

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TE-180895**

**PENALTY AMOUNT: \$1,000**

JPH International, Inc.  
d/b/a A&A Airport Limousine Service  
6705 NE 175 Street  
Kenmore, WA 98188

The Washington Utilities and Transportation Commission (Commission) believes JPH International, Inc. d/b/a A&A Airport Limousine Service (A&A or Company) 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 395 – Hours of Service 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.

On November 1, 2018, Commission Motor Carrier Investigator Francine Gagne completed a focused investigation of A&A and documented the following violations:

- **Ten violations of Title 49 CFR Part 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.** Employees Stuart Thompson, Paul Matthewson, and William Ronan drove on ten occasions in May 2018 and failed to prepare records of duty status as required.

The Commission considered the following factors in determining the appropriate penalty for this violation:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that fail to require drivers to correctly record hours-of-service place the public at risk. A fatigued driver presents a serious safety concern.
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 for charter authority from the Commission, Jasbir Sandhu, Vice President of Operations for A&A, acknowledged the Company's responsibility to understand and comply with applicable state and federal regulations.

Commission staff has conducted compliance reviews and provided technical assistance to the Company on 11 occasions since 2008. In October 2017, the Commission penalized A&A for the same violation. 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 the violation.
4. **Whether the company was cooperative and responsive.** The Company was cooperative and responsive throughout the investigation.
5. **Whether the company promptly corrected the violation and remedied the impacts.** The Company corrected the violations and is updating its procedure to prevent repeat occurrences.
6. **The number of violations.** Staff identified three violation types, with a total of 31 occurrences.
7. **The number of customers affected.** The Company reported 185,000 intrastate miles traveled in 2017. Each of the passengers transported by A&A were potentially at risk due to these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if A&A is likely to repeat this safety violation; however, the Company was cooperative with staff throughout the investigation and expressed its desire to come into compliance.
9. **The company's past performance regarding compliance, violations, and penalties.** The Commission penalized A&A in October 2017 for 17 occurrences of the same violation, and in June 2015 for failing to timely submit an annual report.
10. **The company's existing compliance program.** Vice President Jess Sandhu is responsible for the Company's safety program.
11. **The size of the company.** A&A Limousine is a medium-sized company with 28 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.

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

The Commission has considered these factors and determined that it should penalize A&A Limousine \$1,000 for violations of WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 CFR Part 395, calculated as follows:

- Ten violations of Title 49 CFR Part 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method. The Commission assesses a penalty of \$1,000 for ten occurrences of this violation.

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 through evidence presented at a hearing or in writing. Or, if there is a reason for any or all violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation(s) or for mitigation of the penalty 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 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 submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to [records@utc.wa.gov](mailto:records@utc.wa.gov). If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250.

**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 December 19, 2018.

/s/ Rayne Pearson  
RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-180895

**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 violations occurred and enclose \$1,000 in payment of the penalty.
- 2. **Contest the violation.** I believe that the alleged violations 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 violations, 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.”