

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-240750
MARTINSON PIANO MOVING, LLC,	ORDER 01
in the amount of \$14,900	DENYING MITIGATION; SUSPENDING PENALTIES SUBJECT TO CONDITIONS

**BACKGROUND**

1 On October 29, 2024, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Martinson Piano Moving, LLC (Martinson Piano or Company) in the amount of \$14,900 for violations of Washington Administrative Code (WAC) 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 - Qualifications of Drivers and 49 C.F.R. Part 396 - Inspection, Repair, and Maintenance. The Penalty Assessment includes:

- One hundred forty-eight violations of 49 § C.F.R. § 391.45(a) - Using a driver not medically examined and certified. Martinson Piano allowed drivers Darin Gable, Eric Martinson, and Michael Martinson to operate a motor vehicle without a valid medical certificate on 148 occasions between March 10, 2024, and September 10, 2024.
- One violation of 49 C.F.R. § 396.17(a) - Using a commercial motor vehicle not periodically inspected. Martinson Piano failed to annually inspect its commercial motor vehicle (CMV).

2 On November 5, 2024, the Company responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty. The Company requested that the Commission issue a decision based on the written information provided. In its response, the Company admitted to each of the violations, but stated that it had taken action to correct the violations and prevent recurrence.

3 On November 8, 2024, Commission staff (Staff) filed a response recommending the Commission deny the request for mitigation. Staff recommends no reduction in the

amount of the penalties. However, Staff does recommend that \$9,900 of the penalty be suspended for a period of two years, and then waived, subject to the following conditions: (1) Staff conduct a focused review in two years or as soon thereafter as practicable to review the Company's driver qualifications, (2) the Company not incur any repeat violations of critical regulations, and (3) Martinson Piano pay the \$5,000 portion of the penalty that is not suspended.

### DISCUSSION AND DECISION

4 Washington law requires household goods companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>1</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>2</sup> Violations defined by federal law as "critical," which are indicative of a breakdown in a carrier's management controls, meet this standard.<sup>3</sup>

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.<sup>4</sup> We address each violation category below.

6 **49 C.F.R. Part 391.45(a).** The Penalty Assessment includes a \$14,800 penalty for 148 violations of 49 C.F.R. Part 391.45(a) for using a driver not medically examined and certified. In its response, the Company stated that it promptly obtained medical certificates for its drivers.

7 Staff recommends no reduction of the penalty for these violations. Staff notes the Company incurred repeat violations despite having previous technical assistance and a suspended penalty in place. We agree that no reduction of this portion of the penalty is warranted. Accordingly, the penalty amount remains \$14,800.

8 **49 C.F.R. § 396.17(a).** The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. § 396.17(a) for failure to have its CMV periodically inspected. In its

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<sup>1</sup> See RCW 81.04.405.

<sup>2</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12, 15 (Jan. 7, 2013) (Enforcement Policy).

<sup>3</sup> 49 C.F.R. § 385, Appendix B.

<sup>4</sup> Enforcement Policy ¶19.

response, the Company stated that it has corrected the violation and implemented new record-keeping and scheduling protocols for vehicle maintenance.

9 Staff recommends no mitigation of this portion of the penalty. We agree. Although the Company promptly corrected the violation and took measures to prevent reoccurrence, the Commission assessed the minimum “per category” penalty for this violation. We thus conclude that no further penalty reduction is warranted.

10 **Penalty Suspension.** The Commission considers several factors when determining whether to suspend a portion of a penalty, including whether it is a first-time penalty for the same or similar violations, and whether the company has taken specific actions to remedy the violations and avoid the same or similar violations in the future, such as purchasing new technology, making system changes, or training company personnel.<sup>5</sup> Another factor we consider is whether the company agrees to a specific compliance plan that will guarantee future compliance in exchange for suspended penalties.<sup>6</sup>

11 In this case, the Company has taken action to prevent each of the violations from reoccurring. Suspending a portion of the penalty with the conditions proposed by Staff will both increase compliance and provide a strong incentive to avoid violations in the future. Accordingly, we suspend a \$9,900 portion of the penalty for two years, and then waive it, subject to the conditions that the Company may not incur any repeat violations of 49 C.F.R. §391, and the Company pay the unsuspended \$5,000 portion of the penalty within 15 days of the effective date of this order. Staff will conduct a follow-up investigation in two years to review the Company’s driver qualifications management practices. If the Company fails to comply with the condition, the suspended penalty will become immediately due and payable without further Commission order.

### FINDINGS AND CONCLUSIONS

12 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.

13 (2) Martinson Piano is a household goods carrier subject to Commission regulation.

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<sup>5</sup> *Id.* at ¶20.

<sup>6</sup> *Id.*

- 14 (3) Martinson Piano violated 49 C.F.R. Part 391.45(a) when it used a driver not medically examined and certified on 148 occasions.
- 15 (4) The Commission should penalize Martinson Piano \$14,800 for 148 violations of 49 C.F.R. Part 391.45(a).
- 16 (5) Martinson Piano violated 49 C.F.R. §396.17(a) when it failed to have its CMV periodically inspected.
- 17 (6) The Commission should penalize Martinson Piano \$100 for one violation of 49 C.F.R. §396.17(a).
- 18 (7) The Commission should suspend a \$9,900 portion of the penalty for a period of two years, and then waive it, subject to the conditions set out in paragraph 11 above.

**ORDER**

THE COMMISSION ORDERS:

- 19 (1) Martinson Piano Moving, LLC's request for mitigation of the \$14,900 penalty is DENIED.
- 20 (2) The Commission suspends a \$9,900 portion of the penalty for a period of two years, and then waives it, subject to the condition that Martinson Piano Moving, LLC, not incur any repeat violations of 49 C.F.R. §391 upon reinspection.
- 21 (3) Commission Staff will conduct a follow-up review of Martinson Piano Moving, LLC's operations approximately two years after the effective date of this Order.
- 22 (4) Martinson Piano Moving, LLC shall pay the \$5,000 unsuspended portion of the penalty within 15 days of the effective date of this order or enter into a mutually agreeable payment arrangement with Staff.
- 23 (5) If Martinson Piano Moving, LLC fails to satisfy the conditions in paragraph 11 of this order, the remaining \$9,900 of the penalty will become immediately due and payable without further Commission order.
- 24 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-903(2)(e).

DATED at Lacey, Washington, and effective November 14, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A handwritten signature in black ink that reads "Jeff Killip". The signature is written in a cursive, flowing style.

JEFF KILLIP  
Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.**