

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

ANTWAN MASON-WEST AND
EXECUTIVE LIMOUSINE SERVICES,
LLC D/B/A EXECUTIVE LIMOUSINE
SERVICES,

Respondent.

DOCKET TE-161071

ORDER 02

INITIAL ORDER CLASSIFYING
RESPONDENT AS A CHARTER PARTY
OR EXCURSION SERVICE CARRIER;
ORDERING RESPONDENT TO CEASE
AND DESIST; AND IMPOSING
PENALTIES

BACKGROUND

- 1 The Washington Utilities and Transportation Commission (Commission) initiated this special proceeding to determine if Executive Limousine Services, LLC d/b/a Executive Limousine Services (Executive Limousine or Company) and its owner, Antwan Mason-West a/k/a Andy Mason, engaged in the business of charter party or excursion service carrier for transportation of passengers for compensation between points in the state of Washington and on the public highways of Washington without first obtaining the certificate required for such operations. The Commission's regulatory staff (Staff) investigated Executive Limousine and alleged that the Company committed two violations of RCW 81.70.220. Specifically, Staff asserted that Executive Limousine, a non-certificated company: (1) advertised charter services on a company website, and (2) provided Staff with a written quote to furnish a 20-passenger party bus in Woodland, Washington, for \$150 per hour.¹ In its Investigation Report, Staff requests that the Commission impose penalties of up to \$5,000 per violation for a total potential penalty of \$10,000.²
- 2 The Commission convened an evidentiary hearing before Administrative Law Judge Marguerite E. Friedlander on November 23, 2016. At the hearing, Staff presented

¹ Staff Investigation Report at 9.

² *Id.*

documentary evidence and testimony from compliance investigator, Michael Turcott. Antwan Mason-West, owner of Executive Limousine, testified on behalf of the Company.

- 3 Staff explained that it became aware of Executive Limousine’s website, www.executivelimoservices.net, in March 2016.³ Staff asserted that the Company’s website listed its fleet of vehicles as: (1) a black 16-passenger party bus, (2) a white 28-passenger party bus, (3) a stretch Hummer capable of carrying 18 to 20 passengers, and (4) a 22-passenger stretch Ford Excursion.⁴ On March 14, 2016, Staff sent a letter to Mr. Mason-West informing him that the Commission regulates limousines capable of carrying more than 14 passengers and party buses.⁵ The letter also explained that operating as a passenger transportation company within the state of Washington without the necessary Commission authority is illegal.⁶ Mr. Mason-West responded to Staff on April 5, 2016. In his email to Mr. Turcott, Mr. Mason-West argued that the Department of Licensing for the State of Washington had already closed its investigation into Executive Limousine’s operations.⁷ Mr. Mason-West indicated that he would take the matter up with his legal team if he received any further requests for information.⁸ On May 2, Staff sent Mr. Mason-West a second letter, reiterating that charter party or excursion service carriers must receive a certificate of authority from the Commission prior to engaging in business which “includes advertising, soliciting, offering or agreeing to provide such service.”⁹ Staff enclosed a passenger charter and excursion carrier services application with the second letter.¹⁰ Mr. Mason-West responded via e-mail the same day, stating that Executive Limousine is “a booking service the [sic] as limo.com and other National booking services that I know aren’t licensed as limousine carriers.”¹¹

³ *Id.* at 4 and Turcott, TR 15:9.

⁴ Staff Investigation Report at 4.

⁵ Turcott, Exh. No. MT-1.

⁶ *Id.*

⁷ Turcott, Exh. No. MT-2 at 1.

⁸ *Id.*

⁹ Turcott, Exh. No. MT-3.

¹⁰ *Id.* at 2-9.

¹¹ Turcott, Exh. No. MT-4 at 1.

4 Throughout a six month investigation, Staff continued to monitor Executive Limousine’s website and obtained screen images of the website content on September 15, 2016.¹² The Company advertised that it “is much more than the Northwest’s leading Limousine Booking and Service provider.”¹³ Further, Executive Limousine explained that its fleet of vehicles includes “a large selection of Party Buses, Limousines and [sic] Sedan’s from Lincoln Executive L Town Cars, Stretch Limo Hummers, Stretch Excursion and large shuttle vans.”¹⁴ The Company’s website highlighted six vehicles including a stretch Hummer which will seat 18-20 passengers¹⁵ and a party bus with seating capacity up to 28 passengers.¹⁶ Executive Limousine requested viewers to “let us take you there with comfort and style!”¹⁷ Staff noted that the website content did not appear to change during the investigation.¹⁸ The content of Executive Limousine’s website constitutes the first violation alleged in the Complaint for advertising charter party or excursion carrier service without authority from the Commission.

