

Docket No. TG-190967 - Vol. I

In the Matter of: Gary Abdella

January 22, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the)DOCKET TG-190967
Proper Carrier Classification of,)
and Complaint for Penalties)
Against)
)
)
)
GARY ABDELLA)

TRANSPORTATION COURT, VOLUME I
Pages 1-33
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

January 22, 2020
9:00 A.M.

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

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON

FOR COMMISSION STAFF:

KATHRYN MCPHERSON
Solid Waste Investigator
621 Woodland Square Loop Southeast
Lacey, Washington 98503
(360) 664-1108
reportillegalhauler@utc.wa.gov

ALSO PRESENT:

GARY ABDELLA

* * * * *

1 LACEY, WASHINGTON; JANUARY 22, 2020

2 9:00 A.M.

3 --o0o--

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

5
6 JUDGE PEARSON: Let's go ahead and be on the
7 record. Good morning. Today is Wednesday,
8 January 22nd, 2020, and the time is 9:00 a.m.

9 My name is Rayne Pearson. I'm an
10 administrative law judge with the Washington Utilities
11 and Transportation Commission.

12 And you're here today because the Commission
13 has information that your business is or was operating
14 or advertising as a solid waste collection company
15 without the required certificate. And I spoke with
16 Ms. McPherson briefly off the record this morning, and
17 she verified that there are two solid waste carriers who
18 are here today, so the first thing we'll do is establish
19 for the record who's present. There is a court reporter
20 here seated to my left who's recording everything we
21 say, so when I call your name, please raise your hand
22 and also give a verbal response such as "here" or
23 "present."

24 So the first docket is TG-190969, David
25 Theodore Kuntz, d/b/a DK Dumpers?

1 MR. KUNTZ: Present, Your Honor.

2 JUDGE PEARSON: Okay. Thank you.

3 And next is Docket TG-190967, Gary Abdella?

4 MR. ABDELLA: Here, Your Honor.

5 JUDGE PEARSON: Okay. And did I pronounce
6 both your names correctly?

7 MR. ABDELLA: Yeah.

8 JUDGE PEARSON: Okay. So the Commission has
9 initiated an enforcement action against you and your
10 company for operating as a solid waste collection
11 company without the required certificate, which is
12 subject to penalties of up to \$1,000 per violation. And
13 at this preliminary hearing today, I'm going to ask you
14 how you choose to proceed and you have two options.

15 Your first option is to agree to cease and
16 desist operating as an unpermitted solid waste carrier.
17 And if you choose this option, then you're agreeing to
18 stop providing, offering, and advertising solid waste
19 collection services unless or until you receive a
20 certificate from the Commission. If you choose this
21 option, you'll need to show what you've done to shut
22 your business down either completely or partially. I'm
23 going to want to see proof that you're no longer
24 operating or advertising to provide solid waste
25 collection company services, for example, you'll need to

1 prove that you've taken down or changed your website or
2 other online advertisements for your business.

3 The second option is to ask for a
4 classification hearing, and you would choose this option
5 if you believe that you're not subject to regulation by
6 the Commission. In other words, you would be denying
7 completely that you offer solid waste collection
8 services. If you choose this option, we will schedule a
9 formal evidentiary hearing at a later date where you
10 will be required to present proof that your business is
11 not subject to regulation by the Commission. The
12 hearing will be set for about a month from now with a
13 deadline a week before the hearing for both you and
14 Commission Staff to list your witnesses and file any
15 exhibits.

16 Kathryn McPherson will be speaking for
17 Commission Staff this morning. Ms. McPherson is seated
18 at this table to my right. She's a Commission
19 compliance investigator.

20 So now that we've gone over your choices,
21 I'll explain what else will happen today. In a few
22 minutes, I will call each of you up here, after I
23 sneeze -- excuse me -- and I'll swear you in so that
24 anything that you tell the Court today will be under
25 oath. And once you're sworn in, I will ask you if you

1 understand the choices that I explained and then ask you
2 to please tell me what your choice is. And if there's
3 anything else that you want to explain to me, that will
4 be your opportunity to do that.

