

Docket No. TE-190052 - Vol. I

In the Matter of: Kim Jones d/b/a Desert Wave

June 4, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining)DOCKET TE-190052
the Proper Carrier Classification)
of, and Complaint for Penalties)
Against:)

KIM JONES)
D/B/A DESERT WAVE)

TRANSPORTATION COURT, VOLUME I

Pages 1-20

ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

June 4, 2019

9:05 a.m.

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

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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1 OLYMPIA, WASHINGTON; JUNE 4, 2019
2 9:05 A.M.
3 --o0o--
4 P R O C E E D I N G S
5

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

10 Today is June 4th, 2019, and the time is
11 approximately 9:05.

12 So there are two charter party or excursion
13 services carriers who should be here or on the phone
14 today. So the first thing I'll do is see who's here.

15 There is a court reporter who is recording everything we
16 say, so when I call your name, please raise your hand
17 and also say "here" or "present."

18 So the first docket is TE-190052, Kim Jones,
19 doing business as Desert Wave?

20 MR. JONES: Present.

21 JUDGE CHARTOFF: Thank you.

22 And the next docket is TE-190303, Black Tie
23 Limousine, Inc., doing business as Black Tie Wine Tours,
24 Black Tie, Black Tie Transportation, and Walla Walla
25 Wine Tours.

1 A P P E A R A N C E S
2 ADMINISTRATIVE LAW JUDGE:
3 LAURA CHARTOFF
4 Utilities and Transportation
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6 1300 South Evergreen Park Drive SW
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10 FOR COMMISSION STAFF:

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19 FOR DESERT WAVE:

20 WILLIAM JONES

21 * * * * *

1 Hearing nothing, okay. So -- okay. So you
2 are here because the Commission has information that
3 your business is operating or advertising as a charter
4 party or excursion services carrier without a permit.
5 If proven, the Commission can order you to stop
6 operating and can impose a penalty of up to \$5,000 per
7 violation. The Commission has initiated an enforcement
8 action against your business, and at this preliminary
9 hearing, I'm going to ask how you choose to proceed.

10 You have two options. Option A is to agree
11 to cease and desist operating as an unpermitted charter
12 or excursion carrier. So if you choose this option, you
13 must agree to stop providing, offering, or advertising
14 unpermitted charter or excursion services unless or
15 until you receive a permit from the Commission.

16 You will also need to show what you have
17 done to shut down your business either completely or
18 partially so that you are no longer advertising,
19 offering, or providing unpermitted charter and excursion
20 services in this state. For example, you would need to
21 prove that you have taken down or changed your website
22 or other online advertisements for your business. If
23 you have obtained a permit in advance of this hearing,
24 please let me know that when I call you up.

25 So option B is to ask for a classification

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1 hearing, and you would choose option B if you are
 2 denying that you advertise, offer, or provide
 3 unpermitted charter and excursion services. I see
 4 the -- our IT person in the back so --
 5 Off the record for a second.
 6 (Pause in the proceedings.)
 7 JUDGE CHARTOFF: Okay. We are back on the
 8 record. So option B is to ask for a classification
 9 hearing, and you would choose option B if you are
 10 denying that you advertise, offer, or provide
 11 unpermitted charter and excursion carrier services.
 12 So if you choose this option, we will
 13 schedule a formal evidentiary hearing where you will be
 14 required to present proof that your business is not
 15 subject to regulation by the Commission. The hearing
 16 will be set in about two months from now with a deadline
 17 a week before the hearing for both you and Commission
 18 Staff to list your witnesses and file any exhibits.
 19 So Kathryn McPherson and Jason Hoxit will be
 20 speaking for Commission Staff this morning. They will
 21 be seated at the table to my right, and they are
 22 Commission compliance investigators.
 23 Now that we've gone over your options, I
 24 will explain what else will happen today. So in a few
 25 minutes, I will call each of you up to make your choice.

