

Docket No. TE-180805 - Vol. I

In the Matter of: Duane Coggins d/b/a Kokopelli's Run

November 14, 2018



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining) DOCKET NO. TE-180805
the Proper Carrier Classification)
of, and Complaint for Penalties)
Against:)
))
))
))
DUANE COGGINS)
D/B/A KOKOPELLI'S RUN)

TRANSPORTATION COURT, VOLUME I
Pages 1-39
ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

November 14, 2018
9:03 a.m.

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

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ALSO PRESENT:

DUANE COGGINS

* * * * *

1 OLYMPIA, WASHINGTON; NOVEMBER 14, 2018

2 9:03 A.M.

3 --o0o--

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

6 JUDGE CHARTOFF: Okay. So we are on the
7 record. Good morning. My name is Laura Chartoff. I am
8 an administrative law judge with the Washington
9 Utilities and Transportation Commission.

10 Today is November 14th, 2018, and the time
11 is 9:03 a.m. There are five charter party or excursion
12 service carriers who should be here today. So the first
13 thing we will do is see who's here. There is a court
14 reporter who is recording everything we say, so when I
15 call your name, please raise your hand and also say
16 "here" or "present."

17 So the first is TE-180401, Seattle 7 Days
18 Limo?

19 MR. JAGDIP SINGH: Present.

20 JUDGE CHARTOFF: Present, thank you.

21 TE-180582, Leavenworth Party Bus?

22 MR. KELLY: Present.

23 JUDGE CHARTOFF: Thank you.

24 TE-180710, Pack's Shuttle?

25 MR. PACK: Present.

1 JUDGE CHARTOFF: Okay. Present on the
2 bridge line.

3 TE-180805, Duane Coggins, doing business as
4 Kokopelli's Run?

5 MR. COGGINS: Present.

6 JUDGE CHARTOFF: Thank you.

7 MR. COGGINS: You're welcome.

8 JUDGE CHARTOFF: And TE-180826, Exotours?

9 Okay. I'm hearing nothing. That's the one
10 where you said...

11 MR. TURCOTT: That's correct, Your Honor.
12 They're on their way.

13 JUDGE CHARTOFF: They are on their way.
14 Okay. So I'll recall them in a -- later in the
15 proceeding.

16 Okay. So you are here because the
17 Commission has information that your company is
18 operating or advertising as a charter party or excursion
19 service carrier without a permit and has -- and the
20 Commission has initiated this enforcement action against
21 you.

22 So operating as a charter party or excursion
23 carrier without a permit is illegal and subject to a
24 penalty of up to \$5,000 per violation. If proven, the
25 Commission can order you to stop operating and impose

1 the penalty.

2 So I'll explain the -- your choices at this
3 proceeding. You can choose to agree to cease and desist
4 providing, offering, or advertising unpermitted charter
5 party or excursion services. If you choose this option,
6 you will need to show what you have done to shut down
7 your business either completely or partially. I'm going
8 to want to see proof that you're no longer operating or
9 advertising, for example, you will need to prove that
10 you have taken down or changed your websites or other
11 online advertisements for your business.

12 The other option is to ask for a
13 classification hearing if you want to show why you don't
14 need a permit. So if you choose a hearing, you are
15 denying that you offer or advertise charter party or
16 excursion services. And for this choice, we'll schedule
17 a hearing sometime in the next two months with a
18 deadline a week before the hearing for both you and
19 Commission Staff to list your witnesses and file any
20 exhibits. So I have some dates, available dates, for
21 that hearing. It could be in late December or the first
22 half of January.

23 So I will call you up one at a time in just
24 a moment. Mike Turcott is seated to my right over here.
25 He is a Commission compliance investigator supervisor,

1 and he will be speaking for Commission Staff. There's
2 another Staff member who will also be speaking, Jason
3 Hoxit.

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

13 If you choose to testify about how you're
14 getting out of the charter party or excursion service
15 carrier business, you can explain how you plan to do
16 that, and depending on the proof you can provide, you
17 should be able to reach an agreement with Staff, and
18 you'll have the opportunity to speak with Staff about
19 that during a break in the proceeding. If you have
20 recently applied for or received a permit from the
21 Commission, you should let me know that.

22 And finally, if you deny you're operating as
23 a charter party or excursion service carrier, we will
24 schedule another hearing, and we're going to set -- it
25 would help if you have your schedule so we can choose a

1 date. And after I hear from each of you, you will -- we
2 will take a break so you can meet with Staff and talk
3 about your case and also discuss the penalty.

4 You were each served with a complaint that
5 alleges you were providing the services without a permit
6 and asks the Commission to penalize you. The law sets
7 the maximum penalty for each violation at \$5,000. Staff
8 will recommend a penalty and you will have a chance to
9 reach an agreement with Staff about the penalty amount.
10 Staff will explain the recommendation, but the
11 Commission can make the final decision on the penalty
12 amount.

13 Okay. So, Mr. Turcott, I'll -- will you be
14 the representative -- will you be representing Staff for
15 Seattle 7 Day Limo?

