

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TV-110977
Against)	
)	ORDER 01
IVAN RATKO d/b/a BEST MOVING)	
& DELIVERY)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT;
In the Amount of \$500)	MITIGATING PENALTY TO \$200
)	
.....)	

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, the parties’ proposed Settlement Agreement will be approved and the penalty assessed against Ivan Ratko d/b/a Best Moving & Delivery (Best Moving) will be mitigated from \$500 to \$200. In addition to agreeing to pay a \$200 penalty, Best Moving also admits that it violated several specific Commission regulations, agrees that it will be reinvestigated by Commission Staff at the end of one year, and commits to compliance with all Commission statutes and regulations.*

2 **Penalty.** On January 26, 2012, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Ivan Ratko d/b/a Best Moving & Delivery (Best Moving) in the amount of \$500 for five violations of WAC 480-15, which among other things, regulates advertising of household goods moving services and the provision of information regarding the filing of claims for loss or damage.

3 On February 3, 2012, Best Moving filed with the Commission an application for mitigation, admitting the violations and seeking a hearing before an administrative law judge. In a separate email communication Best Moving explained that “We have

made all necessary changes to comply with WA-UTC requirements.” Commission Staff¹ did not file a response to Best Moving’s request for a mitigation hearing.

4 **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 the penalty should be mitigated.

5 On February 16, 2012, the Commission set a Brief Adjudicative Proceeding for March 12, 2012, at 1:30 p.m.

6 **Settlement.** On March 8, 2012, Staff notified the Commission that the parties had reached a settlement and indicated they would be reducing it to writing and filing it within the next few days and requested that the hearing set for March 12, 2012, be cancelled. On March 13, 2012, the parties filed their proposed Settlement Agreement and supporting Narrative, agreeing to reduce the penalty imposed on Best Moving from \$500 to \$200.

7 As part of the Settlement, Best Moving admits that it violated Commission rules and agrees to pay a \$200 penalty.² Further, Best Moving agrees that Staff will reinvestigate Best Moving at the end of one year and commits to compliance with Commission statutes and rules. Best Moving and Staff agree that their Settlement Agreement does not preclude the Commission from pursuing penalties for violations of Commission rules and statutes unrelated to this matter or for violations of the rules in this matter occurring after the Settlement Agreement is signed.³

8 **Evaluation of Settlement.** WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

² Settlement Agreement, ¶ 5, and Narrative, ¶ 7. The company admits to violations of WAC 480-15-610 (use of an unauthorized trade name, lack of a physical business address on website, and misleading, false, or deceptive web advertising) and WAC 480-15-800 (failure to provide accurate information regarding the filing of claims for loss or damage).

³ Settlement Agreement, ¶ 8, and Narrative, ¶ 8.

all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

9 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

10 The Settlement terms proposed by the parties are consistent with law and policy, and reasonably resolve all issues in this proceeding. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. Best Moving admits certain violations of WAC 480-15, commits to future compliance with all Commission rules and statutes, and receives a reduction in the amount of the original penalty. Commission Staff achieves its goal of bringing a company into compliance and does so without further expense, inconvenience, uncertainty, and delay inherent in a litigated outcome.

11 **Commission Decision.** The Settlement Agreement is approved without condition. Best Moving has admitted to its past violations and committed to compliance with all Commission statutes and rules. The parties have agreed that Commission Staff will reinvestigate Best Moving in one year and that the Commission is not precluded from pursuing penalties for any violations not covered by this case or for new incidents of the same violations committed subsequent to the Settlement Agreement. The original penalty of \$500 should be mitigated and is reduced to \$200.

12 Commission Staff shall reinvestigate Best Moving and its business practices on or before Tuesday, March 12, 2013, to ensure that Best Moving is in compliance with all of the Commission’s statutes and rules regulating household goods carriers in Washington.

THE COMMISSION ORDERS:

- 13 (1) Ivan Ratko d/b/a Best Moving & Delivery is assessed a mitigated penalty of \$200.
- 14 (2) Commission Staff shall conduct a reinvestigation of Best Moving on or before Tuesday, March 12, 2013.
- 15 (3) 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 March 16, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARTIN LOVINGER
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