

Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

KEVIN FISHER
Chief Deputy City Attorney
Direct Line: (408) 535-1943

August 28, 2018

Mr. Bert Paul
International Trading Company of Yukon
4401 Saint George Dr.
Oklahoma City, OK 73120

6860 South Service Dr.
Waterford, MI 48327

**Re: NOTIFICATION OF HEARING BEFORE THE NORMAN Y. MINETA SAN JOSÉ
INTERNATIONAL AIRPORT COMMISSION; ADMINISTRATIVE CITATION
NO. 2018-33-4281**

Dear Mr. Paul:

The City has received your Request for Hearing dated July 19, 2018 and advance deposit of the fine for the above-referenced Administrative Citation.

Pursuant to San José Municipal Code Section 25.03.440, this letter serves as notice that a hearing before the Norman Y. Mineta San José International Airport Commission has been scheduled for **Monday, September 10, 2018 at 6:00 p.m. Pacific Daylight Time** at:

**Norman Y. Mineta San José International Airport
1701 Airport Boulevard, Suite B-1130
San Jose, CA 95110-1206**

You have indicated to Airport staff that you wish to appear at the hearing by telephone. To appear telephonically, you must call the following conference line at 6:00 p.m. Pacific Daylight Time on Monday, September 10, 2018:

Conference Telephone Number: 1 (877) 810-9415
Participant Access Code: 3923661

Alternatively, you may appear in person at the hearing at the date, time and location set out above. Pursuant to San José Municipal Code Section 25.03.440, the failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust the recipient's administrative remedies.

The hearing will proceed under the following procedures:

- The presentation of evidence shall be informal and not subject to technical compliance with the Evidence Code.
- The City will proceed first with its evidence in support of the issuance of the Administrative Citation.
- You be given the opportunity to testify and present evidence concerning the Administrative Citation.
- Copies of the Administrative Citation and any other documentation that City staff is submitting to the Airport Commission in regard to this matter will be posted to the Airport Commission website - <https://www.flysanjose.com/airport-commission> - no later than seven (7) days prior to the hearing date. If you intend to present any written evidence to the Airport Commission, please submit any such evidence to the Director of Aviation at 1701 Airport Boulevard, Suite B-1130, San Jose, CA 95110-1206, no later than Friday, September 7, with a copy to the undersigned.
- The Airport Commission shall consider any relevant evidence, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The Chair of the Airport Commission may exclude from consideration irrelevant or cumulative evidence, or other evidence found to be unduly time consuming or inflammatory.
- The rules of privilege shall be effective to the extent that they are otherwise required by law to be recognized.
- The parties shall have the right to call and examine witnesses, and present relevant documentary and physical evidence.
- All oral testimony shall be under oath or affirmation.
- The parties shall have the right to present impeachment or rebuttal witnesses and evidence, and shall have the right to cross-examine witnesses on any matter relevant to the issues whether or not that matter was raised in direct examination.

Mr. Bert Paul

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AIRPORT COMMISSION

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- Parties to the hearing may be represented by legal counsel.
- The hearing shall be recorded by audiotape. The parties may use a court reporter at their discretion and expense.
- The duration of the hearing and any procedural issues that arise are within the sole discretion of the Chair of the Airport Commission, whose rulings on such procedural issues are final.
- The Chair of the Airport Commission is authorized to make changes and additions to the hearing rules if such changes are deemed useful or necessary.

After closing the hearing, the Airport Commission shall render a decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The decision of the Airport Commission shall be the City's final determination.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 


KEVIN FISHER
Chief Deputy City Attorney

cc: Airport Commissioners
Matthew Kazmierczak

CITY OF SAN JOSE, CALIFORNIA

CITATION NO. 2018-33-4281

**NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT
ADMINISTRATIVE CITATION**

| | | | |
|--|--|-------------------|------------------|
| DATE CITATION ISSUED June 22, 2018 | | | |
| NAME International Trading Company of Yukon Inc | | | |
| ADDRESS, RESIDENCE (Street, Apt. or Space No.) (City, State, Zip Code) | | | |
| ADDRESS, BUSINESS (Street, Space No.) 4401 Saint George Dr (City, State, Zip Code) Oklahoma City, OK 73120 | | | |
| VIOLATIONS | | | |
| SJMC SECTION (check as applicable) | DESCRIPTION | FINE AMOUNT | DUE DATE |
| 25.03.300 <input checked="" type="checkbox"/> | Arrival of a Boeing 727-200, Flight #216 on May 31, 2018 and 00:30 hours (PDT) at Norman Y. Mineta San Jose International Airport | \$2,500.00 | 7/22/2018 |
| 25.03.310 <input type="checkbox"/> | | | |
| ISSUING ENFORCEMENT OFFICER  _____ John Aitken, A.A.E. Director of Aviation | | | |
| FOR OFFICE USE ONLY: | | | |

SEE REVERSE SIDE FOR FURTHER INFORMATION AND INSTRUCTIONS

IMPORTANT - PLEASE READ

Order: You are ordered to immediately cease the commission of the Municipal Code violation(s) listed on the front of this Administrative Citation.

