



1 I. NATURE OF THIS CASE

2 1.1 This is a civil action pursuant to RCW 34.05.578, a provision of the  
3 Administrative Procedure Act (RCW 34.05), for court enforcement of Commission Order 02,  
4 an administrative order issued on February 8, 2008, by the Commission against Defendant,  
5 Daniel John Busby.

6 1.2 In its Order 02, the Commission ordered the Defendant to cease and desist from  
7 conducting household goods transportation services for compensation within Washington state  
8 unless or until the Defendant obtained a permit from the Commission.

9 1.3 Persons who transport household goods between points in Washington State for  
10 compensation and engage in business as household goods carriers are required to have a permit  
11 issued by the Commission. Former RCW 81.80.070 and RCW 81.80.075.<sup>1</sup> The Defendant  
12 does not have such a permit, yet is conducting household goods moving operations in violation  
13 of Order 02 and state law.

14 1.4 Therefore, the Commission asks the Court to enforce Commission Order 02 by  
15 issuing a permanent injunction barring the Defendant from engaging in business as a  
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17 <sup>1</sup> At all times material to this Petition, businesses such as the Defendant's were and are required to have a  
18 household goods carrier permit issued by the Commission before providing household goods transportation  
services for hire within Washington state. This permit requirement was contained in former RCW 81.80.070 until  
2009; it is now contained in RCW 81.80.075.

19 Former RCW 81.80.070 provided, in part: "a common carrier...shall not operate for the transportation  
of property for compensation in this state without first obtaining from the commission a permit for such  
operation." Common carriers include household goods carriers. RCW 81.04.010(4).

20 RCW 81.80.075 (effective 2009) provides, in part: "No person shall engage in business as a household  
goods carrier without first obtaining a permit issued by the commission." RCW 81.80.010 (as amended in 2009),  
21 defines "household goods carrier" as "a person who transports for compensation, by motor vehicle in this state, or  
who advertises, solicits, offers, or enters into an agreement to transport, household goods as defined by the  
commission."

22 RCW 81.80.075(5) also provides that: "Any person who engages in business as a household goods  
carrier in violation of a cease and desist order issued by the commission is subject to a penalty of up to ten  
23 thousand dollars per violation."

1 household goods carrier without a household goods carrier permit issued by the Commission,  
2 and impose a \$30,000 civil penalty on the Defendant for violation of Order 02.

3 **II. JURISDICTION AND VENUE**

4 2.1 This Court has jurisdiction under RCW 34.05.578 to enforce an order of a state  
5 agency. The Commission is a state agency. Order 02 is an order of the Commission.

6 2.2 Under RCW 34.05.578(3), "venue is determined as in all other civil cases." In  
7 this case, venue is proper in Snohomish County pursuant to RCW 4.12.025, because the  
8 Defendant resides in Snohomish County.

9 **III. PARTIES**

10 3.1. The Commission is a state agency created by chapter RCW 80.01. The  
11 Commission is authorized under RCW 80.01.040 and chapter RCW 81.80 to regulate in the  
12 public interest persons engaged in the transportation of property for compensation over the  
13 public highways of the State of Washington, including household goods carriers.

14 3.2. Defendant, Daniel John Busby (Mr. Busby), is a sole proprietor, operating as  
15 Vinnie's Moving Co. and Vinnie's Movers, and resides and does business in Snohomish  
16 County, Washington.

17 **IV. FACTS**

18 **The Defendant Does Not Hold a Commission Permit**

19 4.1 In February 2006, the Commission issued an order cancelling a household  
20 goods carrier permit issued to Mr. Busby because Mr. Busby had failed to file a required  
21 annual report or pay regulatory fees.<sup>2</sup> Since this order was issued, and at all times material to

22 \_\_\_\_\_  
23 <sup>2</sup> At the time of the February 2006 order and Order 02, the Defendant was a sole proprietor using the  
trade name "Careful Movers." Mr. Busby's Commission permit was issued to Mr. Busby in the name "Daniel

1 this matter, Mr. Busby has not had a household goods carrier permit issued by the Commission  
2 authorizing him to transport household goods for compensation between points in the state of  
3 Washington.

4 **The Commission's 2007 Investigation**

5 4.2 On July 5, 2007, the Commission received a complaint from a customer of Mr.  
6 Busby, then doing business as Careful Movers, alleging that, in the course of transporting the  
7 complainant's household goods between two locations in Seattle, Washington, Mr. Busby  
8 failed to satisfy the customer and refused to honor her request for a partial refund. An  
9 investigation of the complaint determined that Mr. Busby was transporting property, including  
10 household goods, for compensation on the public highways of the state of Washington without  
11 holding the Commission permit required by former RCW 81.80.070.

