

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TV-190697  
PENALTY AMOUNT: \$200**

Affordable Movers LLC  
317 84<sup>th</sup> Avenue SE  
Everett, WA 98501

The Washington Utilities and Transportation Commission (Commission) believes that Affordable Movers LLC (Affordable Movers or Company) violated Washington Administrative Code (WAC) 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 391 – Qualification of Drivers, and 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 August 13, 2019, Commission Motor Carrier Investigator Francine Gagne completed a routine safety investigation of Affordable Movers and documented the following violations:

- **Two violations of Title 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file.** The Company failed to obtain initial driving abstracts for drivers Tuan Lam and Ryan Stedman.
- **Sixty violations of Title 49 CFR § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.** The Company failed to require drivers Tuan Lam and Ryan Stedman to prepare records of duty status/timesheets as appropriate.

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

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that fail to obtain initial driving abstracts and fail to require drivers to create an accurate record of duty status put their customers' belongings and the traveling public at risk. These violations present serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored Commission staff's (Staff) 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.

On November 17, 2017, the Company applied for household goods moving authority. In the application, Tuan Lam, owner of Affordable Movers, acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

On February 15, 2018, Mr. Lam attended household goods training provided by 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 violations.** Affordable Movers did not report these violations.
4. **Whether the Company was cooperative and responsive.** Affordable Movers was cooperative throughout the investigation and expressed a desire to come into compliance with the safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Staff does not know if Affordable Movers has corrected these violations.
6. **The number of violations.** Staff identified nine violation types with a total of 75 individual occurrences.
7. **The number of customers affected.** Affordable Movers traveled 20,000 miles in 2018. These safety violations presented a significant public safety risk.
8. **The likelihood of recurrence.** Staff is unable to predict whether or not the Company is likely to repeat these safety violations.
9. **The Company's past performance regarding compliance, violations, and penalties.** Affordable Movers has no history of previous violations or penalties.
10. **The Company's existing compliance program.** Tuan Lam is responsible for Affordable Movers' safety compliance program.
11. **The size of the Company.** The Company currently operates two straight trucks with two drivers. The Company reported \$182,851 in gross revenue for 2018.

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

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

equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Affordable Movers \$200, calculated as follows:

- Two violations of Title 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file. The Commission assesses a "per category" penalty of \$100 for this first-time critical violation.
- Sixty violations of Title 49 CFR § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method. The Commission assesses a "per category" penalty of \$100 for this first-time 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 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. Alternatively, 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 violation(s).
- Admit the violations but request mitigation of the penalty amount.

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, PO 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 Lacey, Washington, and effective September 4, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-190697

**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 \$200 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