

Docket No. TV-190499 - Vol. I

**In the Matter of: Samuel Owen Svarny d/b/a Brothers
Moving**

August 13, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining) Docket TV-190499
the Proper Carrier Classification)
of, and Complaint for Penalties)
against:)
)
)
)
)
SAMUEL OWEN SVARNY d/b/a BROTHERS)
MOVING)

TRANSPORTATION COURT, VOLUME I
Pages 1-20
ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

August 13, 2019
9:36 a.m.

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

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

2 ADMINISTRATIVE LAW JUDGE:

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19 * * * * *

1 LACEY, WASHINGTON; AUGUST 13, 2019

2 9:36 A.M.

3 --oOo--

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

5

6 JUDGE CHARTOFF: Okay. Let's be on the
7 record. Good morning. Today is Tuesday,
8 August 13th, 2019. The time is approximately 9:36 a.m.
9 We -- we were supposed to convene at 9:00 a.m., but no
10 household goods carriers had yet appeared. So due to
11 the traffic, we decided to delay the proceeding, so
12 we're starting now.

13 My name is Laura Chartoff. I am an
14 administrative law judge with the Washington Utilities
15 and Transportation Commission.

16 There are four household goods carriers who
17 should be here today, so the first thing we'll do is see
18 who is here. There is a court reporter who is recording
19 everything we say, so when I call your name, please
20 raise your hand and say "here" or "present."

21 So the first docket is TV-190214, Cuong T.
22 Bui, doing business as Ben's Moving Service?

23 Hearing nothing, TV-190489, Nathanael Hirst,
24 doing business as Amazing Movers 360?

25 MR. HIRST: Here.

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1 JUDGE CHARTOFF: Thank you.

2 TV-190499, Samuel Owen Svarny, doing
3 business as Brothers Moving?

4 Hearing nothing, TV-190500, Michael C.
5 Robertson, doing business as Moving Pros Northwest 6?

6 Hearing nothing, okay. So there are three
7 companies who are not here today. Those companies may
8 be held in default. I will deal with that later this
9 morning.

10 Okay. So you are here because the
11 Commission has information that your company is
12 operating or advertising as a household goods carrier
13 without a permit. Operating as a household goods
14 carrier without the required permit is illegal and
15 subject to a penalty of up to \$5,000 per violation. If
16 you are found to have engaged in business as a household
17 goods mover without a permit, the Commission can order
18 you to cease and desist operating and impose the
19 penalty.

20 So the Commission has initiated an
21 enforcement action against you and your business, and at
22 this preliminary hearing, I'm going to ask how you
23 choose to proceed. You have two options. So option A
24 is to agree to cease and desist operating as an
25 unpermitted household goods carrier. If you choose this

1 option, you must agree to stop providing, offering, or
2 advertising unpermitted household goods services unless
3 or until you receive a household goods permit from the
4 Commission.

5 If you choose this option, you will need to
6 show what you have done to shut down your business
7 either completely or partially. I'm going to want to
8 see proof that you are no longer operating or
9 advertising. For example, you would need to prove that
10 you have taken down or changed your website or other
11 online advertisements for your business. If you have
12 obtained or applied for a permit in advance of this
13 hearing, please let me know that when I call you up.

14 So option B is to ask for a classification
15 hearing. You would choose option B if you believe that
16 you are not operating illegally and that your business
17 is not subject to regulation by the Commission. If you
18 choose this option, we will schedule a formal
19 evidentiary hearing where you will be required to
20 present proof that your business is not within the
21 regulatory jurisdiction of the Commission. A hearing
22 will be set in the next two months with a deadline a
23 week before the hearing for both you and Commission
24 Staff to list your witnesses and file any exhibits.

25 Mr. Brian Braun will be speaking for

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1 Commission Staff this morning. He is a Commission
2 compliance investigator.

3 So now that we've gone over your choices, I
4 will explain what else will happen today. In a few
5 minutes, I will call you up here to make your choice,
6 and at that time, I will swear you in so that anything
7 you tell the Court will be under oath. Once you are
8 sworn in, I will ask if you understand your choices for
9 today's hearing and then ask you to state your choice.
10 If there's anything else you want to explain to me, you
11 will have a chance to do that.

12 If you choose option A, you will need to
13 testify about how you plan to comply with the law either
14 by becoming a permitted business or shutting down your
15 unpermitted business. Depending on what proof you can
16 provide, you may be given an opportunity to meet with
17 Staff during the break in the hearing to negotiate an
18 agreed order to resolve this matter. The agreed order
19 will also deal with the penalty.

