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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In Re Application of:

FIVE STARS MOVING & STORAGE, LLC,

for a permit to operate as a motor carrier of
household goods.

NO. TV-150223

FIVE STARS MOVING & STORAGE LLC's
PREHEARING BRIEF

I. INTRODUCTION

Five Stars Moving & Storage LLC (“Five Stars”) has all of the necessary elements to launch a successful moving business: adequate financing, motivated employees, and experience in the industry. Five Stars’ application for a provisional household goods moving permit meets all of the statutory criteria. The single reason for the UTC’s notice of intent to deny is Mr. Trick’s 16-year-old conviction. The reality is that Mr. Trick is an example of success of the criminal justice and rehabilitation system. Mr. Trick has gone through intensive rehabilitation programs. He has obtained higher education certificates. And he is in a stable marriage. Mr. Trick is a father to two young children. Mr. Trick has been performing in-home moves without incident for nearly a decade.

In its intent to deny, the UTC relied on several erroneous factual premises. First, the UTC based its evaluation of the nature of Mr. Trick’s conviction on inaccurate information on the King County Sheriff’s website. This led the UTC to overstate the risk of recidivism. Second, the UTC concluded that granting the application would increase Mr.

1 Tricks presence in customer’s homes – in reality, granting the permit would result in Mr.
2 Trick moving from his current role, which is primarily in-home labor mover, to a
3 managerial role, which would involve minimal in-home duties.
4

5 As the Washington Legislature and the King County Prosecutor’s office have
6 noted, our society has a serious problem with excluding people from their chosen
7 vocation based on old convictions when the offender has paid his debt and been
8 rehabilitated. Mr. Trick deserves to move on with his life and pursue his vocation.

9 **II. FACTUAL BACKGROUND**

10 Tom Cook and William Trick formed Five Stars with the goal of starting a full-
11 service moving and storage business in Washington. Five Stars has submitted an
12 application that meets all of the statutory criteria for the grant of a provisional household
13 goods permit.

14 **A. Tom Cook**

15 Tom Cook is William Trick’s uncle. Mr. Cook is a successful businessman with
16 over 26 years of business management experience. Mr. Cook has dedicated substantial
17 time and resources to creating Five Stars and mentoring his nephew Mr. Trick in the
18 business. Mr. Cook is committed to making Five Stars a successful business. Mr. Cook’s
19 roll in Five Stars is to provide financing and business advice. In addition, Mr. Cook brings
20 an administrative staff that will handle various administrative aspects such as payroll,
21 background checks, and accounting.
22

23 **B. William Trick**

24 William Trick has nearly a decade of experience in the moving and storage
25 industry. He has worked for a number of labor-only and full-service companies and has
26 performed labor-only moves as an independent contractor. During that time, he has

1 received overwhelmingly positive feedback from customers and colleagues, and has not
2 had a single complaint against him. Mr. Trick is the President of Five Stars. As President,
3 his role will be to manage operations and run the business. Mr. Trick will be coordinating
4 employees, managing operations, responding to customer inquiries, and ensuring
5 compliance with the applicable rules and regulations.
6

7 In 1999, Mr. Trick pled guilty to child molestation, and he served a prison term
8 until 2004. Ex. F to Trick Decl. During his term, Mr. Trick underwent a 5-day-per-week
9 rehabilitation program. He also earned certificates in information technology and in
10 multi-media. In addition, he served as a facilitator for the non-violent communication and
11 the alternative to violence programs. After his release, Mr. Trick was on probation from
12 2004 to 2007, which involved ongoing counseling, no contact with minors, curfew,
13 polygraph, and supervision. Mr. Trick completed the phase III program, "transition to
14 society," which involved additional rehabilitative counseling.
15

16 After his release, Mr. Trick began working for moving companies. Mr. Trick has
17 worked for many Washington moving companies and has nearly a decade of experience
18 in the moving industry. During this time, Mr. Trick has been inside hundreds of homes,
19 and he has received excellent feedback. Mr. Trick is currently employed by several full
20 service moving companies and also does labor-only moves. Although Mr. Trick started
21 out as a mover, his intention at Five Stars is to manage and run the business, as stated
22 above.

23 In 2007, Mr. Trick married Brandy Trick in 2007. At the time, Brandy had two
24 children who were five and seven years old. The marriage ended amicably in 2009 and
25 was formally dissolved in 2012; however, Brandy and Mr. Trick are still friends, and
26 Brandy's two children still call Mr. Trick "dad." Declaration of Brandy Cunningham.

