

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-190111

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 and enclose \$6,800 in payment of the penalty.

2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (if you do not include reasons supporting your contest here, your request will be denied):

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.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application here, your request will be denied):

Please see attached reasons.

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: 4/20/2019 [month/day/year], at Buckley, WA [city, state]

Matthew Freeborn
Name of Respondent (company) – please print


Signature of Applicant

Whidbey Logistics, LLC Application for Mitigation (4/19/2019)

RE: Statement of reasons supporting mitigation

I have listed the reasons for mitigation below per Penalty Assessment: TV-190111 dated April 10, 2019.

Reason #1: No training or knowledge of UTC or DOT guidelines

This UTC safety audit has been a huge learning experience for me. As I stated in my Safety Plan Cover Letter I acquired the assets of Whidbey Moving and Storage, Inc. in September of 2016 with no experience in moving and storage and only a 3 month crash course with the owner. I bought the business for a number of reasons, great location, somewhat recession proof, and good numbers. Over the past 18 months I have discover this type of business is a lot more complicated than it appears, turnover is high, the numbers are up and down, and this industry is heavily regulated. Again, as I stated in my Safety Plan Cover Letter, I knew nothing about the UTC coming into this nor was I properly trained by the previous owners. It's a different story now.

Reason #2: First audit and violation

Since buying the business in 2016 I have had very little interaction with the UTC other than to pay the annual fees. I welcomed the UTC safety audit in February after being notified. I had nothing to hide and thought I was doing well after making the improvements to the vehicles. I made a few assumptions since this was the first UTC safety audit. If violations were found, at the very worst, I would be given a chance to fix the problem before any penalties that were assessed. I have never had any problems with regulatory agencies. In fact, in my other company I would invite L&I to walk thru our manufacturing facility to make sure we were following the rules.

Reason #3: Quickly fixed the violations

All violations were fixed quickly with no resistance. Violations of Title 49 CFR Part 383.37(a) and Title 49 CFR Part 391.45(a) were fixed within hours of discovering them.

Reason #5: Doubled penalty for single issue

The penalty for violations of Title 49 CFR Part 383.37(a) and Title 49 CFR Part 391.45(a) are based on the same issue. We fixed both of these violations with a simple \$100 visit to the local clinic. Had I known this was an issue it would have been fixed months ago.

Reason #6: No danger to the public

At no time was the public in danger due these violations. Most of the violations were based on a lack of documentation. Our trucks were in good working order and our driver had no health issues. As I had

mentioned in the Safety Plan Cover Letter within the first year of ownership we spent a great deal of money on vehicle maintenance. Obviously I could have done a better job of documenting this.

Reason #7: Financial hardship

Frankly there is no way we can pay this penalty. 2018 was a good learning year but it cost me dearly with a \$20,000+ loss. We spent \$20,000 to improve and maintain the vehicles during 2017 and 2018. Over the past 3 months I have spent a great deal of money and time correcting the issues found during the UTC safety audit. In fact, I have hired a new manager. Also, the past 3 months have been the slowest months on record, most likely due to the diversion of time required to correct the UTC findings. On top of all of these issues we are borrowing to make next week's payroll. I see no way to pay the assessed penalty.

The safety audit has done what it was designed for.....we are now in compliance. In this case the penalties are not necessary and will cause serious financial hardship. If this was my second violation and I had not corrected the issues, I would understand (expect) the penalties. By the way, it would be nice to have another audit later this year or early next year to make sure we are adhering to the UTC regulations.

Respectfully,



Matthew Freeborn,
President
Whidbey Logistics, LLC