were collected before the moving company relinquished the goods*. A moving company need only "collect at delivery" (by holding shipments hostage) whatever amount it feels it deserves (or wants) from the customer in order to place itself beyond SAFETEA–LU's arbitration requirements (as well as to give itself the advantage of not having to go through the hassle of billing the customer later for whatever additional amounts it still wants from the customer). In other words, had my move taken place today, I would still be as powerless and as without options as I was five years ago.

Question 2. As a volunteer representative of the *movingscam.com* website, I assume you have been contacted by other consumers who have been ripped-off by movers. Do you have a sense whether the problems facing consumers come from just a few, small "rogue movers" or are more widespread throughout the industry, with some of the more established companies also involved?

Answer. From my experience with the website, I believe it is incorrect to attribute the problem to a "few, small 'rogue movers.'" First, there are *many* rogue movers, of varying sizes. The movingscam blacklist has 336 movers listed and it is by no means a comprehensive list. There are many more companies that we consider "dubious." Rogue movers are spread out all over the country but we've noticed that they tend to be clustered in and around large cities like New York, Baltimore, Atlanta, Miami/Ft. Lauderdale, Chicago and certain areas of Texas and California. They have gotten quite sophisticated in how they conceal their true identities. Moreover, some of the companies are not small at all. One of the most notorious offenders, National Moving Network (also doing business as Patriot Moving and Premium Relocations) employs many workers and it appears to be well-organized and well-established.

Second, my website-related interactions with both moving company insiders as well as customers have led me to believe that such practices are not restricted to small, newly-established, no-name companies. I wish we could tell website visitors that they will be safe by just going with a more established, large company with a well-known name, but unfortunately this just isn't so.

Before further explaining this position regarding "some of the more established companies"—which I'm taking to mean the major van lines and their agents/affiliates and independent companies that have been in business long term—and the industry overall, I would like to first point out that it is clear to us that the AMSA does not police its own membership. There are some outright scam companies that belong to the organization, so a consumer trying to check on a company cannot rely on membership in the organization as being indicative of reputability. It is very similar to the BBB in that if dues are paid, the membership can be maintained. One notorious scam company in Maryland, Giant Van Lines, was a member of the AMSA for a long time before they were finally kicked out because Tim Walker of Movingscam informed the AMSA of their insurance cancellation and the revocation of their DOT license. The Maryland Attorney General would surely be aware of this

company. Today, it has been reborn as five different scam companies started by former employees: RSG Relocation Systems, Epic Relocations, Go West Movers, Dawn, Inc. and Chesapeake Movers; I do not know if these companies are now members of the AMSA. Another notorious scam company in Pennsylvania, Maier's Relocation, continued to be an AMSA member after losing their interstate license and being fined by the FMCSA. Their membership was revoked only after one of our Movingscam volunteers produced evidence for the AMSA that Maier's was doing illegal interstate moves.

In regards to the established companies, we would differentiate outright criminal behavior and breaking the rules in a deliberate and premeditated way from gross negligence and "stretching" of the rules. While a few of the major van lines and/or their agents may commit deliberate fraud occasionally, we do see a difference between them and the habitual, criminal scam companies that commit fraud on every move. Often, the problems of major van lines and their agents can be traced to gross negligence, inefficiency and incompetence on the part of the agent, coupled with a refusal to own up to a mistake or wrongdoing and failure to make things right on the part of the major van line itself.

On those occasions when deliberate fraud is committed by a major van line affiliate, the company seems to be more cautious and less obvious about it. Instead of doubling or tripling a quote like a scam company might do, they will charge somewhat more than the estimate (up to about 50 percent of the estimate, which still typically represents hundreds to a couple thousand dollars more for the customer) or fail to refund as much as the customer is entitled to, and hope that the customer, wanting the move to be over with, will simply say "close enough," or otherwise just give up. As with the small, rogue movers, the claim that the shipment is overweight is often used to "explain" the larger bill. Other dishonest and fraudulent practices include "weight-bumping" and "balloon-packing," phrases that are well-known to industry insiders. Weight-bumping is adding additional weight to the truck after the customer's goods are loaded so as to create a record of a greater shipment weight (by, for example, filling up the gas tank or keeping men in the truck cab while the truck is on the scale). Balloon-packing is using excessive boxes and packing material, all of which is then charged to the customer.

