



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

Date: October 7, 2022

To: Samantha Doyle, Administrative Law Judge, Administrative Law Division

From: Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

Re: **TV-220511 Miracle Man Movers, LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG-068778)

On August 11, 2022, Commission staff (Staff) completed a follow-up safety investigation of Miracle Man Movers, LLC, (Miracle Man Movers or Company) which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded Miracle Man Movers the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan (SMP), showing that the company took corrective action to address the identified violations.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 C.F.R. § 385.5 and 385.7. In this case, Miracle Man Movers has until October 10, 2022, to come into compliance with applicable laws and rules by obtaining Commission approval of a safety management plan.

The proposed conditional safety rating was based on three violations of acute and critical regulations – 49 C.F.R. § 395.8(a)(1), 396.17(g), and WAC 480-15-555.

“**Acute**” violations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

Acute and critical violations discovered during investigation:

1. Two violations of Title 49 C.F.R. § 396.17(g) – Failing to promptly repair parts and accessories in accordance as set forth in appendix G of Part 396. (Acute)
2. Sixty violations of Title 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status. (Critical)
3. Fourteen violations of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire. (Critical)

On September 9, 2022, the Commission issued a penalty assessment against Miracle Man Movers in the amount of \$8,000 because of violations discovered during the safety investigation. The penalty includes:

1. A \$1,400 penalty for 14 violations of WAC 480-15-555 for failing to complete a criminal background check for every person the carrier intends to hire.
2. A \$100 penalty for two violation of WAC 480-15-590 for failing to keep copies of all leases in permanent files for a least one year after the lease expires.
3. A \$100 penalty for two violations of 49 C.F.R. § 391.21(a) for using a driver who has not completed and furnished an employment application.
4. A \$100 penalty for one violation of 49 C.F.R. § 391.25(a) for failing to make an inquiry into the driving record of each driver to the appropriate state agencies in which the driver held a commercial motor vehicle (CMV) operator's license at least once every 12 months.
5. A \$100 penalty for one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
6. A \$100 penalty for 10 violations of 49 C.F.R. § 395.3(b)(2) for requiring or permitting property carrying CMV driver to drive after having been on duty 70 hours in eight consecutive days.
7. A \$6,000 penalty for 60 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.
8. A \$100 penalty for two violations of 49 C.F.R. § 396.17(g) for failing to promptly repair parts and accessories in accordance with Appendix G of 49 C.F.R. § 396.

In a September 13, 2022, Revised Notice of Intent to Cancel, the Commission instructed Miracle Man Movers to submit its proposed safety management plan no later than September 21, 2022.

On October 4, 2022, Miracle Man Movers filed with the Commission its application for mitigation of penalties. In the request for mitigation, the Company requested that the penalty be “reduced/suspended and a payment plan implemented if desired.” Miracle Man Movers addressed the violations identified in the penalty assessment at the Brief Adjudicative Hearing on October 5, 2022

On October 6, 2022, Miracle Man Movers submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 C.F.R. § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

Summary and Recommendations

Staff reviewed Miracle Man Movers' safety management plan and determined it is acceptable and meets the requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Documentation of lease agreements, driver qualifications, maintenance, hours of service records, and criminal background documents were included in the plan.

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Miracle Man Movers submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the Company maintains compliance.

With the acceptance of the safety management plan, Staff recommends the Commission: (1) not cancel Miracle Man Movers provisional permit, (2) maintain the Company's conditional safety rating, and (3) extend the provisional operating authority again for good cause, until such a time that the Company receives a satisfactory safety rating, or the Commission finds good cause to cancel Miracle Man Movers' operating authority.

In response to the penalty recommendation, Miracle Man Movers corrected each violation and took steps to prevent future occurrences. Because the Company incurred repeat violations while operating with a previous safety management plan, Staff recommends that the Commission deny the request to reduce the \$8,000 assessed penalty. Staff further recommends the Commission suspend \$5,000 for a period of two years before being waived, on the conditions: (1) Staff conducts a follow-up safety investigation at least six months from the date of the Order, (3) Miracle Man Movers may not incur any repeat acute or critical violations upon reinspection, (4) the Company achieves a satisfactory safety rating upon reinspection, and (5) Miracle Man Movers pays the \$3,000 portion of the penalty that is not suspended within 10 days of the Order or enters into a mutually agreeable payment arrangement with Staff.