16 MR. TURCOTT: No, Your Honor. That will be
17 Mr. Hoxit.

18 JUDGE CHARTOFF: Oh, okay. Why don't I have
19 both of you come forward and I'll swear you both in.

20 (Mike Turcott and Jason Hoxit sworn.)

21 JUDGE CHARTOFF: Okay. So I'm going to call
22 TE-180401, Seattle 7 Days Limo. Please come forward,
23 and if you'll take a seat at the table. Make sure your
24 microphone is turned on. You should see a red light.

25 So please state your first and last name,

1 spelling your last name for the court reporter.

2 MR. JAGDIP SINGH: Yeah, it's Jagdip,
3 J-a-g-d-i-p.

4 JUDGE CHARTOFF: Can you speak into the
5 microphone?

6 MR. JAGDIP SINGH: It's Jagdip Singh,
7 J-a-g-d-i-p, S-i-n-g-h is my last name.

8 JUDGE CHARTOFF: And are you here with the
9 company too?

10 MR. AMANDEEP SINGH: Yeah, I'm one of -- I'm
11 one of their friends.

12 JUDGE CHARTOFF: Okay.

13 MR. AMANDEEP SINGH: So should I give my
14 name?

15 JUDGE CHARTOFF: Oh, so --

16 MR. JAGDIP SINGH: He's my friend. He just
17 works with the tech.

18 JUDGE CHARTOFF: Oh, okay. So he's not here
19 representing the company?

20 MR. JAGDIP SINGH: No.

21 JUDGE CHARTOFF: Okay.

22 MR. JAGDIP SINGH: He's just going to, you
23 know, explain the -- he's a tech guy, so he's -- he's an
24 engineer, you know, website and all that stuff he does,
25 so I just brought him to help me out.

1 JUDGE CHARTOFF: Is he going to be
2 testifying or --

3 MR. JAGDIP SINGH: Yes.

4 JUDGE CHARTOFF: -- is he just -- oh, okay.
5 So give me your name, please.

6 MR. AMANDEEP SINGH: Amandeep, A-m-a-n-d,
7 double e, p, and last name is Singh, S-i-n-g-h.

8 JUDGE CHARTOFF: And what is your position
9 with the company?

10 MR. JAGDIP SINGH: It's the owner.

11 JUDGE CHARTOFF: Owner, okay.

12 So can you both please stand and raise your
13 right hand?

14 (Jagdeep Singh and Amandeep Singh sworn.)

15 JUDGE CHARTOFF: Thank you.

16 Okay. So I heard that you have a concern
17 about service?

18 MR. JAGDIP SINGH: Yes.

19 JUDGE CHARTOFF: Can you tell me about that?

20 MR. JAGDIP SINGH: First, I didn't get
21 served the right way. There is no such driver called
22 John or whatnot, that worked for me. And then when it
23 got served, you know, my -- my drivers are not
24 responsible for taking any or accepting any legal
25 documents. If anything, they have to serve to the

1 office or they gotta find the right person to serve. So
2 I didn't get notified anything. So what I got last --
3 last week, I just got an email from Jason for all the
4 information.

5 JUDGE CHARTOFF: Okay. So the driver didn't
6 hand you the paperwork?

7 MR. JAGDIP SINGH: No, not at all.

8 JUDGE CHARTOFF: And you --

9 MR. JAGDIP SINGH: Yeah, there's -- there's
10 such a thing, you know, got anything delivered or
11 anything to the driver. So I'm just trying to -- trying
12 to think, you know, who they served and whatnot.
13 Because the statement that they actually gave on the
14 paperwork that I just saw an email, you know, I don't
15 recognize that person that they served to.

16 JUDGE CHARTOFF: Okay. Let me ask Staff.

17 So can you tell me about the service on this
18 case?

19 MR. HOXIT: Yeah, on that specific date, it
20 was served in the hands of a John Doe, so it was an
21 unidentified individual who was representing Seattle 7
22 Days Limo. Staff had booked a ride under a fictitious
23 identity to meet at a hotel, and that was the individual
24 who came to pick out -- pick up the individual.

25 JUDGE CHARTOFF: Did Staff or the process

1 server attempt to serve them any other way?

2 MR. HOXIT: Yes, there was a total of 15
3 attempts. The first looks like five were at an address
4 on 80th Avenue West in Edmonds, which were unsuccessful.

5 JUDGE CHARTOFF: Hold on. My pen ran out of
6 ink.

7 MR. HOXIT: Okay.

8 JUDGE CHARTOFF: Okay. So there were a
9 total of 15 attempts?

10 MR. HOXIT: Yes, and that includes the final
11 one at the hotel. So the first five were at the 80th
12 Avenue West address, which were -- was the address
13 registered on Mr. Singh's driver's license. Those were
14 unsuccessful, so then we found an address of 13015
15 Beverly Park Road in Lynnwood, Washington, and that is
16 where we attempted an additional I believe it was nine
17 services.

