

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES**

**PENALTY ASSESSMENT: TE-170986  
PENALTY AMOUNT: \$1,700**

JPH International, Inc.  
d/b/a A&A Airport Limousine Service  
6705 NE 175 Street  
Kenmore, WA 98028

The Washington Utilities and Transportation Commission (Commission) believes that JPH International, Inc. d/b/a A&A Airport Limousine Service (A&A Limousine) has committed violations of Washington Administrative Code (WAC) 480-30-221 Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 382 Controlled Substances and Alcohol Use and Testing, Part 391 – Qualifications of Drivers and Part 395 – Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. RCW 81.04.530 allows penalties of \$500 for each driver employed who is not in compliance with the motor vehicle driver drug and alcohol testing requirements. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

In September 2017, Commission Motor Carrier Investigator Francine Gagne conducted a compliance review of A&A Limousine and documented the following violations:

- **Three violations of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** A&A Limousine assigned drivers William Johnson, William Ronan, and Edwin Lyle to safety sensitive functions prior to receiving an approved negative pre-employment controlled substance test result.
- **Six violations of Title 49 CFR Part 391.51(b)(6) – Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.** The company does not maintain three years of drivers' abstracts as required.
- **Seventeen violations of Title 49 CFR Part 395.8(a) – Failing to require driver to prepare a record of duty status using appropriate method.** Driver Stuart Thompson failed to prepare a complete daily record of duty status on seventeen occasions.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that use drivers before receiving a negative drug test result, or that fail to record driver hours of service and driver violations

put the traveling public at risk. An impaired or fatigued driver, or one with a record of traffic violations presents serious safety concerns.

2. **Whether the violation is intentional.** Considerations include:
  - Whether the company ignored Commission staff's previous technical assistance; and
  - Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

In the company's 2008 application to the Commission for charter authority, Jasbir Sandhu, Vice-President of Operations for A&A Limousine acknowledged responsibility for understanding and complying with applicable state and federal safety regulations. Commission staff has conducted compliance reviews and provided technical assistance to the company on ten occasions since 2008. Staff believes the company knew, or should have known about these requirements.

3. **Whether the company self-reported the violation.** The company did not self-report these violations.
4. **Whether the company was cooperative and responsive.** A&A Limousine was cooperative and responsive throughout the entire scope of the investigation.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Staff is unaware of specific steps the company has taken to correct the violations.
6. **The number of violations.** The number of violations is insignificant for a company the size of A&A Limousine.
7. **The number of customers affected.** The company traveled 398,122 miles and reported \$1,876,451 in gross revenue for 2016. A significant number of customers, as well as members of the traveling public were likely affected by these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if A&A Limousine is likely to repeat these safety violations. However, the company was cooperative and responsive to staff, and expressed an interest in correcting the safety violations documented in the compliance review.
9. **The company's past performance regarding compliance, violations, and penalties.** This is the company's 9<sup>th</sup> compliance review and its first safety penalty. One of the violations noted here is a repeat from a 2013 compliance review.
10. **The company's existing compliance program.** A&A Limousine has a formal compliance program.
11. **The size of the company.** A&A Limousine is a medium-sized company with 27 drivers and 25 commercial vehicles.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.<sup>1</sup> The Commission generally will assess penalties per type of violation, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations found in future compliance investigations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize A&A Limousine \$1,700 for violations of WAC 480-30-221 Vehicle and Driver Safety Requirements, calculated as follows:

- Three violations of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. The Commission assesses a penalty at the statutory amount of \$500 per occurrence, for a total of \$1,500.
- Six violations of Title 49 CFR Part 391.51(b)(6) – Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. This is a repeated, non-critical violation, and thus the Commission assesses a penalty at the statutory amount of \$100 per violation type, for a total of \$100.
- Seventeen violations of Title 49 CFR Part 395.8(a) – Failing to require driver to prepare a record of duty status using appropriate method. This is a first-time violation, and thus the Commission assesses a penalty at the statutory amount of \$100 per violation type, for a total of \$100.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for

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<sup>1</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Olympia, Washington, and effective October 19, 2017.

*/s/ Gregory J. Kopta*  
GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-170986

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$ \_\_\_\_\_ in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”