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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

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

BLESSED LIMOUSINE, INC.

№: TE-151667

MOTION FOR FINDING OF GOOD
CAUSE TO FILE UNTIMELY APPEAL
AND PETITION FOR ADMINISTRATIVE
REVIEW

(ORAL ARGUMENT IS REQUESTED)

COMES NOW Blessed Limousine, Inc. (the “Company”), by and through its attorney of record, David Ruzumna, of the Law Office of David Ruzumna, PLLC, and files this Petition for Administrative Review. The Company recognizes that the Initial Order for which review is sought was entered on December 7, 2015; the Company also acknowledges that WAC 480-07-825(2) provides a 20 day window (from the date of entry) within which a Petition for Administrative Review can be filed. However, the Company has ample good cause on the basis of which 20 day time period should be expanded.

I. MOTION FOR GOOD CAUSE FINDING

1.1 THE TEXT OF WAC 480-07-825 CONTEMPLATES CIRCUMSTANCES AMOUNTING TO GOOD CAUSE TO EXPAND THE 20 DAY FILING PERIOD

WAC 480-07-825(2) governs the timing of Petitions for Administrative Review following an adjudicative proceeding, and requires such petitions to be filed within twenty days after the initial order is served. But 480-07-825(2) goes on to allow the commission to extend the time on a showing of good cause.

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2 **1.2 WAC 480-07-150(3) CONTEMPLATES SERVICE ON AND TO THE PERSON OR**
3 **ENTITY, AT THE ADDRESS SPECIFIED FOR SUCH PERSON OR ENTITY; THE**
4 **COMPANY WAS NOT SERVED AT ITS DESIGNATED ADDRESS.**

5 WAC 480-07-150(3)-(4) provides that:

6 (3) **Person to receive service of orders.**

7 The commission will serve orders in adjudicative proceedings upon the party's representative
8 and also on the party. Therefore, all parties must provide the name and mailing address of a person
9 for purposes of direct service on the party.

10 (4) **Contact information.** Each party must supply the following information about every
11 individual that it names to receive service:

- 12 (a) Name.
- 13 (b) Mailing address.
- 14 (c) Telephone number.
- 15 (d) Fax number, if any.
- 16 (e) E-mail address, if any.
- 17 (f) Relationship to party (e.g., executive director, etc.).

18 Here, the Company President provided his notice address (in Fife, Washington) at the time of the
19 hearing.¹ The Initial Order (for which the Company seeks administrative review) was apparently served to a
20 Tukwila address, contrary to the purpose of 480-07-150(3)-(4).²

21 **1.3 IN THE NORMAL COURSE, ORDERS ARE MAILED ON OR ABOUT THE DATE OF**
22 **ENTRY. HAD THIS BEEN DONE, THE PRESENT PETITION FOR**
23 **ADMINISTRATIVE REVIEW WOULD BE TIMELY**

24 According to the docket,³ the Initial Order was not served on the Company's address of record until
25 12/21/2015; accordingly, the Company has until 1/11/2016 to file its Petition for Administrative Review.⁴

26 ¹ See Ver Batim Report of Proceedings (hereinafter "VRP") at p. 5-6.

² See the subjoined Declaration of David Ruzumna (hereinafter the "Ruzumna Dec.") and Exhibit A thereto.

³ See Ruzumna Dec. and Exhibit A.

⁴ 1/10/2016 would be the 20th day following service, but 1/10/2016 is a Sunday; accordingly, Monday, January 11, 2016 should be treated as the deadline by which the Company's Petition must be filed.

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1.4 BECAUSE THE INITIAL ORDER WAS NOT SENT TO THE CORRECT ADDRESS OF RECORD FOR THE COMPANY, THE COMPANY HAS ESTABLISHED GOOD CAUSE TO ALLOW THE FILING OF A PETITION FOR ADMINISTRATIVE REVIEW BEYOND THE 20 DAY TIME FRAME

If the “good cause” exception contained within the last sentence of WAC 480-07-825(2) is to have any meaning, then it should be applied by the Commission to extend the date by which the Company must file its Petition for Administrative Review to January 11, 2016, which is 20 days after the eventual date of service at the Company’s address of record.

