



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 753-6423 • TTY (360) 586-8203

VIA FAX AND U.S. MAIL

December 18, 1997

Brian C. McCulloch
633 N.W. 180th
Shoreline, Washington 98177

Re: Docket No. TV-971477

Dear Mr. McCulloch:

Thank you for your letter of December 2, 1997, submitting comments regarding the Commission's Household Goods Rulemaking. Your comments will be made a part of the permanent record of the rulemaking and you have been added to the interested parties list to receive all pertinent material regarding the rulemaking. Staff is currently reviewing the comments in preparation for the January 29, 1998, stakeholders meeting. Your December 16, 1997, letter requesting information has also been forwarded to me for response.

On December 2, 1997, the enclosed judgement and order was entered in King County Superior Court Case No. 92-2-11132-2SEA, WUTC vs. Michael P. Shanks, a/k/a Mike the Mover. Please review paragraph 3 on page 3 of the order. The Commission believes that you fall under the description of "his agents and employees and all other persons in active concert and participation with him". Therefore, any future communications with the Commission must be sent to me directly, not to Steve McLellan. I will respond to your questions and inquiries concerning the rulemaking and will make sure your comments are made a part of the permanent record. In addition, I will make arrangements for you to visit the Commission's offices as quickly as time allows. Please note that the order requires notice 24 hours prior to any visit to the Commission's offices, and that necessary arrangements must be made. If you cannot reach me by telephone **during regular business hours**, please contact Ray Gardner **during regular business hours** to ensure that necessary arrangements are made. My telephone number is 360-664-1241. Mr. Gardner's telephone number is 360-664-1243 and his pager number is 360-412-8555.

The Commission's intent in this rulemaking is to review household goods rules with the hopes of developing rules which promote competition where it can protect the public interest at least as



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well as regulation; reform and improve regulation of services to be more efficient and increase consumer choice, while maintaining public interest protections; eliminate regulations that are no longer needed to protect the public, and, clearly define consumer protection elements. The Commission has not reached a decision on any of these issues at this time. The purpose of the stakeholders meeting is to facilitate a dialog between the interested parties and the Commission's staff regarding the issues associated with the rulemaking. **This meeting is not a formal hearing, it is an informal stakeholders meeting.** No testimony will be taken or recorded by a court recorder. Due to the number of issues associated with these rules, we will be asking the parties to discuss their comments and concerns on an issue by issue basis. I don't think there will be an opportunity for an hour presentation. However, at the end of the meeting, we will ask if there is additional information that the parties would like to share with the group. That would be an opportunity to share your views on any issues that have not already been discussed and/or briefly summarize your comments or concerns. Enclosed is a copy of the November 4, 1997, letter to interested parties which may provide additional information. As an interested party in this proceeding, you will be notified prior to any formal hearings of the place, date and time.

The March 1997 staff ruling regarding Lile Moving was based on RCW 81.28.080 which sets out exceptions to published rates. Other than the letter you read on the Commission's internet homepage, there are no additional records. Mr. Petitt verbally asked the question and the March 25, 1997 letter was the response. Enclosed is a copy of the March 25, 1997 letter, which does mention the statutory reference, and a copy of RCW 81.28.080. Insofar as your questions regarding geographical license restrictions, Mr. Petitt's geographical authority has not changed - this ruling has no impact on the geographic locations Mr. Petitt is authorized to serve.

You indicated an interest in what household goods carriers can charge when regulated. Enclosed is a copy of Tariff 15 which sets out the rates and conditions of service. Both of your letters appear to call into question whether the Commission has jurisdiction over the intrastate household goods industry. Specifically, you indicate that the federal government essentially preempted state regulation. In fact, the Commission continues to have the authority and actively regulates the intrastate residential household goods moving industry. It continues to be under full regulation, to include rate regulation. Office and commercial moves were deregulated as it relates to rates; they continue to be regulated for insurance and safety. Should you need additional or specific information regarding those regulations, please let me know and I will arrange to have a staff person provide you with technical assistance.

Finally, the records you have asked to review, that are not considered exempt from public disclosure, are being gathered. When this is accomplished, I will call you and arrange a time for you to come and review them.

