

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TN-180481  
PENALTY AMOUNT: \$100**

Crista Ministries – Senior Community  
19303 Fremont Ave N. #90  
Shoreline, WA 98133

The Washington Utilities and Transportation Commission (Commission) believes that Crista Ministries – Senior Community (Crista Ministries or Company) has committed violations of Washington Administrative Code (WAC) 480-31-130 Operation of Motor Vehicles, which adopts Title 49 Code of Federal Regulations (CFR) Part 382 – Controlled Substances and Alcohol Use and Testing.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

In May 2018, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Crista Ministries and documented the following violation:

- **One violation of Title 49 CFR Part 382.305(b)(2) – Testing for controlled substances.** The Company failed to meet the annual rate for random controlled substance testing.

The Commission considered the following factors in determining the appropriate penalty for the violation:

1. **How serious or harmful the violations is to the public.** The violation noted is serious and potentially harmful to the public. Companies that fail to test for controlled substances put the traveling public at risk. Potentially impaired drivers present serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored Commission staff's previous technical assistance; and
  - Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violations.

Since 1994, when the Commission granted operating authority to Crista Ministries, staff has conducted several routine vehicle inspections and safety investigations. The Company knew, or should have known about these requirements, however there is no evidence that the company disregarded staff's previous technical assistance.

3. **Whether the company self-reported the violation.** The Company did not self-report the violation.
4. **Whether the company was cooperative and responsive.** The Company was cooperative and responsive throughout the entire investigation.
5. **Whether the company promptly corrected the violation and remedied the impacts.** The Company submitted a safety compliance plan to prevent future violations from occurring.
6. **The number of violations.** Staff identified two critical violations along with one critical type violation occurrence.
7. **The number of customers affected.** The Company reported 42,180 miles traveled in 2017. A significant number of customers, as well as members of the traveling public, were potentially affected by these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if Crista Ministries is likely to repeat these safety violations, however the Company was cooperative with staff throughout the entire investigation and has created a compliance plan.
9. **The company's past performance regarding compliance, violations, and penalties.** In 2006, the Commission penalized Crista Ministries \$100 for failure to submit a timely annual report. The Company has had no other similar violations or penalties.
10. **The company's existing compliance program.** Mr. Stan Bear (Director of Transportation) is responsible for the carrier's safety and compliance program.
11. **The size of the company.** Crista Ministries is a small company with five drivers and five vehicles.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.<sup>1</sup> The Commission will generally assess penalties per type of violation, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations found in future compliance investigations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Crista Ministries \$100 for violation of WAC 480-31-130 Operation of Motor Vehicles, which adopts Title 49 CFR Part 382, calculated as follows:

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<sup>1</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

- One violation of Title 49 CFR Part 382.305(b)(2) – Testing for controlled substances. The Commission assesses a penalty of \$100 for this occurrence of a critical violation.

This information, if proven 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 the violation did not occur, you may deny committing the violation 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 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 the violation 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 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.
- Contest the occurrence of the violation.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to [records@utc.wa.gov](mailto:records@utc.wa.gov). If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250.

**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 June 11, 2018.

*/s/ Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TN-180481

**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 \$100 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide 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.”