12 4.3 The Commission initiated a formal investigation of Mr. Busby's operations.  
13 The investigation found several online and telephone listings for Mr. Busby's company, and a  
14 Web site that contained advertising material promoting residential moving services in  
15 Washington. The Web site did not contain a permit number.

16 **Commission Proceeding to Classify Mr. Busby as Unpermitted Carrier, and Order 02**

17 4.4 Under RCW 81.04.510, whenever the Commission believes that any person is  
18 operating as a household goods carrier without the required permit authority, it may institute a  
19 special proceeding to classify that person as a household goods carrier, subpoena witnesses and  
20 documents as necessary, hold a hearing, and issue cease and desist orders against persons  
21 found to be involved in operations requiring permit authority.

22 \_\_\_\_\_  
23 John Busby d/b/a Careful Movers." As set forth in this Petition, Mr. Busby remains a sole proprietor, now using  
the trade names "Vinnie's Moving Co." and "Vinnie's Movers."

1           4.5    On December 6, 2007, and under the authority of RCW 81.04.510, the  
2 Commission initiated a Classification Proceeding, and served an Order Instituting Special  
3 Proceeding, Subpoena, and Notice of Hearing in Commission Docket TV-071670 on Mr.  
4 Busby at his business address.

5           4.6    On December 6, 2007, in Commission Docket TV-072234, the Commission  
6 served Mr. Busby with a \$2,000 penalty (Penalty Assessment) for violations of state law  
7 related to operating as a household goods carrier without a Commission permit, and failing to  
8 list a Commission permit number on advertisements for household goods moving services.

9           4.7    On December 14, 2007, Mr. Busby, through an attorney, filed an application for  
10 mitigation of the Penalty Assessment. In the application, Mr. Busby admitted the violations  
11 alleged, but asked for an administrative hearing and a decision by a Commission  
12 Administrative Law Judge (ALJ).

13           4.8    On December 21, 2007, the Commission served on Mr. Busby a notice  
14 rescheduling the hearing in the Classification Proceeding, as well as a Notice of Hearing on the  
15 Penalty Assessment. Due to the similar facts and subject matter of the two dockets, the  
16 Commission determined that both hearings should be held on the same day.

17           4.9    On due and proper notice, the Commission convened a hearing on January 15,  
18 2008, before an ALJ. An attorney for Mr. Busby appeared telephonically at the hearing on Mr.  
19 Busby's behalf. Mr. Busby did not personally attend. At the hearing, the Commission  
20 formally consolidated both the Classification Proceeding and the Penalty Assessment for a  
21 single hearing and order. Staff of the Commission put forth evidence establishing the  
22 violations of state law alleged in the Classification Proceeding and Penalty Assessment. The  
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1 Defendant introduced no evidence, conceded the violations, and sought only to mitigate the  
2 Penalty Assessment.

3 4.10 The ALJ issued Order 02 on February 8, 2008, classifying Mr. Busby as a  
4 household goods carrier, and finding that Mr. Busby, then doing business as Careful Movers,  
5 performed household goods moving operations requiring a permit from the Commission,  
6 without first having obtained that authority, in violation of former RCW 81.80.070. Under the  
7 authority of RCW 81.04.510, the ALJ ordered Mr. Busby to cease and desist from conducting  
8 household goods moving operations requiring permit authority under former RCW 81.80.070  
9 unless or until he obtained the required permit from the Commission. Also in Order 02, both  
10 Commission dockets were consolidated for hearing and decision, and Mr. Busby was required  
11 to pay the Penalty Assessment in full. A copy of Order 02 is attached as Exhibit A to the  
12 Affidavit of Lisa Wyse.

13 4.11 The Commission properly served Order 02 upon Mr. Busby on February 8,  
14 2008. Copies of the Proofs of Service of Order 02 are attached as Exhibits B and C to the  
15 Affidavit of Lisa Wyse.

16 4.12 On February 29, 2008, and pursuant to RCW 80.01.060(3), Order 02 became a  
17 final Commission order. On March 5, 2008, the Commission issued a Notice of Finality, and  
18 properly served that Notice upon Mr. Busby. A copy of the Notice of Finality is attached as  
19 Exhibit D to the Affidavit of Lisa Wyse. A copy of the Proof of Service of the Notice of  
20 Finality is attached as Exhibit E to the Affidavit of Lisa Wyse.

21 4.13 The Commission timely received from Mr. Busby payment of the \$2,000  
22 penalty set forth in Order 02.

