

Docket No. TV-220240 - Vol. I

**In the Matter of the Investigation of Super Friends
Moving, LLC**

May 18, 2022



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the)	DOCKET TV-220240
Investigation of)	
SUPER FRIENDS MOVING, LLC,)	NOTICE OF INTENT TO
)	CANCEL TEMPORARY
)	AUTHORITY; NOTICE OF
For Compliance with)	INTENT TO DENY
WAC 480-15-560 and)	APPLICATION FOR
WAC 480-15-570)	PERMANENT AUTHORITY
)	

VIRTUAL BRIEF ADJUDICATIVE PROCEEDING - VOLUME I

Pages 1-27

ADMINISTRATIVE LAW JUDGE SAMANTHA DOYLE

May 18, 2022

9:45 a.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

(All participants appeared via videoconference.)

DATE TAKEN: MAY 18, 2022

REPORTED BY: ROSE DETLOFF, RMR, CCR #21036100

1 A P P E A R A N C E S

2 ADMINISTRATIVE LAW JUDGE:

3 SAMANTHA DOYLE

4

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16 ALSO PRESENT:

17 STEPHANIE CHASE
18 FRANCINE GAGNE
19 THOMAS JOHNSON
20 MATTHEW PERKINSON
21 JASON SHARP
22 RYAN SMITH

23 * * * * *

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1 LACEY, WASHINGTON; MAY 18, 2022

2 9:45 a.m.

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4 P R O C E E D I N G S

5

6 JUDGE DOYLE: Let's be on the record.

7 Good morning. Today is Wednesday, May 18th,
8 2022, and the time is approximately 9:45.

9 This is Docket TV-220240, which is captioned,
10 "In the Matter of the Investigation of Super Friends
11 Moving, LLC," doing business as Super Friends Moving,
12 for the notice of intent to cancel temporary authority
13 and notice of intent to deny application for permanent
14 authority.

15 My name is Samantha Doyle, and I'm the
16 administrative law judge presiding over today's brief
17 adjudicative proceeding.

18 We will take short appearances from the parties
19 here, and then we'll talk about how we're going to
20 proceed this morning.

21 Company is still not present after delaying the
22 proceedings, so let's start with Commission Staff.

23 Thank you.

24 MR. ROBERSON: Good morning, Judge Doyle.

25 My name is Jeff Roberson, R-O-B-E-R-S-O-N. I'm an

1 Assistant Attorney General representing Staff. My
2 contact information is on file.

3 With me at the virtual counsel table is Staff's
4 motor carrier safety supervisor, Jason Sharp, and
5 Staff's special investigator, Francine Gagne.

6 JUDGE DOYLE: Okay. Thank you.

7 And Public Counsel?

8 MS. GAFKEN: Good morning. My name is Lisa
9 Gafken, Assistant Attorney General appearing on behalf
10 of Public Counsel.

11 With me this morning are regulatory analyst
12 Stephanie Chase, and paralegal Thomas Johnson.

13 Public Counsel does -- I know we'll talk about
14 the process here in a moment, but I just wanted to
15 mention that Public Counsel does plan to offer brief
16 testimony through Ms. Chase this morning.

17 JUDGE DOYLE: Great. Thank you. So with
18 that, let's discuss how we're going to proceed here.

19 The Commission issued a notice of intent to
20 cancel the company's temporary authority and intent to
21 deny application for permanent authority, and the
22 Commission Staff recently attempted to perform a safety
23 review of Super Friends' operations. Failing to do so,
24 Super Friends denied Staff access and information needed
25 to perform the review.

1 We are here today to allow the company at the
2 hearing to have an opportunity to respond to these
3 allegations contained in the notice. However, Company
4 did not appear. So I will entertain a motion for
5 default and allow presentations of evidence for the
6 record.

7 Are there any motions?

8 MR. ROBERSON: Good morning. Again, Jeff
9 Roberson for Staff, Judge Doyle.

10 Staff would move under RCW 34-05-440 and
11 WAC 480-07-450 for entry of an order of default. As you
12 mentioned, the proof of service on file in this docket
13 shows that the company was served with the notice of
14 intent to cancel and notice of this hearing. They have
15 failed to appear at the place and time set for hearing.

