



December 23, 2020

Victor Kassiyar
Weststar Relocation, Inc.
8414 Corbin Avenue
Northridge, CA 91324

Subject: Decision and Order, Case No. 2019-F147; OAH Case No. 2020050397

Dear Mr. Kassiyar:

The enclosed Decision and Order with the Bureau of Household Goods and Services is effective **January 22, 2021**. Please reference this Decision and Order and the other enclosures should you have any questions regarding this matter.

Sincerely,

Bureau of Household Goods and Services
(916) 999-2041
hbm.enf@dca.ca.gov

Encl: Copy of Final Decision
Government Code 11521

cc: Jeffrey D. Nadel
16000 Ventura Blvd., Suite 908
Encino, CA 91436

Seth A. Curtis, Deputy Attorney General

GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]

(Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15986]

(Division 3 added by Stats. 1945, Ch. 111.)

PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11898]

(Part 1 added by Stats. 1945, Ch. 111.)

CHAPTER 5. Administrative Adjudication: Formal Hearing [11500 - 11529]

(Heading of Chapter 5 amended by Stats. 1995, Ch. 938, Sec. 22.)

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF HOUSEHOLD GOODS AND SERVICES
STATE OF CALIFORNIA**

In the Matter of the Citation Against:

WESTSTAR RELOCATION, INC.,

VICTOR KASSYAN, CEO

Case No. 2019-F147

OAH Case No.: 2020050397

Respondent.

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on January 22, 2021, 2020.

It is so ORDERED September 30, 2020.



RYAN MARCROFT
DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION
DEPARTMENT OF CONSUMER AFFAIRS

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF HOUSEHOLD GOODS AND SERVICES
STATE OF CALIFORNIA**

In the Matter of the Citation Against:

WESTSTAR RELOCATION, INC., VICTOR KASSYAN, CEO

Respondent

Agency Case No. 2019-F147

OAH No. 2020050397

PROPOSED DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter telephonically and by video conference on August 6, 2020.

Seth A. Curtis, Deputy Attorney General, represented complainant. Jeffrey D. Nadel, attorney at law, represented Respondent Weststar Relocation, Inc. (Weststar). Weststar's Chief Executive Officer, Victor Kassyan, also appeared by video.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on August 6, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 21, 2020, Larry Perlman, an investigator for the Bureau of Household Goods and Services (Bureau), issued Citation number 2019-147¹ to Respondent Weststar. The Citation alleges that Weststar is operating as a household mover without a permit, in violation of Business and Professions Code section 19237, subdivision (a). The Citation orders Weststar to abate unpermitted activity, and it imposes a \$1,000 civil penalty upon Weststar. Mr. Perlman was acting in his official capacity when he issued the Citation.

2. Weststar is a California Corporation, and it is engaged in the moving business. Victor Kassyan is the CEO of Weststar.

3. After Weststar was served with the Citation, it requested a hearing, and this proceeding ensued. All jurisdictional requirements have been satisfied.

Weststar's Business Activities²

4. On or about January 21, 2020, Weststar was operating as a moving company without a permit issued by the California Public Utilities Commission (PUC)

¹ The document is actually titled "Citation Order," but for ease of reference it shall be referred to as a Citation.

² Factual Findings 4 and 5 are based on a stipulation read into the record.

or the Bureau. However, Weststar is licensed by the United States Department of Transportation, Motor Carrier Safety Administration (US DOT).

5. Weststar has not engaged in purely intrastate moving activities, instead conducting interstate moving business. Weststar has used California's roads to conduct interstate moves.

The Parties' Assertions

6. Essentially, Weststar asserts that the Bureau is without the authority to regulate an interstate mover, especially one licensed and regulated by the US DOT, as such would tend to contravene provisions of the Constitution of the United States. Weststar further argues that the Bureau's statutes and regulations conflict with federal laws and regulations, and that the federal rules must prevail. Respondent asserted such, in some detail, in its written demand for a hearing, and its attorney made further legal arguments during the hearing.

7. Prior to the hearing in this matter, Weststar filed suit in the United States District Court for the Central District of California, to enjoin the Bureau's efforts to regulate Weststar.

8. Complainant asserts that the California statutory scheme is legal, and presumed valid. Complainant also asserts that the ALJ is without authority to declare the statute unconstitutional or unenforceable, citing a provision of the California Constitution.

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LEGAL CONCLUSIONS

1. The Bureau is empowered to administer and enforce the Household Movers Act (Act), Business and Professions Code, Division 8, Chapter 3.1, beginning with section 19225. (Bus. & Prof. Code, §§ 9810; 19283.1, sub. (a).) The Bureau is authorized to issue citations and civil penalties to those who violate the Act; other enforcement powers have been granted to the Bureau as well. (E.g., Bus. & Prof. Code §§ 19279, 19279.1; 19275 [authorizing cancellation, revocation, or suspension of permits].) Jurisdiction to proceed in this matter has been established, based on Factual Finding 1 through 3.

2. The Act is presumed valid and enforceable. (58 Cal.Jur.3d, *Statutes*, § 17.)

3. The ALJ, and the Bureau, are barred from declaring the Act, or other legislation, unconstitutional or unenforceable due to a conflict with federal law. This rule is set out in the California Constitution, at article III, section 3.1, which states:

An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;

(b) To declare a statute unconstitutional;

(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations.

Plainly, the power to declare a statute unenforceable on constitutional grounds, or on the grounds that federal law prohibits enforcement, is reserved to the judicial branch of the government, and to that part of the judicial branch with jurisdiction to hear appeals. The ALJ could not declare the Act unenforceable, even if he believed it was unenforceable, and the Bureau could not adopt such a decision, even if the ALJ's ruling appeared to be correct.

4. Because the Act must be presumed valid, it must be concluded that Weststar must have a permit to do business in California. Weststar has been doing business without a permit, in violation of Business and Professions Code section 19237, subd. (a). Therefore, the Citation shall be affirmed.

ORDER

1. The appeal by Weststar Relocation, Inc., Victor Kassyan, CEO, from Citation number 2019-147, is denied.

2. Weststar Relocation, Inc. shall pay a civil penalty of \$1,000 to the Bureau of Household Goods and Services within 30 days of the effective date of this decision.

3. Weststar Relocation, Inc. shall abate its conduct of operating a moving company without a permit.

DATE: September 8, 2020

DocuSigned by:
Joseph D. Montoya
JOSEPH D. MONTOYA
Administrative Law Judge
Office of Administrative Hearings



Finishings and Thermal Insulation

10th Market Court, Suite D

Encino, CA 95834-1243

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PART 1. STATE DEPARTMENTS AND AGENCIES
(Part 1 added by Stats. 1945, Ch. 111.)

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Weststar Relocation, Inc.
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