

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of)	DOCKET TV-120766
)	
ORACLE MARKETING, INC. d/b/a)	ORDER 01
GREAT AMERICAN MOVING &)	
STORAGE)	INITIAL ORDER DENYING
)	APPLICATION FOR PERMANENT
for a permit to operate as a motor)	AUTHORITY
carrier of household goods.)	
)	
.....)	

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 as described in the notice at the end of this Order. If this Initial Order becomes final, Oracle Marketing, Inc.’s application for a permit to operate as a household goods carrier in the state of Washington will be denied for failure to meet the fitness and public interest requirements set out in the governing statute and Commission rules.*

2 On May 24, 2012, Oracle Marketing, Inc. d/b/a Great American Moving & Storage (Oracle Marketing or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application requesting authority to operate as a household goods carrier. Commission Staff (Staff) reviewed the application and discovered a history of consumer complaints tied to Oracle Marketing and its President, Chana Green. Staff also learned that the California Public Utilities Commission (CPUC) had imposed a \$10,000 penalty against, and revoked the operating authority of, City Transport, Inc. d/b/a Mayflower Moving & Storage (City Transport), Ms. Green’s prior employer. Ms. Green did not disclose any of this information in Oracle Marketing’s application for a household goods permit.

3 **Notice of Intent to Deny Application.** On July 19, 2012, the Washington Utilities and Transportation Commission (Commission) issued a notice of its intention to deny Oracle Marketing’s application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15. Staff considers Oracle

Marketing unfit to hold a household goods moving permit in Washington because of the company's "history of noncompliance" and "harmful business practices."¹

4 On July 27, 2012, Oracle Marketing filed with the Commission a request for a hearing seeking to dispute Staff's evaluation of the Company's fitness.

5 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for determining whether Oracle Marketing's application for permanent authority should be denied for failure to meet the application requirements. On August 10, 2012, the Commission issued a Notice of Brief Adjudicative Proceeding and set October 8, 2012, at 1:30 p.m. as the time for the parties to make oral statements concerning their positions.

6 **Appearances.** Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represented Commission Staff (Staff).² Chana Green, President, Tacoma, Washington, represented Oracle Marketing.

7 **Applicable Law.** RCW 81.80.075(1) requires the Commission to issue a household goods permit to any qualified applicant found to be fit, willing, and able to perform the services proposed and conform to the applicable laws, requirements, rules, and regulations of the Commission. WAC 480-15-330³ explains that the Commission may deny an application for permanent authority where there is an indication of fraud, misrepresentation, or erroneous information.⁴ In addition, the Commission may deny applications when the results of compliance reviews, customer complaints filed

¹ Notice of Intent to Deny Application for Permanent Authority, ¶ 17.

² In adjudications the Commission's regulatory staff participates like any other party, while the Administrative Law Judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

³ WAC 480-15-330 was the Commission's governing regulation for evaluating household goods permit applications at the time of Oracle Marketing's application. Although an updated and substantially similar rule (WAC 480-15-305) became effective in July 2012, Oracle Marketing's application is reviewed under the rules on file at the time of its application for authority.

⁴ WAC 480-15-330(4)(b).

against the applicant, or other circumstances cause the Commission to believe issuing the permit is not in the public interest.⁵

8 **Evidence.** At hearing, Staff presented documentary evidence and the testimony of Joe Iljas and Rayne Pearson. Ms. Green testified on behalf of Oracle Marketing and timely submitted documentary evidence after the hearing. Commission Staff timely submitted additional documents in response.⁶

9 Zulkifli “Joe” Iljas, an investigator with the CPUC, related his experiences with Ms. Green and City Transport from late 2009 through early 2012. City Transport came to the CPUC’s attention due to a high level of consumer complaints. Mr. Iljas explained that Ms. Green failed to uphold her responsibilities as a corporate officer of and the “qualifier”⁷ for City Transport by not being in the company’s office a sufficient number of hours each week to supervise the Company’s activities. The CPUC investigation into City Transport’s business resulted in a \$10,000 penalty imposed on City Transport for a variety of regulatory violations⁸ in August 2010 and required City Transport to reimburse or refund \$19,000 to affected customers. To the best of Mr. Iljas’ knowledge, the penalty remains unpaid and only a fraction of the required refunds, approximately \$2,000, were distributed to customers.