16 The APA -- that's 34-05-440 -- and the
17 Commission's rules, which is WAC 480-07-450, I think,
18 authorizes the Commission to enter an order of default
19 and dispose of the proceedings.

20 Staff would ask the Commission to enter such an
21 order and allow testimony from Staff's witnesses as well
22 as Public Counsel.

23 MS. GAFKEN: Public Counsel supports the
24 motion for default.

25 JUDGE DOYLE: All right. Motion for default

1 is granted.

2 We'll start with Staff's testimony and evidence
3 for the record, and then follow up with Public Counsel.

4 Mr. Roberson, you may begin.

5 MR. ROBERSON: And just as a matter of
6 housekeeping so that we're all working off the same
7 documents, I've asked Staff's witnesses to pull up the
8 exhibits from the docket. So they've done that already.
9 So when I ask them, it will be about those documents.

10 And at this point, Staff would like to call
11 Francine Gagne.

12 (Francine Gagne sworn.)

13 JUDGE DOYLE: Great. Thank you.

14 E X A M I N A T I O N

15 BY MR. ROBERSON:

16 Q. Good morning. Would you please state your name
17 and spell your last name for the record.

18 A. My name is Francine Gagne. Last name,
19 G-A-G-N-E.

20 Q. Who employs you?

21 A. The Washington Utilities and Transportation
22 Commission.

23 Q. What position do you hold at the Commission?

24 A. I'm a special investigator in motor carrier
25 safety.

1 Q. And what are your duties as a special
2 investigator?

3 A. My primary duties are to conduct safety
4 compliance investigations as needed and/or as directed
5 depending on the situation.

6 Q. Have you received any training or education to
7 allow you to perform your duties?

8 A. I have.

9 Q. And what are those trainings? Or what is that
10 education?

11 A. We receive the same education as federal and
12 Washington State Patrol employees through the FMCSA.
13 There are multiple courses that require passing grades.

14 And then for vehicle inspections, we, again,
15 receive the same training through the CVSA, Commercial
16 Vehicle Safety Alliance.

17 Q. And through that training, are you generally
18 familiar with the state and federal regulations
19 governing the safe operation of household goods
20 carriers?

21 A. Yes.

22 Q. Switching gears a little bit, are you familiar
23 with the company called Super Friends Moving, LLC?

24 A. Yes.

25 Q. How are you familiar with Super Friends?

1 A. They were assigned to me in the 2022 work plan
2 to conduct their initial safety compliance investigation
3 after their probationary period.

4 Q. So you were assigned the duty of performing a
5 review of their operations just as a matter of course?

6 A. That's correct.

7 Q. And why does Staff review the operations of
8 carriers -- provisional carriers?

9 A. Provisional carriers are required to be seen
10 within the first 18 months of operation or obtaining
11 their provisional permit, and that was in -- that was
12 why I was going to see Super Friends.

13 Q. So Super Friends is operating under a
14 provisional permit, then?

15 A. That's correct.

16 Q. And are you generally familiar with how long
17 they've held that provisional permit?

18 A. They obtained this provisional permit in
19 September of 2014 -- or, I'm sorry, no, September of
20 2019. September 14 of 2019.

21 Q. So is that longer than 18 months?

22 A. It is right about at 18 months.

23 Q. And is it 2019 or 2020? I guess it doesn't
24 matter.

25 A. It's 2020. I misspoke.

1 Q. But that would also be over 18 months?

2 A. That's correct.

3 Q. Okay. When you were assigned the task of
4 reviewing Super Friends' operations, did you review its
5 history at the Commission?

6 A. I did.

7 Q. And what did you discover?

8 A. I had visited or attempted to do a compliance
9 investigation on Super Friends earlier, but was unable
10 to do so because they were in the process of losing
11 their permit because of no insurance.

