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SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

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7 SUPERIOR COURT OF WASHINGTON
8 FOR THURSTON COUNTY
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10 WASHINGTON UTILITIES AND
11 TRANSPORTATION COMMISSION,

12 Plaintiff,

13 v.

14 MIRACLE MOVERS, INC.,

15 Defendant.
16

NO. 09-2-02833-5

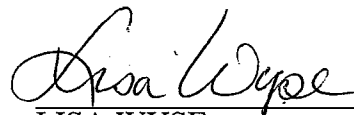
AFFIDAVIT OF LISA WYSE

17 I, LISA WYSE, hereby declare under penalty of perjury under the laws of the State of
18 Washington that the following is true and correct:

- 19 1. I am, and at all times hereinafter mentioned, have been a citizen of the United States,
20 over the age of 18 years old, have personal knowledge regarding the matters stated
21 herein, and am competent to testify as a witness.
22 2. I am employed as the Records Manager for the Washington Utilities and Transportation
23 Commission ("Commission") and I am the public records officer of the Commission.
24 3. I certify that Exhibit A is a true and correct copy of Commission Order 02, issued to the
25 Defendant on May 8, 2007, in docket TV-061618.
26

- 1 4. On May 8, 2007, I caused a true and correct copy of Commission Order 02 to be served
2 on Defendant by mailing it first class, postage prepaid, and by certified mail, to Miracle
3 Movers, Inc., at P.O. Box 75565, Seattle, WA 98175, being the company's last known
4 address. I certify that Exhibit B contains a true and correct copy of Proof of Service of
5 Commission Order 02 on Miracle Movers, Inc. on May 8, 2007.
6
7 5. I certify that Exhibit C is a true and correct copy of Commission Notice of Finality, issued
8 to the Defendant on May 31, 2007, in docket TV-061618.
9
10 6. On May 31, 2007, I caused a true and correct copy of Commission Notice of Finality to be
11 served on Defendant by mailing it first class, postage prepaid, and by certified mail, to
12 Miracle Movers, Inc. at P.O. Box 75565, Seattle, WA 98175, being the company's last
13 known address. I certify that Exhibit D contains a true and correct copy of Proof of
14 Service of Commission Notice of Finality on Miracle Movers, Inc. on May 31, 2007.
15 I certify under penalty of perjury, under the laws of the State of Washington, that the
16 foregoing is true and correct.

17 DATED this 25th day of November, 2009 at Olympia, Washington.

18
19
20 

21 LISA WYSE
22 Records Manager
23 Washington Utilities and Transportation
24 Commission
25
26

Exhibit A

Certificate

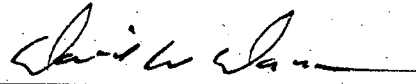
STATE OF WASHINGTON,)
)
COUNTY OF THURSTON.)

I hereby certify that the foregoing and attached documents are a full, true and correct copy of

Order 02, Initial Order to Cease and Desist; Default Order; In the Matter of Determining the Proper Carrier Classification of Miracle Movers, Inc., in Docket TV-061618, dated May 8, 2007, and Notice of Finality; In the Matter of Determining the Proper Carrier Classification of Miracle Movers, Inc., in Docket TV-061618, dated May 31, 2007, and

now on file in the office of the Washington Utilities and Transportation Commission at Olympia.

IN WITNESS WHEREOF, *I have hereunto set my hand and affixed the seal of the Washington Utilities and Transportation Commission, this 25th day of November, 2009.*



*Secretary of the Washington Utilities
and Transportation Commission*

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper)	
Carrier Classification of)	DOCKET TV-061618
)	
MIRACLE MOVERS, INC.)	ORDER 02
)	
)	INITIAL ORDER TO CEASE AND
)	DESIST; DEFAULT ORDER
.....)	

1 *Synopsis. This is an Administrative Law Judge's Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the Notice at the end of this Order. If this Initial Order becomes final, the Commission will find Miracle Movers, Inc., in default for failing to appear at the hearing. In addition, if this Order becomes final, this Order will require Miracle Movers to cease and desist from operating as a household goods carrier in the state of Washington without obtaining permit authority from the Commission as required under RCW 81.80.070.*

I. INTRODUCTION

2 **Nature of the Proceeding.** The Washington Utilities and Transportation Commission (Commission) instituted this proceeding under RCW 81.04.510 to determine whether Miracle Movers, Inc. (Miracle Movers), is operating motor vehicles for transportation of property for compensation, i.e., operating as a household goods carrier, on the public highways of the state of Washington without the necessary permit authority required for such operations by RCW 81.80.070.

