

TV-140447

April 24, 2014

UTC  
Attn Commission Secretary  
1300 S Evergreen Park DR SW  
PO Box 47250  
Olympia WA 98504-7250

STATE OF WASHINGTON  
UTIL. AND TRADING  
COMMISSION

2014 APR 24 PM 2:49

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REGULATORY MANAGEMENT

Exemption Request

Dear Commission Secretary,

I am writing on behalf of KLM Movers, Kevin Lee Miller, my husband and co-owner, concerning cancellation of permit HG63577 in docket TV-140447.

I would like to request a hearing for a temporary exemption allowing us to operate with insurance obtain through a surplus lines insurer as outlined in RCW 48.15.040, "Surplus line" coverage.

I have been told by Ms. Suzanne Stillwell that this situation has never occurred before and so I want to be at the commission hearing to help answer your questions as we work our way through this process. However, I want to take a minute and explain the situation in case I am not able to come.

We were insured with Progressive Insurance for 5 years. At the end of 2012, my insurance agent informed me that Progressive was no longer doing B fillings, as required by Washington State, but because we were an existing client we would continue to receive coverage and they would continue to service our account.

During 2013, my husband, Kevin Miller, was cited for multiple hours of service violations as well as an elevated safety score which gave Progressive the opening they had been waiting for to not renew our policy.

The beginning January of 2014 (our Progressive policy was good through January 31, 2014) our agent began to search for a new policy for us. Even though we knew prior to this that the Progressive policy would not be renewed, insurance companies prefer not give quotes for policies more than 30 days out so the beginning of January was the earliest she could start. This turned out to be a very daunting project due to the hours of service violations, a poor safety score, as well as a motor vehicle accident on his record. She contacted several authorized admitted insurers but none would write a policy for us. There were some she did not check with because she knew, based on the scope of our business and risk factors, they would not write the policy. The policy we have with Prime was our only option.

The risk factors that combined to drastically reduce our market options were the fact that we are a Household Goods mover, that we also move goods out of state, that our safety score was elevated, that there were multiple hours of service violations, Kevin's motor vehicle report, and Progressive's non-renewal.

The hours of service violations occurred because of a combination of my husband's poor record keeping and an increase in out of state jobs. One violation occurred when he left his log book in the hotel and could not produce it for the inspector. He had a receipt from the hotel stating he had left 1 hour before the inspection, but that was not accepted by the inspector and he was cited for not being able to produce his log book. Another violation occurred because he did not update his log from the day before. He has had 3 days of retraining by 2 FMCSA Field Inspectors and has purchased, installed and is currently using an electronic log system. This will greatly reduce future violations due to record keeping and is keeping him very aware of his hours as he drives each day.

A motor vehicle accident is on his MVR from on 12/6/2011. Kevin had a case of triple pneumonia and did not know it. While he was driving, his body shut down and he lost control of the vehicle, crashing into a light pole. He spent 8 days in ICU, 6 of those on a ventilator. The other person in the vehicle was examined in the emergency room and released. I tell you these things not to excuse this accident, but to help you understand, this is not a pattern of behavior for him.

The safety violation has aged off his FMCSA status, dropping his safety score violation percentile to zero and so will not be an issue when seeking a new policy.

The Hours of Service violations have already begun to drop off his FMCSA report. They will continue to drop off as they age. They also drop in severity as time goes by. As these numbers go down, so does the violation percentile, currently at 94.3 as of 3/28/14, which the insurance companies look at when they consider whether or not to write our policy.

The MVA explained above will be 3 years old in December of 2014.

The non-renewal will not be a factor as of January 31, 2015 because we will have had this policy with Prime in place for a full year.

These factors combined will increase our options to the available market.

Taking all of this into account, it is our hope and belief that within 1 year, the violation reports will be back to the level required to receive insurance through a Washington State authorized admitted insurer. We are asking that you reinstate our HHG permit to operate as a Household Goods Mover within Washington State, with our existing insurance through Prime Insurance, until such time as we are able to secure a policy with an authorized admitted insurer.

I can assure you that we are not seeking insurance through Surplus Lines carriers because of a financial benefit vs. an authorized admitted insurer. Our annual premium is \$17,366. When we got this policy, our insurance agent, Janiece Chipman with CJ's Insurance, had exhausted all other possibilities. I had to provide a down payment of \$5951 in cash within a day. This was a very difficult thing to do but I wanted to do whatever it took to make sure we were covered.

I would also like to explain why I had not requested a hearing before now.

The Prime policy became effective 1/31/2014. The Progressive policy stopped on 1/31/2014. In this process I received many letters from the state saying my forms were not correct, my insurance was not correct, that the policy was only in force until 3/17/14. We are an agent for an out of state broker as well and were receiving emails and letters from them concerning the end of the Progressive policy. They needed specific certificates in the names of each of the companies they represent. It was a very confusing time. I worked closely with my insurance agent to make sure the right things were sent to the right people.

When we received notice from the UTC that our permit was in jeopardy, the basis for this seemed to be that Prime was not allowed to write insurance within Washington State at all. Prime assured us that this was not true so I was under the belief that it would all get corrected, sorted out, and taken care of the same way everything else had been in the past.

Adding to the confusion of this whole matter, my husband was on the road in Texas and having serious mechanical problems with our vehicle, which resulted in us trading in that vehicle and purchasing a "new" used truck. Because this happened at the end of January as well (28<sup>th</sup>) it made things even more complicated as Progressive issued a new policy covering the new vehicle for a few days, while we tried to get Prime's policy to take effect on the new truck as well since the original estimate had been for the vehicle we ended up trading in.

I received a call from Ms. Stillwell on 3/20/14 explaining how close we were to having our permit cancelled. I was distraught. I spoke with my insurance agent again. The information we were told had not changed. The issue in dispute was that Prime was not allowed to write insurance in Washington. Since we believed this was untrue, my agent assured me it would be worked out. The detail I was not understanding was that even though Prime has a certificate to write insurance in Washington, they cannot write a policy for a Household Goods mover.

Once I received the Docket at the end of March I realized this was not going to be resolved. I wrote to Mr. Pratt, Assistant Director of Transportations Safety contesting the cancellation of our permit. I received his response on 4/15/2014. In this letter, he told me about the option of requesting an exemption. This was the first time I was made aware that we had this option. I called Ms. Stillwell on 4/16/14 telling her that we were going to pursue this option and asked if there was any way we could keep our permit in force. She said there was not. She said the permit is being cancelled and the only thing I could do was request a hearing in front of the commission to ask for the exemption.

That brings us to this letter.

I would ask for your consideration in this matter. We have tried to follow all of the rules and regulations laid out for HHG movers within Washington State. My husband has decades of experience in the moving industry in the states of Texas & Florida, which makes him a good mover, but makes it difficult for him to adjust to new regulations. Mr. Laponte from the FMCSA described him as "old school". He just wants to make a living doing what he loves. I am relatively new to the moving industry, having been married to

Kevin for 5 years now and having no exposure to the industry before that. I spent the first 3 years of our marriage not being involved in the business other than accounting, the last 2 years learning, and being more involved in forms, regulations, documentation, and operations of the business, and have pretty much put everything else on hold the last couple months to immerse myself in the moving world so I can get a full understanding of what's happening. Being more educated and informed is allowing me to be of more assistance to my husband as we work our way through this.

If you decide to grant this exemption, it will allow us to continue to grow as a small business in this state and be able to keep our employees working.

Thank you for your time and consideration,



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