5 Mr. Turcott testified that on August 24, 2016, Staff contacted the Company via email.¹⁹ Posing as a consumer, Staff inquired as to the availability of the 28-passenger party bus, featured on Executive Limousine’s website, for an October 8, 2016, quinceañera in Woodland, Washington.²⁰ Staff obtained a quote to transport 20 passengers for \$150 per hour.²¹ Executive Limousine’s offer to provide transportation services without authority from the Commission gives rise to the second violation alleged in the Complaint.

6 Mr. Mason-West testified that the principle function of Executive Limousine is to act as the parent company of his multi-million dollar construction company.²² He stated that Executive Limousine is the entity certified by the federal Small Business Administration

¹² Turcott, TR 15:16-20. These screen images are contained in Turcott, Exh. No. MT-6.

¹³ Turcott, Exh. No. MT-6 at 1.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 4-5.

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 2.

¹⁸ Staff Investigation Report at 4 and Turcott, TR 15:15.

¹⁹ Turcott, TR 19:1-11. See Turcott, Exh. No. MT-5.

²⁰ Turcott, Exh. No. MT-5.

²¹ *Id.* Turcott, TR 19:13-19.

²² Mason-West, TR 24:10-15.

(SBA) under its 8(a) Business Development program,²³ and “[a]ll of the work that [the construction company does] is federally on a construction side.”²⁴ His interest in Executive Limousine is the Company’s website, which he claims is worth approximately \$500,000.²⁵

7 With regard to the first allegation that Mr. Mason-West and Executive Limousine advertised as a charter party or excursion service carrier for transportation of passengers for compensation within the state of Washington, Mr. Mason-West asserted that Executive Limousine stopped providing limousine service in late 2015.²⁶ At the hearing, he compared the service Executive Limousine provides to other booking service companies like limos.com or bookrides.com.²⁷ Mr. Mason-West described how a perspective customer might find Executive Limousine on the Internet and then make an inquiry into whether the Company could meet the customer’s transportation needs.²⁸ At that time, he would assess whether “there [is] an opportunity to book that, fulfill that.”²⁹ Mr. Mason-West indicated that both his stepfather and his best friend have limousine companies that he sends referrals to after receiving an inquiry on the Executive Limousine website.³⁰

8 Mr. Mason-West testified that his main concern is keeping the Washington state corporate registration of Executive Limousine.³¹ He stated he was unaware that advertising as a limousine booking service violated the law.³² Despite the fact that Mr. Mason-West would like to maintain the website after this adjudication, he agreed to abide by the Commission’s decision, even if that means shutting the website down.³³

²³ Mason-West, TR 34:1-35:2. See also <https://www.sba.gov/contracting/government-contracting-programs/8a-business-development-program>.

²⁴ Mason-West, TR 26:10-11. See Turcott, Exh. No. MT-2 at 1.

²⁵ Mason-West, TR 23:12-14.

²⁶ Mason-West, TR 23:14-17.

²⁷ Mason-West, TR 28:23-29:3.

²⁸ Mason-West, TR 30:2-13.

²⁹ Mason-West, TR 30:14-15.

³⁰ Mason-West, TR 23:19-23; 30:16-18; and 31:1-3.

³¹ Mason-West, TR 24:21-24 and 26:7-10.

³² Mason-West, TR 25:20-23.

³³ Mason-West, TR 24:10-11 and 26:25-26:3.

