

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

November 27, 2006

Agenda ID #6206

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-197

This draft resolution regarding a Consumer Protection and Safety Division Citation FC-031 will be on the agenda at the January 11, 2007 Commission meeting. The Commission may then vote on this draft resolution, or it may postpone a vote.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

Parties to the proceeding may serve comments on the draft resolution. Opening comments shall be served no later than December 18, 2006, and reply comments served no later than December 26, 2006. Service is required on Suong Le (stl@cpuc.ca.gov) of the Consumer Protection and Service Division and on all parties shown on the attached service list. Comments shall be served consistent with the requirements of Pub. Util. Code § 311(g) and Rule 14.5.

Finally, comments must be served separately on Administrative Law Judge Ryerson, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN

Angela K. Minkin, Chief
Administrative Law Judge

ANG:hkr

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-197
Administrative Law Judge Division
January 11, 2007

R E S O L U T I O N

RESOLUTION ALJ-197 in the Matter of the Appeal of Citation FC-031,
Affirming the Citation pursuant to Resolution ALJ-187.

Marcelo Poirier, Attorney at Law, Legal Division, for Consumer Protection and Safety Division.

Amy Stennett, in pro per, for Thomas F. Stennett dba Coast to Coast Moving.

Findings of Fact

1. On May 3, 2006, the Commission's Consumer Protection and Safety Division (CPSD) served Citation number FC-031 (the citation) on the respondent, Thomas F. Stennett and Joseph R. Stennett dba Coast to Coast Moving, in accordance with Resolution ALJ-187. On May 19, 2006, Thomas Stennett, on behalf of Coast to Coast Moving, served a Notice of Appeal on the CPSD of the Commission.
2. Administrative Law Judge Victor D. Ryerson heard this matter on September 26, 2006, in San Luis Obispo. The hearing concluded and the matter was submitted on that date.
3. On June 21, 1999, Thomas F. Stennett and Joseph R. Stennett submitted an application to the Commission for a permit to operate a household goods carrier as a partnership. The applicants are brothers, and had formed the partnership by entering into an informal oral agreement. The business name they instructed the Commission to put on the permit was Coast to Coast Moving. Thomas F. Stennett was the qualifier, *i.e.*, the person who successfully completed the Commission's written qualifying examination on behalf of the applicant company for purposes of permit issuance.

4. On July 27, 1999, the Commission issued Permit to Operate a Household Goods Mover No. T-189182, to Thomas F. Stennett and Joseph R. Stennett dba Coast to Coast Moving.

5. At some point between 2001 and 2004 the two brothers informally dissolved their partnership, and Joseph Stennett left the business to pursue other interests. Coast to Coast Moving continued to operate under Thomas Stennett's management, but he did not advise the Commission that the organization of the business had changed until several years later.

6. On March 15, 2006, as an indirect consequence of the investigation of this matter, Coast to Coast filed a transfer application with the Commission. The change of ownership of record was required by the company's insurer, as explained below, to maintain the company's insurance coverage, which in turn is required by licensing regulations. The application was signed by Thomas Stennett and Amy Stennett, his wife, and states that Joseph Stennett had not been with the company for five years. Thomas was again shown as the qualifier in the application. On June 6, 2006, the Commission transferred and reissued the permit, Household Goods Carrier Permit No. MTR 190216, in the name of transferee Coast to Coast Moving, Thomas Stennett, owner. This is the current permit for respondent, Coast to Coast Moving.

7. In early August 2005 respondent's insurer, Paul Hanson Partners, informed respondent that it had to remove Joseph Stennett's name from its public liability and property damage (PL&PD) policy, number SLI-PK-00699. At that time respondent's insurance broker, Swett & Crawford, refused to issue a certificate of insurance to the Commission bearing the name of Joseph Stennett. On August 6, 2005, Paul Hanson Partners issued policy number SCI-CN-102071-00 to respondent, replacing policy number SCI-PK-00699, which was cancelled on August 8, 2005. Although the new insurer, Clarendon National Insurance Company, inadvertently filed a certificate of insurance that included Joseph's name with the Commission on April 18, 2006, it cancelled the filing the following day and deleted Joseph's name.

8. At all times material to this matter respondent continued to pay the premiums on the policy, and at no time did its PL&PD coverage lapse.

