

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint  
for Penalties against:

APEX LIMOUSINE, LLC

DOCKET TE-161261

ORDER 02

INITIAL ORDER CLASSIFYING  
RESPONDENT AS A CHARTER PARTY  
OR EXCURSION SERVICE CARRIER;  
ORDERING RESPONDENT TO CEASE  
& DESIST; IMPOSING AND  
SUSPENDING PENALTIES ON  
CONDITION OF FUTURE  
COMPLIANCE

**BACKGROUND**

- 1 The Washington Utilities and Transportation Commission (Commission) initiated this special proceeding to determine if Apex Limousine, LLC (Apex or Company) is operating as a charter party or excursion service carrier for transportation of passengers for compensation between points in the state of Washington and on the public highways of Washington state without the necessary certificate required for such operations. The Commission, through its regulatory staff (Staff), also complains against the Company, alleging three violations of RCW 81.70.220, and requests that the Commission impose penalties of up to \$5,000 per violation for a total potential penalty of \$15,000.
- 2 The Commission convened an evidentiary hearing before Administrative Law Judge Rayne Pearson on August 7, 2017, at 9:30 a.m. At the hearing, Staff presented documentary evidence and testimony from compliance investigator Michael Turcott. Ahmad Aleasawi, owner of Apex, testified for the Company.
- 3 Staff explained the Commission first granted Apex authority to operate as a charter party and excursion service carrier in 2013. Since then, the Commission has suspended, canceled, and reinstated the Company's authority three times due to the Company's failure to maintain property and liability insurance as required. Most recently, the Commission cancelled the Company's certificate for failure to provide proof of insurance on May 21, 2015.

- 4 Mr. Turcott testified that Staff contacted the Company via email on April 12, 2017, posing as a consumer, and obtained a quote to transport 20 passengers by bus. This conduct gave rise to the first violation alleged in the Complaint for offering to provide transportation services without authority from the Commission.
- 5 Mr. Turcott also testified about the contents of the Company's website, [www.apexlimousinenseattle.com](http://www.apexlimousinenseattle.com), which advertises charter party and excursion carrier services, and specifically advertises a 24-passenger party bus. As of the morning of the hearing, the Company's website was still active. The contents of the Company's website constitute the second violation alleged in the Complaint for advertising charter party carrier service without authority from the Commission.
- 6 Finally, Mr. Turcott testified that Staff observed the Company's Yelp profile, which contains the same language as the Company's website and a profile for the Company's owner, "AJ A." The contents of the Company's Yelp profile, which advertises party bus service, constitute the third violation alleged in the Complaint for advertising charter party carrier service without authority from the Commission.
- 7 Mr. Aleasawi testified that his 24-passenger bus has not operated for at least two years, and he does not use it to provide charter party or excursion carrier services. Rather, Mr. Aleasawi explained, he refers requests for party bus service to certificated carriers and receives a 20 percent commission in return. Mr. Aleasawi acknowledged that he now understands this conduct violates RCW 81.70.220 and agreed to both remove all party bus advertising from his website and cease holding his company out as able and willing to provide those services. Mr. Aleasawi contested the violation related to the Yelp advertisement because he claimed he was not aware of it until he reviewed the Complaint and Staff's investigation. Mr. Aleasawi testified that Yelp regularly calls him and sends his emails requesting he purchase advertising on its website.
- 8 Based on Mr. Aleasawi's statements, Judge Pearson requested that Staff obtain more information about Yelp's advertising practices. On August 10, 2017, Staff responded to the Commission's Bench Request. In its response, Staff explained that it contacted Yelp and confirmed that Apex is not a paid Yelp advertiser. In light of this information, Staff recommends the Commission find that Apex violated RCW 81.70.220 on only two of the three occasions alleged in the Complaint and requests that the Commission impose penalties of up to \$5,000 per violation, for a total potential penalty of \$10,000.

9 Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents Staff.<sup>1</sup> Ahmad Aleasawi, Seatac, Washington, represents Apex, *pro se*.

