

Docket No. TV-161077 - Vol. I

In the Matter of: Assin & Magnurs d/b/a Strong
Muscles Movers aka Tchaman Movers

October 25, 2016



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Page 1

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3 _____
 4 In the Matter of Determining)
 5 the Proper Carrier)
 6 Classification of, and)
 7 Complaint for Penalties)
 8 against:)Docket No: TV-161077
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10 MOVER'S COURT, VOLUME I
 11 PAGES 1-23
 12 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON
 13 _____
 14 9:00 A.M.
 15 OCTOBER 25, 2016
 16 Washington Utilities and Transportation Commission
 17 1300 South Evergreen Park Drive Southwest
 18 Olympia, Washington 98504-7250
 19
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Page 3

1 OLYMPIA, WASHINGTON; OCTOBER 25, 2016
 2 9:00 A.M.
 3 --o0o--
 4
 5 JUDGE PEARSON: Good morning. My name is
 6 Rayne Pearson. I am an administrative law judge with
 7 the Washington Utilities and Transportation Commission,
 8 and I'm the presiding officer for today's hearing being
 9 conducted at the Commission's headquarters in Olympia.
 10 Today is Tuesday, October 25th, 2016, at
 11 9:00 a.m. Today's hearing involves a total of three
 12 household goods carriers, so the first thing we will do
 13 is take a roll call to determine which companies are
 14 present.
 15 As you can see, there is a court reporter
 16 who is creating a record of today's proceeding, so when
 17 I call your name, please raise your hand and please also
 18 give a verbal response to the roll call like "here" or
 19 "present" when I call your name.
 20 The first company is Docket TV-161076, Anna
 21 Nemykina.
 22 MS. NEMYKINA: Here.
 23 JUDGE PEARSON: Did I pronounce your name
 24 correctly? It's Anna?
 25 MS. NEMYKINA: Yes.

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1 JUDGE PEARSON: Okay. Next is Docket
 2 TV-161077, Jean Assin?
 3 MR. ASSIN: Here.
 4 JUDGE PEARSON: Did I pronounce your name
 5 correctly?
 6 MR. ASSIN: Yes.
 7 JUDGE PEARSON: Okay. And finally is Docket
 8 TV-161078, Dallas Brewster, Pacific North West Moving?
 9 Okay. Hearing nothing, it appears that
 10 company is not in the hearing room as of right now. So
 11 that company will be subject to being held in default
 12 and having an order entered against it without a chance
 13 to address the Commission. So I will take that docket
 14 up later this morning.
 15 Each of you are here because the Commission
 16 filed a complaint alleging that each of your companies
 17 is performing or advertising to perform work as a
 18 household goods carrier without the required permit.
 19 The purpose of today's proceeding is to formally explain
 20 what your choices are and then hear from each of you
 21 regarding which option you wish to pursue.
 22 So you can choose one of two options on
 23 behalf of your company. The first is to cease and
 24 desist providing, offering, or advertising unpermitted
 25 household goods services. And if you choose that

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1 option, you will need to demonstrate what you've done to
 2 shut down your business either completely or partially
 3 to avoid further enforcement action by the Commission.
 4 The Commission is going to want to see proof that you're
 5 no longer operating regulated services. For example,
 6 proof that you've taken down or changed your website or
 7 your other online advertisements for your business.
 8 The second choice is to ask for a formal
 9 classification hearing to show why you don't need a
 10 permit. So if you choose that option, you're contesting
 11 allegations in the complaint in claiming not to be
 12 conducting household goods moves. So for this option,
 13 we would schedule a hearing for a date in the near
 14 future with a deadline two to three weeks from now for
 15 both your company and Commission Staff to declare all
 16 witnesses and file any exhibits.
 17 Each of you has a right to be heard by the
 18 Commission, and I will call you up to do that
 19 individually. Commission Staff also has a right to be
 20 heard, and Ms. Rachel Jones will be representing the
 21 Commission this morning. If you have not already met
 22 Ms. Jones, she is seated at the table to my right.
 23 She's a Commission Compliance Investigator.
 24 So now that we've gone over the general
 25 options for each of your companies, let me explain the

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1 rest of today's procedure. In a few minutes, I will
 2 call you each up to make your choice on how to proceed
 3 and at that time, I will swear you in. So anything that
 4 you tell the Court today will be considered sworn
 5 testimony under oath. Once you're sworn in, I will ask
 6 if you understand your options and then ask you to state
 7 what option you would like to pursue. And if there is
 8 anything else you want to explain to me, you can do so
 9 at that time.
 10 In each of the complaints, Commission Staff
 11 has not only alleged that you are providing household
 12 goods moving services without a permit, they are also
 13 seeking to have a penalty imposed. The law sets the
 14 maximum penalty for each violation at \$5,000, and Staff
 15 will be making a penalty recommendation, but the
 16 Commission will make the final decision about the amount
 17 of penalty to be imposed.
 18 If you choose to testify about how you are
 19 getting out of the household goods business, I will
 20 allow you to make a statement explaining how you plan to
 21 do that and depending on what proof you can provide, you
 22 should be able to reach an agreed order resolving the
 23 Commission -- resolving the matter with Commission
 24 Staff, and you can speak to Ms. Jones about that during
 25 the recess.