Another bill-padding tactic is claiming that all sorts of "additional services" (requested by the customer or not, performed by the company or not, required by actual physical conditions or not) are required to service the shipment. For example, a driver will claim that the moving van cannot fit on the customer's residential street or a street corner is too tight to maneuver or a tree has too low-hanging branches, etc., and that a smaller, shuttle truck is necessary. The driver may also claim that a certain number of "long carries" (where the goods are carried an excessive distance) are required. He may also claim that exterior porch stairs, narrow doorways, interior stairs in the lobby of an apartment building, etc., also necessitate additional services, and hence, additional charges. And before the shipment will be unloaded, the customer must sign an "addendum" saying that she agrees to the additional charges.

Although one might think that the 110 percent rule for non-binding estimates, or getting a binding estimate (for which a moving company can charge), would protect the customer from being presented with an unexpected on-the-spot demand for up to a couple thousand dollars beyond the original price quote—one would think wrong. In fact, it has been the AMSA's long-standing practice and interpretation of Federal regulations that charges for these additional services can be collected in full, on top of the original price quote, before the goods are unloaded. It does not matter whether the additional amounts cause the final charges to exceed 110 percent of the original estimate. (This also makes the protection of the 110 percent rule meaningless, yet this is how AMSA says it interprets the rule and what it has instructed its members.) This additional services tactic has been especially popular in explaining why a customer's so-called "binding" or "guaranteed not to exceed" estimate has been un-bound and exceeded at destination. (Moving company insiders can also tell you that, if the company does not collect these charges in full on the spot and instead sends the customer an invoice, the moving company likely will never recoup these charges. Customers with a binding estimate often balk, understandably, at paying a bill for additional amounts. Customers with a non-binding estimate and whose shipment weights were significantly low-balled also will refuse to pay a mailed invoice; hence, the "need" for the moving company to violate the 110 percent rule.)

One might think that a customer who has been overcharged by the affiliate of a large van line—a well-known national corporation with a reputation, presumably, to protect—could simply complain to the van line at its national headquarters and get some satisfaction, but again, one would think wrong. The customer complaint

is automatically forwarded to the customer service center at the van line's headquarters. Typically, this customer service rep will look at the documentation—including the addendum for additional services signed by the customer—and tell the customer that he or she agreed that the additional services needed to be performed and paid for, end of story. As for the customer's claim that, regardless of the legitimacy of the additional charges, the company still violated the 110 percent rule by demanding the full amount of all charges on the spot—the customer service rep will tell the customer some version of "Well, you would have received a bill for the same additional charges anyway and you would have had to pay it eventually, so you really haven't suffered any loss." If the customer insists that the additional charges are illegitimate and that he was coerced into signing the addendum, he will have to complain very loudly and very frequently before the van line, at best, might decide to refund perhaps a paltry $100 as a "customer service gesture" just to get rid of him. Beyond that, the customer who is still dissatisfied and threatens to sue is simply informed that he has the right to pursue that option if he wants to and the company will no longer respond to him. Of course, the moving company is well aware of how little liability it faces even if the particularly stubborn customer actually does take it to court.

The van line can afford to be so dismissive about the customer's complaint because Carmack protects the company from liability for fraud and deceptive trade practices under state law. Further, an individual consumer of interstate moving services is not likely to move frequently and thus does not represent loss of "repeat business" for the van line, nor does he represent the kind of volume business the way a big corporation with an account for relocating employees does.

