

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against,

MY BROTHERS MOVING AND
TRANSPORTATION LLC D/B/A MY
BROTHERS MOVING

in the amount of \$8,400.

DOCKET TV-240674

ORDER 01

GRANTING MITIGATION, IN PART;
IMPOSING PENALTIES

BACKGROUND

- 1 On October 7, 2024, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against My Brothers Moving and Transportation LLC d/b/a My Brothers Moving (My Brothers Moving or Company) in the amount of \$8,400 for violations of Washington Administrative Code (WAC): WAC 480-15-555, Criminal Background Checks for Prospective Employees; and WAC 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 – Qualification of Drivers and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance. Specifically, the penalty assessment reads as follows:
 - Three violations of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire. The Company failed to acquire criminal background checks prior to hiring employees Josue A. Alvarado, Luis Alvarado, and Cristian A. Godinez-Pineda.
 - Eighty violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. My Brothers Moving allowed drivers Jesus Alvarado and Josue Alvarado to operate a motor vehicle without a valid medical certificate on 80 occasions between February 7, 2024, and August 12, 2024.
 - One violation of 49 C.F.R. § 396.17(a) – Using a commercial motor vehicle not periodically inspected in accordance with minimum standards. My Brothers Moving failed to annually inspect its commercial motor vehicle (CMV).
- 2 On October 21, 2024, My Brothers Moving filed with the Commission its application for mitigation in response to the penalty assessment. In the request for mitigation, Jesus

Alvarado, owner of My Brothers Moving, admits that the violations occurred, states that the violations were caused inadvertently, and that the Company has corrected the violations.

3 On October 25, 2024, Commission staff (Staff) filed a response recommending the Commission grant the request for mitigation, in part, and assess a reduced total penalty of \$4,350. Staff further recommend that \$2,000 of the reduced penalty be suspended for a period of two years, and then waived, subject to the following conditions:

1. My Brothers Moving must not incur any repeat violations identified in the penalty assessment during the two-year period after the Penalty Assessment service date.
2. The Company pay the \$2,350 non-suspended portion of the reduced penalty amount within 10 days of this order or enter into a mutually agreeable payment arrangement with Staff.

DISCUSSION AND DECISION

4 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.¹ The Commission also considers whether the violations were promptly corrected, a company's history of compliance, and the likelihood the violations will reoccur. We address each violation category below.

5 **WAC 480-15-555(1).** The Commission assessed a penalty of \$100 for each violation occurrence (three) of WAC 480-15- 555(1), for a total of \$300. The Company states that all the employees were family members and close family friends and knew they had clean records. Alvarado admits not completing the background checks was a mistake and has submitted state background checks for employees in violation. WAC 480-15-555 requires that companies obtain national background checks on all employees they intend to hire. Because the Company has not demonstrated that it has come into compliance with this regulation, Staff recommends no mitigation of this penalty. We agree that no reduction of this portion of the penalty is warranted. Accordingly, the penalty amount remains \$300.

6 **49 C.F.R. § 391.45(a).** The Commission assessed a penalty of \$8,000 for 80 violations of 49 C.F.R. § 391.45(a). Alvarado claims that he did not understand that he had to renew his medical certification and that his son, Josue Alvarado, was in training and did not realize he needed to be medically certified. My Brothers Moving provided current medical certificates for its drivers. Because the Company corrected these first-time violations, Staff recommends that the penalty for these violations be reduced to \$4,000.

¹ Enforcement Policy ¶19.

We concur with Staff's recommendation. Accordingly, the penalty amount is reduced to \$4,000.

- 7 **49 C.F.R. § 396.17(a).** The Commission assessed a penalty of \$100 for one violation of 49 C.F.R. § 396.17(a). My Brothers Moving provided evidence that it has had periodic inspections completed each year, though they were not completed at least once every 12 months as required. The Company claims it will regularly inspect its CMV within the same month every year. Staff recommend that the \$100 penalty be reduced to \$50. We concur with Staff's recommendation. Accordingly, the penalty amount is reduced to \$50.

FINDINGS AND CONCLUSIONS

- 8 (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.
- 9 (2) My Brothers Moving is a household goods carrier subject to Commission regulation.
- 10 (3) My Brothers Moving violated WAC 480-15-555(1) when it failed to acquire criminal background checks prior to hiring employees Josue A. Alvarado, Luis Alvarado, and Cristian A. Godinez-Pineda.
- 11 (4) The Commission should penalize My Brothers Moving \$300 for three violations of WAC 480-15-555(1).
- 12 (5) My Brothers Moving violated 49 C.F.R. § 391.45(a) when it allowed drivers Jesus Alvarado and Josue Alvarado to operate a motor vehicle without a valid medical certificate on 80 occasions between February 7, 2024, and August 12, 2024.
- 13 (6) The Commission should penalize My Brothers Moving \$4,000 for 80 violations of 49 C.F.R. § 391.45(a).
- 14 (7) My Brothers Moving violated 49 C.F.R. § 396.17(a) when it failed to annually inspect its commercial motor vehicle (CMV).
- 15 (8) The Commission should penalize My Brothers Moving \$50 for one violation of 49 C.F.R. § 396.17(a).

ORDER

THE COMMISSION ORDERS:

- 16 (1) My Brothers Moving and Transportation LLC d/b/a My Brothers Moving request for mitigation of the \$8,400 penalty is GRANTED, in part, and the penalty is reduced to \$4,350. Additionally, a \$2,000 portion of the reduced penalty is

suspended for a period of two years, to be waived, subject to the conditions identified in paragraph 3 of this order.

- 17 (2) My Brothers Moving and Transportation LLC d/b/a My Brothers Moving shall pay the \$2,350 non-suspended portion of the reduced penalty amount within 10 days of this order or enter into a mutually agreeable payment arrangement with Staff.
- 18 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective October 29, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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.