



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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May 2, 2019

Mark L. Johnson, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Blessed Limousine, Inc.*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-190072

Dear Mr. Johnson:

On February 19, 2019, the Washington Utilities and Transportation Commission (commission) issued a penalty assessment against Blessed Limousine, Inc. (Blessed Limousine or company) in the amount of \$2,200 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 382 – Controlled Substances and Alcohol Use and Testing, Title 49 CFR Part 393 – Parts and Accessories Necessary For Safe Operation, and Title 49 CFR Part 395 – Hours of Service of Drivers, as follows:

- **One violation of Title 49 CFR 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.** Blessed Limousine allowed employees Melissa Thomas and Kosene Tuiloma to drive a commercial motor vehicle on at least five occasions prior to the company enrolling in a Department of Transportation testing program on January 30, 2018. The violations occurred between September 9, 2017, and October 5, 2017.
- **One violation of Title 49 CFR 393.51 – No or defective brake warning device.** Commission staff (staff) discovered one commercial motor vehicle with an inoperable air pressure gauge.<sup>1</sup> This vehicle was placed out-of-service.

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<sup>1</sup> Fleet number 81.

- **Three violations of Title 49 CFR 393.62(a) – No or defective bus emergency exits.** Staff discovered three commercial motor vehicles with emergency exit windows that either do not open or do not close.<sup>2</sup> These vehicles were placed out-of-service.
- **One violation of Title 49 CFR 393.83(d) – Improper exhaust-bus (diesel).** Staff discovered one commercial motor vehicle with an exhaust pipe cut and removed from rear portion of the exhaust pipe.<sup>3</sup> This vehicle was placed out-of-service.
- **One violation of Title 49 CFR 393.205(c) – Wheel fasteners loose and/or missing.** Staff discovered one commercial motor vehicle with three wheel fasteners loose on the front left wheel.<sup>4</sup> This vehicle was placed out-of-service.
- **One hundred twenty violations of Title 49 CFR 395.8(a) – Failing to require driver to make a record of duty status.** Blessed Limousine allowed employees Clussie Bagby, Kosene Tuiloma, Laura Richardson, and Melissa Thomas to drive without making a record of duty status on 120 occasions between June 5, 2018, and October 30, 2018.

On April 23, 2019, Blessed Limousine filed with the commission its application for mitigation of penalties. In the request for mitigation, Clussie Bagby, owner of Blessed Limousine, admitted the violations, stated the company has implemented new procedures to correct the violations, and asked that the penalties be reduced for reasons set out in the company's response.

Companies are required to submit requests for mitigation within 15 days of receiving the notice of penalties, and are directed to provide reasons to support the requests for mitigation, otherwise the commission can deny the request. Staff finds Blessed Limousine's request for mitigation to be untimely.

On April 30, 2019, the company submitted to staff a corrective action safety plan in which the company acknowledged some of the violations identified in the penalty assessment and described steps taken to correct the violations. Staff's response to the mitigation request is below.

- **Mitigation Request: Title 49 CFR 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.** Blessed Limousine stated the violation happened because the company verbally received negative pre-employment controlled substance test results for its drivers, but failed to acquire and retain the documentation reflecting the negative test results. Blessed Limousine stated that it will not allow any driver to operate a vehicle prior to receiving a negative pre-employment controlled substance test result, and will maintain the required documentation in each driver file.

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<sup>2</sup> Fleet numbers 29, 81, and 386.

<sup>3</sup> Fleet number 386.

<sup>4</sup> Fleet number 81.



**Staff response:** Blessed Limousine's response referred to receiving a negative pre-employment controlled substance test result for its drivers, but did not address its failure to implement an alcohol and/or controlled substances testing program prior to beginning commercial motor vehicle operations. This is an acute violation that could result in permitting drivers with positive drug test results to operate commercial motor vehicles carrying passengers. Non-compliance with acute regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates.<sup>5</sup> Staff recommends no mitigation of this \$1,500 penalty.

- **Mitigation Request: Title 49 CFR 393.51 – No or defective brake warning device.** Blessed Limousine failed to address this violation in its request for mitigation and its corrective action safety plan.

**Staff response:** It is the company's responsibility to ensure that its vehicles are free of defects that may potentially put the traveling public at risk. Blessed Limousine did not address this violation in its response. Staff recommends no mitigation of this \$100 penalty.

- **Mitigation Request: Title 49 CFR 393.62(a) – No or defective bus emergency exits.** The company failed to address this violation in its request for mitigation and its corrective action safety plan.

**Staff response:** It is Blessed Limousine's responsibility to ensure that its vehicles are free of defects that may potentially put the traveling public at risk. The company did not address this violation in its response. Staff recommends no mitigation of this \$300 penalty.

- **Mitigation Request: Title 49 CFR 393.83(d) – Improper exhaust-bus (diesel).** Blessed Limousine failed to address this violation in its request for mitigation and its corrective action safety plan.

**Staff response:** It is the company's responsibility to ensure that its vehicles are free of defects that may potentially put the traveling public at risk. Blessed Limousine did not address this violation in its response. Staff recommends no mitigation of this \$100 penalty.

- **Mitigation Request: Title 49 CFR 393.205(c) – Wheel fasteners loose and/or missing.** The company failed to address this violation in its request for mitigation and its corrective action safety plan.

**Staff response:** It is Blessed Limousine's responsibility to ensure that its vehicles are free of defects that may potentially put the traveling public at risk. The company did not

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<sup>5</sup> Appendix B to CFR Part 385—Explanation of Safety Rating Process.

address this violation in its response. Staff recommends no mitigation of this \$100 penalty.

- **Mitigation Request: Title 49 CFR 395.8(a) – Failing to require driver to make a record of duty status.** Blessed Limousine stated that the violations occurred because the company was using incorrect timesheets to record its drivers' duty status, and failed to retain the timesheets for the required six months. Blessed Limousine stated that it now has each driver submit a weekly timesheet and the company will retain the records in each driver file for at least six months.

**Staff response:** The company implemented new procedures to prevent future occurrences of this violation. Because the commission assessed a "per category" penalty of \$100 for 120 occurrences of this violation, staff recommends no mitigation of this \$100 penalty.

Blessed Limousine is a small company that operated six commercial motor vehicles, employed six drivers, and reported a gross revenue of \$217,000 in 2017.

Staff takes into consideration that Blessed Limousine provided a corrective action safety plan that addressed some of the violations in the penalty assessment; however, staff recommends no mitigation of the \$2,200 penalty due to the severity of the violations, the company's late response to the penalty assessment, and the company's failure to address a majority of the violations identified in the penalty assessment.

However, to encourage future compliance, and because staff understands the impact a penalty has on a small business, staff recommends that \$1,100 of the penalty be suspended for a period of two years before being waived, on the following conditions:

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 company not incur any repeat acute or critical violations; and
3. Blessed Limousine pays \$1,100, the portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Consumer Protection, at (360) 664-1320, or by email at [jason.hoxit@utc.wa.gov](mailto:jason.hoxit@utc.wa.gov).

Sincerely,



Bridgit Feeser  
Assistant Director, Consumer Protection