The very structure of the mainstream industry, as seen in the structure of the major van lines, also leads to a diffusion of responsibility and a culture of non-accountability and exploitation of the customer. The major van lines, as corporations, own no moving equipment and employ no drivers. Instead, similar to a franchisor, they contract with hundreds of "agents" all across the country. These agents—some relatively large and consisting of facilities in multiple cities; some small, lone "mom-and-pop" operations—are separately incorporated moving companies which actually own the trucks, employ (or contract with) the drivers, and do the actual physical moving of a customer's belongings.

An individual's move with a major van line, unbeknownst to the individual, typically involves a number of these separately-owned and incorporated agents, all of whom have interests in conflict with each other when it comes to dealing honestly with the customer. For instance, a customer who looks up Major Van Line XYZ in his local phone book will get the agent located in that city. This "origin agent" is usually responsible for issuing an estimate to the customer and selling the move. This agent gets paid only if it sells the job, in the form of a commission based on the estimate given. Obviously, if the agent bids too high, the customer will hire a different moving company. Once the job is sold, it is registered in the van line's system, the origin agent takes its cut, and at this point Major Van Line XYZ itself takes a cut from the estimate. Major Van Line XYZ then—in the manner of a broker—assigns the pick-up and hauling of the shipment to a different agent (a separate entity usually located somewhere closer to the customer's destination, perhaps hundreds of miles away). The problem is that this "hauling agent" gets its money from whatever is left of the ever-shrinking pie of the original estimate. The hauling agent is the entity who employs or contracts with the driver of the van. If the origin agent's estimator low-balled the estimate, the hauling agent and/or its driver will end up not making any money, or even losing money, on that job.

Thus, while the estimator has an incentive to underestimate the price of the move in order to bait the customer, the hauling agent has the incentive to find ways to increase the price once the goods are on the truck (the worse the low-balling, the greater the subsequent price increase). Significantly, 100 percent of the money collected for additional services such as long carries and shuttles go to the hauling agent and/or its driver. The opportunity for abuse is obvious. By the time the customer complains to Major Van Line XYZ's customer service center, Major Van Line XYZ has already gotten its cut and does not have much incentive in determining whether any of its agents committed negligence, fraud, or extortion during the move. The only way the customer could get a true refund is if an agent admits to mistakes and thus agrees to compensate the customer out of its own pocket. Obviously, an agent who deliberately abuses the customer will not admit to anything. And, Major Van Line XYZ will tend to accept its agents' version of events over the individual customers.' (In the interstate moving industry, "the customer is always wrong.") My guess is that, were any particular agent to rack up more than its "fair share" of customer complaints of overcharging and hostage-taking, Major Van Line XYZ would eventually terminate its contractual relationship with this agent. How-

ever, my guess also is that if this agent were located in a region where Major Van Line XYZ is under-represented or happens to book a lot of business, this agent is unlikely to be terminated. My further guess is that, even if the agent is terminated for repeated "bad customer service," previous customer complaints against this agent are not re-evaluated and none of these previous victims are issued a refund.

Lastly, it also happens fairly regularly that a customer's more valuable possessions will turn up missing after a move. Moving company representatives sometimes misrepresent themselves as selling "insurance" and when a claim is made for damage, they resort to delay tactics or offer a low-ball settlement when the customer was supposed to have full replacement coverage. In the traditional insurance setting, state statutes provide for attorneys' fees and treble damages as penalties for companies that engage in bad faith claims settlement practices. These statutes, similar to state fraud and deceptive trade practices statutes, are what deter the corporate abuse of the individual consumer and reins in over-reaching business practices. However, in the interstate moving industry, there is no similar disincentive for a moving company to treat a loss or damage claim in bad faith. Again, the Carmack Amendment essentially requires the moving company to give back only what it stole (or lost or damaged), and that's only if it gets caught—that is, only if the customer, as the plaintiff forced to bring the suit, can carry his burden of proof at trial (a big "if") and only if the customer is willing and can afford to pursue litigation to recover less than what it would take to litigate (an even bigger "if").

