

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

VICKY SANDHU D/B/A SEATTLE
TOP CLASS LIMO; ALISHA
LIMOUSINE SERVICE; SEATTLE
PARTY BUS

in the amount of \$5,400

DOCKET TE-220239

ORDER 01

DENYING MITIGATION; IMPOSING
AND SUSPENDING PENALTY

BACKGROUND

1 On April 26, 2022, the Washington Utilities and Transportation Commission (Commission) assessed a \$5,400 penalty (Penalty Assessment) against Vicky Sandhu d/b/a Seattle Top Class Limo; Alisha Limousine Service; Seattle Party Bus (Seattle Top Class Limo or Company) for violations of Washington Administrative Code (WAC) 480-30-221, which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes:

- a \$1,500 penalty for one violation of 49 C.F.R. § 382.305 for failing to implement a random controlled substance and/or an alcohol testing program;
- a \$100 penalty for six violations of 49 C.F.R. § 383.37(a) for allowing, requiring, permitting or authorizing a driver to operate a commercial motor vehicle (CMV) during any period in which the driver does not have a current commercial learner's permit (CLP) or commercial driver's license (CDL) or does not have a CLP or CDL with the proper class or endorsements;
- a \$3,200 penalty for 32 violations of 49 C.F.R. § 391.45(a) for using a driver not medical examined and certified; and
- a \$100 penalty for one violation of 49 C.F.R. § 396.3(a)(1) for operating a CMV with a tire in contact with another part of the vehicle.

¹ This Order refers to Commission safety regulations that adopt federal rules only by the applicable section of Title 49 C.F.R.

- 2 On May 2, 2022, Seattle Top Class Limo filed a response to the Penalty Assessment admitting the violations and requesting mitigation of the penalty amount (Mitigation Request). With its Mitigation Request, the Company provided receipts that showed that it had been enrolled in a controlled substances testing program in 2020.
- 3 On June 10, 2022, Commission staff (Staff) filed a response recommending the Commission deny the Company’s Mitigation Request because of the Company’s failure to provide sufficient evidence that it remedied the violations and failure to put appropriate safety management controls in place.
- 4 On June 22, 2022, Seattle Top Class Limo submitted a supplemental request for mitigation (Supplemental Mitigation Request). In the Supplemental Mitigation Request, the Company provided evidence that it has enrolled in a random controlled substances testing program and performed one pre-employment controlled substances test on a new employee.
- 5 On June 23, 2022, Staff filed a supplemental response in which it recommends that the Commission suspend the \$1,500 penalty for the violation of 49 C.F.R. § 382.305 for a period of two years, and then waive it, subject to the condition that: (1) Staff conducts a follow-up safety investigation in two years or as soon thereafter as practicable, (2) Seattle Top Class Limo does not have any repeat violations of critical or acute regulations upon reinspection, and (3) the Company timely pays the remaining \$3,900 portion of the penalty that is not suspended.

DISCUSSION AND DECISION

- 6 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “acute” or “critical” meet this standard.³
- 7 Violations are considered “acute” when non-compliance is so severe that immediate corrective action is required regardless of the overall safety posture of the company.

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Acute violations discovered during safety inspections are subject to penalties of \$1,500 per violation,⁴ and critical violations are subject to penalties of \$100 per violation.⁵

8 The Commission considers several factors when entertaining a request for mitigation, including whether a company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring a company’s compliance.⁶ We address each violation category below.

9 **49 C.F.R. §382.305.** The Penalty Assessment includes a \$1,500 penalty for one violation of 49 C.F.R. § 382.305 because Seattle Top Class Limo failed to enroll its drivers into a controlled substance and alcohol testing program. In its response, the Company states that it has now enrolled in such a program. Staff has stated that this type of violation could have resulted in permitting intoxicated persons to drive motor vehicles transporting passengers.

10 Staff recommends that the Commission deny the Company’s request to mitigate this portion of the penalty. We agree with Staff’s recommendation. Non-compliance with such critical regulations is quantitatively linked to inadequate safety management controls and usually higher than average accident rates. Impaired drivers imperil the general public as well as the passengers they are transporting. The Company’s remedial actions to meet the requirements are appropriate but they do not support a reduction in the assessed penalty. We deny Seattle Top Class Limo’s request to mitigate the penalty for this acute violation.

11 **49 C.F.R. § 383.37(a).** The Penalty Assessment includes a \$100 penalty for six violations of 49 C.F.R. § 383.37(a) for knowingly allowing, requiring, permitting, or authorizing an employee to operate a CMV during any period in which the driver does not have a current CLP or CDL or does not have a current CLP or CDL with the proper class

⁴ See RCW 81.04.530.

⁵ See RCW 81.04.405.

⁶ Enforcement Policy ¶ 19.

endorsements. Seattle Top Class Limo did not address these violations in its Mitigation Request.

