



STATE OF WASHINGTON  
**UTILITIES AND TRANSPORTATION COMMISSION**  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • [www.utc.wa.gov](http://www.utc.wa.gov)

July 9, 2014

Steven V. King, Executive Director and Secretary  
Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. All American Spirit Moving Co., LLC*

Commission Staff's Response to Application for Mitigation of Penalties TV-140939

Dear Mr. King:

On June 4, 2014, the Utilities and Transportation Commission issued a \$400 Penalty Assessment in Docket TV-140939 against All American Spirit Moving Co., LLC for 4 violations of Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to furnish annual reports to the commission no later than May 1 each year.<sup>1</sup>

On June 24, 2014, All American Spirit Moving Co., LLC wrote the commission requesting mitigation of penalties (Mitigation Request).<sup>2</sup> In its Mitigation Request, All American Spirit Moving Co., Inc. does not dispute that the violation occurred. The company states, "I am a 1 man operation and while this does not excuse my failure to compile it is none the less the reason I'm asking for empathy. I guess in that I am struggling to survive. Just looking at my annual gross income should explain that. And I'm asking for an opportunity to get better and if the economy continues to get better I'm sure I will too."

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated household goods companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 4, 2014

<sup>2</sup>See attachment B for a copy of All American Spirit Moving's Mitigation Request received on June 24, 2014

UTC Annual Reports  
July 9, 2014  
Page 2

On May 7, 2014, All American Spirit Moving Co., LLC. filed its 2013 annual report and paid the regulatory fees and late payment penalty. The company has been active since July 27, 2010. All American Spirit Moving Co., LLC was delinquent in filing the 2011 and 2012 annual report and received mitigation both reporting years. Staff does not support the company's request for mitigation due to a lack of new compelling information and prior violations of WAC 480-15-480.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or [aandrews@utc.wa.gov](mailto:aandrews@utc.wa.gov).

Sincerely,

Sondra Walsh, Director  
Administrative Services

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<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 4, 2014

<sup>2</sup>See attachment B for a copy of All American Spirit Moving's Mitigation Request received on June 24, 2014

## ATTACHMENT A

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

#### NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TV-140939  
PENALTY AMOUNT: \$400

All American Spirit Moving Co., LLC  
22104 41st Ave S #303  
Kent, WA 98032

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 81.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-15-480 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$400 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all household goods carrier companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

On May 7, 2014, All American Spirit Moving Co., LLC filed its 2013 annual report and but has not paid its 2014 regulatory fee. May 7 is 4 business days from May 1, resulting in a total penalty of \$400.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request.

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 4, 2014

<sup>2</sup>See attachment B for a copy of All American Spirit Moving's Mitigation Request received on June 24, 2014

Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-15-450 to cancel your permit to operate as a household goods carrier in Washington.

DATED at Olympia, Washington, and effective June 4, 2014.

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DENNIS J. MOSS  
Administrative Law Judge

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 4, 2014

<sup>2</sup>See attachment B for a copy of All American Spirit Moving's Mitigation Request received on June 24, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140939

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred. I have:

Enclosed \$ \_\_\_\_\_ in payment of the penalty

Submitted my payment of \$ \_\_\_\_\_ online at [www.utc.wa.gov](http://www.utc.wa.gov). My confirmation number is \_\_\_\_\_.

2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

<sup>1</sup>See attachment A for a copy of the penalty assessment sent on June 4, 2014

<sup>2</sup>See attachment B for a copy of All American Spirit Moving’s Mitigation Request received on June 24, 2014

ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140939

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

2014 JUN 24 AM 8:03

REPORT RECEIVED

[ ] 1. Payment of penalty. I admit that the violations occurred. I have:

[ ] Enclosed \$ \_\_\_\_\_ in payment of the penalty

[ ] Submitted my payment of \$ \_\_\_\_\_ online at www.utc.wa.gov. My confirmation number is \_\_\_\_\_.

[ ] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[x] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below: I AM A 1 MAN OPERATION - AND WHILE THIS

DOES NOT EXCUSE MY FAILURE TO COMPILE "IT'S NONE THESS THE REASON" I'M ASKING FOR EMPATHY I GUESS IN THAT I AM STRUGGLING TO SURVIVE. JUST LOOKING AT MY ANNUAL GROSS INCOME SHOULD EXPLAIN THAT. AND I'M ASKING FOR AN OPPORTUNITY TO GET BETTER - AND IF THE ECONOMY CONTINUES TO GET BETTER, I'M SURE I WILL TOO."

[ ] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [ ] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 6/20/2014 [month/day/year], at Kent, WA [city, state]

All American Spirit Moving Co. Name of Respondent (company) - please print

[Signature] Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

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