

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TV-210064
PENALTY AMOUNT: \$200**

Safe-To-Go-Movers, LLC,
d/b/a James & John Movers
8012 153rd St. Ct. E
Puyallup, WA 98375

The Washington Utilities and Transportation Commission (Commission) believes Safe-To-Go-Movers, LLC, d/b/a James & John Movers, (Safe-To-Go-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 393 – Parts and Accessories Necessary for Safe Operation and 49 CFR Part 396 – Inspection, Repair, and Maintenance.

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 February 1, 2021, Commission Motor Carrier Investigator Sandra Yeomans completed a follow-up safety investigation of Safe-To-Go-Movers and documented the following violations:

- **One violation of 49 CFR § 393.209(b) – Excessive steering wheel lash.** Commission staff (Staff) discovered a commercial motor vehicle with excessive free play in the steering system. This commercial motor vehicle was placed out-of-service.¹
- **One violation of 49 CFR § 396.3(a)(1) – Defective air brake reservoir.** Staff discovered a commercial motor vehicle with its air brake reservoir tanks not properly secured to the right side of the vehicle. This commercial motor vehicle was placed out-of-service.²

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 operate commercial motor vehicles in need of repair put their customers' belongings and the traveling public at risk. These violations present safety concerns.
2. **Whether the violations were intentional.** Considerations include:

¹ Equipment Identification No. 5.

² *Id.*

- Whether the Company ignored 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.

On September 28, 2015, the Commission received the Company's application for household goods moving authority. In the application, James Mwangi, owner of Safe-To-Go-Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On November 18, 2015, James Mwangi attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

This is the Company's fourth safety investigation since 2017. The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Safe-To-Go-Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Safe-To-Go-Movers took corrective action during the safety investigation.
6. **The number of violations.** Staff identified nine violation types with a total of 13 individual occurrences.
7. **The number of customers affected.** Safe-To-Go-Movers traveled 23,700 miles in 2020. These safety violations presented 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 throughout the safety investigation and immediately took corrective action. Despite the Company's safety compliance history, Staff believes the likelihood of recurrence is low for these out-of-service violations.
9. **The Company's past performance regarding compliance, violations, and penalties.** On April 19, 2017, the Commission assessed a \$10,200 penalty against Safe-To-Go-Movers in Docket TV-170233 for safety violations of WAC 480-15-570. On May 8, 2017, the Commission reduced the penalty to \$5,200 in Order 01. On June 5, 2017, the Commission entered Order 02, which suspended a \$2,600 portion of the penalty for a period of two years, subject to conditions. On June 19, 2019, the Commission imposed the \$2,600 suspended penalty due to the Company's failure to comply with the terms of Order 02.

On September 22, 2017, the Commission canceled Safe-To-Go-Movers' household goods permit in Docket TV-170992 for failing to submit acceptable proof of insurance. On October 4, 2017, the Company's household goods authority was reinstated in Docket TV-171013.

On September 26, 2018, the Commission again canceled the Company's household goods permit in Docket TV-180815 for failing to submit acceptable proof of insurance. On November 7, 2018, the Company's household goods authority was reinstated in Docket TV-180875.

On July 1, 2019, the Commission issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding in Docket TV-190515. On July 9, 2019, the Commission assessed an \$8,600 penalty against Safe-To-Go-Movers in Docket TV-190514 for safety violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570. On August 12, 2019, the Commission entered Order 01, which consolidated Dockets TV-190514 and TV-190515, upgraded the Company's safety rating to conditional, assessed an \$8,600 penalty against Safe-To-Go-Movers, and suspended a \$5,000 portion of the penalty for a period of two years, subject to conditions.

On March 26, 2020, the Commission issued a complaint in Order 01 of Docket TV-200161, which sought to impose penalties for violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570 that were identified during a follow-up investigation to Dockets TV-190514 and TV-190515. On May 12, 2020, the Commission entered Order 03/03/02, which consolidated Dockets TV-190514, TV-190515, and TV-200161. On May 29, 2020, the Commission entered Order 04/04/03, which imposed the \$5,000 suspended penalty in Dockets TV-190514 and TV-190515, assessed a \$5,400 penalty against Safe-To-Go-Movers in Docket TV-200161, and suspended the entire \$5,400 penalty for a period of two years, subject to conditions.

10. **The Company's existing compliance program.** James Mwangi is responsible for the Company's safety compliance program.
11. **The size of the Company.** Safe-To-Go-Movers currently operates four commercial motor vehicles and employs three drivers. The Company reported \$87,442 in gross revenue for 2020.

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.³ The Commission generally will assess penalties by violation category, 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"

³ 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 Safe-To-Go-Movers \$200, calculated as follows:

- One violation of 49 CFR § 393.209(b) – Excessive steering wheel lash. The Commission assesses a penalty of \$100 for this out-of-service violation.
- One violation of 49 CFR § 396.3(a)(1) – Defective air brake reservoir. The Commission assesses a penalty of \$100 for this out-of-service 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 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 February 12, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210064

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 B felony.”