5 If you choose the first option, you'll need
6 to testify about how you plan to comply with the law
7 either by obtaining a certificate or by shutting down
8 the illegal portion of your business. You'll have an
9 opportunity to meet with Staff during the break in the
10 hearing to negotiate an agreed order to resolve this
11 matter. The agreed order will also deal with the
12 proposed penalty.

13 The complaint asks the Commission to
14 penalize you for engaging in business as a solid waste
15 collection company without a certificate, and the law
16 sets the maximum penalty for each violation at a
17 thousand dollars. Staff will recommend a penalty and
18 you will have a chance to reach an agreement with Staff
19 about the penalty amount, and if you are unable to
20 agree, then I will make the final decision about the
21 penalty amount after hearing arguments from both
22 parties.

23 So, Ms. McPherson, I will swear you in now
24 at this point.

25 (Kathryn McPherson sworn.)

1 JUDGE PEARSON: Okay. Thank you.

2 All right. So let's call Mr. Kuntz up
3 first. If you could just come up to the table and press
4 the button on the microphone. Actually, it looks like
5 that microphone is not turned on. Maybe grab the other
6 one. And then it lights up green when it's ready to go.

7 Thank you.

8 Okay. So what is your position with the
9 company?

10 MR. KUNTZ: I'm the owner/operator.

11 JUDGE PEARSON: Okay. So let's go ahead and
12 swear you in.

13 (David Kuntz sworn.)

14 JUDGE PEARSON: Go ahead and take a seat.

15 Okay. And do you understand your options
16 here today as I explained them?

17 MR. KUNTZ: Yes.

18 JUDGE PEARSON: Okay. And do you admit that
19 you were operating as a solid waste carrier without a
20 certificate?

21 MR. KUNTZ: I'm not sure if I admit to it.

22 I would like to kind of explain my story.

23 JUDGE PEARSON: Go ahead.

24 MR. KUNTZ: Okay. So I'm kind of like the
25 kid that mows lawns on the weekends. I got a 9:00 to

1 5:00 job, I did, up until a couple days ago, when I was
2 doing this. And I just kind of did it on the weekends
3 for extra money. I'm a single dad. And I've had nine
4 jobs since I've had my business license just doing it on
5 the weekends.

6 I didn't really prepare for any of the
7 business stuff. I just thought I was doing it right by
8 going and getting a business license. And I guess I
9 didn't do my research on any of it. And, you know, when
10 Ms. McPherson had sent me a letter and I called her and
11 she explained it to me, and I talked to her yesterday,
12 and I think I kind of got confused, and she said I must
13 have got confused with how she worded it and told me on
14 the phone.

15 Well, I went back and erased all my ads. I
16 had to have someone help me. I don't really know how to
17 work the Internet too good. All my ads, and I thought I
18 erased all of them, and she said that now she seen that
19 I'm -- was only advertising junk removal. Well, then
20 she gave -- messaged me to do a job for her, and we had
21 a conversation, and the conversation ended after I
22 agreed to do the job, but we didn't keep having the
23 conversation. I kept trying to -- to message her to
24 keep her on the conversation. Yes, I agreed to do the
25 job, but we didn't finish our conversation, so I

1 couldn't tell her what -- how I'm supposed to do the
2 job, how I was told I'm supposed to do it.

3 So I guess I kind of was doing it without a
4 license, but I didn't get to finish the conversation.

5 The conversation got cut off when I said yes. I was
6 still trying to conversate [sic] with her about the job
7 and spell out the details so...

8 JUDGE PEARSON: I understand. We have a lot
9 of carriers who come in for classification hearings who
10 weren't aware of the Commission's role in regulating
11 either solid waste or passenger transportation or
12 household goods moving service, so your story is -- is
13 one that I hear a lot.

14 So now that you know, however, we just want
15 to make sure that you understand which activities
16 require a solid waste permit and which services do not
17 and come to an understanding that you agree to cease and
18 desist engaging in those regulated activities unless or
19 until you obtain a certificate.

20 MR. KUNTZ: And I -- like I told her
21 yesterday, I will -- I -- I haven't even -- I quit doing
22 it once I got subpoenaed to come here --

23 JUDGE PEARSON: Okay.

24 MR. KUNTZ: -- and I really don't have any
25 side job anyways. I'll shut the whole business down

1 because I don't even make no money doing it, and this is
2 just a big headache.

