

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

AMERICAM MOVERS LLC

for a Permit to Operate as a Motor Carrier  
of Household Goods

DOCKET TV-190858

INITIAL ORDER 01

GRANTING PROVISIONAL  
HOUSEHOLD GOODS PERMIT,  
SUBJECT TO CONDITIONS

**PROCEDURAL HISTORY**

- 1 On October 14, 2019, AmericaM Movers LLC (AmericaM, Applicant, or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for provisional and permanent authority to operate as a household goods carrier in the state of Washington (Application).
- 2 On November 13, 2019, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing in this matter based on its review and investigation of the Application (Notice of Intent to Deny). The Notice of Intent to Deny provided AmericaM the opportunity to request a hearing to contest the factual allegations by November 27, 2019.
- 3 On November 25, 2019, AmericaM filed with the Commission a Request for Hearing. The Commission set a hearing, which was later rescheduled to January 29, 2020.
- 4 On January 29, 2020, the Commission held a brief adjudicative hearing in this matter. Administrative Law Judge Andrew J. O’Connell presided.<sup>1</sup>

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

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<sup>1</sup> Due to an illness temporarily affecting his ability to speak at a normal volume, Judge O’Connell was assisted on the bench by Administrative Law Judge Rayne Pearson, who repeated for the record and the parties Judge O’Connell’s questions and directions.

5 Harry Fukano, Assistant Attorney General, Lacey, Washington, represents Commission  
staff (Staff).<sup>2</sup> Camano Gahagan, *pro se*, Everett, Washington, represents AmericaM.

### BACKGROUND

6 The Application identifies Camano Gahagan as 90 percent owner and chief executive  
officer of the Company. It also identifies Rianna Davis as 10 percent owner and chief  
financial officer of the Company. This case regards the nature and extent of Gahagan's  
criminal history and whether omission of the majority of his criminal history from the  
Application constitutes grounds to deny the Application.

7 At the brief adjudicative proceeding, Staff explained that its opposition to granting a  
permit to AmericaM was based, primarily, on two factors: (1) the nature and extent of  
Gahagan's criminal history, including a 2010 second degree assault conviction and  
miscellaneous firearms convictions; and (2) the Application's failure to disclose all of  
Gahagan's criminal history except for the 2010 second degree assault.

8 Staff presented the Application at hearing. Staff testified that the Applicant's failure to  
disclose Gahagan's full criminal history indicates fraud, misrepresentation, or erroneous  
information in the Application. Such conduct constitutes a basis for denying the  
application under WAC 480-15-302(2).

9 Staff also presented a Washington Access to Criminal History (WATCH) report from the  
Washington state patrol, identifying Gahagan's criminal history. According to that report,  
Gahagan's criminal history includes the following convictions.<sup>3</sup>

2010: Unlawful Imprisonment  
Assault 2nd Degree  
Attempted Robbery 1st Degree  
2004: Assault 4th Degree  
Malicious Mischief

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<sup>2</sup> In adjudications the Commission's regulatory staff participates like any other party, while the Administrative Law Judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>3</sup> Perkinson, Exh. MP-2.

2000: Minor Possess, Consume, Acquire Liquor  
Disorderly Conduct  
1999: Possession of a Firearm 2nd Degree  
1998: Minor Possess, Consume, Acquire Liquor  
Firearms/Dangerous Weapon Violation  
1997: Taking Motor Vehicle Without Permission  
Supplying Liquor to Minors  
Obstructing a Law Enforcement Officer  
Unlawful Business Conduct

10 Staff testified that Gahagan was incarcerated from January 19, 2010, until March 8, 2017, and was on community supervision from the date of his release until September 7, 2018.<sup>4</sup> As to the circumstances, nature, or extent of Gahagan's specific crimes, Staff testified only that it conducted an internet search and read some news articles that mentioned Gahagan.<sup>5</sup> Staff did not testify to any details of Gahagan's crimes, and instead relied upon documentation of Gahagan's criminal background from the WATCH report and a Lexis Nexis Comprehensive Report.<sup>6</sup>

