



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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COMMISSION

March 19, 2021

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. Explorers 3, LLC, d/b/a  
Evergreen Escapes*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-210120

Dear Mr. Johnson:

On March 3, 2021, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Explorers 3, LLC, d/b/a Evergreen Escapes, (Evergreen Escapes or Company) in the amount of \$2,000 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 391 – Qualification of Drivers and 49 CFR Part 396 – Inspection, Repair, and Maintenance, as follows:

- **Eighteen violations of 49 CFR § 391.15(a) – Using a disqualified driver.** Evergreen Escapes allowed driver Janice Simmons to operate a commercial motor vehicle with a suspended driver's license on 18 occasions between July 25 and November 9, 2020. Janice Simmons' driver's license was suspended on March 10, 2020.
- **One violation of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Sean Petersmark to operate a commercial motor vehicle without a valid medical certificate on November 3, 2020.
- **Three violations of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Evergreen Escapes failed to have an annual inspection performed on three commercial motor vehicles.

On March 16, 2021, the Company filed with the Commission its application for mitigation of penalties. In the request for mitigation, Todd Starnes and Kenzi Lacey, President and General

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Manager of Evergreen Escapes, admit the violations, ask that the penalties be reduced, and state that COVID-19 restrictions forced the Company to reduce its operations, which impacted the Company's safety management controls. Evergreen Escapes also references its gross revenue dropping from \$1,734,561 in 2019 to \$176,512 in 2020.

In response to the request for mitigation, the Company corrected the violations, submitted a corrective action safety plan to staff that addresses how the violations occurred, the actions taken to remedy the violations, and details on the safety management controls implemented to prevent recurrence. Staff addresses the penalties below.

- The Commission assessed a penalty of \$100 for each occurrence of 49 CFR § 391.15(a). Staff recommends the \$1,800 penalty be reduced to \$900.
- The Commission assessed a penalty of \$100 for the repeat violation of 49 CFR § 391.45(a). Staff recommends no mitigation of this penalty.
- The Commission assessed a "per category" penalty of \$100 for three violations of 49 CFR § 396.17(a). Staff recommends no mitigation of this penalty.

Staff recommends the penalty of \$2,000 be reduced to \$1,100. Staff is also sensitive to the Company's financial situation and understands the impact a penalty has on a small business, especially during the COVID-19 pandemic. For these reasons, staff further recommends that \$600 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: 1) staff conducts a focused safety investigation in two years or as soon thereafter as practicable to review the Company's safety management practices, 2) the Company not incur any repeat violations of acute or critical regulations, and 3) Evergreen Escapes pays the \$500 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at [Jason.Hoxit@utc.wa.gov](mailto:Jason.Hoxit@utc.wa.gov).

Sincerely,



Digitally signed by Sharp,  
Jason (UTC)  
Date: 2021.03.19  
12:45:00 -07'00'

Jason Sharp

Motor Carrier Safety Supervisor, Transportation Safety