

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against

CAN'T STOP MOVING, LLC

in the amount of \$51,900

DOCKET TV-170293

COMMISSION STAFF'S MOTION TO  
IMPOSE SUSPENDED PENALTIES

**I. INTRODUCTION**

1 Commission Staff of the Washington Utilities and Transportation Commission  
(Commission) submits this Motion to Impose Suspended Penalties pursuant to WAC 480-  
07-375(1).

**II. RELIEF REQUESTED**

2 Commission Staff (Staff) requests that the Commission impose the \$15,400  
suspended penalty amount from Order 01 of Docket TV-170293 because Can't Stop Moving  
LLC (Can't Stop Moving or the Company) has violated the conditions of the suspended  
penalty.

**III. STATEMENT OF FACTS**

3 In Order 01 of Docket TV-170293, the Commission suspended \$15,400 in penalties  
against the Company.<sup>1</sup> That suspension was subject to the condition that the Company not  
incur any repeat critical violations of WAC 480-15 and Title 49 C.F.R.<sup>2</sup>

4 On April 24, 2018, Staff completed a safety investigation of the Company.

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<sup>1</sup> *In the Matter of a Penalty Assessment Against Can't Stop Moving, LLC in the amount of \$51,900*, Docket TV-170293, Order 01, ¶ 38 (Jun. 19, 2017) [hereinafter "Order 01"].

<sup>2</sup> Order 01 at ¶21.

- 5            Staff discovered numerous safety violations, including critical violations of WAC 480-15 and Title 49 C.F.R.
- 6            Staff discovered one violation of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified. This is a repeat critical violation of the kind the Company has previously committed. The Company allowed its employee, Andrii Lepifanov, to operate a company vehicle on ten occasions between September 2017 and February 2018 without Mr. Lepifanov having been medically examined and certified.
- 7            Staff discovered two violations of Title 49 CFR Part 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file. Can’t Stop Moving failed to acquire and maintain motor vehicle reports (driving records) for employees Andrii Glukhyi and Andrii Lepifanov.
- 8            Staff discovered one violation of Title 49 CFR Part 392.2 – Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. This is a repeat critical violations of the kind the Company has previously committed. The Company allowed its employee, Michael Salcito, to operate a company vehicle on thirty-two occasions between October 2017 and February 2018 without having a valid driver’s license.
- 9            Staff discovered thirty violations of Title 49 CFR Part 395.8(a)(1) – Failing to require driver to prepare a record of duty status using appropriate method. These are repeat critical violations of the kind the Company has previously committed. The Company failed to retain hours of service records for its employee Prince Austin.
- 10           Staff discovered four violations of Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. These are repeat critical violations

of the kind the Company has previously committed. Can't Stop Moving failed to maintain required maintenance and inspection records for any of its four vehicles.

11 Staff discovered three violations of Title 49 CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected. These are repeat critical violations of the kind the Company has previously committed. Can't Stop Moving failed to provide proof of periodic inspections for three of its four vehicles.

#### **IV. STATEMENT OF ISSUES**

12 Whether the Company violated the conditions of the Commission's decision to suspend \$15,400 in penalties.

#### **V. EVIDENCE RELIED UPON**

13 Staff relies upon the Declaration of Special Investigator Wayne Gilbert and his Assignment Report (Attachment A to Mr. Gilbert's Declaration) documenting the violations he discovered during his safety investigation.

#### **VI. ARGUMENT**

14 The Commission suspended the \$15,400 in penalties against the Company subject to the Company not having any repeat violations of the safety rules that Staff found in April 2017. Of the violations that Staff discovered, many are repeat violations. The ten violations discovered for using a driver not medically examined and certified are repeat violations. The thirty-two violations for operating motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated are repeat violations. The thirty violations for failing to require the driver to prepare a record of duty status using appropriate method are repeat violations. The four violations for failing to keep minimum records of inspection and vehicle maintenance are repeat violations. The three

violations for using a commercial motor vehicle not periodically inspected are repeat violations.

15           The Commission indicated in Order 01 that Staff would undertake another safety investigation of the Company within two years.<sup>3</sup> Such a suspended penalty amount should have ensured that the Company would remedy the safety shortcomings previously discovered in its operations in anticipation of Staff's imminent investigation. It did not.

16           Staff can make no other recommendation except one to impose the suspended penalty amount because the violations discovered by Staff are repeat violations upon which the suspension of penalties was conditioned.

## VII. CONCLUSION

Commission Staff requests that the Commission grant its Motion to Impose Suspended Penalties and impose the full \$15,400 suspended penalty against the Company.

DATED this 27th day of April 2018.

Respectfully submitted,

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<sup>3</sup> Order 01 at ¶ 44.