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I look forward to working with you and other parties as we begin the rulemaking process. Should you have questions regarding that process or this letter, please let me know. Again, I can be reached at 360-664-1241.

Sincerely,

A handwritten signature in cursive script, reading "Patsy J. Dutton". The signature is written in black ink and is positioned above the printed name.

Patsy J. Dutton
Assistant Director - Operations

Enclosures

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RECEIVED

DEC 04 1997

ARTY GEN DIV
WUTC

THE HONORABLE ROBERT S. LASNIK

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Plaintiff,

vs.

MICHAEL P. SHANKS,
a/k/a MIKE THE MOVER.

Defendant.

No. 92-2-11132-2 SEA

JUDGMENT FOR PLAINTIFF RE
MOTION FOR SANCTIONS,
ORDER DENYING
DEFENDANT'S MOTION FOR
RELIEF FROM JUDGMENT,
ORDER DENYING
DEFENDANT'S PETITION FOR
REVIEW, AND ORDER
MODIFYING INJUNCTION

"Clerk's Action Required"

SUMMARY OF JUDGMENT

Pursuant to RCW 4.64.030, the following information should be entered in the Clerk's
Execution Docket:

- 1. Judgment Creditor: Washington Utilities and Transportation Commission
- 2. Judgment Creditor's Attorneys: Ann E. Rendahl, Asst. Attorney General
- 3. Judgment Debtor: Michael P. Shanks a/k/a Mike the Mover
- 4. Amount of Judgment: \$ 5,000.00
- 5. Amount of Interest Owed to Date of Judgment: \$ 0.00

JUDGMENT FOR PLAINTIFF AND
MODIFIED INJUNCTION - 1

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COPY

1 6. Total Taxable Costs and \$21,870.48.
Attorney Fees:

2 7. Total Judgment: \$26,870.48
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4 HEARING

5 This matter came before the Court upon Plaintiff Washington Utilities and Transportation
6 Commission's (WUTC) Motion to Show Cause Why Defendant Should Not Be Held in Contempt
7 of Court. At the conclusion of an evidentiary hearing held on September 4, 1997, this Court found
8 the Defendant Mike the Mover to be in contempt of court for violating the injunction issued in this
9 matter on December 17, 1993.

10 Following the September 4, 1997, hearing, the Defendant filed a Motion for Relief from
11 Judgment and a Petition for Review, Plaintiff filed a Motion to Dismiss Defendant's Petition for
12 Review, a Brief Opposing Defendant's Motion for Relief from Judgment and Recommending
13 Sanctions, and a Motion to Modify the Injunction to Include a Restraining Order and supporting
14 affidavits, and Defendant filed a reply brief and responses to Plaintiff's motions with declarations.

15 The Court conducted a second hearing on November 7, 1997.

16 FINDINGS AND CONCLUSIONS

17 On September 4, 1997, the Court found the Defendant, Mike the Mover, to be in contempt
18 of court for violating the injunction issued on December 17, 1993.

19 On November 7, 1997, the Court issued an oral opinion and found the Defendant's violation
20 of the injunction prior to September 4, 1997, to be intentional, and imposed sanctions against Mike
21 the Mover for violations of the injunction prior to the September 4, 1997, hearing. The Court also
22 granted the WUTC's request to modify the injunction to include a provision restraining Mike the
23 Mover from contacting the WUTC, based upon the Defendant's actions since the September 4,
24 1997 hearing.

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26 JUDGMENT FOR PLAINTIFF AND
MODIFIED INJUNCTION - 2

1 Mike the Mover stipulated to the modification of the injunction as set forth below in
2 Paragraph 3.

3 The Court considered the alleged violations identified by the WUTC since the September 4,
4 1997, hearing. The Court found the alleged violations to be "grey areas" and not determined to be
5 violations, and imposed no sanctions for violations for this period.

6 The Court imposes the following sanctions for violation of the injunction prior to September
7 4, 1997: (1) a forfeiture of \$50,000, of which \$45,000 will be suspended unless there is a further
8 violation of the injunction, as modified by Paragraph 3 of this Judgment; (2) award of the WUTC's
9 attorney's fees and costs of \$21,870.48; (3) modification of the Defendant's telephone advertising
10 and service, and Internet site, as set forth below in Paragraphs 6 and 7; and (4) denial of the
11 Defendant's request for a settlement judge in this action.