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1 If you choose to contest the allegations in
 2 the complaint, we'll schedule another court appearance
 3 for the Commission to present the necessary evidence to
 4 prove its case, and I'll explain the types of
 5 documentation you would need to bring in order to
 6 dispute the Commission's evidence.
 7 So after I hear from each of your companies,
 8 we will take a break for probably about an hour, and
 9 that will provide Commission Staff time to meet with
 10 each of you and prepare a final disposition for your
 11 cases. And for most of you, I believe that Ms. Jones
 12 will be presenting agreed orders bringing your companies
 13 into compliance or agreements to leave the industry.
 14 So, Ms. Jones, I will go ahead and swear you
 15 in at this point so you are sworn in for the entire
 16 proceeding.
 17 (Rachel Jones sworn.)
 18 JUDGE PEARSON: Okay. You may be seated.
 19 So I will begin with the companies who have
 20 made an appearance today, and then after hearing from
 21 each of you, we can deal with the company who has not
 22 appeared today.
 23 Ms. Jones, when I call on the nonappearance
 24 case, you can make a brief summary of the status and
 25 present your motion for default at that time.

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1 MS. JONES: Okay.
 2 JUDGE PEARSON: So first is Docket
 3 TV-161076, Anna Nemykina, Kangaroo Movers.
 4 If you would come forward to the table,
 5 please.
 6 MR. NEMYKIN: May I come with my wife?
 7 JUDGE PEARSON: Sure. Just go ahead and
 8 have a seat in front of the microphone. And if you
 9 could pull the microphone towards you close to you at
 10 the table and turn it on. The red light will come on
 11 when it's on.
 12 Okay. If you could state your first and
 13 last name for the record and spell your last name for
 14 the court reporter.
 15 MS. NEMYKINA: Anna Nemykina,
 16 N-e-m-y-k-i-n-a.
 17 JUDGE PEARSON: Okay. And what is your
 18 position with Kangaroo Movers?
 19 MS. NEMYKINA: I own the company.
 20 JUDGE PEARSON: Okay. And can we get your
 21 address and telephone number for the record, please.
 22 MS. NEMYKINA: 12040 - 28th Avenue
 23 Northeast, Seattle, Washington 9125 -- or 98125.
 24 JUDGE PEARSON: Okay. Thank you. And your
 25 phone number.

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1 MS. NEMYKINA: 206-228-4821.
 2 JUDGE PEARSON: Okay. So if you could stand
 3 and raise your right hand, I will swear you in.
 4 (Anna Nemykina sworn.)
 5 JUDGE PEARSON: Okay. You may be seated.
 6 And how would you like to proceed this morning?
 7 MS. NEMYKINA: Actually, if it's allowed, I
 8 would like my husband to speak because he's more
 9 familiar with case.
 10 JUDGE PEARSON: Sure. Okay. Could you --
 11 MS. NEMYKINA: His name is --
 12 JUDGE PEARSON: I'm sorry, what?
 13 MS. NEMYKINA: His name is Nikita Nemykin.
 14 JUDGE PEARSON: Okay. Can you turn your
 15 microphone on? Can you please state and spell your last
 16 name for the court reporter.
 17 MR. NEMYKIN: Nikita Nemykin, N-e-m-y-k-i-n.
 18 JUDGE PEARSON: Okay. If you could stand
 19 and raise your right hand, I will swear you in.
 20 (Nikita Nemykin sworn.)
 21 JUDGE PEARSON: Okay. Go ahead and be
 22 seated.
 23 MR. NEMYKIN: So what happened, I been in
 24 this industry already. I have a company with my partner
 25 other than Kangaroo Movers. We've been licensed and