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1 At that time, I will swear you in so anything you tell
 2 the Court will be under oath. And once you are sworn
 3 in, I will ask you to state -- I will ask if you
 4 understand your choices for today's hearing and then ask
 5 you to state your choice. If there's anything else you
 6 want to explain to me, you will have a chance to do
 7 that.
 8 And if you choose option A, to testify about
 9 how you're getting out of the charter and excursion
 10 business, you can explain how you plan to do that.
 11 Depending on what proof you can provide, you may be
 12 given an opportunity to speak -- to meet with Staff
 13 during a break in the hearing to negotiate an agreed
 14 cease and desist order.
 15 If you have recently applied for or received
 16 a permit, you also will be given an opportunity to meet
 17 with Staff to negotiate an agreed order to resolve this
 18 matter. The agreed order will also deal with the
 19 penalty.
 20 So you were each served with a complaint
 21 that asked the Commission to penalize you for engaging
 22 in business without a permit, and the law sets a maximum
 23 penalty for each violation at \$5,000. Staff will
 24 recommend a penalty and you will have a chance to reach
 25 agreement with Staff about the penalty amount. If you

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1 are unable to agree, Staff will explain the
 2 recommendation, but the Commission will make the final
 3 decision about the penalty.
 4 Finally, if you choose option B, that is, if
 5 you deny you're operating as a charter and excursion
 6 carrier, we will schedule another hearing. And in that
 7 case, it would help if you have your schedule for July
 8 and August so we can set a hearing date.
 9 So I'll call up Kim Jones, doing business as
 10 Desert Wave. Please come forward.
 11 And, Ms. McPherson.
 12 So you can take a seat right there. Please
 13 check your microphone. You need to hit the button and a
 14 red light should come on.
 15 MR. JONES: Yes, it's on. Can you hear me?
 16 JUDGE CHARTOFF: Yes. Okay. I am going to
 17 start by swearing you both in, so can I have you both
 18 stand and raise your right hand.
 19 (Kathryn McPherson and William Jones sworn.)
 20 JUDGE CHARTOFF: Thank you.
 21 Okay. So please state your first and last
 22 name.
 23 MR. JONES: William Jones.
 24 JUDGE CHARTOFF: Oh, can you repeat that?
 25 MR. JONES: William Jones.

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1 JUDGE CHARTOFF: Can you please state your
 2 business address?
 3 MR. JONES: 3217 -- I'm sorry. That's past.
 4 I apologize. 2569 North Columbia Center Boulevard,
 5 Richland, Washington, ZIP 99352.
 6 JUDGE CHARTOFF: And what is your -- oh,
 7 looks like -- are you the owner of Desert Wave?
 8 MR. JONES: Yes.
 9 JUDGE CHARTOFF: And did you understand the
 10 choices I laid out earlier?
 11 MR. JONES: Yes, I do.
 12 JUDGE CHARTOFF: Do you know how you want to
 13 proceed?
 14 MR. JONES: Yes, with A.
 15 JUDGE CHARTOFF: And are you going to cease
 16 operating or are you interested in applying for a
 17 permit?
 18 MR. JONES: Actually, I have ceased
 19 operating as far as charter, and I have applied as a
 20 limousine operator through the State. And that's what I
 21 actually did prior to getting into a charter, and it ran
 22 into difficulties operating as a charter because I'm
 23 just a small business and insurance basically kind of
 24 messed me up on operating, even though I had no claims.
 25 Never had any claims throughout the years, but still

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1 it's -- it's -- it was a financial burden.
 2 Anyhow, so that's when I stopped operating
 3 as charter, but I did get a call and that did happen. I
 4 distinctly remember that telephone conversation because
 5 I -- and anyhow. So I'd like to go with A, if I may,
 6 option A.
 7 JUDGE CHARTOFF: Okay. And do you
 8 understand the differences between the limousine license
 9 and the charter license?
 10 MR. JONES: Basically it's a matter of
 11 passenger occupancy.
 12 JUDGE CHARTOFF: Okay.
 13 MR. JONES: And I think that's where they
 14 got me. They said 16, I wasn't paying attention on the
 15 number.
 16 JUDGE CHARTOFF: Okay. Ms. McPherson, do
 17 you have anything to add?
 18 MS. MCPHERSON: No, no, Judge.
 19 JUDGE CHARTOFF: Okay. Okay. So when we
 20 take a break, which it seems like will be now because I
 21 don't think they have the phone line up yet, you can
 22 talk with Ms. McPherson and see if you can sign an
 23 agreed order. So that order will say that you agree you
 24 were operating without a permit and that you agree to
 25 stop operating until you get a permit if you decide to

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1 apply for one, which you are not.
 2 Once you feel comfortable that you
 3 understand the order, you will both sign it. It will
 4 also include most likely an agreed penalty amount, but
 5 if not, you can explain why the penalty should be
 6 different than what Staff is recommending. And the
 7 recommended penalty may be small or there may be a
 8 reason why Staff asks for a larger penalty, for example,
 9 if you've been in front of a judge here before or if you
 10 used to have a permit with the Commission that was
 11 cancelled.
 12 Usually part of the penalty is suspended and
 13 you will not have to pay it until you break -- unless
 14 you break the law again. So you will pay the
 15 unsuspended part of the penalty today, and you would
 16 only have to pay the rest of it if you violate the
 17 order. Do you have any questions?
 18 MR. JONES: No, I don't.
 19 JUDGE CHARTOFF: Okay. So at this point,
 20 we'll take a break, and as soon as you've had a chance
 21 to review the order with Staff and it's signed, you --
 22 we'll call you back up to make sure you understand the
 23 order and then I'll sign it and you will leave with a
 24 copy.
 25 MR. JONES: Okay. Thank you.

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1 JUDGE CHARTOFF: Do you have any questions?
 2 MR. JONES: No, I do not.
 3 JUDGE CHARTOFF: Okay. Then we are in
 4 recess.
 5 (Recess taken from 9:20 a.m.
 6 until 10:03 a.m.)
 7 JUDGE CHARTOFF: Let's be back on the
 8 record. So I understand the cease and desist order has
 9 been explained.
 10 So, Mr. Jones, can you come back up to the
 11 front and take a seat. Thank you. Okay. I'm just
 12 going to go over, go through the order on the record and
 13 make sure that you understand everything.
 14 So did you have a chance to read the whole
 15 order?
 16 MR. JONES: Yes.
 17 JUDGE CHARTOFF: And do you have any
 18 questions about it?
 19 MR. JONES: No, I do not.
 20 JUDGE CHARTOFF: And I see that you both
 21 signed it. Okay. It looks like there's two violations
 22 in this case; one for conducting operations after
 23 cancellation of a certificate and one for advertising to
 24 conduct operations after the cancellation of the
 25 certificate. And a \$10,000 penalty will be imposed, a

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1 \$9,000 portion of the penalty is suspended for a period
 2 of two years; is that correct?
 3 MR. JONES: Yes.
 4 JUDGE CHARTOFF: Okay. And for the record,
 5 you're agreeing to shut down your charter and excursion
 6 business?
 7 MR. JONES: Yes.
 8 JUDGE CHARTOFF: So the 9,000 is suspended
 9 for two years from today's date. That means that if
 10 Staff finds an advertisement or you offer charter party
 11 or excursion carrier services during this time, you will
 12 have to pay the \$9,000 penalty; do you understand that?
 13 MR. JONES: I -- yes, I do.
 14 JUDGE CHARTOFF: And also, the order to
 15 cease and desist is permanent, it never expires. So if
 16 Staff discovers you are still operating even after the
 17 two years, Staff can go straight to Superior Court and
 18 ask for higher penalties. So it's very important that
 19 you follow the law.
 20 Okay. And there is a payment schedule. We
 21 have \$200 due today and \$200 due July 5th, August 5th,
 22 September 5th, and the last payment on October 4th. And
 23 do you understand that if you miss a penalty, you will
 24 have to pay the entire amount including the suspended
 25 penalty?