3 **Procedural History.** On March 16, 2007, using first class mail, the Commission served an Order to Show Cause and Notice of Hearing (Show Cause Order) as well as a Subpoena and Subpoena Duces Tecum for Production of Documents (Subpoenas) on Miracle Movers at the company's business address (P.O. Box 75565, Seattle, Washington 98175), to initiate a special proceeding under RCW 81.04.510.

4 On March 21, 2007, the Commission personally served (via legal messenger) the Show Cause Order and Subpoenas upon Miracle Movers' registered agent in Olympia, Washington.

5 On due and proper notice, the Commission convened a hearing on May 1, 2007, in Olympia, Washington, before Administrative Law Judge Adam E. Torem. Commission Staff was the only party appearing at the hearing. Commission Staff moved for default pursuant to RCW 34.05.440(2) and WAC 480-07-450. Commission Staff also requested that it be allowed to present a prima facie case demonstrating that Miracle Movers was operating as a household goods carrier without the required permit being issued by the Commission.

6 RCW 34.05.440(2) allows the presiding officer discretion to enter a "default or other dispositive order" if a party fails to appear at the hearing. Based on the failure of Miracle Movers to appear or otherwise comply with the Commission's subpoenas, the Administrative Law Judge granted Commission Staff's request to enter a default order and to allow for presentation of its case.

7 Commission Staff presented the testimony of one witness, Ms. Betty Young. Commission Staff provided a brief summary oral argument at the close of the hearing.

8 **Initial Order.** The presiding administrative law judge finds Miracle Movers in default pursuant to RCW 34.05.440(2) and WAC 480-07-450(1). Further, the presiding administrative law judge finds that Miracle Movers is operating motor vehicles for transportation of property, i.e., operating as a household goods carrier without the necessary authority. Finally, the presiding administrative law judge orders Miracle Movers to cease and desist from future unauthorized operations.

9 **Appearances.** Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia Washington, represents Commission Staff.

II. MEMORANDUM

A. Default

10 The Show Cause Order includes a notice that any party who fails to attend or participate in the hearing may be held in default in accordance with the terms of RCW 34.05.440 and WAC 480-07-450. RCW 34.05.440(2) provides: "If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding ... the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order." WAC 480-07-450(1) provides

that the Commission may find a party in default if the party fails to appear at the time and place set for a hearing.

11 The Subpoenas include language ordering Miracle Movers to appear for the hearing and produce specified documents in compliance with subpoena powers granted to the Commission in RCW 34.05.446 and RCW 81.04.510.

12 At the time of the hearing, the Commission had served Miracle Movers with the Show Cause Order and the Subpoenas by both regular mail and personal service upon its designated agent. Service by mail is complete upon deposit in the United States mail. *RCW 34.05.010(19); WAC 480-07-150(8)(a)*. Service can be achieved in this manner or by personal service, which includes personal service on a corporation's registered agent. *WAC 480-07-150(7)(a) and (b); see also RCW 4.28.080(9)*. Here, the Commission accomplished service by both regular mail to Miracle Movers' business address in Seattle, Washington, and by personal service on Miracle Movers' registered agent in Olympia, Washington.

13 **Decision.** Miracle Movers was properly and legally served with the Show Cause Order and Subpoenas and provided due and proper notice of the May 1, 2007, hearing. Miracle Movers did not appear at the hearing and is hereby held in default. Further, Miracle Movers did not comply with the Subpoenas; it failed to appear and also failed to produce or otherwise provide any of the specified documents.

14 RCW 34.05.440(3) states: "Within seven days after service of a default order under subsection (2) of this section ... the party against whom it was ordered may file a written motion requesting that the order be vacated, and stating the grounds relied upon." A notice appearing at the end of this order provides instructions for filing such a motion with the Commission.

B. Operating as a Household Goods Carrier Without Authority.

15 The Commission regulates intra-state household goods carriers under RCW 81.80. No "common carrier" shall operate for the transportation of property for compensation in this state without first obtaining from the Commission a permit to do so. *RCW 81.80.070*. "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation. *RCW 81.80.010(4)*. "Motor carrier" means and includes "common carrier." *RCW 81.80.010(7)*. The term "household goods" means "personal effects and property

used or to be used in a residence, when it is a part of the equipment or supply of such residence, and is transported between residences or between a residence and a storage facility, with the intent to later transport to a residence.” *WAC 480-15-020*.

