

Docket No. TE-160460 - Vol. I

In the Matter of: A+ Pacific Limousine, Inc.

November 30, 2016



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Page 1

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3 _____
 4 In the Matter of Determining)
 5 the Proper Carrier)
 6 Classification of, and) Docket TE-160460
 7 Complaint for Penalties)
 8 against:)
 9 A+ PACIFIC LIMOUSINE, INC.)
 10 _____
 11 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
 12 Pages 1 - 24
 13 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON
 14 _____
 15 10:01 A.M.
 16 NOVEMBER 30, 2016
 17 Washington Utilities and Transportation Commission
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1 OLYMPIA, WASHINGTON; NOVEMBER 30, 2016
 2 10:01 A.M.
 3 -o0o-
 4
 5 JUDGE PEARSON: Let's be on the record.
 6 Good morning. Today is Wednesday,
 7 November 30th, 2016, and the time is 10:00 a.m. This
 8 is Docket TE-160460, which is captioned "In the Matter
 9 of Determining the Proper Carrier Classification of,
 10 and Complaint for Penalties against: A+ Limousine,
 11 Inc. My name is Rayne Pearson, I am the
 12 administrative law judge presiding over today's brief
 13 adjudicative proceeding.
 14 So let's just start by taking an appearance
 15 from Staff.
 16 MR. SHEARER: Thank you, Your Honor.
 17 My name is Brett Shearer, Assistant Attorney
 18 General, here on behalf of Commission Staff.
 19 JUDGE PEARSON: Okay.
 20 And at this time no one else is present in the
 21 hearing room with us.
 22 Mr. Shearer, have you had an opportunity, or
 23 have you heard anything from Mr. Polyukh?
 24 MR. SHEARER: No, Your Honor.
 25 JUDGE PEARSON: Okay.

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5

1 So I think what we should do is go off the
 2 record for about 15 minutes, give him a window of time
 3 to arrive. If he does not, then we can come back on
 4 the record and I will entertain a motion for default
 5 at that time.

6 MR. SHEARER: Sounds good, Your Honor.
 7 JUDGE PEARSON: Okay.
 8 MR. SHEARER: Thank you.
 9 JUDGE PEARSON: So we will be in recess.
 10 (A brief recess.)
 11 JUDGE PEARSON: So we will be back on
 12 the record following a brief recess. The time is now
 13 10:15 a.m., and A+ Limousine, Inc. has failed to make
 14 an appearance at this morning's hearing.
 15 Mr. Shearer, I will turn it over to you.
 16 MR. SHEARER: Thank you, Your Honor.
 17 I would like to begin by noting that the
 18 defendant has not appeared today and offer documents
 19 showing a declaration of service to the defendant
 20 dated 9/30/2016. It shows that the individual was
 21 served at his residential address. I would also note
 22 that the Commission has previously served this
 23 individual in this proceeding by mail. The document
 24 was -- proper postage, properly addressed, and sent
 25 via First-Class Mail. It was -- delivery was refused,

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6

1 and it was rejected, and then we took the next step of
 2 performing personal service.
 3 I have listed that as Exhibit No. BP-1 in
 4 Staff's exhibit list, the declaration of personal
 5 service. I would first ask to have that admitted.
 6 JUDGE PEARSON: I will admit that, but I
 7 will mark it as Exhibit MT-1, with Mr. Turcott as the
 8 sponsoring witness.
 9 (Exhibit No. MT-1 admitted.)
 10 MR. SHEARER: That's fine.
 11 JUDGE PEARSON: Okay.
 12 MR. SHEARER: We put it as -- I think
 13 the thought was to put it as the attorneys, because
 14 the Attorney General's Office engaged the process
 15 server.
 16 JUDGE PEARSON: Sure.
 17 MR. SHEARER: That's just an
 18 administrative detail.
 19 JUDGE PEARSON: Yes. Typically we do
 20 have the Staff person sponsor that.
 21 MR. SHEARER: That's fine, Your Honor.
 22 Next, because the Defendant is not present,
 23 has failed to appear after being properly served, I
 24 would ask the Commission to find the defendant in
 25 default.