3 JUDGE PEARSON: Okay.

4 MR. KUNTZ: And I'm already dealing with so
5 much right now. I just want this to go away. I will
6 shut everything down because I don't even make no money
7 doing it.

8 JUDGE PEARSON: Okay. So it sounds like you
9 agree to cease and desist, then, that you want to choose
10 the first option.

11 MR. KUNTZ: And I don't have no
12 documentation because I didn't know what to expect here.

13 JUDGE PEARSON: Okay.

14 MR. KUNTZ: But I mean, I can shut it down.
15 I don't know how I go -- maybe Department of Revenue and
16 ask them to shut it down. I don't even know how to go
17 about doing it.

18 JUDGE PEARSON: Okay. So I think that when
19 we take a break and you have an opportunity to meet with
20 Staff, they can provide you with some technical
21 assistance about how to go about shutting your business
22 down and making sure that you close all those loops,
23 okay?

24 So when we take a break, like I mentioned
25 earlier, you can discuss the proposed penalty with Staff

1 and see if you can come to an agreement about the
2 penalty amount and potentially a payment plan and then
3 see if you're able to sign an agreed order. So the
4 order will say that you agree that you were in the past
5 operating and advertising without a certificate and that
6 you agree to stop operating as a solid waste collection
7 company.

8 And then once you feel comfortable that you
9 understand the order, you and Staff will both sign it.
10 Again, it will likely include an agreed penalty amount.
11 The penalty may be small or there may be a reason that
12 Staff asks for a larger penalty. That usually only
13 happens if you've been here before, but this is your
14 first time, so that's unlikely. In most instances, part
15 of the penalty is suspended, so that means you wouldn't
16 have to pay it unless you break the law again. So it
17 would just be like -- it would be like -- I can't
18 remember what it's called when you get a traffic ticket
19 and they -- they let you go two years, and if you don't
20 get any more traffic tickets, you don't have to pay it.
21 It's the same type of situation.

22 MR. KUNTZ: Okay.

23 JUDGE PEARSON: So then after the break,
24 I'll call you back up, make sure that you understand the
25 order, I'll sign it, and then you can leave here with a

1 copy of it today.

2 MR. KUNTZ: Thank you, Your Honor.

3 JUDGE PEARSON: Okay. Ms. McPherson, is
4 there anything else on this case before I call the next
5 case?

6 MS. MCPHERSON: No, Your Honor.

7 JUDGE PEARSON: Okay. All right. You can
8 go ahead and take a seat.

9 And, Mr. Abdella, if you want to come
10 forward.

11 (Gary Abdella sworn.)

12 JUDGE PEARSON: And could you please state
13 your name for the record?

14 MR. ABDELLA: Gary Abdella.

15 JUDGE PEARSON: Okay. And what's your role
16 with the company?

17 MR. ABDELLA: I just advertise for them.

18 JUDGE PEARSON: Okay.

19 MR. ABDELLA: I'm a little confused.

20 JUDGE PEARSON: You advertise for whom?

21 MR. ABDELLA: Jesse, the guy that owns the
22 dumpsters.

23 JUDGE PEARSON: Okay. So what -- what would
24 you -- how would you describe your position with the
25 company? You're just an employee?

1 MR. ABDELLA: He just offered everybody 50
2 bucks if they got him a referral. So we play --
3 everybody plays tabs for him. I live in Las Vegas. I
4 come out here every other week -- every other week or so
5 or two to see my daughter. I own car washes. I
6 don't...

7 JUDGE PEARSON: Okay. So do you understand
8 what I explained to you earlier?

9 MR. ABDELLA: Yes. I don't know if I'm in
10 trouble for placing an ad or for being an alleged
11 Dumpster rental company. I don't know what I'm in
12 trouble for.

13 JUDGE PEARSON: Okay. Well, advertising is
14 illegal as well.

15 MR. ABDELLA: Okay.

16 JUDGE PEARSON: It carries the same -- the
17 same penalty and consequences as offering to provide the
18 service or actually providing the service. So most
19 likely if you were advertising on someone else's behalf,
20 that was what Ms. McPherson found.