20 So you were served with a complaint that
21 asked the Commission to penalize you for engaging in
22 business as a household goods carrier without a permit.
23 The law sets the maximum penalty for each violation at
24 \$5,000. Staff will recommend a penalty and you will
25 have a chance to reach an agreement with Staff about the

1 penalty amount. If you are unable to agree, Staff will
2 explain the recommendation, but the Commission will make
3 the final decision on the penalty amount.

4 If you choose option B, that is, if you deny
5 you were operating as a household goods mover, we will
6 schedule another hearing, and it would be helpful if you
7 have your calendar with you so we can choose a hearing
8 date.

9 Okay. So, Staff, Mr. Braun, I will swear
10 you in now.

11 (Brian Braun sworn.)

12 JUDGE CHARTOFF: Thank you.

13 Okay. So I will call Nathanael Hirst, doing
14 business as Amazing Movers 360. Please -- please come
15 forward. While you're still standing, I'll swear you
16 in.

17 (Nathanael Hirst sworn.)

18 JUDGE CHARTOFF: Thank you. Please be
19 seated and turn your microphone on. You might have to
20 pull it towards you a bit.

21 So please state your first and last name and
22 spell your last name for the court reporter.

23 MR. HIRST: Nathanael Hirst, H-i-r-s-t.

24 JUDGE CHARTOFF: And what is your position
25 with the company?

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1 MR. HIRST: Owner/operator.

2 JUDGE CHARTOFF: So do you understand your
3 options here today?

4 MR. HIRST: Yeah.

5 JUDGE CHARTOFF: Do you know how you want to
6 proceed?

7 MR. HIRST: Well, I already have a permit.
8 I've been granted temporary status.

9 JUDGE CHARTOFF: So are you interested in
10 talking to Staff about the penalty?

11 MR. HIRST: Yeah.

12 JUDGE CHARTOFF: And are you willing to
13 admit that you were operating without a permit?

14 MR. HIRST: Yes.

15 JUDGE CHARTOFF: Okay. Mr. Braun, do you
16 have anything to add?

17 MR. BRAUN: No, Your Honor.

18 JUDGE CHARTOFF: Okay. Okay. So when we
19 take a break, you can talk to Staff and see if you can
20 sign an agreed order.

21 MR. HIRST: Okay.

22 JUDGE CHARTOFF: That order will say you
23 agree you were operating without a permit and that you
24 agree you will stop operating should you fail to
25 maintain your permit for any reason. And once you feel

1 comfortable that you understand the order, you and
2 Mr. Braun will both sign it. It will also include most
3 likely an agreed penalty amount, but if not, you can --
4 when I -- after the recess, you can explain to me why
5 the penalty -- penalty should be different than what
6 Staff is recommending.

7 MR. HIRST: Okay.

8 JUDGE CHARTOFF: Do you have any questions?

9 MR. HIRST: Nope.

10 JUDGE CHARTOFF: Okay. Okay. So please
11 return to your seat.

12 MR. HIRST: Thank you.

13 JUDGE CHARTOFF: And so, Mr. Braun, have you
14 talked to anyone who did not show up here today?

15 MR. BRAUN: I called all the individuals,
16 the numbers that I had contacted before last week, and
17 everybody said they were showing up. I tried to call
18 them today and nobody answered. So I left voicemails as
19 well, left my phone number, and someone is there to
20 listen in case somebody calls, and I have not heard from
21 anything [sic].

22 JUDGE CHARTOFF: Okay. So I'll handle the
23 motions for default after the break.

24 MR. BRAUN: Okay.

25 JUDGE CHARTOFF: Okay. So at this point, we

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1 are going to take a break, and as soon as you've had a
2 chance to review the cease and desist order, you can
3 talk about the penalty. The penalty may be small or
4 there may be a reason why Staff asked for a larger
5 penalty; for example, if you've been in front of a judge
6 here before or if you used to have a household goods
7 permit with the Commission that was cancelled.

8 Usually part of the penalty is suspended and
9 you will not have to pay it unless you break the law
10 again. So you will pay part of the penalty today and
11 you would only have to pay the rest of the penalty if
12 you violate the order.

13 So after the recess, I'll call you back up,
14 make sure you understand the order, and I will sign it,
15 and you will leave with a copy of it.

16 Okay. Okay. We are in recess.

17 (Recess taken from 9:48 a.m.
18 until 10:00 a.m.)

19 JUDGE CHARTOFF: We are back on the record.
20 I understand the cease and desist order has been
21 explained to the company, so I will call Mr. Hirst.

22 Please come forward again and have a seat.
23 So, Mr. Hirst, did you have a chance to review the whole
24 order?

25 MR. HIRST: Yeah.

1 JUDGE CHARTOFF: And do you understand it?

2 MR. HIRST: Yes.

3 JUDGE CHARTOFF: Okay. I see that you both
4 have signed it. Is the portion of the penalty that is
5 not suspended, is that getting paid today?

