

Sept. 1, 2006

Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: Penalty Assessment No: TE-060868

Your Honorably Moss:

My name is Ruthann Bacon. It appears that I am the primary violator in the aforementioned action. Please allow me to explain my situation and pray upon your honor to please waive, or, reduce these charges.

I have been a bus driver for close to 21 years. My experience in transportation has been strictly with public transportation – Pierce Transit – to be exact. Before I became employed with SeaTac Motor Coach, I had never heard of a “Log Book” let alone how to fill one out. When I was made aware that I would have to keep a log book, I asked several different people how to fill one out and got several different answers. To this day I still am not totally clear on how to do it properly.

My biggest mistake was listening to my boss, John Brehmer. He told me all the ways to do it illegally and none of the ways to do it right, basically so he could keep me on the road. His instructions were that “When I’m not physically driving, then I could show off duty.” In April and continuing thru June, I was providing shuttle service at Mery Moore park in Redmond for Cirq du Soliel. At that time we were short drivers and Mr. Brehmer had me working double shifts, sometimes 20 hour days. He would advise me to not start my log book until I would start the second shift. I didn’t think it sounded right, but I didn’t really know since I wasn’t clear on proper procedure. I did contact Tom McVaugh on occasion and ask his advice. In all my years in transportation, I’ve never had to worry about the laws regarding driving hours as I have always had a reputable boss, and was never on the road more than 10 hours.

I admit that my ignorance is no excuse. However, having never been required to provide a log book, and without proper instruction, I tried to do my best.

Mr. Brehmer was terminated from SeaTac MotorCoach on August 29, 2006. I have since taken over his position. In going through his desk, I found this Penalty Assessment. I had not seen it previously, nor had the owner of the company. He hid this, amongst other things, from many. At that time I immediately called Mr. Mc Vaugh to seek his advice on what I should do.

We are a small company with only a handful of drivers. Mr. Brehmer managed this company with little regard for anyone other than himself. Drivers were not given proper training in any aspect of the job. We were put behind the wheel and told to go. It is my intent to turn this company around the right way. I have asked Mr. McVaugh if he would please attend a safety meeting that I intend to provide for my drivers to instruct us on the proper way to fill out a log book. I myself drive only when I have no other drivers.


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OFFICE OF THE
ATTORNEY GENERAL

In addition to Mr. Brehmer's termination, we have hired Mr. Jeff Davis owner of Diamond West Transportation. Mr. Davis is extremely knowledgeable in every aspect of operating a bus company. With his help, it is my intent to put this company where it should be.

If your Honor does not see fit to waive or reduce this penalty, I will ask that you allow us to make payments. As I mentioned, we are a small company and the penalty assessed will only hurt us further. Mr. Brehmer left is in a less than favorable financial situation. It is going to take time for us to struggle out from under the problems he caused and turn it around. I am working very hard to keep our doors open and our buses on the road.

Thank you for taking the time to read this and for your consideration.

Very sincerely yours,

A handwritten signature in cursive script that reads "Ruthann Bacon". The signature is written in black ink and is positioned above the typed name.

Ruthann Bacon
8414-B 27th St. West
University Place, WA 98466

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT NO: TE-060868

PENALTY AMOUNT: \$2,900

CHARTER PASSENGER CARRIER:

SeaTac Motor Coaches, LLC

Post Office Box 38

Puyallup, Washington 98371

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-40-070, which adopts by reference Code of Federal Regulations (CFR) Part 395.5(a)(1), requiring or permitting a passenger commercial motor vehicle driver to drive more than 10 hours following eight consecutive hours off duty; WAC 480-40-070, which adopts by reference CFR Part 395.5(a)(2), requiring or permitting a passenger commercial motor vehicle driver to drive after 15 hours on duty following eight consecutive hours off duty; and WAC 480-40-070, which adopts by reference CFR Part 395.8(e), requiring or permitting a driver to make false reports of records of duty status. 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 \$2,900, as follows:

On May 2 and 8, 2006, Investigator Tom McVaugh inspected your records for the months of March and April 2006. Specifically, Mr. McVaugh reviewed log books, payroll records, driver's work orders and fuel receipts. Mr. McVaugh documented violations including falsely recording drivers' duty status, violations of the 10-hour driving rule and the 15-hour on-duty rule. Mr. McVaugh found the company falsely recorded hours in the driver's log books. Consequently, log books did not reflect actual hours worked as indicated by the payroll records. The penalty assessed against you is for:

- Seventeen violations of WAC 480-40-070, which adopts by reference Title 49, CFR Part 395.8(e), requiring or permitting a driver to make false reports of records of duty status.
- Seven violations of WAC 480-40-070, which adopts by reference Title 49, CFR Part 395.5(a)(1), requiring or permitting a passenger commercial motor vehicle driver to drive more than 10 hours following eight consecutive hours off duty.

