

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-210309

PENALTY AMOUNT: \$19,600

I Heart Movers, LLC
2727 NE 125th St., Apt. #10
Seattle, WA 98125

The Washington Utilities and Transportation Commission (Commission) believes I Heart Movers, LLC, (I Heart Movers or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees; WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 396 – Inspection, Repair and Maintenance; WAC 480-15-570, Driver Safety Requirements, which adopts 49 CFR Part 391 – Qualification of Drivers and 49 CFR Part 395 – Hours of Service of Drivers; and WAC 480-15-590, Leasing Vehicles.

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 April 28, 2021, Commission Motor Carrier Investigator Sandra Yeomans completed a follow-up safety investigation of I Heart Movers and documented the following violations:

- **Ten violations of WAC 480-15-555 – Failure to complete a criminal background check for every person the carrier intends to hire.** I Heart Movers failed to conduct criminal background checks for employees Deayon Taylor, Ron Camdru, and Devante Shelton, and employees known only as Bryan, Chris, Jason, Sonam, Brey, Lamar, and Rico.
- **Thirty violations of WAC 480-15-590(4) – Failure to maintain a rental agreement with the required information about the commercial motor vehicle leased.** The Company failed to maintain a rental agreement with the required information about the commercial motor vehicle rented for less than 30 days.
- **Twelve violations of 49 CFR § 391.11(b)(5) – Failing to have valid commercial motor vehicle operator's license issued only by one state of jurisdiction.** I Heart Movers knowingly allowed driver Demarcus Taylor to operate a commercial motor vehicle with a suspended license on 12 occasions between February 12, 2021, and March 29, 2021.
- **Eighty-two violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed drivers Anthony Abraham, Deavondia Taylor, and Francis Nunes operate a commercial motor vehicle without a valid medical certificate on 82 occasions between October 1, 2020, and March 28, 2021.

- **Ninety violations of 49 CFR § 395.8(a)(1) – Failing to require driver to make a record of duty status.** I Heart Movers failed to maintain records of duty status for drivers Anthony Abraham, Deavondia Taylor, and Francis Nunes on 90 occasions between March 1 and March 30, 2021.
- **One violation of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected.** The Company failed to have an annual inspection performed on its commercial motor vehicle.

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 conduct criminal background checks on their employees, (2) fail to maintain the required information on commercial motor vehicles, (3) use drivers with suspended licenses, (4) use drivers that are not medically examined and certified, (5) fail to maintain records of duty status, and (6) use commercial motor vehicles that have not been inspected, 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 March 30, 2018, the Commission received the Company's application for household goods moving authority. In the application, Deavondia Taylor, owner of I Heart Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety laws and regulations.

On February 20, 2019, Deavondia Taylor attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On June 9, 2020, the Commission received the Company's application to reinstate its household goods moving permit. In the application, Deavondia Taylor acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On July 8, 2020, Staff completed a routine safety investigation of I Heart Movers and documented violations of WAC 480-15-555, WAC 480-15-590(4), 49 CFR § 391.45(a), 49 CFR § 395.8(a)(1), and 49 CFR § 396.17(a). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** I Heart Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** I Heart Movers failed to continue with the corrections outlined in the Company's safety management plan it submitted to Staff on August 17, 2020.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified 16 violation types with a total of 240 individual occurrences.
7. **The number of customers affected.** I Heart Movers reported traveling 6,917 miles in 2020. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred repeat violations despite prior technical assistance and suspended penalties to encourage compliance with safety regulations. Absent a significant commitment to prioritize safe operations, the violations are likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On May 18, 2018, I Heart Movers was penalized \$5,000 in Order 02 of Docket TV-180208 for operating as a household goods carrier in the state of Washington without having first obtained the required permit from the Commission. In Order 02, the Commission suspended a \$4,750 portion of the penalty for a period of two years, subject to conditions. The Company complied with the conditions in Order 02.

On July 20, 2020, the Commission issued a Notice of Intent to Cancel the Company's household goods carrier permit in Docket TV-200628, after Staff's safety investigation of I Heart Movers resulted in a proposed "unsatisfactory" safety rating. On July 21, 2020, I Heart Movers was penalized \$9,100 in Docket TV-200627 for violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570.

On August 31, 2020, the Commission entered Order 01, which consolidated Dockets TV-200627 and TV-200628; approved the Company's safety management plan; upgraded the Company's safety rating to "conditional"; mitigated the penalty to \$4,750; and suspended a \$2,250 portion of the reduced penalty for a period of two years, subject to conditions. I Heart Movers failed to comply with the condition in Order 01 to not incur repeat violations of critical regulations.

10. **The Company's existing compliance program.** Deavondia Taylor is responsible for the Company's safety compliance program.
11. **The size of the Company.** I Heart Movers operates two commercial motor vehicles and employs three drivers. The Company reported \$76,000 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.¹ 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" 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 I Heart Movers \$19,600, calculated as follows:

- Ten violations of WAC 480-15-555 – Failure to complete a criminal background check for every person the carrier intends to hire. The Commission assesses a penalty of \$100 for each occurrence of this repeat critical violation, for a total of \$1,000.
- Thirty violations of WAC 480-15-590(4) – Failure to maintain a rental agreement with the required information about the commercial motor vehicle leased. The Commission assesses a "per category" penalty of \$100 for these repeat violations.
- Twelve violations of 49 CFR § 391.11(b)(5) – Failing to have valid commercial motor vehicle operator's license issued only by one state of jurisdiction. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$1,200.
- Eighty-two violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this repeat critical violation, for a total of \$8,200.
- Ninety violations of 49 CFR § 395.8(a)(1) – Failing to require driver to make a record of duty status. The Commission assesses a penalty of \$100 for each occurrence of this repeat critical violation, for a total of \$9,000.
- One violation of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected. 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 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

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

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 May 19, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210309

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 \$19,600 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.”