6 MR. HIRST: Yeah, I believe so.

7 JUDGE CHARTOFF: Okay. So the -- the order,
8 I'm just going to write in on Appendix A the amount and
9 the --

10 MR. HIRST: Okay.

11 JUDGE CHARTOFF: -- that it's due today just
12 so we have a record of that. Okay. So I'll just
13 quickly go through it.

14 MR. HIRST: Okay.

15 JUDGE CHARTOFF: So looks like there's two
16 violations in this case; one for offering a move and one
17 for advertising. And a \$5,000 penalty will be imposed,
18 a \$4,500 portion of the penalty will be suspended, and
19 the company will pay the \$500 portion today; is that
20 correct?

21 MR. HIRST: Yes.

22 JUDGE CHARTOFF: Okay. So I'm going to
23 write in 8/13/19 and \$500.

24 Are there any questions about the order?

25 MR. HIRST: Nope.

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1 JUDGE CHARTOFF: Okay. I'm going to go
2 ahead and sign it. So -- and I will hand this to Staff,
3 Staff will make a copy of it and give it to you and you
4 will leave with it, and then you will be free to go.

5 MR. HIRST: Okay.

6 MR. BRAUN: Thank you.

7 JUDGE CHARTOFF: Okay. Thank you.

8 Okay. So that concludes the list of
9 companies present in the hearing room today. There's no
10 one else in this hearing room, so we can proceed with
11 the motions for default. Mr. Braun, should we take
12 these one at a time?

13 MR. BRAUN: Yes, Your Honor.

14 JUDGE CHARTOFF: Okay. So let's start with
15 Ben's Moving Services. I'll just call them one more
16 time for the record.

17 TV-190214, Cuong T. Bui, doing business as
18 Ben's Moving Services?

19 Hearing nothing, so I had a chance to review
20 that docket, the Commission's evidence, and that there
21 was an offer for an interstate move in Washington.
22 There was advertising that meets the definition of RCW
23 81.80.075, engaging in business as a moving company
24 without a household goods permit. So what is Staff's
25 motion with respect to this company?

1 MR. BRAUN: Staff's motion is to implement
2 the \$5,000 penalty with nothing suspended. The process
3 server's at date of the service is on file with the
4 Commission. It was served, if you'll excuse me one
5 second, on July 16th to the complainant or I believe
6 someone at the residence. I also had several phone
7 conversations with Mr. Bui, and he expressed that he was
8 going to be coming in.

9 JUDGE CHARTOFF: Can you just briefly walk
10 through the evidence you have for that company?

11 MR. BRAUN: Yes, Your Honor. On March 25th
12 of 2019, I found advertisements on
13 Bensmovingservices.net for a household goods moving
14 company. That advertisement contained a business
15 telephone number of 26 -- 206-778-1307.

16 On March 25th of 2019, I searched the
17 Commission records and found Cuong T. Bui, C-u-o-n-g, T,
18 and then B-u-i who is DBA as Ben's Moving Services, and
19 that the Commission had cancelled Ben's Moving's
20 temporary household goods permit and dismissed the
21 permit application in Docket TV-180869 on October 23rd
22 of 2018 at the company's request.

23 Cancellation was sent in a letter that
24 stated that Ben's Moving must cease all operations
25 associated with this permit, and it advised them if you

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1 advertise or operate as a household goods movers without
2 a valid permit, the Commission may take enforcement
3 action against you.

4 Then on January 8th of 2019, I had called
5 the 206-778-1307 using an assumed name. I obtained a
6 quote for moving services. A company representative who
7 identified himself as Ben gave an estimate of \$890 for
8 three workers and a truck, and that was confirmed in a
9 text message. All that was in my paperwork.

10 And then I checked on April 8th of 2019, I
11 visited the website again of Bensmovingservices.net, it
12 was no longer active.

13 JUDGE CHARTOFF: Thank you. Okay. So I
14 will grant the motion for default for that company. You
15 can get a copy of the default order to me after we are
16 adjourned.

17 Okay. So let's call the next company that
18 did not appear, TV-190499, Samuel Owen Svarny, doing
19 business as Brothers Moving?

20 Again, hearing nothing, do you move for
21 default for this company?

22 MR. BRAUN: I do, Judge. Would you like me
23 to go over the information again?

24 JUDGE CHARTOFF: Yep.

25 MR. BRAUN: All right. On May 6th of 2019,

1 I found advertisements on Thumbtack.com for a household
2 goods moving company. The advertisement also contained
3 a copy of the business card with a phone number of
4 206-471-0986. It also gave a link to a Facebook page
5 and an introduction to the company with the owner's name
6 as Sam.