11 Gahagan testified that he did not intentionally omit any of his criminal history on the Application.<sup>7</sup> Staff witness Dotson testified that Gahagan included with the Application a letter that addressed Gahagan's attempted robbery conviction.<sup>8</sup> Later, Staff witness Perkinson testified that Staff would consider a letter filed along with an application as part of that application.<sup>9</sup>

12 Staff witness Dotson testified that in his conversations with Gahagan there was or could have been confusion between them regarding which portions of Gahagan's criminal history should have been included in the Application.<sup>10</sup> Staff later confirmed that, after hearing Gahagan's presentation, "there may have been some possible confusion in

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<sup>4</sup> Perkinson, Exh. MP-4.

<sup>5</sup> Perkinson, TR at 33:14-35:4.

<sup>6</sup> *Id.*

<sup>7</sup> Gahagan, TR at 54:15-57:11.

<sup>8</sup> Dotson, TR at 15:15-22; 17:9-22; 21:14-22:20.

<sup>9</sup> Perkinson, TR at 35:5-13.

<sup>10</sup> Dotson, TR at 15:15-16:5; 22:12-20.

various communication with Commission staff. . . .”<sup>11</sup> Staff argues that the confusion in communication does not alter the language of the Commission’s application form, which Staff maintains is sufficiently clear for any applicant to understand what must be disclosed.<sup>12</sup>

13 Gahagan then presented testimony and evidence regarding the nature and extent of the events leading to his 2010 convictions, including second degree assault and attempted robbery, as well as evidence of his rehabilitation. After hearing Gahagan’s testimony and reviewing the exhibits in the record, Staff witness Perkinson stated that Staff’s recommendation had changed,<sup>13</sup> and that Staff now recommended the Commission deny the present Application but invite AmericaM to reapply in September of 2020.<sup>14</sup> Staff clarified that it wanted this additional period to pass – until two years after the conclusion of Gahagan’s community supervision – in order for Gahagan to demonstrate he could remain incident-free and, presumably, maintain his good character prior to Staff reevaluating the Application.<sup>15</sup> Staff stated the reevaluation would not require reapplication or a new application fee, but would require confirmation that each person named on the Application had no new infractions and were trustworthy.<sup>16</sup> Staff would also confirm that the Company had insurance and met all other requirements in the Commission’s application form.<sup>17</sup>

14 Gahagan agreed that Staff’s modified recommendation was fair,<sup>18</sup> but explained that delaying the Application would create a significant economic obstacle for him and the others involved in the business because AmericaM would not be permitted to operate this summer during peak moving season.<sup>19</sup> He also cited the costs of maintaining insurance

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<sup>11</sup> TR at 83:25-86:3.

<sup>12</sup> TR at 86:3-5.

<sup>13</sup> TR at 75:13-77:1.

<sup>14</sup> TR at 77:2-11.

<sup>15</sup> TR at 77:2-11, 78:1-22. Gahagan’s community supervision began upon his release from incarceration on March 8, 2017, and ended on September 7, 2018.

<sup>16</sup> TR at 78:8-22.

<sup>17</sup> TR at 80:15-81:10.

<sup>18</sup> TR at 79:1-2.

<sup>19</sup> TR at 79:2-14; 81:15-83:10.

and other capital costs associated with the business.<sup>20</sup> As an alternative to Staff's suggestion, Gahagan requested that the Commission place the permit on probation, a suggestion the presiding officer construed as a request for provisional authority under WAC 480-15-302 in lieu of permanent authority under WAC 480-15-305 until the September 2020 date requested by Staff.<sup>21</sup>

15 Staff did not accept Gahagan's recommendation that the Commission issue provisional authority until September 2020 and then consider whether to grant permanent authority.<sup>22</sup> Staff reiterated that the nature and extent of Gahagan's criminal history, in particular his unlawful imprisonment conviction, coupled with the length of time Gahagan was incarcerated or under community supervision (approximately 8 years, 7 months) compared to the length of time post-community supervision (approximately 1 year, 5 months) informed and supported Staff's revised recommendation to wait until September 2020 to reconsider the Application.<sup>23</sup>

