

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

BM LOGISTICS LLC d/b/a BOGDAN
MOVERS,

Respondent.

DOCKETS TV-170746 and TV-190023
(Consolidated)

JOINT NARRATIVE SUPPORTING
SETTLEMENT AGREEMENT

I. INTRODUCTION

1 This Joint Narrative Supporting Settlement Agreement (Narrative) is filed pursuant to Washington Administrative Code (WAC) 480-07-740(3)(a) on behalf of BM Logistics LLC d/b/a Bogdan Movers (Bogdan Movers or Company) and Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, “the Parties”). The Parties have signed the settlement agreement (Agreement), which is being filed concurrently with this Narrative. This Narrative summarizes the Agreement. It is not intended to modify any terms of the Agreement.¹

II. PROPOSAL FOR REVIEW PROCEDURE

2 In accordance with WAC 480-07-740, the Parties propose the following settlement consideration procedure for review of the proposed Agreement. The Parties believe that this matter is a less complex matter under WAC 480-07-740(2)(b). Accordingly, the Parties submit that conducting a hearing will not assist the Commission to decide whether to approve

¹ For clarity, no reference to “Bogdan Movers” in this settlement agreement or the supporting joint narrative shall be interpreted or construed to apply to Movable, LLC d/b/a Bogdan Movers.

and adopt the settlement because of the limited scope of the incident and Bogdan Movers's cooperation with Staff. *See* WAC 480-07-740(2)(e).

3 If the Commission conducts a hearing, however, the Parties will present one or more witnesses to testify in support of the Agreement and to answer questions concerning the Agreement's details, costs, and benefits. *See* WAC 480-07-740(3)(b). In addition, counsel for each party will be available to address any legal matters associated with the Agreement. The Parties intend to file one document (Attachment A) supporting the Agreement, in addition to the Agreement itself and this Narrative. If the Commission requires supporting documents beyond the Agreement, Narrative, and the other documents on file in this docket, the Parties will provide documentation as needed.

III. APPLICABLE LAW

4 RCW 81.80.010(5) defines a "household goods company" in part as a "person [or company] who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission." RCW 81.80.010(8) further defines a "person" to include a "company or corporation." Under RCW 81.80.075(1) a person may not "engage in business as a household goods carrier without first obtaining a household goods carrier permit from the commission." RCW 81.80.075(4) states that "any person who engages in business as a household goods carrier in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation."

IV. SCOPE OF THE UNDERLYING DISPUTE

5 On October 25, 2017, the Commission entered Order 02 in Docket TV-170746. Order 02 classified Bogdan Momotyuk d/b/a Bogdan Delivery, LLC as a household goods carrier

and imposed a \$5,000 penalty with \$4,000 suspended on the condition that Bogdan Momotyuk refrain from operating as a household goods carrier without Commission authority for a period of two years.

6 In 2017, Bogdan Movers commissioned the design of the website
www.bogdanmovers.com.

7 On November 11, 2017, the Commission granted a household goods permit THG-067948 to Bogdan Movers. Bogdan Momotyuk was listed as the CEO of Bogdan Movers in his application for a household goods permit.

8 On September 13, 2018, Bogdan Movers' household goods permit THG-067948 was cancelled for failure to maintain insurance as required because Bogdan Movers was no longer conducting business.

9 In October 2018, Bogdan Momotyuk transferred the website www.bogdanmovers.com to Movable, LLC. However, Bogdan Mover's website was not immediately updated to reflect the change in ownership.

10 On January 8, 2019 the website www.bogdanmovers.com mistakenly displayed the cancelled household goods transportation permit THG-067948 after Bogdan Movers had intended for the website to have been transferred to new owners;

11 On January 21, the Commission issued a complaint against Bogdan Movers for operating as a household goods carrier without Commission authority under Docket TV-190023.

12 On February 26, 2019, the Commission issued an order consolidating the Docket TV-190023 complaint with the suspended penalty matter from Docket TV-170746 and set the consolidated matter for hearing on March 27, 2019.

13 On March 27, 2019, the Parties agreed to the terms of the Agreement in regard to the disputed violations in this consolidated Docket. The Agreement contains the complete terms of the Parties' settlement.

V. DESCRIPTION OF SETTLEMENT AGREEMENT

14 The Agreement resolves all of the issues in dispute. The Parties agree to the following terms set forth in the Agreement:

- Violations: Bogdan Movers admits that the facts contained in the joint narrative and Attachment A could be construed as advertising as a household goods carrier on January 8, 2019 without the required authorization by the Commission in violation of RCW 81.80.075(1). Bogdan Movers further admits that this violation would then constitute a violation of the terms of the suspended penalty as described in TV-170746 Order 02. In the interest of expediency and to avoid the costs associated with a hearing, Bogdan Movers agrees to pay the penalties associated with the violations as described below.
- Dismissed Claim: Staff admits there is insufficient evidence to support the allegation that Bogdan Movers offered to provide household goods services on January 8, 2019. Staff agrees to withdraw this claim.
- Monetary penalty: The Commission will impose a penalty of \$5,000, with \$4,000 suspended for a period of two years from the effective date of the Commission order approving this settlement, based on the advertising violation. The suspended penalty will be waived after the two year period provided that Bogdan Movers refrains from operating as a household goods carrier, including advertising, without prior authorization from the Commission. The Commission will also

impose the \$4,000 suspended penalty from Docket TV-170746. In the interest of resolving this matter without further undue burden and expense, Bogdan Movers will pay the \$5,000 within 30 calendar days of a Commission order approving the Agreement.

- Future enforcement of allegations set forth in complaint: Staff confirms that it will not pursue further enforcement against Bogdan Movers arising out of any of the allegations set forth in Docket TV-190023.

VI. STATEMENT OF IMPACT ON THE PUBLIC INTEREST

15 The Parties find it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated outcome. Likewise, it is in the public interest that this dispute conclude without the further expenditure of public resources or litigation expenses.

16 In accordance with WAC 480-07-740-750, the Parties believe the Agreement is in the public interest and appropriate for the Commission's acceptance without conditions under WAC 480-07-750(2)(a) for three reasons. First, the penalty amount is the maximum amount allowed for the asserted violation. Second, given that Bogdan Movers has sold its company and trade name to another company, there is a low likelihood that the company will continue to operate as a household goods carrier without Commission authorization. Third, the suspended penalty will create an incentive for Bogdan Movers to comply with the terms of the settlement and cease providing household goods services without Commission authorization.

17 The Commission has formally expressed its support for negotiated resolutions of enforcement actions. The rule states, "The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and

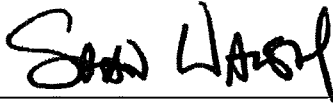
consistent with the public interest . . .” WAC 480-07-700. For the reasons stated above, the Parties contend that their Agreement is lawful and consistent with the public interest.

VII. CONCLUSION

18 The Agreement resolves all of the issues in this docket and the Parties submit that their resolution complies with applicable legal requirements and is consistent with the public interest. The Parties respectfully request that the Commission issue an order approving the Agreement in its entirety.

DATED this 30th day of April 2019.

BM LOGISTICS LLC d/b/a BOGDAN
MOVERS
COMPANY



SEAN WALSH, WSBA No. 39735
Owada Law, PC
975 Carpenter Road NE, Suite 204
Lacey, WA 98516
sean.walsh@owadalaw.net
Attorney for Bogdan Movers

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON
Attorney General



HARRY FUKANO, WSBA No. 52458
Assistant Attorney General
(360) 664-1225
harry.fukano@utc.wa.gov
Attorney for Commission Staff