

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint  
for Penalties Against

ROBERTO YAM YWAMOTO d/b/a  
REAL PRO MOVING

DOCKET TV-200473

ORDER 02

INITIAL ORDER CLASSIFYING  
RESPONDENT AS HOUSEHOLD  
GOODS CARRIER; ORDERING  
RESPONDENT TO CEASE AND  
DESIST; IMPOSING AND SUSPENDING  
PENALTIES ON CONDITION OF  
FUTURE COMPLIANCE

**BACKGROUND**

**Synopsis.** *This is an Administrative Law Judge's Initial Order that is not effective unless approved or allowed to become effective as described in the notice at the end of this Order. This Initial Order is based upon a stipulation presented by the parties. If this Initial Order becomes final, Roberto Yam Ywamoto d/b/a Real Pro Moving, (Real Pro Moving or Company) will be assessed a financial penalty in the amount of \$5,000 for two (2) violations of RCW 81.80.075(1). The entire \$5,000 penalty will be suspended for a period of two years from the date of this Order, and then waived, subject to the condition that Real Pro Moving refrains from further operations as a household goods carrier without first obtaining the required permit from the Utilities and Transportation Commission (Commission). In addition, if this Initial Order becomes final, Real Pro Moving will be classified as a household goods carrier and required to permanently cease and desist from operating as a household goods carrier without first obtaining a permit from the Commission.*

- 1 **Nature of Proceeding.** The Commission initiated this special proceeding to determine if Real Pro Moving has engaged, and continues to engage, in business as a common carrier for transportation of household goods for compensation within the state of Washington without possessing the permit required for such operations.
  
- 2 **Procedural History.** On January 27, 2021, the Commission entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; and Notice of Mandatory Appearance at Hearing, pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that Real Pro Moving violated RCW 81.80.075(1) by:

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

- (1) offering on at least one occasion to transport household goods within the state of Washington; and
- (2) advertising household goods moving services within the state of Washington on at least one occasion

without the necessary permit required for such operations. On the same date, the Commission issued a *Subpoena and Subpoena Duces Tecum For Production of Documents* (Subpoenas) to the Company commanding Roberto Yam Ywamoto, Company owner, to virtually appear before the Commission at a special proceeding scheduled to convene at 10:30 a.m. on February 19, 2021, and to bring the documents specified in the *Subpoenas*.

3 **Hearing.** On February 19, 2021, the Commission convened a virtual hearing as scheduled before Administrative Law Judge Samantha Doyle.

4 **Appearances.** Robert Hartford, Compliance Investigator, Lacey, Washington, represents the Commission’s regulatory staff (Commission Staff).<sup>1</sup> Roberto Yam Ywamoto, Lynnwood, WA, represents the Company, *pro se*.

## DISCUSSION

5 **Applicable Law.** RCW 81.80.010(5) defines “household goods carrier” as

a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods.

RCW 81.80.075 prohibits household goods carriers from operating for Compensation in Washington without first obtaining the required permit from the Commission. Upon

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<sup>1</sup> In adjudications the Commission’s regulatory staff participates like any other party, while an administrative law judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

proof of unauthorized operations, RCW 81.04.510 authorizes the Commission to order the unpermitted company to cease and desist its activities. Additionally, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission.

6 RCW 81.80.075(4) subjects persons who engage in business as a household goods carrier in the state of Washington without the required permit to a penalty of up to \$5,000 for each violation. In deciding the penalty amount to be imposed per violation, RCW 81.80.075(4)(b) requires the Commission to consider two factors: (i) willingness to comply with the provisions of RCW 81.80.070 and the rules governing household goods carriers contained in WAC 480-15 and (ii) compliance history.

7 **Stipulation Presented by Parties.** At hearing, Roberto Yam Ywamoto agreed that Real Pro Moving has been operating as a household goods carrier in the state of Washington without the required permit. The Company offered to transport household goods on at least one occasion and also advertised to transport household goods on at least one occasion.

8 Roberto Yam Ywamoto has agreed to permanently shut down and cease operations as a household goods carrier, as defined by WAC 480-15, without first obtaining a permit from the Commission.

9 Under RCW 81.04.075(4), Commission Staff is authorized to seek a penalty of up to \$10,000 against the Company. Based upon the above-noted stipulation, Staff now seeks a lesser penalty of \$5,000 and, on the condition that the Company honors its pledge of compliance by permanently staying out of the industry without first obtaining a permit from the Commission, seeks to have \$4,500 of the penalty suspended for two years, then waived.

10 The parties agree that the Company's compliance history is a negative factor, making a suspended penalty appropriate as a tool to ensure Real Pro Moving does not re-enter the household goods moving business without first obtaining the required permit. In any enforcement proceeding, the Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small business. We additionally recognize that the economy is facing unprecedented conditions due to the COVID-19 pandemic. Rather than adopt Staff's recommendation to impose a \$500 portion of the penalty, we exercise

our discretion to suspend the penalty in full. Suspending the penalty with the condition proposed by Staff will both increase compliance and provide a strong incentive to avoid violations in the future.

**FINDINGS AND CONCLUSIONS**

- 11 (1) The Commission is an agency of the State of Washington vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington.
- 12 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Real Pro Moving.
- 13 (3) On at least one occasion, Real Pro Moving offered to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 14 (4) On at least one occasion, Real Pro Moving advertised to transport household goods without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 15 (5) The Commission should impose a \$5,000 penalty for two violations of RCW 81.80.075.
- 16 (6) The Commission should suspend the \$5,000 penalty for a period of two years, and then waive it, subject to the condition that Real Pro Moving cease and desist operating and advertising as a household goods carrier without first obtaining a permit from the Commission.

**ORDER**

**THE COMMISSION ORDERS:**

- 17 (1) Roberto Yam Ywamoto, d/b/a Real Pro Moving, is classified as a common carrier of household goods within the state of Washington.

- 18 (2) Roberto Yam Ywamoto, d/b/a Real Pro Moving, is ordered to immediately cease and desist operations as a household goods carrier within the state of Washington without first obtaining the required permit from the Commission.
- 19 (3) Roberto Yam Ywamoto, d/b/a Real Pro Moving, is assessed a penalty of \$5,000. The entire \$5,000 penalty is suspended for a period of two years from the date of this Order, and waived thereafter, provided Roberto Yam Ywamoto, d/b/a Real Pro Moving, refrains permanently from further operations as a household goods carrier in the state of Washington without first obtaining the required permit from the Commission.
- 20 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective March 2, 2021.

*/s/ Samantha Doyle*  
SAMANTHA DOYLE  
Administrative Law Judge

**NOTICE TO THE PARTIES**

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file a response to a Petition within 10 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable with due diligence at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-825(1) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).