

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment
Against INTERNATIONAL DISTRICT
PARKING ASSOCIATION D/B/A
MERCHANTS PARKING
ASSOCIATION/TRANSIA in the amount
of \$100

DOCKET NO. TN-100260

DECLARATION OF
BETTY YOUNG

BETTY YOUNG, 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 Compliance Specialist in the Motor Carrier Safety Section. I have been employed at the Commission for 11 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations of regulated transportation companies and providing regulatory and policy analysis for investigations and penalty assessments.
3. On February 24, 2010, International District Parking Association d/b/a Merchants Parking Association/Transia (Merchants Parking or Company), through its Operations Manager, Idris Elhamar, filed with the Commission an application for mitigation (Mitigation Request) in Docket TN-100260. In the Mitigation Request, Merchants Parking waives a hearing and asks for an administrative decision.
4. The Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on February 18, 2010, in Docket TN-100260. In that Notice, the Commission issued a penalty of \$100 for one violation of WAC 480-30-221, Vehicle and driver safety requirements, which requires passenger charter carriers to comply with Title 49, Code of Federal Regulations (CFR) Part 391, which governs qualification of drivers. Specifically, the Company violated CFR Part 391.45(b)(1), using a driver not medically examined and certified during the preceding 24 months.
5. As part of my job, I reviewed the compliance file for Merchants Parking, which contains records of the Company's compliance history with the Commission.

Specific Issue Addressed by Merchants Parking in its Mitigation Request

The Company states that it was under the assumption that only CDL drivers cannot drive with expired medical cards.

6. Merchants Parking received previous technical assistance from Commission Staff on the requirements for medical cards for non-CDL drivers. In October 2007, former Commission Motor Carrier Investigator Leon Macomber conducted a compliance review of Merchants Parking. During the course of that review, Mr. Macomber found that the Company used a driver not medically examined and certified.¹
7. Mr. Macomber's compliance review report included information on this violation under "Part B Violations," which states, "Driver, Gary Clark, did not have a medical certificate in driver's qualification file. (Medical certificates required on both CDL and Non-CDL drivers)."² In the report under "Part B Requirements and/or Recommendations," it states, "Make sure all Non-CDL drivers as well as CDL drivers have a current medical certificate."³
8. Mr. Elhamar signed the report, thereby acknowledging receipt and agreeing that the findings of the review had been discussed with him in detail.⁴

Staff Recommendation

9. The Commission's Motor Carrier Safety Section takes any violations related to keeping the public safe from unqualified drivers, such as drivers without medical certification, very seriously. Merchants Parking was given previous technical assistance on how to comply with WAC 480-30-221. Therefore, Staff opposes mitigation and recommends the penalty stand.

Dated March 10, 2010, at Olympia, Washington.


Betty Young

¹ A true and accurate copy of the October 2007 Compliance Review report is attached to this declaration as Attachment A.


² Attachment A at page 5.

³ Attachment A at page 7.

⁴ Attachment A at page 8.

Attachment A

Washington Utilities & Transportation Commission

	US DOT #	Legal: INTERNATIONAL DISTRICT PARKING ASSOCIATION Operating (DBA): MERCHANTS PARKING ASSOCIATION AND TRANSIA					
MC/MX #:	State #: C-965	Federal Tax ID: 91-0985981 (EIN)					
Review Type: Compliance Review (CR)							
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.			Territory:		
Operation Types		Interstate	Intrastate	Business: Corporation			
Carrier:	N/A	Non-HM		Gross Revenue: \$2,500,000.00 for year ending: 12/31/2006			
Shipper:	N/A	N/A					
Cargo Tank:	N/A						
Company Physical Address:							
214 Fifth Avenue South Seattle, WA 98104							
Contact Name: Idris Elhamar							
Phone numbers: (1) 206-624-3426 (2) Fax 206-682-4233							
E-Mail Address:							
Company Mailing Address:							
214 Fifth Avenue South Seattle, WA 98104							
Carrier Classification							
Other: Passenger							
Cargo Classification							
Passengers							
Does carrier transport placardable quantities of HM? No							
Is an HM Permit required? N/A							
Driver Information							
	Inter	Intra	Average trip leased drivers/month: 0				
< 100 Miles:		31	Total Drivers: 31				
>= 100 Miles:			CDL Drivers: 9				
Equipment							
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Minibus, 16+	12	0	0	Van, 9-15	16	0	0
Power units used in the U.S.: 28							
Percentage of time used in the U.S.: 100							





MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNA dba,
U.S. DOT #: State #: C-965

Review Date:
10/02/2007

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety Regulations should be address to:
Washington Utilities & Transportation Commission

P.O. Box 47250, Olympia, WA. 98504-7250
Attention: Leon Macomber (360) 664-1236 Office, (360) 412-8614 Pager

This report will be used to assess your safety compliance.

Person(s) interviewed

Name: Idris Elhamar

Title: Operations Manager

Name: Michael Olson

Title: Director





MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNA dba,
U.S. DOT #

State #: C-965

Review Date:
10/02/2007

Part B Violations

1 STATE	Primary: 382.603 CFR Equivalent: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
Description Failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances. Example Mr. Idris Elhamar, Operations Manager, does not have the reasonable suspicion testing consisting of 60 minutes training for alcohol and 60 minutes of training for controlled substances.					
2 STATE	Primary: 391.45(a) Secondary: 391.11(a) CFR Equivalent: 391.45(a)	Discovered 1	Checked 8	Drivers/Vehicles In Violation	Checked 8
Description Using a driver not medically examined and certified. Example Driver, Gary Clark, did not have a medical certificate in driver's qualification file. (Medical certificates required on both CDL drivers and Non-CDL drivers).					
3 STATE	Primary: 391.51(b)(2) CFR Equivalent: 391.51(b)(2)	Discovered 4	Checked 8	Drivers/Vehicles In Violation	Checked 8
Description Failing to maintain inquiries into driver's employment record in driver's qualification file. Example Drivers Asefaw Gashu, Dahir Haji, Kyu Jung and Telea Matautia did not have previous employment inquiries in driver's qualification file. (Should be performed within 30-days of employment).					
4 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 3	Checked 8	Drivers/Vehicles In Violation	Checked 8
Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example Drivers Kim Fung, Asefaw Gashu and Telea Matautia did not have a note relating to annual review of driver's driving record in qualification file.					
5 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 3	Checked 8	Drivers/Vehicles In Violation	Checked 8
Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example Drivers Kim Fung, Asefaw Gashu and Telea Matautia did not have a list or certificate relating to violations of motor vehicle laws and ordinances in driver's qualification file.					
6 STATE	Primary: 391.63(a) CFR Equivalent: 391.63(a)	Discovered 1	Checked 8	Drivers/Vehicles In Violation	Checked 8
Description Failing to maintain road test certificate in driver's qualification file, or copy of the license or certificate the motor carrier accepted as equivalent. Example Driver, Gary Clark, did not have a road test in driver's qualification file. (Non-CDL drivers must have road test)					





MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNA dba,
U.S. DOT #:

State #: C-965

Review Date:
10/02/2007

Part B Violations

7 STATE	Primary: 396.3(a)(1) CFR Equivalent: 396.3(a)(1)	Discovered 3	Checked 8	Drivers/Vehicles In Violation 3	Checked 8
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Description
Failing to inspect and maintain vehicle to ensure safe and proper operating condition.
Example
Performed Level 5 terminal inspections of 8 of 28 vehicles currently owned/operated by International District Parking Association. 3 of 8 vehicles inspected were found with defects (37.5 Defect Ratio). 0 of 8 vehicles inspected were placed out-of-service (0% Out-of-Service Ratio). Specific defects can be seen by referencing my Driver/Vehicle Examination Report forms #WAU001000140 thru WAU001000147. CVSA stickers were affixed to 6 of 8 vehicles at time of inspection on site.

8 STATE	Primary: 396.3(b)(4) CFR Equivalent: 396.3(b)(4)	Discovered 5	Checked 8	Drivers/Vehicles In Violation 5	Checked 8
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Description
Failing to keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.
Example
Vehicles unit numbers 10, 40, 11, 17 and 08 are mini-buses and they did not have a record of pushout windows, emergency doors and emergency door marking lights inspections being performed at least every 90 days.

