

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

GREEN, CHANA d/b/a GREAT
AMERICAN MOVING & STORAGE

DOCKET TV-131603

RESPONSE OF COMMISSION
STAFF IN OPPOSITION TO
RESPONDENT'S MOTIONS

1 On March 4, 2014, Chana Green, d/b/a Great American Moving & Storage (Green), filed motions asking the Commission to: (1) extend the deadline to reconsider Initial Order 03; and (2) to reconsider Initial Order 03. In that Order, issued December 23, 2013, Administrative Law Judge Adam Torem imposed on Green a fine of \$5,000 for two violations of RCW 81.80.075, all but \$1,500 of which was suspended, conditioned on Green paying the assessed penalty of \$1,500 that was not suspended within ten days after the Order became final.¹ Commission records indicate that Green did not comply with this condition. The full penalty amount of \$5,000, therefore, is now due and payable. Green's motions seek to reinstate suspension of the \$3500 portion of the full penalty amount.

2 Commission Staff opposes Green's request to extend the deadline to reconsider Initial Order 03. First, Green cites WAC 170-03-0630(5)(b) in support of its motion. That rule, however, applies to the Department of Early Learning. It has no relevance to a Commission proceeding. In contrast, the Administrative Procedure Act in RCW 34.05.470 and Commission rule in WAC 480-07-850 require petitions for reconsideration to be filed

¹ Under RCW 80.01.060(3), Order 03 became final on January 14, 2014, by operation of law.

within ten days of a final order. No flexibility is allowed under these provisions under any circumstances.

3 Second, Green states that travel out of country from December 31, 2013, to January 22, 2014, prevented her from filing a timely petition for reconsideration. Green's personal travel plans, however, do not excuse her tardiness in seeking reconsideration.² In any event, Initial Order 03 was issued on December 23, 2013, leaving Green sufficient time to comply with the condition of that Order by paying the non-suspended penalty of \$1,500 before she departed on her travels. Likewise, Initial Order 03 became final by operation of law on January 14, 2014, giving Green sufficient time to seek reconsideration after she returned from her travels on January 22, 2014.

4 Third, the Initial Order found that Green had failed to alter its illegal business practices and was likely to continue to conduct intrastate operations without the required household goods moving permit from the Commission, despite having previously applied for a permit and having that application denied.³ Green does not challenge these findings. Under these circumstances the Commission should not extend the deadline for reconsideration even if the legal authority exists for such leniency.

5 Finally, Green states she did not receive due process because her travels out of the country prevented her from being actually aware of Initial Order 03 and the consequences of failure to comply with the Order.⁴ However, Commission records show that Green was properly served with a copy of Initial Order 03 and the Commission's Notice of Finality, both at the address she represented to the Commission as her proper mailing address. This

² Her company also employs other personnel who were available to handle this matter in her absence.

³ Initial Order 03 at ¶¶ 30-31 and 34-36.

⁴ Green presents this argument as a basis for reconsideration itself. Normally Staff would not respond to that request unless allowed by the Commission. However, we do respond here in case the Commission also considers Green's argument as reason to extend the deadline for reconsideration.

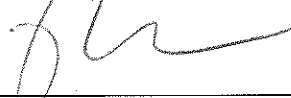
was proper service of Initial Order 03 under RCW 34.05.473(1)(a) and WAC 480-07-150(7). The Commission cannot ignore these provisions to accommodate Green's personal travel plans.⁵

6 For the reasons stated above, Staff recommends that the Commission deny Green's motion to extend the deadline for reconsideration of Initial Order 03. Green is liable for the full \$5000 penalty assessed by Initial Order 03.

Dated this 6th day of March 2014.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General



ROBERT D. CEDARBAUM
Assistant Attorney General
Counsel for Washington Utilities and
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⁵ We also note that Green did not serve her motions on the assistant attorney general representing Commission Staff, in violation of WAC 480-07-150(6). It is highly contradictory for her to claim procedural errors regarding service when she herself failed to comply with service requirements.