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1 MR. JONES: Yes, I do.
 2 JUDGE CHARTOFF: Okay. So if for some
 3 reason you're going to be late making a payment, you
 4 must contact -- contact Staff and make arrangements so
 5 you don't end up having to pay the entire penalty.
 6 MR. JONES: Okay.
 7 JUDGE CHARTOFF: Okay. And you understand
 8 legally what you can and can't do?
 9 MR. JONES: Yes, I do.
 10 JUDGE CHARTOFF: Okay. And remember that
 11 Commission Staff are always available to assist you if
 12 you have any questions.
 13 MR. JONES: Okay.
 14 JUDGE CHARTOFF: Okay. So I will go ahead
 15 and sign this. So I will hand this to Staff, Staff will
 16 make you a copy, and once you receive your copy, you'll
 17 be free to go.
 18 MR. JONES: Okay. Thank you.
 19 JUDGE CHARTOFF: Thank you.
 20 Okay. And we will take a short recess to
 21 get the other company on the phone.
 22 (Pause in the proceedings.)
 23 JUDGE CHARTOFF: Okay. So we are back on
 24 the record. My name is Laura Chartoff. I am the
 25 administrative law judge hearing this proceeding. So we

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1 were having technical difficulties with the bridge line,
 2 and I appreciate your patience. I'm sorry for the --
 3 for the technical difficulties.
 4 MS. MALDONADO: Yeah, that's okay.
 5 JUDGE CHARTOFF: Okay. So I understand that
 6 you have signed a cease and desist order?
 7 MS. MALDONADO: Yes.
 8 JUDGE CHARTOFF: Do you have any questions
 9 about the proceeding or your options at this proceeding?
 10 MS. MALDONADO: No, I don't think so.
 11 JUDGE CHARTOFF: Okay. Okay. And normally
 12 in this proceeding, I -- I go through a long script
 13 where I explain that you have the option to enter into
 14 an agreed order or you can have a hearing if you want to
 15 dispute the allegations against you. And you --
 16 MS. MALDONADO: Right.
 17 JUDGE CHARTOFF: Okay. And you have chosen
 18 to do an agreed order?
 19 MS. MALDONADO: Yes.
 20 JUDGE CHARTOFF: Okay.
 21 MS. MALDONADO: Yes -- yeah.
 22 JUDGE CHARTOFF: Okay. Actually, I am going
 23 to swear you both in at this time.
 24 MS. MALDONADO: Okay.
 25 (Jason Hoxit and Leah Maldonado sworn.)

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1 JUDGE CHARTOFF: Thank you.
 2 Off the record.
 3 (Pause in the proceedings.)
 4 JUDGE CHARTOFF: So, Ms. Maldonado, can you
 5 state your full name, spelling your last name for the
 6 court reporter.
 7 MS. MALDONADO: Yes, it's Leah, L-e-a-h, the
 8 last name's Maldonado, M-a-l-d-o-n-a-d-o.
 9 JUDGE CHARTOFF: And can you give your
 10 business address?
 11 MS. MALDONADO: 1650 Reser, R-e-s-e-r, Road,
 12 Walla Walla, Washington 99362.
 13 JUDGE CHARTOFF: And what is your
 14 relationship to the company?
 15 MS. MALDONADO: Partial owner with my
 16 husband.
 17 JUDGE CHARTOFF: Thank you.
 18 Okay. So I'm going to go through the order.
 19 Did you have a chance to read the whole order?
 20 MS. MALDONADO: Yes.
 21 JUDGE CHARTOFF: And do you understand it?
 22 MS. MALDONADO: Yes.
 23 JUDGE CHARTOFF: Okay. And I see that
 24 Mr. Hoxit and you have both signed it. It --
 25 MS. MALDONADO: What's that?