9 STATE CRITICAL	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 8	Checked 8	Drivers/Vehicles In Violation 8	Checked 8
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Description
Using a commercial motor vehicle not periodically inspected.
Example
Vehicles unit numbers 10, 40, 31, 36, 37, 11, 17 and 08 did not have an annual periodic inspection. (Retention requirement of 14 months in vehicle files and most each vehicle should have a copy of most current in vehicle).

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	494,295	Number of Vehicle Inspected (CR): 8	
Recordable Accidents	3	OOS Vehicle (MCMIS): 0	
Recordable Accidents/Million Miles	6.07	Number of Vehicles Inspected (MCMIS): 0	

Your proposed safety rating is : CONDITIONAL	Rating Factors	Acute	Critical
	Factor 1:	S	0
	Factor 2:	S	0
	Factor 3:	S	0
	Factor 4:	C	0
	Factor 5:	N	0
	Factor 6:	U	-





MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNATIONALE) dba
U.S. DOT #:


State #: C-965

Review Date:
10/02/2007

Part B Requirements and/or Recommendations

1. Ensure that all drivers are fully and properly qualified before operating in intrastate commerce. Maintain a complete file as required for each driver, documenting the qualification process. Make sure all Non-CDL drivers as well as CDL drivers have a current medical certificate. In addition make sure drivers fill-out an annual certification of violations, compare their certification with current driving record and sign that you have reviewed and driver is not disqualified.
2. Do not allow drivers to drive intrastate unless they have been physically re-examined each 24 months. Make sure current medical certificate is in driver's qualification file.
3. Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to. Make sure all vehicles have an annual periodic inspection, keep copy in vehicle and maintain in vehicle files for 14-months.
4. Failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes training for controlled substances.
5. Send response letter to WUTC within 15 days addressed to WUTC P.O. Box 47250, Olympia, Washington 98504-7250, Attention: Carolyn Caruso



	US DOT #	Legal: INTERNATIONAL DISTRICT PARKING ASSOCIATION Operating (DBA): MERCHANTS PARKING ASSOCIATION AND TRANSIA	
	MC/MX #:	State #: C-965	Federal Tax ID: 91-0985981 (EIN)
Review Type: Compliance Review (CR) - Receipt			
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.	Territory:
Operation Types	Interstate	Intrastate	
Carrier:	N/A	Non-HM	Business: Corporation
Shipper:	N/A	N/A	Gross Revenue: \$2,500,000.00 for year ending: 12/31/2006
Cargo Tank:	N/A		
Company Physical Address:			
214 Fifth Avenue South Seattle, WA 98104			
Contact Name: Idris Elhamar			
Phone numbers: (1) 206-624-3426		(2)	Fax: 206-682-4233
E-Mail Address:			
Company Mailing Address:			
214 Fifth Avenue South Seattle, WA 98104			
Report Summary			
	Report		# of Pages
	Part A - General		2
	Part B - Violations		2
	Part B - Recommendations		1
	Review/Audit Receipt Page		1
	Total Pages		6
<p>Disclaimer: By signing below, I acknowledge that I have received a copy of this review/audit and agree with the total number of pages indicated (above) for each document. My signature does not imply agreement with the findings of the review/audit, however they have been discussed in detail with me.</p>			
<p>QUESTIONS regarding this report or the Federal Motor Carrier Safety Regulations should be address to: Washington Utilities & Transportation Commission P.O. Box 47250, Olympia, WA, 98504-7250 Attention: Leon Macomber (360) 664-1236 Office, (360) 412-8614 Pager</p>			
<p>This report will be used to assess your safety compliance.</p>			
Person(s) Interviewed			
Name: Idris Elhamar		Title: Operations Manager	
Name: Michael Olson		Title: Director	
Reported By:	<i>Leon Macomber</i>	Title: <i>Special Agent</i>	Code: WA0526 Date: 10/2/2007
Received By:	<i>Idris Elhamar</i>	Title: <i>Operations Manager</i>	





MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNATIONAL DISTRICT PARKING ASSOCIATION)
U.S. DOT #:

State #: C-965

Review Date:
10/02/2007

Part C

Reason for Review: Other Assign# 107210
Planned Action: Compliance Monitoring
Safestat Category:

Parts Reviewed Certification:

325	382	383	387	390	391	392	393	395	396	397	398	399	171	172	173	177	178	180
✓	✓			✓	✓	✓	✓	✓	✓									

Prior Reviews Prior Prosecutions
3/24/2004

Unsat/Unfit Information

Is the motor carrier of passengers subject to the safety fitness procedures contained in 49 CFR part 385 subpart A, AND does it transport passengers in a commercial motor vehicle? Yes - Intrastate
Does carrier transport placardable quantities of hazardous materials? Not Applicable
Unsat/Unfit rule: Not Applicable

Corporate Contact: Michael Olson Special Study Information:
Corporate Contact Title: Director

Remarks:

International District Parking Association C-965
d/b/a Merchants Parking Association/Transia
214 Fifth Avenue South
Seattle, WA. 98104

On October 2, 2007 I contacted Mr. Idris Elhamar, Operations Manager, and Mr. Michael Olson, Director, concerning a compliance review of their terminal safety records and equipment.

I performed Level 5 terminal inspections on 8 of 28 vehicles currently owned/operated by International District Parking Association with the following results:

- 8 of 28 vehicles currently owned/operated were inspected.
- 3 of 8 vehicles inspected were found with defects (37.5% Defect Ratio).
- 0 of 8 vehicles inspected were placed out-of-service (0% Out-of-Service Ratio).

Specific defects can be seen by referencing my Driver/Vehicle Examination Report forms #WAU001000140 thru #WAU001000147. I affixed CVSA stickers to six of eight vehicles inspected at the time of inspection on site.

I examined eight of thirty-one driver's driver qualification files and found the following:

- 1 Violation of CFR 391.45(a), Using a driver not medically examined and certified.
- 4 Violations of CFR 391.51(b)(2), Failing to maintain inquiries into driver's employment record.
- 3 Violations of CFR 391.51(b)(5), Failing to maintain a note relating to the annual review of the driver's driving record.
- 3 Violations of CFR 391.51(b)(6), Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances.


- 1 Violation of CFR 391.63(a), Failing to maintain a road test certificate.

I examined seven of thirty-one driver's hours of service records from September 1, 2007 thru September 30, 2007 and found no apparent violations.

I examined International District Parking Association's alcohol and controlled substances testing program and found that they had a good program with Health Force 3223 First Avenue S., Seattle, Washington. I found the pre-employment testing and random testing well documented and no apparent violations. Random alcohol was tested at 18% in 2006 and controlled substances was tested at 54%.

I did find a violation of CFR 382.603, Failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and 60 minutes training for controlled substances. Mr. Idris Elhamar, Operations Manager, and Mr. Michael Olson, Director, will both attend the appropriate training with their



	MERCHANTS PARKING ASSOCIATION AND TRANSIA (INTERNATIONAL)	Review Date:
	U.S. DOT #: _____ State #: C-965	10/02/2007
Part C		

consortium, Health Force.

I examined inspection, repair and maintenance records on all 8 vehicles inspected and found DVIR's, driver vehicle inspection reports, daily repair records, and scheduled, preventative maintenance records well maintained. I did find all five buses inspected in violation of CFR 396.3(b)(4), Failing to keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights at least every 90 days. In addition, I found all eight vehicles inspected in violation of CFR 396.17(a), Using a commercial motor vehicle not periodically inspected.

This compliance review resulted in a Conditional Safety Rating due to lack of annual periodic inspections and high accident rate of 6.07, which is well above the maximum 1.7 accident rate.

I discussed all defects and violations with both Mr. Elhamar, Operations Manager, and Mr. Olson, Director, and provided considerable technical, educational assistance as well as handing them safety manuals and forms to assist with compliance.

I am submitting this assignment for closure.

Upload Authorized:	Yes	No
Authorized by:		Date:
Uploaded:	Yes	No
Verified by:		Date:
		Failure Code:

