

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Order Instituting Investigation and Order to Show Cause on the Commission's own motion into the operations and practices of Stanley King Chee Wong and Xiu Ping Cui, a partnership doing business as K & T Moving Co. and KW Moving, K & T Moving/K.W. Moving Inc., a California corporation, its Agent for Service of Process Stanley King Chee Wong, and ABC Moving, Inc., a California corporation, its President Su Fen Wu and its Manager Stanley King Chee Wong,

Applicants/Respondents.

FILED
PUBLIC UTILITIES COMMISSION
APRIL 1, 2004
SAN FRANCISCO
I.04-04-002

ORDER INSTITUTING INVESTIGATION AND ORDER
TO SHOW CAUSE WHY RESPONDENTS' APPLICATION
SHOULD NOT BE DENIED WITH PREJUDICE

The California Public Utilities Commission (Commission) is the agency responsible for regulating the intrastate transportation of used household goods, personal effects and furniture, pursuant to Article XII of the California Constitution, the Household Goods Carriers Act (Act) (Public Utilities Code §§ 5101 et seq.),¹ the Commission's Maximum Rate Tariff 4 (MAX-4), and Commission General Orders (GOs) 100-M, 136-C, 142, and others. These statutes and regulations require, among other things, that household goods carriers operate only in a responsible manner in the public interest; procure, continue in effect, and maintain on file adequate proof of public

¹ Unless otherwise noted, all statutory references are to the California Public Utilities Code.

liability/property damage, cargo, and workers' compensation insurance; and observe rules and regulations governing: (1) acknowledging and handling claims for loss and damage, (2) issuing estimates, (3) executing and issuing documents, (4) training and supervising employees, (5) maintaining equipment and facilities, and (6) rates and charges. The Commission is the primary agency responsible for enforcing these and other statutes and regulations governing household goods carriers. These other statutes and regulations include general consumer protection and public safety provisions of other California Codes such as: theft, fraud, bait-and-switch, unfair and unlawful business practices and unsafe or unlawful operation of vehicles.

We have directed the Consumer Protection and Safety Division (formally in D.92-05-028) to use all tools at its disposal to enforce the laws and regulations against illegal operations – both carriers operating without a permit, and permitted carriers not in compliance with the law, and our rules and regulations – and to bring cases to district attorneys and us for prosecution as appropriate. In response to our directives, staff has brought such investigative proceedings before us as Starving Students [I.92-11-029], Best Move [I.91-11-002], Nice Jewish Boy/Father and Son [I.90-12-010], Reginald Duncan [I.90-09-009], Dave's Quality Movers [I.91-10-011], Ronald Zammito [I.91-01-011], and Harrington Brothers, Inc. [I.94-03-022] – cases with patterns of aggravated violations.

Consumer Protection and Safety Division (CPSD) investigators (Staff) advise us, through the declarations supporting the initiation of this investigatory proceeding, that, as part of the permit application process, it conducted a criminal background check of these applicants. In addition, Staff became aware of unlawful operations and advertising for moving services by K & T Moving Co. and KW Moving. Staff then initiated an investigation into the business practices of Stanley King Chee Wong and Xiu Ping Cui dba K & T Moving Co., and KW Moving, (hereinafter K & T), CPUC File T-189,587, which operates a moving and storage business in San Francisco County. Staff's investigation of K & T found numerous alleged violations of the Household Goods Carriers' Act and Commission rules and regulations, including operations and advertising

during an extended period when it neither had public liability insurance on file nor a permit from the Commission authorizing those operations. Although K & T filed an application for operating authority on July 3, 2003, it failed to meet the requirements for a household goods carrier (HHG) permit. The criminal record check mandated by Section 5135 of the Public Utilities Code (PUC) disclosed five misdemeanor convictions on K & T's Co-Partner, Stanley King Chee Wong (Wong). Court documents and records maintained by the California Department of Justice (DOJ) show that in 1978 Wong was convicted of disorderly conduct (prostitution) in Los Angeles County. More recently, in 1995 and 1998 respectively, court records in San Mateo County show Wong was convicted of false impersonation of another, petty theft, and driving with a suspended California driver's license. Court records in San Francisco County show Wong was convicted of driving without a valid license in 2000. Staff further found Wong might have perjured himself by his failure to disclose material facts to the Commission on his permit application concerning his five misdemeanor convictions and crimes involving moral turpitude.

On October 2, 2003, K & T Moving/K.W. Moving, Inc. filed Articles of Incorporation with the California Secretary of State under Corporation Number C2554112. The corporation's Agent For Service of Process is King Wong, 1029 Geneva Avenue, San Francisco, CA 94112. ABC Moving, Inc. also filed Articles of Incorporation with the California Secretary of State on October 2, 2003 under Corporation Number C2554110. Subsequently, on October 16, 2003, ABC Moving, Inc. (ABC) filed an application for a HHG Permit with the Commission License Section.

I. ENFORCEMENT HISTORY

A. Termination of Telephone Service-Finding of Probable Cause, PUC Section 5322

Section 5322 of the Public Utilities Code authorizes the Commission staff to obtain a magistrate's order to disconnect an unlicensed household goods carrier's telephone service. By letters dated June 27, August 20, September 4, November 27

(2 separate letters), and December 4, 2002, and April 3, 2003, staff warned K & T to cease and desist all unlawful advertising and operations as a mover without the required permit. Nevertheless, K & T failed to comply and continued to place advertisements for its moving services in San Francisco Bay Area telephone directories and Chinese newspapers. On June 24, 2003, staff obtained a “Finding of Probable Cause” signed by Judge Charles F. Haines, Department 10, Superior Court of the State of California, San Francisco City and County Judicial District. The Court’s order directed SBC and A T & T Wireless Service, Inc. to terminate telephone service to fourteen SBC landlines and two A T & T Wireless cellular numbers. K & T was using these numbers in unlawful advertisements for its moving services.

Despite disconnection of telephone service as directed by the Court’s order of June 24, 2003, K & T subsequently obtained telephone service to four new phone numbers and continued unlawful advertisements for moving services in two San Francisco Bay Area Chinese newspapers, the Sing Tao Daily and World Journal.

**B. Temporary Restraining Order, Preliminary Injunction,
and Permanent Injunction-Case No. CGC 03-422959
Superior Court, County of San Francisco**

On July 31, 2003, Commission staff filed a complaint for temporary restraining order, preliminary injunction, permanent injunction, and action for recovery of civil penalties in the Superior Court of the City and County of San Francisco. On August 5, 2003, a hearing was held and the court signed an Order To Show Cause Re: Preliminary Injunction. Further hearing was held on August 26, 2003, when defendants, Stanley King Chee Wong and Xiu Ping Cui appeared. Adam G. Slote, Attorney at Law, represented the respondent. The parties to this case executed a Stipulation For “Entry of Preliminary Injunction”. Staff filed the Stipulation and related Proof of Service with the court on August 26, 2003. The Stipulation provides that, during the pendency of the civil action, the “defendants are restrained from operating or advertising as a household goods carrier within the State of California until such time they have been granted a permit

issued by the Commission”. The court granted a Permanent Injunction on March 4, 2004 following a stipulation of the parties. The Injunction bars the defendants from operating without a license. (Attachment)

II. LICENSE HISTORY

A. Application for a Household Goods Permit as a Partnership (T-189,587)

On July 11, 2002 Stanley King Chee Wong (aka King Wong or Ken Wang) and Xiu Ping Cui (aka Tina Cui), a partnership doing business as (dba) K & T Moving Company, 1029 Geneva Avenue, San Francisco, CA 94112, filed an Application For a Household Goods Carrier Permit with the Commission License Section under File Number T-189587. License Section denied this application on December 3, 2002, and mailed a Notice of Denial of Application to the applicants on that date. The Commission’s notice informed K & T that its application was denied due to its failure to file evidence of public liability insurance, to supply required documents, and to successfully complete the required MAX 4 examination.

On July 3, 2003, Stanley King Chee Wong and Xiu Ping Cui submitted a re-file application for a Household Goods Carrier Permit. Mr. Wong took the written MAX 4 examination in the License Section on July 30, 2003 and, again, on September 8, 2003. On both occasions, he failed to pass the examination thereby demonstrating his lack of knowledge to engage in the moving business.

B. Application for a Household Goods Permit as a Corporation (T-189,779)

On October 16, 2003, ABC Moving, Inc. (hereinafter ABC) filed an application for a Household Goods Carrier permit with the Commission License Section. ABC is a active California corporation, incorporated on October 2, 2003. Its corporate number is C2554110. Su Fen Wu is listed as President and Agent For Service of Process. Records maintained by the California Department of Motor Vehicles (DMV) show Su Fen Wu is also known as (aka) Suzanne Sufen Wong and Suzanne Sufen Wu. The

application showed the carrier's business and mailing address as 230 Oriente Street, Daly City, CA 94014. The application lists King Wong as the Manager and also the person designated to take the MAX 4 examination prescribed by the Commission and required by Public Utilities Code Section 5135. Along with Su Fen Wu, King Wong is listed as an ABC emergency contact for the California Highway Patrol to attempt to contact in the event of an emergency involving ABC's vehicles or drivers. Also, on October 15, 2003, King Wong signed application Form TL706-I as the person in the business responsible for ABC's compliance with highway safety regulations. This application is pending at this time.