Page 10

1 bonded and insured.
 2 JUDGE PEARSON: What is the name of your
 3 company?
 4 MR. NEMYKIN: ABC Movers.
 5 JUDGE PEARSON: And it's permitted with the
 6 Commission?
 7 MR. NEMYKIN: Yes.
 8 JUDGE PEARSON: Okay.
 9 MR. NEMYKIN: And I wanted to branch out and
 10 just expand business. And on behalf of my wife, I was
 11 trying to register Kangaroo Movers in her name and she
 12 agreed as a family business. I'm -- I guess we miss the
 13 paperwork that was stating that we apply for the
 14 licenses, that our paperwork weren't -- aren't writing
 15 clearly so we had to apply again.
 16 But unfortunately, we didn't understand it.
 17 And so the last paperwork we've been served, now we
 18 understand that we did something wrong, and we want to
 19 make sure we will stop the -- all operations with
 20 Kangaroo Movers, and we want to make sure we get the
 21 licenses and all the document that needed to proceed.
 22 JUDGE PEARSON: Okay. So it sounds like you
 23 want to enter into an agreed order to cease and desist
 24 all operations of Kangaroo Movers until you're able to
 25 get a permit; is that correct?

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1 MR. NEMYKIN: Correct, yes.
 2 JUDGE PEARSON: Okay. And have you
 3 submitted an application to the Commission yet for
 4 Kangaroo Movers?
 5 MR. NEMYKIN: No, we were waiting for the
 6 hearing.
 7 JUDGE PEARSON: Okay.
 8 MR. NEMYKIN: And just wanted to make sure
 9 and how to fill it out and make sure we did everything
 10 the right way.
 11 JUDGE PEARSON: Okay. So when we take a
 12 recess, you will have the opportunity to speak with
 13 Staff and see if you can agree on an order for entry
 14 that will essentially say that until you get a permit,
 15 that you won't operate the business or advertise and
 16 that you understand all of that, okay?
 17 MR. NEMYKIN: All right.
 18 JUDGE PEARSON: So once you are satisfied
 19 that you understand all the terms of order, then you and
 20 Ms. Jones can both sign it. And it will also most
 21 likely include an agreement about the amount of the
 22 penalty to be imposed, but if not, you can make your
 23 case about why the penalty should be different than what
 24 Staff is recommending when we come back from the recess.
 25 Do you have any questions about anything at this point?

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1 MS. NEMYKINA: No.
 2 MR. NEMYKIN: No.
 3 JUDGE PEARSON: Okay. So you can go ahead
 4 and take a seat until we call a recess.
 5 And the next docket is TV-161077, Jean
 6 Assin.
 7 Good morning. Can you please state your
 8 first and last name for the record and spell your last
 9 name for the court reporter.
 10 MR. ASSIN: Good morning. My name is --
 11 JUDGE PEARSON: Is that microphone on? The
 12 red light should be on.
 13 MR. ASSIN: Good morning. My name is Jean
 14 Assin, J-e-a-n, A-s-s-i-n.
 15 JUDGE PEARSON: Okay. And what's your
 16 position with the company?
 17 MR. ASSIN: I was trying to open a company
 18 with my friend then we didn't get along so we decided to
 19 lose the company together and then decide to open my
 20 company. I was in the process of doing that and then
 21 the Commission came and send paper at my door.
 22 JUDGE PEARSON: Okay. So why don't I go
 23 ahead and swear you in at this point.
 24 (Jean Assin sworn.)
 25 JUDGE PEARSON: Okay. Go ahead and be

Page 13

1 seated.

2 So there is another gentleman's name with

3 the company Strong Muscles Movers, Mr. Magnurs?

4 MR. ASSIN: Mr. Magnurs, I don't even know

5 where he is. He was supposed to be my partner of Strong

6 Muscles Movers. We went to get a business license then

7 after one week, you know, we didn't get along with the

8 company. So we decided to close the company. I went to

9 the Department of Revenue to have a business license for

10 that Tchaman Movers. I was in the process to get the

11 Commission -- the Commission payments and then I was

12 served by the Commission. I was even here with the

13 Commission I remember in June, but I don't have the

14 dates. I came here to find out what is the -- how can I

15 get the payments.

16 JUDGE PEARSON: Okay. So how would you like

17 to proceed this morning? Would you like to -- do you

18 plan still on applying for a household goods permit or

19 are you just out of the business completely?

20 MR. ASSIN: I do. I do, but I don't know

21 right now. I believe I am going to work for the next

22 six months when I save up money and come back to

23 Commission.

24 JUDGE PEARSON: Okay. So it sounds like you

25 also would like to enter into an agreement to cease and

Page 14

1 desist offering advertising and providing moves until

2 you're able to get a permit?

3 MR. ASSIN: Yes, Your Honor.

4 JUDGE PEARSON: Okay. So again, when we

5 take a recess, you will also have an opportunity to

6 speak with Ms. Jones or other Staff members and see if

7 you can agree to an order for entry and also agree on

8 the amount of the penalty to be imposed. Do you have

9 any other questions?