#### DISCUSSION AND DECISION

16 WAC 480-15-302 and -305 set out the various criteria for obtaining provisional or permanent authority to operate as a household goods company. As relevant to this matter, the rules explain that the Commission may deny an application if it has not been properly completed,<sup>24</sup> if the application contains any indication of fraud, misrepresentation, or erroneous information,<sup>25</sup> or if a person named in the application has been convicted of "any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the nature or extent of the crime or crimes will likely interfere with the proper operation of a household goods moving company."<sup>26</sup>

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<sup>20</sup> Gahagan, TR at 79:2-80:3; 81:15-83:10.

<sup>21</sup> Gahagan, TR at 79:17-80:7.

<sup>22</sup> Perkinson, TR at 80:8-81:10.

<sup>23</sup> Perkinson, TR at 84:17-85:12.

<sup>24</sup> WAC 480-15-302(1).

<sup>25</sup> WAC 480-15-302(2).

<sup>26</sup> WAC 480-15-302(8)(b).

- 17 First, we address whether the Application contains any indication of fraud, misrepresentation, or erroneous information, pursuant to WAC 480-15-302(2). We find that the facts and circumstances in this case do not support Staff's request to deny the Application on that basis, as explained below.
- 18 We agree with Staff that the language in the household goods application for authority clearly describes which portions of an applicant's criminal history must be disclosed. Question 9 asks "Has any person named in this application ever been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance?" Question 10 asks "Has any person named in this application, been cited for violation of state laws or Commission rules?"
- 19 Given the straightforward nature of Questions 9 and 10, it is unfortunate that Staff's discussions with the Applicant only served to create confusion. In any communication regarding these particular requirements, Staff should provide clear and simple instructions that applicants must disclose all criminal history as well as all traffic infractions, fines, and penalties imposed by other state agencies. Staff, however, acknowledged that its communications with Gahagan regarding which portions of his criminal history must be disclosed on the Application were not entirely clear.
- 20 Nevertheless, Gahagan's failure to disclose all of his criminal history calls in to question his trustworthiness and integrity. Gahagan's trustworthiness and integrity was somewhat rehabilitated by Gahagan's inclusion of an additional letter with the Application, which discusses his troubled past, particularly as it related to his attempted robbery conviction and his subsequent rehabilitation.
- 21 Gahagan's trustworthiness and integrity was then significantly rehabilitated by his frank, open, and truthful account of the details of the events that occurred on December 29, 2008, which led to his 2010 convictions and subsequent incarceration. Gahagan, while admitting he disliked revisiting his memories of that time, took responsibility for the poor choices and actions of his past and also accurately and honestly recounted the events that led to his 2010 convictions.<sup>27</sup> After Gahagan's recitation of the events as he recalled them, the presiding officer took official notice at the hearing of the case history regarding Gahagan's 2010 convictions.<sup>28</sup> Gahagan's account of the events of December 29, 2008, is

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<sup>27</sup> Gahagan, TR at 65:4-68:10.

<sup>28</sup> Gahagan, TR at 85:17-22.

consistent with the account of events contained in the case history, including the facts relied upon by the Washington Court of Appeals in resolving the appeal of his convictions.

22 The Commission determines, therefore, that the Application should not be denied on the basis that it fails to disclose all of Gahagan's criminal history and therefore contains an indication of fraud, misrepresentation, or erroneous information. The inclusion of the WATCH Report in the record, the letter submitted along with the Application, which Staff considers as part of the application, the admittedly unclear and confusing communications between Gahagan and Staff, and Gahagan's demonstrated honesty and credibility at hearing support this determination.

