

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-160911

PENALTY AMOUNT: \$6,900

Sino-M International LLC  
dba Seattle May Travel  
1205 N. 10<sup>th</sup> Place #2325  
Renton, WA 98057

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 391 – Qualifications of Drivers, and Part 396 – Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation of Title 49 CFR Part 391 and Title 49 CFR Part 396. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On May 23, 2016, Commission Motor Carrier Investigator Sandi Yeomans conducted a compliance review of Sino – M International LLC d/b/a Seattle May Travel (Seattle May Travel) and documented the following violations of critical regulations:

- **Five violations (65 occurrences) of CFR Part 391.45(a) – Using a driver not medically examined and certified.** Seattle May Travel allowed employees Zhaoxing Li, Shuxiang Guo, Tong Liu, Juncheng Huang, and Parker Gao to drive on a total of 65 occasions between January 2016 and May 2016. None of the drivers had been medically examined and certified prior to driving.
- **Five violations of CFR Part 391.51(a) – Failing to maintain a qualification file on each driver employed.** Seattle May Travel failed to maintain driver qualification files for drivers Zhaoxing Li, Shuxiang Guo, Tong Liu, Yuqi Zhao, and Jian Li.
- **Three violations of CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Seattle May Travel did not have any files for its three commercial motor vehicles.
- **Sixty-seven violations of CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Seattle May Travel failed to require its drivers to prepare a driver vehicle inspection report on 67 occasions.

- **Three violations of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** None of the company's three commercial motor vehicles had been periodically inspected.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that disregard requirements for medical examination and certification, fail to maintain driver qualification files, fail to keep records of vehicle inspections and maintenance, fail to prepare driver vehicle inspection reports, or use a commercial motor vehicle not periodically inspected put the traveling public at risk. An undocumented medical condition or a potentially defective vehicle present serious safety concerns.
2. **Whether the violation is 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.

In its application for charter and excursion authority filed with the Commission on October 9, 2012, Hongsheng (May) Zhang, owner of Seattle May Travel, acknowledged her responsibility to understand and comply with applicable motor carrier safety rules. Staff conducted a new entrant visit with Seattle May Travel on October 17, 2012, and provided additional technical assistance to the company. The company knew, or should have known, about these requirements.

3. **Whether the company self-reported the violation.** The company did not self-report these violations.
4. **Whether the company was cooperative and responsive.** Seattle May Travel was not fully cooperative and responsive. Staff made repeated requests before the company provided the required documentation.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Staff is unaware of whether Seattle May Travel has taken any action to correct these violations.
6. **The number of violations.** For a company this size, the number of critical violations noted is significant.
7. **The number of customers affected.** The company traveled 94,148 miles and reported \$688,120.91 in gross revenue for 2015. It is reasonable to assume that a significant number of customers were potentially affected by these safety violations.

8. **The likelihood of recurrence.** The Commission does not know if the company is likely to repeat these violations.
9. **The company's past performance regarding compliance, violations, and penalties.** This is the company's first compliance review. The company has no history of previous violations or penalties.
10. **The company's existing compliance program.** Seattle May Travel has no formal compliance program.
11. **The size of the company.** Seattle May Travel currently operates three commercial vehicles with seven drivers. The company reported \$688,120.91 in gross revenue and 94,148 miles traveled for 2015.

These are first-time violations, but 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.<sup>1</sup> The Commission generally will assess penalties per type of violation, rather than per occurrence, for other first-time violations of critical regulations that do not meet the criteria for mandatory penalties. The Commission will assess penalties for any repeat violations of critical regulations found in future compliance investigations, including for each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Seattle May Travel \$6,900 for violations of WAC 480-30-221 Driver Safety Requirements, which adopts CFR Parts 391 and 396, calculated as follows:

- Five violations (65 occurrences) of CFR Part 391.45(a) – Using a driver not medically examined and certified. These are first-time violations of fundamental safety requirements, and thus the Commission assesses penalties at the statutory amount of \$100 per occurrence, for a total of \$6,500.
- Five violations of CFR Part 391.51(a) – Failing to maintain driver qualification file on each driver employed. These are first-time violations, and thus the Commission assesses penalties at the statutory amount of \$100 per violation type, for a total of \$100.
- Three violations of CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. These are first-time violations, and thus the Commission assesses penalties at the statutory amount of \$100 per violation type, for a total of \$100.

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

- Sixty-seven violations of CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report. These are first-time violations, and thus the Commission assesses penalties at the statutory amount of \$100 per violation type, for a total of \$100.
- Three violations of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected. These are first-time violations, and thus the Commission assesses penalties at the statutory amount of \$100 per violation type, for a total of \$100.

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 assessment 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 concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

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 this 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 for mitigation 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 his or her 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 violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**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 Olympia, Washington, and effective August 3, 2016.



GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-160911

**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 \$\_\_\_\_\_ in payment of the penalty.
- 2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

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:

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.”