

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against ALPHA OMEGA TOURS &
CHARTERS, INC. in the Amount of \$100

DOCKET TE-090229

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 17 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, rule, or tariff.
3. On March 16, 2009, Alpha Omega Tours & Charters, Inc. (Alpha Omega Tours) filed with the Commission an Application for Mitigation (Mitigation Request), in Docket TE-090229. I have read the Mitigation Request. In the Mitigation Request, Alpha Omega Tours waives a hearing and asks for an administrative decision.
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 23, 2009, in Docket TE-090229. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code 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 Alpha Omega Tours. I documented my investigation in a report titled, "Staff Investigation - 2008 Annual Safety Reports."¹ I identified the violation in this case from records maintained by the Commission.

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

Specific Issues Addressed by Alpha Omega Tours in its Mitigation Request

Alpha Omega Tours states it unintentionally failed to file the annual safety report due to weather conditions, equipment issues and the report being buried after it was received.

6. In the Mitigation Request, Alpha Omega Tours stated the late filing was unintentional and was caused in part by the Spokane area receiving 80 inches of snow in December. Once the notice was buried, the company explained, it was not caught until too late. Dave Ackerman, President/Treasurer, stated, as the owner and the person responsible for paying the bills, he was not able to get everything done due to weather and equipment issues.
7. Commission records indicate the annual safety report packet was mailed to Alpha Omega Tours on November 20, 2008. A letter signed by David W. Danner, Executive Director and Secretary, accompanied the report. The letter stated companies must complete and file the 2008 annual safety report form and pay the 2009 regulatory fees by December 31, 2008.
8. Commission records indicate that a letter was mailed to Alpha Omega Tours on January 23, 2009, informing the company the Commission had not received its report and that it must file the annual safety report no later than January 31, 2009, to avoid enforcement action². The Commission received Alpha Omega Tours' 2008 Annual Safety Report on February 12, 2009.

Staff Recommendation

9. Although Staff understands that the violation was not deliberate, Staff believes Alpha Omega Tours was given sufficient time and opportunity to file the annual safety report, including a 30 day extension. Accordingly, the weather conditions and equipment issues the company mentions should not excuse Alpha Omega Tours from timely filing its report, and Staff opposes mitigation of the penalty.

DATED this day of April 2009 at Olympia, Washington.

SHERI HOYT

² A true and accurate copy of the January 23, 2009, letter is attached to this declaration as Attachment B.

Attachment A

Charter and Excursion Carriers Staff Investigation - 2008 Annual Safety Reports February 10, 2009

Purpose

The purpose of this investigation is to determine if 11 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 20, 2008, the commission mailed 2008 Annual Safety Report forms and 2009 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, 2008². 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 11 charter and excursion carriers listed in attached Appendix A failed to file their 2007 annual safety reports by the December 31 deadline. On January 23, 2009, 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 31, 2009³. In the letter, Mr. Danner stated the commission would not seek to penalize any company with a report received postmarked by January 31, 2009. None of the 11 companies listed in Appendix A requested an extension and none of the companies filed their report or paid their regulatory fees as of the date of this report.

Two companies, Gordon E. Janssen d/b/a Janssen Charters & Tours and Janssen's Charters and Tours, and Michael Vontrell Langdon d/b/a Creative Bus, also failed to file their 2007 annual safety report or pay their 2008 regulatory fee by December 31, 2007, and each received a \$100 penalty assessment in docket TE-080347 and TE-080348, respectively.

Recommendation:

Staff recommends the commission penalize nine of the eleven charter and excursion carriers that failed to file a 2008 annual safety report by January 31, 2009, \$100 each for a violation of WAC 480-30-071.

Staff recommends the commission penalize the remaining two carriers, Gordon E. Janssen d/b/a Janssen Charters & Tours and Janssen's Charters and Tours, and Michael Vontrell Langdon d/b/a Creative Bus, each \$200 for a repeat violation of WAC 480-30-071, for failing to file a 2008 annual safety report by January 31, 2009.

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

² See Appendix B for a copy of the November 20, 2008, letter sent to charter and excursion carriers.

³ See Appendix C for a copy of the January 23, 2009, 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.	Alpha Omega Tours & Charters, Inc.	No		\$100
2.	American Lingo Travel Adventures, LLC	No		\$100
3.	Janssen, Gordon E.	No		\$200
4.	Lake Stevens Airporter, Inc.	No		\$100
5.	Langdon, Michael Vontrell	No		\$200
6.	Mandelas, David	No		\$100
7.	Pacific Transportation, Inc.	No		\$100
8.	Seattle Portland Express Co.	No		\$100
9.	Thompson, William R.	No		\$100
10.	Wilder Dan D.	No		\$100
11.	Wilder, Dan D.	No		\$100

APPENDIX B

November 20, 2008

Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due December 31, 2008

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 2008 annual safety report form.
- Pay your 2009 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 Monday, December 29, 2008. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Wednesday, December 31, 2008.

