

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-210380
PENALTY AMOUNT: \$100

Uplift Movers LLC
10303 20th St. E, Apt. N203
Edgewood, WA 98372

The Washington Utilities and Transportation Commission (Commission) believes Uplift Movers LLC (Uplift Movers or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees.

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 May 25, 2021, Commission Motor Carrier Investigator Edward Steiner completed a follow-up safety investigation of Uplift Movers and documented the following violation:

- **One violation 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.** Uplift Movers failed to conduct a criminal background check for Alexandr Petricenco prior to employment. The Company hired Alexandr Petricenco on October 2, 2020, but did not conduct a criminal background check until April 24, 2021.

The Commission considered the following factors in determining the appropriate penalty 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 conduct criminal background checks on their employees put their customers, their customers' belongings, and the traveling public at risk. This violation presents serious safety concerns.
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 15, 2018, the Commission received the Company's application for household goods moving authority. In the application, Catalin Creanga, owner of Uplift Movers, acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

On November 7, 2018, Catalin Creanga attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On July 20, 2020, Staff completed a routine safety investigation of Uplift Movers and documented five violations of WAC 480-15-555. The Company knew or should have known about this requirement.

3. **Whether the Company self-reported the violation.** Uplift Movers did not self-report the violations.
4. **Whether the Company was cooperative and responsive.** Uplift Movers was cooperative throughout the investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** The Company conducted a criminal background check for Alexandr Petricenco on April 24, 2021.
6. **The number of violations.** Staff identified four violation types with a total of five individual occurrences during the follow-up safety investigation of Uplift Movers. Of those violations, Staff identified one violation type with one individual occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Uplift Movers reported traveling 81,750 miles in 2020. This safety violation presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred a repeat violation despite prior technical assistance and suspended penalties to encourage compliance with safety regulations. 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 July 28, 2020, the Commission issued a Notice of Intent to Cancel the Company's household goods carrier permit in Docket TV-200669, after Staff's safety investigation of Uplift Movers resulted in a proposed "unsatisfactory" safety rating. On August 18, 2020, the Company was penalized \$18,500 in Docket TV-200668 for violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570.

On September 9, 2020, the Commission entered Order 01, which consolidated Dockets TV-200669 and TV-200668; approved the Company's safety management plan; upgraded the Company's safety rating to "conditional;" reduced the penalty from \$18,500 to \$8,050; and suspended a \$5,000 portion of the reduced penalty for a period of two

years, subject to conditions. Uplift 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.** Catalin Creanga is responsible for the Company's safety compliance program.

11. **The size of the Company.** Uplift Movers currently operates four commercial motor vehicles and employs three drivers. The Company reported \$223,972 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 Uplift Movers \$100, calculated as follows:

- One violation 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 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.

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

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 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 June 11, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210380

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.”