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1 JUDGE CHARTOFF: Oh, I see that you have
 2 signed it.
 3 MS. MALDONADO: Oh, yes.
 4 JUDGE CHARTOFF: Okay. And it looks like
 5 there's two violations in this case; one for conducting
 6 operations without the required certificate and one for
 7 advertising operations without the certificate.
 8 MS. MALDONADO: Mm-hmm.
 9 JUDGE CHARTOFF: And there is a \$10,000
 10 penalty that is imposed; however, a \$9,500 portion of
 11 the penalty is suspended.
 12 MS. MALDONADO: Okay.
 13 JUDGE CHARTOFF: And the company will pay
 14 \$500. I'm checking the appendix, \$500 today.
 15 MS. MALDONADO: Mm-hmm, yes.
 16 JUDGE CHARTOFF: Okay. And for the record,
 17 you're agreeing to stop operating as a charter and
 18 excursion carrier?
 19 MS. MALDONADO: Yes, as a charter and
 20 excursion carrier.
 21 JUDGE CHARTOFF: Okay. So the \$9,500 is
 22 suspended for two years from today's date. That means
 23 that --
 24 MS. MALDONADO: Okay.
 25 JUDGE CHARTOFF: -- if Staff finds an

1 advertisement or you offer charter party or excursion
 2 carrier services during that time, you will have to pay
 3 the \$9,500 penalty.
 4 MS. MALDONADO: Right. We're going to
 5 license differently, so that shouldn't apply.
 6 JUDGE CHARTOFF: Oh, okay. How are you
 7 going to be licensed?
 8 MS. MALDONADO: As a limousine company
 9 through the Department of Transportation.
 10 JUDGE CHARTOFF: Okay. Okay. And so I also
 11 need to tell you that the order to cease and desist is
 12 permanent.
 13 MS. MALDONADO: Okay.
 14 JUDGE CHARTOFF: It never expires. So if
 15 Staff discovers you still operating as a charter and
 16 excursion carrier even after two years, Staff can --
 17 MS. MALDONADO: Okay.
 18 JUDGE CHARTOFF: -- Staff can go straight to
 19 Superior Court and ask for much higher penalties, so
 20 it's important --
 21 MS. MALDONADO: Okay.
 22 JUDGE CHARTOFF: -- that you follow the law.
 23 MS. MALDONADO: Okay.
 24 JUDGE CHARTOFF: Okay. So do you understand
 25 legally what you can and can't do?

1 JUDGE CHARTOFF: Okay. I have signed it.
 2 Is there any other business we need to take care of
 3 today?
 4 MR. HOXIT: No, Your Honor.
 5 JUDGE CHARTOFF: Okay. So we are in
 6 recess -- or we are adjourned. Thank you very much for
 7 coming.
 8 MS. MALDONADO: Yes, thank you.
 9 (Adjourned at 10:16 a.m.)
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1 MS. MALDONADO: Yes, as far as I understand
 2 if we license as a limousine company, then we will not
 3 be under the UTC laws and rules under the charter.
 4 JUDGE CHARTOFF: Okay. And remember that
 5 Commission Staff is always available to assist you if
 6 you have any questions.
 7 MS. MALDONADO: Yes, we've been
 8 communicating a lot, and I feel like I understand what
 9 we need to do.
 10 JUDGE CHARTOFF: Okay. Okay. So I will go
 11 ahead and sign this order, and we will -- we will need
 12 to serve it to you.
 13 Do -- do we have her email address?
 14 MR. HOXIT: Yes, but can we confirm it for
 15 the record?
 16 JUDGE CHARTOFF: Sure.
 17 Can we get your email address for service of
 18 this order?
 19 MS. MALDONADO: Sure. Yes, it's Black,
 20 B-l-a-c-k-t-i-e-w-w@gmail.com.
 21 JUDGE CHARTOFF: So that was
 22 B-l-a-c-k-t-i-e-w-w@gmail.com?
 23 MS. MALDONADO: Correct.
 24 JUDGE CHARTOFF: Okay. Thank you.
 25 MS. MALDONADO: Mm-hmm.

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.
 10
 11
 12
 13 
 14 Tayler Garlinghouse, CCR 3358
 15
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