Failure to file or mail your annual safety report or pay regulatory fees by December 31, 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 20, 2008

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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 "2008 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

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**CHARTER & EXCURSION CARRIERS
ANNUAL SAFETY REPORT**

CH-____ ES-____ C-____ MC-____ DOT-____

Full name and address of Company

Correct name and address, if different than shown

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
for the
YEAR ENDED DECEMBER 31, 2008**

Address inquiries concerning this Annual Safety Report to:

COMPANY CONTACT: _____ TITLE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____ FAX: _____ E-MAIL: _____

The company must notify the commission, in writing, of any changes to the above information.

TYPE OF PAYMENT - DO NOT SEND CASH IN THE MAIL		<i>For Commission Use Only</i>	
<input type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> AMEX <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover		Credit Card Authorization #: _____	
Credit Card Number: _____			Expiration Date Month/Year
CERTIFICATION: I, the undersigned, under penalty for false statement, certify that the information is true, valid and correct, that I am authorized to execute on behalf of the applicant, and that I agree to pay the above total amount according to card issuer agreement.			
Name (Printed): _____		Title: _____	
Signature: _____		Date: _____	

<i>For Commission Use Only</i>		
Reception Number: _____	001-111-02-68-232-11: _____	Ref No: _____
001-111-02-68-232-01: _____	001-111-02-68-032-05: _____	001-108-01-70-232-13: _____

Original to be mailed to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504-7250
Web Site: www.utc.wa.gov Telephone: (360) 664-1237

Turn page over

1. Washington Unified Business Identifier (UBI) No.: _____
(If you do not know your UBI No. please contact the Department of Licensing at (360) 664-1400)

2. Current insurance company: _____

3. Insurance policy number: _____

4. Number of recordable intrastate and interstate accidents in 2008.

(Please include the total recordable accidents for both intrastate and interstate passenger charter/excursion operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:		
A. A fatality.		
B. An injury to a person requiring immediate treatment away from the scene of the accident.		
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.		
Total number of recordable accidents		

5. Total operating miles for the year 2008:

Intrastate _____ Interstate _____

Intrastate: Trips that operate exclusively within the state of Washington.

Interstate: Trips that operate outside the state of Washington.

6. Did you provide charter bus operations for any Washington school districts during 2008?
 Yes No

CERTIFICATION

Under penalty of perjury, I certify that I have examined this report, I am responsible for it, and it is in all respects a true and correct statement of the business and affairs of _____ for the period January 1, 2008, through December 31, 2008.

(company name)

Name (Printed): _____ Title: _____

Signature: _____

Date signed: _____

Keep a copy of the completed report for your records.

End of safety report

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
P.O. Box 47250 Olympia, WA 98504-7250

CHARTER AND EXCURSION REGULATORY FEE CALCULATION SCHEDULE

Company Name _____ Regulatory fee year 2009

In accordance with RCW 81.70.350, the commission requires charter and excursion companies to file reports of the number of vehicles operated by the company in intrastate commerce at any time during the calendar year and pay the sum of \$25 annually for each vehicle operated. Every company subject to regulation shall file with the commission a statement under oath and pay to the commission a fee as calculated below.

1 Total number of vehicles used for intrastate charter or excursion operations during the year	1			
2 Total regulatory fee due (enter amount from line 1)	2		x 25.00 = \$	
There is a minimum fee of \$25.00				Agency Use Only: 001-111-02-68-232-01

Complete Lines 3 through 6 if filing after December 31

3 Penalties on regulatory fees filed after December 31	3			
3a Total penalties on regulatory fees due (enter amount from line 2)	3a	\$	x .02 (2%) = \$	
4 Interest on regulatory fees filed after December 31	4			
4a Amount from line 2 _____ x number of months past December _____ x .01 (1%) =	4a	\$		
5 Total penalties and interest due (add lines 3a and 4a)	5	\$		Agency Use Only: 001-111-02-68-232-11
6 Total regulatory, penalty and interest fees due (add lines 2 and 5)	6	\$		

If you have questions about calculating your regulatory fee, penalties or interest, contact Rae Lynn Carnes at (360) 664-1152 or rcarnes@utc.wa.gov.

APPENDIX C

January 23, 2009

Subject: Charter and Excursion Annual Safety Report and Regulatory Fees

On November 20, 2008, the Washington Utilities and Transportation Commission (commission) mailed you a safety report and regulatory fee calculation form. The safety report and fees were due by December 31, 2008.

Our records indicate that we have not received your completed safety report or regulatory fees for 2009.

You have already incurred a penalty of 2 percent of the total amount due for failure to pay your 2009 regulatory fees by December 31, 2008. 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. **In order to avoid this enforcement action, the commission must receive your safety report postmarked no later than January 31, 2008.**

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

Attachment B



STATE OF WASHINGTON
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

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David W. Danner
Executive Director and Secretary