12 And then I did review their records with the
13 Commission as far as current and/or existing penalties,
14 what their current situation was with regard to the
15 Commission.

16 Q. Okay. Did you attempt to contact Super Friends
17 to set up the review you were assigned to perform?

18 A. I did.

19 Q. And how did you try to do that?

20 A. I tried primarily through their listed e-mails
21 that they have on their company record with the
22 Commission.

23 Q. And what did you say in your e-mails to Super
24 Friends?

25 A. Generally, that I was assigned to conduct their

1 initial safety performance investigation and to please
2 get back in touch with me. I had set up a temporary
3 date to meet with them to review their records and just
4 to make sure that the address we had on file was the
5 correct address.

6 Q. And did you kind of engage with multiple rounds
7 of e-mails with Super Friends after sending that initial
8 e-mail?

9 A. Yes.

10 Q. Without getting into the details of each of
11 those communications just yet, would you please turn to
12 the exhibit marked FG-1.

13 A. Yes.

14 Q. Would you please identify that document.

15 A. That is a PDF of the e-mail string between
16 myself and Company owner, Jacob Raich.

17 Q. And is that a true and accurate copy of the
18 e-mail string between you and Mr. Raich?

19 A. Yes, it appears to be.

20 MR. ROBERSON: Judge Doyle, at this point,
21 Staff would move to admit Exhibit FG-1.

22 JUDGE DOYLE: Thank you. FG-1 is admitted
23 into the record.

24 (Exhibit FG-1 marked.)

25 BY MR. ROBERSON:

1 Q. So, Ms. Gagne, would you turn to the bottom of
2 Page 2 of that exhibit, FG-1.

3 A. Okay.

4 Q. Is that your initial e-mail to Super Friends?

5 A. Yes.

6 Q. Did you receive any response from Super
7 Friends?

8 A. I did a little over a week later receive a
9 response, yes.

10 Q. And I believe you mentioned it was Mr. Raich
11 that e-mailed you?

12 A. That's correct.

13 Q. And you said that he's the company manager or
14 president?

15 A. That's correct. He is one of the co-owners,
16 yes.

17 Q. Okay. And how did Mr. Raich respond to you?

18 A. He initially apologized for the late response.
19 He claimed he was out of town. He terminated the lease
20 at the address that we had and basically said he did not
21 intend to continue his business, his operations.

22 Q. And if you would turn back to Page 2 of
23 Exhibit FG-1, is that Mr. Raich's e-mail and response to
24 you?

25 A. Yes.

1 Q. What did you do after you received that e-mail
2 from Mr. Raich?

3 A. I responded back to him expressing sorrow that
4 he was canceling his company operations, and then sent
5 him a permit cancellation form so that basically he
6 could be removed from our listing since he was not going
7 to continue operations, to go ahead and just cancel his
8 permit and we would be done.

9 Q. And if you turn now to the bottom of Page 1 of
10 Exhibit FG-1, is that your e-mail to Mr. Raich?

11 A. Yes.

12 Q. Did Mr. Raich respond to your e-mail?

13 A. He did. He said he would complete the permit
14 cancellation form I sent him as soon as he got back in
15 front of his desktop.

16 Q. And did you respond to that e-mail?

17 A. I did. I gave him from -- he responded on the
18 15th. I gave him until March 24th and just expressed
19 that I was still waiting on his permit cancellation
20 form. If he had sent it, I hadn't gotten it.

21 And at that point, I basically said, You need
22 to either send in that form or complete the required
23 paperwork for the safety investigation. One or other of
24 those choices needed to happen.

25 Q. And would you turn to the top of Page 1 of

1 Exhibit FG-1. Is that your response to Mr. Raich?

2 A. Yes.

3 Q. Now, you mentioned you wrote a letter that you
4 attached when you responded.

5 A. That's correct.

6 Q. Would you please turn to Exhibit FG-2.

7 A. Okay.

8 Q. Would you identify that document.

9 A. That is a copy of the letter that I attached to
10 the e-mail string on the 24th just expressing to
11 Mr. Raich that we need to have access to his company
12 documents in order to conduct what we need to conduct.

