

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

CHERYL BALL d/b/a ACME MOVING
LABOR

DOCKET TV-161206

ORDER 04

AMENDED ORDER INSTITUTING
SPECIAL PROCEEDING;
COMPLAINT SEEKING TO
IMPOSE PENALTIES; NOTICE OF
HEARING

**(Set for March 6, 2017, at
9:30 a.m.)**

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Cheryl Ball d/b/a Acme Moving Labor (Cheryl Ball), has engaged, and is engaging, in business as a household goods carrier within the state of Washington without the authority required by RCW 81.80.
- 2 The Commission has information from which it believes and therefore alleges that Cheryl Ball has advertised, solicited, offered, or entered into one or more agreements to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Cheryl Ball to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by Cheryl Ball that violates any law, or any order or rule of the Commission. The Commission may impose financial penalties of up to \$5,000 for each violation shown.
- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Cheryl Ball alleging violations of law as specified below and will decide whether Cheryl Ball should be penalized.

ORDER AND NOTICE OF HEARING

5 The Commission has jurisdiction to institute a special proceeding to determine whether Cheryl Ball is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.01.010; RCW 81.04.020; RCW 81.80.010, RCW 81.80.070, and RCW 81.80.075. This matter also involves the administrative rules set forth in Chapters WAC 480-15 and WAC 480-07.

6 **THE COMMISSION ORDERS that Cheryl Ball appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 9:30 a.m., on March 6, 2017, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, to give testimony and evidence under oath as to her and her company's operations. The burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Cheryl Ball, as provided by RCW 81.04.510.**

7 **THE COMMISSION GIVES NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

8 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

9 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Cheryl Ball
Acme Moving Labor
839 1st Avenue North
Kent, WA 98032

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Rachel Jones
Compliance Investigator
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1129

COMPLAINT SEEKING PENALTIES

PARTIES

- 10 Complainant, the Commission, is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including household goods carriers, under the provisions of Title 81 RCW.
- 11 Respondent, Cheryl Ball, is a household goods carrier that does business in the state of Washington.

JURISDICTION

- 12 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.04.110, RCW 81.01.010, RCW 81.04.160, RCW 81.04.460, and RCW 81.80.

BACKGROUND

- 13 According to the Declaration of the Commission Compliance Investigator, presented to Administrative Law Judge¹ Kopta prior to January 5, 2017, and to the Declaration of the Commission Consumer Complaint Investigator presented to the undersigned administrative law judge on January 31, 2017, under penalty of perjury, the following

¹ Administrative law judges appointed by the Commission are empowered, among other things, to “make findings of probable cause and issue complaints in the name of the commission.” RCW 80.01.060(1).

facts establish probable cause for the Commission to complain against the activities of Cheryl Ball and to seek penalties in accordance with applicable law.

- 14 An inquiry was opened on October 27, 2016, when a dispute between a consumer and Acme Moving Labor was reported to Staff. The consumer indicated that Cheryl Ball was the owner of the Company and that Kedric Jackson, on behalf of the Company, offered and entered into an agreement on October 24, 2016, to transport household goods.
- 15 On December 2, 2016, a Commission staff member under an assumed name, obtained a quote for a residential move. The operations manager Kedric Jackson of Acme Moving Labor, offered to transport household goods without first having obtained a household goods carrier permit from the Commission.
- 16 On December 1, 2016, www.yelp.com contained an advertisement for Acme Moving Labor to provide household goods moving services. According to customer reviews staff found on www.acmemovinglabor.com, Cheryl Ball has been operating as a household goods carrier within the state of Washington without a permit.

APPLICABLE LAW AND REGULATION

- 17 Under state law, the definition of “household goods carrier” includes a person who “advertises, solicits, offers, or enters into an agreement to transport household goods” within the state of Washington. RCW 81.80.010(5).
- 18 The term “person” can mean a firm as well as an individual. RCW 81.04.010(6). Specifically included in this term are companies, corporations, and partnerships. WAC 480-15-020.
- 19 The Commission defines household goods as “the personal effects and property used, or to be used, in a residence” in the context of transportation from one residence to another, or to a storage facility. WAC 480-15-020.
- 20 Household goods carriers are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company. RCW 81.04.010.
- 21 It is illegal to engage in business as a household goods carrier within the state of Washington without first obtaining a household goods carrier permit from the Commission. RCW 81.80.075(1).
- 22 Any person who engages in business as a household goods carrier in the state of Washington without the required permit is subject to a penalty of up to five thousand dollars per violation. RCW 81.80.075(4). If the basis for the violation is advertising, each

advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation. RCW 81.80.075(4)(a).

- 23 When deciding the amount of the penalty to be ordered for engaging in business as a household goods carrier without a household goods carrier permit, the Commission must consider (1) the carrier's willingness to comply with the requirements of RCW 81.80.070 and the Commission's household goods carrier rules; and (2) the carrier's history of compliance with the provisions of RCW 81.80.075. RCW 81.80.075(4)(b).
- 24 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110.

COMPLAINT

- 25 The Commission, through its Staff, re-alleges the statements contained in paragraphs 11 through 24 above.
- 26 Cheryl Ball has violated RCW 81.80.075(1) at least once by offering to transport household goods without first having obtained a household goods carrier permit from the Commission.
- 27 Cheryl Ball has violated RCW 81.80.075(1) at least once by advertising to transport household goods without first having obtained a household goods carrier permit from the Commission.

REQUEST FOR RELIEF

- 28 Staff requests that the Commission, pursuant to its authority under RCW 81.80.075(4), assess penalties of up to \$5,000 per violation against Cheryl Ball. Staff will present testimonial evidence at hearing to address the statutory factors for determining an appropriate penalty amount. Further, Staff may request that some portion of any penalty actually imposed be suspended for a period of time sufficient to demonstrate Cheryl Ball's intent to comply with all applicable laws and rules governing the household goods industry.

PROBABLE CAUSE

- 29 Based on a review of the Declarations of the Commission Compliance Investigator assigned to this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

NOTICE OF HEARING

30 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:30 a.m., on March 6, 2017, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250.**

31 Administrative Law Judge Rayne Pearson, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, is designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective February 1, 2016.

RAYNE PEARSON
Administrative Law Judge
Director, Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary
Washington Utilities and Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, Executive Director and Secretary, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter?

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____