



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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October 27, 2017

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. Iron Man Movers and Storage, Inc.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-171005

Dear Mr. King:

In August 2017, Motor Carrier Safety Investigator Sandi Yeomans conducted a compliance review investigation of Iron Man Movers and Storage, Inc. (Iron Man Movers). A compliance review investigation is an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."¹ Acute regulations are identified where non-compliance is so severe as to require immediate corrective action 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 Ms. Yeomans documented 432 violations of critical regulations, all of which were first-time violations, resulting in a conditional safety rating.

The Washington Utilities and Transportation Commission's (Commission) Enforcement Policy provides that some Commission requirements are so essential to safe operations that the Commission may issue penalties for a first-time violation, even if Commission Staff (Staff) has

¹ Code of Federal Regulations, Appendix B to Part 385—Explanation of safety rating process

² *Id.*

not previously provided technical assistance on specific issues. The Commission will assess penalties for any repeat violations of critical regulations, including for each occurrence of a repeat violation.³

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation of Title 49 Code of Federal Regulations (CFR) and Washington Administrative Code (WAC) 480-15-555. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On October 10, 2017, the Commission issued a penalty against Iron Man Movers in the amount of \$42,800 for violations of WAC 480-15-555 Criminal Background Checks for Prospective Employees, WAC 480-15-560 Equipment Safety Requirements, and WAC 480-15-570 Driver Safety Requirements, which requires household goods carriers to comply with Title 49 CFR Parts 387 – Minimum Levels of Financial Responsibility, Part 391 – Qualifications of Drivers, Part 393 – Parts and Accessorites Necessary for Safe Operation, and Part 396 – Inspection, Repair and Maintenance, as follows:

- **One-hundred fourteen violations of Title 49 CFR Part 387.7(a) – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Iron Man Movers drove 114 days without the required level of cargo insurance in effect.
- **Three-hundred five violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** During the six months preceding the compliance review, Iron Man Movers allowed its employees Leonard Kravchenko, Sagan Brownson, Jonathan Waschow, and Michael Stump to drive on 305 occasions without having been medically examined and certified.
- **One violation of Title 49 CFR Part 393.209(b) – Excessive steering wheel lash.** Company unit number 1, a 1999 GMC, has an 18-inch steering wheel with 13 inches of free play.
- **Three violations of Title 49 CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** The company failed to require its drivers to prepare required driver vehicle inspection reports on three occasions.
- **Five violations of Title 49 CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** The company had performed no periodic inspections on five of its six vehicles.
- **Four violations of WAC 480-15-555 – Failing to acquire criminal background checks on prospective employees.** The company hired Leonard Kravchenko, Sagan

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Brownson, Jonathan Waschow, and Michael Stump without obtaining pre-employment background checks.

On October 18, 2017, the Commission received an application for mitigation of penalties from Iron Man Movers. In the application, Owners Eric and Kelly Stewart addressed only one of the violations, operating without required financial responsibility.

Mitigation request: Title 49 CFR Part 387.7(a) – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. Iron Man Movers requested a mitigation hearing to explain the circumstances of this violation and to provide documentation that the company had the required insurance. The company stated that it had the required coverage but the insurance company dropped the cargo portion of the policy.

On October 25, 2017, Iron Man Movers' insurance agent, Raquel S. of Wagner Insurance, emailed staff and explained that the policy was written in 2006 and it appears that the policy never included cargo insurance. The cargo insurance was added to the policy on July 28, 2017.

Staff response: In its request for mitigation, Iron Man Movers failed to admit or take responsibility for operating without required cargo insurance. Nevertheless, the company did correct this violation immediately, and staff recommends reducing the penalty for this violation from \$11,400 to \$5,700. Iron Man Movers failed to introduce new information that may not have been considered in setting the remainder of the assessed penalty, or explains other circumstances that convinces staff that mitigation should be granted. Staff recommends that the Commission not grant mitigation on the remaining penalty.

Staff recommends reducing the total penalty in this case from the original \$42,800 to \$37,100. If you have any questions, please contact Kristi Ferguson, Compliance Investigator, Consumer Protection, at 360-664-1108, or by e-mail at kferguso@utc.wa.gov.

Sincerely,



Bridgit Feeser
Assistant Director, Consumer Protection