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7

1 JUDGE PEARSON: Okay.
 2 So just to go over for the record, the
 3 certificate of service, it looks like on September
 4 29th, an individual was served at the address that is
 5 known to be Mr. Polyukh's address; is that correct?
 6 MR. SHEARER: That's correct. That's
 7 his residential address.
 8 JUDGE PEARSON: Okay.
 9 And it was a male, likely fitting
 10 Mr. Polyukh's description, who refused to identify
 11 himself, but did confirm that it was Mr. Polyukh's
 12 home; is that correct?
 13 MR. SHEARER: That appears to be the
 14 case, yes, Your Honor --
 15 JUDGE PEARSON: Okay.
 16 MR. SHEARER: -- from the sworn
 17 statement from the process server.
 18 JUDGE PEARSON: Okay.
 19 Then that certainly qualifies as effecting
 20 service, so the motion for default is granted.
 21 And now we can move on to dispose of the
 22 substantive issues in the case. I can swear in
 23 Mr. Turcott at this time.
 24
 25

Page 8

8

1 INVESTIGATOR TURCOTT, witness herein, having been
 2 first duly sworn on oath, was
 3 examined and testified as
 4 follows:
 5
 6 JUDGE PEARSON: You may be seated.
 7 INVESTIGATOR TURCOTT: (Complies.)
 8 JUDGE PEARSON: Go ahead, Mr. Shearer.
 9 MR. SHEARER: For everybody's sake, Your
 10 Honor, I was just going to point out that it may be
 11 helpful to have Exhibit MT-1 out for reference.
 12 JUDGE PEARSON: Okay.
 13 MR. SHEARER: We will go through the
 14 process of authentication and everything.
 15 JUDGE PEARSON: Great.
 16 MR. SHEARER: I am sure he will refer to
 17 it off and on throughout his testimony.
 18 JUDGE PEARSON: Okay.
 19 MR. SHEARER: Just one more
 20 clarification. There are appendices to this that were
 21 in the initial report, but there are also page numbers
 22 at the bottom, in the center of the page.
 23 JUDGE PEARSON: Okay.
 24
 25

Page 9

1 EXAMINATION

2 BY MR. SHEARER:

3 Q Good morning, Mr. Turcott.

4 **A Good morning.**

5 Q Let's begin with your exhibit. You have a

6 copy of your exhibit in front of you. Do you

7 recognize that document, Mr. Turcott?

8 **A I do.**

9 Q What is that document?

10 **A This is my investigative report pertaining to**

11 **Docket No. TE-160460, A+ Pacific Limousine.**

12 Q And do you have personal knowledge of this

13 document and its contents?

14 **A Yes.**

15 Q And does this document accurately summarize

16 your investigation and findings in this Docket 160460

17 against A+ Pacific Limo, Inc.?

18 **A Yes.**

19 Q Thank you, Mr. Turcott.

20 MR. SHEARER: Your Honor, I would move

21 to admit Exhibit MT-1, the Staff investigation of A+

22 Pacific Limo, Inc.

23 JUDGE PEARSON: Okay. I will admit

24 that. I will mark it MT-2.

25 (Exhibit No. MT-2 admitted.)

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1 MR. SHEARER: I apologize.