- 16 In addition to requiring household goods carriers to obtain a permit from the Commission before beginning operations, state law also prohibits household goods carriers from advertising their operations without first obtaining a permit and then listing the carrier’s current Commission permit number. *RCW 81.80.355; RCW 81.80.357(1)*.
- 17 In a proceeding initiated under *RCW 81.04.510*, the responding corporation has the burden of proving that its alleged operations are not subject to the provisions of *RCW 81.80.070*.
- 18 If the corporation is found to be operating as a household goods carrier without the necessary permit authority, the Commission is authorized and directed to enter an order requiring the corporation to cease and desist activities subject to regulation under Title 81 *RCW*. *RCW 81.04.510*.
- 19 The evidence in this matter unquestionably demonstrates that Miracle Movers has engaged in the business of moving household goods without the necessary permit and has also advertised its operations as a household goods carrier without listing the carrier’s permit number.
- 20 Ms. Betty Young, a compliance specialist with the Commission, testified concerning her investigation into the operations and business practices of Miracle Movers. Ms. Young prepared a summary of her investigation, with appendices documenting her investigation. *Ex. 1*.
- 21 Ms. Young first became aware of the operations of Miracle Movers when a consumer, Mr. David Toner, filed a complaint with the Commission alleging that the company had damaged some of his household goods in the course of a residential move and was refusing to honor his damage claim. *Ex. 2*.
- 22 Mr. Toner’s complaint, filed with the Commission on May 16, 2006, indicated that he had paid Miracle Movers the sum of \$445.88 to move some of his household goods from Sammamish, Washington, to Mercer Island, Washington. Mr. Toner was not

able to provide a bill of lading, but he did provide a receipt showing his payment for the "portal to portal" services of "2 movers with truck". *Ex. 2, at 7.*

23 Mr. Mike Meeks, a consumer program specialist with the Commission, worked with Mr. Toner to address his complaint. Mr. Meeks determined that Miracle Movers was not registered with the Commission. On May 31, 2006, Mr. Meeks spoke to "Jessie" at Miracle Movers and confirmed that he had received a copy of the complaint. Mr. Meeks also informed "Jessie" that his business was required to be registered with the Commission. When Mr. Meeks attempted to connect "Jessie" with the Commission's Licensing Services department to facilitate registration of the business, "Jessie" hung up and disconnected the call on two separate occasions. *Ex. 2, at 3.*

24 Miracle Movers failed to respond to the complaint. On June 12, 2006, Mr. Meeks concluded that the company was in violation of RCW 81.80.070 and closed the complaint, referring the file to the Commission's enforcement section. *Ex. 2.*

25 In October 2006, Ms. Young initiated a formal staff investigation into the matter. *Ex. 1, at 7.* She obtained a declaration from Mr. Toner summarizing his experiences with Miracle Movers. The declaration confirms that on March 1, 2006, Mr. Toner paid Miracle Movers the sum of \$445.88 for moving the large items from his apartment and later discovered damage to his desk, coffee table and exercise bike. Mr. Toner made a request with "Jesse" at Miracle Movers to file a claim and, when rebuffed, filed complaints with the Better Business Bureau and with the Commission. *Ex. 3.*

26 Mr. Toner eventually filed suit in small claims court and, in a conciliation agreement signed in June 2006, was able to settle the matter short of trial. Mr. Toner received \$396.37 as a settlement. *Ex. 4 & Ex. 5.*

27 During the hearing, Ms. Young confirmed that moving household goods from Sammamish to Mercer Island would require travel on the highways of Washington State.

28 Ms. Young searched the Internet and telephone directories for Miracle Movers and found several listings for the company. On February 14, 2007, Ms. Young personally called four different telephone numbers for Miracle Movers and each was answered by a woman stating "Miracle Movers, how may I help you?" *Ex. 1, at 7-8; see also Ex. 1, App. J.* Finally, Ms. Young located a company website,

www.miraclemovers.com, containing advertising material promoting the company's services of performing residential and commercial moves in Washington. *Ex. 1, App. I.* At hearing, Ms. Young testified that the website remained active. *Ex. 6.* None of these advertisements include a reference to a Commission permit number.

29 Ms. Young's investigation contains a summary of previous Commission actions taken against Mr. Jody Webb, the previous owner of Miracle Movers in Docket TV-030010. In that matter, the Commission issued a Cease and Desist Order against Mr. Webb, but did not name the corporation, Miracle Movers. *Ex. 1, at 5-6, and at App. C, App. D, and App. E.*

30 In a separate action, on March 16, 2007, the Commission issued a penalty assessment in the amount of \$1,500 against Miracle Movers. The company has not responded to the penalty assessment. *See Docket TV-070463.*

31 The Commission has never received a permit application from Miracle Movers or from its current company president, Jesse Aislinn; nor has the Commission ever granted a permit to Miracle Movers for transporting household goods.