21 MR. ABDELLA: Okay.

22 JUDGE PEARSON: And -- and why she
23 subpoenaed you to come here today.

24 MR. ABDELLA: And I was served the papers
25 Friday. They were served at my ex-girlfriend, and the

1 neighbor that was at their house received the papers, so
2 I didn't even get the papers until Friday night when I
3 got into Washington.

4 JUDGE PEARSON: Okay.

5 MR. ABDELLA: If I can get a continuance to
6 see all my options, I would like that, but I don't know
7 what I'm supposed to do.

8 JUDGE PEARSON: Okay. So I think that what
9 we should do is I would encourage you to take the time
10 to meet with Staff on the break and talk about your
11 options. If you still feel after meeting with Staff
12 that you want to come back for a hearing at a later
13 date, we can certainly schedule that.

14 MR. ABDELLA: I don't necessarily need a
15 hearing. I just -- I -- I came in -- Monday was a
16 holiday, I haven't been able to speak to anybody about
17 this. It hit -- like I walked in the door and she
18 handed me these papers. I had no clue.

19 JUDGE PEARSON: Okay. Well, I appreciate
20 you showing up today.

21 MR. ABDELLA: Oh, of course.

22 JUDGE PEARSON: Okay. So it sounds like you
23 do admit that you were advertising solid waste
24 collection services, but that you do not admit that you
25 were actually providing those --

1 MR. ABDELLA: Right.

2 JUDGE PEARSON: -- services; is that
3 correct?

4 MR. ABDELLA: Correct.

5 JUDGE PEARSON: Okay. So it's possible that
6 you may be able to reach an agreement with Staff that
7 you agree to just stop doing this, and it sounds like
8 that's the path you want to choose.

9 MR. ABDELLA: Right.

10 JUDGE PEARSON: You're not looking to get a
11 solid waste hauler certificate in the --

12 MR. ABDELLA: No.

13 JUDGE PEARSON: -- state of Washington, you
14 don't even live here.

15 MR. ABDELLA: No.

16 JUDGE PEARSON: Okay.

17 MR. ABDELLA: And like he said, I went on --
18 soon as she contacted me the first time, we came down
19 here, I tried to delete everything. I'm not great on
20 Facebook. I don't --

21 JUDGE PEARSON: Okay.

22 MR. ABDELLA: I was lucky to even see the
23 post -- stick a post up.

24 JUDGE PEARSON: Okay. Well, yeah, since you
25 came here today, like I said, I would encourage you to

1 talk with Staff. You might feel overwhelmed and you
2 need time to catch up, but the break will be an
3 opportunity for you to talk one on one with Staff. And,
4 you know, take as long as you need to get up to speed so
5 you feel comfortable about how you want to proceed.

6 MR. ABDELLA: Now, is Staff Ms. McPherson?
7 I spoke to her for about an hour yesterday.

8 JUDGE PEARSON: Okay.

9 MR. ABDELLA: I don't think it got anywhere.

10 JUDGE PEARSON: There are other staff
11 members here too.

12 MR. ABDELLA: Okay.

13 JUDGE PEARSON: I think she has other people
14 who assist her on the break.

15 MR. ABDELLA: Okay.

16 JUDGE PEARSON: Yes, there are other people.

17 MR. ABDELLA: Okay. Thank you.

18 JUDGE PEARSON: Uh-huh.

19 All right. And you heard everything that I
20 said to Mr. Kuntz. Did you have any questions about any
21 of that?

22 MR. ABDELLA: No, Your Honor.

23 JUDGE PEARSON: Okay. So after the break,
24 like I said, you can kind of let me know where you're at
25 and whether or not you were able to reach an agreement

1 with Staff --

2 MR. ABDELLA: Okay.

3 JUDGE PEARSON: -- and we'll just kind of
4 play it by ear. Does that sound good?

5 MR. ABDELLA: Yes.

6 JUDGE PEARSON: Okay. Ms. McPherson, did
7 you have -- want to make any comments on this case?

8 MS. MCPHERSON: No, Your Honor.

9 JUDGE PEARSON: Okay. So is there anything
10 else that we need to address before we take a break?

11 MS. MCPHERSON: No, I'm ready for a break.

12 JUDGE PEARSON: Okay. So we will be in
13 recess and I will be up in my office. Just please come
14 get me and let me know when I need to come back.