2 JUDGE PEARSON: That's okay.

3 MR. SHEARER: Yes, MT-2. Excuse me.

4 And I realize now that, in authenticating the

5 document, I overlooked Mr. Turcott's name. I will ask

6 Mr. Turcott to spell his last name for the record.

7 INVESTIGATOR TURCOTT: My last name is

8 Turcott, T-U-R-C-O-T-T.

9 BY MR. SHEARER:

10 Q Mr. Turcott, what is your position here at the

11 Commission?

12 **A I am a compliance investigator, working in the**

13 **transportation safety section.**

14 Q And what was your role in this case, Docket

15 TE-160460?

16 **A I was the primary investigator on this case.**

17 **What that means is, as part of my typical duties I**

18 **look for companies, charter companies that are not**

19 **within UTC regulation but should be, as required by**

20 **law. I reach out and contact those companies and**

21 **provide technical assistance, with the hopes of**

22 **helping that company become licensed under our**

23 **regulations, and operate a safe and successful charter**

24 **company for the safety not only of the passengers on**

25 **board, but others on the roadway.**

Page 11

1 **So after providing technical assistance when**

2 **companies fail to respond and become licensed with us,**

3 **I gather evidence and prepare an investigative report**

4 **for classification and penalties if appropriate.**

5 Q Thank you, Mr. Turcott.

6 If I turn to Page 4 of your Staff

7 investigation report it says "INVESTIGATION," and

8 there is a subheading named "Overview."

9 **A Yes.**

10 Q Now, this is a summary of your report; is that

11 correct?

12 **A It is.**

13 Q And you propose five separate violations; is

14 that correct?

15 **A That's correct.**

16 MR. SHEARER: Your Honor, I'm going

17 to -- for ease of understanding, I am going to go

18 through these in order.

19 JUDGE PEARSON: Okay.

20 MR. SHEARER: I'll go through each one.

21 BY MR. SHEARER:

22 Q Let's begin with the first one, Mr. Turcott.

23 Do you see that there? It says, "A+ Pacific

24 advertised party bus services on its company website."

25 **A Yes.**

Page 12

1 Q Mr. Turcott, did you visit the company's

2 website?

3 **A I did.**

4 Q When did you do that?

5 **A Several times throughout the past year,**

6 **beginning in approximately November of 2015, I went to**

7 **Google and I typed in "party bus Tri-Cities," as I**

8 **guess a standard procedure to search and locate**

9 **advertising, and I discovered the website for A+**

10 **Pacific Limousine.**

11 Q And when you visited the site on those

12 occasions, what did you find?

13 **A The company has -- on the web page the company**

14 **has its phone number listed, contact email address**

15 **service@limo01.com, and it has just the typical**

16 **advertising, various vehicles that are available.**

17 **Services of interest to the Commission, of course, is**

18 **the larger vehicles, which would be eight-plus**

19 **occupants. And in particular on this website, there**

20 **is a section referring to the company's limo bus.**

21 **The limo bus, it appears to be a white Blue**

22 **Bird-style bus. It looks like the kind of bus that**

23 **would take you from the rental car facility at an**

24 **airport to the terminal. It's a large, square bus**

25 **with side doors. It has several amenities that**

Page 13

1 **qualify it as a party bus under our rules and**
 2 **statutes. In particular, it has perimeter seating**
 3 **inside. This is looking at the photos depicted on the**
 4 **website. Perimeter seating, which allows the**
 5 **occupants to stand and circulate throughout the**
 6 **vehicle. It also has some fancy lighting, fog**
 7 **machines, strobe light, and it appears to have at**
 8 **least some kind of beverage service, where people can**
 9 **consume beverages on the vehicle while they are**
 10 **traveling.**
 11 **It also has flat-screen TVs, DVD, CD player,**
 12 **and a premium sound system with 4,000 watts of power.**
 13 Q And these are all listed on the company's
 14 website?
 15 **A That's correct.**
 16 Q And you may have mentioned this, Mr. Turcott,
 17 but did you document that information on the company's
 18 website in your investigation report?
 19 **A Yes, I did. I obtained screen images of the**
 20 **website as described.**
 21 Q And just for everyone's -- give everyone a
 22 shortcut. Where in your investigation report did you
 23 show that?
 24 **A Those appear in Appendix E. That's correct,**
 25 **Appendix E, Edward.**