12 JUDGMENT

13 Consistent with its oral decision, the Court issues orders and enters judgment as follows:

- 14 1. Defendant's Motion for Relief from Judgment is denied without prejudice.
- 15 2. Defendant's Petition for Review is dismissed without prejudice.
- 16 3. The injunction issued on December 17, 1993, is modified to include the following
17 provision: Defendant Mike the Mover, his agents and employees and all other persons in active
18 concert and participation with him, except legal counsel, are restrained from making any attempts to
19 contact the WUTC and its employees, via United States mail, hand delivery, facsimile or telephone,
20 and from going within 200 feet of the offices of the WUTC, with the following exceptions: The
21 Defendant may communicate with the WUTC concerning any legitimate business purpose, such as
22 applications for permits or rulemaking proceedings. However, in any such communication with the
23 WUTC, the Defendant Mike the Mover must communicate only with Staff designated by the
24 WUTC, in writing, to be the contact for Mike the Mover. The Defendant Mike the Mover must
25 contact designated Staff by telephone and make necessary arrangements 24 hours prior to any

26 JUDGMENT FOR PLAINTIFF AND
MODIFIED INJUNCTION - 3

1 attempt to visit the offices of the WUTC, and when visiting the offices of the WUTC, must contact
2 only designated Staff. Provided, however, this provision does not prohibit WUTC Staff from
3 contacting the Defendant for compliance or other legitimate business purpose.

4 4. Pursuant to RCW 7.21.030(2)(b), Plaintiff Washington Utilities and Transportation
5 Commission is awarded monetary forfeiture against Defendant Mike the Mover in the amount of
6 \$50,000, \$45,000 of which is suspended unless there is a further violation of the December 17,
7 1993, injunction, as modified by Paragraph 3 of this Judgment. The amount is payable to the Public
8 Service Revolving Fund of the State of Washington.

9 5. Pursuant to RCW 7.21.030(3), Plaintiff Washington Utilities and Transportation
10 Commission is awarded attorney fees and costs in the amount of \$21,870.48, payable to the Public
11 Service Revolving Fund of the State of Washington.

12 6. Defendant Mike the Mover must, within ten working days, place an order with the
13 appropriate telephone company to change any telephone numbers used in existing advertisements,
14 and make arrangements for a telephone feature which shall automatically answer the telephone with
15 a recording that informs the caller of the types of services which Mike the Mover is and is not
16 authorized to perform. The recorded message must be reviewed by designated WUTC Staff prior
17 to its use.

18 7. Defendant Mike the Mover must, within ten working days, modify his Internet
19 HomePage, and at the next available time to place an advertisement, modify any listings in telephone
20 Yellow Pages, to refer only to household goods moving services that Mike the Mover has authority
21 to provide, to list any permit numbers held by Mike the Mover, and to include the new telephone
22 numbers required by Paragraph 6, above.

23 Dated this 2 day of Nov, 1997.

24 JUDGE ROBERT S. LASNIK

25 JUDGE ROBERT S. LASNIK

26 JUDGMENT FOR PLAINTIFF AND
MODIFIED INJUNCTION - 4

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1 Presented by:

2 CHRISTINE O. GREGOIRE
3 Attorney General

4
5 BY:

*Anne Rendahl by
phone 11/24/97*
6 ANN E. RENDAHL, WSBA # 22848 *Dr*
7 Assistant Attorney General
8 Counsel for WUTC

9 Copy Received; Approved as to Form;
10 Notice of Presentation Waived:

11 LANE POWELL SPEARS LUBERSKY LLP

12
13 BY:

[Signature]
14 DAVID C. SPELLMAN, WSBA #15884
15 Counsel for Mike The Mover

16 CULLEN & BERNSTEIN

17
18 BY:

*Gregory Ursich
by phone per 11/25/97*
19 GREGORY L. URSICH, WSBA #18614
20 Counsel for Mike The Mover

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26 JUDGMENT FOR PLAINTIFF AND
MODIFIED INJUNCTION - 5