



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

December 27, 2006

Barry and Amy Muhlbaier  
A & B Peninsula Airporter, LLC  
609 204<sup>th</sup> Avenue Court KPS  
Lakebay, Washington 98349

**RE: Penalty Assessment TC-060989**

Dear Mr. and Mrs. Muhlbaier:

A review of Washington Utilities and Transportation Commission (commission) records indicates that A & B Peninsula Airporter, LLC has not remitted payment for the enclosed Notice of Penalties dated June 30, 2006. On July 7, 2006, the commission received Ronald K. Stoner's petition for mitigation of the penalty on behalf of A& B Peninsula Airport. He waived a hearing. On October 19, 2006, the commission denied the mitigation request (copy enclosed).

If we do not receive your \$100 payment by January 10, 2007, the commission will consider additional sanctions. In addition, we will refer the matter to the Office of the Attorney General for collection.

For questions regarding this matter, please contact Sheri Hoyt, Compliance Specialist, Business Practices Investigations Section. Ms. Hoyt can be reached at (360) 664-1149, or by e-mail at [shoyt@wutc.wa.gov](mailto:shoyt@wutc.wa.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Carole J. Washburn".

Carole J. Washburn  
Executive Secretary

Enclosures



# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

## NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT NO: TC-060989  
PENALTY AMOUNT: \$100

TO: EACH OF THE 10 AUTO TRANSPORTATION  
COMPANIES LISTED IN ATTACHED APPENDIX A

The commission believes that you have committed one violation of Washington Administrative Code 480-30-120 which requires auto transportation companies to file annual reports with the commission by May 1 each year. You are classified as such a company. Commission records show that you did not make the filing by the required date of May 1, 2006. (See Appendix A for individual companies' report status as of June 14, 2006.) Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for every such violation.

As a result, the commission hereby notifies you that it has assessed penalties against you in the amount \$100, as follows:

On March 8, 2006, the commission mailed 2005 Annual Report forms and 2006 Regulatory Fee packets to you and other auto transportation companies registered in Washington State. A letter from Executive Secretary Carole Washburn instructed each company to file its annual report and pay its regulatory fees by May 1, 2006. The letter stated that failure to file your annual report by May 1 would result in a penalty and possible revocation of your registration to operate in Washington. Companies needing more time to file the annual report were permitted to request an extension before May 1, and to explain why the extension was needed. You did not request an extension of time and did not file your annual report before the deadline.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 81.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

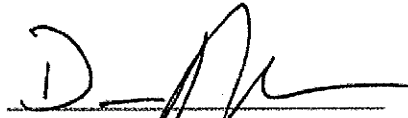
**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the commission may refer this matter to the Office of the Attorney General for collection. The commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective June 30, 2006.

  
DENNIS J. MOSS  
Administrative Law Judge

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

PENALTY ASSESSMENT, Docket No. TC-060989

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$100 in payment of the penalty.
  
- 2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:
  - a) I ask for a hearing for a decision by an administrative law judge
  
- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
  - OR  b) I waive a hearing and ask for an administrative decision on the information I present here.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

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RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

APPENDIX A

	<b>Company Name</b>	<b>Received Yes or No</b>	<b>If yes, Date Received</b>
1.	A & B Peninsula Airporter LLC f/k/a Barry & Amy Muhlbaier	Yes	May 31, 2006
2.	All-Ways Transportation, Inc.	Yes	May 30, 2006
3.	Bremerton-Kitsap Airporter, Inc.	Yes	May 2, 2006
4.	Diamond-West Transportation Co., Inc.	No	
5.	Edward McIntire	No	
6.	Evergreen Trails, Inc.	No	
7.	Genie Service Company, Inc.	No	
8.	Masters, Edward	No	
9.	Miller Schmer Inc.	Yes	May 2, 2006
10.	Thompson, William R. d/b/a Star & Stripes Shuttle	Yes	May 4, 2006

[Service Date October 19, 2006]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment	)	DOCKET TC-060989
Against	)	
	)	ORDER 03
A & B PENINSULA AIRPORTER LLC	)	
F/K/A BARRY & AMY MUHLBAIER	)	
D/B/A A & B SPECIALIZED	)	ORDER DENYING MITIGATION
TRANSPORT	)	
	)	
in the Amount of \$100.00	)	
	)	
.....	)	

1     **Penalty:** On June 30, 2006, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in the amount of \$100 against A & B Peninsula Airporter LLC f/k/a Barry & Amy Muhlbaier d/b/a A & B Specialized Transport (A & B Peninsula Airporter) for one violation of WAC 480-30-120(4), which requires auto transportation carriers to file annual reports to the commission no later than May 1 of each year.

2     **Petition for Mitigation:** On July 6, 2006, A & B Peninsula Airporter filed a petition for mitigation and waived a hearing. A & B Peninsula Airporter stated that the Muhlbaiers formed the new LLC in order to transfer the license authority due to serious medical issues, and Ronald K. Stoner purchased the company on July 1, 2006. A & B Peninsula Airporter stated that it complied as soon as it was aware of the delinquency. A & B Peninsula Airporter further stated that given the marginal dollar nature of this much needed public service, a waiver of the penalty would be in the public's best interest. A & B Peninsula Airporter submitted its 2005 annual report on May 31, 2006.

3     **Answer:** On July 26, 2006, Commission Staff responded to the petition for mitigation. Staff stated that the transfer of authority from Barry & Amy Muhlbaier d/b/a A & B Specialized Transport to A & B Peninsula Airporter, LLC was approved by the Commission on June 16, 2006, and that Barry and Amy Muhlbaier are listed as 100% members of the LLC. Staff further stated as of July 26, 2006, the Commission has not received an application from A & B Peninsula Airporter to indicate the

Muhlbaier's no longer own the company. In addition, Mr. Stoner did not provide an explanation of how a waiver of the penalty would be in the public's best interest, therefore the violation associated with the matter is appropriate. Staff opposes mitigation because the company did operate in the year 2005 and is subject to filing its annual report by May 1. Staff further opposes mitigation because the mitigation application was not filed by the permit holder but by a third party whose name does not appear on the certificate for A & B Peninsula Airporter.

- 4 **Commission Decision:** The Commission denies mitigation. It is apparent that A & B Peninsula Airporter provided auto transportation service during the year 2005. Accordingly, it is obligated to file an Annual Report in a timely manner.
- 5 It is so ordered.

DATED at Olympia, Washington, and effective October 19, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN  
Executive Secretary