32 **Decision.** By failing to appear at the hearing held on May 1, 2007, Miracle Movers has also failed to meet the burden of proving that its business operations are not subject to the provisions of RCW 81.80.070. The evidence presented by Commission Staff through exhibits and witness testimony establishes that Miracle Movers has transported property, i.e., household goods, for compensation over the highways of the state of Washington without obtaining authority from the Commission, as required by RCW 81.80.070. The evidence and testimony presented also establish that Miracle Movers has and continues to advertise the operations of a household goods carrier without identifying a Commission permit number, in violation of RCW 81.80.357(1).

III. FINDINGS OF FACT

33 (1) The Washington Utilities and Transportation 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 the public roads of the state of Washington.

- 34 (2) Miracle Movers holds itself out to the public as a corporation engaged in the business of transporting household goods for compensation over the public highways within the state of Washington, advertising its services by means of both print and on-line telephone directories, as well as through a company website.
- 35 (3) Miracle Movers, through its employees, transported the household goods of Mr. David Toner on March 1, 2006, for compensation over the public highways of the state of Washington.
- 36 (4) Miracle Movers has not applied for, nor obtained from the Commission, permit authority allowing it to operate as a household goods carrier within Washington State.
- 37 (5) Miracle Movers failed to comply with the Subpoenas properly served.
- 38 (6) Miracle Movers failed to appear at the hearing convened on May 1, 2007, pursuant to notice that was properly served.

IV. CONCLUSIONS OF LAW

- 39 (1) The Commission has jurisdiction over the subject matter of this proceeding and over Miracle Movers pursuant to RCW 81.04.510, RCW 81.80.070, and RCW 81.80.357.
- 40 (2) Pursuant to RCW 34.05.440(2), Miracle Movers is held in default for failing to appear at the May 1, 2007, hearing.
- 41 (3) Miracle Movers did perform and is performing business operations requiring operating authority from the Commission, without first having obtained that authority, in violation of RCW 81.80.070.
- 42 (4) Miracle Movers is classified as a common carrier of household goods within the state of Washington, pursuant to RCW 81.80.010(4) and WAC 480-15-020.

- 43 (5) The Commission is directed by RCW 81.04.510 to order the respondent to cease and desist from conducting operations requiring permit authority unless or until the required authority is obtained from the Commission.

V. ORDER

THE COMMISSION ORDERS That:

- 44 (1) The respondent, Miracle Movers, is held in default. Should Miracle Movers fail to respond to this Order by filing a written motion within seven (7) days requesting that the order be vacated pursuant to RCW 34.05.440(3), the default in this proceeding shall remain in place.
- 45 (2) Miracle Movers is classified as a common carrier of household goods within the state of Washington.
- 46 (3) Miracle Movers shall cease and desist from operations in this state requiring permit authority under RCW 81.80.070 unless or until it obtains the required authority from the Commission.

Dated at Olympia, Washington, and effective May 8, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



ADAM E. TOREM
Administrative Law Judge

NOTICE TO THE PARTIES

The actions proposed in this Default Order are not effective until the Utilities and Transportation Commission enters a final order or this Default Order becomes final by operation of law under RCW 80.01.060(3). If you disagree with this Default Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

Pursuant to RCW 34.05.440(3), within seven (7) days after service of this Default Order, which is entered pursuant to RCW 34.05.440(2), any party against whom it is ordered may file with the Commission a written motion that the order be vacated. The moving party must state in the motion the grounds relied upon for vacating the order.

If no written motion is timely filed, the actions proposed in this Initial Order, including direction to cease and desist, will become final by operation of law. Under the proposed order to cease and desist, the defaulting party is prohibited from operating motor vehicles for transportation of property for compensation, i.e., operating as a household goods carrier, on the public highways of the state of Washington without the necessary permit authority required for such operations by RCW 81.80.070.