15 MS. MCPHERSON: Thank you.

16 (A break was taken from
17 9:15 a.m. to 9:57 a.m.)

18 JUDGE PEARSON: We can go back on the
19 record.

20 Okay. Go ahead and take a seat. You're
21 fine. You're still sworn in from earlier this morning.

22 MR. ABDELLA: Okay.

23 JUDGE PEARSON: So before we came back on
24 the record, Ms. McPherson informed me that you would
25 like to request an evidentiary hearing potentially with

1 legal representation to contest that your operations
2 were subject to the Commission's jurisdiction; is that
3 correct?

4 MR. ABDELLA: I just don't have the \$250 to
5 give her today. I have no other choice but to do it. I
6 didn't know we could talk about a payment. She told me
7 \$250, I don't have it. So if I have to postpone it for
8 30 days and get an attorney, that's the only thing I can
9 do. It's not what I want to do, but that is my only
10 option.

11 JUDGE PEARSON: Okay. Is there a way that
12 you can set the collection of the first payment amount
13 out a little ways so that he would have time to come up
14 with the money? Because it's obviously going to be more
15 expensive for him to retain counsel.

16 MS. MCPHERSON: Yes, I had offered to
17 Mr. Abdella that we would have a \$500 fine with \$1500
18 suspended. I offered to do payment arrangements, I
19 suggested a \$250. He said he did not want to do that.
20 If he was willing to set out the payment a little
21 further and make payment arrangements to pay the full
22 \$500 fine, that would be acceptable to Staff.

23 JUDGE PEARSON: Okay. Are you able to make
24 any amount of payment today?

25 MR. ABDELLA: Not at this moment. I have

1 \$40 to my name to get back to Elma.

2 JUDGE PEARSON: Okay.

3 MR. ABDELLA: I could have a payment by next
4 Friday.

5 JUDGE PEARSON: Okay.

6 MR. ABDELLA: In the mail or however you do
7 it.

8 JUDGE PEARSON: Okay. So how much of a
9 payment?

10 MR. ABDELLA: Can we do a hundred and
11 then -- do a hundred, 200, and then 200?

12 JUDGE PEARSON: I think that would be
13 acceptable.

14 MR. ABDELLA: Okay.

15 JUDGE PEARSON: That's acceptable to me,
16 with your first payment due Friday, January 31st?

17 MR. ABDELLA: I'll send it Friday so --

18 JUDGE PEARSON: Okay.

19 MR. ABDELLA: -- can we say January 6th?

20 JUDGE PEARSON: You mean February 6th?

21 MR. ABDELLA: February 6th?

22 JUDGE PEARSON: Sure.

23 MR. ABDELLA: Okay. And then 200 on March
24 6th and then 200 April 6th.

25 JUDGE PEARSON: Okay. Is that acceptable to

1 you, Ms. McPherson?

2 MS. MCPHERSON: That's acceptable, thank
3 you.

4 JUDGE PEARSON: Okay. So were you able to
5 otherwise review the order and do you feel like you
6 understand it?

7 MR. ABDELLA: Yes.

8 JUDGE PEARSON: Okay. And you're
9 comfortable with that?

10 MR. ABDELLA: Yes.

11 JUDGE PEARSON: Okay. Okay. I think that
12 will work.

13 Let's see, so did you write out the terms of
14 the payment arrangement into the order, Ms. McPherson?

15 MS. MCPHERSON: Yes, I can change -- I can
16 change the current order payment arrangements and then
17 have those ready for you to sign, Your Honor.

18 JUDGE PEARSON: Okay. So it sounds like
19 there are two violations in this case; is that correct?
20 One for offering hauling services and one for
21 advertising those services?

22 MS. MCPHERSON: That is correct, Your Honor.

23 JUDGE PEARSON: Okay. And there's a \$2,000
24 penalty that will be imposed, but a \$1,500 portion will
25 be suspended for a period of two years, and the company

1 will pay a \$500 penalty according to the schedule that
2 we just agreed to.

