

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against RYAN'S EXPRESS
MOTORCOACH D/B/A RYAN'S
EXPRESS MOTORCOACH A
CALIFORNIA CORPORATION in the
Amount of \$100

DOCKET TE-100276

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Investigator in the Compliance Investigations Section. I have been employed at the Commission for 18 years, holding various positions. As a Compliance Investigator, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate charter and excursion carriers that may be operating in violation of Commission statute or rule.
3. On March 1, 2010, Daniel Azar, on behalf of Ryan's Express Motorcoach d/b/a Ryan's Express Motorcoach a California Corporation (Ryan's Express) filed with the Commission an Application for Mitigation (Mitigation Request), in Docket TE-100276. I have read the Mitigation Request. In the Mitigation Request, Ryan's Express admits the violation occurred and requests a decision by an administrative law judge.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on February 19, 2010, in Docket TE-100276. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 480-30-071, which requires charter and excursion carriers to file annual safety reports with the Commission by December 31 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning Ryan's Express. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual

Safety Reports.”¹ I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by Ryan’s Express in its Mitigation Request

Ryan’s Express states it never received the annual safety report packet. The company states it ceased operations in Washington at the end of the year, and that the annual safety report documents could have been overlooked or discarded. In addition, Ryan’s Express did contact Tina Leipski in January. Ms. Leipski indicated there wasn’t anything required of the company to keep the authority active. The company has filed its 2009 annual safety report with the Commission.

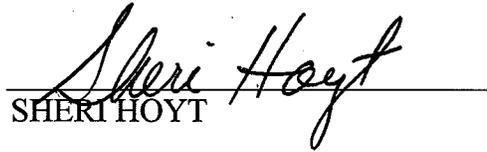
6. Commission records indicate an annual report packet was mailed to Ryan’s Express on November 3, 2009, to the address of record: 13020 Yukon Avenue, Hawthorne, California 90250. A letter signed by David W. Danner, Executive Director and Secretary, accompanied the safety report. The letter stated companies must complete and file the 2009 annual safety report form and pay the 2010 regulatory fees by December 31, 2009. In addition, the letter indicated a company could request an extension of time to file the annual safety report and explained how to make such a request. Further, the letter indicated failure to file the annual safety report timely could incur penalties up to \$100 a day. Ryan’s Express did not request an extension.
7. On January 15, 2010, the Commission sent a letter to the address of record notifying Ryan’s Express that its annual safety report was delinquent and to avoid enforcement action the Commission must receive its safety report postmarked no later than January 29, 2010.
8. I spoke with Mr. Azar by telephone on February 23, 2010. Mr. Azar told me that Ryan’s Express was no longer operating in Washington state and, after I verified the mailing address on file for the company was correct, stated the paperwork may have been discarded because whomever received it might have thought the report was no longer necessary. In addition, Mr. Azar stated that he spoke with Tina Leipski in the Commission’s Licensing office in January 2010 for the purpose of asking her what the company needed to do to keep the permit valid. Mr. Azar stated Ms. Leipski told him only about keeping the insurance on file current, she did not mention the annual safety report. Mr. Azar acknowledged to me that Tina may have assumed Ryan’s Express had already timely filed the report since it was due December 31, 2009.
9. The Commission received Ryan’s Express’ 2009 Annual Safety Report on February 24, 2010.

¹ A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

Staff Recommendation

10. Although Staff understands that the violation was not deliberate, Mr. Azar stated to staff on February 23, 2010, that likely the annual report package was received but ignored or discarded by the company as unnecessary to file as the company stopped providing services in Washington. Ryan's Express did not provide any information in its Mitigation Request that would exempt a company from timely filing reports. Staff opposes mitigation of the penalty.

DATED this 11th day of March 2010 at Olympia, Washington.


SHERI HOYT

Attachment A

Charter and Excursion Carriers Staff Investigation - 2009 Annual Safety Reports February 8, 2010

Purpose

The purpose of this investigation is to determine if 14 charter and excursion carriers¹ are in violation of Washington Administrative Code (WAC) 480-30-071. WAC 480-30-071 requires charter and excursion carriers to furnish annual safety reports to the commission no later than December 31 each year.

Background

This investigation was prompted by commission staff's yearly review of annual safety reports for charter and excursion carriers registered in the state of Washington.

On November 3, 2009, the commission mailed 2009 Annual Safety Report forms and 2010 Regulatory Fee packets to charter and excursion carriers registered in Washington State. A letter from Executive Director and Secretary David W. Danner instructed companies to file annual safety reports and pay regulatory fees by December 31, 2009². Further, the letter stated failure to file the annual safety report by December 31 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual safety report were asked to do so prior to December 31, providing a reason for the requested extension.

Investigation

The 14 charter and excursion carriers listed in attached Appendix A failed to file their 2009 annual safety reports by the December 31 deadline. On January 15, 2010, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by David W. Danner, gave an extension to companies to file their reports by January 29, 2010³. In the letter, Mr. Danner stated the commission would not seek to penalize any company with a report received postmarked by January 29, 2010. None of the 16 companies listed in Appendix A requested an extension.

