

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of	)	DOCKET TV-151116
	)	
HEATH, ANNAVILLA L. d/b/a	)	ORDER 01
MOVERS4U	)	
	)	INITIAL ORDER DENYING
For a Permit to Operate as a Motor	)	APPLICATION FOR PERMANENT
Carrier of Household Goods	)	AUTHORITY
.....	)	

**BACKGROUND**

- 1 On May 26, 2015, Annavilla L. Heath d/b/a Movers4U (Movers4U or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a household goods carrier in the state of Washington (Application) under Revised Code of Washington (RCW) 81.80 and Washington Administrative Code (WAC) 480-15.
  
- 2 On August 18, 2015, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing (Notice) resulting from Commission staff’s (Staff) allegations based on its review and investigation of the Application. The Notice specified the following allegations: (1) the Application is misleading because it does not disclose the involvement of Larry Heath, Annavilla Heath’s husband, in the ownership and operation of Movers4U; (2) Mr. Heath had domestic violence felony assault convictions in August 2010 and March 2006; (3) Mr. Heath had second degree felony theft conviction in June 2005; and (4) the Commission assessed a \$5,000 penalty against Mr. Heath that remains outstanding. The Notice provided Movers4U the opportunity to request a hearing to contest these allegations by September 2, 2015.
  
- 3 On August 21, 2015, Movers4U filed with the Commission a Request for Hearing. The Commission noticed the matter as a brief adjudicative proceeding and convened an evidentiary hearing before Administrative Law Judge Rayne Pearson on September 29, 2015, at 1:30 p.m.
  
- 4 At the hearing, Staff presented documentary evidence and the testimony of compliance investigator Darren Tinnerstet. Annavilla Heath and Larry Heath testified for the Company.

- 5 Staff explained in its opening statement that Larry Heath, doing business as Northwest Moving Services, first came to Staff's attention in 2011 as an unpermitted household goods carrier. In early 2012, the Commission subpoenaed Mr. Heath to appear at a classification proceeding, but he did not comply. Accordingly, on January 25, 2012, the Commission entered Order 01 in Docket TV-111943 finding Mr. Heath in default for failing to appear and assessing a \$5,000 penalty. To date, the penalty remains unpaid. Staff contends that Mr. Heath, not his wife, is the actual owner and operator of Movers4U and that the Application is his attempt to obtain a permit to which he otherwise would not be entitled.
- 6 Ms. Heath testified that she intends to be the sole owner and operator of Movers4U, and that Mr. Heath would have no involvement in the Company whatsoever. On cross-examination, Ms. Heath acknowledged that she has no experience in the household goods moving industry, does not have a driver's license, and has never driven a moving truck. In response to questions from Staff, Ms. Heath testified that she purchased three of the four box trucks currently parked at her residence from Mr. Heath. She further testified that Mr. Heath uses the other box truck for his packing business, Northwest Packing Services.
- 7 Ms. Heath testified that, "We have hired one driver," and, in response to questions from the bench, admitted she was referring to herself and her husband when she used the pronoun "we." She subsequently denied, however, that Mr. Heath assisted with hiring the driver.
- 8 Ms. Heath testified that, to her knowledge, Mr. Heath has not performed any household goods moves since 2013. The Application, however, includes a statement of support from Wally Lane, the manager of Bucky's in Auburn, which states, "They do a great job and care about the things they move," and "No scratching, denting, and covered." In response to questions from the bench regarding to what and to whom these statements referred, Ms. Heath first explained that Mr. Lane must have misunderstood the question, then speculated that Mr. Lane was referring to Mr. Heath's prior moving business, and that he likely believed the Application belonged to Mr. Heath. Mr. Heath interjected to explain that he had, in fact, asked Mr. Lane to provide the statement of support.
- 9 Mr. Heath testified that he owns a packing and labor service. According to Mr. Heath, he uses two box trucks in the course of his business: one for packing and crating, and one to pick up free boxes and packing materials. Mr. Heath further testified that he has not performed any household goods moves since receiving the Commission's order to cease and desist, which, he claims, was when he first learned that he needed a permit to operate

as a household goods carrier. Mr. Heath testified that he “definitely applied for” a household goods permit.<sup>1</sup>

10 Mr. Heath testified that he buys, repairs, and sells box trucks. According to Mr. Heath’s testimony, there are only four trucks parked at his residence because he sold five of his trucks in April of this year.<sup>2</sup>

11 Mr. Tinnerstet testified that Staff believes Movers4U’s Application contains false or misleading information because it fails to disclose Mr. Heath’s involvement in the Company, and that Mr. Heath’s involvement in the Company is actively being concealed because of his outstanding penalty and criminal convictions. Mr. Tinnerstet testified that there is no record of Mr. Heath having ever applied for a household goods moving permit from the Commission.