- 12 Staff recommends no mitigation of this penalty. Staff states that the Company's failure to come into compliance with this requirement despite receiving extensive technical assistance shows a serious lack of commitment to safety regulations. These are acute violations requiring immediate corrective action that could allow a driver without the proper license endorsements to operate a commercial motor vehicle carrying passengers. Such violations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates. We agree. Seattle Top Class Limo's failure to obtain the required license endorsements still shows failure to prioritize compliance with safety regulations. We deny Seattle Top Class Limo's request to mitigate the penalty for this acute violation.
- 13 **49 C.F.R. § 391.45(a).** The Penalty Assessment includes a \$3,200 penalty for 32 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified. Seattle Top Class Limo did not address these violations in its Mitigation Request.
- 14 Staff recommends no mitigation of this portion of the penalty. Again, Seattle Top Class Limo's failure to comply with safety regulation requirements after extensive technical assistance shows a lack of commitment to such regulations. Drivers who are not medically certified may have an undocumented medical condition that puts the traveling public at risk. We decline to mitigate the penalty for this critical violation.
- 15 **49 C.F.R. §396.3(a)(1).** The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. § 396.3(a)(1) because the front tire of its CMV was in contact with the wheel well. The vehicle was placed out of service and Seattle Top Class Limo did not address this violation in its Mitigation Request.
- 16 Staff recommends no mitigation of this portion of the penalty. Again, the Company has not provided any evidence that corrective action has occurred or provided any assurance that it has taken or will take any action to prevent such violations in the future. Vehicles that are poorly maintained and have wheels in contact with other parts of the vehicle create a safety hazard that put the Company's customers and the traveling public at risk. We agree with Staff and decline to mitigate the penalty for this violation.
- 17 **Suspension.** Although we conclude that the penalty should not be mitigated, we agree with Staff that suspending a portion of the penalty is appropriate in light of the

Company's supplemental response and evidence of its effort to comply with at least some of the safety requirements. Our goal here, as in any enforcement proceeding, is to increase compliance, not create a financial burden for a company. Accordingly, we suspend a \$1,500 portion of penalty for a period of two years and waive it on the conditions that: (1) Staff conducts a follow-up safety investigation in two years or as soon thereafter as practicable, (2) Seattle Top Class Limo does not have any repeat violations of critical or acute regulations upon reinspection, and (3) the Company pays the remaining \$3,900 portion of the penalty that is not suspended or files an agreed payment arrangement with Staff within 10 days of the effective date of this order.

FINDINGS AND CONCLUSIONS

- 18 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including passenger transportation companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 19 (2) Seattle Top Class Limo is a passenger transportation company subject to Commission regulation.
- 20 (3) Seattle Top Class Limo committed one violation of 49 C.F.R. § 382.305 by failing to implement random controlled substances and/or alcohol testing program.
- 21 (4) The Commission should penalize Seattle Top Class Limo \$1,500 for one violation of 49 C.F.R. § 382.305.
- 22 (5) Seattle Top Class limo committed six violations of 49 C.F.R. § 383.37(a) by knowingly allowing, requiring, permitting, or authorizing an employee to operate a CMV during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class endorsements.
- 23 (6) The Commission should penalize Seattle Top Class Limo \$100 for six violations of 49 C.F.R. § 383.37(a).
- 24 (7) Seattle Top Class Limo committed 32 violations of 49 C.F.R. § 391.45(a) by using a driver not medically examined and certified on 32 occasions.

- 25 (8) The Commission should penalize Seattle Top Class Limo \$3,200 for 32 violations
of 49 C.F.R. § 391.45(a).
- 26 (9) Seattle Top Class Limo committed one violation of 49 C.F.R. § 396.3(a)(1) by
operating a CMV with a tire in contact with another part of the vehicle.
- 27 (10) The Commission should penalize Seattle Top Class Limo \$100 for one violation
of 49 C.F.R. § 396.3(a)(1).
- 28 (11) The Commission should suspend a \$1,500 portion of the penalty for a period of
two years, and then waive it, subject to the conditions detailed in paragraph 17.

ORDER

THE COMMISSION ORDERS:

- 29 (1) The Commission denies the request of Vicky Sandhu d/b/a Seattle Top Class
Limo; Alisha Limousine Service; Seattle Party Bus to mitigate the \$5,400 penalty.
- 30 (2) The Commission suspends a \$1,500 portion of the penalty for a period of two
years, and then waives it, if Vicky Sandhu d/b/a Seattle Top Class Limo; Alisha
Limousine Service; Seattle Party Bus complies with the conditions described in
paragraph 17, above. If Vicky Sandhu d/b/a Seattle Top Class Limo; Alisha
Limousine Service; Seattle Party Bus fails to comply with these conditions, the
suspended portion of the penalty will become immediately due and payable.
- 31 The Secretary has been delegated authority to enter this order on behalf of the
Commissioners under WAC 480-07-903(2)(e).

DATED at Olympia, Washington, and effective July 15, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for
decision. As authorized in WAC 480-07-904(3), you must file any request for**

Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.