23 Second, we address whether the nature and extent of Gahagan's crimes, including those involving assault or theft, will likely interfere with the proper operation of a household goods moving company. We, like Staff, are concerned by the extent of Gahagan's criminal history, in particular the details of the events leading to his 2010 convictions. We determine, however, that these concerns and the potential for the nature and extent of those crimes to interfere with the proper operation of a household goods moving company can be mitigated by strict and extensive conditions attached to the Commission's grant of a provisional permit. These conditions, as described herein, are the most stringent and comprehensive the Commission has imposed in recent memory.

24 Gahagan's story is one with which our society is becoming all-too-familiar as we attempt to move past our nation's opioid and drug crises. Gahagan testified that he was previously addicted to alcohol and opioids and that his addiction to these substances was the catalyst for his criminal history and recidivism.<sup>29</sup> The WATCH Report and his testimony support such an explanation of his criminal history.

25 Gahagan testified he was immature in his youth, failed to finish high school, and involved himself with drugs and the wrong crowd.<sup>30</sup> His early criminal history occurred between the ages of 17 and 23 years old.<sup>31</sup> Much of his criminal history during this period involved or was the result of his use or distribution of alcohol.<sup>32</sup> Then, after completing a

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<sup>29</sup> Gahagan, TR at 38:20-22, 42:15-45:18.

<sup>30</sup> Gahagan, TR at 38:20-22, 41:2-6, 42:17-20.

<sup>31</sup> Gahagan, TR at 42:22-24.

<sup>32</sup> See Perkinson, Exh. MP-2 at 2-8.

drug and alcohol class or program in 2004, he testified that he cleaned himself up and realized drugs and alcohol were “a major flaw in [his] life.”<sup>33</sup> Beginning in 2004, he testified he was sober for 4-5 years.<sup>34</sup> There is a corresponding gap in his criminal history during that time.<sup>35</sup>

26 Gahagan testified that, in 2008, he suffered an injury and was subsequently prescribed large doses of opioids for pain.<sup>36</sup> Gahagan produced documentation at the hearing supporting the prescription of opioids in alarmingly large dosages consistent with his description.<sup>37</sup> He testified that he became addicted to the prescribed opioids.<sup>38</sup> Then, he testified, when he was unable to afford the costs of his prescriptions due to a lack of insurance coverage, he sought opioids illegally.<sup>39</sup> As a result of his drug-seeking behavior, he involved himself again with persons from his past and reengaged in prior behaviors that led him, eventually, to the actions and events that resulted in his 2010 convictions and incarceration.<sup>40</sup>

27 Gahagan also clarified two of the firearms convictions that raised red flags for Staff. His 1998 conviction for possession of a firearm/dangerous weapon resulted from his possession of brass knuckles, not a firearm. His 2010 conviction for second degree assault involved an accomplice’s use of a gun in the commission of their crimes. His recitation of the events surrounding those crimes, in particular that he was an accomplice to the person who used the gun resulting in the second degree assault conviction, is consistent with the case history of Gahagan’s 2010 convictions. Both Gahagan and Staff failed to directly mention Gahagan’s 1999 felony conviction for possession of a firearm in the second degree. It is worth noting that, as a result of 1999 conviction and his 2010

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<sup>33</sup> Gahagan, TR at 42:15-24.

<sup>34</sup> Gahagan, TR at 42:21-24, 43:2-6.

<sup>35</sup> Perkinson, Exh. MP-2 at 2-3.

<sup>36</sup> Gahagan, TR at 42:25-44:14.

<sup>37</sup> Gahagan, TR at 43:11-21.

<sup>38</sup> Gahagan, TR at 44:6-10.

<sup>39</sup> Gahagan, TR at 44:10-15.

<sup>40</sup> Gahagan, TR at 44:16-45:18.



convictions, Gahagan was ineligible to possess firearms despite not having wielded the firearm during the events leading to his 2010 convictions.<sup>41</sup>

28 Gahagan presented evidence of his rehabilitation since his incarceration.<sup>42</sup> He submitted evidence of his reintegration into the community through more than a dozen character statements, including statements from his probation officer, counselors, and members of the community, as well as residents and business owners for whom he has worked.<sup>43</sup> Gahagan presented evidence supporting his testimony that, through the kind of work he had been doing, he had entered into people's homes and had been trusted with credit card and other sensitive information.<sup>44</sup> Additionally, the character statements from the community support his testimony that he has been trustworthy and acted appropriately on those occasions when, had he been inclined to pursue his past behaviors, he could have taken advantage of his access to people's homes and their financial or personally identifying information.