Page 14

1 Q Mr. Turcott, I may have missed this, too, I
 2 apologize, but does the company's website document the
 3 number of passengers on the limo bus?
 4 **A Yes, it does. The website indicates that the**
 5 **limo bus can carry 20 passengers.**
 6 Q Thank you, Mr. Turcott.
 7 Is there anything else you would like to
 8 highlight in your investigation report or from your
 9 own documentation for the Commission regarding this
 10 first violation of advertising on the company's
 11 website?
 12 **A I would just add one more detail. The phone**
 13 **number (509) 585-7717 appears on the website for A+**
 14 **Pacific Limousine, and I would later discover in my**
 15 **investigation that phone number appears in a number of**
 16 **other places as well, associated with the company.**
 17 MR. SHEARER: Your Honor, did you want
 18 to ask questions, if you have any, as we go through
 19 these?
 20 JUDGE PEARSON: Yes. And I don't have
 21 any questions at this time.
 22 MR. SHEARER: Okay.
 23 I will move on to the second alleged violation
 24 now, Your Honor, and Mr. Turcott.
 25 BY MR. SHEARER:

Page 15

1 Q Your second alleged violation indicates that
 2 this company advertised party bus services on a
 3 Facebook page; is that correct, Mr. Turcott?
 4 **A That's correct.**
 5 Q And did you visit the company's Facebook page?
 6 **A Yes, I did.**
 7 Q And when did you do that, Mr. Turcott?
 8 **A A number of times throughout the**
 9 **investigation. On April 22nd, 2016, specifically I**
 10 **visited and obtained screen images of the website, of**
 11 **the Facebook page.**
 12 Q And what did you find in your visits to the
 13 company's Facebook page?
 14 **A The company has its name, A+ Pacific**
 15 **Limousine, as the name on the Facebook page. It has**
 16 **the phone number (509) 585-7717 displayed on the**
 17 **Facebook page, as well as the location address, 1625**
 18 **South Rainier Street, Kennewick, Washington. It has a**
 19 **small image on the front of a -- of a number of**
 20 **vehicles, including what appears to be the Blue Bird**
 21 **bus from the website.**
 22 **Farther down the time line there is an image**
 23 **posted of the Blue Bird bus. I believe it's parked at**
 24 **a winery. The license plate displayed on the bus is**
 25 **A, like Adam, 90887Y, Young, which through DOL records**

Page 16

1 **is associated with a vehicle owned by the company.**
 2 **I would just say that by viewing the Facebook**
 3 **page, a consumer would believe that A+ Pacific offers**
 4 **transportation in that bus and I construed that as**
 5 **advertising.**
 6 Q And based on your examination of records and
 7 the photos of the bus, did you make a determination of
 8 the number of passengers that would be able to be
 9 transported on that bus?
 10 **A No. The vehicle -- the DOL vehicle records do**
 11 **not -- at least the data I had access to, did not**
 12 **provide me with the number of passengers that vehicle**
 13 **is capable of hauling.**
 14 Q Is there anything else you would like to
 15 highlight for this information, from this
 16 advertisement, from your own records or findings for
 17 the Commission?
 18 **A No.**
 19 Q If we move on to the -- oh, before I move on,
 20 Mr. Turcott, can you highlight where in your
 21 investigation report this information is?
 22 **A Yes. The Facebook images are Appendix F, like**
 23 **Frank.**
 24 Q And now on to the third alleged violation.
 25 This is a violation for advertising party bus services

Page 17

1 on rentalimo.com; is that correct?

