



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 • TTY (360) 586-8203

RE: **MANDATORY APPEARANCE BEFORE ADMINISTRATIVE LAW JUDGE**
Unlawful Activity as a Charter Party and Excursion Service Carrier in Violation of
RCW 81.70.220
Docket TE-180826

Dear Benjamin Luca and Diana Niemann; Exotours, LLC d/b/a Exobus:

It has come to the Commission's attention that Exotours, LLC d/b/a Exobus is engaging in the business of a charter party and excursion service carrier without a certificate authorizing such operations. Revised Code of Washington (RCW) 81.70.220(1) states that "No person may engage in the business of a charter party carrier or excursion service carrier of passengers over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier."

The Commission is initiating an enforcement action against you and your company. This letter and its attachments are the Commission's formal demand that you cease operating until you obtain the required certificate for your charter party and excursion carrier service. Until you obtain that certificate, you must also stop all advertising of your company's charter services. Failure to do so may result in a serious financial penalty.

Please be aware that operating as a charter party and excursion service carrier without the required certificate is illegal and subject to a penalty of up to \$5,000 per violation. The penalty for advertising for charter party and excursion services without a certificate is also up to \$5,000 per advertisement.

As the attached documents explain, you are now **REQUIRED TO APPEAR** in Olympia before one of the Commission's Administrative Law Judges **on November 14, 2018, at 9 a.m.** The basis for the Commission's enforcement action is explained in the attached Order and the supporting Declaration of Jason Hoxit. The subpoena details the requirement for you to appear at the preliminary hearing about your uncertificated business.

At your hearing, the judge will explain the laws and rules governing the charter party and excursion carrier services industry and explain your rights under the Commission's enforcement process. When you appear before the judge, you should be prepared to take one of the following actions:

Option A- Cease Operating as a Charter Party or Excursion Service Carrier

The Administrative Law Judge will allow you to testify, under oath, that you have shut down your business. You should be prepared to explain specific actions you have taken to dissolve your company and to discontinue any advertising you may have previously arranged (websites, phone books, newspapers, etc.). This does not stop you from reapplying for a charter party and excursion service carrier certificate. It simply means that you will cease illegal operations until you do. Should you choose to apply for a certificate, in advance of the hearing and the Commission deems you eligible to receive a temporary certificate, you may present that information at the hearing.

Option B- Contest the Applicability of RCW 81.70.220 to Your Company

The Administrative Law Judge will schedule a formal evidentiary hearing. At that time, you will be required to present proof that your business is *not* within the regulatory jurisdiction of the Commission. If you win your case, the judge will dismiss the Commission's complaint against you. If you lose your case, you will need to proceed under Option A or risk further enforcement action by the Commission.

As you prepare for your preliminary hearing, you may find the Commission's informational handouts included in this packet to be helpful. You might also wish to review the laws and related rules governing your business. These include:

- RCW Chapter 81.70
- Washington Administrative Code (WAC) Chapter 480-30

These legal resources and other helpful items can be found on the Commission's website: www.utc.wa.gov. If you have any questions about the certificate application, the Commission's Licensing Services staff is available at (360) 664-1222.

If you have any questions about your obligations under the law and your mandatory appearance, Jason Hoxit, Compliance Investigator, is available at (360) 664-1320 or Jason.Hoxit@utc.wa.gov.

Thank you for your cooperation.

Sincerely,

Mark L. Johnson
Executive Director and Secretary

Attachments:

- 1) Order 01- *Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Mandatory Appearance at Hearing (set for November 14, 2018)*
- 2) Subpoena
- 3) Declaration of Jason Hoxit
- 4) Application Packet for Charter Party and Excursion Service Carrier certificate
- 5) UTC Informational Handouts
 - a. Motor Carrier Overview
 - b. Transportation Fact Sheet
 - c. Motor Carrier Insurance Requirements