These are some examples taken from movingscam's complaint database to illustrate what I mean:

1) North American Van Lines:
AMSA Member: Yes
S. Smith moved with North American Van Lines between 10/19/2005–10/27/2005 (actual delivery was on 11/02/2005) with a Guaranteed Not to Exceed estimate of $4,858.16. However, she was charged $5,538.53 at destination. Ms. Smith was also charged for packing material not used in her move. North American Van Lines has since turned the account over to a collections agency.

2) American Red Ball:
AMSA Member: Unknown
M. Lescher moved with an American Red Ball agent between 8/30/2005–9/03/2005. The pickup was a day later than promised. Lescher lost five boxes during the move, and one mirrorpack that was supposed to contain a marble table top was delivered empty. Lescher also chose full-value replacement valuation, and was charged for it; however, Red Ball failed to purchase the additional coverage so Lescher was told she was only entitled to the (then) standard .60/lb coverage. Lescher's original estimate was for $2,400 but was charged $3,400 at destination.

3) Mayflower Transit:
AMSA Member: Yes
J. Corava moved with a Mayflower agent between 2/11/2006–2/21/2006 (actual delivery was on 2/23/2006). While Mr. Corava was not charged any more than what was on his original estimate, he was missing all of his power tools, several Nikon cameras, a Sony digital camcorder, and alcohol at destination. This complaint raises suspicion because of the high value and nature of the items that Mayflower failed to deliver.

4) Two Men and a Truck:
AMSA Member: Yes
J. Dagostino moved with a Two Men and a Truck franchise on 4/14/2006. When the movers arrived they demanded additional money in cash and told Ms. Dagostino that if she didn't pay they would simply charge her credit card and not perform the moving services. That is exactly what they did. Ms. Dagostino fought the charges with her credit card company. The outcome is unknown.

5) From our message board April, 2003: "We moved with Bekins Van Lines in October 2002 from Hillside, IL to Rio Rancho, NM . . . and our move was a complete nightmare!! The packers and loaders broke or damaged a number of large furniture pieces and several small items before we even left Missouri. But we figured it was no big deal since we purchased the "for all it's worth" insurance coverage and assumed the damages, which totaled $2,734.33 would be replaced, repaired, and/or we would be compensated, as was written in our agreement with them. Boy were we wrong!!! Not only have they not settled the claim, they don't even have the business integrity to return our numerous calls, letters, and faxes. Most of the time we are put on hold for extended periods of time (47 minutes was one memorable time), other times we were consistently discon-

nected and when we called back we get a recording. And no surprise . . . none of our letters or faxes have been responded to either. It wasn't until we hired an attorney, that she was able to get a miraculous answer regarding our claim. Our attorney was told that our broken items had been repaired and they had a check paid to D&D Restoration to prove it. Well, we have pictures and video of our broken items . . . and well if that's not proof enough . . . we physically have the items still in our possession . . . broken and still not repaired, but this didn't matter to Bekins.

Bekins did attempt to send us a check for $177.00, to cover the missing and "non-repairable" items, but to date Bekins still refuses to settle the remainder of our claim for the broken items. Plus, despite our (myself and my attorney's) continued telephone calls, letters, and faxes, Bekins' Claims department still refuses to respond. If you are moving, you would be smart NOT to do business with Bekins Van Lines; their packers and movers are untrained amateurs; their corporate offices and claims departments are so ridiculously unprofessional, it amazes me they are still in business; and Bekins fails to stand by their contractual claims agreement with the customer. I have moved with several moving companies over the past 20 years and Bekins is the worst!!"

These five examples are not isolated, unusual complaints but are representative of the kinds of complaints we receive on a regular basis.