3 And just for the record, Mr. Abdella, you
4 know, we spoke about this earlier, but you do understand
5 what you can and cannot do and you've agreed that you
6 will no longer advertise these services on behalf of
7 your friend's business?

8 MR. ABDELLA: Yes. The only concern I have
9 is people have been sharing it. I don't know -- I've
10 contacted three people out there just now and they're
11 trying to delete it and they don't know how. So if I
12 can have a week to make sure anything of mine is down
13 before I get another letter --

14 JUDGE PEARSON: That's fine. What you need
15 to do is just make sure that if anyone contacts you for
16 those services --

17 MR. ABDELLA: Okay.

18 JUDGE PEARSON: -- let them know that you
19 don't provide those services, you don't have a permit to
20 provide those services --

21 MR. ABDELLA: Okay.

22 JUDGE PEARSON: -- and that, you know,
23 you're out of business and that they need to call
24 someone else.

25 MR. ABDELLA: Okay.

1 JUDGE PEARSON: Okay?

2 MR. ABDELLA: All right.

3 JUDGE PEARSON: So just to remind you that
4 the cease and desist order is permanent, that piece
5 never expires. So if Staff discovers that you are
6 operating down the road even more than two years from
7 now, Staff can go straight to Superior Court and ask for
8 much higher penalties. So it's very important that you
9 follow the law, but I'm sure that you understand that
10 now after speaking with Staff today.

11 MR. ABDELLA: I do have one more question.
12 She told me that they could see wherever Dumpster --
13 dump we go to. My wife -- or Brianne, ended up stopped
14 to use LeMay, and she takes the -- her trash to the dump
15 herself. Am I allowed to go to a dump and dump stuff
16 or...

17 JUDGE PEARSON: Your own trash?

18 MR. ABDELLA: Yes.

19 JUDGE PEARSON: Yes, of course.

20 MR. ABDELLA: Okay.

21 JUDGE PEARSON: You're just not allowed to
22 charge other people --

23 MR. ABDELLA: Okay.

24 JUDGE PEARSON: -- to take their trash to
25 the dump on their behalf.

1 MR. ABDELLA: I gotcha.

2 JUDGE PEARSON: All right?

3 MR. ABDELLA: All right.

4 JUDGE PEARSON: Okay. So with this payment
5 schedule that we're setting up, I just want you to
6 understand that if you miss a payment, you will have to
7 pay the entire amount --

8 MR. ABDELLA: I understand.

9 JUDGE PEARSON: -- including the \$1500. So
10 it's very important that if for some reason you're going
11 to be late making a payment that you contact
12 Ms. McPherson and make arrangements so that you don't
13 end up having to make the whole payment, the entire
14 \$2,000 payment. Because typically what gets people in
15 trouble is if they don't communicate.

16 MR. ABDELLA: Right.

17 JUDGE PEARSON: And then, you know, it's not
18 that we won't accept late payments, we just need a
19 heads-up --

20 MR. ABDELLA: Right.

21 JUDGE PEARSON: -- so that we don't begin to
22 take enforcement action to collect that full amount.

23 MR. ABDELLA: Oh, I appreciate that.

24 JUDGE PEARSON: Okay?

25 And it sounds like you're pretty clear about

1 what you can and can't do at this point.

2 MR. ABDELLA: Yes.

3 JUDGE PEARSON: And then also remember that
4 Commission Staff are always available to assist you if
5 you have any questions.

6 Okay. Do you have any additional
7 questions --

8 MR. ABDELLA: I do not.

9 JUDGE PEARSON: -- for me?

10 Okay. So once Ms. McPherson makes the
11 changes to the last page of that order, I can probably
12 sign -- it's only the last page that's changed?

13 MS. MCPHERSON: Yeah.

14 JUDGE PEARSON: So you can probably bring me
15 the signed order. Has he signed it yet?

16 MS. MCPHERSON: No, not yet.

17 JUDGE PEARSON: Okay. Why don't we get
18 signatures on that.

19 We will just go off the record briefly while
20 we handle this.

21 (Pause in the proceedings.)