Administrative Citation: Pursuant to Chapter 25.03 of the San Jose Municipal Code, if you continue or repeat the commission of the Municipal Code violation(s) listed on this Administrative Citation, the City may issue to you another Administrative Citation or may pursue any other legal remedy available to the City against you.

The amount of the Administrative Fine imposed for committing a Municipal Code violation is set forth in Chapter 25.03 of the San Jose Municipal Code. A copy of Chapter 25.03 may be obtained from the Office of the City Clerk for the City of San Jose, at City Hall, Room 116.

Payment Process Information: The amount of the Administrative Fine being imposed upon you for violation(s) of the Municipal Code is listed on the front of this Administrative Citation. The Administrative Fine must be paid to the City within thirty (30) days from the date of this Administrative Citation. A mailing envelope is provided with this Administrative Citation.

You may pay and deliver the Administrative Fine(s) to the City by mail or in person to the Director of Aviation at 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. Payment should be in the form of personal check, cashier's check or money order, and payable to the "City of San Jose." Please write the Administrative Citation Number on your check or money order. **Unless you have requested a hearing to contest the Administrative Citation, you will be subject to the imposition of a 10% late payment penalty, plus interest, if you fail to pay the Administrative Fine by the due date.** Payment of Administrative Fines does not excuse or discharge any continuation or repeated occurrence of the Municipal Code violation(s) listed on this Administrative Citation.

Hearing Process Information: You have the right to contest this Administrative Citation at a public hearing before the Norman Y. Mineta San Jose International Airport Commission. To request this hearing, you must complete a Request For Hearing Form and return that Form, together with a deposit of the total Administrative Fine amounts listed on the front of this Administrative Citation, by mail or in person, within thirty (30) days from the date of this Administrative Citation to the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. Request For Hearing Forms may be obtained from the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. You will later be notified of the date and time set for your hearing. If you fail to appear at your hearing, this failure will result in a forfeiture of your deposit of Administrative Fine and will constitute a failure to exhaust your administrative remedies.

If you are financially unable to deposit the total amount of the Administrative Fine, you may file an Advance Deposit Hardship Waiver Application Form with the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. An Advance Deposit Hardship Waiver Application Form may be obtained from the Director of Aviation and must be filed within fifteen (15) days from the date of this Administrative Citation.

Failure to Pay Administrative Fines: If you fail to pay Administrative Fine(s) within the time required by this Citation or the decision of the Airport Commission, the City may use all available legal means to collect the Administrative Fine, together with any late payment penalties and interest. The City also may recover its collection costs incurred in these actions.

The Office of the Director of Aviation is located at:

**1701 AIRPORT BOULEVARD
SUITE B-1130
SAN JOSÉ, CALIFORNIA 95110**

If you would like further information about this Administrative Citation, any of the procedures described above, or how you can come into compliance with the Municipal Code, please call (408) 501-0956.

1 **PROOF OF SERVICE**

2 International Trading Company of Yukon Inc.

3 I, the undersigned, declare as follows:

4 I am over 18 years of age, employed in Santa Clara County, and not a party to the within action. My
5 business address is 1701 Airport Blvd. Suite B-1130, San Jose, California 95110, and is located in the
6 county where the service described below occurred.

7 On June 22, 2018 I served the within:

8 **TEN (10) BUSINESS DAY NOTICE OF AIRCRAFT OPERATION**
9 **DURING CURFEW HOURS**

10 by MAIL, with a copy of this declaration, by depositing them into a sealed envelope, with
11 postage fully prepaid, and causing the envelope to be deposited for collection and mailing
12 on the date indicated above.

13 I further declare that I am readily familiar with the City of San Jose business practice for
14 collection and processing of documents for mailing with the United States Postal Service. I
15 placed this document for mailing into a United States Postal Service mailbox, located at
16 the San Jose International Airport on the date listed above, before the collection time listed
17 on the mailbox, and therefore this document in the ordinary course and scope of business
18 would be received by the United States Postal Service on the date listed above.

19 I further declare that the name and address on the envelope appear as follows:

20 Station Manager

21 International Trading Company of Yukon Inc.

Curfew Report #2018-33-4281

22 4401 Saint George Dr.

23 Oklahoma City, OK 73120

24 I declare under the penalty of perjury that the foregoing is true and correct. Executed at San Jose,
25 California, on June 22, 2018.

26 

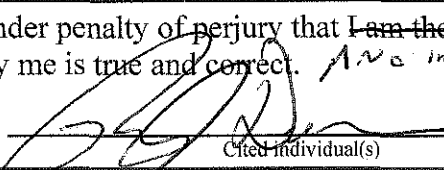
27 Ian Hogg



**CITY OF SAN JOSE
ADMINISTRATIVE CITATION
HEARING REQUEST APPLICATION**

Please note only the person(s) listed on the administrative citation may request a hearing.