- Five violations of WAC 480-40-070, which adopts by reference Title 49, CFR Part 395.5(a)(2), requiring or permitting a passenger commercial motor vehicle driver to drive after 15 hours on duty following eight consecutive hours off duty.

See attached Appendix A for a complete and detailed list of violations identified during the inspection.

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 July 27, 2006.


DENNIS J. MOSS
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT, Docket No. TE-060868

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 \$2,900 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:
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
- a) I ask for a hearing for a decision by an administrative law judge
- 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: Sept. 1, 2006 [month/day/year], at Puyallup, Washington
[city, state]

SEATAAC MOTORCOACH
Name of Respondent (company) – please print

Ruthard Bacon
Signature of Applicant

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

Driver Ruthann Bacon

- A. Title 49, Code of Federal Regulations Part 395.8(e), for requiring or permitting a driver to make false reports of records of duty status.

False reports of records of duty status.

1. March 2, 2006

- Ms. Bacon's drivers' work order reflects she arrived at Tyee at 1555 hours and departed at 1600 hours. The work order also reflects she arrived at and departed from Newport at 1605 hours.
- Contradicting the drivers' work order, the log book reflects Ms. Bacon on-duty and driving between Puyallup, Washington, with no change of duty status from 1445 hours until 1745 hours.

2. March 3, 2006

- Ms. Bacon's drivers' work order reflects she arrived at Puyallup, Washington, at 1615 hours and departed Puyallup at 1630 hours.
- Contradicting the driver's work order, the log book reflects she was off-duty from 1445 hours until 2400 hours on this same day.

3. March 23, 2006

- Ms. Bacon's drivers' work order reflects she departed a hotel in Yakima, Washington, at 1845 hours and arrived at the Best W/AHS at 1900 hours.
- Contradicting the drivers' work order, the log book reflects Ms. Bacon off-duty from 1815 hours until 2400 hours for the same day.

4. April 1, 2006

- Ms. Bacon's payroll record reflects her time in at 1800 hours and her time out at 0415 hours the next day, April 2, 2006.
- Contradicting the payroll record, the log book reflects she started on-duty at 1815 hours and went off duty the next day, April 2, 2006, at 0430 hours. The total on-duty time for April 1, 2006, was four hours and the total on-duty time for April 2, 2006, was 4.5 hours. Total on-duty time for both days was 8.5 hours, a difference of one and three-quarter hours from the total of 10.25 hours indicated on payroll records.

5. April 2, 2006

- Ms. Bacon's payroll record dated April 2, 2006, reflects her time in at 2000 hours and her time out at 0600 hours on April 3, 2006.
- Contradicting the payroll record, Ms. Bacon's drivers' log book for April 2, 2006, reflects she was on-duty driving at 0001 hours and went off-duty at 0430 hours for the rest of the day.

6. **April 3, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 0800 hours and timed out at 1730 hours, for a total of 9.5 hours of on-duty time.
 - Contradicting the payroll record, Ms. Bacon's drivers' log book reflects on-duty driving at 0001 hours and going off-duty at 0600 hours, for a total of six hours of on-duty time.
7. **April 4, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 0200 hours and timed out at 1430 hours, for a total of 12.5 hours of on-duty time.
 - Contradicting the payroll record, Ms. Bacon's log book reflects she was on-duty at 0230 hours and off-duty at 1400 hours, for a total of 11.5 hours of on-duty time.
8. **April 7, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 0745 hours and timed out at 0100 hours, for a total of 17.25 hours of on-duty time.
 - Contradicting the payroll record, Ms. Bacon's log book reflects she went on-duty at 0215 hours and off-duty at 2400 hours, for a total of 5.25 hours of on-duty time.
9. **April 8, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 0700 hours and timed out at 2330 hours, for a total of 16.5 hours of on-duty time.
 - Contradicting the payroll record, the log book reflects she went on-duty at 0045 hours and went off-duty at 2330 hours, for a total of 12.25 hours of on-duty time.
10. **April 9, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 0945 hours and timed out at 2245 hours, for a total of 13 hours of on-duty time.
 - Contradicting the payroll record, the log book reflects she went on-duty at 1015 hours and went off-duty at 2245 hours, for a total of 7.25 hours of on-duty time.
11. **April 13, 2006**
 - Ms. Bacon's payroll record reflects she timed in at 1200 hours and timed out at 2200 hours, for a total of 10 hours of on-duty time.
 - Contradicting the payroll record, the log book reflects she went on-duty at 1230 hours and went off-duty in Kennewick, Washington, at 2200 hours, for a total of 7.75 hours of on-duty time.