- 9 Under cross-examination, Mr. Mason-West acknowledged that he advertises party bus service on Executive Limousine’s website.³⁴ In addition, he stated that the website promotes the Company as “much more than a northwest leading limousine booking and service provider.”³⁵ Mr. Mason-West indicated that, while his SBA 8(a) Business Development program certification is connected to Executive Limousine, the website could shut down and it would not affect any of his subsidiary companies.³⁶ Finally, Mr. Mason-West stated that he received two copies of the Commission’s application for charter party service authority, and he chose not to apply for Commission authority to continue operating the Executive Limousine website.³⁷ He maintained that, “[i]f we need a specific license to run the booking service part of it itself, we could have done that, but at this point, I choose not to.”³⁸
- 10 As to the second allegation against Executive Limousine, that it provided Staff with a quote for a 20-passenger party bus on August 24, 2016, Mr. Mason-West conceded that he sent the email in Exhibit No. MT-5 offering the use of the party bus.³⁹ He argued, however, that limos.com and similar companies operate as booking services for party buses and are not licensed in Washington.⁴⁰ Mr. Mason-West stated that his Company shouldn’t be treated any differently.⁴¹
- 11 Following Mr. Mason-West’s testimony, Staff presented Mr. David Pratt, Assistant Director, Transportation Safety. Mr. Pratt testified that Mr. Mason-West has shown a lack of remorse for the two violations alleged against Executive Limousine.⁴² In addition, Mr. Pratt argued that Mr. Mason-West was not completely honest in his testimony before the Commission.⁴³ As a result, Mr. Pratt recommended that the Commission impose the maximum penalty allowable, which is \$5,000 per violation for a total penalty of \$10,000.

³⁴ Mason-West, TR 32:9-11.

³⁵ Mason-West, TR 33:7-9.

³⁶ Mason-West, TR 35:3-6.

³⁷ Mason-West, TR 37:5-15.

³⁸ Mason-West, TR 25:23-26:1.

³⁹ Mason-West, TR 33:16-20.

⁴⁰ Mason-West, TR 37:11-14.

⁴¹ Mason-West, TR 37:14.

⁴² Pratt, TR 43:7-8.

⁴³ Pratt, TR 43:8-10.

12 Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Staff.⁴⁴
Antwan Mason-West, owner of Executive Limousine, Longview, Washington, represents
Executive Limousine, *pro se*.

DISCUSSION AND DECISION

13 **Classification as Charter Party or Excursion Carrier.** RCW 81.04.510 authorizes this
special proceeding to determine whether Executive Limousine is engaging in business or
operating as a charter party or excursion carrier in Washington without the requisite
authority. That statute places the burden of proof on the Respondent to demonstrate that
its acts or operations are not subject to the provisions of RCW Chapter 81.

14 Under WAC 480-30-036, “motor vehicle,” as it relates to charter party and excursion
carriers, is defined as “[e]very self-propelled vehicle with a manufacturer’s seating
capacity for eight or more passengers, including the driver.” Limousines and executive
party vans with seating capacities of 15 passengers or greater are regulated by the
Commission as charter party or excursion carriers. Party buses, defined as any motor
vehicle whose interior enables passengers to stand and circulate throughout the vehicle
because seating is placed around the perimeter of the bus or is nonexistent and in which
food, beverages or entertainment may be provided, are regulated by the Commission
regardless of passenger capacity.⁴⁵

15 The record shows that on one occasion, Executive Limousine advertised as a charter
party and excursion service carrier, and that on one occasion, Executive Limousine
offered to provide the same transportation services. Moreover, Mr. Mason-West does not
deny that he advertised and offered these services. Accordingly, Mr. Mason-West was
unable to rebut the inferences reasonably drawn from Mr. Turcott’s testimony and
exhibits that, doing business as Executive Limousine, he advertised and offered to
conduct business as a charter party and excursion service carrier.

16 Mr. Mason-West asserted he does not own or operate the vehicles advertised on
Executive Limousine’s website. The Company, however, held itself out as a charter party
and excursion carrier and offered to provide those services when solicited. Mr. Mason-

⁴⁴ In adjudications the Commission’s regulatory staff participates like any other party, while an
administrative law judge or the Commissioners make the decision. To assure fairness, the
Commissioners and the presiding administrative law judge do not discuss the merits of the
proceeding with regulatory staff or any other party without giving notice and opportunity for all
parties to participate. *See* RCW 34.05.455.

⁴⁵ RCW 81.70.020(7).

West's contention, that he only "books" the charter party and excursion carrier services, has no bearing on whether the Company's conduct violates the applicable law. RCW 81.70.220 defines "engaging in business as a charter party or excursion carrier" to include advertising or soliciting, offering, or entering in to an agreement to provide such service, which Mr. Mason-West admits he did on August 24, 2016.