### DISCUSSION AND DECISION

10 **Classification as Charter Party or Excursion Carrier.** RCW 81.04.510 authorizes this special proceeding to determine whether Apex is engaging in business or operating as a charter party or excursion carrier in Washington without the requisite authority. That statute places the burden of proof on the Respondent to demonstrate that its acts or operations are not subject to the provisions of RCW Chapter 81.

11 Under WAC 480-30-036, “motor vehicle,” as it relates to charter party and excursion carriers, is defined as “every self-propelled vehicle with a manufacturer’s seating capacity for eight or more passengers, including the driver.” Limousines and executive party vans with seating capacities of 15 passengers or greater are regulated by the Commission as charter party or excursion carriers. Party buses, defined as any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages or entertainment may be provided, are regulated by the Commission regardless of passenger capacity.<sup>2</sup>

12 The record shows that on one occasion, Apex offered to provide transportation services, and that on one occasion, Apex advertised, and continues to advertise, as a charter party and excursion service carrier. Moreover, Mr. Aleasawi does not deny that he advertises and offers these services. Accordingly, Mr. Aleasawi was unable to rebut the inferences reasonably drawn from Mr. Turcott’s testimony and exhibits that, doing business as Apex, he has advertised and offered to conduct business as a charter party and excursion service carrier.

13 Apex claims it no longer operates the 24-passenger party bus advertised on its website. The Company, however, holds itself out as a charter party and excursion carrier and

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<sup>1</sup> In adjudications the Commission’s regulatory staff participates like any other party, while an 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.

<sup>2</sup> RCW 81.70.020(7).

offered to provide those services when solicited. Mr. Aleasawi's claim that he refers the charter party and excursion carrier services for a fee has no bearing on whether the Company's conduct violates the applicable law. RCW 81.70.220 defines "engaging in business as a charter party or excursion carrier" to include advertising or soliciting, offering, or entering in to an agreement to provide such service, which Mr. Aleasawi admits the Company is doing.

14 The Commission finds on the basis of this evidence that Apex is conducting business that requires Commission approval without the necessary operating authority. The Commission accordingly orders Mr. Aleasawi and Apex to cease and desist from such conduct, as required by RCW 81.04.510. Apex must modify the language on its website and contact Yelp to request it remove the portion of its advertising related to party bus services.

15 **Penalty.** Following the hearing, Staff modified its findings and now recommends the Commission impose penalties of \$5,000 for two of the three violations alleged in the Complaint, for a total penalty of \$10,000. Staff further recommends the Commission suspend a \$5,000 portion of the penalty for a period of two years, and then waive it, subject to the following conditions: 1) the Company must immediately submit a complete application for a certificate to operate as a charter party or excursion carrier, or 2) the Company must cease and desist offering, advertising, and providing charter party or excursion carrier services unless and until it obtains the required certificate from the Commission.

16 The Commission may consider a number of factors when determining the level of penalty to impose, including whether the violations were intentional, whether the company was cooperative and responsive in the course of Staff's investigation, and whether the company promptly corrected the violations once notified.<sup>3</sup> Here, Apex received technical assistance prior to the Commission instituting this special proceeding; the Complaint describes two technical assistance letters sent to the Company explaining that its operations require a certificate from the Commission. Because Mr. Aleasawi knew he was in violation of state laws and Commission rules but failed to take corrective action, we find that the violations are both intentional and ongoing.

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<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

- 17 As of the morning of the hearing, Mr. Aleasawi had not ceased advertising charter party and excursion carrier services on his website. Accordingly, we find that Mr. Aleasawi has failed to make a sincere effort to come into compliance despite the Commission instituting enforcement action, which constitutes a failure to take prompt corrective action.
- 18 Considering the factors discussed above, the Commission determines that Mr. Aleasawi and Apex should be penalized for an amount that will both punish the Company's wrongdoing and encourage Mr. Aleasawi to fully comply with state laws and Commission rules going forward. Given the Company's history of disregarding the Commission's authority, we find that the maximum penalty, as proposed by Staff, is appropriate. Accordingly, we impose the maximum penalty of \$5,000 for two of the three violations alleged in the Complaint, for a total penalty of \$10,000.
- 19 Staff recommends the Commission suspend one-half of the penalty, or \$5,000, on the condition of future compliance. We decline to adopt Staff's recommendation, however, and instead exercise our discretion to suspend two-thirds of the penalty consistent with recent decisions in factually similar cases.<sup>4</sup> Accordingly, the Commission suspends a \$6,700 portion of the penalty for two years, and then will waive it, subject to the following conditions: 1) the Company must permanently refrain from operating as a charter party or excursion carrier without first obtaining the required certificate from the Commission; 2) the Company must comply with applicable statutes and Commission rules; and 3) the Company must either pay the \$3,300 portion of the penalty that is not