2 **A That's correct.**

3 Q And did you visit rentalimo.com?

4 **A Yes, I did.**

5 Q And when did you do that, Mr. Turcott?

6 **A A number of times. In particular, April 22nd,**

7 **2016, I visited the website and obtained screen**

8 **images.**

9 Q And what did you find, Mr. Turcott?

10 **A Well, rentalimo.com is a site where a consumer**

11 **can go online and select the city that they need**

12 **transportation service. Upon selecting the Kennewick**

13 **or Tri-Cities area, A+ Pacific Limousine comes up.**

14 **The website displays a number of vehicles. There are**

15 **four vehicles, in fact. The first three appear to be**

16 **limousines. They appear to fall within that**

17 **14-passenger, behind-the-driver criteria that DOL will**

18 **authorize a limousine operation.**

19 **The fourth vehicle, however, it looks to be**

20 **the same large white Blue Bird bus that we have seen**

21 **on Facebook and at the A+ Pacific website. When the**

22 **customer clicks on that bus a pop-up window emerges,**

23 **and it has some information here that is helpful. It**

24 **indicates 20 passengers. There is a list of --**

25 **INVESTIGATOR TURCOTT: And these are all**

Page 18

1 **in the appendix, Your Honor.**

2 **A -- a number of amenities that again meet the**

3 **statutory definition of a party bus, as far as the**

4 **amenities. At the bottom of that pop-up it says,**

5 **"This vehicle is provided by A+ Pacific Limousine." I**

6 **construed this as advertising party bus services for a**

7 **20-passenger vehicle provided by A+ Pacific.**

8 BY MR. SHEARER:

9 Q And there is literally a list of amenities for

10 this bus on rentalimo.com, and you captured that in

11 your Appendix G; is that correct?

12 **A That's correct.**

13 Q For the last two violations alleged in this

14 report, we have email communications between you and

15 the company; is that correct?

16 **A Yes, it is.**

17 MR. SHEARER: So I will start with the

18 first one, Your Honor.

19 JUDGE PEARSON: Sure.

20 BY MR. SHEARER:

21 Q Mr. Turcott, did you email A+ Pacific Limo on

22 or about March 4th, 2016?

23 **A Yes, I did.**

24 Q And can you please explain the contents of

25 that email?

Page 19

1 **A Yes. I was posing as a consumer and I emailed**

2 **the company at the email address service@limo01.com,**

3 **and I requested a quote for the bus. When I said**

4 **"bus" as a consumer, I had been to the website and I**

5 **had seen what the company refers to as its bus, which**

6 **was the 20-passenger Blue Bird.**

7 **I requested transportation on March 19th. I**

8 **received a reply. The email was sent March 4th. The**

9 **reply was sent later on March 4th, offering the bus on**

10 **March 19th, as requested. The reply actually states,**

11 **"The limo bus is available on March 19th, 2016." I**

12 **think it is very clear what transportation was being**

13 **offered. And it indicates a price for six hours of**

14 **\$805. And that was signed, "Best Regards, Anna, A+**

15 **Pacific Limousine," with the 509 phone number we have**

16 **seen before and the web address limo01.com.**

17 Q Thank you, Mr. Turcott.

18 For administrative purposes, can you point us

19 to the portion of your investigation report with that

20 email and response in it?

21 **A Yes. This was Appendix M, like Mary.**

22 **Appendix M is an email string, or chain, back and**

23 **forth between myself and the company, and the**

24 **March 4th correspondence is at the bottom of that**

25 **chain.**

Page 20

1 Q Thank you, Mr. Turcott.

2 We will move on to the second email. Did you

3 email this company on or about March 30th, 2016?

4 **A I did.**

5 Q And can you please explain the contents of

6 that email?

