



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

September 10, 2013

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

RE: *Washington Utilities and Transportation Commission v Olympic Moving & Storage, Inc.,
Kris and Lauri O'Bannon* Commission Staff's Response to Application for Mitigation of
Penalties Docket TV-131510

Dear Mr. King:

On August 16, 2013, the Utilities and Transportation Commission issued a \$4,700 Penalty Assessment in Docket TV-131510 against Olympic Moving & Storage, Inc. (Olympic Moving), Kris and Lauri O'Bannon for 47 violations of Washington Administrative Code (WAC) 480-15-187, which requires household goods carriers to file an application with the commission prior to transferring or acquiring control of an existing household goods permit.¹

On August 29, 2013, Kris O'Bannon, wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, Olympic Moving does not dispute that the violation occurred.² The company owner stated, "We understand that we failed to file an application to acquire control of Bekins Northwest, which warrants a penalty. Immediately following this acquisition, we were diligently working on gathering all the information and documents required, however it took more time that what was allotted. Our applications have since been submitted and received by you. We respectfully request your consideration for a reduced penalty. Thank you for your consideration."

¹ See attachment A for a copy of the penalty assessment sent on August 16, 2013 to Olympic Moving & Storage, Kris and Lauri O'Bannon.

² See attachment B for a copy of Olympic Moving & Storage, Kris and Lauri O'Bannon Mitigation Request received by the Commission on August 29, 2013.

It is the company's responsibility to file an application with the commission prior to transferring or acquiring control of an existing household goods permit. Kris and Lauri O'Bannon acquired at least two locations operated by Bekins Moving & Storage Co., d/b/a Bekins Northwest (Bekins Northwest) on July 1, 2013.

Staff found the Mountlake Terrace and Yakima locations for Bekins Northwest (permit number HG-908) are now owned and operated by Kris and/or Lauri O'Bannon. Staff contacted the Licensing Services Section of the commission on August 16, 2013, and confirmed that an application to transfer permit number HG-908 had not been received.

Washington State Department of Revenue (DOR) records identify the following accounts:

<u>Entity Name</u>	<u>Business Name</u>	<u>Acct. Opened</u>	<u>Location</u>
Northwest Movers, LLC	Bekins Northwest	07/01/13	Mt. Lake Terrace
Northwest Movers Central LLC	Bekins Northwest	07/01/13	Yakima

The Corporations Division of the Secretary of State (SOS) shows the following:

<u>Entity Name</u>	<u>Date Filed</u>	<u>Governing Person or Agent</u>
Northwest Movers LLC	12/11/12	Lauri O'Bannon
Northwest Movers Central LLC	06/20/13	Kris O'Bannon / Lauri O'Bannon

According to commission records, Bekins Northwest is a trade name registered to Bekins Moving & Storage Co. under permit No. HG-908. When staff contacted the Bekins Northwest Mt. Lake Terrace office by telephone on Aug. 16, 2013, the employee who answered the telephone stated that the company was purchased by Olympic on July 1, 2013. The employee's report is consistent with DOR records.

Staff believes the acquisition of Bekins Northwest has been in process for many months, as evidenced by registration of the entity name Northwest Movers LLC on Dec.11, 2012, with the SOS.

Staff additionally believes the following factors support the recommended penalties:

1. How serious or harmful the violation is to the public.

These violations were potentially harmful to the public. If the commission does not have accurate ownership information about a regulated company, it cannot assist consumers with informal complaints. The commission is also unable to provide accurate information about the company's complaint history and permit status to consumers.

2. Whether the violation is intentional.

Kris and Lauri O'Bannon are familiar with the commission's requirement to submit an application prior to acquiring control of a permitted company, as outlined in WAC 480-15-187. For example, the O'Bannons filed the application as required on March 4, 2009, in Docket TV-081849, when Kris O'Bannon acquired control of Nowadnick and Sons,

Inc. Again, on June 26, 2013, in Docket TV-130497, Lauri O'Bannon acquired control of Bellingham Transfer & Storage, Inc. and filed the application as required. Past compliance with commission rules creates a presumption that non-compliance is intentional.

Commission staff has an unrelated pending compliance investigation into the business practices of Olympic.

3. Whether the company self-reported the violation.

The company's failure to self-report gave rise to the violation. The company did not file its application until it received the \$4,700 penalty assessment. But for the commission staff investigation and resulting penalty, the company may have failed to report the acquisition for an indefinite period of time.

Recommendation

Because the company has not presented any new or compelling information, staff does not support mitigation. Staff recommends a penalty of \$100 per day from July 1 to Aug. 16, 2013, for failure to file an application with the commission to transfer or acquire control of the two Bekins Northwest locations, in violation of WAC 480-15-187 for a total penalty of \$4,700.

If you have any questions regarding this recommendation, please contact Lynda Holloway, Compliance Investigator, at (360) 664-1129, or lholloway@utc.wa.gov.

Sincerely,



Sharon Wallace, Assistant Director
Consumer Protection and Communications

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-131510
PENALTY AMOUNT: \$4,700

OLYMPIC MOVING & STORAGE, INC.
KRIS AND LAURI O'BANNON
935 POPLAR ST SE
OLYMPIA, WA 98501-2100

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-15-187, which requires you to file an application with the commission prior to transferring or acquiring control of an existing household goods permit.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for every such violation. Under this statute, each and every violation is considered a separate and distinct offense and, in the case of a continuing violation, each day the violation continues is considered a separate and distinct violation.

Commission staff obtained evidence that Kris and/or Lauri O'Bannon, owners of Olympic Moving & Storage, Inc., et. al, failed to file an application with the Commission before acquiring two locations formerly operated by Bekins Moving & Storage Co., d/b/a Bekins Northwest on July 1, 2013, in violation of WAC 480-15-187.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$100 per day from July 1, 2013, to Aug. 16, 2013, resulting in a total penalty of \$4,700 for the following violations:

- Failure to file an application to acquire control of authority for Bekins Northwest, located in Mountlake Terrace, WA and Yakima, WA.
47 VIOLATIONS: WAC 480-15-187

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violations that you think 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.
- 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 may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective August 16, 2013.

GREGORY J. KOPTA
Director, Administrative Law Division

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-131510

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 \$4,700 in payment of the penalty

[] Submitted my payment of \$4,700 online at www.utc.wa.gov. My confirmation number is _____.

[] 2. **Request for a hearing.** I believe that the alleged violation 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 violation, but I believe that the penalty should be reduced for the reason(s) set out below.

Please see Attached

[] 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: 8/29/13 [month/day/year], at Olympia, WA [city, state]

Kris O'Bannon/Olympic Moving Storage
Name of Respondent (company) - please print + [Signature] Signature of Applicant
Bekins Northwest

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."

2013 SEP 10 AM 8:36

Dear Mr. Kopta:

We understand that we failed to file an application to acquire control of authority for Bekins Northwest, which warrants a penalty. Immediately following this acquisition, we were diligently working on gathering all the information and documents required, however it took more time than what was allotted. Our applications have since been submitted and received by you. We respectfully request your consideration for a reduced penalty. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kris O'Bannon', with a stylized flourish extending to the right.

Kris O'Bannon

