

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-200947
PENALTY AMOUNT: \$7,300

Two Men and a Moving Van, LLC,
d/b/a Move for Less
8637 S. 212th St.
Kent, WA 98031

The Washington Utilities and Transportation Commission (Commission) believes Two Men and a Moving Van, LLC, d/b/a Move for Less, (Move for Less or Company) violated Washington Administrative Code (WAC) 480-15-530, Public Liability and Property Damage Insurance; WAC 480-15-555, Criminal Background Checks for Prospective Employees; and WAC 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 382 – Controlled Substance and Alcohol Use and Testing, 49 CFR Part 383 – Commercial Driver’s License Standards, and 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. RCW 81.04.530 allows penalties of \$1,500 against carriers that conduct commercial motor vehicle operations without having a controlled substance and alcohol testing program in place.

On November 19, 2020, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Move for Less and documented the following violations:

- **Fifty violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** The Company failed to maintain the required public liability and property damage insurance at all times. Move for Less allowed its drivers to operate a motor vehicle without the required insurance on 50 occasions between June 20 and July 15, 2020.
- **Five violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.** Move for Less failed to conduct criminal background checks for employees Erzhan Nabiev, Makhambet Makulov, Erzhan Umarov, Ilgiz Babanov, and Viktor Shvydkyi.
- **One violation of 49 CFR § 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.** The Company failed to implement a controlled substance and alcohol testing program.

- **Two violations of 49 CFR § 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver’s license (CDL).** Move for Less allowed drivers Erzhan Nabiev and Viktor Shvydkyi to operate a commercial motor vehicle without the required CDL on two occasions.
- **Five violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file.** The Company failed to maintain inquiries into the driving records of Erzhan Nabiev, Makhambet Makulov, Erzhan Umarov, Ilgiz Babanov, and Viktor Shvydkyi.

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: (1) fail to maintain the required public liability and property damage insurance, (2) fail to conduct criminal background checks on their employees, (3) fail to implement a controlled substance and alcohol testing program, (4) allow drivers to operate commercial motor vehicles without the required CDLs, and (5) fail to maintain inquiries into drivers’ driving records put their customers, their customers’ belongings, and the traveling public at risk. These violations present significant 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 December 5, 2017, the Commission received the Company’s application for household goods moving authority. In the application, Yuriy Deyneka, owner of Move for Less, acknowledged the Company’s responsibility to understand and comply with applicable motor carrier safety regulations.

On August 15, 2018, Alla Deroun and Maksim Petrov, representatives of Move for Less, attended household goods training provided by Staff. On April 17, 2019, Yerzhan Ospanov, a representative of Move for Less, attended household goods training provided by Staff. Each Company representative 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.** Move for Less did not self-report these violations.

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.** Move for Less has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified 14 violation types with a total of 91 individual occurrences.
7. **The number of customers affected.** The Company reported 50,000 miles traveled in 2019. These safety violations present 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. Move for Less was cooperative throughout the safety investigation and expressed a desire to come into compliance. Considering these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On April 20, 2018, the Commission canceled the Company's provisional permit and dismissed its application for permanent household goods authority in Docket TV-180338 for failing to submit acceptable proof of insurance.

On August 6, 2019, Move for Less was penalized \$250 in Docket TV-190217 for advertising household goods services without the necessary permit required for such operations.

This is the Company's first routine safety investigation and Move for Less has no prior history of safety violations.
10. **The Company's existing compliance program.** Alla Deroun is responsible for the Company's safety compliance program.
11. **The size of the Company.** Move for Less currently operates 10 commercial motor vehicles and employs nine drivers. The Company reported \$1,439,964 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"

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

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 Move for Less \$7,300, calculated as follows:

- Fifty violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$5,000.
- Five violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$500.
- One violation of 49 CFR § 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. The Commission assesses a penalty of \$1,500 for this acute violation.
- Two violations of 49 CFR § 383.23(a) – Operating a commercial motor vehicle without a valid CDL. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$200.
- Five violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver qualification file. The Commission assesses a “per category” penalty of \$100 for these first-time critical violations.

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 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(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. 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 December 1, 2020.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-200947

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 \$7,300 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.”