17 The Commission finds, on the basis of this evidence, that Executive Limousine is conducting business that requires Commission approval without the necessary operating authority. The Commission accordingly orders Mr. Mason-West and Executive Limousine to cease and desist from such conduct, as required by RCW 81.04.510, including but not limited to ceasing to advertise and solicit business as a charter party or excursion carrier on Executive Limousine's website.

18 **Penalty.** At the hearing, Staff recommended the Commission impose penalties of \$5,000 for each of the two violations alleged in the Complaint, for a total penalty of \$10,000. Executive Limousine received technical assistance prior to the Commission instituting this special proceeding directing the Company to either cease advertising charter party or excursion carrier services or apply for the requisite authority from the Commission to continue operations. Mr. Mason-West knew that he was in violation of the Commission's statutes from at least March 14, 2016, when first contacted by Staff. He failed to take corrective action, and we find that the violations are both intentional and ongoing. We further find that Mr. Mason-West has failed to make a sincere effort to come into compliance, despite Staff's attempts at certification of Executive Limousine and the Commission instituting this enforcement action, which constitutes a failure to take prompt corrective action.

19 Considering the factors discussed above, the Commission determines that Mr. Mason-West and Executive Limousine should be penalized for an amount that will both punish the Company's wrongdoing and encourage Mr. Mason-West to fully comply with state laws and Commission rules going forward. Given the Company's history of disregarding the Commission's authority, we find that the maximum penalty, as proposed by Staff at hearing, is appropriate. Accordingly, we impose the maximum penalty of \$5,000 for each of the two violations alleged in the Complaint, for a total penalty of \$10,000. This penalty should be due and payable no later than ten business days from the effective date of this Order.

20 Mr. Mason-West argued that similar booking websites, such as limos.com, are not required to register with the Commission, and he insisted that Executive Limousine should not be forced to apply for certification either. The evidentiary record is devoid of

information concerning the operations of limos.com, and Mr. Mason-West's culpability does not depend upon such evidence. That said, the Commission encourages Staff to look into the activities of other booking websites that may also be in violation of our statutes and rules.

FINDINGS AND CONCLUSIONS

- 21 (1) The Commission is an agency of the state of Washington vested by statute with authority to regulate persons engaged in the business of providing auto transportation services, including charter party and excursion carrier services, over public roads in Washington.
- 22 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Executive Limousine.
- 23 (3) On at least one occasion, Executive Limousine advertised to provide charter party and excursion carrier services without first having obtained a certificate from the Commission, in violation of RCW 81.70.220.
- 24 (4) On at least one occasion, Executive Limousine offered to provide charter party and excursion carrier services within the state of Washington without first having obtained a certificate from the Commission, in violation of RCW 81.70.220.
- 25 (5) Executive Limousine should be directed to cease and desist from providing charter party and excursion carrier services over public roads in Washington as required by RCW 81.04.510, including but not limited to ceasing to advertise and solicit business as a charter party or excursion carrier on Executive Limousine's website.
- 26 (6) Executive Limousine should be penalized \$10,000 for two violations of RCW 81.70.220 and should pay the penalty no later than 10 days from the effective date of this Order.

ORDER

THE COMMISSION ORDERS:

- 27 (1) Antwan Mason-West a/k/a Andy Mason d/b/a Executive Limousine Services, LLC d/b/a Executive Limousine Services is classified as a charter party and excursion service carrier within the state of Washington.

- 28 (2) Antwan Mason-West a/k/a Andy Mason d/b/a Executive Limousine Services, LLC d/b/a Executive Limousine Services is ordered to immediately cease and desist operations as a charter party and excursion service carrier within the state of Washington without first obtaining a permit from the Commission, including but not limited to ceasing to advertise and solicit business as a charter party or excursion carrier on Executive Limousine's website.
- 29 (3) Antwan Mason-West a/k/a Andy Mason d/b/a Executive Limousine Services, LLC d/b/a Executive Limousine Services is assessed a penalty of \$10,000 and must pay the full penalty no later than 10 days from the effective date of this Order.
- 30 (4) 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 December 9, 2016.

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

NOTICE TO THE 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*. Section (3) of the rule identifies what you must include in any petition as well as other requirements for a petition. WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the petition.

WAC 480-07-830 provides that before the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3), as amended in the 2006 legislative session, 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.

You must serve on each party of record one copy of any Petition or Answer filed with the commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and **two (2)** copies of your Petition or Answer by mail delivery to:

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