

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TV-200778
PENALTY AMOUNT: \$100**

Mover For You LLC
1403 S University Rd.
Spokane Valley, WA 99206

The Washington Utilities and Transportation Commission (Commission) believes Mover For You LLC (Mover For You or Company) violated Washington Administrative Code (WAC) 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 391 – Qualification 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 September 2, 2020, Commission Motor Carrier Investigator Francine Gagne completed a routine safety investigation of Mover For You and documented the following violation:

- **One violation of 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed.** The Company failed to maintain a driver qualification file for driver Mason Morales.

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 violation noted is serious and potentially harmful to the public. Household goods moving companies that fail to maintain driver qualification files on each driver employed put their customers' belongings and the traveling public at risk. This violation presents a safety concern.
2. **Whether the violation was 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 August 8, 2018, the Commission received the Company's application for household goods moving authority. In the application, Mark Sacchetti, president of Mover For You, acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

On November 7, 2018, Mark Sacchetti, Celeste Schuster, Erin Morales, and Mason Morales attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On February 26, 2019, the Commission received the Company's application to reinstate its household goods moving authority. In the application, Mark Sacchetti acknowledged the Company's responsibility to understand and comply with applicable safety laws and 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 this violation.
4. **Whether the Company was cooperative and responsive.** Mover For You was cooperative throughout the investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** Mover For You has not provided Staff with evidence that the violation has been corrected.
6. **The number of violations.** Staff identified one violation type with a total of one individual occurrence.
7. **The number of customers affected.** Mover For You employed three drivers and operated two commercial motor vehicles in the last 365 days. The Company reported 18,480 miles traveled in 2019. This safety violation presents a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. The Company was cooperative with Staff throughout the safety investigation. In light of these factors, Staff believes that the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On August 16, 2018, the Company's household goods moving authority was canceled due to lack of insurance in Docket TV-180882.

On February 25, 2019, the Company was classified as a household goods carrier and was penalized \$5,000 for operating without household goods moving authority in Docket TV-190022. The Commission suspended a \$4,000 portion of the penalty, subject to conditions, and the Company paid the \$1,000 unsuspended portion of the penalty in full.

Mover For You has no history of safety violations.

10. **The Company's existing compliance program.** Mark Sacchetti is responsible for the Company's safety compliance program.

11. **The size of the Company.** Mover For You currently operates one commercial motor vehicle and employs one driver. The Company reported \$205,000 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 Mover For You \$100, calculated as follows:

- One violation of 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed. The Commission assesses a penalty of \$100 for this 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 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.

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

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 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 permit 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 15, 2020.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-200778

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 \$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