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<sup>4</sup> See *In the Matter of Determining the Proper Classification of, and Complaint for Penalties Against: Marcus Allen Perkins d/b/a Emerald City Party Bus, LLC and Ellie's Limo and Luxury Car Service*, Docket TE-160822, Order 02 (October 10, 2016) (Emerald City). In Emerald City, the Commission assessed penalties of \$20,000 for four violations of 81.70.220 and suspended a \$16,000 portion of the penalty on the condition of future compliance. Like Apex, Emerald City offered and advertised charter party and excursion carrier services and had previously held a charter and excursion certificate from the Commission. See also *In the Matter of Determining the Proper Classification of, and Complaint for Penalties Against: Jeet Sidhu a/k/a Geetar Sidhu d/b/a JJ Limousine, JJ Limousine Services, JJ's Best Limousine Service, and JJ Limousine Services, Inc.*, Docket TE-151982, Order 02 (July 11, 2016) (JJ Limousine). In JJ Limousine, the Commission assessed penalties of \$15,000 for three violations of 81.70.220 and suspended a \$10,000 portion of the penalty on the condition of future compliance. Like Apex, JJ Limousine offered and advertised charter party and excursion carrier services and had previously held a charter and excursion certificate from the Commission.

suspended or file jointly with Staff a mutually agreeable payment arrangement within 10 days of the effective date of this Order.

**FINDINGS AND CONCLUSIONS**

- 20 (1) The Commission is an agency of the state of Washington vested by statute with authority to regulate persons engaged in the business of providing auto transportation services, including charter party and excursion carrier services, over public roads in Washington.
- 21 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Apex.
- 22 (3) On at least one occasion, Apex offered to provide charter party and excursion carrier services within the state of Washington without first having obtained a certificate from the Commission, in violation of RCW 81.70.220.
- 23 (4) On at least one occasion, Apex advertised to provide charter party and excursion carrier services without first having obtained a certificate from the Commission, in violation of RCW 81.70.220.
- 24 (5) Apex should be directed to cease and desist from providing charter party and excursion carrier services over public roads in Washington as required by RCW 81.04.510.
- 25 (6) Apex should be penalized \$10,000 for two violations of RCW 81.70.220, a \$6,700 portion of which should be suspended for a period of two years, and then waived, provided the Company complies with the conditions set out in paragraph 19, above.

**ORDER**

**THE COMMISSION ORDERS:**

- 26 (1) Apex Limousine, LLC is classified as a charter party and excursion service carrier within the state of Washington.

- 27 (2) Apex Limousine, LLC is ordered to immediately cease and desist operations as a charter party and excursion service carrier within the state of Washington without first obtaining a permit from the Commission.
- 28 (3) Apex Limousine, LLC is assessed a penalty of \$10,000. A \$6,700 portion of the penalty is suspended for a period of two years from the date of this Initial Order, and waived thereafter, subject to the following conditions:
- a) Apex Limousine, LLC must permanently refrain from operating as a charter party or excursion carrier without first obtaining the required permit from the Commission;
  - b) Apex Limousine, LLC complies with all applicable statutes and Commission rules.
  - c) Apex Limousine, LLC must either pay the \$3,300 portion of the penalty that's not suspended or file jointly with Staff a mutually agreeable payment arrangement within 10 days of the effective date of this Order.
- 29 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective August 14, 2017.

RAYNE PEARSON  
Administrative Law Judge

### NOTICE TO THE 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 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) 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.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).