

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-190932
VICKY SANDHU d/b/a SEATTLE TOP CLASS LIMO	ORDER 01
in the amount of \$3,800	GRANTING MITIGATION, IN PART; IMPOSING AND SUSPENDING PENALTY

**BACKGROUND**

1 On November 20, 2019, the Washington Utilities and Transportation Commission (Commission) assessed a \$3,800 penalty (Penalty Assessment) against Vicky Sandhu, d/b/a Seattle Top Class Limo, (Seattle Top Class Limo or Company) for violations of Washington Administrative Code (WAC) 480-30-191, Bodily Injury and Property Damage Liability Insurance; and WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts by reference sections of Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing, and 49 CFR Part 393 – Parts and Accessories Necessary for Safe Operation.<sup>1</sup>

2 Specifically, the Penalty Assessment cited:

- 22 violations of WAC 480-30-191 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. Seattle Top Class Limo operated a commercial motor vehicle (CMV) on 22 occasions

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<sup>1</sup> 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.

between March 11 and September 21, 2019, without having the required minimum levels of insurance.

- One violation of 49 CFR § 382.305 – Failing to implement a random controlled substance and/or an alcohol testing program. Seattle Top Class Limo failed to provide proof of implementation of a random controlled substance and alcohol testing program.
- One violation of 49 CFR § 393.207(a) – Axle positioning parts defective/missing. Commission staff (Staff) discovered a CMV with worn front sway bar links on both sides of the vehicle. This CMV was placed out-of-service.

3 On November 25, 2019, Seattle Top Class Limo filed an Application for Mitigation of Penalties (Mitigation Application) in response to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the information provided. In its Mitigation Application, the Company provided the following explanations:

1. WAC 480-30-191 Violations: Seattle Top Class Limo contends that the vehicle can only transport 14 passengers, plus the driver, because the front passenger seat has been removed. The Company asked Staff for clarification on this issue, but noted that it will obtain the required \$5,000,000 combined single coverage limit if needed.
2. 49 CFR § 382.305 Violation: Seattle Top Class Limo affirms it has enrolled into a controlled substance and alcohol testing program, and provided supporting documentation of its enrollment, effective October 22, 2019.
3. 49 CFR § 393.207(a) Violation: Seattle Top Class Limo stresses that the defects to its CMV were fixed during the routine safety inspection, after which Staff did not re-inspect the CMV.

4 On March 6, 2020, Staff filed a response recommending the Commission assess a reduced penalty of \$3,050 and suspend a \$2,500 portion of that penalty for a period of two years, and then waive it, subject to the conditions that: (1) Staff conducts a follow-up safety investigation in two years, or as soon thereafter as practicable, (2) the Company must not incur any repeat violations of critical and acute regulations during those two years, and (3) Seattle Top Class Limo pays the \$550 portion of the penalty that is not

suspended. Staff explained that it believes mitigation and suspension are appropriate for the following reasons:

1. *WAC 480-30-191 Violations.* WAC 480-30-191 requires vehicles with a seating capacity of 16 or more to maintain a minimum insurance limit of \$5,000,000. Staff notes that in Seattle Top Class Limo's Mitigation Application, the Company identifies its stretch Cadillac Escalade has a seating capacity of 16. Staff argues that removing a seat from the motor vehicle does not modify the requirements of WAC 480-30-191. Therefore, because the Company still lacks the minimum level of insurance coverage, Staff recommends no mitigation of the \$2,200 penalty.
2. *49 CFR § 382.305 Violation.* Because Seattle Top Class Limo immediately corrected this violation by enrolling in a controlled substance and alcohol testing program as required, Staff recommends the penalty be reduced to \$750.
3. *49 CFR § 393.207(a) Violation.* Staff asserts that it is the Company's responsibility to ensure its CMV is free of defects that may potentially put the public at risk. Therefore, Staff recommends no mitigation of the \$100 penalty.

5 Staff acknowledges that Seattle Top Class Limo is a small company that operates one CMV and employs one driver. The Company reported \$52,000 in gross revenue for 2018. Staff is sensitive to the Company's financial situation and understands the impact a significant penalty has on a small business. For these reasons, Staff recommends the Commission suspend a significant portion of the penalty subject to the conditions described above.