29 He also presented evidence of his sobriety, including completion of another drug and alcohol class or program and, later, a urine analysis to which he voluntarily submitted to demonstrate his sobriety and support the Application.<sup>45</sup> He testified that he is sober and has been free of any substances for over 11 years now.<sup>46</sup>

30 It is fair and accurate to observe that few applicants have presented as much persuasive evidence related to their rehabilitation or have explained how their criminal history would not interfere with their proper operation of a household goods business as has Gahagan. In this instance, given the concerns regarding Gahagan's criminal history, such an abundance of persuasive evidence is necessary for the Commission to even consider granting him authority, provisional or otherwise.

31 After hearing Gahagan's testimony explaining himself, his actions, the nature and extent of his crimes, and his subsequent rehabilitation, Staff tempered its recommendation. Staff's revised recommendation is that the Commission deny the current Application, but

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<sup>41</sup> Perkinson, Exh. MP-2 at 3-4, 6-7.

<sup>42</sup> Gahagan, Exh. CG-B1-B2, G1-G3, H1-H13.

<sup>43</sup> Gahagan, Exh. CG-H1-H13.

<sup>44</sup> Gahagan TR at 45:23-46:22, 48:17-49:8, 56:24-57:7; Gahagan, Exh. CG-H5-H8, CG-N1.

<sup>45</sup> Gahagan, Exh. CG-F1.

<sup>46</sup> Gahagan, TR at 40:24-41:2.

allow Gahagan to reapply in September 2020 without paying an additional fee or submitting new paperwork. At that point, Staff would confirm that the Applicant meets all requirements for a household goods permit, and that neither Gahagan nor others identified in the Application had incurred new criminal infractions.

32 There are two previous cases in which the Commission denied an application for household goods authority based on crimes committed by an applicant more than five years prior to the date of application. Staff's revised recommendation is reminiscent of the Commission's reasoning in the first case, *In re Application of Ivan Ingram d/b/a AA Eagle Relocation Service for a Permit to Operate as a Motor Carrier of Household Goods*, Docket TV-120721.<sup>47</sup> In that case, the company's owner, Ivan Ingram, had an extensive criminal history that included 22 felony convictions for multiple crimes, including theft, identity theft, and possession of stolen property. While the Commission recognized in its decision that Ingram had made significant progress toward personal rehabilitation, the administrative law judge was unable to determine Ingram's trustworthiness with an acceptable level of certainty. In denying Ingram's application for a permit, the Commission balanced the 12-year length of Ingram's criminal history with the 3-year length of time he had been in the community since his release from prison, ultimately concluding that it would not be in the public interest to issue a permit to Ingram until a more appreciable length of time had passed without incident.

33 The second of the two previous cases is *In re Application of Five Stars Moving & Storage, LLC for a Permit to Operate as a Motor Carrier of Household Goods*, Docket TV-150223.<sup>48</sup> In *Five Stars Moving & Storage*, the owner, Billy Trick, was convicted of two counts of first degree child molestation in 1999 for sexually assaulting two seven-year old girls in their home. Trick was incarcerated and, upon his release in 2004, repeatedly violated the law and was dishonest with the Commission on two other occasions. The administrative law judge in *Five Stars Moving & Storage* determined that the nature and extent of Trick's crimes, the lack of honest and forthright disclosure by Trick at the hearing, and the prospect of Trick coming into contact with minor children while performing household goods moves required the Commission to find that granting the application would not be in the public interest.

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<sup>47</sup> *In re Application of Ivan Ingram d/b/a AA Eagle Relocation Service for a Permit to Operate as a Motor Carrier of Household Goods*, Docket TV-120721, Order 01 (Dec. 21, 2012).

