

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In Re Application of)	DOCKET TV-090408
)	
)	ORDER 01
ACTIVE MOVING COMPANY, INC.)	
)	SETTING FOR HEARING
for a permit to operate as a motor)	ACTIVE MOVING COMPANY’S
carrier of household goods)	REQUEST TO WITHDRAW
)	APPLICATION
)	
)	
)	PROVIDING NOTICE OF HEARING
)	(Set for November 20, 2009, at
_____)	9:30 a.m.)

INTRODUCTION

- 1 On March 16, 2009, Thomas Shanks filed an application on behalf of Active Moving Co., Inc. (Active) with the Washington Utilities and Transportation Commission (Commission) for a permit to operate as a motor carrier of household goods within the state of Washington. Mr. Shanks recently filed a name change with the Washington Secretary of State’s Office to change the name “Action Moving Company, Inc.” to “Active Moving Company, Inc.”
- 2 On July 10, 2009, Active notified the Commission that it does not wish to proceed with the application for a motor carrier of household goods permit (application) and requested that the application be withdrawn and the proceeding dismissed. The Commission sets for hearing Active’s request.

BACKGROUND

- 3 Active’s application for a household goods permit was filed by its president and majority owner, Thomas Shanks. Mr. Shanks has operated a company named “Action Moving Company, Inc.” (Action) for many years, without a permit.¹ The Commission issued a cease and desist order and a penalty against Thomas Shanks

¹ Action’s Web site states, “As Action Moving we have been in operation for over 15 years.” <http://www.actionmovingcompany.com/index.html>.

d/b/a Action Moving Company, Inc., on January 24, 2000, in Penalty Assessment No. 99765, for transporting household goods within the state of Washington for compensation without a Commission permit.

- 4 In June of 2008, the Commission received evidence that Action had conducted a recent residential move in Seattle. With this evidence, the Commission filed a petition in King County Superior Court to enforce the cease and desist order against Action and Mr. Shanks.² Mr. Shanks paid his outstanding penalty to the Commission on February 13, 2009, and filed an application with the Commission for a permit to transport household goods on March 16, 2009.
- 5 For the household goods permit application, Mr. Shanks selected the name, “Tom’s Action Moving Co., Inc.” Subsequently, Mr. Shanks selected a different name because the applicant name was similar to the name of a carrier already holding a household goods permit issued by the Commission. The name he selected was “Active Moving Co., Inc.” On April 30, 2009, Mr. Shanks officially changed the corporate name of “Action Moving Company, Inc.” to “Active Moving Co., Inc.”
- 6 The Commission and Mr. Shanks agreed to settle the court case and jointly filed a consent decree that was entered in King County Superior Court on April 4, 2009. The consent decree included an injunction that enjoins Action and Thomas Shanks from transporting or holding themselves out to transport household goods without a Commission permit.³

² King County Superior Court Cause No. 09-2-07007-5 KNT, *Washington Utilities & Transportation Commission v. Thomas Shanks, Action Moving Company, Inc.*, Petition for Civil Enforcement of Agency Order and Injunctive Relief, filed February 9, 2009.

³ The consent decree provides as follows at section 3.1:

Defendants and all successors, assigns, and transferees are hereby enjoined and permanently restrained in the state of Washington from directly or indirectly engaging in any of the following conduct:

- a. Holding themselves out to provide, contracting for, undertaking to provide, or providing intrastate transportation of property, including household goods, for compensation over the highways of the state of Washington without the required authority from the Washington Utilities and Transportation Commission to provide such transportation services.
- b. Advertising, in any medium, for the undertaking of intrastate transportation of household goods without the required authority from the Washington Utilities and Transportation Commission to provide such transportation services.

7 On July 10, 2009, the Commission received an e-mail from Mr. Shanks, seeking to withdraw Active's household goods permit application. In his e-mail message, Mr. Shanks stated:

Do [sic] to the economy and very slow business we find it difficult to try and run a moving business with trucks in the [S]eattle area. In fact we are trying to sell our trucks. The operating costs for fuel, insurance and maintenance is [sic] not helping our situation. We are still offering a load and unload service to the public and repeat customers with out [sic] the use of our trucks and if the customer rents there [sic] own truck. [O]ur website states this clearly that we offer a loading and unloading service (only). [Y]ou can see the information at www.actionmovingcompany.com. I thank you for your time on all of this, however the business is not good right now and to pursue further only to fail in the moving business would make no sense at this time. I would like to possibly pursue a moving permit in the future should the reality [sic] market and moving business should [sic] return back to normal.

8 On August 31, 2009, Commission Staff telephoned Active and experienced no trouble making arrangements for a move of household goods from North Seattle to Renton.

9 Despite Mr. Shanks' representations in his email of July 10 that "our website states ... clearly that we offer a loading and unloading service (only)," Active is advertising household goods moving services at www.actionmovingcompany.com. Text on the Web site describing the company's services, such as "Your Quality Seattle Mover Load & Unload Services" can be read as offering full-service moving service. In addition, the Web site continues to show a photo of a truck painted with the company's name; and such an image implies that Action transports household goods in this truck.

10 By holding the company out to provide in-state moving services, Mr. Shanks and Active have violated the consent decree that Mr. Shanks signed. According to the terms of the consent decree, such a violation may be a "basis for further enforcement proceedings, including, but not limited to contempt of court proceedings."⁴

⁴ King County Superior Court Cause No. 09-2-07007-5 KNT, *Washington Utilities & Transportation Commission v. Thomas Shanks, Action Moving Company, Inc.*, Consent Decree at section 6.2.

ORDER

IT IS HEREBY ORDERED that:

- 11 The request of Active Moving Co., Inc., to withdraw its application for a motor carrier household goods permit filed in Docket TV-090408 is set for hearing.
- 12 **THE COMMISSION GIVES NOTICE That it will hold a hearing in this matter at 9:30 a.m., on November 20, 2009, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 13 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**
- 14 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.
- 15 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carriers: Thomas Shanks
Active Moving Company, Inc.
10002 Aurora Ave. N. #596
Seattle, WA 98133

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

- 16 Administrative Law Judge Dennis J. Moss, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, is designated to preside at the hearing.

DATED at Olympia, Washington, and effective October 20, 2009.

ANN E. RENDAHL
Director, Administrative Law Division,
Administrative Law Judge

Inquiries should be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____