9. On October 13, 2005, the Consumer Intake Unit (Unit) of CPSD received a complaint from Richard and Brenda Ligons concerning a move that respondent had performed for them. In response to this complaint Brian Kahrs of the unit

sent a letter to respondent on October 21, 2005, requesting documents pertaining to the move, and a written statement from respondent, by November 4, 2005. He received no response from respondent by that date, and wrote another letter to respondent on November 18, 2005, repeating the request and advising that the matter would be referred to enforcement staff if respondent did not comply by November 30. He did not receive a response to this letter by the deadline. Both letters were mailed to respondent at its current business address.

10. During the early part of 2006 CPSD Associate Transportation Representative Barbara Santa Marina conducted an investigation of respondent's operations as a consequence of the Ligon's complaint. Her investigation encompassed the period from November 1, 2005, through January 31, 2006, and included the examination of respondent's moving records and other documents. CPSD issued the citation on the basis of evidence Santa Marina obtained during her investigation. Among the observations she made during her examination of the respondent's records are the following:

a. The freight bill pertaining to the Ligon's move did not contain a not-to-exceed price for the move.

b. Respondent's combined agreements for moving services and freight bills issued to shippers during the period from November 2005 through January 2006 reflected that only two out of 30 shippers had been provided with a copy of the Important Notice About Your Move (Notice) specified in items 88(9) and 470 of Maximum Rate Tariff 4 Naming Maximum Rates and Rules for the Transportation of Used Property, Namely: Personal Goods and personal Effects over the Public Highways within the State of California by Household Goods Carriers issued by the Commission (MAX 4).

c. The same combined agreements for moving services and freight bills in many instances also did not include complete point of origin and destination, descriptions of notification and delivery arrangements, rates and charges quoted for services described in the shipping documents, and type of payment information, and had incomplete time records for services that had been rendered.

11. The maximum potential fine relating to the cited violations, as calculated by CPSD, is \$43,500. This sum is predicated upon 87 separate counts of violations of statutes and rules, with a \$500 fine for each violation. However, CPSD is proposing to fine respondent a total amount of \$1000.

12. Amy Stennett handles all of the administrative paperwork for respondent. With respect to her investigation of the Ligon's complaint she testified that she did not receive either of Kahrs' letters, perhaps because the company has an outside mailbox. She said that she did give Mrs. Ligon a copy of the Notice booklet, but failed to have her sign for it. She admits that the company failed to provide a Notice to all customers, and that this was "an oversight on [respondent's] part." She stated, however, that she went over all aspects of customers' billing on the telephone, and assumed that because the information was on the customers' contracts, they were adequately informed. She now sends out the additional Notice stating the required information.

13. Amy Stennett explained that the reason for the omission of complete address information on some of the documents referenced in Finding of Fact 10 was that certain moves, *e.g.*, those to or from institutional addresses, did not involve this type of information. She says she omitted certain other information because it did not appear that the standard commercial form of contract used by the respondent required it, but she now includes this information, which calls for repetition of the shipper's identity.

14. Although respondent has a history of administrative suspensions because its insurance coverage temporarily lapsed, it has no prior enforcement history.

Conclusions of Law

1. Public Utilities Code Section 5225 entitles authorized employees of the Commission at all times to have access to a household goods carrier's documents for inspection and copying. The allegation in the citation that respondent violated this requirement is based upon respondent's failure to respond to the two letters from Brian Kahrs regarding the Ligon's complaint. Those letters were sent to the respondent's current business address. Although it is plausible that one of the two letters might have been misdirected or otherwise failed to reach the respondent, respondent's claim that it received neither letter is not credible. Amy Stennett admitted that the company, being a small business with minimal staff, has not handled its paperwork particularly well. It is more likely than not that the two letters were overlooked, or that the task of responding to them was postponed beyond the stated deadlines. Even if the correspondence was removed from respondent's mailbox by persons unknown – a federal offense – this would indicate that the company needs to make more secure arrangements for the receipt of its mail. Cause therefore exists to cite respondent for violating this statutory requirement by reason of the facts set forth in Finding of Fact 9.