II. PETITION FOR ADMINISTRATIVE REVIEW

On the assumption that the Commission will allow the Company to file its Petition for Administrative Review of the 12/7/2015 Initial Order, this §II shall constitute the Company’s Petition.

2.1 THE COMPANY WAS DENIED BASIC DUE PROCESS WHEN IT WAS FORCED TO PROCEED WITHOUT COUNSEL

To say that the hearing in this case got off to a rough start is understatement. After giving an extensive description of the applicable law and legal basis for conducting the hearing, the ALJ asked Mr. Bagby if he had any questions before the hearing proceeded:

JUDGE PEARSON: Do you have any questions before we proceed?

MR. BAGBY: Yep, I need a lawyer, but since you're going to walk me through it, I'm going to just...

JUDGE PEARSON: Okay. So did that all make sense to you, then?

MR. BAGBY: It would make more sense if I had some counsel sitting next to me.

JUDGE PEARSON: Okay. That was a yes or no question. Do you understand how we are going to proceed, with Staff presenting its case, you having the opportunity to ask questions, you presenting your case, Staff having the opportunity to ask questions?

MR. BAGBY: I'm understanding you're walking me through it.

JUDGE PEARSON: Okay. You need to answer my question.

MR. BAGBY: I just did.

JUDGE PEARSON: Did what I just said

1 make sense to you?

2 **MR. BAGBY:** You said you are going to
walk me through it.

3 **JUDGE PEARSON:** Okay. You are being
argumentative, **MR. BAGBY** --

4 **MR. BAGBY:** No, I'm not.

5 **JUDGE PEARSON:** -- which I don't
appreciate. I asked you a very simple question.

6 **MR. BAGBY:** I'm --

7 **JUDGE PEARSON:** Do you understand the
instructions --

8 **MR. BAGBY:** I'm allowing you --

9 **JUDGE PEARSON:** -- that I just --

10 **MR. BAGBY:** -- to walk me --

11 **JUDGE PEARSON:** -- gave to you?

12 **MR. BAGBY:** -- through it, ma'am.

13 **JUDGE PEARSON:** And you need to not
speak over me.

14 Do you understand what I just explained to you
about how this process is going to work?

15 **MR. BAGBY:** Yes, ma'am, I am allowing
you to --

16 **JUDGE PEARSON:** Okay. Thank you.

17 **MR. BAGBY:** -- walk me through it.

18 **JUDGE PEARSON:** That's all I needed.

19 Mr. O'Connell, you can proceed when you are
ready.⁵

20 That Mr. Bagby needed counsel in order to have a meaningful hearing was apparent throughout
21 the Commission Staff's presentation of its case. Beginning with the first exhibit, the ALJ's exchanges
22 with Mr. Bagby became increasingly terse:

23 [after Staff Counsel's attempt to admit its first exhibit]:

24 **JUDGE PEARSON:** **MR. BAGBY,** do you have
any objection to this exhibit being entered into the
record?

25 **MR. BAGBY:** I wouldn't know. I wouldn't
know the difference.

26 **JUDGE PEARSON:** It's a copy of your
business license. Are you looking at it in the --

27 **MR. BAGBY:** I wouldn't know the
difference.

28 **JUDGE PEARSON:** So you are not
objecting?

29 ⁵ See VRP at 11-12.

1
2 **MR. BAGBY:** I wouldn't know the
3 difference.

4 **JUDGE PEARSON:** I will go ahead and
5 admit the exhibit marked PS-1 into the record.⁶

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Later, with respect to the Commission Staff's exhibit PS 2:

JUDGE PEARSON: Okay. So this
investigation report just documents what is in the
complaint, which is what Ms. Smith is going to testify
about with respect to the advertisements and the
offers for service that she received. If you don't
have any objection, I am going to admit that into the
record at this time.

You have no objection?

MR. BAGBY: I totally object, but I --
if you're going to walk me through it and put it in
there, I'm going to let you.

JUDGE PEARSON: On what grounds do you
object?

MR. BAGBY: I object to the fact that I
had never received it, haven't seen it. And the
grounds, I'm not going to -- I don't have the exact
grounds, but I totally object.