The Commission License Section mailed three notices dated October 27, November 26, and December 26, 2003 to ABC informing them that the application cannot be further processed until specified documents have been completed and furnished. Deficiencies noted included ABC's failure to provide evidence of adequate public liability, cargo and workers' compensation insurance coverage. ABC is also directed to submit fingerprints as part of the required background check. On November 19, 2003, King Wong appeared in the License Section to take the MAX 4 exam. However, again, he failed to establish by examination his knowledge to engage in the moving business. License Section notices further informed ABC that failure to respond, or furnish necessary documents or information, may result in denial of the application.

III. THE INVESTIGATION

Following is a summary of the staff's findings and the alleged violations: The Staff informs us that it opened its investigation into the practices of K & T and the recently formed corporation ABC because of continued unlawful advertising and operations as a household goods carrier. According to staff, these unlawful activities occurred over a period of 379 days, from June 28, 2002 through July 14, 2003, and continued even after the denial of the respondents' application on December 3, 2002. Staff alleges K & T falsely held themselves out to the public as a licensed mover by including unauthorized permit numbers in Yellow Pages Directories and newspaper

advertisements. Staff warned this operator to cease and desist all unlawful advertising and operations as a mover without the required permit in seven (7) letters dated: June 27, 2002, August 20, 2002, September 4, 2002, November 27, 2002 (two letters), December 4, 2002, and April 3, 2003. Notwithstanding directives issued by CPSD's staff to cease and desist, K & T continued to violate the statutory and regulatory schemes applicable to household goods carriers. As noted above, CPSD obtained a Finding of Probable Cause from the Superior Court in San Francisco to terminate the carrier's telephone service. Despite the court's action, K & T obtained new telephone numbers and placed new advertisements in local Chinese newspapers. CPSD then filed a complaint in San Francisco Superior Court to enjoin the respondents' unlicensed moving business. The court issued an "Order For Entry of Permanent Injunction", enjoining the respondents. These documents are included with CPSD Declarations supporting issuance of this order. K & T conducted, or attempted to conduct, moves after its application was denied. Moreover, K & T Moving has filed no evidence of adequate public liability insurance.

1. Fitness Issues

Public Utilities Code Section 5135 provides in part:

"The commission may refuse to issue a permit if it is shown that an applicant or an officer, director, partner or associate thereof has committed any act constituting dishonesty or fraud; committed any act which, committed by a permit holder would be grounds for a suspension or revocation of the permit; misrepresented any material fact on the application; or, committed a felony, or crime involving moral turpitude."

Staff states it obtained copies of criminal court dockets and other official documents relating to Mr. Wong from the courts in San Francisco and San Mateo Counties. According to court records in San Mateo County, Stanley King Chee Wong has three misdemeanor convictions. In August 1995, the court convicted Wong of driving with a suspended California driver's license in violation of Section 14601(A) of the California Vehicle Code (CVC), and false impersonation of another in violation of Section 529.3 of the Penal Code (PC). Mr. Wong was sentenced to two years probation

and served one day in jail. He also paid a fine of \$ 515 for these offenses. In August 1998, the court convicted Mr. Wong of petty theft, in violation of Sections 484/490.5 of the Penal Code. The court in South San Francisco sentenced him to 18 months probation, one day in jail, and imposed a fine and fees of \$ 678. Court records in San Francisco County disclosed Mr. Wong had one misdemeanor conviction in September 2000. The court convicted Mr. Wong of driving without a valid driver's license in violation of Section 12500(A) CVC. The Superior Court in San Francisco County sentenced him to serve one day in jail for this offense. The Department of Justice records also show a 1987 misdemeanor conviction for Wong in Los Angeles County for disorderly conduct and prostitution. Is this the same Wong discussed above in ABC?

**2. Submission of Inaccurate Information By King Wong
(File T-189,587)**

On July 3, 2003, K&T re-filed an application for a household goods carrier permit. The application disclosed that Stanley King Chee Wong, Co-Partner, signed under penalty of perjury, the Certification Of Household Goods Carrier Applicant, Form TL 706-L. On that form, Mr. Wong certify that:

“I (we) **have not committed** any act constituting dishonesty or fraud; committed any act which, committed by a permit holder would be grounds for a suspension or revocation of the permit; misrepresented any material fact on the application; or, committed a felony, or crime involving moral turpitude.”