12 Mr. Tinnerstet testified that he obtained the following posts, dated June 1, 2015, from Mr. Heath’s Facebook page:

- A photo of eight box trucks parked in front of the Heath residence.
- A photo of five box trucks with the caption, “Our most used trucks, out almost every day!”<sup>3</sup>
- Multiple pictures of box trucks bearing the caption, “Our ever-growing business, trucks number 7 and 8. Thanks Lord for the blessings, time to have a great season.”<sup>4</sup>
- A photo of three box trucks with the caption, “The three big boys, our true moneymakers!”<sup>5</sup>

Staff believes that Mr. and Ms. Heath currently own at least eight trucks.

13 Mr. Tinnerstet testified that, as part of Staff’s investigation of the Application, Staff requested Washington State Patrol (WSP) background checks for Mr. and Ms. Heath. On June 5, 2015, WSP provided a Washington Access to Criminal History (WATCH) report

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<sup>1</sup> Larry Heath, TR 30:12-13.

<sup>2</sup> Judge Pearson issued a bench request for documentation that the five trucks were sold, which Mr. Heath stated he would provide by October 6, 2015. Mr. Heath failed to respond to the bench request.

<sup>3</sup> Tinnerstet, TR 47:17-18.

<sup>4</sup> *Id.*, at 48:4-6.

<sup>5</sup> *Id.*, at 48:13-14.

showing that Mr. Heath was convicted of felony assault on August 31, 2010, which falls within the five year window automatically barring an applicant from obtaining a permit.<sup>6</sup> The WATCH report also showed a second felony assault in 2006 and a felony theft in 2005.

- 14 Staff recommended that the Commission deny Movers4U's application as not in the public interest. Staff believes that Ms. Heath intentionally submitted an Application that contains false information to conceal the fact that her husband and business partner, Larry Heath, has a 2010 criminal conviction and an outstanding \$5,000 penalty owed to the Commission, both of which automatically disqualify him from obtaining a permit.
- 15 On September 30, 2015, Ms. Heath sent an ex parte communication to Judge Pearson via email that offered additional information related to her husband's 2010 domestic violence conviction, and reiterated that that Mr. Heath "will not be part of the ownership" of Movers4U. On October 8, 2015, Staff filed a response to the ex parte communication. In its response, Staff argues that its position is supported by the record evidence already presented at hearing, and the circumstances in this case should cause the Commission to deny the Application. Staff requests that the Commission consider the ex parte communication in light of that evidence afford it no weight.
- 16 Brett Shearer, Assistant Attorney General, Olympia, Washington, represented Commission Staff (Staff).<sup>7</sup> Annavilla Heath, *pro se*, Sumner, Washington, represented Movers4U.

### DISCUSSION AND DECISION

- 17 RCW 81.80.075(1) requires the Commission to issue a household goods permit to any qualified applicant found to be fit, willing, and able to perform the services proposed and conform to the applicable laws, requirements, rules, and regulations of the Commission. As the applicant, Movers4U bears the burden of proving that it is fit, willing, and able to conduct business as a household goods carrier, and that issuing a permit to the Company is in the public interest.

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<sup>6</sup> WAC 480-15-302(8)(a).

<sup>7</sup> In adjudications the Commission's regulatory staff participates like any other party, while the 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.

18 WAC 480-15-302 and -305 set out the various criteria for obtaining provisional or permanent authority to operate as a household goods company. As relevant to this matter, the rules explain that the Commission may deny applications: (a) that contain any indication of fraud, misrepresentation, or erroneous information;<sup>8</sup> (b) when an applicant has been convicted of certain specified crimes within the past five years;<sup>9</sup> (c) when an applicant has been convicted of a crime more than five years prior to the date of the application and the Commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company;<sup>10</sup> (d) when the applicant has an outstanding Commission-issued monetary penalty;<sup>11</sup> or (e) when other circumstances cause the Commission to believe issuing a permit is not in the public interest.<sup>12</sup>

19 **Misleading Application.** The evidence presented at hearing shows a substantial overlap between Mr. Heath's packing and labor-only moving business and Ms. Heath's proposed full-service moving company, including an unexplained discrepancy related to the number of trucks owned by the Heaths and how those trucks are used. Coupled with Ms. Heath's total lack of experience in the household goods moving industry, the evidence establishes that, at a minimum, Mr. and Ms. Heath are in business together as movers. Accordingly, the Application is misleading by failing to disclose the Company's true ownership and operations.

20 **Disqualifying Criminal Record.** WAC 480-15-302(8) requires criminal background checks for each person named in an application for a household goods moving permit. In pertinent part, the rule states:

The Commission will not grant provisional authority if any named person has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.<sup>13</sup>

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<sup>8</sup> WAC 480-15-302(2).

<sup>9</sup> WAC 480-15-302(8).

<sup>10</sup> WAC 480-15-302(8) and WAC 480-15-305(2).

<sup>11</sup> WAC 480-15-305(1)(f).

<sup>12</sup> WAC 480-15-302(13) and WAC 480-15-305(1)(j).

<sup>13</sup> WAC 480-15-302(8)(a).

