



STATE OF WASHINGTON
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

March 20, 2013

Steven V. King, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. John Chi International Corp.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-130204

Dear Mr. King:

On March 5, 2013, the Washington Utilities and Transportation Commission issued a \$600 Penalty Assessment in Docket TE-130204 against John Chi International Corp. (John Chi) for six violations of WAC 480-30-071, which requires Charter and Excursion companies to file annual safety reports with the Commission by December 31 each year; and WAC 480-30-076, which requires such companies to pay regulatory fees annually on that date.¹

On March 12, 2013, John Chi responded to the commission, requesting mitigation of the penalty. In its mitigation request, John Chi does not dispute that the violations occurred. The company indicates that it is operated by only Mr. Chi and that he was in Asia for a business fair and some personal matters during the time the report was required to be filed. Mr. Chi states that he had no intention of breaking the rules. Mr. Chi also states that the annual report process is new to him. He requests reconsideration of the penalty.²

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the December 31 deadline. On November 15, 2012, the commission mailed 2012 Annual Safety Report forms and 2013 regulatory Fee packets to Charter and Excursion companies registered in Washington state. A letter from the commission's Assistant Director for Transportation Safety, David Pratt, instructed these companies to file annual reports and pay regulatory fees by December 31, 2012. The letter stated failure to file the annual report by December 31 would result in a penalty and possible cancellation of the company's permit to

¹ See Attachment A for a copy of the penalty assessment sent to John Chi International Corp.

² See Attachment B for a copy of the letter submitted by the company on March 12, 2013.

operate in Washington. Those companies wishing to request an extension to file the annual report were asked to do so prior to December 31, providing a reason for the requested extension. No extension was requested.³

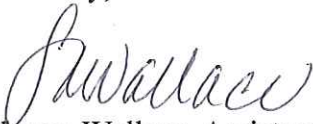
On January 7, 2013, the commission issued a notice to companies that had not yet filed their annual report and paid regulatory fees, informing these companies that they were subject to enforcement action, including the assessment of penalties beginning to accrue on that date. Companies that filed their annual reports and paid regulatory fees after January 7, 2013, but on or before January 18, 2013, are subject to penalties that the commission uses its discretion to mitigate to \$25 per day if the company had not made these filings late in prior years. Companies that were late in prior years are subject to an additional \$25 per day for each year in which they were late up to a total of \$100 per day. For first time late-filers who filed their report after January 18, the commission will mitigate the penalties to 50 percent of the maximum permissible amount. No further mitigation will be granted unless the company provides new information that is unrelated to these factors. Mitigation will not be granted on the basis that a company was unaware a report must be filed.⁴

John Chi filed its 2012 annual safety report and paid its 2013 regulatory fee on January 23, 2013. That date is 12 business days past the January 7, 2013, notice date when penalties began to accrue, resulting in a potential penalty assessment of \$1,200 (\$100 per day times 12 days). John Chi has not previously missed the deadline for filing its annual report and paying its regulatory fees. The commission therefore mitigated the penalty by 50 percent to a total assessed penalty of \$600.

Staff does not support mitigating the \$600 penalty assessment further. The penalty was already administratively mitigated by 50 percent, from \$1,200 to \$600. In addition, the penalty assessment states mitigation will not be granted on the basis that a company was unaware a report must be filed. Staff recommends denying the mitigation request.

If you have questions regarding this recommendation, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105, or at mperkinson@utc.wa.gov.

Sincerely,



Sharon Wallace, Assistant Director
Consumer Protection and Communications

³ See Attachment C for a copy of the letter sent to all regulated companies on November 15, 2012.

⁴ See Attachment D for a copy of the Enforcement letter sent to all delinquent companies on January 7, 2013.