18 And on multiple attempts, there were people
19 present in vehicles registered to the company at that
20 address, and the Hummer H2s that were on the website
21 were located at the address identified in the
22 declaration, but nobody was willing to accept service or
23 identify themselves. And there were signs for Seattle 7
24 Days Limo at that address.

25 JUDGE CHARTOFF: Is -- is the 13015 address

1 in Lynnwood, is that your office address?

2 MR. JAGDIP SINGH: That's a rental. I
3 actually rent that place out. It's a rental house.

4 JUDGE CHARTOFF: Do you own it or you rent
5 it?

6 MR. JAGDIP SINGH: I own it, so I rent it to
7 somebody.

8 JUDGE CHARTOFF: What is your address?

9 MR. JAGDIP SINGH: 228 -- 22826 - 80th
10 Avenue West, Edmonds, Washington 98026.

11 JUDGE CHARTOFF: So I -- I can't make a
12 ruling right now on whether service was -- was good or
13 not. I'd have to take that under advisement.

14 MR. JAGDIP SINGH: Yeah.

15 JUDGE CHARTOFF: What I can say is that you
16 are here and maybe you should take this opportunity to
17 either -- to choose one of the options, because even if
18 service was bad, Staff is going to serve you again.

19 MR. JAGDIP SINGH: Yeah, no, I understand
20 that. But what if I never find out then, you know, I
21 never show up to the court, what's going to happen, you
22 know? That's going to reflect me, though, in a bad way.
23 Because actually, you know, I'm not talking just about
24 only me. What if it happens to some other companies and
25 they have to go through the same process if they don't

1 find out? Then they're going to have to deal with the
2 other penalties, you know.

3 I think you said, you know, served this
4 better or make this better, I guess the next time it
5 won't just happen like that, I guess. Because the
6 drivers are only responsible for just to take the
7 customer, pick them up, take them to, you know, do their
8 jobs. They're not actually there to get served any kind
9 of legal paper or legal arguments, you know. That's not
10 their responsibilities.

11 You know, if they have to serve, they have
12 to serve the owners, manager, or, you know, whatever
13 they have to do to serve the right people so the other
14 people don't have to, you know -- I just find out,
15 that's why I'm here. Otherwise, he should be putting
16 another penalty on the top, you know, if I never showed
17 up.

18 JUDGE CHARTOFF: I -- I understand, but at
19 this point, you know, you are here, you got the
20 materials. Are you prepared to, you know, make a
21 decision on which way to go?

22 MR. JAGDIP SINGH: I'm somewhat, you know,
23 prepared, you know. I can always make decisions, you
24 know, but I can provide you what I have, though, if you
25 approve it and whatnot, you know, what they have.

1 JUDGE CHARTOFF: So are you willing to admit
2 that you were operating without a permit?

3 MR. JAGDIP SINGH: No, actually, Your Honor,
4 I'm not.

5 JUDGE CHARTOFF: You're not, okay.

6 MR. JAGDIP SINGH: Yes.

7 JUDGE CHARTOFF: So would you like to set a
8 hearing?

9 MR. JAGDIP SINGH: Yeah, that would be nice,
10 but, you know, if I want to hear -- if you want to hear,
11 I can explain too right now or you can set another date.

12 JUDGE CHARTOFF: If you're denying that
13 you're operating without a permit, is it because you
14 think that your business doesn't require it?

15 MR. JAGDIP SINGH: Yes, ma'am.

16 JUDGE CHARTOFF: Okay.

17 MR. JAGDIP SINGH: I used to run a UTC
18 license. I have the proofs to 2015 and '16. I think
19 they have the proofs too, but after that one, it says it
20 expired and I never run it. I only have two vehicles
21 that's listed on the business, which is a Hummer and the
22 ten-pack, you know. And I do have the paperwork from
23 the City too and the insurances, but these are -- I also
24 have the old UTC inspections and the insurances that I
25 used to run.

1 So five million [sic] or whatnot, I have all
2 the paperwork and I have a licensed vehicle, which is
3 the Hummer that they actually talking about and then
4 they -- the insurances for both and they're legal to
5 doing a limousine carrier, which is I'm actually holding
6 it right now. This is what I was doing the whole time
7 once it got -- the UTC got expired so -- so I don't know
8 what concerns and what pictures or what they -- if they
9 can explain me more, I can explain them more.

10 JUDGE CHARTOFF: Okay. So yeah, we're not
11 prepared to do a classification hearing today. Staff
12 would need --

13 I assume Staff would prefer us to set this
14 out for a hearing?

15 MR. TURCOTT: Yes, Your Honor. We would ask
16 that a classification hearing be set, and if possible,
17 since it's difficult to serve this company, if any way
18 possible for them to leave today with the date of that
19 hearing. It seems to be difficult through normal
20 channels to serve process on this company.