1 In 2014, Mr. Trick married Ashley Trick.¹ Mrs. Trick has a son Damien from a prior
2 marriage. Mr. and Ms. Trick have a daughter, McKenzie. Their son, Damien, will be
3 seven years old in October. Their daughter, McKenzie, is almost two years old.

4 Mr. Trick and Mr. Cook have bought a truck and other equipment necessary for a
5 moving and storage company. They have procured the appropriate insurance and set up
6 the requisite contacts with the appropriate Washington agencies. Mr. Cook has provided
7 sufficient capital to make the business a success. Mr. Trick and Mr. Cook have put in
8 place all of the necessary elements to create a successful moving and storage business.

9
10 **III. ISSUE AND BRIEF ANSWER**

11 Issue: Will Mr. Trick's sixteen (16) year old conviction likely interfere with the
12 proper operation of a household goods moving company? **Answer: No.**

13 **IV. ARGUMENT AND AUTHORITY**

14 **A. Five Stars meets all of the statutory criteria for a provisional permit.**

15 Five Stars meets all 13 statutory criteria for a provisional permit set out in
16 WAC 480-15-302. Five Stars has properly completed the household goods provisional
17 permit application, and it does not contain any indication of fraud, misrepresentation, or
18 erroneous information. WAC 480-15-302(1) and (2). A copy of the Five Stars application
19 is attached to the Declaration of William Trick ("Trick Decl.") as Ex. A. Mr. Trick and Mr.
20 Cook provided:

- 21
- 22 • copies of valid driver's licenses;
 - 23 • evidence of sufficient financial resources to operate a moving company;
 - 24 • evidence of liability and cargo insurance;
- 25
26

¹ Mr. and Mrs. Trick have been together since February of 2011. They married in December 2014.

- 1 • evidence of compliance with state tax, labor, employment, business, and vehicle
- 2 licensing laws and rules;
- 3 • evidence that Five Stars owns the equipment necessary to provide household
- 4 goods moving services;
- 5 • no prior denial within the previous six months;
- 6 • no canceled permit within the previous twelve months; and
- 7 • three completed statements of support for the proposed service.
- 8

9 Ex. A to Trick Decl.

10 In short, Five Stars has invested significant time and resources to ensure that its
11 application was submitted correctly and completely. Notably, neither the UTC staff nor
12 the UTC listed any of these requirements as a basis for denying Five Stars application.
13 Ex. A and B to Wall Decl. The UTC did not find that “other circumstances exist that cause
14 the commission to deny the application.” Ex. B to Wall Decl.

15 **B. Mr. Trick’s 16-year-old conviction is the sole basis to deny Five Stars’ application.**

16 The only reason the UTC stated as the basis for its intent to deny the permit was
17 Mr. Trick’s 16-year-old criminal conviction. WAC 480-15-302 provides that UTC staff will
18 complete a criminal background check on each person named in the application.
19

20 If a person named in the application has been convicted of any crime
21 involving theft, burglary, assault, sexual misconduct, identity theft, fraud,
22 false statements, or the manufacture, sale, or distribution of a controlled
23 substance more than five years prior to the date of the application and the
24 commission determines that **the nature or extent of the crime(s) will likely
25 interfere with the proper operation of a household goods moving company,**
26 the commission will deny operating authority to the applicant.

WAC 480-15-302(8)(b) (emphasis added).

1 In its March 3, 2015 notice of intent to deny (“the Notice”), the UTC found that the
2 nature of Mr. Trick’s crime would likely interfere with the proper operation of a household
3 goods moving company. The UTC reasoned:
4

5 Level II sex offenders are considered to be at moderate risk of reoffending,
6 and household goods carriers enter people’s homes, where children may
7 be present and unsupervised. In light of these factors – in addition to the
8 nature of Mr. Trick’s crime, as described on the Sex Offender Watch
9 website – we conclude that granting the application would pose an
10 unreasonable risk to the unsuspecting public.

11 Ex. G to Trick Decl. The UTC did not state any other basis for its Notice.

12 **C. Mr. Trick presents negligible risk of reoffending.**

13 Both the UTC staff memo and the UTC Notice reasoned that Level II offenders are
14 generally at a moderate risk to reoffend. Ex. A to Wall Decl. at 3; Ex. G to Trick Decl. at 3.

