



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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September 30, 2019

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. Seattle Travel Service, LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-190751

Dear Mr. Johnson:

On September 18, 2019, the Washington Utilities and Transportation Commission (commission) issued a penalty assessment against Seattle Travel Service, LLC (Seattle Travel or company) in the amount of \$14,400 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 382 – Controlled Substance and Alcohol Use and Testing, 49 CFR Part 391 – Qualifications of Drivers, and 49 CFR Part 396 – Inspection, Repair, and Maintenance, as follows:

- **One violation of 49 CFR § 382.305 – Failing to implement a random controlled substance and/or an alcohol testing program.** Seattle Travel failed to implement a random controlled substance and alcohol testing program.
- **One hundred twenty-eight violations of 49 CFR § 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months.** The company allowed drivers Yong Yang and Song Jian to drive without a valid medical certificate on 128 occasions between January 25 and July 22, 2019.
- **One hundred twenty violations of 49 CFR § 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Seattle Travel failed to require its drivers to prepare a driver vehicle inspection report on 120 occasions.

On September 23, 2019, Seattle Travel filed with the commission its application for mitigation of penalties. In the request for mitigation, Yue Huang, General Manager of Seattle Travel, admitted

the violations, stated the company has corrected the violations and implemented new procedures, provided documentation of the corrections made, and asked that the penalties be reduced for reasons set out in the company's response. Staff's response to the mitigation request is below.

- **Mitigation Request: 49 CFR § 382.305 – Failing to implement a random controlled substance and/or an alcohol testing program.** Seattle Travel stated that it was confused between annual drug testing and a random drug and alcohol testing program. The company stated that it has enrolled in a random drug and alcohol testing program, and provided documentation confirming its enrollment.
- **Staff response:** This is a violation of an acute regulation that could result in permitting drivers who use prohibited controlled substances to operate commercial motor vehicles carrying passengers. Acute regulations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier, and are quantitatively linked to inadequate safety management controls and usually higher than average accident rates.¹

Seattle Travel promptly corrected this first-time violation of a fundamental safety requirement, and provided staff with supporting documentation. The assessed penalty is \$1,500 for one occurrence of this violation. Staff recommends the penalty be reduced by half, to \$750.

- **Mitigation Request: 49 CFR § 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months.** Seattle Travel stated that driver Song Jian received medical certification immediately after the violation was identified by staff, and stated that driver Yong Yang has not worked for the company since June 2019. The company provided a copy of Song Jian's valid medical certificate.
- **Staff response:** It is Seattle Travel's responsibility to ensure its drivers have current medical certificates and to not allow its drivers to operate a commercial motor vehicle when medical certification cannot be verified. Seattle Travel promptly corrected these first-time violations of a fundamental safety requirement, and provided staff with supporting documentation. The assessed penalty is \$12,800 for 128 occurrences of this violation. Staff recommends the penalty be reduced by half, to \$6,400.
- **Mitigation Request: 49 CFR § 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Seattle Travel stated it educated its drivers on how to complete driver vehicle inspection reports, placed the required forms in every commercial motor vehicle, and will review the completed driver vehicle inspection reports.
- **Staff response:** Seattle Travel provided training to its drivers and implemented new procedures to review the completed forms. Because the commission assessed a "per

¹ Appendix B to CFR Part 385—Explanation of Safety Rating Process.

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category” penalty of \$100 for 120 occurrences of this first-time violation, staff recommends no mitigation of this \$100 penalty.

Seattle Travel is a small company that operates four commercial motor vehicles and employs six drivers. The company reported \$510,000 in gross revenue for 2018.

Staff recommends the penalty of \$14,400 be reduced to \$7,250. Staff further recommends that \$3,625 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: (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 violations of critical and acute regulations, and (3) Seattle Travel pays the \$3,625 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety, at (360) 664-1238, or by email at Jason.Sharp@utc.wa.gov.

Sincerely,

/s/ Mathew Perkinson
MATHEW PERKINSON
Assistant Director, Transportation Safety