### DISCUSSION AND DECISION

6 Washington law requires passenger transportation companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>2</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission

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<sup>2</sup> See RCW 81.04.405.

will issue penalties for first-time violations.<sup>3</sup> Violations defined by federal law as “critical” meet this standard.<sup>4</sup>

7 The Commission considers several factors when entertaining a request for mitigation, including whether a 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 a company’s compliance.<sup>5</sup>

8 Here, Seattle Top Class Limo was penalized \$2,200 for 22 violations of WAC 480-30-191 for operating a motor vehicle without having the required minimum levels of financial responsibility coverage in effect; \$1,500 for one violation of 49 CFR § 382.305 for failing to implement a random controlled substance and/or an alcohol testing program and; \$100 for one violation of 49 CFR § 393.207(a) for defective axle positioning parts.

9 We agree with Staff that mitigation of the penalty for one violation of 49 CFR § 382.305 is appropriate because this is a first-time violation that was immediately corrected. In addition, Seattle Top Class Limo was cooperative with Staff and expressed a desire to come into compliance. In these circumstances, we find that a lesser penalty will be equally effective in ensuring the Company’s compliance going forward. Accordingly, we reduce the penalty to \$750 for one violation of 49 CFR § 382.305.

10 With respect to the 22 violations of WAC 480-30-191, we do not find Seattle Top Class’s explanation persuasive. We agree with Staff that making after-market modifications to a vehicle that was designed to seat 16 passengers does not relieve the Company of its obligation to maintain the level of insurance required for that particular vehicle. Because these are critical violations and the Company knew or should have known about these requirements, we decline to mitigate this portion of the penalty.

11 We also decline to mitigate the \$100 penalty for one violation of 49 CFR § 393.207(a). Defective vehicles present serious safety concerns to both Company personnel and the traveling public.

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

<sup>4</sup> 49 C.F.R. § 385, Appendix B.

<sup>5</sup> Enforcement Policy ¶19.

12 Finally, we agree with Staff that suspending a portion of the penalty is appropriate in light of the Company's financial circumstances. Our goal here, as in any enforcement proceeding, is to increase compliance, not create an insurmountable financial burden for a regulated company. Accordingly, we suspend a \$2,500 portion of the \$3,050 penalty for a period of two years, and then waive it, subject to the conditions that: (1) Staff conducts a follow-up safety investigation in two years, or as soon thereafter as practicable, (2) the Company must not incur any repeat violations of critical and acute regulations during those two years, and (3) that Seattle Top Class Limo pays the \$550 portion of the penalty that is not suspended within 10 days of the date of this Order.

### FINDINGS AND CONCLUSIONS

- 13 (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 passenger transportation companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 14 (2) Seattle Top Class Limo is a passenger transportation company subject to Commission regulation.
- 15 (3) Seattle Top Class Limo violated WAC 480-30-191 when it allowed its driver to operate a CMV without having the required minimum levels of financial responsibility coverage.
- 16 (4) The Commission should penalize Seattle Top Class Limo \$2,200 for 22 violations of WAC 480-30-191.
- 17 (5) Seattle Top Class Limo violated 49 CFR § 382.305 when it failed to implement a random controlled substance and/or an alcohol testing program.
- 18 (6) The Commission should penalize Seattle Top Class Limo \$750 for one violation of 49 CFR § 382.305.
- 19 (7) Seattle Top Class Limo violated 49 CFR § 393.207(a) when it allowed its driver to operate a CMV with defective axle positioning parts.
- 20 (8) The Commission should penalize Seattle Top Class Limo \$100 for one violation of 49 CFR § 393.207(a).

- 21 (9) The Commission should assess a total penalty of \$3,050, a \$2,500 portion of which should be suspended for a period of two years, and then waived, subject to the conditions set out in paragraph 12, above.

**ORDER**

THE COMMISSION ORDERS:

- 22 (1) Vicky Sandhu, d/b/a Seattle Top Class Limo's request for mitigation is GRANTED, in part, and the penalty is reduced to \$3,050.
- 23 (2) The Commission suspends a \$2,500 portion of the penalty for a period of two years, and then waives it, subject to the following conditions: 1) Staff will conduct a follow-up safety investigation in two years, or as soon thereafter as practicable, 2) Vicky Sandhu, d/b/a Seattle Top Class Limo, must not incur any repeat violations of critical and acute regulations during those two years, and 3) Vicky Sandhu, d/b/a Seattle Top Class Limo, must pay the \$550 portion of the penalty that is not suspended within 10 days of the date of this Order.
- 24 The Secretary has been delegated the authority to enter this order on behalf of the Commissioners under WAC 480-07-903(2)(e).

DATED at Lacey, Washington, and effective March 16, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



MARK L. JOHNSON  
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.**