A written motion that the order be vacated must be hand-delivered to the Commission's Records Center or mailed to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

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*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of 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 at the time of hearing, or for other good and sufficient cause. No Answer to a Petition To Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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 does not exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and eight copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Exhibit B

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PROOF OF SERVICE

DOCKET NO. TV-061618

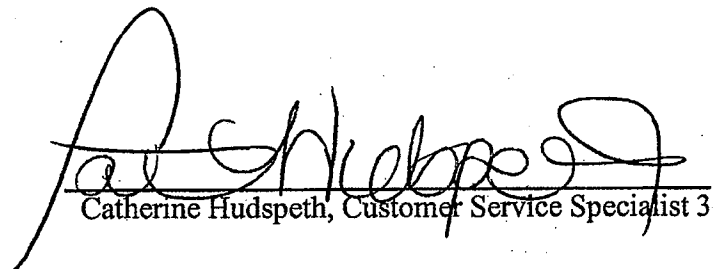
KNOW ALL PERSONS BY THESE PRESENTS That the undersigned, an employee of the Washington Utilities and Transportation Commission at Olympia, Washington, hereby certifies that a copy of the document referred to below was served on the parties of record in said proceeding in the following manner:

On the 8TH day of MAY, 2007, a true copy of ORDER 02 - INITIAL ORDER TO CEASE AND DESIST; DEFAULT ORDER

in the above-entitled cause now pending before the Commission was enclosed in an envelope addressed to each of the parties of record as set forth below. Each envelope was addressed to the address shown in the official files attached hereto, sealed with the required first-class postage thereon, and deposited on said date in the United States mail in the City of Olympia, County of Thurston, State of Washington.

PARTIES OF RECORD AND OTHERS RECEIVING NOTICE

Parties of Record on Filing: 061618
In-House Distribution List: TRAN.DIS
Mailed certified to the Company.


Catherine Hudspeth, Customer Service Specialist 3

12:43:59 08 MAY 2007

TV-061618:FOR

Page 1

RECIP_ID NAME..... ADDRESS.....

358217

346353 Cameron-Rulkowski, Jennifer

Miracle Movers, Inc.; PO Box 75565
WUTC; Attorney General Office; State Mail Stop 40128

Seattle

WA 98175

Exhibit C

SERVICE DATE
MAY 31 2007

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper) DOCKET TV-061618
Carrier Classification of)
)
MIRACLE MOVERS, INC.,) NOTICE OF FINALITY
)
.....)

- 1 Administrative Law Judge Adam E. Torem entered Initial Order 02 in this docket on
May 8, 2007.
- 2 No party petitioned for administrative review of the initial order or received an
extension of time to file such a petition, and the Commission did not give notice of its
intention to review the order on its own motion, within the time for filing petitions for
administrative review.
- 3 Therefore, under RCW 80.01.060(3), the order became final on May 29, 2007 by
operation of law.
- 4 In allowing this order to become final, the commission does not endorse the order's
reasoning and conclusions. If cited in the future, the order must be identified as an
Administrative Law Judge's order.

Sincerely,



CAROLE J. WASHBURN
Executive Secretary

Exhibit D

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PROOF OF SERVICE

DOCKET NO. TV-061618

KNOW ALL PERSONS BY THESE PRESENTS That the undersigned, an employee of the Washington Utilities and Transportation Commission at Olympia, Washington, hereby certifies that a copy of the document referred to below was served on the parties of record in said proceeding in the following manner:

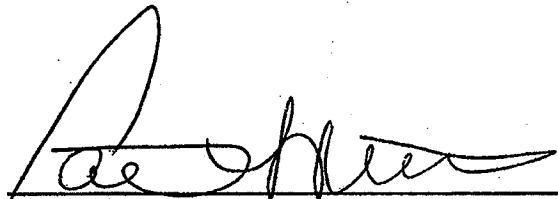
On the 31ST day of MAY, 2007, a true copy of NOTICE OF FINALITY.

in the above-entitled cause now pending before the Commission was enclosed in an envelope addressed to each of the parties of record as set forth below. Each envelope was addressed to the address shown in the official files attached hereto, sealed with the required first-class postage thereon, and deposited on said date in the United States mail in the City of Olympia, County of Thurston, State of Washington.

PARTIES OF RECORD AND OTHERS RECEIVING NOTICE

Parties of Record on Filing: 061618
Distributed in-house via e-mail.

**Pursuant to RCW 80.01.0070,
this packet is the final
order in this docket.**



Catherine Hudspeth, Customer Service Specialist 3

15:44:50 31 MAY 2007

TV-061618 FOR

Page 1

RECIP_ID NAME..... ADDRESS.....

358217 Cameron-Rulkowski, Jennifer

Miracle Movers, Inc.; PO Box 75565
WUTC; Attorney General Office; State Mail Stop #0128

Seattle

WA 98175