

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TE-230205
PENALTY AMOUNT: \$100**

Creative Bus, LLC
PO Box 4053
Renton, WA 98057

The Washington Utilities and Transportation Commission (Commission) believes Creative Bus, LLC, (Creative Bus or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) 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 March 28, 2023, Commission Motor Carrier Investigator Francine Gagne completed a follow-up safety investigation of Creative Bus and documented the following violation:

- **One violation of 49 C.F.R. § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file.** The Company failed to maintain the initial driving record for Tirus Gitao.

The Commission considered the following factors in determining the appropriate penalties 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. Passenger transportation companies that fail to maintain inquiries into drivers' driving records put their customers and the traveling public at risk. This violation presents a serious safety concern.
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 July 7, 2006, the Commission received an application for charter and excursion authority for Michael Vontrell Langdon d/b/a Creative Bus. In the application, Michael Langdon acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On July 19, 2010, the Commission received an application to change the name from Michael Vontrell Langdon d/b/a Creative Bus (Creative Bus) to Creative Bus, LLC. In the application, Michael Langdon, owner of Creative Bus, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On March 5, 2021, the Commission received an application to reinstate the Company's charter and excursion authority. In the application, Ranjana Langdon, part owner of Creative Bus, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On April 13, 2022, Staff completed a routine safety investigation of Creative Bus and documented one violation of 49 C.F.R. § 391.51(b)(2). The Company knew or should have known about this requirement.

3. **Whether the Company self-reported the violation.** Creative Bus did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** Creative Bus has not provided Staff with evidence that it corrected the violation.
6. **The number of violations.** Staff identified 14 violation types with a total of 19 individual occurrences during the follow-up safety investigation of Creative Bus. 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.** Creative Bus reported traveling 8,000 miles in 2022. This violation presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred a repeat violation despite prior technical assistance. Absent a commitment to prioritize safe operations, the violation is likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On March 6, 2008, the Commission assessed a \$100 penalty against Creative Bus for failing to file an annual report and pay regulatory fees in Docket TE-080348.

On February 20, 2009, the Commission assessed a \$200 penalty against the Company for failing to file an annual report and pay regulatory fees in Docket TE-090226.

On June 19, 2017, the Commission assessed a \$1,000 penalty against Creative Bus for failing to file an annual report and pay regulatory fees in Docket TE-170610.

On February 4, 2021, the Company's charter and excursion certificate was canceled for failing to file acceptable proof of insurance in Docket TE-210076.

On May 6, 2022, the Commission assessed a \$3,400 penalty against Creative Bus in Docket TE-220268 for safety violations of WAC 480-30-221. On May 11, the Company applied for mitigation of the assessed penalty. On June 7, the Commission entered Order 01, which granted mitigation in part to \$2,500 and suspended a \$1,250 portion of the reduced penalty for a period of two years before being waived, subject to conditions.

10. The Company's existing compliance program. Michael Langdon and Ranjana Langdon are responsible for the Company's safety compliance program.

11. The size of the Company. The Company employs six drivers and operates eight motor vehicles. The Company reported \$300,000 in gross revenue in 2022.

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 Creative Bus \$100 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file. The Commission assesses a penalty of \$100 for this 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

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

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.

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 at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.² 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 wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).³

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 April 11, 2023.

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

² <https://efiling.utc.wa.gov/Form>.

³ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-230205

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.
 Enclose \$100 in payment of the penalty.
 OR Attest that I have paid the penalty in full through the Commission's payment portal.
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 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 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.