



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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December 27, 2017

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Lifestyle LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-171115

Dear Mr. King:

In November 2017, Motor Carrier Safety Investigator Jason Sharp completed a routine safety investigation of Lifestyle LLC, d/b/a Lifestyle Shuttles & Tours and Lifestyle Valet (Lifestyle). A safety investigation is an in-depth examination of a company's compliance with regulations that the Federal Motor Carrier Safety Administration has identified as "acute" or "critical."¹ Acute regulations are identified where non-compliance is so severe as to require immediate corrective action regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls.

Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and unusually higher than average accident rates.² Mr. Sharp documented 40 violations, 13 of which were of critical regulations, resulting in a satisfactory safety rating.

The Washington Utilities and Transportation Commission's (Commission) Enforcement Policy provides that some requirements are so essential to safe operations that the Commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues. The Commission will assess penalties for any repeat violations of critical regulations, including for each occurrence of a repeat violation.³

¹ Code of Federal Regulations, Appendix B to Part 385—Explanation of safety rating process

² *Id.*

³ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. RCW 81.04.530 allows penalties of \$500 for each driver employed who is not in compliance with the motor vehicle driver drug and alcohol testing requirements. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On December 1, 2017, the Commission issued a penalty against Lifestyle in the amount of \$1,300 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 391 – Qualifications of Drivers, as follows:

- **Thirteen violations of Title 49 CFR Part 391.45(b)(1) – Using a driver not medically examined and certified.** During the six months preceding the routine safety investigation, Lifestyle allowed its employees Roshaun Yates and Jason Lewis to operate a commercial motor vehicle on 13 occasions without a current medical examination and certification.
 - Mr. Yates' medical certificate expired on January 13, 2016, and was not renewed until July 14, 2017. Mr. Yates drove 12 times between April and July, 2017.
 - Mr. Lewis' medical certificate expired on June 12, 2017. Mr. Lewis drove one time in June 2017.

On December 19, 2017, the Commission received an application for mitigation of penalties. In the application, Roshaun Yates, Hospitality Manager for Lifestyle, admitted the violations, stated that the violations have been corrected, and requested mitigation of the penalties.

- **Mitigation Request: Title 49 CFR Part 391.45(b)(1) – Using a driver not medically examined and certified.** Mr. Yates renewed his medical certificate on July 14, 2017, prior to the safety investigation. Mr. Lewis failed to renew his medical certificate as directed by the company and has not worked for the company since the violation date. Lifestyle has created a calendar tracking system to ensure employees renew their medical certificates before they expire.

Staff response: The assessed penalty is \$1,300 for thirteen occurrences of this violation. Because the company quickly corrected the violations and took steps to prevent future occurrences, staff recommends mitigation of the penalty to \$600.

If you have any questions, please contact Mike Turcott, Compliance Investigations Supervisor, Consumer Protection, at (360) 664-1174, or by email at mike.turcott@utc.wa.gov.

Sincerely,



Bridgit Feeser
Assistant Director, Consumer Protection