In closing, strong laws and consumer protections—specifically, rollback of the Carmack Amendment—enacted to drive out scam movers from the industry would also serve to clean up the marketplace in general and eliminate negligence and misconduct perpetrated by the major van line agents. If a moving company is honest, follows the rules scrupulously and has a carefully written contract, it has nothing to fear. It will not be vulnerable to irate customers with scratched furniture or overzealous Attorneys General. Ultimately, we are left with the question: Why are the major van lines, if they do not engage in fraudulent or negligent behavior, fighting so vociferously against consumer protections?

Thank you for your work on this important consumer issue.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO J.R. KELLY

Question 1. When you are successful in pursuing an intrastate case of household goods fraud or other illegal activity in Florida, what compensation or damages are typically awarded to the wronged consumer?

Answer. First and foremost, our goal is to resolve the consumer's dispute. We have the ability to suspend or revoke a mover's registration, as well as impose administrative fines up to $5,000 per violation. Therefore, we can use our administrative authority as leverage to satisfy the consumer's complaint. In addition, the Department has authority to seek civil penalties and restitution for or on behalf of an aggrieved consumer. Using our administrative and civil authority, the typical award to the consumer is either a monetary refund or monetary payment for damages to the consumer's goods.

Question 2. Does your state regulate or provide consumer protections for customers of other types of businesses that operate in interstate markets?

Answer. I cannot speak for other state agencies; however, yes, our agency does provide consumer protections for Florida consumers that transact business with companies located outside our state. Some examples are telemarketers; sellers of travel; operators of game promotions or sweepstakes; sellers of business opportunities; Florida Do Not Call program; and charitable organizations soliciting donations.

Question 3. Do you believe that you could apply your Florida state laws protecting moving consumers to interstate movers without disrupting a legitimate mover's ability to do business in your state?

Answer. Absolutely. This Department has an excellent track record with respect to our regulatory programs. Our goal is not to close businesses' down or interfere with a company's operations; our responsibility is to enforce the rules that are in place to ensure an even playing field for all companies so that no one enjoys an unfair competitive advantage. If businesses follow the rules set forth by the Legislature, then consumers will benefit from better products and services.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO JOSEPH M. HARRISON

Question. Your testimony suggests that only "rogue movers" who fail to register with DOT or otherwise blatantly violate Federal law be subject to state enforcement of Federal household goods laws and regulations. But, if a more established moving company, that has otherwise fulfilled its requirements to become a household goods carrier, engages in extortion, fraud or other consumer abuse, why should they not be subject to state enforcement? Why does the victim deserve fewer options for recourse because the movers may have been in business for more than 5 years or has an arbitration program?

Answer. "Any mover that has been in business for more or less than 5 years that extorts money from a consumer shipper or commits some other fraud upon that shipper can be prosecuted under the States' criminal statutes. An "established" mover that has been operating in interstate commerce for more than 5 years is not immunized from State prosecution. The States' ability to prosecute movers under their criminal statutes has always existed, notwithstanding the length of time a mover has been licensed by DOT and complies with its other requirements. The rogue mover amendment currently in place does not alter the States' jurisdiction. The "victim" described in the Subcommittee's question is no less protected than a consumer who used a rogue mover described in the statute given the States' authority to prosecute criminal violations.

This is clearly confirmed by the 2003 Federal and State prosecutions of 19 interstate movers and numerous individuals on charges of fraud and extortion primarily involving the holding of consumers' shipments hostage following demands for greatly inflated transportation charges. The prosecutions were the result of Federal and State investigations led by the FBI, the DOT Inspector General, and U.S. attorneys in the States of Florida and Washington. The collective interstate regulatory history of the 19 rogue movers confirms that they used extortion to prey upon consumer shippers and, in fact, possessed the indicia of unlawful or rogue movers (e.g., unlicensed by DOT, failure to maintain required insurance, etc.) referred to in my May 4 statement to the Subcommittee, which are also enumerated in 49 U.S.C. § 14711(b)(3)(A). Attached is a chart which confirms the accuracy of this statement. Review of that information indicates that 8 of the movers operated without interstate operating authority issued by DOT; 2 were placed out of service by FMCSA for violations of the Agency's safety regulations; the 11 that were issued operating authority by DOT conducted their operations for an average 22 months before their authority was revoked by FMCSA. Obviously, this is a record that supports the need for State enforcement as prescribed by Section 14711(b)(3)(A).