*If the cited party wishes a tenant, relative or other designated proxy to attend the hearing they must list that person(s) under "person attending hearing".

| REQUEST FOR HEARING | |
|--|--|
| (This request is due within 30 calendar days of citation date with the advance deposit of the full citation amount) | |
| Citation Issued To: <i>INTERNATIONAL TRADING COMPANY OF YUKON</i> | Phone No. () <i>NOT LISTED IN CITATION</i> |
| Citation No(s): <i>2018-33-4281</i> | Citation Date(s): <i>JUNE 22 2018</i> |
| Violation Address: <i>4401 SAINT GEORGE DR, OKLAHOMA CITY, OK, 73120</i> | |
| *Person Attending Hearing: <i>BERT PAUL</i> | Phone No: <i>(248) 933-9902</i> |
| Mailing Address: <i>6860 SOUTH SERVICE DR, WATERFORD, MI 48327</i> | |
| Please explain your reason for believing this citation(s) was issued in error: | |
| <i>THE TIME OF THE CURFEW WAS INCORRECTLY PROVIDED TO THE FAA BY FOR PUBLICATION IN THE AFD BY THE CITY OF SAN JOSE - FURTHER INFORMATION WILL BE PROVIDED UNDER SEPARATE COVER</i> | |
| I declare under penalty of perjury that I am the cited individual and the foregoing statement and information provided by me is true and correct. <i>AND INDIVIDUAL WAS CITED FOR COUNSEL FOR TAIL COMPANY OPERATING THE AIRCRAFT</i> | |
| Signature:  | Date: <i>JULY 19, 2018</i> |
| HARDSHIP PAYMENT INFORMATION FOR HEARING ONLY | |
| If you are contesting the citation and are unable to pay the advance deposit, you may request an advance deposit hardship waiver <u>within 15 calendar days of the citation date</u> . Please complete the sections below once you have reviewed the qualification on the back of this form. Any form submitted without all proper documentation will be denied. | |
| CONTACT INFORMATION | |
| Mail form and payment to: City of San Jose – Finance Revenue Management - Support Staff 200 E. Santa Clara St., 13th Floor San Jose, CA 95113 Phone 408-535-7055 Option #5 / Fax 408-292-6480 | |
| FOR OFFICE USE ONLY (Below) | |
| Signature _____ | Date: _____ |
| Deposit Waiver: <input type="checkbox"/> Granted <input type="checkbox"/> Denied <input type="checkbox"/> | |
| Reason for denial _____ | |

**NOTES FOR AIRPORT COMMISSION HEARING REGARDING
ADMINISTRATIVE CITATION 2018-33-4281**

The International Trading Company of Yukon, Inc. (the “Operator”) arrived to SJC (the “Airport”) on May 31, 2018 at 00:30 in a Boeing 727-200 type aircraft registered as N216WE. This was an unscheduled flight.

On May 31, 2018 Airport Operations sent the Operator a ten (10) day notice of operation during curfew hours with the request for flight routing information per

SJMC 25.03.320 – Exemptions from curfew hour restrictions:

- B. Each person claiming an exemption from the curfew hour restrictions as set out in this section must provide the director of aviation or the director's designee a written curfew operation report on a form approved by the director within ten days of the date that a notice of aircraft operation during the curfew hours was mailed or delivered personally to the person. **Failure to file a curfew operation report within this ten-day period shall be grounds for denial of an exemption request.** The curfew operation report must describe all facts necessary to support the claimed exemption.

The Operator did not respond to the intrusion notice.

On June 22, 2018 the Airport Director issued Administrative Citation 2018-33-4281 (the “Admin Cite”) to the Operator.

On June 28, 2018 Mr. Bert Paul, as a representative of the Operator, contacted Airport Operations to discuss the nature of the Admin Cite. Airport Operations explained how the curfew worked and how the Operator’s flight violated it.

On July 20, 2018 the City of San Jose received an Administrative Citation Hearing Request Application and Hearing Request Deposit from the Operator for the Admin Cite.

It appears that the basis for contesting the Admin Cite is based on the published time for the Airport’s curfew. The Airport’s curfew begins at 11:30 PM Local time and ends at 06:30 Local time per SJMC 25.03.225 – Curfew hours. The Operator stated that the Chart Supplement for the Airport, a document published by the FAA, published incorrect timing for the curfew. According

to the Operator, the Chart Supplement stated that the Airport's curfew for Stage III aircraft (such as the Operator's) was active between 0730 Zulu time and 1430 Zulu time (converts to 12:30 AM Local time and 07:30 AM Local time, respectively).

Airport Operations has verified that the Chart Supplement states,

“..., **0730-1430Z‡** FAR 36 Stage III acft listed on the schedule of authorized...”

However, the diesis (‡) after the curfew timing indicates that there is an additional footnote. This diesis is found in the Legend for the Chart Supplement under item 6:

“The symbol ‡ indicates that during periods of Daylight Saving Time (DST) effective hours will be one hour earlier than shown...Daylight saving time is in effect from 0200 local time the second Sunday in March to 0200 local time the first Sunday in November”

Given this information, Daylight Saving Time was in effect and therefore the curfew timing is adjusted one hour earlier: 0630-1330Z which converts to 11:30 PM Local time and 06:30 AM Local time, respectively. This document is published this way to avoid having to republish for all airports every six months when the time change occurs.

This was explained to the Operator prior to the initiation of the hearing request.