



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

July 5, 2019

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Transportainment North West LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-190321

Dear Mr. Johnson:

On May 29, 2019, the Washington Utilities and Transportation Commission (commission) issued a penalty assessment against Transportainment North West LLC (Transportainment or company) in the amount of \$3,800 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 CFR Part 391 – Qualifications of Drivers and Part 396 – Inspection, Repair, and Maintenance, as follows:

- **Thirty-six violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** During the six months preceding this safety investigation, the company allowed its employee, Don Kramer, to operate a commercial motor vehicle on 36 occasions without being medically examined and certified.
- **One violation of Title 49 CFR Part 391.51(a) – Failing to maintain driver qualification file on each driver employed.** The company did not maintain a driver qualification file for its employee Don Kramer.
- **One violation of Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** The company did not keep a maintenance file for its only vehicle.

On June 26, 2019, Transportainment filed with the commission its application for mitigation of penalties. In the request for mitigation, Don Kramer, owner of Transportainment, admitted the violations, stated he believed that the penalty should be reduced, and asked for a commission decision based solely on the information provided. Staff's response to the mitigation request is below.

- **Mitigation Request: Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** Transportainment stated that these violations occurred because the company was not aware of the requirements. The company immediately corrected these violations by acquiring the required medical certificates.

Staff response: The company took actions to correct these violations and stated it will take steps to prevent future occurrences. The assessed penalty is \$3,600 for 36 occurrences of this violation. Staff recommends the penalty be reduced by half, to \$1,800.

- **Mitigation Request: Title 49 CFR Part 391.51(a) – Failing to maintain driver qualification file on each driver employed.** Transportainment stated that these violations occurred because the owner was not aware that he had to keep a driver qualification file for himself. The company immediately corrected this violation by creating an owner driver qualification file.

Staff response: The company corrected this violation and took steps to prevent future occurrences. The assessed penalty is \$100 for one violation of this type. Staff recommends the penalty be reduced by half, to \$50.

- **Mitigation Request: Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Transportainment states the violations occurred because the owner treated the maintenance as a personal item and not on the business. Mr. Kramer also states he was not aware that he needed to retain the annual inspections. The company immediately corrected this violation and states it will keep better records.

Staff response: The company corrected this violation and took steps to prevent future occurrences. The assessed penalty is \$100 for one violation of this type. Staff recommends the penalty be reduced by half, to \$50.

Transportainment is a small company with one driver and one commercial motor vehicle. The company reported \$31,600 in gross revenue for 2018.

The company immediately corrected each violation and took steps to prevent future occurrences. Therefore, staff recommends the penalty of \$3,800 be reduced to \$1,900. Staff further recommends that \$1,000 of the penalty be suspended for a period of two years before being waived, on the conditions that: 1) staff conducts a follow-up safety investigation in two years or as soon thereafter as practicable to review the company's safety management practices, 2) the

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company not incur any repeat critical violations, and 3) Transportainment pays the \$900 portion of the penalty that is not suspended.

If you have any questions, please contact Brian Braun, Compliance Investigator, Consumer Protection, at (360) 664-1129, or by email at brian.braun@utc.wa.gov.

Sincerely,



Bridgit Feeser
Assistant Director, Consumer Protection