<sup>48</sup> *In re Application of Five Stars Moving & Storage, LLC for a Permit to Operate as a Motor Carrier of Household Goods*, Docket TV-150223, Order 02 (Jul. 23, 2015).

34 Staff is correct that Gahagan’s criminal history presents concerns. Staff is also correct that Gahagan must demonstrate more time without recidivism prior to earning permanent authority to operate a household goods moving company, as in *AA Eagle Relocation Service*. But the circumstances of this case are distinguishable from both prior cases in multiple and significant ways that favor Gahagan. Gahagan’s criminal history is less concerning than the criminal histories considered in both *AA Eagle Relocation Service* and *Five Stars Moving & Storage*. Gahagan has persuasively established much more, and more effective, rehabilitation than the applicants in those prior cases. We determine that the concerns for Gahagan’s criminal history and the desire to observe a longer time period without recidivism are mitigated by granting a provisional permit with strict and extensive conditions. Gahagan should be mindful that the provisional permit we grant by this Order was very difficult to earn and will be very easy to lose.

35 We disagree with Staff’s recommendation to deny the Application now but allow Staff to reevaluate it in seven months. We understand Staff’s reevaluation to be merely a check-in that the Applicant has insurance, has not recidivated, and otherwise meets all standard requirements for granting an application. We find it much more effective to ensure compliance with regulation by issuing provisional authority to the Applicant with strict conditions. Accordingly, we grant a provisional permit to AmericaM, with conditions, but find that Gahagan’s criminal history constitutes good cause to extend the period of the provisional permit until March 8, 2022, five years after Gahagan’s release from incarceration.<sup>49</sup> The extension of this provisional period creates a higher bar for AmericaM and Gahagan as it represents a longer period of time during which the Company must demonstrate compliance with the additional conditions of this Order. Permanent authority will only be granted if, during this provisional period, AmericaM and Gahagan meet all requirements of WAC 480-15-305 in addition to the conditions of this Order as explained below.

36 Despite the extended provisional period, AmericaM must complete all requirements in WAC 480-15-305 for permanent authority within 18 months of the date of this Order.<sup>50</sup>

37 Gahagan’s criminal history is demonstratively linked to and contextualized by his prior drug-seeking behavior. This does not absolve Gahagan of responsibility for his prior bad

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<sup>49</sup> See WAC 480-15-305(3).

<sup>50</sup> WAC 480-15-305(3). 18 months is the same time period that any other household goods moving company would have to complete these requirements.

actions, but it does clarify how Gahagan's commitment to sober living is related to his trustworthiness and ability to properly operate a household goods moving company.

38 Household goods moving companies must implement a random alcohol and controlled substances testing program for their drivers.<sup>51</sup> AmericaM, like every other household goods moving company, must implement such a program.<sup>52</sup> The issuance of provisional authority to AmericaM is conditioned upon Gahagan's inclusion, whether or not he is designated as a driver for AmericaM, in the same random alcohol and controlled substances testing program that it uses for its drivers. AmericaM must keep records of Gahagan's testing for the duration of the provisional period and must provide them to Staff upon request, even if Gahagan is not actually driving AmericaM's vehicles.

39 This testing will mitigate two of the Commission's concerns. First, it will monitor and create accountability for Gahagan's sobriety, mitigating the risk that he will relapse and recidivate when his drug-seeking behavior returns. Any break in Gahagan's sobriety will negatively impact the Commission's evaluation of whether to issue permanent authority and whether the nature and extent of his criminal history, including his 2010 convictions, is likely to interfere with his ability to properly operate a household goods moving company. Second, the regular testing and diligent recordkeeping required will demonstrate AmericaM's ability and willingness to conform to Commission regulation, as well as Gahagan's ability to responsibly operate a household goods moving company. Gahagan's failure to enroll in AmericaM's random alcohol and controlled substances testing program or AmericaM's failure to keep all required records of Gahagan's testing and provide it to Staff upon request will result in the Commission denying the Company permanent authority to operate under WAC 480-15-305 and cancelling the Company's provisional permit.