10 MR. ASSIN: I am fine, thank you.

11 JUDGE PEARSON: Okay. So at this point, we

12 can take a recess. It's approximately 12 minutes after

13 9:00. Because Mr. Brewster has not appeared, we can

14 take that up after the recess and there's a chance he

15 will still show up, and we can deal with him at that

16 point. Otherwise, I will entertain a motion for default

17 after we -- I think it would be best to speak to the

18 companies who have appeared today and get things worked

19 out with them so they can be on their way and we don't

20 have to hold them in here any longer than is necessary.

21 So as soon as you have a chance, you and

22 also Ms. Nemykina, to review the cease and desist orders

23 and language with Staff, there will be some negotiation

24 about the penalty, and typically a portion of the

25 penalty is suspended, which is meant to deter you from

Page 15

1 further illegal operations. So you would pay a portion

2 of it today and then the remaining portion of the \$5,000

3 penalty would not become due and payable unless you've

4 violated the order; does that make sense?

5 MR. ASSIN: Sure.

6 JUDGE PEARSON: Okay. So hopefully within

7 the next hour or so we will have all the orders

8 prepared, and then I will call each of you back up, make

9 sure you understand the order. I will sign it on the

10 record today, and you will leave here with a copy of it.

11 So, Ms. Jones, is there anything else before

12 we take a break?

13 MS JONES: No.

14 JUDGE PEARSON: Okay. So I will be in my

15 office. Just please notify me when I need to come back,

16 and we will be in recess until further notice.

17 (Recess taken from 9:15 a.m. until

18 10:03 a.m.)

19 JUDGE PEARSON: Okay. Let's be back on the

20 record at a little after 10:00 a.m.

21 Ms. Jones, were you able to reach agreements

22 with both of the companies?

23 MS. JONES: Yes, I was.

24 JUDGE PEARSON: Okay. And were they both

25 cease and desist orders?

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1 MS. JONES: Yes, they are.

2 JUDGE PEARSON: Okay. So I will call each

3 company back up to go over the orders and the agreements

4 that were entered into. So we will start again with

5 Docket TV-161076, Ms. Nemykina.

6 Okay. Did you have a chance to walk through

7 the order?

8 MS. NEMYKINA: Yes.

9 MR. NEMYKIN: Yes.

10 JUDGE PEARSON: Both of you? Okay.

11 And do you understand everything that's in

12 it and what you signed?

13 MS. NEMYKINA: Pretty much.

14 JUDGE PEARSON: Okay. And this one, I see

15 that you and Ms. Jones have both signed it.

16 I didn't bring a pen. Do you have a pen?

17 That's the one thing I forgot.

18 So I see that you have both signed it, and

19 just for the record, Ms. Jones, it looks like you've

20 recommended two violations in this case, one for

21 offering move and one for advertising?

22 MS. JONES: Yes.

23 JUDGE PEARSON: Okay. And the \$5,000

24 penalty will be imposed, but a \$4500 portion will be

25 suspended; is that correct?

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1 MS. JONES: Yes, that's correct.
 2 JUDGE PEARSON: Okay. And they paid the
 3 full \$500 penalty today?
 4 MS. JONES: Yes, they did.
 5 JUDGE PEARSON: Okay. So this suspension
 6 period for the \$4,500 is two years from today's date
 7 which is October 25th, 2018, so that means that if Staff
 8 finds an advertisement or you offer a move during that
 9 time without a permit, the remaining \$4500 would become
 10 immediately due and payable; do you understand that?
 11 MS. NEMYKINA: Yes.
 12 JUDGE PEARSON: Okay. And the order to
 13 cease and desist is permanent, so that doesn't expire.
 14 So even if the penalty expires, the order to cease and
 15 desist does not expire. So even if after the two-year
 16 period of suspended penalty has run, if Staff discovers
 17 that you're still operating or advertising, Staff can go
 18 straight to Superior Court to seek enforcement of this
 19 order, which would include significant additional
 20 penalties. So there is a very strong incentive for you
 21 to comply with the law, but it sounds like you are
 22 working on getting your application together and your
 23 intent is to operate legally and lawfully.
 24 MS. NEMYKINA: Yes.
 25 JUDGE PEARSON: Okay. So do you have any