Here, staff alleges Wong's failure to divulge his convictions constitutes misrepresentation of material facts on his application, a violation of Public Utilities Code Section 5135.

**3. Failure To Submit Required Information by Corporate
Officer, File T-189,779.**

The HHG application filed by ABC on October 16, 2003 was signed by Su Fen Wu, President. Su Fen Wu also signed the Certification of Household Goods Carrier

Applicant, Form TL706-L. However, she failed to respond to the following questions that were on the form:

- a) I (we) am (are) not legally prohibited from engaging in operations as a Household Goods Carrier.
- b) I (we) [] have [] have not been convicted of committing any felony or crime involving moral turpitude. (if the first box is checked, please attach full explanation.)

Here, staff alleges Su Fen Wu's failure to reply, and divulge prior convictions of ABC's Manager/Associate, Stanley King Chee Wong, constitute a failure to disclose material facts in its application, a violation of Public Utilities Code Section 5135.

4. Advertising Without a Permit in Force

According to Sections 5139 and 5314.5, every corporation or person who knowingly and willfully causes or permits the issuance, publishing of any oral or written advertisement of household goods carrier operations to the public without a valid permit is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$ 1,000). Respondent K & T advertised household goods carrier services to the public for a total of 379 days: from June 8, 2002 through July 14, 2003. Section 5315 provides every violation of the Household Goods Carriers' Act is a separate and distinct offense, and in case of a continuing violation, each additional day is a separate and distinct offense. A \$ 1,000 fine per violation multiplied by 379 alleged violations could make the respondents jointly liable for a total fine of \$ 379,000.

5. Operating Without Proper Insurance Coverage

According to Sections 5139 and 5161, and Commission General Orders (GOs) 100-M and 136-C, a carrier must maintain inter alia liability, property damage, and cargo insurance coverage in effect and on file with the Commission. In this case, Respondent K & T failed to maintain the required insurance coverage for a total of 379

days (June 8, 2002 through July 14, 2003). Section 5313 authorizes a \$ 500 fine per violation, that when multiplied by 379 alleged violations, could make respondents jointly liable for a total fine of \$189,500.

6. Operating Without Permit in Force

According to Section 5133, no household goods carrier shall engage, or attempt to engage, in the business of transportation of used household goods by motor vehicle over the public highways in this State without a permit in force issued by the Commission authorizing those operations. Respondent K & T conducted household goods operations for a period of 379 days (June 28, 2002 through July 14, 2003). Section 5315 provides every violation of the Household Goods Carriers' Act is a separate and distinct offense. In case of a continuing violation, each additional day is a separate and distinct offense. Section 5313 authorizes a \$ 500 fine per violation, that when multiplied by 379 alleged violations, could make respondents jointly liable for a total fine of \$189,500.

IV. DISCUSSION

The Commission exercises continuing oversight of a carrier's fitness. Public Utilities Code § 5285 authorizes the Commission, upon complaint or on the Commission's own initiative and after notice and opportunity to be heard, to suspend, change, or revoke a permit for failure of the carrier to comply with any of the provisions of the Act, or with any order, rule, or regulation of the Commission, or with any term, condition, or limitation of the permit. Section 5139 gives the Commission power to establish rules for the performance of any service of the character furnished or supplied by household goods carriers.

We place tremendous trust in household goods carriers in granting them operating authority, a trust equaled by that of our citizens who tender their most personal and treasured belongings to movers. This carrier's alleged pattern of violations, operations without a permit in force, failure to file evidence of public liability insurance,

advertising moving services without a valid household goods carrier permit in force, continuing such advertising and operations after staff directives to cease all such unlawful activity, and after an order from the court terminating its telephone service, and the failure to divulge the five misdemeanor convictions by the applicants, alarms us.

Before issuing a permit, the Commission reviews the fitness of household goods carriers. A fundamental measure of the fitness of a household goods carrier holding a permit issued by the Commission is the safekeeping of property entrusted to its possession. We are concerned by the court records indicating a conviction of theft by this applicant and distressed by safety issues raised by Vehicle Code convictions for driving over the public highways in California without a valid driver's license. We are also concerned by allegations that the Partner of K & T Moving Company and the Officer of ABC Moving, Inc. failed to disclose the criminal record of Stanley King Chee Wong to the Commission.

