



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

July 1, 2014

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. Aloha Joe Movers, LLC*

Commission Staff's Response to Application for Mitigation of Penalties TV-140941

Dear Mr. King:

On June 4, 2014, the Utilities and Transportation Commission issued a \$500 Penalty Assessment in Docket TV-140941 against Aloha Joe Movers, LLC for 5 violations of Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to furnish annual reports to the commission no later than May 1 each year.¹

On June 17, 2014, Aloha Joe Movers, LLC wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Aloha Joe Movers, LLC does not dispute that the violation occurred. The company provided an unexpected out of country vacation and the reliance of family members to mail the report with no prior late filings as supporting information for the mitigation request.

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated household goods companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

On May 8, 2014, Aloha Joe Movers, LLC. filed the 2013 annual report and paid the required regulatory fees and late payment penalty. The company has been active since September 23, 2004. No previous violations of WAC 480-15-480 are on commission record. Staff supports

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

UTC Annual Reports
July 1, 2014
Page 2

the company's request for mitigation as this is the company's first delinquent filing. Staff recommends a reduced penalty of \$25 per day resulting in a total penalty assessment of \$125.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or aandrews@utc.wa.gov.

Sincerely,

Sondra Walsh, Director
Administrative Services

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-140941
PENALTY AMOUNT: \$500

Aloha Joe Movers, LLC
1402 Auburn Way #301
Auburn, WA 98002

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 81.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-15-480 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$500 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all household goods carrier companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

On May 8, 2014, Aloha Joe Movers, LLC filed its 2013 annual report and paid its 2014 regulatory fee. May 8 is 5 business days from May 1, resulting in a total penalty of \$500.

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. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request.

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will 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, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-15-450 to cancel your permit to operate as a household goods carrier in Washington.

DATED at Olympia, Washington, and effective June 4, 2014.

DENNIS J. MOSS
Administrative Law Judge

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140941

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 \$ _____ in payment of the penalty

Submitted my payment of \$ _____ 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, for the reasons I describe below, and I request a hearing based on those reasons 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 reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR b) I ask for a Commission decision based solely on the information I provide 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.”

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers’ Mitigation Request received on June 17, 2014

ATTACHMENT B

RECEIVED

JUN 17 2014

UT. & TP. COMM

To whom it may concern,

This is to acknowledge receipt of your letter dated June 4, 2014.

I would like to explain the circumstances that caused me to file my annual report late. Just prior to filing, my wife surprised me with a vacation for our 21st anniversary. I completed the report the day before we departed and unfortunately learned that I was out of stamps even though I had just purchased a book the day prior for this reason. My graduating senior, not realizing I needed them, used all the stamps for her graduation announcements. I left money for stamps and asked my daughters to mail the report while I was gone and unfortunately they did not realize the importance of doing this in a timely manner. When I arrived home, the envelope was still on the counter.

I have attached my itinerary and I can provide further travel documentation if needed to show that I was indeed out of the country.

I take reporting my business very seriously and am embarrassed to be providing an excuse. It is very unlike me and I hope you can understand. As you can tell, business has been slow. A \$500 fine would cripple my business. I've never been late before and if I hadn't gone on vacation I would have not been late this time either. I would greatly appreciate it if the commission could understand my situation and waive the penalty. I can assure you this will never happen again.

Sincerely,



Joe Ness

Owner Aloha Joe Movers

(206) 423-0041

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

https://mail.google.com/mail/u/0/?tab=wm#inbox/1459c34209c3159f Delta Reservation Itinerary

Go

Gmail

COMPOSE

Inbox (3,909)
Important
Sent Mail
Drafts
Spam (114)
Circles
fresh import
Notes
Personal
angies list
barney stocks (1)
lake house
smith barney
st maartens
Travel
More

You are invisible.
[Go visible](#)

Search people

- ✓ Daron Williams
- ✓ Robert Rivers
- ✓ Emily Kukors
- ✓ gerry genome
- ✓ Jason Tracy
- ✓ Jessica Andriessen
- ✓ Jose&Maria Velas...
- ✓ Lauren Mang
- ✓ Nahed Hadjisoffi
- Robert Walzer

Flights to Hawaii - [www.alaskaair.com](#) - Great Deals on Hawaii Flights. Get our Lowest Fares Guaranteed!

Delta Reservation Itinerary inbox x

Delta Air Lines Flight 440
May 4 - Confirmation Number: 614

San Jose, CA	Seattle, WA
7:15 AM	10:10 AM

Delta Air Lines 161
JFK to SJC, Apr 30, 9:00 AM

Delta Air Lines 319
SJC to ATL, May 2, 1:45 PM

Delta Air Lines 1250
ATL to LGA, May 2, 11:30 AM

Delta
LINK

Delta Air Lines <DeltaAirLines@delta.com>
to joe

[delta.com](#) [My Trips](#) [Earn Miles](#)

YOUR ITINERARY AND PASSENGER DETAILS

Your Delta Confirmation #: **6KSE44**

Thank you for choosing Delta. This information is a copy of your itinerary and not a receipt. If you are holding this Itinerary, be sure to complete your purchase before the deadline by calling 1-800-221-1212. For a complete list of world wide phone numbers, please visit [www.delta.com/contact_us](#).

Your Flight Information

Sat 26APR				
Lv 9:00am	NYC-KENNEDY	At 1:10pm	ST MAARTEN	DELTA 461 ECONOMY (X) Confirmed Food Available For Purchase
Sat 03MAY				
Lv 3:40pm	ST MAARTEN	At 8:15pm	ATLANTA	DELTA 919 ECONOMY (T) Confirmed

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140941

RECEIVED

JUN 17 2014

WASH. UT. & TP. COMM

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 \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ 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, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[X] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [X] b) I ask for a Commission decision based solely on the information I provide 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: 6-15-14 [month/day/year], at Auburn, WA [city, state]

Joseph W. Nuss
Name of Respondent (company) - please print

[Signature]
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."

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Aloha Joe Movers' Mitigation Request received on June 17, 2014