

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-110698

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 \$600 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,

Please see attached

- OR a) I ask for a hearing for a decision by an administrative law judge
- b) I waive a hearing and ask for an administrative decision on the information I present directly above.

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: 5/14/11 [month/day/year], at Poulsbo, WA [city, state]

Agate Pass Transportation, LLC
Name of Respondent (company) - please print

[Signature]
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."

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Agate Pass Transportation, LLC

PO BOX 1142, KINGSTON, WA 98346-1142 360-981-2022 or 877-981-2022 E-MAIL: INFO@AGATEPASSBUS.COM

Washington Utilities & Transportation Commission
Fax No: 360-586-1150

May 14, 2011

To Whom it May Concern:

I would like to request a mitigation hearing in the matter of Penalty Assessment TE-110698. We certainly did not set out to circumvent the rules regarding random testing, and only missed doing it due to circumstances beyond our control in 2010. We understand the intent of the law, but following it is VERY difficult for companies such as Agate Pass Transportation, which employs only part-time, on-call drivers, and no other personnel.

We have worked very hard to meet the requirements for random testing for alcohol and drugs at Agate Pass Transportation, LLC. However, it is very difficult to do with the type of operation we have. We have tried several options to meet the obligations of the rules, but inadvertently came up short anyway. And we are still struggling to come up with a system which will meet our testing goals, while keeping a sufficient pool of people to call upon to do our work, and remain solvent at the same time.

This time of year, funds are VERY tight for this business, and an additional \$600 is simply not available at this moment if we are to keep the doors open and meet our other ongoing obligations as well. Not the least of our recent expenses has been the need to pay nearly \$400 to a different drug testing in an effort to get our tests current, and in the proper format for the commission. Whether the new supplier meets our obligations remains to be seen, but they come highly recommended as one of the options suggested by your inspectors.

Agate Pass was established to provide services primarily in Kitsap County, which had previously been handled by the local transit agency, Kitsap Transit. These include community and private event shuttle buses for festivals, weddings, fairs and meetings. We have also tried to run some local tours on Bainbridge Island, without much success, and have had a contract to provide bus shuttle service on Snoqualmie Pass for Washington State Parks.

However, due to a decision by WUTC staff, we were prohibited from continuing that service in 2008, just when it had begun to show a profit. Yet while the commission changed rules to allow us to resume that operation, the trail we were serving has been closed by washouts for the past two years, meaning we could not run the service anyway, so the equipment sat unused. These factors alone have resulted in tremendous financial losses to my company, (as have the tough economic times from which the State of Washington as a whole has barely begun to recover.) We are only now getting bookings for the summer 2011 season, after a winter of continuing expenses without sufficient income to cover them.

The nature of our business is highly seasonal, and primarily done only on late spring, summer and late fall weekends. There isn't sufficient regular work for us employ full-time drivers. In fact, we have NO full-time employees. I am the only person in the office, and I myself still work full-time, splitting shifts at Kitsap Transit to support myself and continue my own health and wellness coverage. I spend two to three hours a day doing paperwork, answering phones, and servicing the Agate Pass buses to try to keep the part time company I've invested in running. I seldom drive myself, as I just have no more hours available to meet "hours of service" laws.

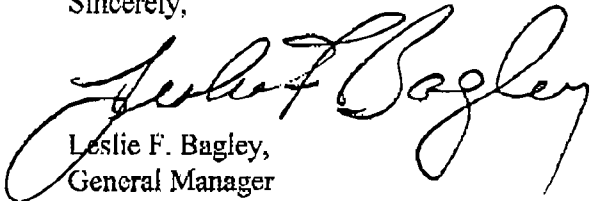
Please note, I have never taken a salary, or even a penny from Agate Pass Transportation, and have supported it from my personal finances to the tune of an additional \$75,000 over the past three years. All of our other em-

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while they're at their full-time job (from which they can't immediately get time off) or have other plans for the weekend (one guy said, "What if I'd had a beer after mowing the lawn just before you call me?) it does nothing to support the intent of the law. It only makes operating a part-time company that much more expensive, and that much more difficult in today's economy.

I have other materials I would like to add in a hearing as well, but I believe this is sufficient for you to get the gist of my comments. Thank you for your consideration for lowering the fine, for without additional help or instructions, meeting the intent of the law as it stands is nearly impossible for companies such as mine. And I'd sure appreciate any additional help in that regard I can get!!!

Sincerely,



Leslie F. Bagley,
General Manager
Agate Pass Transportation, LLC