

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TV-190037  
PENALTY AMOUNT: \$1,900**

3Z Movers LLC  
14428 88<sup>th</sup> Ave NE  
Kirkland, WA 98034

The Washington Utilities and Transportation Commission (Commission) believes that 3Z Movers LLC (3Z Movers or Company) has committed violations of Washington Administrative Code (WAC) 480-15-180, Carrier Operations That Require a Household Goods Permit; WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 CFR Part 396 – Inspection, Repair, and Maintenance; and WAC-480-15-570, Driver Safety Requirements, which adopts Title 49 CFR Part 390 – Safety Regulations, and Title 49 CFR Part 395 – Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On January 10, 2019, Commission Motor Carrier Investigator Francine Gagne completed a comprehensive intrastate investigation of 3Z Movers and documented the following violations:

- **Eight violations of WAC 480-15-180 – Operations that require a household good permit.** The Company's provisional permit was canceled on July 13, 2017, due to insufficient proof of insurance. The Company performed eight moves and continued to provide household goods moves prior to having its permit reinstated on August 7, 2018.
- **One violation of Title 49 CFR Part 390.19(b)(2) – Motor carrier, hazardous material safety permit applicant/hold, and intermodal equipment provider identification reports.** The Company failed to file the appropriate form under 390.19(a) (MCS-150, 150B, or 150C) every 24 months according to the schedule.
- **Nine violations of Title 49 CFR Part 395.8(a)(1) – Driver's record of duty status.** The Company failed on nine occasions to require its driver, Boubacar Zida, to make a record of duty status.
- **One violation of Title 49 CFR Part 396.17(a) – Required records of periodic inspection.** The Company used a commercial motor vehicle that had not been periodically inspected.

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

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that operate without a permit, fail to keep records of drivers' duty status, or use vehicles not periodically inspected put its customers, as well as the traveling public, at risk.
2. **Whether the violations are 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 violation.

In its October 18, 2013, application for a household goods movers permit, owner Boubacar Zida acknowledged the Company's responsibility to comply with applicable laws and regulations. A representative of the Company, Inoussa Zida, attended household goods training provided by Commission staff (Staff), and acknowledged receiving training pertaining to motor carrier safety regulations.

The Company knew or should have known about these requirements.

3. **Whether the company self-reported the violation.** The Company did not self-report the violation.
4. **Whether the company was cooperative and responsive.** Boubacar Zida expressed a desire to come into compliance with regulations.
5. **Whether the company promptly corrected the violations and remedied the impacts.** It is unknown to Staff at this time if 3Z Movers has taken any action to correct these violations.
6. **The number of violations.** In total, Staff identified nine violation types and a total of 24 individual occurrences.
7. **The number of customers affected.** The Company traveled 14,600 miles in 2018 and performed 145 household goods moves. A significant number of customers as well as members of the traveling public were potentially affected by these violations.
8. **The likelihood of recurrence.** This follow-up investigation was in response to the Company receiving a Conditional safety rating following its initial provisional household goods safety investigation. While the Company has made improvements, these violations were severe and some were repeated from the initial investigation. While Staff is unable to predict future violations, there is a likelihood for recurrence due to the pattern of repeating violations.
9. **The company's past performance regarding compliance, violations, and penalties.** The Company was penalized in 2018 for safety violations and failing to submit a timely

annual report and pay regulatory fees. The Company has had its permit cancelled twice since 2013 for lack of insurance.

10. **The company's existing compliance program.** Boubacar Zida, owner, is responsible for the Company's safety compliance program.

11. **The size of the company.** 3Z Movers is a small company with one driver and one vehicle. The Company reported \$50,400 in gross revenue for 2017.

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 generally will 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 3Z Movers \$1900 for violations of WAC 480-15-180, Carrier Operations That Require a Household Goods Permit; WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 CFR Part 396; and WAC-480-15-570, Driver Safety Requirements, which adopts Title 49 CFR Part 390, and Title 49 CFR Part 395, calculated as follows:

- Eight violations of WAC 480-15-180 – conducting household goods moves while its permit was canceled. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$800.
- One violation of Title 49 CFR Part 390.19T(b)(2) – failing to file the appropriate forms according to the schedule. The Commission assesses a penalty of \$100 for the repeat occurrence of this violation, for a total of \$100.
- Nine violations of Title 49 CFR Part 395.8(a)(1) – failing to require driver to prepare a record of duty status. The Commission assesses a penalty of \$100 for each occurrence of this repeat critical violation, for a total of \$900.
- One violation of Title 49 CFR Part 396.17(a) – using a commercial motor vehicle not periodically inspected. The Commission assesses a penalty of \$100 for this repeat critical violation, for a total of \$100.

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

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

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 through evidence presented at a hearing or in writing. Or, 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 the 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 to contest the violation(s) or for mitigation of the penalty 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.
- Contest the occurrence of the violations.
- 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 February 5, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-190037

**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 violations occurred and enclose \$1,900 in payment of the penalty.
- 2. **Contest the violation(s).** I believe that the alleged violation(s) 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 violations, 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.”