It is AMSA's position that the allocation of enforcement responsibilities between the States and the Federal Government should avoid a duplication of their respective efforts and the needless expenditure of sparse resources. FMCSA and the States acting in a coordinated manner by separately targeting different movers are more likely to prove beneficial to the greatest number of consumer shippers.

Experience confirms that so-called established movers (those holding a DOT license for more than 5 years), as a general proposition, do not engage in extortion, fraud or other egregious forms of consumer abuse. If a mover holds its DOT license for more than 5 years, it has demonstrated that it is in the moving business to perform a legitimate service, having maintained its license, required insurance, a satisfactory safety rating and compliance with the FMCSA Consumer Protection Regulations incurring only minor and no blatant consumer complaints. Any mover or broker holding a license for more than 5 years with a documented record of abuse, has more than likely been the subject of FMCSA enforcement action. As was made clear by the FMCSA testimony before the Subcommittee, during the past several years the Agency has conducted compliance surveys of movers and brokers with a history of complaints, without regard to the number of years they held their DOT authority. If a shipper encounters a problem with one of these movers, it is likely that it is a one-time problem that can readily be resolved by a single FMCSA inquiry. There is no need for State enforcement in situations such as these.

Experience also confirms that relocating consumers have ample recourse options available to them when dealing with established movers. The criminal abusive tactics employed by rogue movers are not employed by legitimate operators. Obviously, they would not remain in business if they did not adhere to the recourse process that is mandated by Federal statutes and regulations. Established movers routinely pay claims for loss, damage, delay and inconvenience. If an offer to settle a claim is in dispute, a statutorily mandated arbitration process is available to the shipper. Established movers have made significant investments in operating equipment, manpower and storage facilities. Unlike rogue movers and some small recently li-

censed movers, they pay their claims and judgments. They do not operate sham moving businesses with no recourse available to shippers that experience difficulties in the moving process.

A significant number of AMSA members have held their DOT operating authority for less than 5 years (40 percent or 800 of approximately 2,000 members). DOT records indicate they receive approximately 500 to 750 applications for household goods operating authority annually. Of those that are granted authority, roughly 200 become AMSA members. AMSA also terminates an average 150 members annually because their license was revoked, they violated the Consumer Protection Regulations, went out of business, or failed to pay their membership dues. Each year there is a constant churning of hundreds of movers who either enter or exit the interstate moving business. All of these new movers, including those who become members of AMSA, are now subject to State enforcement and many are unfamiliar with the Federal Consumer Protection Regulations, particularly those that do not become AMSA members. AMSA firmly believes this category of movers should be the subject of State enforcement. Clearly, as a class, they are potential violators of the FMCSA regulations, either out of ignorance or disregard of the necessity of compliance. Unfortunately, operators that fall into the latter category are not in business to perform a legitimate moving service. Rather, they are in business solely to take advantage of consumers, violating the Federal regulations and committing acts of extortion or fraud. Once again, this is the category of operators that should be targeted by State enforcement agencies.