15 In preparation for this hearing, the UTC’s counsel disclosed a page from the King County
16 Sherriff’s website, which explains:

17 Level 2 offenders have a moderate risk of re-offending. They generally have
18 more than one victim and the abuse may be long term. These offenders
19 usually groom their victims and may use threats to commit their crimes.
20 These crimes may be predatory with the offender using a position of trust
21 to commit their crimes. Typically these individuals do not appreciate the
22 damage they have done to their victims.

23 Ex. D to Trick Decl.

24 Significantly, all but one of the Level 2 criteria articulated above are inapplicable
25 to Mr. Trick: the abuse was not long term; Mr. Trick did not groom his victims or use
26 threats; Mr. Trick was not in a position of trust; and Mr. Trick is incredibly remorseful for
his crime. Trick Decl. The only reason Mr. Trick is classified as a Level 2 is because he
had two victims during the same single incident.

Notably, Mr. Trick is much more akin to a Level 1 offender, as it was his **first and
only offense**. Trick Decl. The King County Sherriff’s website explains:

1 Level 1: The vast majority of registered sex offenders are classified as Level
2 1 offenders. They are considered at low risk to re-offend. These individuals
3 may be first time offenders and they usually know their victims. Information
4 regarding Level 1 offenders is not typically included in the search.

5 Ex. D to Trick Decl. The detective assigned to Mr. Trick's case recently told Mr. Trick
6 that he would be a good candidate to apply to have his level reduced. Mr. Trick was
7 previously not aware of that possibility, and he has never previously applied for a level
8 reduction. Mr. Trick intends to apply for a level reduction. Trick Decl. ¶ 14.

9 Finally, the risk of re-offending is lowered due to the **16 years** that have elapsed
10 since this single incident. The King County Prosecutor's office commissioned a study on
11 Recidivism, which explained:

12 Criminological research suggests that desistance from crime – or the
13 process of terminating offending behavior – appears to be most strongly
14 influenced by salient life events experienced over one's life course, which
15 affect social bonds and informal social control. **Elements such as "job
16 stability and marital attachments are significantly related to changes in
17 adult crime: the stronger the adult ties to work and family, the less crime
18 and deviance."** These elements have been found to be especially
19 influential for men. In short, even the highest risk, longeststanding, and
20 most violent offenders can retreat from patterns of offending behavior and
21 become productive and upstanding members of the community.

22 Ex. G to Wall Decl. (citations omitted).

23 The Prosecutor's study makes it absolutely clear that risk of recidivism decreases
24 the longer a person abstains from criminal behavior: **"Of the nearly 8,000 men and
25 women released from the state's prisons in 2006, one-third actually recidivated within 36
26 months, the majority having done so within their first years of release."** *Id.* (emphasis
added). The research findings are unanimous: **"Recidivism rates decline with age."** Ex. H
to Wall Decl.² Mr. Trick will be 38 years old this August. He is 16 years away from his
crime.

² The statement was made by Matt Durose, a statistician in the Bureau of Justice Statistics 2014 study.

1 Even the UTC staff memo noted, “For some Level 2 sex offenders, lifestyle (drugs
2 and alcohol use, other criminal activity) may influence potential to reoffend.” Ex. A to Wall
3 Decl. at 3. This mitigates in favor of Mr. Trick. He does not abuse drugs or alcohol, and
4 he has a stable lifestyle, supported by his wife, children, his uncle, and his business
5 colleagues. This minimizes the risk that he will reoffend. It’s unjust to brand Mr. Trick
6 with a scarlet letter because of an isolated, 16-year-old conviction when Mr. Trick has a
7 proven track record of no re-offenses.
8

9 As mentioned above, Mr. Trick is eligible to have his level reduced. In a few years,
10 he will be eligible to challenge his registration. RCW 9A.44.141-.145. These laws (which
11 allow for level reduction and removal from registration) recognize that after a period of
12 proven rehabilitation, a prior offender no longer poses a threat to the public. Further, the
13 Washington legislature is working on a bill that would provide people with convictions a
14 path to obtain professional licenses:

15 A felony conviction can be an absolute bar in the helping professions. A
16 trained, experienced individual who acquires a felony conviction may be
17 excluded from employment due to the law. Criminal convictions create a
18 daunting array of roadblocks for a job search. There are financial and
19 emotional impacts on families. It is time to open the economy to individuals
20 convicted of crimes who want to rebuild their lives. One in five Washington
21 adults has a criminal record. Jobs reduce recidivism. There are 90 career
22 paths closed to people with a criminal history. . . . [This law] will improve
23 public safety and strengthen families. The bill strikes an appropriate
24 balance between patient safety and the need to reintegrate offenders into
25 society.