21 JUDGE CHARTOFF: Yeah, yes.

22 So do you have your calendar with you?

23 MR. JAGDIP SINGH: Let me check.

24 JUDGE CHARTOFF: I have some days that I --
25 so in December, I have the 20th or the 21st, and then in

1 January, I have a number of dates in the first half.
2 The 3rd, 4th.

3 MR. JAGDIP SINGH: Yeah, January works the
4 best. Let's do the 3rd if that's available.

5 JUDGE CHARTOFF: The 3rd. Can someone from
6 Staff --

7 MR. TURCOTT: Yes, Your Honor.

8 MR. HOXIT: Yes, that day will work for
9 Staff.

10 MR. JAGDIP SINGH: Let me confirm one more
11 time. Yeah, that works. Thank you.

12 JUDGE CHARTOFF: Okay. And how can we -- so
13 we're going to send the notice to the address --

14 MR. JAGDIP SINGH: 22826, yeah.

15 JUDGE CHARTOFF: 22826.

16 MR. JAGDIP SINGH: 80th Avenue West,
17 Edmonds, Washington 98026. If you are sending them,
18 please send a certified mail. That way you can leave
19 the note at the door, because every time we got served,
20 there was no message or nothing was actually left on the
21 door. And my mom don't speak English, so she don't
22 know, you know, what to accept and what not. And I'm
23 working on pretty much every time whenever they try to
24 come there.

25 JUDGE CHARTOFF: Okay. All right. Okay.

1 So you're free to go.

2 MR. JAGDIP SINGH: What -- what time will it
3 be, though; do you know? Sorry. Or it's not set up
4 yet?

5 JUDGE CHARTOFF: Oh, it's typically 9:30.

6 MR. JAGDIP SINGH: It's 9:30, okay.

7 JUDGE CHARTOFF: Does that work?

8 MR. JAGDIP SINGH: Yeah, that works, we're
9 just gonna hit the traffic, two hours.

10 JUDGE CHARTOFF: I might be able to do the
11 afternoon if that would...

12 MR. JAGDIP SINGH: Yeah, that works great,
13 then.

14 JUDGE CHARTOFF: We'll do 1:00 p.m.

15 MR. JAGDIP SINGH: Yes, ma'am, thank you.

16 JUDGE CHARTOFF: Okay. All right. You're
17 free to go.

18 MR. JAGDIP SINGH: All right. Thank you
19 very much.

20 JUDGE CHARTOFF: Okay. So I'm going to call
21 TE-180582, Leavenworth Party Bus.

22 MR. KELLY: Is this on? How about that.
23 All right.

24 JUDGE CHARTOFF: So please state your first
25 and last name.

1 MR. KELLY: Christopher Kelly.

2 JUDGE CHARTOFF: Can you spell your last
3 name?

4 MR. KELLY: K-e-l-l-y.

5 JUDGE CHARTOFF: Thank you.

6 And what is your position with the company?

7 MR. KELLY: I'm the owner/operator.

8 JUDGE CHARTOFF: Okay. I have to swear you
9 in.

10 MR. KELLY: Okay.

11 (Christopher Kelly sworn.)

12 JUDGE CHARTOFF: Thank you.

13 Okay. So do you understand the choices that
14 I explained earlier?

15 MR. KELLY: I do.

16 JUDGE CHARTOFF: And how do you --

17 MR. KELLY: I made steps to close down. I
18 went on and I took off all my online presence, and I
19 just plan to reopen in May of 2019 once I get all of
20 these compliancy issues ironed out.

21 JUDGE CHARTOFF: Does Staff have a
22 recommendation on this?

23 MR. TURCOTT: Yes, Your Honor. We spoke
24 briefly, Mr. Kelly and I spoke briefly before the
25 hearing, and I think we'll be able to reach a settlement

1 in this matter.

2 JUDGE CHARTOFF: Okay. Great.

3 Okay. So when we take a break, you can talk
4 to Staff and see if you can come to an agreed order.
5 That order will say that you were operating without a
6 permit, that you advertised without a permit, and that
7 you agree to stop operating until you get a permit if
8 you do decide to apply for one. And once you feel
9 comfortable that you understand the order, you and Staff
10 will both sign it. It will also include most likely an
11 agreement on the penalty amount, but if not, you can
12 explain to me why the penalty should be different than
13 what Staff is recommending. And do you have any
14 questions?

15 MR. KELLY: That's it. Fair enough.

16 JUDGE CHARTOFF: Oh, okay. Please return to
17 your seat and wait for the break. Thank you.

18 Okay. TE-180710, Pack's Shuttle?

19 MR. PACK: I'm here, Your Honor.

20 JUDGE CHARTOFF: Oh, okay. On the bridge
21 line. Please state your first and last name, spelling
22 your last name for the court reporter.

23 MR. PACK: Nathan Pack, P-a-c-k.

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

1 MR. PACK: Member/manager.

2 JUDGE CHARTOFF: Okay. I will swear you in.

3 (Nathan Pack sworn.)

4 JUDGE CHARTOFF: Thank you.

5 Okay. So do you understand the choices that
6 I explained earlier?

7 MR. PACK: I do. Mr. Hoxit and I have come
8 to an agreement. I've signed it.

9 JUDGE CHARTOFF: Okay. So you guys have one
10 signed already?

11 MR. HOXIT: Yeah, yeah. Pack's Shuttle has
12 provided evidence that it's closed its business
13 accounts, sold its vehicles, and moved the registration
14 over to the new buyer and also disposed of the signage
15 that they had been advertising with in Moses Lake. And
16 Mr. Pack and I have come to a settlement agreement that
17 we would like to propose to you during the recess.