Recommendation:

Staff recommends the commission penalize the 14 charter and excursion carriers that failed to file a 2009 annual safety report by January 29, 2010, \$100 each for a violation of WAC 480-30-071.

¹ See Appendix A for a list of the charter and/or excursion carriers.

² See Appendix B for a copy of the November 3, 2009, letter sent to charter and excursion carriers.

³ See Appendix C for a copy of the January 15, 2010, delinquent letter sent to charter and excursion carriers.

APPENDIX A

	Company Name	Report Received Yes or No	If yes, Date Received	Recommended Penalty Amount
1.	American Patriot Coach, LLC	No		\$100
2.	Bray, Keegan	Yes	February 8, 2010	\$100
3.	BRC Developments, LLC	No		\$100
4.	Cook, Thomas J. & Linda K.	No		\$100
5.	CWA, Inc.	No		\$100
6.	Dazzled by Twilight, LLC	Yes	February 1, 2010	\$100
7.	Driver For Hire, Inc.	No		\$100
8.	Global Services, LLC	No		\$100
9.	J & P Bell Industries, Inc.	No		\$100
10.	Kevin Limousine, Inc.	No		\$100
11.	Pacific Northwest Distributing, LLC	Yes	February 9, 2010	\$100
12.	Redneck Limo Service, LLC	No		\$100
13.	Ryan's Express Motorcoach DBA Ryan's Express Motorcoach a California Corporation	No		\$100
14.	Travel NW Style, LLC	No		\$100

APPENDIX B

November 3, 2009

Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due December 31, 2009

You are required to file an annual safety report and pay regulatory fees if you operate as a charter or excursion company.

What is required of me?

By December 31, you must:

- Complete and file the enclosed 2009 annual safety report form.
- Pay your 2010 regulatory fees.

If you are using U.S. postal mail to send your annual safety report and pay your regulatory fee, the envelope must be postmarked by Tuesday, December 29, 2009. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Thursday, December 31, 2009.

Failure to file or mail your annual safety report or pay regulatory fees by December 31, 2009 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.

What happens if I do not pay my regulatory fees by December 31?

If regulatory fees are not paid by December 31, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

Can I request an extension of time if I am unable to file the annual safety report by December 31?

Yes, you must provide the request in writing, including a valid reason for the extension by December 31. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by December 31. If you are late filing your annual safety report or fail to file, you could incur additional penalties up to \$100 a day.

November 3, 2009

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What if I didn't operate during the year?

You must indicate this on the report and regulatory fee sheet that you've had no operations, include the minimum \$25 fee and return both forms to the commission. If you are no longer using your charter or excursion authority and wish to cancel it, go to our website at www.utc.wa.gov and locate the, "voluntary permit cancellation form" or call us at (360) 664-1222 and we'll mail you the form.

Where do I mail the completed annual safety report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

Where can I obtain an electronic version of the annual safety report?

Forms are available on our website at www.utc.wa.gov. Locate "Quick Links" then select "2009 annual safety report".

Who do I contact if I have questions?

You may call Tom McVaugh at (360) 664-1237 or e-mail him at tmcvaugh@utc.wa.gov for questions related to the annual safety report. If you have questions calculating your regulatory fee, penalties or interest, call Rae Lynn Carnes at (360) 664-1152 or e-mail her at rcarnes@utc.wa.gov. If you need this information in an alternate format, please call (360) 664-1133. TTY Toll Free phone number is (800) 416-5289 or (360) 586-8203.

Sincerely,

David W. Danner
Executive Director and Secretary

Enclosures

APPENDIX C

January 15, 2010

Subject: Charter and Excursion Annual Safety Report and Regulatory Fees

On November 2, 2009, the Washington Utilities and Transportation Commission mailed you a safety report and regulatory fee calculation form. The safety report and fees were due by December 31, 2009.

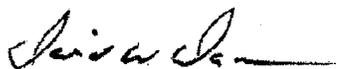
Our records indicate that we have not received your completed safety report or regulatory fees for 2010.

You have already incurred a penalty of 2 percent of the total amount due for failure to pay your 2010 regulatory fees by December 31, 2009. You will be charged 1 percent interest per month on the balance until it is paid in full.

Commission staff may recommend enforcement action, which includes penalties of up to \$100 per day, against any company that does not file a completed safety report. **To avoid this potential enforcement action, the commission must receive your safety report postmarked no later than January 29, 2010.**

The safety report and regulatory fee forms are available on our Web site at www.utc.wa.gov. If you have questions about how to complete the safety report call Tom McVaugh at (360) 664-1237 or e-mail him at tmcvaugh@utc.wa.gov. If you have questions about your regulatory fee, penalties or interest, call Rae Lynn Carnes at (360) 664-1152 or e-mail her at rcarnes@utc.wa.gov.

Sincerely,



David W. Danner
Executive Director and Secretary