



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION  
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November 13, 2017

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. JPH International, Inc.*  
*d/b/a A&A Airport Limousine Service*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-170986

Dear Mr. King:

In September 2017, Motor Carrier Safety Investigator Francine Gagne conducted a routine safety investigation of JPH International, Inc. d/b/a A&A Airport Limousine Service (A&A Limousine). A safety investigation is an in-depth examination of a company's compliance with regulations that the Federal Motor Carrier Safety Administration has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where non-compliance is so severe as to require immediate corrective action 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> Ms. Gagne documented 172 violations, 134 of which were of critical regulations, resulting in a conditional safety rating.

The Washington Utilities and Transportation Commission's (Commission) Enforcement Policy provides that some Commission requirements are so essential to safe operations that the Commission may issue penalties for a first-time violation, even if Commission staff has not previously provided technical assistance on specific issues. The Commission will assess

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

<sup>2</sup> *Id.*

penalties for any repeat violations of critical regulations, including for each occurrence of a repeat violation.<sup>3</sup>

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. RCW 81.04.530 allows penalties of \$500 for each driver employed who is not in compliance with the motor vehicle driver drug and alcohol testing requirements. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On October 19, 2017, the Commission issued a penalty against A&A Limousine in the amount of \$1,700 for violations of Washington Administrative Code (WAC) 480-30-221 Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 382 Controlled Substances and Alcohol Use and Testing, Part 391 – Qualifications of Drivers and Part 395 – Hours of Service of Drivers, as follows:

- **Three violations of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** A&A Limousine assigned drivers William Johnson, William Ronan, and Edwin Lyle to safety sensitive functions prior to receiving an approved negative pre-employment controlled substance test result.
- **Six violations of Title 49 CFR Part 391.51(b)(6) – Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.** The company failed to maintain three years of drivers' abstracts as required.
- **Seventeen violations of Title 49 CFR Part 395.8(a) – Failing to require driver to prepare a record of duty status using appropriate method.** Driver Stuart Thompson failed to prepare a complete daily record of duty status on 17 occasions.

On October 30, 2017, the Commission received an application for mitigation of penalties from A&A Limousine. In the application, Vice-President of Operations, Jess Sandhu admitted the violations, stated that the violations have been corrected, and requested mitigation of the penalties.

- **Mitigation Request: Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** A&A Limousine operates both charter and limousine businesses. Mr. Sandhu explained that the company mistakenly placed driver Bill Johnson in the limousine sample pool, which does not meet federal requirements. The company also failed to place part-time drivers William Ronan and Edwin Lyle in the sample pool. The company immediately corrected these violations and all three drivers have been tested with the required negative result.

**Staff response:** The assessed penalty is \$1,500 for three violations of this type. Staff considered the nature of these violations and the company's willingness to quickly correct them and recommends mitigation of the penalty to \$500.

- **Mitigation Request: Title 49 CFR Part 391.51(b)(6) – Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.** A&A Limousine now understands the requirement to run and maintain driver violation records (abstracts) and has a procedure in place to ensure future compliance.

**Staff response:** The assessed penalty for these six first-time violations is \$100. Although the company quickly corrected the violations, staff recommends no further mitigation of this penalty.

- **Mitigation Request: Title 49 CFR Part 395.8(a) – Failing to require driver to prepare a record of duty status using appropriate method.** A&A Limousine now understands the required method of tracking driver hours, and has a new form and procedures in place to ensure future compliance.

**Staff response:** The assessed penalty for these 17 first-time violations is \$100. Although the company quickly corrected the violations, staff recommends no further mitigation of this penalty.

Staff appreciates the company's willingness to admit and correct these critical violations. In consideration of the company's actions, staff recommends mitigation of the original \$1,700 penalty to \$700.

If you have any questions, please contact Mike Turcott, Compliance Investigations Supervisor, Consumer Protection, at (360) 664-1174, or by email at [miturcot@utc.wa.gov](mailto:miturcot@utc.wa.gov).

Sincerely,



Bridgit Feeser  
Assistant Director, Consumer Protection