13 Q. Is that a true and accurate copy of the letter
14 that you sent to Super Friends?

15 A. Yes.

16 MR. ROBERSON: Judge Doyle, at this point,
17 Staff would move to admit Exhibit FG-2.

18 JUDGE DOYLE: I apologize. Really quick,
19 before moving forward, Public Counsel, I did not check
20 with you. Did you have any objections to the admission
21 of FG-1 before moving forward?

22 MS. GAFKEN: No, I have no objections to
23 FG-1. And I also have no objections to FG-2.

24 JUDGE DOYLE: Great. Thank you very much.

25 FG-2 is also admitted into the record. Thank

1 you.

2 (Exhibit FG-2 marked.)

3 JUDGE DOYLE: You may continue,

4 Mr. Roberson.

5 BY MR. ROBERSON:

6 Q. Has Super Friends, at any time, made itself
7 available to you to perform the safety review that you
8 were assigned to perform?

9 A. No.

10 Q. So has Super Friends had a safety review from
11 anyone on Commission Staff?

12 A. No.

13 Q. And given that it has not had a safety review,
14 has it received a satisfactory rating following a safety
15 review?

16 A. No.

17 MR. ROBERSON: Staff has no further
18 questions of Ms. Gagne.

19 JUDGE DOYLE: Public Counsel, did you have
20 any questions for the witness before we dismiss them?

21 MS. GAFKEN: Public Counsel does not have
22 any questions for Ms. Gagne. Thank you.

23 JUDGE DOYLE: Thank you.

24 And, Mr. Roberson, did you have any other
25 witnesses or testimony you'd like to give before we turn

1 to Public Counsel?

2 MR. ROBERSON: Staff, at this point, would
3 like to call Jason Sharp.

4 (Jason Sharp sworn.)

5 JUDGE DOYLE: Great. Thank you.

6 You may proceed.

7 E X A M I N A T I O N

8 BY MR. ROBERSON:

9 Q. Good morning. Would you please state your name
10 and spell your last name for the record.

11 A. Jason Sharp, S-H-A-R-P.

12 Q. Who employs you?

13 A. The Washington Utilities and Transportation
14 Commission.

15 Q. What position do you hold at the Commission?

16 A. I am the motor carrier safety supervisor.

17 Q. As the motor carrier safety supervisor, what
18 are your duties?

19 A. I assign safety investigations to our safety
20 investigators. I review their investigative reports and
21 issue recommendations based on the findings of those
22 reports.

23 Q. Have you received any training or education to
24 allow you to carry out your duties at the Commission?

25 A. Yes. Similar to Investigator Gagne, I have

1 undergone investigative safety analysis training as a
2 previous investigator with the Commission. That
3 training is conducted by the Federal Motor Carrier
4 Safety Administration.

5 As well as -- I am certified to do commercial
6 vehicle inspections through the Commercial Vehicle
7 Safety Alliance.

8 Q. And given that training, are you generally
9 familiar with the state and federal regulations
10 governing the safe operation of household goods
11 carriers?

12 A. Yes.

13 Q. Are you familiar with the company called Super
14 Friends Moving, LLC?

15 A. Yes.

16 Q. How are you familiar with that company?

17 A. I assigned the initial provisional safety
18 investigation to Investigator Gagne on the 2022 motor
19 carrier work plan.

20 Q. And are you familiar with the course of her
21 review or investigation?

22 A. Yes. Investigator Gagne and I were in contact
23 throughout the investigator -- inquiry to investigation,
24 I should say -- as she ran into some difficulties in
25 getting the company to provide the information she

1 requested.

2 Q. Given what you know about Investigator Gagne's
3 review, do you have any recommendation for the
4 Commission about what to do with Super Friends'
5 provisional permit and its application for permanent
6 authority?

7 A. Yeah. I would recommend, on behalf of Staff,
8 that the Commission cancel the provisional permit of
9 Super Friends as it has failed to provide information
10 requested of Commission Staff that is required to
11 perform its regulatory duties.