40 During the duration of its provisional period, AmericaM must complete a criminal background check on each person it employs or intends to employ and must keep all records of such criminal background checks. AmericaM also must not employ any person who has "within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the

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<sup>51</sup> See 49 C.F.R. Part 382 and 49 C.F.R. Part 40.

<sup>52</sup> The Commission has information on its website for companies seeking to establish a controlled substance and alcohol testing program.  
<https://www.utc.wa.gov/regulatedIndustries/transportation/Pages/drugAndAlcoholConsortium.aspx>.

manufacture, sale, or distribution of a controlled substance,”<sup>53</sup> and must not employ any person who:

has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company.<sup>54</sup>

If AmericaM fails to complete and keep records of a background check for any employee or intended employee, or employs any person with the criminal history explained above, permanent authority to operate under WAC 480-15-305 will be denied and the provisional permit will be cancelled.

41 As it applies to the conditions contained in Paragraph 40, Gahagan’s criminal convictions through 2019 are known by the Commission and are not considered, at this time, as likely to interfere with the proper operation of a household goods moving company. This consideration can be confirmed by Gahagan through his proper operation of a household goods moving company and continuing to demonstrate his rehabilitation and reintegration into the community. Any failure by Gahagan to properly operate a household goods moving company or failure to continue demonstrating his rehabilitation and reintegration into the community will negatively impact the Commission’s reconsideration of whether the nature and extent of his criminal history, including his 2010 convictions, is likely to interfere with his ability to properly operate a household goods moving company. Additionally, if Gahagan recidivates, and in particular if he commits any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance, he will no longer be employable by AmericaM under WAC 480-15-305(1)(d) and the conditions of this Order.

42 WAC 480-15-302(8)(b) is not intended to permanently bar an applicant with criminal convictions from obtaining authority to operate a household goods company. Rather, the rule allows the Commission to exercise its discretion to protect the public interest in those

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<sup>53</sup> WAC 480-15-305(1)(d).

<sup>54</sup> WAC 480-15-305(2).

cases where the nature of the crime is particularly egregious or an applicant's criminal history is particularly extensive. Neither the nature nor the extent of Gahagan's convictions warrant a finding that he currently poses a risk to the public, but Gahagan's criminal history raises significant concerns that require mitigation through the enforcement of the strict and extensive conditions we require in this Order. Accordingly, we grant AmericaM provisional authority to conduct intrastate moves within the state of Washington subject to the following conditions:

- (a) AmericaM's provisional period is extended for cause until March 8, 2022;
- (b) AmericaM must complete all requirements for permanent authority within 18 months of the date of this Order;
- (c) AmericaM must implement a random alcohol and controlled substances testing program for its drivers and, effective immediately and for the duration of its provisional period, Gahagan must be enrolled in that program;
- (d) For the duration of its provisional period, AmericaM must maintain and provide to Staff upon request all records of Gahagan's participation in its random alcohol and controlled substances testing program;
- (e) For the duration of its provisional period, AmericaM must complete and keep records of background checks for every employee and intended employee; and,
- (f) For the duration of its provisional period, AmericaM must not employ any person with a criminal history as explained in Paragraphs 40 and 41.

43 Although AmericaM's permit was difficult to obtain, we reiterate that it will be easy for the Company to lose if it fails to adhere to Commission rules and the high standards set by this Order. Accordingly, we advise AmericaM and Gahagan to diligently conduct its operations and abide by the terms of this Order as well as Commission rules if it is their intent to continue as a household goods moving company. Staff will grant AmericaM the same fair, balanced, and professional technical support that it offers to every company under Commission regulation. Additionally, we expect AmericaM, as we expect any company subject to Commission regulation, to cooperate with Staff's requests for records and any safety investigation Staff may conduct.

### FINDINGS AND CONCLUSIONS

- 44 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 45 (2) Camano Gahagan is named as the chief executive officer on AmericaM's Application, submitted to the Commission on October 14, 2019.
- 46 (3) On November 13, 2019, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing in this matter based on its review and investigation of the Application.
- 47 (4) The Commission granted the Company's request for a hearing and, by agreement of the parties, that hearing was held on January 29, 2020.
- 48 (5) AmericaM's Application did not disclose Gahagan's full criminal history in response to Questions 9 and 10.
- 49 (6) The Application's failure to disclose Gahagan's full criminal history was due to miscommunication and misunderstanding between Gahagan and Staff. Additionally, the lack of trustworthiness the failure to disclose would imply is mitigated by a letter submitted by Gahagan contemporaneously with the Application, which acknowledges more of his criminal history and explains his rehabilitation, and by Gahagan's honest and forthright testimony of the nature and extent of his crimes, as confirmed by review of the case history of his 2010 convictions.
- 50 (7) Gahagan was convicted of several misdemeanors and gross misdemeanors from 1997 until 2004, including convictions in 2004 for fourth degree assault; in 1998 and 2000 for possession, consumption, acquisition of alcohol while under 21 years of age; and, in 1997 for supplying liquor to a person under 21 years of age.
- 51 (8) Gahagan was convicted of several felonies, including convictions in 1997 for taking a motor vehicle without permission and in 1999 for illegal possession of a firearm in the second degree. He also had 3 felony convictions in 2010 that all arise from the same events on December 29, 2008: unlawful imprisonment, second degree assault, and attempted robbery in the first degree.

- 52 (9) Gahagan’s criminal convictions involving assault (2004, 2010), theft (attempted robbery, 2010), and illegal distribution of a controlled substance (1997) require the Commission to exercise its discretion in determining whether to issue any authority to operate as a household goods moving company under WAC 480-15-302(8)(b).
- 53 (10) In light of Gahagan’s rehabilitation efforts and his demonstrated time in the community without recidivating, the nature and extent of Gahagan’s criminal convictions are not likely to interfere with the proper operations of a household goods moving company.
- 54 (11) Although not a permanent bar, Gahagan’s criminal history is concerning. We, therefore, determine that strict and extensive conditions must be placed on the Company’s provisional permit in order to mitigate these concerns.
- 55 (12) AmericaM and Gahagan’s ability and willingness to conform to these necessary conditions of their provisional permit as well as Commission rules will impact the Commission’s evaluation of whether permanent authority should be granted after completion of AmericaM’s provisional period.<sup>55</sup>
- 56 (13) We grant to the Applicant a provisional permit to conduct intrastate moves within the state of Washington subject to the conditions set out in Paragraph 42, above.

## ORDER

### THE COMMISSION ORDERS:

- 57 (1) AmericaM Movers LLC is granted a provisional permit as a household goods carrier in the state of Washington subject to the following conditions:
- (a) AmericaM Movers LLC’s provisional period is extended until March 8, 2022;
  - (b) AmericaM Movers LLC must complete all requirements for permanent authority within 18 months of the date of this Order;
  - (c) AmericaM Movers LLC must implement a random alcohol and controlled substances testing program for its drivers and, effective immediately and for the duration of its provisional period, Gahagan must be enrolled in that program;

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<sup>55</sup> See WAC 480-15-186.



- (d) For the duration of its provisional period, AmericaM Movers LLC must maintain and provide to Staff upon request all records of Gahagan's participation in its random alcohol and controlled substances testing program;
  - (e) For the duration of its provisional period, AmericaM Movers LLC must complete and keep records of background checks for every employee and intended employee; and,
  - (f) For the duration of its provisional period, AmericaM Movers LLC must not employ any person with criminal history as explained in Paragraphs 40 and 41.
- 58 (2) Staff is directed to issue a provisional household goods permit to AmericaM Movers LLC in accordance with WAC 480-15-302.

DATED at Lacey, Washington, and effective February 24, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*  
ANDREW J. O'CONNELL  
Administrative Law Judge

### NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).