2. Public Utilities Code Sections 5161 and 5162, and Commission General Order (GO) 100-M require every household goods carrier to procure specified public liability and property damage insurance coverage, and to provide evidence of the coverage to the Commission at all times. Cause exists to cite respondent for violating this statutory requirement by reason of the facts set forth in Findings of Fact 1 through 7, in that the coverage maintained was not consistent with the licensing of the company, and the evidence of coverage was not in accordance with the status of the company. In at least one instance the evidence of coverage was withdrawn by the insurer for a brief period of time while the respondent continued to operate. Although respondent continued to make premium payments to its insurer, the inconsistencies in its status created some uncertainty and risk that its obligations to the public in this regard were consistently satisfied.

3. Public Utilities Code Section 5139 and MAX 4 Item 128, subdivision (2)(q) require a household goods carrier to include a description of notification and delivery arrangements in the agreement signed by the carrier and shipper prior to the commencement of performance of any specified service, and the signed original or duplicate to be delivered to the shipper prior to or at the time service is begun. Cause exists to cite respondent for violation of this requirement by reason of the facts set forth in Finding of Fact 10.

4. Public Utilities Code Section 5139 and MAX 4 Items 36, 138 and 132 require specified information to be included in Combined Agreements for Moving Services and Freight Bills. Cause exists to cite respondent for this violation by reason of the facts set forth in Finding of Fact 10.

5. Respondent's violation of various regulatory requirements as described above were the result of its lax or improper handling of paperwork requirements. Respondent is a small, family-owned business that makes a conscientious effort to serve its clientele properly, and it has no history of enforcement problems or disputes with customers. Nevertheless, it is important that the company comply with all regulatory requirements, which are intended to protect the interest of customers and the public at large, and to prevent the occurrence of disputes about rates and service. Amy Stennett's testimony indicates that the company is making a greater effort to comply with paperwork requirements in addition to providing a high quality of service to its customers.

6. Although the fine proposed by CPSD is only a small fraction of what it could seek to have imposed by the Commission, it is nonetheless a significant

sum in relation to the size of respondent's operations. Amy Stennett argued that the proposed fine, \$1000, is one employee's salary for a month, a half month's office rent, or one-quarter of its annual insurance premium. She argues that such a sum is excessive.

Although we do not intend to impose a fine of an amount that will create a hardship for the respondent, the fine must be sufficient to deter lax handling of required paperwork by the respondent in the future. Although such requirements may seem to the respondent to be relatively unimportant compared to the task of packing and moving customers' goods, they have been developed by the legislature and the Commission for the protection of customers and others after decades of experience. In light of the fact that the respondent has no prior enforcement history, and in recognition of the respondent's ability to pay, we will reduce the fine to \$500.

Comments

This Resolution was issued for public review and comment in accordance with Public Utilities Code Section 311, subdivision (g).

IT IS THEREFORE RESOLVED that:

1. Citation FC-031 is affirmed except as provided herein.
2. Respondent Coast to Coast Moving, Thomas Stennett, owner, shall pay a fine of \$500.00 pursuant to Public Utilities Code Section 5378 within 30 days of the effective date of this order. Payment shall be made by check or money order payable to the California Public Utilities Commission and sent to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, California 94102. Upon payment the fine shall be deposited in the State Treasury to the credit of the General Fund and this citation shall become final.
3. If respondent fails to pay the fine as provided herein, the Commission's Consumer Protection and Safety Division shall immediately revoke Household Goods Carrier Permit No. MTR 190216, and may take any other action provided by law to recover the unpaid fine and ensure compliance with applicable statutes and Commission orders.

This resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on _____, by approval of the following Commissioners:

STEVE LARSON
Executive Director

CPSD Citation Number FC-031

The Service List will be as follows:

Coast to Coast Moving
Thomas Stennett, Owner
2800 Broad Street
San Luis Obispo, CA 93401

Marcelo Poirier
Legal Division
CPUC
Room 5025
San Francisco, CA 94102

ALJ Victor D. Ryerson
CPUC
Room 5044
San Francisco, CA 94102

Consumer Protection and Safety Division
Suong Le
CPUC
Area 2-C
San Francisco, CA 94102

Public Advisor
Karen Miller
CPUC
Room 2103
San Francisco, CA 94102

Legal Division
Jason J. Zeller
CPUC
Room 5030
San Francisco, CA 94102

Court Reporter
Lynn Stanghellini
CPUC
Room 2106
San Francisco, CA 94102

Barbara Santa Marina
CPUC
320 West 4th Street, Suite 500
Los Angeles, CA 90013