

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-220239

PENALTY AMOUNT: \$5,400

Vicky Sandhu

d/b/a Seattle Top Class Limo; Alisha Limousine Service; Seattle Party Bus

20120 SE 287th St.

Kent, WA 98042

The Washington Utilities and Transportation Commission (Commission) believes Vicky Sandhu d/b/a Seattle Top Class Limo; Alisha Limousine Service; Seattle Party Bus (Seattle Top Class Limo or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing; 49 C.F.R. Part 383 – Commercial Driver’s License Standards; Requirements and Penalties; 49 C.F.R. Part 391 – Qualification of Drivers; and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. RCW 81.04.530 allows penalties of up to \$1,500 for an employer who begins or conducts commercial motor vehicle operations without having a controlled substance and alcohol testing program that is in compliance with the requirements of Title 49 C.F.R. Part 382. In the case of an ongoing violation, every day’s continuance is considered a separate and distinct violation.

On March 29, 2022, Commission Motor Carrier Investigator Edward Steiner completed a routine safety investigation of Seattle Top Class Limo and documented the following violations:

- **One violation of 49 C.F.R. § 382.305 – Failing to implement a random controlled substance and/or an alcohol testing program.** The Company failed to enroll its drivers into a controlled substance and alcohol testing program.
- **Six violations of 49 C.F.R. §383.37(a) – Allowing, requiring, permitting or authorizing a driver to operate a commercial motor vehicle (CMV) during any period in which the driver does not have a current commercial learner’s permit (CLP) or commercial driver’s license (CDL) or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restrictions on the driver’s CLP or CDL.** The Company allowed driver Manpreet Singh to operate passenger commercial vehicles without having a required passenger endorsement on their CDL on six occasions between August 20 and December 11, 2021.
- **Thirty-two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Caleb Kidd to operate a CMV without having a valid medical certificate on 32 occasions between August 20, 2021, and February 5, 2022.

- **One violation of 49 C.F.R. § 396.3(a)(1) – Tire in contact with another part of the vehicle.** Commission staff (Staff) discovered a CMV with the driver side front tire in contact with the wheel well.¹ The vehicle was placed out of service.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Passenger transportation companies that: (1) fail to enroll their drivers in controlled substance and alcohol testing programs, (2) allow drivers to operate passenger CMVs without proper CDL endorsements, (3) allow drivers to operate CMVs without having a valid medical certificate, and (4) fail to maintain parts and accessories in safe and proper operating conditions at all times. These violations present significant safety concerns.
2. **Whether the violations were intentional.** Considerations include:
 - Whether the Company ignored Staff’s previous technical assistance; and
 - Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

On July 7, 2017, the Commission received the Company’s application for charter and excursion authority. In the application, Vicky Sandhu, owner of Seattle Top Class Limo, acknowledged the Company’s responsibility to understand and comply with applicable motor carrier safety rules.

On July 28, 2017, Staff provided new entrant safety regulation training to Seattle Top Class Limo. Vicky Sandhu acknowledged receiving training pertaining to 49 C.F.R. § 382.305, 49 C.F.R. § 383, 49 C.F.R. § 391.45, and 49 C.F.R. § 396.3.

3. **Whether the Company self-reported the violations.** Seattle Top Class Limo did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company stated in a letter that the violations have been corrected, but has not provided Staff with evidence.
6. **The number of violations.** Staff identified 17 violation types with a total of 55 individual occurrences during the safety investigation of Seattle Top Class Limo. Of those violations, Staff identified four violation type with 40 individual occurrences that warrant penalties in accordance with the Commission’s Enforcement Policy.

¹ VIN: 1GYEC63807R372388

7. **The number of customers affected.** Seattle Top Class Limo traveled 3,200 miles in 2021. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. The Company was cooperative throughout the safety investigation and expressed a desire to come into compliance. Despite these factors, the repeat acute violation makes Staff believe that the likelihood of recurrence is possible.
9. **The Company's past performance regarding compliance, violations, and penalties.**

On September 13, 2018, the Commission cancelled the Company's charter and excursion authority for failing to file an annual report and pay regulatory fees in Docket TE-180773. The Company filed its annual report and paid regulatory fees on February 19, 2019. The Company's charter and excursion authority was reinstated on February 27, 2019, in Docket TE-190102.

On February 17, 2019, the Commission issued an Order Instituting Special Proceedings Seeking to Impose Penalties to determine if Seattle Top Class Limo had engaged, and was engaging, in unlawful operations following the cancellation of its charter and excursion carrier certificate in Docket TE-190079. On March 12, 2019, the Commission assessed a \$10,000 penalty against Seattle Top Class Limo and suspended a \$8,500 portion of the penalty for a period two years subject to conditions. On July 12, 2019, the Company paid the \$1,500 non-suspended portion of the penalty in full.

On November 7, 2019, during a routine safety investigation, Staff identified one violation of 49 C.F.R. § 382.305.

10. **The Company's existing compliance program.** Vicky Sandhu is responsible for the Company's safety compliance program.
11. **The size of the Company.** Seattle Top Class Limo currently operates three CMVs and employs three drivers. The Company reported \$49,000 in gross revenue for the fiscal year ending December 31, 2021.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.² The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service"

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Seattle Top Class Limo \$5,400 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 382.305 – Failing to implement a random controlled substance and/or an alcohol testing program. The Commission assesses a penalty of \$1,500 for this repeat acute violation.
- Six violations of 49 C.F.R. §383.37(a) – Allowing, requiring, permitting or authorizing a driver to operate a commercial motor vehicle (CMV) during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$600.
- Thirty-two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$3,200.
- One violation of 49 C.F.R. § 396.3(a)(1) – Tire in contact with another part of the vehicle. The Commission assesses a penalty of \$100 for this out-of-service violation.

This information, if proven 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 any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

You must act within 15 days after receiving this Penalty Assessment to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation(s).
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective April 26, 2022.

/s/Michael Howard for
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-220239

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 violations occurred and enclose \$5,400 in payment of the penalty.

2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide 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: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

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.”