18 JUDGE CHARTOFF: Okay. Okay. So I will
19 review that at the recess.

20 Mr. Pack, you will have to stay on the line
21 for a while and we'll call you back after the recess.
22 Do you have any questions?

23 MR. PACK: I would just like to go on the
24 record saying I have done everything I could to get
25 everything to Jason and the State's pleasure. If there

1 are any signs left somehow -- I had sold this company
2 and they were operating it without a license. It was my
3 fault for not transferring and closing it on my side,
4 but I would like the record to note that I've made every
5 attempt to collect every single sign there might have
6 been. So if there is a sign floating around there
7 somewhere, I didn't know about it and I'm not using it.

8 JUDGE CHARTOFF: Okay. Okay. Anything
9 further from Staff?

10 MR. HOXIT: Would it be okay with you,
11 Judge, if we call Mr. Pack back before we reconvene from
12 recess? That way he's not on the line for however long.

13 JUDGE CHARTOFF: Sure. What are you -- you
14 mean --

15 MR. HOXIT: Staff would call him when we're
16 ready to come back into the hearing and would ask that,
17 on the record, Mr. Pack provide a valid phone number for
18 Staff to contact him with so he doesn't have to stay on
19 hold during the entire recess, and we can call him and
20 then he would call back into the bridge line.

21 JUDGE CHARTOFF: Oh, sure. So you want me
22 to ask him to --

23 MR. HOXIT: Yeah.

24 JUDGE CHARTOFF: -- provide a phone number?
25 Can you provide a phone number for us to

1 reach you?

2 MR. PACK: Yes, of course. I would love to
3 do that.

4 Thank you, Jason, for that offer.

5 I can be reached two different ways. The
6 first and primary way would be 509-750-2488, and the
7 second being 509-762-1234.

8 I'm also available by email as well, Jason.

9 MR. HOXIT: Thank you.

10 JUDGE CHARTOFF: Okay. All right. So let's
11 see where we are now. Okay. So I'm going to call
12 TE-180805, Duane Coggins, doing business as --

13 MR. PACK: Should I get off the phone now?

14 JUDGE CHARTOFF: So you're saying you
15 will -- he can hang up and you will call him back?

16 MR. HOXIT: Yes. Yeah, I will call Mr. Pack
17 back when we reconvene.

18 JUDGE CHARTOFF: Oh, okay. So you can hang
19 up.

20 MR. PACK: Thank you, Your Honor.

21 Thank you, Jason.

22 JUDGE CHARTOFF: Okay. Duane Coggins, doing
23 business as Kokopelli's Run?

24 Please state your first and last name,
25 spelling your last name for the court reporter.

1 MR. COGGINS: Duane Coggins, C-o-g-g-i-n-s.

2 JUDGE CHARTOFF: And what is your position
3 with the company?

4 MR. COGGINS: Owner/operator.

5 JUDGE CHARTOFF: Okay. I will swear you in.
6 (Duane Coggins sworn.)

7 JUDGE CHARTOFF: Thank you.

8 So do you understand the choices I explained
9 earlier?

10 MR. COGGINS: Yes, I do. I'm going to go
11 with the cease operating until I can get a permit again.

12 JUDGE CHARTOFF: So you agree to cease and
13 desist until such time is -- when you're able to get --

14 MR. COGGINS: Yeah, it'd be March when I'm
15 able to get up and running again.

16 JUDGE CHARTOFF: Does Staff have anything to
17 say on this one?

18 MR. TURCOTT: Yes, Your Honor. Mr. Coggins
19 and I discussed the matter before the hearing. He's
20 taken his advertising down, we've discussed plans for
21 reapplying in the spring, and we've discussed potential
22 penalty agreements and we're ready to proceed with that.

23 JUDGE CHARTOFF: Great.

24 Okay. So yeah, when we take a break, you
25 will discuss with Staff.

1 MR. COGGINS: Okay.

2 JUDGE CHARTOFF: And I won't go through the
3 whole -- you heard what I said to the previous company.

4 MR. COGGINS: Right.

5 JUDGE CHARTOFF: Okay.

6 MR. COGGINS: Okay. Thank you.

7 JUDGE CHARTOFF: So please take a seat.

8 Okay. And the last is TE-180826, Exotours?
9 Please come forward.

10 MR. LUCA: Morning. I will take this one, I
11 guess.

12 JUDGE CHARTOFF: Okay. Please state your
13 first and last name.

14 MR. LUCA: Benjamin Luca, L-u-c-a, and I am
15 owner/operator.

16 JUDGE CHARTOFF: Do you understand the
17 choices that I explained earlier?

18 MR. LUCA: I wasn't in here, but I believe
19 it was the cease and desist order, apply for a hearing.
20 I'm not quite sure how it would be because I have ceased
21 and desist, but I already have the permit now, I
22 believe.

