

June 14, 2019

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

King County Courthouse  
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**REPORT AND DECISION**

SUBJECT: King County For-Hire Licensing file no. 77346

**XIAO LONG HUANG**

For-Hire Driver Enforcement Appeal

Permit no.: 77346

Appellant: **Xiao Long Huang**

[REDACTED]  
Kent, WA 98032

Telephone: [REDACTED]

Email: [REDACTED]

King County: King County For-Hire Licensing  
*represented by Tyson Taylor*  
King County For-Hire Licensing  
500 Fourth Avenue Room 403  
Seattle, WA 98104  
Telephone: (206) 263-1373  
Email: ttaylor@kingcounty.gov

**FINDINGS AND CONCLUSIONS:**

Overview

1. Xiao Long Huang is licensed to drive for-hire passengers in his Lexus. After some slipping in light snow the morning of March 7, he switched to his wife's all-wheel-drive Toyota. The Toyota was not endorsed to carry for-hire passengers. King County For-Hire Licensing (Licensing) issued him a \$1,000 penalty, which he timely appealed. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we **partially grant** his appeal, reducing the penalty to **\$500**.

## Analysis

2. For those matters or issues raised in an appeal statement, Licensing bears “the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.” KCC 20.22.080.G; .210. Unless directed to by law—and no special directive applies here—the examiner does not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. Ours is a *de novo* hearing, so we sit in the same position as Licensing.
3. There is no question Mr. Huang committed a violation on March 7. It is unlawful to operate a for-hire vehicle without a transportation network company vehicle endorsement. KCC 6.64.300. Our role today is determining the “appropriateness” of the penalty Licensing post.
4. Section 300 is on a list of 17 code violations for which Licensing can issue a penalty of “up to” \$1,000. KCC 6.64.800.A.1.b.5. Section 300 is also on a shorter list of three violations for which Licensing can, as an alternative, issue a Class 1 civil infraction with “a maximum monetary penalty and default amount” of \$1,000. KCC 6.64.800.B.1.
5. Licensing argues that the \$1,000 penalty is mandatory for section 300 violations. That is incorrect; “up to” means \$1,000 is the maximum penalty, not a mandatory amount. It is the “default amount,” with “default” generally meaning “if you make no other choice,” or “usual or standard.”<sup>1</sup> So \$1,000 is the correct *starting* point for a section 300 violation. And given that Licensing must make such calls on-the-spot, in the field, and at a wholesale level, \$1,000 is probably also the correct *ending* point for Licensing. Conversely, the examiner operates on a more retail level, and our hearings are an appropriate venue for looking more deeply at each case, sorting out the facts, and figuring out if a downward departure is warranted based on the specific circumstances of a given situation. We now turn to whether (and if so, how much) a penalty reduction is appropriate here.
6. Licensing asserts that no downward departure is warranted. The March 7 snow was limited to an inch of accumulation or less.<sup>2</sup> The snow had disappeared from the area of the ride by the time (11:00 am) of the ride. Ex. 2 at 005. Driving non-endorsed vehicles leaves passengers uninsured by the transportation network company’s (TNC’s) policy in the event of an accident. Seattle treats such picking-up-passengers-in-an-unendorsed-TNC-vehicle violations as serious enough to warrant *mandatory revocation* of the driver’s for-hire license. SMC 6.310.452.A; .605.B; .605.C.a.vii. When first approached by the inspectors on March 7, he lied and said he had uploaded his wife’s car the day before, later admitting he had not. Ex. 2 at 006.
7. Mr. Huang counters that it was difficult to get to his previous customer that morning, who was at a higher elevation. After slipping in the snow attempting to answer that booking, he switched to his wife’s all-wheel-drive vehicle. His intention in doing so was

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<sup>1</sup> [https://www.macmillandictionary.com/us/dictionary/american/default\\_1](https://www.macmillandictionary.com/us/dictionary/american/default_1);  
<https://www.lexico.com/en/definition/default>.

<sup>2</sup> See also <https://www.youtube.com/watch?v=IQH49gNqQA>.

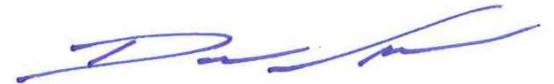
to provide better service for his customers. He had not been thinking about the TNC endorsement that morning. He agrees he lied to the inspectors about the status of his wife's car when first approached that day. He understands now that driving a non-endorsed vehicle was a very serious mistake, a mistake he will not commit again. He expressed remorse and asked for reduction in the penalty.

8. March 7 was unlike the early to mid-February snowpocalypse,<sup>3</sup> but there was still some snow and slippery conditions. He did initially lie the inspectors, but he corrected this, unlike those previous appellants who doubled down on their lies. Driving a non-endorsed TNC vehicle is extremely serious—both because passengers would be uninsured if an accident occurred and because of high profile cases of passengers mistakenly getting into the wrong vehicle with disastrous results—but he grasped the severity of his actions (unlike those previous appellants who continued to minimize or downplay their actions). Mr. Huang seems unlikely to repeat his violation.
9. We conclude that a reduction is warranted. There is no magic formula for how much we reduce a penalty. Considering all the factors here, we halve the penalty.

#### DECISION:

1. We PARTIALLY GRANT Mr. Huang's appeal, reducing his penalty to **\$500**.
2. Mr. Huang shall pay Licensing the \$500 by **September 13, 2019**.

ORDERED June 14, 2019.



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David Spohr  
Hearing Examiner

#### NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless appealed to superior court by *July 15, 2019*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

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<sup>3</sup><https://vimeo.com/322091313>; <https://www.cnn.com/2019/02/08/us/seattle-snow-whether-friday-wxc/index.html>; County to consider waiving Metro bus fares on snow days, SEATTLE TIMES, April 23, 2019 at B1.

**MINUTES OF THE MAY 31, 2019, HEARING IN THE APPEAL OF XIAO LONG HUANG, KING COUNTY FOR-HIRE LICENSING FILE NO. 77346**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Xiao Long Huang, Adrian Bradley, the interpreter, and Tyson Taylor. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record:

Exhibit no. 1	King County For-Hire Licensing staff report to the Hearing Examiner
Exhibit no. 2	Compliance ride narrative for March 7, 2019, ride
Exhibit no. 3	Notice and order of violation, issued March 12, 2019
Exhibit no. 4	Appeal, received April 8, 2019

DS/vsm

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**CERTIFICATE OF SERVICE**

SUBJECT: King County For-Hire Licensing file no. **77346**

**XIAO LONG HUANG**

For-Hire Driver Enforcement Appeal

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED June 14, 2019.

*Vonetta Mangaoang*

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Vonetta Mangaoang  
Senior Administrator

**Bradley, Adrian**

**Cantu, Eddie**

King County For-Hire Licensing

**Huang, Xiao Long**

Hardcopy

**Kham, Joanna**

Finance and Admin Svcs, Consumer Protection Div

**MacLeod, Cherie**

Finance and Admin Svcs, Consumer Protection Div

**Megow, John**

Finance and Admin Svcs, Consumer Protection Div

**Shapiro, Ken**

Finance and Admin Svcs, Consumer Protection Div

**Taylor, Tyson**

King County For-Hire Licensing