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October 8, 2015

Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: *In re Application of Heath, Annavilla L. d/b/a Movers4U for a Permit to Operate as a Motor Carrier of Household Goods*  
Docket TV-151116

Dear Mr. King:

A Brief Adjudicative Proceeding (BAP) was held in this matter on September 29, 2015. During the early morning hours of September 30, 2015, Mrs. Annavilla Heath sent an ex parte communication to Judge Pearson (the presiding officer at the BAP) that offered additional information to that presented at the hearing. Commission Staff (Staff) submits this rebuttal statement to Mrs. Heath's ex parte communication.

Mrs. Heath's ex parte communication reiterates topics that were addressed at the BAP. It states her position on two main points. First, that her husband will not be "part of the ownership of the propose[d] [household goods] business." And, second, that her husband's 2010 felony conviction for domestic violence assault in the third degree should be discounted. Staff disagrees with both assertions.

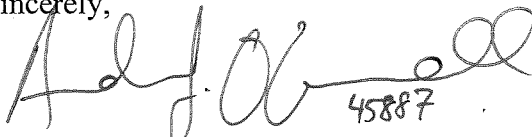
It continues to be Staff's position that Mr. Larry Heath's history with the Commission –operating a household goods company without a permit, refusing to pay a \$5,000 penalty, and generally disregarding the Commission's authority (*see, e.g.*, Exhibit DT-13 in this matter) – supports denial of this application. Staff, and the Commission, should not be constrained by blinders that would force it to look only at the name on an application but must, instead, be allowed to use its industry expertise, knowledge, and insight to understand the circumstances of each situation. To address Mrs. Heath's first point, Staff believes that in this situation Mr. and Mrs. Heath have failed to disclose the true ownership of Movers4U and who would truly be operating the company. Staff cannot support an application that so blatantly attempts to circumvent Commission regulation. Mr. Heath's history of dishonest behavior compels Staff's conclusion, as supported by the evidence presented at hearing.

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To address Mrs. Heath's second point, Mr. Heath's 2010 felony conviction for domestic violence assault in the third degree should not be discounted. Mr. Heath was found guilty in King County and incarcerated for felony assault in the third degree. It was not his first felony conviction. Mr. Heath's lengthy criminal history informs Staff's understanding of the circumstances presented in this case and his criminal history should be considered by the Commission. The Commission has the authority to consider the weight to attribute to his criminal history, but not the truth of his guilt – that determination was made by the judge and/or jury in his criminal proceeding.

Staff's positions are supported by the record evidence already presented at hearing, and it argues that circumstances exist in this case that should cause the Commission to deny the application. Because all of its topics are addressed by the record evidence, Staff requests that the presiding officer consider the ex parte communication sent by Mrs. Heath in light of the concerns raised by Staff and accord it the weight to which it is entitled.

Sincerely,



ANDREW J. O'CONNELL  
Assistant Attorney General

AJO/emd

cc: Rayne Pearson, Administrative Law Judge  
Mrs. Annavilla L. Heath d/b/a Movers4U