23 JUDGE CHARTOFF: Oh, okay. So did --

24 MR. LUCA: Our situation is a little
25 different, I guess.

1 MR. HOXIT: Yeah, it's my understanding that
2 the company has applied and they are awaiting a motor
3 carrier inspection prior to being potentially issued a
4 certificate.

5 MR. LUCA: Which I do now have the
6 inspection and everything that we had passed.

7 JUDGE CHARTOFF: Okay. So what we would be
8 asking you to cease and desist to stop operating until
9 such time as you get the permit.

10 MR. LUCA: Okay.

11 JUDGE CHARTOFF: So -- okay. So when we
12 take a break, you can talk with Staff and see if you can
13 sign an agreed order. That order will say that you
14 agree you were operating without a permit and that you
15 advertised without a permit and that you agree to stop
16 operating until you get a permit. And then once you
17 feel comfortable that you understand the order, you and
18 Staff will both sign it, and it will most likely include
19 an agreement on the penalty amount. But if not, you can
20 explain why the penalty should be different than what
21 Staff is recommending. So do you have any questions?

22 MR. LUCA: I don't think so, no.

23 JUDGE CHARTOFF: Oh, okay. So please return
24 to your seat.

25 MR. LUCA: Awesome. Thank you.

1 JUDGE CHARTOFF: So at this point, we're
2 going to take a break, and as soon as I -- you have a
3 chance to review the cease and desist orders with Staff,
4 you can talk about the penalty. The recommended penalty
5 may be small or there may be a reason why Staff asked
6 for a larger penalty, for example, if you've been in
7 front of a judge here before or you had a permit with
8 the Commission that was cancelled.

9 So usually part of the penalty is suspended
10 and you will not have to pay it unless you break the law
11 again. So you'll pay the unsuspended part of the
12 penalty today and you'd only have to pay the rest if you
13 violate the order. And then I'll call everyone back up
14 and make sure you understand the order and you can sign
15 it and leave with a copy of it. So anything else before
16 we take a break? Okay. We are in recess.

17 (Recess taken from 9:36 a.m. until
18 10:23 a.m.)

19 JUDGE CHARTOFF: We are back on the record
20 at 10:25 a.m. I understand the cease and desist orders
21 have been explained to each company. So I will call you
22 back up one at a time in the order we went before except
23 we'll call Pack's last. Is that...

24 MR. HOXIT: Yeah, that's correct.

25 JUDGE CHARTOFF: Okay. Okay. So I'm going

1 to call Leavenworth Party Bus. Please come forward,
2 take a seat.

3 Okay. So, Mr. Kelly, did you have a chance
4 to read the whole order?

5 MR. KELLY: I did. I did. Mike went over
6 it with me.

7 JUDGE CHARTOFF: And do you understand it?

8 MR. KELLY: I do. There was -- the only one
9 stipulation that I did want to state to the Court was
10 the fact that I believe it was paragraph 10 or 12, the
11 bottom line was that I was not aware that I was
12 operating out of compliance. The letter that was sent
13 to the company was sent to the former owner, and I was
14 never made aware of that. I wasn't -- I wasn't aware
15 that I was out of compliance until the -- I was served
16 with the papers. So Mike was very understanding and I
17 will take whatever penalty that the Court deems fit. It
18 was just -- it wasn't something I was trying to get over
19 on anybody. I wasn't trying to pull anything off. I
20 was just unaware that I was out of compliance.

21 JUDGE CHARTOFF: Okay.

22 MR. TURCOTT: Your Honor, in -- on this
23 point, the -- the violation is for operating after
24 cancellation of a certificate, but I wanted to point out
25 that the certificate was issued to a previous owner.

1 And so while it's true that Leavenworth Party Bus
2 operated after cancellation of a certificate, Mr. Kelly
3 did not operate. You know, this was -- he was a new
4 owner. He did not receive the cancellation letter the
5 previous owner received, and that's reflected in the
6 recommendation for suspended -- we recommended
7 suspending a larger penalty amount in this case to be
8 fair to the circumstances.

9 JUDGE CHARTOFF: Yeah, it looks like they're
10 suspending -- let's see here. So there's a \$10,000
11 penalty and Staff is recommending a 9,000 be -- portion
12 be suspended and that seems in line with --

13 MR. KELLY: Okay. I made the payment
14 already so...

15 JUDGE CHARTOFF: Oh, okay.

16 MR. KELLY: That ship has kind of sailed.

17 JUDGE CHARTOFF: So for the record, you are
18 agreeing to shut down until you -- unless or until you
19 get a permit.

20 MR. KELLY: Absolutely.

21 JUDGE CHARTOFF: The payment -- okay. So
22 you already made the payment.

23 MR. KELLY: I did.

24 JUDGE CHARTOFF: So -- okay. So I have a
25 couple of things to tell you. Okay. So the -- the

1 \$9,000 is suspended for two years from today's date,
2 which is November 14th, 2018. That means that if Staff
3 finds an advertisement or you offer charter party or
4 excursion carrier services during this time, you will
5 have to pay that \$9,000 penalty.

