

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TV-170205

PENALTY AMOUNT: \$15,900

Iron Man Movers and Storage, Inc.
1495 Lahti Dr.
Bellingham, WA 98226

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-15, which governs the regulations of household goods carriers.

Revised Code of Washington (RCW) 80.04.405 authorizes the Commission to assess penalties of \$100 for every such violation. Under this statute, each and every violation is considered a separate and distinct offense and in the case of a continuing violation, each day the violation continues is considered a separate and distinct violation.

As part of a review of Iron Man Movers and Storage, Inc.'s (Iron Man) business practices, Commission staff found and documented the following violations of Commission rules:

- **Twenty-four violations of WAC 480-15-490 and Tariff 15-C, Item 230(7) - Failure to bill the required minimum hours.** Iron Man failed to bill the required minimum hours for weekend moves and state-recognized holidays on 24 occasions between April and July, 2017.
- **Two violations of WAC 480-15-710 and Tariff 15-C, Item 230(6) - Failure to charge the minimum rate.** Iron Man failed to charge the minimum tariffed rate on April 19, 2016, and June 6, 2016.
- **One hundred thirty-one violations of WAC 480-15-710 and Tariff 15-C, Item 95 - Failure to complete the bills of lading.** Iron Man failed to properly complete the bills of lading for all 131 occurrences investigated.
- **One violation of WAC 480-15-630 and Tariff 15-C, Item 85 - Failure to completely and accurately fill out estimate forms.** Iron Man failed to fully and accurately fill out estimate forms on 52 occasions between April and July, 2017.
- **One violation of WAC 480-15-610(1) and WAC 480-15-390(1) – Failure to publish company's address and trade name as recorded at the commission.** Iron Man failed to advertise the company's address as recorded at the Commission on Iron Man's Facebook page and failed to use the company's trade name as recorded at the Commission on Iron Man's website.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. How serious or harmful the violation is to the public.

The violations represent a consistent disregard for the requirements in Tariff 15-C. Iron Man has repeatedly failed to provide customers with the accurate and complete information the tariff requires and has charged customers inconsistent rates, most notably on weekends when the company has not been charging the required four-hour minimum. These practices harm consumers by depriving them of necessary information and harms the industry by unlawfully undercutting other household goods carriers that are abiding by Tariff 15-C.

2. Whether the violation is intentional.

Staff believes the violations in this report are intentional regarding the four hour minimum not being charged. This on-going issue has previously been documented and continues to concern staff. It is the household goods carrier owner's responsibility to ensure their staff meets all of the proper business practices required by the commission.

3. Whether the company self-reported the violation.

Iron Man did not self-report these violations. Emailed tips to commission staff prompted a review of Iron Man's business practices.

4. Whether the company was cooperative and responsive.

The company was relatively responsive regarding responding to the data request sent to it on Aug. 19, 2016. Iron Man called and emailed staff on Sept. 6, 2016, the day the data response was due, to say the company had only received the letter that day. Iron Man requested an extension, which staff granted until Sept. 20, 2016. Staff received responsive documents on Sept. 23, 2016.

5. Whether the company promptly corrected the violations and remedied the impacts.

Iron Man has corrected a number of violations that were noted in previous investigations, such as completing an estimate prior to performing a household goods move and the previous failure to include the proper bill of lading, terms, and conditions. Iron Man has not remedied the violations of using an incorrect trade name on its website. The company is also still not filling out its forms completely and accurately or consistently charging the hourly rates required by Tariff 15-C.

6. The number of violations.

Staff reviewed 131 moves and found a total of 676 violations. Most of these violations are repeat violations for which the company has either received technical assistance or penalties since 2011.

7. The number of consumers affected.

The review of 131 separate moves documents that at least 131 consumers were affected by Iron Man's business practices. Staff believes that all customers who have contracted a household goods move with Iron Man have been affected by the company's poor record keeping on their estimates, cube sheets, and bills of lading.

8. The likelihood of recurrence.

Based on the company's history of non-compliance, staff believes that these or similar violations will likely continue to occur without a substantial penalty.

9. The company's past performance regarding compliance, violations, and penalties.

As noted in this investigation report, Iron Man has received technical assistance and penalties for a variety of violations in 2011 and 2012. Many of the violations in this report are repeat violations. Iron Man has received penalties for filing seven of their required annual reports later than the due date of May 1 of each year. Iron Man filed its 2016 Annual Report, which was received at the commission on May 5, 2017.

10. The company's existing compliance program.

Staff is not aware of any existing compliance program.

11. The size of the company.

Iron Man reported operating revenue of \$341,850.89 for the 2016 reporting period.

The Commission has considered these factors and adopts staff's recommendation to penalize Iron Man \$15,900 for violations of WAC 480-15 as follows:

- Twenty-four violations of WAC 480-15-490 and Tariff 15-C, Item 230(7) - Failure to bill the required minimum hours. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$2,400.
- Two violations of WAC 480-15-710 and Tariff 15-C, Item 230(6) - Failure to charge the minimum rate. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$200.
- One hundred thirty-one violations of WAC 480-15-710 and Tariff 15-C, Item 95 - Failure to complete the bills of lading. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$13,100.
- One violation of WAC 480-15-630 and Tariff 15-C, Item 85 - Failure to completely and accurately fill out estimate forms. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$100.
- One violation of WAC 480-15-610(1) and WAC 480-15-390(1) - Failure to publish company's address and trade name as recorded at the commission. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$100.

This information, if provided at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may take additional enforcement action, including, but not necessarily limited to; suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Olympia, Washington, and effective May 22, 2017.

GREGORY J. KOPTA
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
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PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$ _____ in payment of the penalty.
2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:
- a) I ask for a hearing to present evidence on the information I provided above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provided above.
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:
- a) I ask for a hearing to present evidence on the information I provided above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provided above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”