Page 18

1 other questions?
 2 MS. NEMYKINA: No.
 3 JUDGE PEARSON: Okay. Then I will sign the
 4 order. And I think they are going to make a copy; is
 5 that right? So don't leave here before you get a copy,
 6 but once you get your copy, you will be free to go,
 7 okay? Thank you very much for coming down today, and I
 8 will give this to Ms. Paul. Thank you.
 9 And next is TV-161077, Mr. Assin.
 10 Okay. Did you have a chance to walk through
 11 the order and do you understand --
 12 MR. ASSIN: Yes.
 13 JUDGE PEARSON: -- everything in it?
 14 Okay. And I see that you and Ms. Jones have
 15 both signed it as well. And I assume that you heard
 16 everything that I just said to the other party?
 17 MR. ASSIN: Sure.
 18 JUDGE PEARSON: And, again, Ms. Jones, it
 19 looks like you have also recommended two violations
 20 here, one for offering to move and one for advertising?
 21 MS. JONES: Yes.
 22 JUDGE PEARSON: Okay. And the \$5,000
 23 penalty will be imposed and a \$4500 portion of that will
 24 be suspended and the company will pay \$500; is that
 25 correct?

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1 MS. JONES: Yes.
 2 JUDGE PEARSON: Okay. And it looks like you
 3 made a payment of \$150 today.
 4 MR. ASSIN: Yes.
 5 JUDGE PEARSON: Okay. And you have the
 6 remaining \$350 payment due on November 28th, which is
 7 next month. And do you understand that if you miss that
 8 payment that the \$4500 suspended will become due and
 9 payable immediately?
 10 MR. ASSIN: Yes, Your Honor.
 11 JUDGE PEARSON: Okay. So if, for some
 12 reason, you are going to be late making the payment, you
 13 should contact Staff and make an arrangement to avoid
 14 the suspended penalty.
 15 MR. ASSIN: Yes.
 16 JUDGE PEARSON: Okay. And you do understand
 17 legally what you can and can't do after speaking with
 18 Staff?
 19 MR. ASSIN: Sure.
 20 JUDGE PEARSON: Okay. All right. Do you
 21 have any -- any questions?
 22 MR. ASSIN: No.
 23 JUDGE PEARSON: Okay. So I will go ahead
 24 and sign this order and once you receive your copy, you
 25 are also free to go. Thank you for taking the time to

Page 20

1 come here today.
 2 MR. ASSIN: Thank you.
 3 JUDGE PEARSON: Okay. And it appears that
 4 Mr. Brewster failed to make an appearance today?
 5 MS. JONES: Yes, he did.
 6 JUDGE PEARSON: Okay. So have you had
 7 contact with Mr. Brewster, did you attempt to contact
 8 him?
 9 MS. JONES: I attempted to contact, no
 10 contact was made. His voice mailbox was full.
 11 JUDGE PEARSON: Okay. So I have had a
 12 chance to review the Commission's evidence in Docket
 13 TV-161078. There was an offer for an intrastate move
 14 and there was advertising. That meets the definitions
 15 under the applicable statute for engaging in business as
 16 a moving company without a household goods permit. So
 17 what is Staff's motion at this point with respect to
 18 Dallas Brewster doing business as Pacific North West
 19 Moving?
 20 MS. JONES: We would like the default order
 21 classified Respondent as a household goods carrier
 22 ordering him to cease and desist and impose a penalty
 23 for two violations.
 24 JUDGE PEARSON: Okay. So nothing would be
 25 suspended with the penalty; is that correct, it would be

Page 21

1 the full \$5,000 penalty?
 2 MS. JONES: We are asking for the full
 3 5,000. Nothing suspended.
 4 JUDGE PEARSON: Okay. So let's walk through
 5 the evidence that you have for the company with respect
 6 to the two violations, and then if you could also
 7 describe how and when service was accomplished.
 8 MS. JONES: Okay. So I received a move
 9 under an assumed name on September 8th of this year by
 10 phone from Mr. Brewster. He was served at his home
 11 September 28th by a legal processor and as of today, he
 12 is still advertising on Craigslist.
 13 JUDGE PEARSON: Okay. Thank you. And you
 14 verified that this morning?
 15 MS. JONES: I verified that this morning.
 16 JUDGE PEARSON: Okay. And has this company
 17 ever applied for a permit with the Commission?
 18 MS. JONES: No, they have not.
 19 JUDGE PEARSON: Okay. So I will grant the
 20 motion for default for Dallas Brewster doing business as
 21 Pacific North West Moving, and if you would pass the
 22 default order up to me, I will sign it.
 23 Okay. Is there any other business that we
 24 need to take care of today?
 25 MS. JONES: No, that's it.

Page 22

1 JUDGE PEARSON: Okay. Thank you. Then we
 2 are adjourned.
 3 (Proceeding adjourned at 10:11 a.m.)
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Page 23

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