AMSA's established mover members transport more than 80 percent of the 1.5 million interstate shipments transported annually and, to my knowledge, without prosecutions alleging extortion, fraud or other egregious conduct. As my testimony indicated, established movers experience loss, damage and delay-type claims, disputes over pickup or delivery, payment disagreements and other operation-related issues. To a large extent this is the nature of the moving business. These issues existed when the Interstate Commerce Commission regulated the moving industry and they will continue to exist under the regulatory control of FMCSA, and they will be resolved by legitimate movers. However, in the past several years rogue mover abuses have painted established movers with the same proverbial "brush", resulting in more Federal consumer protection requirements in the form of paperwork, information to consumers, and operational and consumer recourse requirements. Under this increased consumer protection process, established movers will comply with the new regulatory requirements while unlawful operators will ignore those requirements. So there is no question on the point, it is the legitimate moving industry's position that consumer shippers should not have to wait for action through the courts, initiated by either the States or the FMCSA, to retrieve their household goods from a rogue mover that is holding their shipment hostage. Immediate action must be taken to assist those consumers. The States and the FMCSA should have enforcement personnel dedicated to responding to allegations of hostage freight to ensure that consumers receive delivery of their goods upon tender of payment of no more than the amount lawfully due at delivery.

Based on the foregoing, AMSA, as the representative of the legitimate moving industry, submits that the current enforcement structure contained in sections 14710 and 14711 of the Interstate Commerce Act serves the interests of consumer shippers and results in the most efficient use of State and Federal enforcement resources. The essential service performed by the legitimate moving industry should not be needlessly subjected to enforcement of every aspect of their operations by 50 States."

Again, thank you for providing this important and relevant question for AMSA to respond to.

ATTACHMENT

Unlawful Movers Engaged in the Interstate and Intrastate Transportation of Household Goods

Mover	Date Granted Interstate Operating Authority	FMCSA Action or Status (period operated)
Advanced Moving Systems Inc. (MC–398043)	1/11/01	Revoked 5/8/03 (1 year, 5 months)
Majesty Moving & Storage, Inc. (MC–367882)	4/10/00	Revoked 2/6/03 (2 years, 10 months)
Apollo Van Lines, Inc. (MC–367883)	5/10/00	Revoked 5/7/01, Reinstated 5/30/01, Revoked 5/6/02 (2 years)

Unlawful Movers Engaged in the Interstate and Intrastate Transportation of Household Goods—Continued

Mover	Date Granted Interstate Operating Authority	FMCSA Action or Status (period operated)
America's Best Movers	None	Operated without FMCSA authority
First Class Moving, Inc. (MC–423603)	None	Application dismissed 2/21/02; operated without FMCSA authority
The Movers Express	None	Operated without FMCSA authority
Star Movers, Inc. (MC–410682)	9/4/01	Revoked 3/20/02 (6 months)
All Points U.S.A. Relocation Systems, Inc.	4/23/98	Revoked 1/15/03 (4 years, 9 months)
Century Express Van Lines, Inc. (MC–389463)	2/1/02 (common)	Revoked 5/30/03 (1 year, 3 months)
	9/11/00 (contract)	Revoked 5/30/03 (2 years, 9 months)
Elite Van Lines Moving & Storage Inc. (MC–412141)	8/30/01	Placed out of service 1/8/03 (1 year, 4 months)
Express Van Lines, Inc. (MC–404952)	None	Application dismissed 5/8/01; operated without FMCSA authority
Moving System, Inc. (MC–386956)	7/17/00	Revoked 9/24/01 (1 year, 2 months)
AAA Van Lines, Inc. (M–411460)	None	Never granted for lack of insurance; operated without FMCSA authority
Ameri Van Lines, Inc. (MC–420033)	12/5/01	Placed out of service 2/21/03 (1 year, 2 months)
SI Trucking, Inc. (MC–360020)	7/1/99	Revoked 2/2/01 (1 year, 7 months)
Southeastern Van Lines, Inc. (MC–396720)	1/18/02	Revoked 7/10/03; (1 year, 7 months); Broker license revoked 12/29/00
Nationwide Moving Systems LLC (MC–442699)	None	Dismissed 11/7/02; operated without FMCSA authority
Northstar Moving	None	Operated without FMCSA authority
American Star Moving & Storage LLC (MC–462635)	None	Operated without FMCSA authority

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