26 Ex. J to Wall Decl.

27 Melissa Lee, Staff Attorney and Coordinator of the Institutions Project at Columbia
28 Legal Services, stated simply: “At some point, [people with convictions] should be able to
29 move on with their lives, earn a living, and contribute fully to our society and Washington
30

1 State's economy." Ex. I to Wall Decl. Mr. Trick is one such individual who deserves an
2 opportunity to move on with his life and pursue his chosen career.

3 **D. The UTC decision was based on erroneous factual information.**

4 The critical issue currently before the UTC is **whether "the nature or extent of [Mr.**
5 **Trick's 16-year-old] crime[] will likely interfere with the proper operation of a household**
6 **goods moving company."** WAC 480-15-302(8)(b). In assessing the nature of the crime,
7 the UTC relied on erroneous and misleading information. The UTC Notice evaluated **"the**
8 **nature of Mr. Trick's crime" based solely on the description in "the Sex Offender Watch**
9 **website."** Ex. G to Trick Decl. The Notice goes on to quote the website, which erroneously
10 states: "Trick had a history of volunteering at daycares and children overseas
11 services. He had also served as a soccer and wrestling coach." *Id.* That information is
12 erroneous and misleading.

13
14 As a youth, Mr. Trick served as a paid referee for recreational elementary to high
15 school soccer games. Mr. Trick was on the wrestling team from seventh grade through
16 his senior year in high school. During his junior and senior years of high school, Mr. Trick
17 served as an assistant coach to the junior high wrestling team. Declaration of William
18 Trick ("Trick Decl.").

19
20 After high school, Mr. Trick served in the United States Navy from June 5, 1996
21 until July 1999. Mr. Trick wrestled in the Navy but did not participate in any coaching
22 activities. Mr. Trick has never been employed or volunteered in a daycare. Trick Decl.

23 The Navy offers cultural exchange programs for military members to connect with
24 the local community. Mr. Trick signed up for the cultural exchange program, but he was
25 never placed with the program. Trick Decl.

1 These benign experiences are taken out of context on the King County website,
2 making it look as if Mr. Trick were a sexual predator seeking out positions of trust. Ex. E
3 to Trick Decl. It is clear that this erroneous information played a role in the UTC's
4 decision. The Notice stated that its decision was based on "the nature of Mr. Trick's
5 crime, as described on the Sex Offender Watch website." Ex. G to Trick Decl. Further,
6 the UTC staff memo notes that Level 2 offenders "often have; more than one victim
7 and/or took advantage of a position of trust and authority, such as a teacher, coach,
8 clergy, or babysitter." Ex. A to Wall Decl. at 3. Given that lens, it is understandable why
9 the UTC placed such significance on the King County Sherriff's website description of Mr.
10 Trick. Unfortunately, that description is erroneous.

11
12 Mr. Trick did not take advantage of a position of trust such as coach or babysitter.
13 Mr. Trick's minimal coaching and refereeing occurred years **before** his offense. Mr. Trick
14 **never** worked in daycare or for "children's overseas services." The UTC decision should
15 be reversed because it was based on erroneous factual information.

16
17 **E. Granting a permit to Five Stars will add stability to Mr. Trick's life.**

18 Another factual premise for the UTC's decision was that: "[H]ousehold goods
19 carriers enter people's homes, where children may be present and unsupervised." Ex. G
20 to Trick Decl. This is true on a general level; however, Mr. Trick is already in people's
21 homes doing both full-service and labor-only moves. **He has been doing so for nearly a**
22 **decade without incident.** Currently, because Mr. Trick cannot move forward with his
23 business, his only option is to continue as a laborer. If Mr. Trick is granted a permit, he
24 will move from a primarily labor position to a primarily management position.
25
26

1 **F. Five Stars application does not contain erroneous information.**

2 The UTC staff memo also recommends denial based on Trick's representation that
3 no person on the application has been cited for violation of state law. Ex. A to Wall Decl.
4 at 3. The UTC Notice did not mention the staff recommendation in this regard and the
5 staff recommendation apparently formed no part of the UTC's decision. Ex. G to Trick
6 Decl. As such, this basis is not properly before the UTC and should not be considered.

7 Alternatively, to the extent that such reasoning is considered, it should be rejected.
8 As Mr. Trick already stated and UTC staff acknowledged, Mr. Trick specifically called the
9 UTC staff about that question, and he was informed by UTC staff that the question only
10 related to statues and rules of the household goods moving industry. Trick Decl. Further,
11 the phrase "cited for violation of the state laws" is not synonymous with "convicted for a
12 violation of state criminal laws."³ Citations are generally understood to be civil matters.

13
14 Mr. Trick had no reason to omit any information on the application. Mr. Trick is
15 aware that the UTC knows about his 1999 conviction from prior interactions with the
16 UTC.⁴ As the Notice states, "Staff is familiar with Mr. Trick through his involvement in a
17 prior Commission proceeding related to another household goods carrier permit
18 application in Docket TV-130259. Ex. G to Trick Decl. During a hearing on the
19 application in that docket, Mr. Trick testified about his criminal history and his status
20 as a registered Level II sex offender." *Id.* Further, Mr. Trick knows that UTC staff
21

22
23 ³ **citation** *n.* (13c) **1.** A court-issued writ that commands a person to appear at a certain time and place to
24 do something demanded in the writ, or to show cause for not doing so. **2.** A police-issued order to appear
25 before a judge on a given date to defend against a stated charge, such as a traffic violation. — Also termed
26 *appearance ticket*. **3.** A reference to a legal precedent or authority, such as a case, statute, or treatise, that
either substantiates or contradicts a given position. — Often shortened to (in sense 3) *cite*. CITATION, Black's Law Dictionary (10th ed. 2014).

conviction (kən-vik-shən) *n.* (15c) **1.** The act or process of judicially finding someone guilty of a crime; the
state of having been proved guilty. **2.** The judgment (as by a jury verdict) that a person is guilty of a crime.
CONVICTION, Black's Law Dictionary (10th ed. 2014).

⁴ Mr. Trick was involved in B&Z Moving, a company that previously applied for a household goods permit.

1 complete background checks on permit applicants prior to making a
2 recommendation. This is not an instance of “fraud, misrepresentation, or erroneous
3 information.” WAC 480-15-302(1) and (2). Any argument to the contrary should be
4 rejected.
5

6 **G. Mr. Trick has not engaged in unauthorized advertising.**

7 The UTC staff memo states that a February 26, 2015 internet search yielded a
8 listing for “www.betterthantherest.com.” Ex. A to Wall Decl. Similarly, the UTC staff
9 memo cites “a google.plus advertisement for ‘Better Than The Rest’ ” which advertises
10 “full service moves.” Ex. A to Wall Decl. at 2. To the extent that the UTC staff alleges that
11 Mr. Trick advertised without a permit, these allegations are ill-founded. First, such
12 allegations were not discussed by the UTC notice, and therefore are not properly before
13 the UTC. Ex. G to Trick Decl. Further, the website “www.betterthantherest.com” is
14 currently nonfunctional and is available for lease. It is highly unlikely that UTC staff were
15 able to access that website in 2015 as it has been non-functional since 2012. Trick Decl.
16 Historical archives reveal that the website has not been operational for some time. Wall
17 Decl. The Google.Plus listing was not created by Mr. Trick, and he has no control over it.
18 Trick Decl. Regardless, Five Stars counsel has caused the Google.Plus listing to be
19 updated to reflect that the business is permanently closed. Wall Decl. Any suggestion
20 that Mr. Trick engaged in unlawful advertising should be rejected.
21

22 **V. CONCLUSION**

23 As discussed above, the UTC’s Notice was based solely on the reasoning that
24 Level 2 offenders pose a risk of reoffending and that movers are inside people’s homes.
25 Ex. G to Trick Decl. First, excluding Mr. Trick from customer’s homes does not further the
26 public interest because Mr. Trick is fully rehabilitated, and he has been working in

1 people's homes for nearly a decade without incident. Second, Five Stars has made clear
2 that its application contemplates Mr. Trick moving away from an in-home role to a
3 managerial role. Notably, Five Stars business plan indicates the need to immediately hire
4 a "driver/lead" and an "apprentice labor" to operate the company's truck. Ex. B to Trick
5 Decl. at 22. While Mr. Trick may participate in some in-home moves, his role will mostly
6 be managerial. For the foregoing reasons, Five Stars permit application should be
7 granted.
8

9
10 Respectfully submitted this 4th day of June, 2015.

11 GORDON THOMAS HONEYWELL LLP

12
13 By  _____

14 Christopher T. Wall, WSBA No. 45873
15 cwall@gth-law.com
16 Attorneys for Applicant
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CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that on the 4th day of June, 2015, I placed with ABC/Legal Messengers, Inc. a copy of the document to which this certification is attached for delivery to all parties of record as noted below:

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