Attachment A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

**PENALTY ASSESSMENT: TE-130204
PENALTY AMOUNT: \$600**

**JOHN CHH
JOHN CHH INTERNATIONAL CORP.
10538 NE 24TH ST.
BELLEVUE, WA 98004**

According to the Washington Utilities and Transportation Commission (Commission) records, you have committed violations of two Commission rules: (1) Washington Administrative Code (WAC) 480-30-071, which requires Charter and Excursion companies to file annual safety reports with the Commission by December 31 each year; and (2) WAC 480-30-076, which requires such companies to pay regulatory fees annually on that date. You are classified as a Charter and Excursion company. Commission records show that you did not file an annual safety report or pay annual regulatory fees by December 31, 2012.

Revised Code of Washington (RCW) 81.04.405 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each and every such violation shall be a separate and distinct offense and, in the case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. The Commission interprets noncompliance with WAC 480-30-071 and WAC 480-30-076 as continuing violations, giving rise to penalties of \$100 for each day a company fails to make each requisite filing after the date on which it was due.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$600 on the following basis:

On November 15, 2012, the Commission mailed 2012 Annual Safety Report forms and 2013 Regulatory Fee packets to Charter and Excursion companies registered in Washington state. A letter from the Commission's Assistant Director for Transportation Safety, David Pratt, instructed these companies to file annual reports and pay regulatory fees by December 31, 2012. The letter stated failure to file the annual report by December 31 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual report were asked to do so prior to December 31, providing a reason for the requested extension. No extension was requested.

On January 7, 2013, the Commission issued a notice to companies that had not yet filed their annual report and paid regulatory fees, informing these companies that they were subject to enforcement action, including the assessment of penalties beginning to accrue on that date. Companies that filed their annual reports and paid regulatory fees after January 7, 2013, but on or before January 18, 2013, are subject to penalties that the Commission uses its discretion to mitigate to \$25 per

PENALTY ASSESSMENT TE-130204

PAGE 2

day if the company had not made these filings late in prior years. Companies that were late in prior years are subject to an additional \$25 per day for each year in which they were late up to a total of \$100 per day. For first time late-filers who filed their report after January 18, the Commission will mitigate the penalties to 50 percent of the maximum permissible amount. No further mitigation will be granted unless the company provides new information that is unrelated to these factors. Mitigation will not be granted on the basis that a company was unaware a report must be filed.

John Chi International Corp., filed its 2012 Annual Safety Report and paid its 2013 Regulatory Fee on January 23, 2013. That date is 12 business days past the January 7, 2013, notice date when penalties began to accrue, resulting in a potential penalty assessment of \$1,200 (\$100 per day times 12 days). John Chi International Corp., has not previously missed the deadline for filing its annual report and paying its regulatory fees. The Commission, therefore, exercises its discretion to mitigate the penalty by 50 percent to a total assessed penalty of \$600.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 81.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.


You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due;
- Request a hearing to contest the occurrence of the violations; or
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission will then sue you to collect the penalty.

DATED at Olympia, Washington, and effective March 5, 2013.



GREGORY J. KOPTA
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-130204

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred. I have:
- Enclosed \$600 as payment of the penalty.
 - Submitted my payment of \$600 online at www.utc.wa.gov. My confirmation number is _____.
2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge for a decision by an administrative law judge:
3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reason(s) set out below.
- a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.
- OR b) I waive a hearing and ask for an administrative decision on the information I present directly above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

Attachment B

To whom it might Concern:

Mar08/2013

This is a letter to clear what was happened to me. Our company was resisted as a legal company base in Seattle and there is only one person with business consulting firm and to be regulate my van as commercial van just start from last Summer and this is total new to me.

I was in Asia for a business fair and some of my personal matter during the Safety report returns perate time and I was responding as soon as I am back from Asia. The penalty with late payment only around two weeks since I was out of the county and was unable to do so since I am the only one in the company .

I do not have any intentions to break the rule and I am just a simple working individual like anyone else. In fact I did call Tina as soon as I found out the letter she sent to me and completed the request right way.

As a government agency or industry officials I am highly appreciated that if your could re-considerate my case and I am sure that it will not happen again.....

If you have any questions please feel free to contact with me at my cell: (206)-779-9998.