7 On May 6th of 2019, I searched the
8 Washington State Department of Revenue's website for
9 Brothers Moving. The results produced a contact name
10 governing of Samuel Owen Svarny, S-v-a-r-n-y, with an
11 address of 12431 - 2nd Place Southwest, Seattle, 98146.

12 On May 6th of 2019, I searched Facebook and
13 I found an advertisement for Brothers Moving. On May
14 6th of 2019, I searched the Commission records and
15 verified that Samuel Owen Svarny, DBA Brothers Moving,
16 is not a permitted household goods carrier.

17 On May 8th of 2019, a compliance letter was
18 sent to Samuel Svarny notifying Brothers Moving to cease
19 and desist operations as a household goods carrier in
20 Washington State until they obtain the required
21 household goods carrier permit from the Commission.

22 On June 12th, 2019, I called 206-471-0986
23 using an assumed name to obtain a quote for moving
24 services including workers and a truck. Starting point
25 was Renton, Washington, with delivery to Seattle,

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1 Washington. The company representative who identified
2 himself as Sam gave me an estimate of between 300 and
3 \$500 for three to six hours with two workers and a
4 truck. This was confirmed with a text message and an
5 email.

6 Mr. Svarny was -- if you'll excuse me one
7 second -- a Ms. Svarny, the mother and coresident, was
8 served on July 17th, 2019, 7:05 a.m. at the 7121 - 29th
9 Avenue Southwest in Seattle with all the paperwork
10 identified here. I had several phone conversations with
11 Mr. Svarny that he said he would appear. Mr. Svarny was
12 also aware of the UTC and the thing [sic] as he had a --
13 previously worked for a permitted company.

14 JUDGE CHARTOFF: Thank you. So is Staff
15 recommending imposing the full \$5,000 penalty for the
16 two violations?

17 MR. BRAUN: Yes, Your Honor.

18 JUDGE CHARTOFF: Okay. I grant the motion
19 for default for Samuel Owen Svarny, doing business as
20 Brothers Moving.

21 I'll take up the last company, TV-190500,
22 Michael C. Robertson, doing business as Moving Pros
23 Northwest 6?

24 Hearing nothing, what is Staff's motion with
25 respect to this company?

1 MR. BRAUN: Staff's motions is for the full
2 penalty of \$5,000 as default. On April 4th of 2019, I
3 found advertisements on Craigslist for a household goods
4 moving company. The advertisements contained a business
5 name of Moving Pros Northwest with a telephone number of
6 253-495-9805. It also contained a UBI of 603-416-265.

7 On April 4th of 2019, I searched the
8 Washington State Department of Revenue's website. The
9 results produced an entity name of Michael C. Roberts
10 [sic], DBA Moving Pros Northwest 6 with a UBI number
11 matching of 603-416-265 and a physical address of
12 22117 - 50th Avenue East in Spanaway, Washington, 98387.

13 On April 4th, 2019, I searched Commission
14 records and verified that Michael C. Robertson, DBA
15 Moving Pros Northwest 6, is not a permitted household
16 goods carrier.

17 On April 11th, 2019, a compliance letter was
18 sent to Michael C. Robertson notifying Moving Pros
19 Northwest 6 to cease and desist operations as a
20 household goods carrier in Washington State until he
21 obtains the required household goods carrier permit from
22 the Commission.

23 On May 3rd, 2019, I verified that Moving
24 Pros Northwest was continuing to advertise as a company
25 that offered household goods movers on Craigslist.

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1 On June 12th, 2019, I called a telephone
2 number of 253-495-9805 using an assumed name to obtain a
3 quote for moving services including workers and a truck.
4 The representative of the company, who identified
5 himself as Mike, gave me an estimate of \$300 for two
6 workers and a truck to move my household goods from
7 Edgewood, Washington, to Tacoma, Washington. This was
8 confirmed in a text message and email.

9 On July 20th, 2019, at 4:39 p.m. at 22117 -
10 50th Avenue in Spanaway, the Charles Robertson's
11 father -- or I'm sorry, the father of Michael Robertson,
12 Charles Robertson, the father and coresident, was served
13 with the paperwork notifying him to be here. Again, I
14 also talked to Mr. Robertson at least once on the
15 telephone and he said he would be appearing today.

16 I again renew my motion for a \$5,000 penalty
17 for default for offering advertisements and operating as
18 a household goods carrier in the state of Washington.

19 JUDGE CHARTOFF: Okay. Thank you. I will
20 grant that motion for default.

21 Is there any other business we need to take
22 care of today?

23 MR. BRAUN: No, Your Honor.

24 JUDGE CHARTOFF: Okay. I will look for
25 those orders later.

1 Okay. Thank you. We are adjourned.

2 (Adjourned at 10:14 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand 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



Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358