



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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February 14, 2018

Steven V. King, 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. Stockton-Julian, Janine, d/b/a The Vine Travelers*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-180076

Dear Mr. King:

On January 24, 2018, Motor Carrier Safety Investigator Wayne Gilbert completed a routine safety investigation of Stockton-Julian, Janine d/b/a The Vine Travelers (Vine Travelers). A safety investigation is an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where noncompliance is so severe as to require immediate corrective actions regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls.

Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and unusually higher than average accident rates.<sup>2</sup> Mr. Gilbert documented ten violations of critical regulations, all of which were first-time violations, resulting in a satisfactory safety rating.

The Washington Utilities and Transportation Commission's (Commission) Enforcement Policy, however, provides that some Commission requirements are so critical to safe operations that it may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues. The Commission will assess penalties for any repeat violations of critical regulations, including for each occurrence of a repeat violation.<sup>3</sup>

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1 Code of Federal Regulations, Appendix B to Part 385—Explanation of safety rating process

2 *Id.*

3 Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation of Title 49 CFR Part 391. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On February 5, 2018, the Commission issued a penalty assessment against Vine Travelers in the amount of \$1,000 for violation of WAC 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion companies to comply with Title 49 CFR Part 391 – Qualifications of Drivers:

- **Ten violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined or certified.** Vine Travelers allowed employee Janine Stockton-Julian to drive without a current medical certificate on ten occasions during the six months preceding the safety investigation. Ms. Stockton-Julian drove on July 29, August 6, 12, 23, September 3, 23, October 21, November 4, 18, and December 23, 2017.

On February 12, 2018, Vine Travelers filed with the Commission its application for mitigation of penalties (Mitigation Request). Janine Stockton-Julian, owner of Vine Travelers, admitted the violations, and asked that the penalties be reduced for the reasons set out in staff's response. Staff provides its response below:

- **Mitigation Request: Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** Vine Travelers' request for mitigation did not address this violation. However, in the company's 15-day response letter to the Commission, Vine Travelers stated that it will comply with FMCSA regulations and will ensure that its driver's maintain valid medical certificates. When Vine Travelers realized the company was out of compliance, it corrected the violations by renewing its medical certification prior to closing of the investigation.

**Staff Response:** It is Vine Travelers responsibility to ensure that its drivers have current medical certificates, and that the company not allow its drivers to operate a motor vehicle when a medical certificate has expired. Vine Travelers, however, promptly corrected these first-time violations prior to the closure of the safety investigation. Therefore, staff recommends the Commission reduce the penalty by half, for a total of \$500.

Vine Travelers is a small company with one driver and one commercial vehicle. In 2017, the company reported \$14,850 in gross revenue and 8,461 miles traveled.

If you have any questions, please contact Justin Raub, Compliance Investigator, Consumer Protection, at (360) 664-1108, or by e-mail at [justin.raub@utc.wa.gov](mailto:justin.raub@utc.wa.gov).

Sincerely,



Bridgit Feeser  
Assistant Director, Consumer Protection