JUDGE PEARSON: Okay. I am going to go
ahead and overrule your objection --

MR. BAGBY: Okay.

JUDGE PEARSON: -- and admit it into the
record and mark it as Exhibit PS-2...⁷

Again, upon Commission Staff's motion to admit exhibit PS-16:

JUDGE PEARSON: Okay. **MR. BAGBY,** do you
have any objection to --

MR. BAGBY: Would it do any good?

JUDGE PEARSON: If you have an objection
and you want to state it, you are welcome to.

MR. BAGBY: I'm just going to continue
to be walked through it.

JUDGE PEARSON: So is that a "no"?

MR. BAGBY: I'm just going to continue
to be walked through it.

JUDGE PEARSON: You need to tell me
whether you have an objection or not to admitting this

⁶ See VRP at 18

⁷ See VRP at 24-25.

1 into the record.

2 **MR. BAGBY:** Okay. I object.

3 **JUDGE PEARSON:** Okay. On what basis?

4 **MR. BAGBY:** The basis that I don't
5 know -- what is it that you are putting in?⁸

6 The examples go on and on in this vein. On at least two occasions, the ALJ admitted exhibits
7 into evidence *before commission counsel even sought to have them admitted*. After offering PS-11 as an
8 exhibit (and following another exchange between the ALJ and Mr. Bagby), the ALJ admitted PS11 as
9 well as PS 12.⁹ Likewise, after the commission counsel offered PS 13 as an exhibit, the ALJ admitted
10 PS 13 and PS 14.¹⁰

11 The ALJ acknowledged on the record that Mr. Bagby had made a request for a continuance and
12 on the record denied that motion without any explanation.¹¹ Unfortunately, there is no record of the
13 request for a continuance, but all parties seemed to agree that a motion for a continuance was made. In
14 fact, commission staff felt duty bound to memorialize his interactions with Mr. Bagby, who was
15 obviously unrepresented by counsel.¹²

16 **2.2 THE UNCONTESTED EVIDENCE ESTABLISHES THAT THE COMPANY NEITHER
17 OWNS NOR OPERATES ANY VEHICLES REQUIRING CERTIFICATION AS A
18 CHARTER PARTY OR EXCURSION SERVICE CARRIER. THE ALJ ERRED IN
19 CONCLUDING OTHERWISE.**

20 It is uncontested that Blessed Limousine neither owns nor operates any vehicle that would
21 require the charter party carrier or excursion service carrier certification. The ALJ seemed to express an
22 understanding of the relevance of Blessed Limousine simply acting as a broker by “farming out” such

23 ⁸ See VRP at 26.

24 ⁹ See VRP at 51.

25 ¹⁰ See VRP at 55.

26 ¹¹ See VRP at 8.

¹² See VRP at 7.

1 jobs, as opposed to actually operating charter vehicles.¹³ In the Initial Order, however, the ALJ
2 concluded that “Mr. Bagby’s claim that he ‘subcontracts’ the charter party and excursion carrier
3 services, even if true, has no bearing on whether the Company’s conduct violates applicable law.”¹⁴
4

5 **2.3 THE ALJ ERRED AS A MATTER OF LAW WHEN SHE *SUA SPONTE* IMPOSED**
6 **PENALTIES IN EXCESS OF THE COMMISSION COUNSEL’S REQUEST.**

7 The Company acknowledges that the fines imposed were within the statutory maximum. But
8 even in the notice of the nature and scope of the hearing that the Company could expect, the “relief
9 requested” by the commission should have delimited the scope of the remedy actually imposed. The
10 ALJ’s *sua sponte* imposition of penalties in excess of what was requested relied on no new or previously
11 unknown factors or information. This was tantamount to a plaintiff who asks for a \$10,000 damage
12 award being awarded \$100,000.

