

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

### NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TE-130870

PENALTY AMOUNT: \$400

DICK JENSEN  
DBA INLAND EMPIRE TOURS AND INLAND EMPIRE EVENTS  
PO BOX 30935  
SPOKANE, WA 99223

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and driver safety requirements, which requires passenger transportation companies to comply with Title 49, Code of Federal Regulations (CFR), including Part 391 - Qualifications of drivers. Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for every such violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$400, as follows:

While conducting a compliance review at Dick Jensen d/b/a Inland Empire Tours and Inland Empire Events (Dick Jensen) from April 24-29, 2013, Commission Motor Carrier Inspector Bruce Grimm documented the following violations:

- **Four violations of CFR 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months.** Company owner and driver Dick Jensen drove on four occasions with expired medical certification. Mr. Jensen's medical certificate expired on February 8, 2013, and was renewed on April 24, 2013. According to company records during this time period, Mr. Jensen operated a commercial motor vehicle for his business on March 15, 16, 20, and 22, 2013.

The Commission finds this penalty appropriate based on consideration of the following factors:

1. **How serious or harmful the violations are to the public.** Ensuring public safety is the Commission's highest priority. The Commission's rules governing safety requirements for passenger transportation, which adopt certain federal safety regulations, are designed to protect the health and safety of the traveling public. The Commission has adopted 49.CFR Part 385, Safety Fitness Procedures. During compliance reviews, Commission staff uses these procedures to determine the overall safety fitness of motor carriers. Part 385 identifies Part 391.45(b)(1) as a critical

regulation. Violations of critical regulations indicate a breakdown in a carrier's management controls.

2. **Whether the violation is intentional.** Factors include:
  - The company ignored staff's previous technical assistance.
  - There is clear evidence through documentation or other means that show the company knew of and failed to correct the violation.Dick Jensen received previous technical assistance on Part 391.45(b)(1) when Commission staff found violations during compliance reviews conducted in 2001 and in 2003. The company knew or should have known that this requirement exists.
3. **Whether the company self-reported the violation.** Dick Jensen did not self-report these violations.
4. **Whether the company was cooperative and responsive.** Dick Jensen was cooperative and responsive to Commission staff during the compliance review.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Dick Jensen promptly corrected the violation and is properly medically certified.
6. **The number of violations.** The overall number of violations found during this compliance review was relatively low and the company received a satisfactory safety rating.
7. **The likelihood of recurrence.** Commission staff believes the likelihood of recurrence of these violations is low. Dick Jensen has had no violations of this nature in over 10 years.
8. **The company's past performance regarding compliance, violations, and penalties.** Commission staff reviewed Dick Jensen's penalty and compliance history since the company received authority in 2001. The Commission did not issue any penalty assessments to Dick Jensen during this time. The company has demonstrated compliance with submitting the required annual safety reports/regulatory fees in a timely manner.
9. **The company's existing compliance program.** Commission staff considers the company's existing compliance program to be satisfactory.
10. **The size of the company.** Dick Jensen is a small charter and excursion company, with approximately \$150 thousand in gross operating revenues reported for 2012.

The Commission has weighed these factors and determined that Dick Jensen should be penalized \$100 for four violations, for a total penalty of \$400.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 81.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

**You must act within 15 days after you receive this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective July 3, 2013.



GREGORY J. KOPTA  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT TE-130870**

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$\_\_\_\_\_ in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge for a decision by an administrative law judge:
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below,
- a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.
- OR  b) I waive a hearing and ask for an administrative decision on the information I present directly above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

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RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”