10 Rayne Pearson, a compliance investigator for Staff, reviewed Oracle Marketing’s application and determined that Ms. Green’s failure to identify and explain her role as an officer with City Transport was a misrepresentation of a material fact. Applicants

⁵ WAC 480-15-330(4)(f) and (g).

⁶ The record in this matter closed on Wednesday, October 17, 2012. The record includes Exhibits 1 through 12 admitted during the hearing and Exhibits 13 through 20 submitted after the hearing.

⁷ In California, the CPUC requires applicants for household goods permits to establish their knowledge and ability to engage in the business by passing an examination. Companies must have their responsible managing officer or another employee who works at least 32 hours per week serve as the “qualifier” and pass the exam. *See* Exhibit 6 (excerpt of California Public Utilities Code, Section 5135); *see also* Exhibit 11 (Ms. Green’s passing score of 89% on exam).

⁸ The CPUC citation against City Transport identifies 15 separate allegations for violations of the California Public Utility Code, including charging more than the maximum rates approved by the Commission, failures to disclose all charges, willfully quoting a lower rate knowing the actual rate will exceed the quoted rate, and failures to respond to claims for damage or loss within established timeframes. *See* Exhibit 8, pp. 10-31.

are required to answer a question asking whether a business-related legal proceeding has ever been filed against the applicant in Washington or any other state. Ms. Green answered “no” on Oracle Marketing’s application and failed to disclose the fact that the CPUC had penalized City Transport and required restitution to its customers.

11 Ms. Pearson also investigated consumer complaints filed against Ms. Green with the Washington Better Business Bureau and the U.S. Department of Transportation’s (USDOT) Federal Motor Carrier Safety Administration (FMCSA) when Ms. Green operated another company, C.E.G. Marketing d/b/a Olympic Van Lines. Ms. Pearson discovered a pattern of low estimates followed by much higher final bills to customers who felt they had to pay the additional money in order to get their household goods released by Ms. Green’s company. Staff asserts that this shows a tendency to conduct harmful business practices and demonstrates that it is not in the public interest to grant permanent authority to Oracle Marketing.

12 Another of Ms. Green’s business entities, Oracle Marketing, Inc. d/b/a Olympic Van Lines, has twice been audited by USDOT FMCSA and twice been penalized for violations of federal regulations – once for \$3,370 in August 2011, and once more for \$3,400 in April 2012. Ms. Green’s responses to FMCSA’s audits admit her company’s mistakes, apologize for ignorance of the rule, and plead for a reduced penalty based on immediate corrective action.

13 Ms. Green acknowledges her past role as an officer and qualifier for City Transport. She does not deny that City Transport had serious compliance problems in California. Further, Ms. Green does not deny that her independent business venture as Olympic Van Lines has received multiple complaints, including allegations of holding a customer’s goods hostage. Instead, Ms. Green contends that consumers can say anything in a complaint and that she has done everything in her power to resolve every complaint. Ms. Green assures the Commission she has learned from prior mistakes while at City Transport and deserves an opportunity to show that she can be an outstanding household goods mover.

14 **Commission Decision.** Oracle Marketing is not fit to perform household goods moving services in Washington. Ms. Green, the Company’s president, has not established a reputable track record in the household goods industry in California or in the Company’s interstate business operations.

- 15 The Company's application did not contain complete information, misrepresenting Ms. Green's prior experience in the household goods moving industry. Ms. Green offered no explanation for her failure to disclose her prior leadership role with City Transport and the CPUC's enforcement actions against that company.
- 16 Further, Ms. Green's attempts to minimize the nature of the complaints filed against City Transport and her own separate business ventures are not persuasive or reassuring. From her testimony at hearing, Ms. Green seems to believe that penalties from regulatory agencies are just a cost of doing business in the household goods industry and that she should be provided more time to become fully aware of all applicable laws and rules. To the contrary, regulatory enforcement actions are an important indicator of problems in a company's practices and management.
- 17 Ms. Green did not satisfactorily rebut the factual allegations Staff set out in the Notice of Intent to Deny Application. The Commission does not find it in the public interest to grant Oracle Marketing a permit to conduct intrastate moves within the state of Washington. The application for permanent authority should be denied.

ORDER

THE COMMISSION ORDERS THAT:

- 18 The application filed by Oracle Marketing, Inc. d/b/a Great American Moving & Storage on May 24, 2012, for a permit to operate as a household goods carrier in the state of Washington is denied.

DATED at Olympia, Washington, and effective October 26, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO 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 ten (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 fails to exercise administrative review on its own motion.

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 **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250