

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TE-180076

PENALTY AMOUNT: \$1,000

Janine Stockton-Julian  
d/b/a The Vine Travelers  
2115 NE 151<sup>st</sup> Circle  
Vancouver, WA 98686

The Washington Utilities and Transportation Commission (Commission) believes that Janine Stockton-Julian d/b/a The Vine Travelers (Vine Travelers) 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 391 – Qualifications of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

In January 2018, Commission Motor Carrier Investigator Wayne Gilbert conducted a safety investigation of Vine Travelers and documented the following violations:

- **Ten violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** Vine Travelers allowed employee Janine Stockton-Julian to drive without a current medical certificate on ten occasions during the six months preceding the safety investigation. Ms. Stockton-Julian drove on July 29, August 6, 12, and 23, September 3 and 23, October 21, November 4 and 18, and December 23, 2017.

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 not medically examined and certified, put the traveling public at risk. A driver with an undetected medical condition presents serious safety concerns.
2. **Whether the violation is intentional.** Considerations include:
  - Whether the company ignored previous technical assistance
  - Whether the company committed previous violations of the same law or regulation; and
  - Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

The Commission provided new entrant technical assistance in April 2015. Ms. Stockton-Julian is the company president and responsible for compliance with the Federal Motor Carrier Safety Regulations and Washington State laws and rules. Staff believes that 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.** Vine Travelers was cooperative and responsive throughout the entire scope of the investigation and did express desire to come into compliance with the Federal Motor Carrier Safety Regulations.
5. **Whether the company promptly corrected the violations and remedied the impacts.** The company corrected the violation prior to the closing of this investigation.
6. **The number of violations.** In total, staff identified four violation types with a total of thirteen occurrences.
7. **The number of customers affected.** The company traveled 8,461 miles and reported \$14,580 in gross revenue for 2017. 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 Vine Travelers is likely to repeat these safety violations. However, the company was cooperative and responsive to staff, and has already taken actions to correct the violations documented in the safety investigation.
9. **The company's past performance regarding compliance, violations, and penalties.** This is the company's first safety investigation. The company does not have any previous safety violations of any type.
10. **The company's existing compliance program.** Ms. Stockton-Julian is the company president and is responsible for compliance with safety regulations.
11. **The size of the company.** Vine Travelers is a small company with one driver and one vehicle.

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"

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

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 Vine Travelers \$1,000 for violations of WAC 480-30-221 Driver Safety Requirements, calculated as follows:

- Ten violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$1,000.

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 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 February 6, 2018.

*/s/ Gregory J. Kopta*  
GREGORY J. KOPTA  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-180076

**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.”