

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty)	DOCKET TV-091621
Assessment Against)	
)	ORDER 01
JORGE HUMBERTO LUNA-LOPEZ)	
d/b/a UR MOVING SOLUTIONS,)	ORDER GRANTING PETITION
)	FOR MITIGATION, MITIGATING
in the Amount of \$3,100.)	PENALTY TO \$400 AND
)	SUSPENDING REMAINDER FOR
)	ONE YEAR
)	
.....)	

BACKGROUND

1 **Penalty Assessment.** On October 19, 2009, the Washington Utilities and Transportation Commission (Commission) ¹ entered a Notice of Penalty Assessment against Jorge Humberto Luna-Lopez d/b/a UR Moving Solutions (UR Moving or Company) for \$3,100 for 32 violations of Washington Administrative Code (WAC) 480-15-610.²

2 The Commission’s rule governing advertisements, WAC 480-15-610(1) provides:

Carriers must include the commission-issued permit number, name or trade name as recorded at the commission, business address and business telephone number in any advertising for household goods moving services. Advertising includes, but is not limited to:

(a) Advertisements in telephone books, newspapers, correspondence,

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455*

² The Penalty Assessment detailed 32 violations of WAC 480-15-610, as identified in Staff’s investigation. However, due to a miscalculation of the total violations in Staff’s investigation report, discovered while preparing this Response, only 31 violations were in fact penalized. *See Declaration of Sheri Hoyt, n.1.*

- cards, or any other written document.
- (b) Signs, posters or similar displays.
- (c) Web sites or other on-line advertising.

Section 4 of the rule provides that “carriers may not advertise services or rates and charges that conflict with those in the tariff.”

- 3 The Commission alleged that UR Moving had placed 14 advertisements on Craigslist between September 28, 2009 and October 5, 2009, and one advertisement on backpage.com on September 24, 2009, in which the Company failed to comply with the requirements of the rule. There were four areas of noncompliance: (1) Eleven advertisements did not include the Company name; (2) Fifteen advertisements did not include a business address; (3) One advertisement did not include the Commission-issued permit number; and (4) Five advertisements stated that the Company had no minimum hours. Each day of noncompliance with these rules constitutes a separate violation.
- 4 ***Petition for Mitigation.*** On October 26, 2009, UR Moving filed a timely petition for mitigation, admitted the violations, waived its right to a hearing, and requested that this matter be resolved on the basis of the information presented. In its mitigation request, UR Moving apologizes for its errors and states that it never intended to defraud, mislead or misrepresent its services to the public. The Company states that it has corrected all of the advertisements in question, and provides copies of the corrected advertisements as attachments to its mitigation request. The Company pledges to comply with the Commission’s rules and welcomes help from the Commission in doing so.
- 5 ***Response to Request for Mitigation.*** On November 13, 2009, Commission Staff filed its response to the petition for mitigation. Staff supports the Company’s request for mitigation, recommending the Commission substantially mitigate the penalty amount to \$400, or \$100 for each type of violation found.
- 6 Staff asserts that UR Moving has demonstrated through its actions that correction of violations and future compliance was, and is, a top priority for the Company. The company owner, Mr. Jorge Humberto Luna-Lopez, visited the Commission on October 21, the day after receiving the penalty assessment, to show that he had

corrected the advertisements on Craigslist and deleted the advertisement on backpage.com.³ Staff reviewed the advertisements attached to the mitigation request and verified that all violations had been corrected. Further, Staff reviewed an additional 10 advertisements posted to Craigslist between November 2, 2009, and November 5, 2009, and found no violations.⁴

7 During his visit to the Commission on October 21, Ms. Sheri Hoyt, a Compliance Investigator with the Commission, spoke at length with Mr. Luna-Lopez about the rules and tariff requirements for household goods carriers.⁵ Although Company representatives had attended two training sessions and had been provided written technical assistance, Ms. Hoyt realized during the meeting that the owner understood the rules and tariff best when provided examples or scenarios.⁶

8 Staff asserts that a penalty assessment is used as a tool to enforce future compliance.⁷ Because the Company took immediate steps to correct the violations identified in the penalty assessment, and because it has sought individualized technical assistance from Staff that has resulted in immediate compliance, Staff recommends substantial mitigation of the penalty. If the Commission does not accept Staff's recommendation to mitigate the penalty, Staff is not opposed to allowing a payment plan in which UR Moving could make equal payments of the penalty for one year.

DISCUSSION AND DECISION

9 The violations in question involve advertisements for household goods moving services that lack information required by WAC 480-15-610, such as the company name, address and permit number. In addition, some of the offending advertisements do not comply with requirements governing rates and charges, stating that the company has no minimum hours. Providing the required and correct information in

³ Declaration of Sheri Hoyt, ¶ 7.

⁴ *Id.*, ¶ 8.

⁵ *Id.*, ¶ 9.

⁶ *Id.*

⁷ *Id.*, ¶ 13.

advertisements is necessary for consumers in determining whether to hire a mover and in contacting a mover. For example, the information allows a consumer to contact the mover with questions about a move, to understand whether the company is in compliance with state laws and rules and to conduct research about the advertising company. Failing to provide the name of the company, address or permit number, or including improper information about rates and hours of service may confuse or mislead consumers. The Commission takes seriously its responsibility to ensure household goods moving companies properly advertise their rates and services.

- 10 In support of mitigation, UR Moving admits its errors and states its intent to comply with Commission rules. The Company demonstrates its intent by attaching to its mitigation request copies of its corrected Craigslist advertisements. Immediately upon receiving the penalty assessment, the Company owner met with Commission staff to present the corrected advertisements and seek additional assistance with compliance. Since the owner's visit, Staff reports the Company has remained in compliance with the advertising rule.
- 11 We agree with the Company and Staff that the penalty should be substantially mitigated, given the Company's good faith efforts to correct its errors and comply with Commission rules. We find that the mitigated penalty proposed by Staff reasonably reflects the types of violations and recognizes the Company's efforts to come into compliance and remain in compliance with the rules and tariff requirements governing household goods movers. UR Moving must pay the mitigated penalty amount of \$400 no later than 5:00 p.m. on the thirtieth calendar day following the effective date of this Order.
- 12 To ensure that the Company has sufficient incentive to remain in compliance, and because of the importance of clearly communicating to customers the identity of the company and correct charges for moving services, we require that the remaining unmitigated amount - \$2,700, be suspended for a period of one year to ensure continued compliance with WAC 480-15-610. If UR Moving fails to fully comply with the advertising rule for a period of one year from the date of this Order, the remaining penalty of \$2,700 may be imposed. If Staff becomes aware of any additional violations of WAC 480-15-610 during this period, it should immediately file a notice of the violations in this Docket. If after one year, Staff has found no

additional violations, Staff should file a letter in this proceeding advising the Commission that the matter is resolved. The Commission will then close the docket.

13 It is so ordered.

14 The Commissioners have delegated authority to the Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-905(1)(h).

Dated at Olympia, Washington, and effective December 1, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision. You may seek Commission review of this decision. You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).