1 Violation of Order 02

2 4.14 After Order 02 became final on February 29, 2008, the Defendant knowingly  
3 failed to comply with Order 02 by continuing to conduct household goods moving operations  
4 in Washington state requiring a permit from the Commission. Defendant began operating as  
5 "Vinnie's Moving Co." and "Vinnie's Movers."

6 4.15 In July 2009, the Commission sent a letter to persons believed to be operating as  
7 household goods carriers without required permit authority, including Mr. Busby. The letter  
8 informed Mr. Busby about new laws in effect expanding the definition of "household goods  
9 carrier" to include persons advertising to transport household goods. In the letter, the  
10 Commission stated that Mr. Busby must promptly apply to the Commission for a permit, and  
11 immediately cease operating or advertising as a household goods carrier until a permit was  
12 obtained, or risk enforcement action. The Defendant did not submit an application, nor  
13 otherwise respond to the letter.

14 4.16 Defendant has placed signage at various locations in and around Bothell,  
15 Washington, with "Vinnie's Moving Co. / Over 15 years experience" and a telephone number.

16 4.17 Defendant advertises the household goods moving services of "Vinnie's  
17 Moving Co." and "Vinnie's Movers" on the internet at [www.craigslist.org](http://www.craigslist.org). Defendant's  
18 advertisements state, among other things, that Vinnie's Moving Co. is "fully licensed and  
19 insured," and include a telephone number.

20 4.18 Defendant advertises household goods moving services on the internet on its  
21 Web site, [www.vinniesmovingco.com](http://www.vinniesmovingco.com). The Web site prominently includes a phone number, a  
22 picture of a truck, and an online form to obtain a moving estimate.

1           4.19 Defendant provides estimates for residential household goods moves within  
2 Washington state to prospective customers who use the online form on its Web site, and  
3 contact the local telephone number shown on its Web site and advertisements. Defendant's  
4 estimates include moving personnel and a truck.

5           4.20 Through its internet advertisements, through its Web site, and by providing  
6 estimates, the Defendant holds itself out to the public as a residential household goods moving  
7 operation and engages in business as a household goods carrier within the state of Washington,  
8 in violation of state law and Commission Order 02.

9                           **V.       AUTHORITY TO SEEK CIVIL ENFORCEMENT**

10           5.1 Under RCW 34.05.578, a state agency such as the Commission is authorized to  
11 seek civil enforcement of an administrative order by filing a petition for civil enforcement in  
12 the superior court. Under that statute, "the agency may request, and the court may grant,  
13 declaratory relief, temporary and permanent injunctive relief, any other civil remedies provided  
14 by law, or any combination of the foregoing."

15                           **VI.       PRAYER FOR RELIEF**

16           Based on the foregoing allegations, and in accordance with RCW 34.05.578, the  
17 Commission asks the Court to:

18           6.1 Enter an order directing the Defendant to comply with the Washington Utilities  
19 and Transportation Commission's Order 02 by immediately ceasing and desisting from  
20 conducting in-state household goods moving operations in Washington state without the permit  
21 required under RCW 81.80.075.



1           6.2    Issue a permanent injunction to perpetually restrain the Defendant from  
2 engaging in business as a household goods carrier by transporting household goods for  
3 compensation, by motor vehicle between points in Washington state, or advertising, soliciting,  
4 offering, or entering into an agreement to transport household goods, without first obtaining a  
5 household goods carrier permit from the Commission as required by RCW 81.80.075.

6           6.3    Impose civil penalties against the Defendant in the amount of \$30,000 for  
7 engaging in business as a household goods carrier by: (1) advertising on its Web site, (2)  
8 advertising at www.craigslist.org, and (3) offering to transport household goods, in violation of  
9 a cease and desist order issued by the Commission under RCW 81.04.510 (in this case, Order  
10 02), as authorized by RCW 81.80.075(5).

11           6.4    Award the Commission its costs, fees, and other disbursements associated with  
12 the filing and maintenance of this petition, including reasonable attorney's fees.


13           6.5    Retain jurisdiction to enforce its orders.

14           6.6    Grant any further or other relief the Court deems just and appropriate.

15           DATED this 14<sup>th</sup> day of July, 2010.

16                               Respectfully submitted,

17                               ROBERT M. MCKENNA  
18                               Attorney General

19                                 
20                               MICHAEL A. FASSIO  
21                               WSBA No. 37139  
22                               Assistant Attorney General  
23                               (360) 664-1192  
                                  Attorneys for Plaintiff Washington Utilities and  
                                  Transportation Commission  
                                  1400 S. Evergreen Park Dr. S.W.  
                                  P.O. Box 40128  
                                  Olympia, WA 98504-0128