7 **A Yes, I emailed and replied to Anna at A+**

8 **Pacific Limousine. I indicated that I wanted to look**

9 **at another date for 20 folks, 20 people to go to a**

10 **baseball game, and I provided some dates, and I asked**

11 **if the limo bus was available. These were dates in**

12 **June we were looking at, June 17th, 18th, or 19th.**

13 **And that was -- that email was sent**

14 **March 30th, about 10:49 in the morning, and I received**

15 **a reply actually within less than 15 minutes, again**

16 **signed by Anna at A+ Pacific Limousine, again offering**

17 **the bus on either of those days, either the 17th,**

18 **18th, or 19th. And then I followed up asking the cost**

19 **for that, and verifying that it would haul -- the**

20 **vehicle would accommodate 20 adults. And again Anna**

21 **replied by 3:12 that afternoon offering the limo bus**

22 **for \$805 for six hours, and confirming that it would**

23 **accommodate 20 adults.**

24 Q Thank you, Mr. Turcott.

25 MR. SHEARER: Your Honor, we have gone

Page 21

EXAMINATION OF DAVE PRATT 21

1 through the five violations that Staff found. If you
 2 have any questions for Mr. Turcott, he is your
 3 witness.
 4 JUDGE PEARSON: I do not. The only
 5 issue that remains at this point is Staff's penalty
 6 recommendation.
 7 MR. SHEARER: And we were going to ask
 8 that -- we were going to have Mr. Pratt testify to a
 9 recommended penalty, instead of Mr. Turcott.
 10 JUDGE PEARSON: Okay.
 11 Mr. Pratt, if you would please stand and raise
 12 your right hand.
 13 MR. PRATT: (Complies.)
 14
 15 DAVE PRATT, witness herein, having been
 16 first duly sworn on oath, was
 17 examined and testified as follows:
 18
 19 JUDGE PEARSON: Thank you.
 20
 21 E X A M I N A T I O N
 22 BY MR. SHEARER:
 23 Q Good morning, Mr. Pratt. Are you aware of
 24 Mr. Turcott's investigation report?
 25 A Yes, I am.

Page 23

23

1 has the documents. Mr. Turcott gave the CliffsNotes
 2 version today, for us to get through what we needed to
 3 have in the record. Certainly we are willing to do
 4 that if you think it would be helpful.
 5 JUDGE PEARSON: I think that the
 6 evidence in the record is sufficient at this juncture
 7 because we have walked through each of the violations
 8 and how they were found.
 9 At this point I will issue an order reflecting
 10 that A+ Pacific Limousine, Inc. was held in default,
 11 classifying the company as a charter party and
 12 excursion carrier, and imposing Staff's recommended
 13 penalties. And I will certainly do that in less than
 14 ten days.
 15 MR. SHEARER: Thank you, Your Honor.
 16 We have nothing further.
 17 JUDGE PEARSON: Okay. Thank you.
 18 We will be off the record.
 19 (Proceedings concluded 10:44 a.m.)
 20
 21
 22
 23
 24
 25

Page 22

EXAMINATION OF DAVE PRATT 22

1 Q And if you could turn -- I don't know if you
 2 have a copy. Sorry.
 3 I would just ask you to turn to Appendices J
 4 and K.
 5 A Okay.
 6 Q These are letters offering technical
 7 assistance and trying to communicate with this
 8 company; is that correct?
 9 A Yes.
 10 Q Now, Mr. Pratt, do you have a penalty
 11 recommendation for the Commission in this case?
 12 A Yes, I do. We have five allegations of five
 13 charges here. Each one carries a potential maximum
 14 penalty of \$5,000 per violation. Since the company
 15 has not shown up and not provided any rationale for
 16 its behavior, I have to recommend the maximum
 17 statutory penalty allowed.
 18 MR. SHEARER: Thank you.
 19 If you have any other questions, Your Honor.
 20 JUDGE PEARSON: I do not.
 21 Is that all you have, Mr. Shearer?
 22 MR. SHEARER: Yes. We don't have any
 23 other evidence to offer into the record. We certainly
 24 can walk through more of Mr. Turcott's report, if that
 25 would be helpful to the Commission. The Commission

Page 24

24

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF KING
 5
 6 I, Sherrilyn Smith, a Certified
 7 Shorthand Reporter in and for the State of Washington,
 8 do hereby certify that the foregoing transcript is
 9 true and accurate to the best of my knowledge, skill
 10 and ability.
 11
 12
 13
 14
 15
 16
 17 _____
 18 SHERRILYN SMITH
 19
 20
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 25