



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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March 11, 2016

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

RE: *Washington Utilities and Transportation Commission v. Advance Relocation Expert, LLC*
d/b/a A.R.E.
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-160178

Dear Mr. King:

On February 24, 2016, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-160178 against Advance Relocation Expert, LLC d/b/a A.R.E. in the amount of \$700, for seven violations of WAC 480-15-570 Driver Safety Requirements which requires household goods movers to comply with CFR Part 391 – Qualifications of Drivers, as follows:

- **Six violations of CFR Part 391.45(a) – Using a driver not medically examined and certified.** A.R.E. company owner Austine Thompson drove on six occasions without a valid medical certificate.
- **One violation of CFR Part 391.51(a) – Failing to maintain a driver qualification file on each driver employed.** The company failed to create or maintain a driver qualification file for driver Austine Thompson.

On March 10, 2016, the carrier filed with the commission its application for mitigation of penalties (Mitigation Request). Mr. Austine Thompson, owner of A.R.E., admitted the violations but asked that the penalties be reduced for the reasons set out in the response.

A.R.E. operates as a household goods carrier under permit number THG-065028. On January 19, 2016 Motor Carrier Safety Investigator Wayne Gilbert conducted a compliance review inspection, which is an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as “acute” or “critical.”¹ Violations of acute regulations are those so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and unusually higher than average accident rates.² Mr. Gilbert found 11 total violations, all of which were first-time violations.

The commission's Enforcement Policy, however, provides that some commission requirements are so critical to safe operations that the commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.³ Of the 11 violations found, six were of critical regulations.

In the Mitigation Request, Mr. Thompson requests a reduction in the assessed penalty based on the following factors. Staff's response to each factor is included below.

1. **Mitigation Request:** CFR 391.45(a) Using a driver not medically examined and certified. Mr. Thompson stated that he previously had a medical certificate but had inadvertently let it lapse. Immediately following the compliance review, driver Austine Thompson was examined and certified by a nationally registered medical examiner. Mr. Thompson presented his new medical certificate to Investigator Gilbert for verification.

Staff Response: The carrier corrected this violation. Staff recommends mitigation of the \$600 penalty to \$300.

2. **Mitigation Request:** CFR 391.51(a) Failing to maintain a driver qualification file on each driver employed. Mr. Thompson stated he did not believe he was required to maintain a driver qualification file for himself. He has created the required file and the file contains the required items.

Staff Response: The carrier has corrected this violation, however staff recommends no mitigation of this penalty.

1 Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](#)

2 *Id.*

3 Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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A.R.E. is a small company with one driver and one vehicle. The company reported \$34,566 in gross revenue and 25,000 miles traveled in 2015.

Staff recommends mitigation of the penalty amount from \$600 to \$400.

If you have any questions, please contact Mike Turcott, Compliance Investigator, Transportation Safety, at 360-664-1174, or by e-mail at miturcot@utc.wa.gov.

Sincerely,

David Pratt
Assistant Director, Transportation Safety

Enclosures