22 JUDGE PEARSON: Let's go back on the record
23 briefly.

24 It sounds like, Mr. Abdella, would you
25 prefer to make four payments of \$125 each on February

1 6th, March 6th, April 6th, and May 6th?

2 MR. ABDELLA: Yes.

3 JUDGE PEARSON: Okay. Okay. So the order
4 will reflect that payment.

5 MR. ABDELLA: I apologize. I didn't know it
6 was an option. I was just trying to get it paid as fast
7 as I could.

8 JUDGE PEARSON: That's fine.

9 Okay. So we will take another brief recess
10 because I think this means you need to print again, huh?

11 MS. MCPHERSON: Yeah.

12 (A break was taken from
13 10:04 a.m. to 10:08 a.m.)

14 JUDGE PEARSON: Let's be back on the record.
15 We have the order that's been signed by both parties and
16 myself as well as the updated payment arrangement
17 attached as an exhibit to the order.

18 And, Mr. Abdella, we will make a copy for
19 you that you can take with you, and then once you
20 receive that, you're free to go.

21 MR. ABDELLA: Thank you.

22 JUDGE PEARSON: Okay. Thanks so much for
23 being here today.

24 MR. ABDELLA: Thank you.

25 JUDGE PEARSON: Mr. Kuntz, if you could come

1 forward. Okay. So it sounds like you had a chance to
2 read the order and that you understand its contents,
3 that you're okay with it, but you want to talk to me
4 about the penalty?

5 MR. KUNTZ: Yes, Your Honor.

6 JUDGE PEARSON: Okay.

7 MR. KUNTZ: So right now, I am really going
8 through a tough time. I'm getting a divorce, rough
9 divorce, I'm a single dad, I just lost my job. I don't
10 have the \$500 to pay, and I'm afraid if I set up
11 something, I won't be able to pay it, and I don't really
12 want to mess that up. You know, we -- we talked and she
13 told me the rule -- I get the rules now. She explained
14 them a little better, and I understand all that, and
15 this whole thing was just a big miscommunication. And I
16 understand I did advertise, I just -- my financial
17 situation is so bad right now that I'm just drowning.

18 JUDGE PEARSON: Okay. I'm certainly
19 sympathetic to that.

20 Ms. McPherson, would you be amenable to
21 suspending the entire penalty amount for two years with
22 the understanding that if he advertises or offers these
23 services again, the entire \$2,000 penalty will become
24 due?

25 And also you could potentially be subject to

1 new penalties for those violations.

2 MR. KUNTZ: I totally understand that and I
3 will not break that.

4 MS. MCPHERSON: My opinion is that there
5 should be some type of financial penalty. Even if it
6 wasn't paid today, that there should be some portion of
7 even the suspended 500 even if it's only a hundred
8 dollars. If we had a traffic ticket where there was a
9 speeding incident, you would still be responsible for
10 that. Delaying the payment for up to three months and
11 letting him have the time to get a job and back on his
12 feet and then having the remainder suspended for two
13 years with me doing compliance follow-ups on the
14 company's advertising and practices.

15 JUDGE PEARSON: That sounds fair to me.

16 Would that be workable for you to have three
17 months to come up with a hundred dollars?

18 MR. KUNTZ: I -- I can more than likely do
19 that. I mean, if for some reason -- I -- I'm almost a
20 hundred percent positive I can do that.

21 JUDGE PEARSON: Okay.

22 MR. KUNTZ: But if for some reason, I can
23 call you guys if --

24 JUDGE PEARSON: Yes.

25 MR. KUNTZ: Okay.

1 JUDGE PEARSON: If you encounter some other
2 additional hardship, like I said to Mr. Abdella, the key
3 is communication and letting us know what's going on so
4 that we can make arrangements.

5 MR. KUNTZ: Now, say I get \$40 extra and I
6 want to just come down and put \$40 down, can I do
7 that --

8 JUDGE PEARSON: Absolutely.

9 MR. KUNTZ: -- over the three months?

10 JUDGE PEARSON: I think what would probably
11 be best is rather than set specific payment dates, just
12 say that no later than April 22nd, 2020, you will pay a
13 \$100 penalty in whatever amount installments in whatever
14 time so long as that entire hundred dollars has been
15 paid by April 22nd, 2020; does that work?