Section 5135 provides, in part, that:

The commission may refuse to issue a permit if it shall be shown that an applicant or an officer, director, partner or associate thereof has committed any act constituting dishonesty or fraud; committed any act which, committed by a permitholder would be grounds for a suspension or revocation of the permit; misrepresented any material fact on his application; or, committed a felony, or crime involving moral turpitude.

The commission shall issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity and financial resources and responsibility to perform the service within the scope of their application.

The respondents should recognize that the Consumer Protection and Safety Division's allegations described herein are grave and, if substantiated through hearing, may well constitute grounds for denial for cause of the respondents' application for operating authority and/or other appropriate sanctions and remedies.

It appears that the Respondents may have:

1. Violated § 5314.5 of the Public Utilities Code by advertising and holding out to the public that it is in operation as a household goods carrier, without a valid permit issued under Chapter 7 of the Public Utilities Code;
2. Violated § 5139 and 5161 of the Public Utilities Code and GO 100-M by failing to procure, and to continue on file and in effect while conducting operations as a household goods carrier, adequate protection against liability, as imposed by law upon carriers;
3. Violated § 5133 of the Public Utilities Code by conducting operations as a household goods carrier without a permit in force from the Commission authorizing those operations;
4. Demonstrated lack of fitness to hold operating authority under Section 5135 of the Public Utilities Code by failing to divulge to the commission the criminal record and misdemeanor convictions of Stanley King Chee Wong, a partner of K & T, and Manager/Associate of ABC.

IT IS ORDERED that:

1. An investigation on the Commission's own motion is instituted into the operations and practices of the respondents, Stanley King Chee Wong and Xiu Ping Cui dba K & T Moving Company, KW Moving, K & T Moving/K.W. Moving, Inc. and its Agent Stanley King Chee Wong, ABC Moving, Inc., its President Su Fen Wu and its Manager Stanley King Chee Wong. A public hearing on this matter shall be held expeditiously before an Administrative Law Judge (ALJ) at a time and date to be set at the prehearing conference. At the hearing, the respondents shall appear and show cause why its two pending applications for household goods carrier permits under File Nos. T-189,587 and T-189,779 should not both be denied for cause and lack of fitness in view of the above listed allegations made by Staff, assuming the allegations are proven at the hearing, and/or other sanctions imposed.

2. During the pendency of this investigation, it is ordered that Respondents Stanley King Chee Wong and Xiu Ping Cui dba K & T Moving Co., KW Moving shall cease and desist from any violations of the terms of the Final Judgment and Permanent Injunction in Case No. CGC-03-422959 granted by the Superior Court in San Francisco on March 4, 2004, in connection with household moves, the Household Goods Carriers' Act, including Maximum Rate Tariff 4 and General Order 100-M.

3. The Consumer Protection and Safety Division staff, if it elects to do so, may present additional evidence beyond that described in the declaration issued with this order, either by testimony or through documentation, bearing on the operations of the respondents and any new advertising of moving services to the public.

4. Scoping Information: This paragraph suffices for the "preliminary scoping memo" required by Rule 6 (c).

This enforcement proceeding is adjudicatory, and, absent settlement between staff and the respondent, will be set for evidentiary hearing. A hearing may also be held on any settlement for the purpose of enabling parties to justify that it is in the public interest or to answer questions from the ALJ about settlement terms. A prehearing conference will be scheduled and held within 40 days and hearings will be held as soon as practicable thereafter. Objections to the OII may be filed but must be confined to jurisdictional issues, which could nullify any eventual Commission order on the merits of the issues concerning violations of statutes, rules, regulations or orders.

5. Respondents are hereby placed on notice that if staff's allegations are proven during the evidentiary hearing, the Commission may impose fines and penalties according to that which is authorized by law.

The Executive Director shall cause a copy of this order and the staff declarations to be served by certified mail upon respondents:

1. Stanley King Chee Wong and Xiu Ping Cui
dba K & T Moving Co., KW Moving
1029 Geneva Avenue, San Francisco, CA 94112

2. Stanley King Chee Wong, Agent For Service
K & T Moving/K.W. Moving, Inc.
1029 Geneva Avenue
San Francisco, CA 94112
3. Su Fen Wu, Agent For Service
Stanley King Chee Wong, Manager
ABC Moving, Inc.
230 Oriente Street
Daly City, CA 94014.

A copy of this order and the staff declaration shall also be sent by certified
mail to:

Adam G. Slote, Attorney at Law
Counsel for Respondent K & T
100 Pine Street, Suite 750
San Francisco, CA 94111

This order is effective today.

Dated April 1, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners