

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re the Application of

SANI MAHAMA MAUROU d/b/a
SEATAC AIRPORT 24

For reinstatement of authority to operate as
an auto transportation company and charter
and excursion carrier

DOCKET TC-160324
(Consolidated)

In the Matter of the Investigation of

SANI MAHAMA MAUROU d/b/a
SEATAC AIRPORT 24

For Compliance with WAC 480-30-221

DOCKET TC-152296
(Consolidated)

In the Matter of a Penalty Assessment
Against

SANI MAHAMA MAUROU d/b/a
SEATAC AIRPORT 24

in the amount of \$29,200

DOCKET TC-160187
(Consolidated)

COMMISSION STAFF'S
PETITION FOR
ADMINISTRATIVE REVIEW

I. BACKGROUND

1 On March 7, 2016, the Washington Utilities and Transportation Commission (“Commission”) conducted a brief adjudicative proceeding (“BAP”) in Docket TC-152296 to address Commission Staff’s (“Staff”) unsatisfactory safety rating of Sani Mahama Maurou d/b/a SeaTac Airport 24 (“SeaTac Airport 24” or the “Company”) and to consider SeaTac Airport 24’s request for mitigation of the penalty assessed against the Company in Docket TC-160187 for 292 violations of WAC 480-30-221. Following the parties’

presentations, the Administrative Law Judge issued a ruling from the bench cancelling the Company's charter, excursion, and auto transportation certificate effective March 8, 2016.

2 On March 15, 2016, the Commission entered Order 01 in Dockets TC-152296 and TC-160187, Order of Consolidation; Initial Order Cancelling Certificate; Order Imposing and Suspending Penalties ("Order 01").¹ Order 01 reiterated the cancellation of the Company's certificate and required the Company to cease and desist all operations until the Commission reinstates its certificate or grants it a new certificate.² Order 01 assessed penalties of \$25,200, a \$20,000 portion of which was suspended for two years subject to certain conditions.³

3 On March 22, 2016, SeaTac Airport 24 submitted its Application for Reinstatement, which was assigned Docket TC-160324.

4 On March 23, 2016, SeaTac Airport 24 filed a Petition for Review of Order 01.

5 On May 12, 2016, the Commission entered Order 02, Final Order, in Consolidated Dockets TC-152296 and TC-160187 ("Order 02"). Order 02 upheld the findings and conclusions of Order 01, but modified it to include a payment plan for the \$5,200 portion of the penalty that was not suspended.⁴ Prior to reinstating the Company's certificate, Order 02 required the Company to file its 2015 annual report, pay any required regulatory fee for

¹ Order 01, Consolidated Dockets TC-152296 and TC-160187, Order of Consolidation; Initial Order Cancelling Certificate; Order Imposing and Suspending Penalties (March 15, 2016) [hereinafter "Order 01"].

² Order 01, at ¶ 43.

³ Order 01, at ¶ 44.

⁴ Order 02, Consolidated Dockets TC 152296 and TC 160187, Final Order, ¶¶ 13, 27 (May 12, 2016) [hereinafter "Order 02"]. The Company made a \$200 payment to the Commission on May 28, 2016, consistent with the payment plan, which requires a \$200 payment by the 28th of every month until June 28, 2018.

2016, and file documentation of its agreement with AllianceOne Receivables Management, Inc. to pay its \$1,000 penalty for failing to timely file its 2014 annual report.⁵

6 On June 20, 2016, the Commission issued a Notice of Intent to Deny Application for Reinstatement; Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements on July 11, 2016, at 1:30 p.m. (“Notice”). The Notice alleged that in April, May, and June 2016, SeaTac Airport 24 operated, offered, and advertised its transportation services in violation of Order 02, and that the Company’s application for reinstatement should be denied.

7 On June 20, 2016, Staff filed a Motion to Impose Suspended Penalty and Motion to Consolidate Proceedings in Consolidated Dockets TC-152296 and TC-160187. Staff requested that the Commission schedule a BAP for presenting evidence of the Company’s violations of Order 01 and Order 02 and also consolidate Dockets TC-152296 and TC-160187 with Docket TC-160324. That same day, the Commission issued a Notice of Brief Adjudicative Proceeding in Consolidated Dockets TC-152296 and TC-160187, set for July 11, 2016, at 1:30 p.m.

8 The Commission conducted a BAP on July 11, 2016. Docket TC-160324 was consolidated with Dockets TC-152296 and TC-160187 to conserve Commission time and resources.

9 On July 14, 2016, the Commission entered Order 01 in Docket TC-160324 / Order 03 in Consolidated Dockets TC-152296 and TC-160187, Order of Consolidation; Initial Order Denying Application for Reinstatement; Suspending Penalties

⁵ Order 02, at ¶ 29.

("Order 01/03").⁶ Order 01/03 denied the Company's application for reinstatement.⁷ But it also relieved the Company of its obligation to pay the remaining portion of its unsuspended \$5,200 penalty arising from its prior safety violations⁸, and failed to impose any of the suspended \$20,000 penalty due to the Company's violation of the Commission's cease and desist order.⁹

II. APPLICABLE RULES

10 A party who wishes to challenge an initial order in a BAP must file a petition for administrative review. Under WAC 480-07-610(7), a petition must contain an explanation of the party's view of the matter and a statement of reasons why the initial order is incorrect (along with a certificate of service of the petition).

III. PETITION FOR ADMINISTRATIVE REVIEW

11 Staff requests that the Commission conduct administrative review of Order 01/03 in Consolidated Dockets TC-160324, TC-152296 and TC-160187. Staff respectfully disagrees with the Administrative Law Judge's decisions to not impose any portion of the \$20,000 that was suspended on condition that the Company cease and desist its operations, and to relieve the Company of its obligation to pay the remaining portion of its \$5,200 that the Company had been assessed for its 292 safety violations. Staff requests that the Commission exercise

⁶ Order 01 in Docket TC-160324 / Order 03 in Consolidated Dockets TC-152296, and TC-160187, Order of Consolidation; Initial Order Denying Application for Reinstatement; Suspending Penalties (July 14, 2016) [hereinafter "Order 01/03"].

⁷ Order 01/03, at ¶ 32.

⁸ Order 01/03, at ¶¶ 25, 33.

⁹ Order 01/03, at ¶¶ 25, 33. Order 01/03 leaves the suspended \$20,000 penalty and the remaining portion of the Company's \$5,200 penalty suspended "for a period of three years from the date of this Order" on condition that the Company and its owner cease and desist all auto transportation operations. Order 01/03, at ¶ 33. Staff does not object to the three year period as the suspension period for any penalty amount that the Commission may deem appropriate through its administrative review.

its discretion to modify Order 01/03 and reimpose the remaining balance of the Company's \$5,200 penalty associated with its 292 safety violations, with or without a payment plan.

12 Prior to the hearing on July 11, 2016, the Company was obligated to pay its \$5,200 penalty for its 292 safety violations via a payment plan, with a \$20,000 suspended penalty as an incentive to ensure that the Company complied with Order 02. Instead of complying with Order 02, the Administrative Law Judge found that the Company knowingly violated Order 02,¹⁰ and that these violations justified subjecting the Company to the full \$20,000 suspended penalty.¹¹ The Company was relieved, however, of its obligation to pay *any* portion of this suspended penalty and *any* part of the remaining balance of its \$5,200 penalty.¹²

13 In Staff's view, it is unacceptable that Order 01/03 relieves the Company of any punishment for both its 292 safety violations and its continued operation after cancellation of its certificate, in blatant disregard of the Commission's authority.¹³ This Company's initial transgressions were critical, and the Commission penalized the Company appropriately. When a company then ignores and completely disregards the Commission's authority, it should be assessed more penalties, not fewer.

14 Staff notes that a suspended penalty amount of \$20,000 was not enough of an incentive to deter the Company from violating the Commission's orders. Staff does not believe that relieving the Company of all financial obligations in favor of instilling a

¹⁰ Order 01/03, at ¶ 20.

¹¹ Order 01/03, at ¶ 24.

¹² Order 01/03, at ¶¶ 24, 25.

¹³ See Order 01/03, at ¶ 21, finding that "[t]he Company's continued operations without a certificate demonstrate a blatant disregard for Commission rules and . . . Order 02." Staff believes the \$1,000 penalty incurred by the Company in Docket TC-151029 for failing to timely file its 2014 Annual Report, currently in collections with AllianceOne Receivables Management, Inc., is unrelated to this matter.

suspended penalty amount of \$25,000 is sufficient to deter the Company from future violations.¹⁴

15 There are good reasons to impose penalties on the Company and doing so would, absolutely, serve a useful purpose.¹⁵ Staff believes the Company should be held accountable at some level for its intentional, noncompliant actions. Denying the Company's application for reinstatement should, in theory, stop its future unregulated operations, but this denial alone fails to penalize the Company for its prior unsafe and illegal operations.

16 This is not only about one company. Failing to follow-through on suspended penalties sets a bad precedent for every company the Commission regulates. Commission policy to use suspended penalties as an incentive to ensure future compliance can be successful only if the incentive is taken seriously by regulated companies and is a real penalty for any failure to abide by Commission orders. Without the Commission's follow-through in cases like this one, regulated companies are only emboldened to disobey Commission rules and orders.

IV. CONCLUSION

17 Staff understands that the Commission will often times show compassion to the companies that it regulates. Staff believes that a balance can be struck in this case between a desire to be compassionate, and ensuring that the Company is held accountable. Staff respectfully requests that the Commission accept administrative review of Order 01/03,

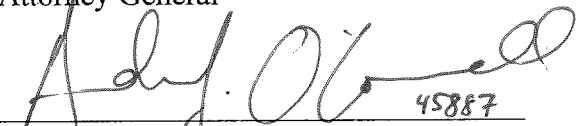
¹⁴ See *contra* Order 01/03, at ¶ 26, stating that "the Commission's goal in any enforcement proceeding is compliance. That goal would be best served in this instance by preserving the suspension of \$25,000 in penalties to provide the Company with sufficient incentive to permanently shut down its auto transportation operations."

¹⁵ *Contra* Order 01/03, at ¶ 21, concluding that "imposing the suspended penalty would serve no useful purpose in light of our decision not to reinstate the Company's certificate and to prohibit SeaTac Airport 24 from providing auto transportation services."

under WAC 480-07-610(7), and modify that order by reimposing the remaining balance of the Company's \$5,200 penalty for its 292 safety violations, with or without a payment plan.

DATED July 25th, 2016.

ROBERT W. FERGUSON
Attorney General


45887
ANDREW J. O'CONNELL
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff