

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TV-210789
PENALTY AMOUNT: \$900**

Pro Movers LLC
d/b/a Groovin Movin
3101 NE 138th Ave.
Vancouver, WA 98682

The Washington Utilities and Transportation Commission (Commission) believes Pro Movers LLC d/b/a Groovin Movin (Pro 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 390 – Safety Regulations, General; and WAC 480-15-570, Driver Safety Requirements, which adopts 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 October 12, 2021, Commission Motor Carrier Investigator Tracy Cobile completed a follow-up safety investigation of Pro Movers and documented the following violations:

- **One violation of 49 CFR § 390.21(a) – Failing to mark self-propelled commercial motor vehicle (CMV) and intermodal equipment.** Commission Staff (Staff) discovered a CMV that was missing the Company’s household goods permit number on both the right and left side.¹
- **Eight violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Richard Lane to operate a commercial motor vehicle without a valid medical certificate on eight occasions between July 27 and August 6, 2021.

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 of 49 CFR § 391.45(a) are serious and potentially harmful to the public. Household goods moving companies that use drivers not medically examined and certified put their customers’ belongings and the traveling public at risk. These violations present safety concerns.

¹ Equipment Identification Number 1

2. **Whether the violations were intentional.** Considerations include:

- 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 October 1, 2015, the Commission received the Company's application for household goods moving authority. In the application, Andrey Goncharuk, owner of Pro Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On March 17, 2016, and February 20, 2019, Andrey Goncharuk attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On July 7, 2020, Staff completed a routine safety investigation of Pro Movers and documented one violation of 49 CFR § 390.21(a) and 24 violations of 49 CFR § 391.45(a). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Pro 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.** Driver Richard Lane was medically examined and certified on August 9, 2021. The Company has not provided Staff with evidence that the other violation has been corrected.
6. **The number of violations.** Staff identified 10 violation types with a total of 17 individual occurrences during the follow-up safety investigation of Pro Movers. Of those violations, Staff identified two violation types with nine individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Pro Movers traveled 7,914 miles between January 1 and August 31, 2021. 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. While the Company was cooperative with Staff and expressed a desire to come into compliance, two of the violation types discovered in the follow-up safety investigation were repeat violations identified in 2020. Absent a commitment to prioritize safe operations, the violations are likely to reoccur.

9. The Company's past performance regarding compliance, violations, and penalties.

On October 26, 2016, the Commission cancelled the Company's household goods moving authority due to lack of insurance in Docket TV-161161. On August 30, 2018, the Company applied for reinstatement of its household goods moving authority in Docket TV-180730. On October 16, 2018, the Company's permit was reinstated.

On July 16, 2020, the Commission assessed a \$4,200 penalty against Pro Movers in Docket TV-200625 for safety violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570. On July 20, 2020, the Commission issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding in Docket TV-200626. On September 4, 2020, the Commission entered Order 01, which consolidated Dockets TV-200625 and TV-200626, cancelled the Company's household goods moving authority, ordered the Company to cease and desist all operations unless and until it applied for a new permit, reduced the assessed penalty from \$4,200 to \$3,000, and suspended the entire penalty for a period of two years, subject to conditions.

On October 5, 2020, the Company filed for reinstatement of its household goods moving authority in Docket TV-200847. On November 3, 2020, the Commission entered Order 02, which approved the Company's safety management plan, upgraded the Company's safety rating, and reinstated the Company's household goods moving authority in consolidated Dockets TV-200625 and TV-200626. On November 12, 2020, the Company paid the \$3,000 portion of the penalty in full.

10. The Company's existing compliance program. Andrey Goncharuk is responsible for the Company's safety compliance program.

11. The size of the Company. Pro Movers currently operates one commercial motor vehicle and employs two drivers. The Company reported \$148,628 in gross revenue for the period between January 1 and August 21, 2021.

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.² 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 Pro Movers \$900 (Penalty Assessment), calculated as follows:

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

- One violation of 49 CFR § 390.21(a) – Failing to mark self-propelled CMV and intermodal equipment. The Commission assesses a penalty of \$100 for this repeat violation.
- Eight 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 violation, for a total of \$800.

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 Penalty Assessment 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 November 3, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210789

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 \$900 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.”