21 Mr. Heath, at least in part, owns and operates Movers4U. His August 2010 conviction for felony assault was within five years of the date the Company filed the Application and disqualifies Mr. Heath and Movers4U from obtaining a household goods permit.<sup>14</sup>

22 **Outstanding Penalty.** Under WAC 480-15-305(1)(f), the Commission will not grant permanent authority to an applicant who has an outstanding Commission-issued monetary penalty. On January 25, 2012, the Commission found Mr. Heath in default for failing to appear at a household goods carrier classification hearing and assessed a \$5,000 penalty. To date, the penalty remains unpaid. Mr. Heath and Movers4U may not obtain a permit as long as that penalty is outstanding.

23 **Other Circumstances.** Commission rules allow denial of an application when “other circumstances exist” demonstrating that granting the permit would not be in the public interest. Such circumstances exist here.

24 Both Ms. and Mr. Heath demonstrated a fundamental lack of candor in this proceeding that demonstrates they are unlikely to comply with Commission regulations. Ms. Heath repeatedly used the pronoun “we” when referring to the Company’s operations,<sup>15</sup> which unambiguously demonstrated that both she and her husband are involved, despite her representations to the contrary. Her attempt to reconcile Mr. Lane’s statement of support and the testimony that Mr. Heath had not conducted prior moves as a misunderstanding lacks any credibility. Mr. Heath, for his part, testified that he performed household goods moves in 2011, then later stated, “I was never a household goods mover.”<sup>16</sup> He made equally inconsistent statements about the number and use of his box trucks. The Heaths’ false and misleading testimony demonstrates that they cannot be trusted to provide household goods moving services consistent with the public interest.

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<sup>14</sup> While Staff alleged in the Notice of Intent to Deny that Mr. Heath’s other convictions – assault in 2006 and theft in 2005 – would likely interfere with the proper operation of a household goods moving company and therefore disqualify Mr. Heath from obtaining a permit under WAC 480-15-302(8)(b), Staff did not advance any argument at hearing to support this allegation. The Commission is concerned, however, about the nature of Mr. Heath’s other felony convictions, which indicate a propensity for violence and dishonesty, particularly in light of Mr. Heath’s behavior at hearing. Mr. Heath’s contradictory statements made under oath, coupled with his numerous, aggravated outbursts, raise grave concerns about Mr. Heath’s fitness to operate as a household goods carrier in the event he were to submit an application in his own name now that the five-year period has expired.

<sup>15</sup> In Ms. Heath’s ex parte communication to Judge Pearson, she claimed her limitations with the English language caused her to confuse the pronouns “I” and “we.” We do not find this explanation credible.

<sup>16</sup> Larry Heath, TR 65:14.

25 Even viewed only on its face, the Application fails to demonstrate that Movers4U is fit or  
able to provide household goods moving services. Ms. Heath has no experience in the  
moving industry, does not have a driver's license, and has never driven a moving truck.  
Issuing a permit to an unqualified and inexperienced applicant would be contrary to the  
public interest.

26 **Decision.** Movers4U has failed to demonstrate its fitness and ability to operate as a  
household goods carrier. The Commission finds that the Company's Application is  
misleading; that Mr. Heath's 2010 felony conviction and outstanding Commission-issued  
penalty bar him from obtaining a permit under the Application before us; and that both  
Ms. Heath's and Mr. Heath's lack of credibility and fitness represent "other  
circumstances" that require denial of the Application.

27 Accordingly, Movers4U's Application for permanent authority to conduct intrastate  
moves within the state of Washington is denied.

### FINDINGS AND CONCLUSIONS

28 (1) The Washington Utilities and Transportation Commission is an agency of the  
State of Washington, vested by statute with authority to regulate rates, rules,  
regulations, and practices of public service companies, including household goods  
companies, and has jurisdiction over the parties and subject matter of this  
proceeding.

29 (2) The Application filed by Movers4U for authority to operate as a household goods  
moving company is misleading because it fails to disclose Mr. Heath's role in the  
ownership and operation of the Company.

30 (3) On August 31, 2010, Larry Heath was convicted of felony assault, which falls  
within the five year window that automatically bars an applicant from obtaining a  
permit.

31 (4) On January 25, 2012, the Commission assessed a \$5,000 penalty against Mr.  
Heath. To date, the penalty remains unpaid, which automatically bars Mr. Heath  
from obtaining a permit.

32 (5) Both Ms. Heath's and Mr. Heath's inconsistent and contradictory testimony at  
hearing demonstrate a lack of integrity, which constitutes "other circumstances"  
warranting denial of the Application.

- 33 (6) Movers4U failed to demonstrate that it is fit, willing, and able to provide household goods moving services.
- 34 (7) For each of the reasons set forth above, the Commission should deny Movers4U's Application for permanent authority to operate as a household goods carrier in the state of Washington.

**ORDER**

THE COMMISSION ORDERS THAT:

- 35 The Application filed by Annavilla L. Heath d/b/a Movers4U on May 26, 2015, for permanent authority to operate as a household goods carrier in the state of Washington is DENIED.

DATED at Olympia, Washington, and effective October 22, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge



### NOTICE TO 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*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of 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. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250