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Date: October 11, 2021

To: Andrew J. O'Connell, Administrative Law Judge, Administrative Law Division

From: Mathew Perkinson, Assistant Director, Transportation Safety Division

Re: **TV-210654 and TV-210655 ASD Ventures Inc. d/b/a College Hunks Hauling Junk & Moving**
 Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG068349)

In August 2020, the Commission notified ASD Ventures Inc. d/b/a/ College Hunks Hauling Junk & Moving (ASD Ventures or Company) of its intent to cancel the Company's provisional permit after the Commission's staff (Staff) completed a compliance review of the Company's operations that resulted in a proposed unsatisfactory safety rating.

ASD Ventures requested an upgrade to the proposed unsatisfactory safety rating based on its submission of a safety management plan. The plan provided evidence that it had taken corrective actions to address the violations identified by Staff and that its operations met the safety fitness standard specified in 49 C.F.R. § 385.5 and 385.7.

On October 12, 2020, the Commission upgraded the Company's proposed unsatisfactory safety rating to conditional after approving the Company's safety management plan.¹ Based on that upgrade, the Commission refrained from cancelling ASD Ventures' provisional permit, extending the Company's provisional period for good cause.

On August 20, 2021, Staff completed the ordered follow-up safety investigation of ASD Ventures which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded ASD Ventures the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, showing that the Company took corrective action to address the identified violations.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations

¹ Order 01 in Dockets TV-200746 and TV-200745 (Consolidate)

currently meet the safety standard and factors in 49 C.F.R. § 385.5 and 385.7. In this case, ASD Ventures has until October 20, 2021, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

The proposed conditional safety rating was based on four violations of acute and critical regulations – 49 C.F.R. § 391.15(a), 391.45(a), 391.51(b)(2), and WAC 480-15-555.

“**Acute**” violations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company’s management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

Acute violations discovered during investigation:

1. One violation of Title 49 C.F.R. § 391.15(a) – Using a disqualified driver.

Critical violations discovered during investigation:

2. Two violations of Title 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.
3. Three violations of Title 49 C.F.R. § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file.
4. Two violations of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire.

In a September 13, 2021, Notice of Intent to Cancel, the Commission instructed ASD Ventures to submit its proposed safety management plan no later than September 28, 2021.

On September 23, 2021, the Commission issued a penalty assessment against ASD Ventures in the amount of \$700 because of violations discovered during the follow-up safety investigation.² The penalty includes:

1. A \$200 penalty for two violations of WAC 480-15-555 for failing to complete a background check for every person the carrier intends to hire.
2. A \$100 penalty for one violation of 49 C.F.R. § 391.15(a) for using a disqualified driver.
3. A \$200 penalty for two violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
4. A \$100 penalty for three violations of 49 C.F.R. § 391.51(b)(2) for failing to maintain inquiries into driver’s driving record in the driver’s qualification file.

² TV-210655

5. A \$100 penalty for one violation of 49 C.F.R. § 395.8(a)(1) for failing to require driver to prepare a records of duty status using the appropriate method.

On October 8, 2021, the Company submitted its response to the penalty assessment, admitting the violations and notifying the Commission of its intent to pay the \$700 penalty.

On October 8, 2021, ASD Ventures submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 C.F.R. § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

Summary and Recommendations

Staff reviewed ASD Ventures' safety management plan and concludes it is acceptable and meets the requirements of 49 C.F.R. § 385. The plan demonstrates that ASD has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Staff acknowledges that even though ASD Ventures failed to achieve a satisfactory safety rating and was operating under a safety management plan prior to the follow-up compliance review, the Company did demonstrate a willingness to comply with the safety regulations and showed progress in implementing a compliant safety program.

Documentation of driver qualifications, vehicle maintenance, criminal background check information, and Company training and policies were included in the plan. The Company supplied Staff with evidence that it created a compliance tracking system along with calendar reminders for future compliance dates.

The plan states that the Company hired additional staff to oversee the safety compliance program and intends to require its operations staff to attend Commission provided household goods training.

Staff recommends the Commission accept the Company's safety management plan, extend the provisional period for good cause, and implement the following conditions:

1. ASD Ventures maintain the conditional safety rating.
2. ASD Ventures pay the \$700 penalty in TV-210655.
3. ASD Ventures pay the imposed \$3,000 penalty in TV-200746 and TV-200745 (Consolidated) in full or enter a mutually agreeable payment arrangement with Staff within 10 days of an order.
4. All Company operations staff must attend the October 13, 2021, household goods training provided by the Staff.
5. Staff perform a focused review of the Company's hours of service records, criminal background checks and driver's medical certification six months from the date of reinstatement.
6. ASD Ventures must achieve a satisfactory safety rating following a comprehensive safety investigation six months from the date of an order.
7. The Company must not receive any repeat acute or critical violations during follow-up inspections.
8. Any violation of these conditions will be grounds for cancellation of ASD Ventures' operating authority as an intrastate household goods mover in Washington.

Staff recommends that Dockets TV-210654 and TV-210655 be consolidated.

Staff confirmed with the Company that it waived its right to a hearing and recommends that the brief adjudicative proceeding scheduled for October 12, 2021, be cancelled.