6 MR. KELLY: I understand.

7 JUDGE CHARTOFF: And the order to cease and
8 desist is permanent. It never expires, that is unless
9 you get a permit.

10 MR. KELLY: Got it.

11 JUDGE CHARTOFF: So if Staff discovers
12 you're still operating even after two years, Staff can
13 go straight to superior court and ask for higher
14 penalties.

15 MR. KELLY: Understood.

16 JUDGE CHARTOFF: Okay. Do you have any
17 additional questions about the order?

18 MR. KELLY: No.

19 JUDGE CHARTOFF: Okay. Anything from Staff?

20 MR. TURCOTT: No, ma'am.

21 JUDGE CHARTOFF: No, okay.

22 So I'm going to sign it and -- okay. Staff
23 will make you a copy and when you receive it, you're
24 free to go.

25 MR. KELLY: Thank you.

1 JUDGE CHARTOFF: Okay. So next I'm going to
2 call Duane Coggins, doing business as Kokopelli's Run.

3 So, Mr. Coggins, did you have a chance to
4 read the whole order?

5 MR. COGGINS: Yes, I did.

6 JUDGE CHARTOFF: And do you understand it?

7 MR. COGGINS: I do.

8 JUDGE CHARTOFF: I see that you both signed
9 it.

10 MR. COGGINS: Yes.

11 JUDGE CHARTOFF: You and Staff. Looks like
12 there's two violations in this case, one for offering
13 to -- to -- offer to conduct operations after the
14 cancellation of a certificate.

15 MR. COGGINS: Yes.

16 JUDGE CHARTOFF: And advertised.

17 MR. COGGINS: Yes, ma'am.

18 JUDGE CHARTOFF: And the penalty is \$10,000,
19 a \$7,500 portion of the penalty is suspended for two
20 years.

21 MR. COGGINS: Yes.

22 JUDGE CHARTOFF: And from today's date, and
23 I'll repeat it, but I -- I know you've heard it already,
24 that means if Staff finds an advertisement or you offer
25 charter party or excursion carrier services during this

1 time, you will have to pay the full penalty.

2 MR. COGGINS: Right, okay.

3 JUDGE CHARTOFF: And the order to cease and
4 desist is permanent. That means that even after two
5 years, if you -- if they find you operating without a
6 permit, they can go straight to superior court and ask
7 for much higher penalties.

8 MR. COGGINS: Right.

9 JUDGE CHARTOFF: Okay. And you -- I see you
10 have a payment schedule.

11 MR. COGGINS: Yes, and I made today's
12 payment already.

13 JUDGE CHARTOFF: Okay. And you made today's
14 payment. And the payment schedule is about -- is \$250
15 due each month on the 14th or the 15th if the 14th is a
16 Sunday, I assume. And do you understand that if you
17 miss a payment, you'll have to pay the full amount?

18 MR. COGGINS: Yes, I do.

19 JUDGE CHARTOFF: So including the suspended
20 penalty. So if for some reason you're going to be late
21 making a payment, you must contact Staff and make
22 arrangements so you don't end up having to pay the whole
23 penalty.

24 MR. COGGINS: Okay.

25 JUDGE CHARTOFF: Do you understand what you

1 can and can't do?

2 MR. COGGINS: Yes, I do.

3 JUDGE CHARTOFF: Okay. And remember,
4 Commission Staff is always available if you have any
5 questions. Okay. I will sign the order. Okay. When
6 you get a copy of it, you'll be free to go.

7 MR. COGGINS: Okay. Thank you.

8 JUDGE CHARTOFF: Okay. I'm going to call
9 Exotours.

10 Okay. Mr. Luca, did you have a chance to
11 read the whole order?

12 MR. LUCA: Yes, ma'am.

13 JUDGE CHARTOFF: Do you have any questions?

14 MR. LUCA: Not at all.

15 JUDGE CHARTOFF: Okay. And it looks like
16 there are two violations, one, offer to conduct
17 operations without the required certificate and on one
18 occasion advertised to conduct operations without the
19 required certificate. You are agreeing to shut down
20 until your permit is --

21 MR. LUCA: Arrives.

22 JUDGE CHARTOFF: -- in place.

23 MR. LUCA: Absolutely.

24 JUDGE CHARTOFF: Okay. The penalty is
25 \$10,000, a \$9,500 portion of the penalty is suspended

1 for two years. And you understand that if Staff finds
2 you operating, the entire amount will be due?

3 MR. LUCA: Whole thing.

4 JUDGE CHARTOFF: And that the cease and
5 desist order is permanent so long as you don't have a
6 permit.

7 MR. LUCA: Mm-hmm.

8 JUDGE CHARTOFF: Okay. And the payment
9 schedule -- you made \$125 payment.

10 MR. LUCA: I'll make it tomorrow. I -- we
11 recently lost our wallet so...

12 JUDGE CHARTOFF: Okay.

13 MR. LUCA: It will come in tomorrow.

14 JUDGE CHARTOFF: You plan to make it
15 tomorrow.

16 MR. LUCA: Yeah.

17 JUDGE CHARTOFF: And \$125,000 -- \$125, \$125
18 will be owed on --

19 MR. LUCA: 15th and 14th.

20 JUDGE CHARTOFF: December 14th, January
21 15th, and February 15th. Okay. And also, if you miss a
22 payment, the whole thing will be due so --

23 MR. LUCA: Don't miss it for 125 bucks.

24 JUDGE CHARTOFF: And if anything -- if you
25 have any problems, please contact Staff and make

1 arrangements. Okay. Are there any questions?

