

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-220511

PENALTY AMOUNT: \$12,600

Miracle Man Movers LLC,
d/b/a Miracle Man Movers
14602 NE Fourth Plain Blvd., Ste. J
Vancouver, WA 98682

The Washington Utilities and Transportation Commission (Commission) believes Miracle Man Movers LLC d/b/a Miracle Man Movers (Miracle Man 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 C.F.R.) Part 396 – Inspection, Repair, and Maintenance; WAC 480-15-570, Driver Safety Requirements, which adopts 49 C.F.R. Part 391 – Qualification of Drivers and 49 C.F.R. 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 June 29, 2022, Commission Motor Carrier Investigator Sandra Yeomans completed a follow-up safety investigation of Miracle Man Movers and documented the following violations:

- **Fifteen violations of WAC 480-15-555 – Failure to complete a criminal background check for every person the carrier intends to hire.** Miracle Man Movers failed to conduct a criminal background check for prospective employees Aubrey Cooper Jr., Jose Fonseca, Jason Putnam, Timothy Thompson, Xavier Gibson, Michael Bozovich, Mawuto Aloto, Omar Garoner, Dyamie Cortez Areasa, Paval Zagonenko, Ryan Schook, Nicholas Frans, Robert Perrgo, T. Walker, and Christopher Dick.
- **Two violations of WAC 480-15-590 – Failing to keep copies of all leases in permanent files for at least one year after the lease expires.** The Company failed to retain a written lease agreement for both of its leased commercial motor vehicles (CMV).
- **Two violations of 49 C.F.R. § 391.21(a) – Using a driver who has not completed and furnished an employment application.** Miracle Man Movers failed to complete or furnish an employment application for drivers Jose Fonseca and Aubrey Cooper Jr.
- **One violation of 49 C.F.R. § 391.25(a) – Failing to make an inquiry into the driving record of each driver to the appropriate state agencies in which the driver held a CMV operator's license at least once every 12 months.** The Company failed to acquire the driving record of Christopher Bullock.

- **Fifteen violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** Miracle Man Movers allowed drivers T. Anderson and Corey Brannon to operate a CMV without a valid medical certificate on 15 occasions between December 8, 2021, and April 8, 2022.
- **Two violations of 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification file on each driver employed.** The Company failed to maintain driver qualification files for T. Anderson and Corey Brannon.
- **Ten violations of 49 C.F.R. § 395.3(b)(2) – Requiring or permitting property-carrying CMV driver to drive after having been on duty 70 hours in eight consecutive days.** Miracle Man Movers allowed drivers Aubrey Cooper Jr. and Jose Fonseca to operate a CMV after having been on duty for 70 hours in eight consecutive days on 10 occasions between April 20 and April 30, 2022.
- **Ninety violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.** The Company failed to require Christopher Bullock, T. Anderson, and Corey Brannon to complete a record of duty status on 90 occasions between April 1 and April 30, 2022.
- **Two violations of 49 C.F.R. § 396.17(g) – Failing to promptly repair parts and accessories in accordance with Appendix G of 49 C.F.R. Part 396.** Miracle Man Movers failed to promptly repair defects on both of its CMVs.

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 retain written agreements for leased equipment, (3) use drivers without first completing employment applications, (4) fail to obtain driving records for its drivers, (5) use drivers that are not medically examined and certified, (6) fail to maintain driver qualification files, (7) allow drivers to operate CMVs after having been on duty 70 hours in eight consecutive days, (8) fail to maintain records of duty status, and (9) fail to promptly repair defects on CMVs, 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 May 2, 2019, the Commission received the Company's application for household goods moving authority. In the application, Anna Bullock, manager of Miracle Man

Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety laws and regulations.

On December 19, 2019, the Commission received the Company's application to reinstate its household goods moving authority. In the application, Anna Bullock acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

On June 12, 2019, Anna Bullock and Christopher Bullock, CEO of Miracle Man Movers, attended household goods training provided by Staff. On August 19, 2020, Anna Bullock attended household goods training provided by Staff. On both occasions, the Company's representatives acknowledged receiving training pertaining to motor carrier safety regulations.

On February 22, 2021, Staff completed a routine safety investigation of Miracle Man Movers and discovered violations of WAC 480-15-590, 49 C.F.R. § 391.21(a), 49 C.F.R. § 391.25(a), 49 C.F.R. § 395.3(b)(2), and 49 C.F.R. § 395.8(a)(1). On April 14, 2021, Miracle Man Movers submitted a safety management plan addressing each violation noted during the safety investigation.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Miracle Man Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company had difficulties locating and presenting information requested by Staff. Miracle Man Movers was uncooperative during the safety investigation and did not demonstrate a desire to come into compliance with motor carrier safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Miracle Man Movers has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified 23 violation types with a total of 261 individual occurrences during the follow-up safety investigation of Miracle Man Movers. Of those violations, Staff identified nine violation types with a total of 139 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Miracle Man Movers reported traveling 8,501 miles in 2021. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred repeat violations despite prior technical assistance and an approved safety management plan. 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 December 11, 2019, the Commission canceled the Company's household goods moving permit in Docket TV-191018 for failing to file acceptable proof of insurance. The Company's permit was reinstated on December 23, 2019.

On March 8, 2021, the Commission issued a Notice of Intent to Cancel the Company's household goods moving permit in Docket TV-210128, after the safety investigation of Miracle Man Movers resulted in a proposed conditional safety rating. On April 19, 2021, the Commission entered Order 01, which approved the Company's safety management plan and extended Miracle Man Movers' provisional period until the Company achieved a satisfactory safety rating.

On March 16, 2021, the Company was penalized \$100 in Docket TV-210129 for safety violations of 49 C.F.R. § 395.8(a)(1). The Company paid the penalty in full.

10. The Company's existing compliance program. Anna Bullock and Christopher Bullock are responsible for the Company's safety compliance program.

11. The size of the Company. Miracle Man Movers operates two CMVs and employs five drivers. The Company reported \$365,000 in gross revenue for 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.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 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 Miracle Man Movers \$12,600 (Penalty Assessment), calculated as follows:

- Fifteen 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 critical violation, for a total of \$1,500.
- Two violations of WAC 480-15-590 – Failing to keep copies of all leases in permanent files for at least one year after the lease expires. The Commission assesses a "per category" penalty of \$100 for these repeat violations.

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

- Two violations of 49 C.F.R. § 391.21(a) – Using a driver who has not completed and furnished an employment application. The Commission assesses a “per category” penalty of \$100 for these repeat violations.
- One violation of 49 C.F.R. § 391.25(a) – Failing to make an inquiry into the driving record of each driver to the appropriate state agencies in which the driver held a CMV operator’s license at least once every 12 months. The Commission assesses a penalty of \$100 for this repeat violation.
- Fifteen violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$1,500.
- Two violations of 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification file on each driver employed. The Commission assesses a “per category” penalty of \$100 for these critical violations.
- Ten violations of 49 C.F.R. § 395.3(b)(2) – Requiring or permitting property-carrying CMV driver to drive after having been on duty 70 hours in eight consecutive days. The Commission assesses a “per category” penalty of \$100 for these repeat violations.
- Ninety violations of 49 C.F.R. § 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.
- Two violations of 49 C.F.R. § 396.17(g) – Failing to promptly repair parts and accessories in accordance with Appendix G of 49 C.F.R. Part 396. The Commission assesses a “per category” penalty of \$100 for these acute 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 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 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 Penalty Assessment. 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 July 8, 2022.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-220511

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 \$12,600 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 or she makes a materially false statement which he or she 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 or her 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.