13 **2.4 THE ALJ ORDERED THAT CLUSSIE AND GENISE BAGBY BE HELD JOINTLY AND**
14 **SEVERALLY PERSONALLY LIABLE FOR THE MONETARY PENALTY SHE**
15 **IMPOSED. THERE IS NO BASIS TO IMPOSE PERSONAL LIABILITY ON THE**
16 **BAGBYS WHEN ONLY THE COMPANY WAS PARTY TO THE PROCEEDINGS.**

17 The ALJ had before her a proceeding with one named party: Blessed Limousine. Neither Mr.
18 Bagby nor Mrs. Bagby were named parties to the proceeding. Imposition of personal liability - joint and
19 several with the Company - was not authorized by any basic notion of due process.
20

21 **III. REQUEST FOR RELIEF**

22 3.1 Blessed Limousine, Inc. requests that the ALJ’s order be reversed in its entirety. The act
23 of brokering transportation services by “farming out” such services to parties who *are* certified and
24 licensed to provide such services does not run afoul of any law or regulation, and the commission has no
25

26 ¹³ See VRP at 67-70. See also Initial Order at p. 2, ¶6.

¹⁴ See Initial Order at p. 4, ¶13.

1 basis for requiring licensure of such brokers. There is no set of potential circumstances where any
2 member of the public could be subjected to risk on the basis that Blessed Limousine lacks the charter
3 certificate, because the actual vehicles on the ground are owned and operated by licensed/certificated
4 charter services.

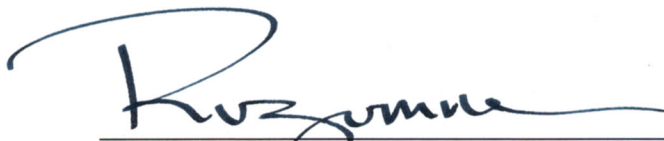
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6 3.2 If the Order is not reversed in its entirety, Blessed Limousine Requests that the Initial
7 Order be Vacated, and that the Company be afforded a new hearing, before a different ALJ, where the
8 company could be represented by counsel.

9
10 3.3 If the Initial Order is not reversed in its entirety, and if the Company is not given a new
11 hearing, then the Company requests, alternatively, that the penalty imposed be reduced to the amount
12 requested by commission counsel in this quasi-judicial, adversarial proceeding.

13
14 3.4 If each of the three foregoing requests for relief are denied, then at a minimum the Initial
15 Order must be amended to vacate any imposition of personal liability against the two non-named
16 individual witnesses for the Company, i.e., Mr. and Mrs. Bagby. The penalty, if any is to be imposed,
17 should be borne by the Company, and not by any of the Company's individual officers or shareholders.

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RESPECTFULLY SUBMITTED this 5th day of January, 2016.

LAW OFFICE OF DAVID RUZUMNA, PLLC:



David Ruzumna, WSBA #27094
2442 NW Market Street, Suite 575
Seattle, WA 98107
Fax: (206) 973-1031
Tel: (206) 985-8000

1
2 I, David Ruzumna, Declare as follows:

3 1.1 I am over the age of 18, have knowledge of the facts set forth below, and am
4 competent to testify thereto.

5 1.2 I am an attorney licensed to practice law in the state of Washington and have been
6 so licensed since October 1997. I have also been licensed to practice law in the United States District
7 Court for the Western District of Washington since April 2000. Furthermore, since February 2010, I
8 have been licensed to practice before the United States Court of Appeals for the 9th Circuit.

9 1.3 I am the attorney of record for Blessed Limousine, Inc., a Washington
10 corporation.

11 1.4 Attached hereto as Exhibit A is a true and correct printout of a portion of the
12 docket in this case, which I obtained January 5, 2016 from the UTC website.

13 I SWEAR UNDER PENALTY OF PERJURY THAT THAT THE FOREGOING DECLARATION IS TRUE AND CORRECT
14 TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. THIS DECLARATION IS SUBMITTED IN LIEU OF AN
15 AFFIDAVIT UNDER RCW 9A.72.085.

16 DATED at Seattle, Washington, this 5th day of January, 2016.

17 
David Ruzumna

Search for filings

Search:

Filing TE-151667

Documents Schedule Orders

Filing type: Assessment (penalty)

Company:

Entry Type: Certified Card

Entry Date: 12/21/2015

Description: Signed certified card addressed to Blessed Limousine, Inc., 14203 56th Avenue SE, Tukwila, WA 98168, signature not dated, which delivered Order 02, dated December 07, 2015. (Updated address provided: 3932 62nd Ave Ct. E, Fife, WA 98424).

Electronic Documents