16 MR. KUNTZ: Yes.

17 JUDGE PEARSON: Okay.

18 MR. KUNTZ: And I can still call if for some
19 reason --

20 JUDGE PEARSON: Yes.

21 MR. KUNTZ: Okay.

22 JUDGE PEARSON: If you need more time or,
23 like I said, some other hardship or other circumstances
24 come up, the most important thing is to let
25 Ms. McPherson know and not to just let it blow by,

1 because if that happens, then the 1900 will become due
2 and payable.

3 MR. KUNTZ: Okay.

4 JUDGE PEARSON: Okay?

5 MR. KUNTZ: Thank you.

6 JUDGE PEARSON: So do we need to take a
7 short break and you can --

8 MS. MCPHERSON: Short break and I can redo
9 the documents.

10 JUDGE PEARSON: Okay.

11 (A break was taken from
12 10:12 a.m. to 10:19 a.m.)

13 JUDGE PEARSON: Let's be back on the record.
14 So looks like there were also two violations in this
15 case; one for offering solid waste hauling services and
16 one for advertising; is that correct?

17 MS. MCPHERSON: That is correct, Your Honor.

18 JUDGE PEARSON: Okay. And the \$2,000
19 penalty will be imposed. A \$1,900 portion of that will
20 be suspended, and the company has agreed to make a \$100
21 payment today; is that correct?

22 MS. MCPHERSON: That is correct.

23 JUDGE PEARSON: And for the record,
24 Mr. Kuntz, you're agreeing to shut down or cease
25 offering solid waste carrier services unless you get a

1 certificate; is that correct?

2 MR. KUNTZ: Yes, Your Honor.

3 JUDGE PEARSON: So the \$1900 is suspended
4 for two years from today's date, which is
5 January 22nd, 2022, which means that if Staff finds an
6 advertisement or you offer solid waste collection
7 services during that time, you will have to pay the
8 entire \$1900 penalty, and you understand that?

9 MR. KUNTZ: Yes. I got one question.

10 JUDGE PEARSON: Sure.

11 MR. KUNTZ: So like I've advertised a lot on
12 a lot of different Facebook groups over the months, and
13 I think I -- because I'm not good with that, I had
14 someone come help me go back and try to find all those
15 old posts and erase them, and I think we got all of
16 them, but what if an old one pops up?

17 JUDGE PEARSON: I think if an old one pops
18 up, Ms. McPherson will recognize it as one that she's
19 already seen.

20 MR. KUNTZ: Okay.

21 JUDGE PEARSON: And like I explained to you
22 earlier, maybe it was Mr. Abdella, that if you get
23 somebody asking for those services --

24 MR. KUNTZ: Yeah.

25 JUDGE PEARSON: -- you need to say no.

1 MR. KUNTZ: I heard that.

2 JUDGE PEARSON: That's the most important
3 thing because you never know if it will be Ms. McPherson
4 posing as someone else.

5 MR. KUNTZ: I totally understand the rules
6 now.

7 JUDGE PEARSON: Okay. Okay. And then the
8 cease and desist order is permanent, it never expires.
9 Just like I explained to Mr. Abdella, that even if after
10 two years, we were to find that you were still offering
11 or advertising those services, Staff can go straight to
12 superior court and ask for much higher penalties. So
13 it's very important that you follow the law.

14 And let's see, I think that's it because
15 you've made your payment or you will be making your
16 payment today. And unless you have any additional
17 questions, we've all three already signed the order so
18 you will get a copy of it before you leave here today.
19 Is there anything else?

20 MR. KUNTZ: No, that's it.

21 JUDGE PEARSON: Okay. Thank you so much for
22 coming today.

23 MR. KUNTZ: Thank you.

24 JUDGE PEARSON: All right.

25 MR. KUNTZ: So I just go out here and...

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JUDGE PEARSON: Mm-hmm.
We are adjourned. Thank you.
(Adjourned at 10:21 a.m.)

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CERTIFICATE

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand
Reporter in and for the State of Washington, do hereby
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Tayler Garlinghouse, CCR 3358