

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TV-200695
PENALTY AMOUNT: \$100**

James Moseley,
d/b/a You Got It Movers
7711 284th St. NE
Arlington, WA 98223

The Washington Utilities and Transportation Commission (Commission) believes James Moseley, d/b/a You Got It Movers, (You Got It Movers or Company) violated Washington Administrative Code (WAC) 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 390 – Federal Motor Carrier Safety Regulations; General.

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 July 29, 2020, Commission Motor Carrier Investigator Francine Gagne completed a routine safety investigation of You Got It Movers and documented the following violation:

- **One violation of 49 CFR § 390.19(b)(2) – Failing to file Form MCS-150 every 24 months according to the schedule.** The Company failed to file the required Form MCS-150.

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 violation noted is serious and potentially harmful to the public. Companies that fail to provide accurate data in their Motor Carrier Identification Report create issues for Federal Motor Carrier Safety Administration to accurately measure a carrier's safety performance, which puts their customers and the traveling public at risk. This violation presents a safety concern.
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 June 3, 2015, the Commission received the Company's application for household goods moving authority. In the application, James Moseley, owner of You Got It Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On March 17, 2016, James Moseley attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On November 10, 2016, Staff completed a routine safety investigation of You Got It Movers. The Company was provided technical assistance during the safety investigation.

On October 25, 2017, and July 20, 2018, the Commission received the Company's application to reinstate its permit for household goods moving authority. In both applications, James Moseley acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On September 23, 2019, Staff completed a routine safety investigation of You Got It Movers and documented a violation of 49 CFR § 390.19(b)(2) for failing to update Form MCS-150.

On December 18, 2019, James Moseley 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.** You Got It Movers did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation and expressed a desire to come into compliance.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** You Got It Movers corrected the violation by filing the required Form MCS-150 on July 30, 2020.
6. **The number of violations.** Staff identified three violation types with a total of three individual occurrences.
7. **The number of customers affected.** The Company currently employs three drivers, operates three commercial motor vehicles, and traveled 145,681 miles in 2019. This safety violation presents a public safety risk.
8. **The likelihood of recurrence.** The Company committed a repeat violation despite receiving extensive technical assistance. Absent a significant commitment to prioritize safe operations, the violation is likely to reoccur.

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

On June 27, 2016, You Got It Movers was penalized \$1,000 in Docket TV-160631 for failing to file a complete annual report and pay regulatory fees by the deadline. The Company failed to pay the \$1,000 penalty and the outstanding debt was forwarded to a collection agency.

On December 15, 2016, You Got It Movers was penalized \$1,500 in Docket TV-161255 for safety violations. The Company paid the penalty in full after being issued a Notice of Intent to Send to Collections.

On January 20, 2017, the Commission canceled the Company's provisional permit and dismissed its application for permanent household goods authority in Docket TV-170049 for failing to submit acceptable proof of insurance.

On October 25, 2017, You Got It Movers was penalized \$5,000 in Docket TV-170812 for operating as a household goods carrier without the required household goods moving authority, a \$4,000 portion of which was suspended, subject to conditions. The Company paid the \$1,000 unsuspended portion of the penalty in full.

On April 20, 2018, the Commission canceled the Company's provisional permit and dismissed its application for permanent household goods authority in Docket TV-180337 for failing to submit acceptable proof of insurance.

On August 7, 2018, You Got It Movers was penalized \$5,000 in Docket TV-180518 for operating as a household goods carrier without the required household goods moving authority, a \$4,750 portion of which was suspended, subject to certain conditions. The Company paid the \$250 unsuspended portion of the penalty in full.

On October 15, 2018, the Commission entered a complaint in Docket TV-180772 against You Got It Movers for failing to file a complete annual report and pay regulatory fees. On December 5, 2018, the Commission dismissed the complaint against You Got It Movers after the Company filed its annual report and paid its regulatory fees.

On October 2, 2019, the Company was penalized \$6,200 in Docket TV-190809 for safety violations. The Commission later reduced the penalty to \$3,200 and suspended a \$2,000 portion of the penalty for a period of two years, subject to conditions. To date, the Company has made three timely payments, and the final payment is due and payable no later than October 1, 2020.

10. The Company's existing compliance program. James Moseley is responsible for the Company's safety compliance program.

11. The size of the Company. You Got It Movers currently operates three commercial motor vehicles and employs three drivers. The Company reported \$441,087 in gross revenue for 2019.

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.¹ 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, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize You Got It Movers \$100, calculated as follows:

- One violation of 49 CFR § 390.19(b)(2) – Failing to file Form MCS-150 every 24 months according to the schedule. The Commission assesses a penalty of \$100 for this repeat 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 through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation 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 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 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 their 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.
- Admit the violation 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. If you are

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

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 August 18, 2020.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-200695

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.”