2 MR. LUCA: No, ma'am.

3 JUDGE CHARTOFF: Okay. So I will sign this.

4 MR. LUCA: Thank you.

5 JUDGE CHARTOFF: Okay. When you get a copy,
6 you're free to go.

7 And then is -- is Pack's on the line or do
8 we need to call them?

9 MR. HOXIT: They should be on the line. I
10 called them during the break.

11 JUDGE CHARTOFF: Okay. Is Pack's
12 Delivery, are you on the bridge line? Mr. Pack?

13 I wonder if we can try to -- why don't we
14 take a short recess and we'll try to get him back on
15 there.

16 MR. HOXIT: Yeah, I will contact him.

17 (Recess taken from 10:34 a.m. until
18 10:38 a.m.)

19 JUDGE CHARTOFF: Okay. So let's be back on
20 the record. It is 10:40 a.m.

21 So, Mr. Pack?

22 MR. PACK: Yes, I'm here.

23 JUDGE CHARTOFF: You're on the line, okay.
24 Did you have a chance to read the whole order?

25 MR. PACK: I did.

1 JUDGE CHARTOFF: And do you have any
2 questions about it?

3 MR. PACK: I do not.

4 JUDGE CHARTOFF: Okay. And I'll just go
5 through it here. It looks like there's two violations,
6 one for offering charter party or excursion services and
7 one for advertising those services. And there is a
8 \$10,000 penalty, 9,000 of the penalty is suspended for a
9 period of two years from today's date, which is
10 November 14th, 2018. That means that if Staff finds an
11 advertisement or you offer charter party or excursion
12 carrier services during that time, you will have to pay
13 the full \$10,000 penalty; do you understand that?

14 MR. PACK: I do.

15 JUDGE CHARTOFF: Okay. And also, the order
16 to cease and desist is permanent. It never expires. So
17 if Staff discovers you are still operating even after
18 two years, they can go straight to superior court and
19 ask for much higher penalties. So it's important --

20 MR. PACK: I understand.

21 JUDGE CHARTOFF: Okay. And it looks like --
22 let me see if there's a -- there's a payment plan, \$250
23 will be paid today.

24 MR. PACK: Yes.

25 JUDGE CHARTOFF: And \$250 will be due

1 December 14th, January 14th, and February 14th. And do
2 you understand that if you miss a payment, you'll have
3 to pay the entire amount including the suspended
4 penalty?

5 MR. PACK: Yes, I believe I'm able to set up
6 a payment -- I mean an automatic payment.

7 JUDGE CHARTOFF: Okay. Okay. And if for
8 some reason you have any problems, you're going to be
9 late making a payment, you must contact Staff and make
10 arrangements so you don't end up having to pay the whole
11 penalty.

12 MR. PACK: Okay. I will do that.

13 JUDGE CHARTOFF: And legally, you understand
14 what you can and can't do?

15 MR. PACK: I -- yes, I do.

16 JUDGE CHARTOFF: Okay. And remember that
17 Commission Staff is always available to assist you if
18 you have any questions. So are there any additional --
19 any questions about the order?

20 MR. PACK: I do -- I have one -- have one
21 thing made clear to me. If -- so I sold this business,
22 if they continue -- or if they do not make a payment,
23 I'm going to repossess the van and -- and everything
24 else that was sold to them. If I decided in the future,
25 is it possible for me to reapply for a UTC license with

1 all the proper insurance and license and documentation?

2 JUDGE CHARTOFF: Yes, this -- this order
3 does not prevent you from getting permitted.

4 MR. PACK: Okay.

5 JUDGE CHARTOFF: Our goal would be that
6 either people, you know, don't operate or get a permit
7 and do operate.

8 MR. PACK: Okay.

9 JUDGE CHARTOFF: So yes, this only prevents
10 you -- or orders you to not operate so long as you don't
11 have a permit.

12 MR. PACK: Okay. Great.

13 JUDGE CHARTOFF: Okay. So I'm going to go
14 ahead and sign this, and how will it be -- how will
15 Staff get a copy of this to Mr. Pack?

16 MR. HOXIT: We have a physical address on
17 file, but if it's okay with Mr. Pack to serve him
18 electronically.

19 MR. PACK: Yeah, no, that's fine. Email is
20 great.

21 JUDGE CHARTOFF: Okay. Okay. So he will do
22 that probably by the end of the day.

23 MR. HOXIT: Yes.

24 JUDGE CHARTOFF: Okay. So that's it, then.
25 We are in recess. You're free to go.

(Adjourned at 10:42 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

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