Yours Truly



John Chi

2013 MAR 12 PM 2:19
COMMUNICATIONS MANAGEMENT
DEPT

RECEIVED

MAR 12 2013

WASH. UT. & TP. COMM

Attachment C



STATE OF WASHINGTON
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

November 15, 2012

**Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due
December 31, 2012**

You are required to file an annual safety report and pay regulatory fees if you operate as a charter or excursion company.

What is required?

By December 31, you must:

- Complete and file the enclosed 2012 annual safety report form.
- Pay your 2013 regulatory fees.

If you are using U.S. postal mail to send your annual safety report and pay your regulatory fee, the envelope must be postmarked by Monday, December 31, 2012. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Monday, December 31, 2012.

Failure to file or mail your annual safety report or pay regulatory fees by December 31, 2012 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.

What happens if you do not pay your regulatory fees by December 31?

If regulatory fees are not paid by December 31, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

Can you request an extension of time if you are unable to file the annual safety report by December 31?

Yes, you must provide the request in writing, including a valid reason for the extension by December 31. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by December 31. If you are late filing your annual safety report or fail to file, you could incur additional penalties up to \$100 a day.



November 15, 2012

Page 2

May you perform some of these tasks online?

Yes. You may complete the following tasks from the annual reports page at the UTC website www.utc.wa.gov/annualreports:

- Obtain electronic versions of annual report forms
- Pay regulatory fees
- File your report electronically
- Cancel your permit if your company ceased operations in 2012.

What if you didn't operate during the year?

You must indicate this on the report and regulatory fee sheet that you've had no operations, include the minimum \$25 fee and return both forms to the commission. If you are no longer using your charter or excursion authority and wish to cancel it, go to our website at www.utc.wa.gov and locate the, "voluntary permit cancellation form" or call us at (360) 664-1222 and we'll mail you the form.

Where do you mail the completed annual safety report form and regulatory fee payment?

Washington Utilities and Transportation Commission

PO Box 47250

Olympia, WA 98504-7250

Where can you obtain an electronic version of the annual safety report?

Forms are available on our website at www.utc.wa.gov. Locate "Quick Links" then select "2012 annual safety report".

Who do you contact if you have questions?

You may call Tom McVaugh at (360) 664-1237 or e-mail him at tmcvaugh@utc.wa.gov for questions related to the annual safety report. If you have questions calculating your regulatory fee, penalties or interest, call Rae Lynn Carnes at (360) 664-1152 or e-mail her at rcarnes@utc.wa.gov. If you need this information in an alternate format, please call (360) 664-1133. TTY Toll Free phone number is (800) 416-5289 or (360) 586-8203.

Sincerely,



David Pratt

Assistant Director, Transportation Safety

Enclosures

Attachment D



STATE OF WASHINGTON
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1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
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January 7, 2013

NOTICE OF ENFORCEMENT ACTION

Attention!

Your 2012 annual safety report and regulatory fees to the Utilities and Transportation Commission (commission) were due December 31, as required by law. **Financial penalties of \$100 per day begin accruing today, January 7.** The penalty will increase by \$100 per day for each additional day you fail to comply.

How do you mitigate your penalty?

If the commission receives your report **postmarked no later than January 18**, commission staff will mitigate your penalty to \$25 per day. Additional penalties of \$25 per day will be added for each year you have filed a delinquent annual safety report in the past five years, up to a maximum of \$100 per day.

Where do you mail or fax the completed annual safety report form?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250
Fax: (360) 664-1289

Annual safety report forms are available on the commission's website at www.utc.wa.gov. If you have questions calculating your regulatory fee, penalties or interest, contact Rae Lynn Carnes at (360) 664-1152 or rcarnes@utc.wa.gov. If you require additional information, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or mperkinson@utc.wa.gov. If you need this information in an alternate format, please call (360) 664-1133. TTY Toll Free phone number is (800) 416-5289 or (360) 586-8203.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Danner".

David W. Danner
Executive Director and Secretary