12. April 14, 2006

- Ms. Bacon's payroll record reflects she timed in at 1200 hours and timed out at 2200 hours, for a total of 10 hours of on-duty time.
- Contradicting the payroll record, the log book reflects she went on-duty at 0815 hours and went off-duty in Richland Washington, at 2215 hours, for a total of 1.75 hours of on-duty time.

13. April 15, 2006

- Ms. Bacon's payroll record reflects she timed in at 0745 hours and timed out at 0230 hours, for a total of 18.75 hours of on-duty time.
- Ms. Bacon's drivers' work order reflects she left North Bend, Washington, at 2045 hours and arrived at a school at 0030 hours on April 16, 2006.
- Contradicting the payroll record and the drivers' work order, the log book reflects she went on-duty at 0745 hours and went off-duty at 2200 hours, for a total of eight hours of on-duty time.

14. April 16, 2006

- The payroll record reflects Ms. Bacon was off-duty, contradicting the April 15, 2006, drivers' work order which reflects Ms. Bacon arrived at a school at 0030 hours on April 16, 2006.

15. April 26, 2006

- Ms. Bacon's drivers' work order reflects she arrived at Redmond, Washington, at 2000 hours and departed Redmond at 2330 hours.
- Contradicting the drivers' work order, Ms. Bacon's log book reflects she was off-duty at 1930 hours until 2330 hours at an unknown location.

16. April 29, 2006

- Ms. Bacon's drivers' work order reflects she arrived at Puyallup, Washington, for MaryMoor relief at 1200 hours, and then later arrived at Redmond, Washington, at 1400 hours and departed Redmond at 2215 hours.
- Contradicting the drivers' work order, the log book reflects she was off-duty from 0001 hours until 1730 hours at an unknown location.

17. April 30, 2006

- Ms. Bacon's drivers' work order reflects she arrived in Puyallup, Washington at 1200 hours, using a relief vehicle and departing Puyallup, Washington, at 1215 hours, arriving at MaryMoor at 1330 hours and departing MaryMoor at 2330 hours.
- Contradicting the drivers' work order, the log book reflects she was off-duty from 0001 hours until 1730 hours.

B. Title 49, Code of Federal Regulations Part 395.5(a)(1), Requiring or permitting passenger commercial motor vehicle driver to drive more than 10 hours after eight consecutive hours off-day:

1.	Bacon, Ruthann	April 27, 2006	¾ hour over
2.	Bacon, Ruthann	April 28, 2006	9 hours over
3.	Bacon, Ruthann	April 25, 2006	¼ hour over
4.	Bacon, Ruthann	April 26, 2006	18.5 hours over
5.	Bacon, Ruthann	April 4, 2006	½ hour over
6.	Bacon, Ruthann	April 8, 2006	1 ¼ hours over
7.	Fanson, Paul	March 30, 2006	1 ¾ hours over

C. Title 49, Code of Federal Regulations Part 395.5(a)(2), Requiring or permitting passenger commercial motor vehicle driver to drive after 15 hours on duty after eight consecutive hours off-duty:

1.	Bacon, Ruthann	April 28, 2006	11.50 hours after 15 hours on duty
2.	Bacon, Ruthann	April 27, 2006	10.75 hours after 15 hours on duty
3.	Bacon, Ruthann	April 26, 2006	8.50 hours after 15 hours on duty
4.	Fanson, Paul	April 25, 2006	1.25 hours after 15 hours on duty
5.	Fanson, Paul	March 18, 2006	1.50 hours after 15 hours on duty