

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment  
Against DRIVER FOR HIRE, INC. in the  
Amount of \$100

DOCKET TE-100269

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 18 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 or rule.
3. On March 8, 2010, Delila Prigmore, on behalf of Driver For Hire, Inc., (Driver For Hire) filed with the Commission a Request for Hearing (Hearing Request), in Docket TE-100269. I have read the Hearing Request. In the Hearing Request, Driver For Hire denies the violation occurred and requests a decision by an administrative law judge. On March 15, 2010, Driver For Hire amended their Hearing Request, waiving a hearing and asking for a decision on a paper record.
4. This Hearing Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on February 19, 2010, in Docket TE-100269. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 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 Driver For Hire. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual Safety Reports."<sup>1</sup> I identified the violation in this case from records maintained by the Commission.

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

## Specific Issues Addressed by Driver For Hire in its Hearing Request

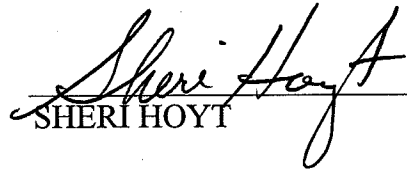
**Driver For Hire stated it never received the annual safety report packet and that the company owner was out of state from November 2009 until February 2010, and that all mail was forwarded to a different address. Driver For Hire stated that last year Bruce Grimm dealt with the company, filing the company's annual safety report along with an inspection.**

6. Commission records indicate an annual report packet was mailed to Driver For Hire on November 3, 2009, to the address of record at that time: Post Office Box 68124, Poulsbo, Washington 98370. A letter signed by David W. Danner, Executive Director and Secretary, accompanied the safety report. The letter stated companies must complete and file the 2009 annual safety report form and pay the 2010 regulatory fees by December 31, 2009. In addition, the letter indicated a company could request an extension of time to file the annual safety report and explained how to make such a request. Further, the letter indicated failure to file the annual safety report timely could incur penalties up to \$100 a day. Driver For Hire did not request an extension.
7. On January 15, 2010, the Commission sent a letter to the address of record notifying Driver For Hire that its annual safety report was delinquent and to avoid enforcement action the Commission must receive its safety report postmarked no later than January 29, 2010.
8. WAC 480-30-071(2)(a) states that the Commission is to provide an annual safety report form and instructions to each charter and excursion company at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual safety report. A company that does not receive an annual safety report form must contact the Commission to obtain a copy of the form.
9. WAC 480-30-041 requires a company to notify the Commission in writing of any change in physical business address, business mailing address, business telephone number, fax number or e-mail address. The notice must be filed with the Commission by letter, fax or e-mail within fifteen days following the change.
10. Commission records indicate that Ms. Prigmore contacted Commission staff Tom McVaugh by telephone on or about February 18, 2010, to notify the Commission of an address change for Driver For Hire.
11. The Commission received Driver For Hire's 2009 Annual Safety Report on February 24, 2010.

## Staff Recommendation

12. Although Staff understands that the violation was not deliberate, Staff believes it is Driver For Hire's responsibility to fulfill its regulatory obligations even when the company owner is out of state. Staff further believes that it is unreasonable for a regulated company to assume it will receive personal attention, as appears to be the expectation indicated by Ms. Prigmore in her Hearing Request, each year. If Ms. Prigmore recalls receiving the annual safety report from Commission staff Bruce Grimm during an inspection visit, Ms. Prigmore should have remembered the requirement that Driver For Hire file the report each year. In addition, the company failed to notify the Commission of a change in business mailing address as required by WAC 480-30-041. Had Driver For Hire properly notified the Commission of the change of address, the Commission could have mailed the annual safety report packet to the new address. Driver For Hire did not provide any information in its Hearing Request that would exempt a company from timely filing a report. The violation occurred, and Staff opposes mitigation of the penalty.

DATED this 16<sup>th</sup> day of March 2010 at Olympia, Washington.

  
SHERI HOYT

## Attachment A

### Charter and Excursion Carriers Staff Investigation - 2009 Annual Safety Reports February 8, 2010

#### **Purpose**

The purpose of this investigation is to determine if 14 charter and excursion carriers<sup>1</sup> 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 3, 2009, the commission mailed 2009 Annual Safety Report forms and 2010 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, 2009<sup>2</sup>. 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 14 charter and excursion carriers listed in attached Appendix A failed to file their 2009 annual safety reports by the December 31 deadline. On January 15, 2010, 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 29, 2010<sup>3</sup>. In the letter, Mr. Danner stated the commission would not seek to penalize any company with a report received postmarked by January 29, 2010. None of the 16 companies listed in Appendix A requested an extension.

#### **Recommendation:**

Staff recommends the commission penalize the 14 charter and excursion carriers that failed to file a 2009 annual safety report by January 29, 2010, \$100 each for a violation of WAC 480-30-071.

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

<sup>2</sup> See Appendix B for a copy of the November 3, 2009, letter sent to charter and excursion carriers.

<sup>3</sup> See Appendix C for a copy of the January 15, 2010, delinquent letter sent to charter and excursion carriers.

APPENDIX A

	<b>Company Name</b>	<b>Report Received Yes or No</b>	<b>If yes, Date Received</b>	<b>Recommended Penalty Amount</b>
1.	American Patriot Coach, LLC	No		\$100
2.	Bray, Keegan	Yes	February 8, 2010	\$100
3.	BRC Developments, LLC	No		\$100
4.	Cook, Thomas J. & Linda K.	No		\$100
5.	CWA, Inc.	No		\$100
6.	Dazzled by Twilight, LLC	Yes	February 1, 2010	\$100
7.	Driver For Hire, Inc.	No		\$100
8.	Global Services, LLC	No		\$100
9.	J & P Bell Industries, Inc.	No		\$100
10.	Kevin Limousine, Inc.	No		\$100
11.	Pacific Northwest Distributing, LLC	Yes	February 9, 2010	\$100
12.	Redneck Limo Service, LLC	No		\$100
13.	Ryan's Express Motorcoach DBA Ryan's Express Motorcoach a California Corporation	No		\$100
14.	Travel NW Style, LLC	No		\$100

## APPENDIX B

November 3, 2009

### **Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due December 31, 2009**

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 2009 annual safety report form.
- Pay your 2010 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 Tuesday, December 29, 2009. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Thursday, December 31, 2009.**

**Failure to file or mail your annual safety report or pay regulatory fees by December 31, 2009 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 3, 2009

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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](http://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](http://www.utc.wa.gov). Locate "Quick Links" then select "2009 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](mailto: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](mailto: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

## APPENDIX C

January 15, 2010

Subject: Charter and Excursion Annual Safety Report and Regulatory Fees

On November 2, 2009, the Washington Utilities and Transportation Commission mailed you a safety report and regulatory fee calculation form. The safety report and fees were due by December 31, 2009.

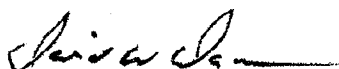
Our records indicate that we have not received your completed safety report or regulatory fees for 2010.

You have already incurred a penalty of 2 percent of the total amount due for failure to pay your 2010 regulatory fees by December 31, 2009. 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. **To avoid this potential enforcement action, the commission must receive your safety report postmarked no later than January 29, 2010.**

The safety report and regulatory fee forms are available on our Web site at [www.utc.wa.gov](http://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](mailto: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](mailto:rcarnes@utc.wa.gov).

Sincerely,



David W. Danner  
Executive Director and Secretary