12 Q. And why does staff need that information?

13 A. Staff is responsible for conducting those
14 safety investigations previously mentioned to determine
15 a company's safety fitness, and we're also charged with
16 doing so within an 18-month provisional period.

17 Since we are now, as Investigator Gagne
18 testified to, beyond that provisional period, there
19 are -- there's multiple layers of where the company is
20 out of compliance. So they're beyond their provisional
21 period, and they're failing to produce records requested
22 of Staff -- or I should say requested by Staff.

23 Q. When you say, "they're beyond their provisional
24 period," do you mean that the company has not achieved a
25 satisfactory safety rating within its provisional

1 period?

2 A. That is correct.

3 Q. And so based on those two things, you recommend
4 that the Commission cancel the provisional permit and
5 deny the application for permanent authority?

6 A. Yes.

7 MR. ROBERSON: Staff has no further
8 questions.

9 JUDGE DOYLE: Thank you.

10 And, Ms. Gafken, do you have any questions for
11 Mr. Sharp?

12 MS. GAFKEN: I do not have any questions for
13 Mr. Sharp. Thank you.

14 JUDGE DOYLE: Thank you.

15 MR. ROBERSON: Judge Doyle, Staff has no
16 further witnesses.

17 JUDGE DOYLE: Great. Thank you so much.

18 And, Ms. Gafken, you may bring your witnesses
19 forward.

20 MS. GAFKEN: Great. Thank you.

21 Public Counsel would like to call Stephanie
22 Chase.

23 (Stephanie Chase sworn.)

24 JUDGE DOYLE: Thank you. You may begin.

25 MS. GAFKEN: Thank you.

1 assigned to two Super Friends dockets in 2020. Those
2 were Dockets TV-190835 and TV-200820. And I served as a
3 regulatory analyst in both of those matters.

4 The earlier docket, the 190835 docket -- that
5 resulted from the company having their permit canceled
6 earlier in 2019. Public Counsel participated in a
7 settlement agreement in that case with Staff and the
8 company, where the company agreed to complete some
9 safety training and have an extended provisional permit
10 time, and they agreed to pay a \$20,000 penalty.

11 And that -- they also, in that case, applied
12 for a permit, but then began operating prior to
13 receiving their permit. That resulted in the Docket
14 TV-200820 complaint case. And in that case, the company
15 failed to appear at the hearing again, and there was
16 another \$20,000 penalty levied against the company.

17 Q. Are you aware of any other Super Friends
18 dockets before the Commission?

19 A. Yes. So I'm also aware of an earlier matter,
20 which was TV-170206, which was another cease-and-desist
21 case where the company was operating without a permit.

22 Q. Do you know whether Super Friends complied with
23 that former cease-and-desist order?

24 A. It is my understanding that they received a
25 permit again after the 2017 case but failed to pay their

1 insurance or complete their insurance filing, and that's
2 why it was canceled again in 2019, resulting in the
3 190835 case and then the later 200820 case.

4 Q. Ms. Chase, have you reviewed the current Super
5 Friends docket?

6 A. Yes, I've reviewed the materials in the docket
7 as well as the exhibits filed last week by the
8 Commission Staff.

9 Q. Could you explain what Public Counsel's
10 concerns are.

11 A. Sure. Public Counsel has a number of concerns
12 with this company. They have a pretty long history of
13 failing to comply and then also failing to pay the
14 penalties that have been levied against them.

15 In this case, they failed to provide the
16 requested information to Commission Staff, who are
17 tasked, of course, with ensuring that the company is
18 operating safely and protecting consumers.

19 The company, in the e-mails provided by Staff,
20 has stated that they are seeking to terminate their
21 lease. They're dissolving their company. They're not
22 intending to continue their operations.

23 Given all of that, Public Counsel believes that
24 there's good cause to cancel the permit in this case.

25 MS. GAFKEN: Thank you. I have no further

1 questions for Ms. Chase.

