

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-180076
STOCKTON-JULIAN, JANINE d/b/a/ THE VINE TRAVELERS	ORDER 01
in the amount of \$1,000	GRANTING MITIGATION TO \$500

BACKGROUND

- 1 On February 6, 2018, the Washington Utilities and Transportation Commission (Commission) assessed a \$1,000 penalty (Penalty Assessment) against Janine Stockton-Julian d/b/a The Vine Travelers (The Vine Travelers or Company) for ten violations of Chapter 480-30 Washington Administrative Code (WAC), which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes a \$1,000 penalty for ten violations of 49 C.F.R. Part 391.45(b)(1) for using a driver who was not medically examined and certified.
- 2 On February 12, 2018, the Company responded to the Penalty Assessment, requesting mitigation of the penalty based on the written information provided. In its response, the Company admitted the violations, and explained that the penalty would create a financial hardship.
- 3 On February 14, 2018, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Staff recommends that the Commission reduce the penalty from \$1,000 to \$500 because the Company promptly corrected the first-time violations by renewing the driver's medical certification prior to closure of the investigation.

DISCUSSION AND DECISION

- 4 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “acute” or “critical” meet this standard.⁴

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁵

6 In its request for mitigation of the penalty, the Company admitted the violations and explained that it corrected the violations and will ensure that its drivers maintain valid medical certificates in the future. The Company also explained that the penalty would create a financial hardship. Commission records indicate that The Vine Travelers is a small company with one driver and one commercial vehicle. In 2017, the Company reported \$14,850 in gross revenue and 8,461 miles travelled.

7 Staff recommends that the Commission reduce the penalty from \$1,000 to \$500 because the Company promptly corrected the first-time violations prior to the closure of the safety investigation.

8 We agree with Staff’s recommendation to mitigate the penalty to \$500. We recognize the Company’s swift efforts to correct the violations and to prevent them from recurring. In addition, these are first-time violations. In light of these factors, we assess a \$500 penalty for ten violations of 49 C.F.R. Part 391.45(b)(1).

FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including charter and excursion carriers, and has jurisdiction over the parties and subject matter of this proceeding.

² See RCW 81.04.405.

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12, 15 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

- 10 (2) The Vine Travelers is a charter and excursion carrier subject to Commission regulation.
- 11 (3) The Vine Travelers violated 49 C.F.R. 391.45(b)(1) when it allowed one driver who was not medically examined and certified to drive on 10 occasions during the six months preceding the safety investigation.
- 12 (4) The Commission should penalize The Vine Travelers \$500 for 10 violations of 49 C.F.R. 391.45(b)(1).

ORDER

THE COMMISSION ORDERS:

- 13 (1) Janine Stockton-Julian d/b/a The Vine Travelers' request for mitigation of the \$1,000 penalty is GRANTED, in part, and the penalty is reduced to \$500.
- 14 (2) Janine Stockton-Julian d/b/a The Vine Travelers must either pay the \$500 penalty or file jointly with Staff a proposed payment plan within 10 days of the effective date of this Order.
- 15 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective March 9, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.