2 JUDGE DOYLE: Thank you.

3 Mr. Roberson, do you have any questions for
4 Ms. Chase?

5 MR. ROBERSON: I have no questions, Judge
6 Doyle.

7 JUDGE DOYLE: Thank you.

8 Ms. Gafken, did you have any other witnesses or
9 statements you'd like to make before moving on?

10 MS. GAFKEN: We have no further witnesses.
11 I had planned on providing kind of a summary at the end,
12 but I assume that that's going to happen after this
13 phase of the proceeding.

14 JUDGE DOYLE: Great.

15 With that, Mr. Roberson, would you like to make
16 any final statements? And then Ms. Gafken will have her
17 opportunity as well.

18 MR. ROBERSON: Good morning, again. Jeff
19 Roberson for Staff.

20 It's a pretty simple case. WAC 480-15-450
21 requires carriers to make their information available to
22 Commission Staff for the performance of the Commission's
23 regulatory duties. One of the Commission's paramount
24 duties is ensuring that carriers operate safely.

25 This was a review to ensure that the carrier

1 was operating safely. It has denied Staff the
2 information it needs to ensure the carrier is doing so.
3 That justifies and provides good cause for cancellation
4 of the permit.

5 As explained by Ms. Gagne -- Investigator Gagne
6 and Supervisor Sharp, the carrier is a provisional
7 carrier. WAC 480-15-305 3 says that a provisional
8 carrier that fails to make satisfactory progress to a
9 satisfactory safety rating will prompt the Commission to
10 cancel or deny the application for permanent authority.
11 You know, if there's no safety review, there's no
12 satisfactory safety rating.

13 So Staff's recommendation is that the
14 Commission cancel the provisional permit for good cause,
15 deny the application for permanent authority, and I
16 think that is supported by the evidence. Thank you.

17 JUDGE DOYLE: Thank you.

18 And, Ms. Gafken?

19 MS. GAFKEN: Thank you.

20 I agree with Mr. Roberson that this is a fairly
21 straightforward and simple case. Super Friends has
22 stated its intent not to continue operating as a
23 household goods carrier in the state of Washington, and
24 it has at least stated that it's taken steps to dissolve
25 the company, including terminating the company's lease.

1 Further, Super Friends failed to provide Staff
2 with information and access to company records, which is
3 a vital component to Staff's ability to provide the
4 oversight that they provide.

5 Super Friends's refusal to provide access and
6 information in and of itself is good cause to cancel
7 their permit and deny their request for a permanent
8 permit.

9 Public Counsel does have some significant
10 concerns about the company's ability to safely operate.
11 They have an extensive past history of noncompliance,
12 including operating without a license. There's at least
13 three dockets involving Super Friends:
14 Docket TV-170206, TV-190835, and TV-200820.

15 The company has failed to pay its past
16 penalties that have been levied in at least two dockets.
17 This company simply does not qualify to hold a permit
18 and has not demonstrated an ability to comply with the
19 Commission's regulations.

20 And as a result, Public Counsel believes that
21 the Commission does have good cause to cancel its
22 provisional permit and to certainly not issue a
23 permanent permit. Thank you.

24 JUDGE DOYLE: Thank you very much.

25 I will take today's testimonies and evidence

1 into consideration before issuing an order.

2 Are there any further questions before we go
3 off the record?

4 MR. ROBERSON: Nothing from Staff.

5 MS. GAFKEN: Nothing further from Public
6 Counsel.

7 JUDGE DOYLE: Great. Thank you all for your
8 participation today.

9 And with that, we'll be off the record.

10 (Proceedings adjourned at 10:13 a.m.)

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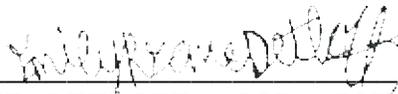
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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Rose Detloff, a Certified Court Reporter in
and for the State of Washington, do hereby certify that
the foregoing transcript is true and accurate to the
best of my knowledge, skill and ability.


ROSE DETLOFF, CCR, RMR



My commission expires:
DECEMBER 6, 2022