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Records Management
Feb 22, 2024

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-240056

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(s) occurred.
 - Enclose \$2,200 in payment of the penalty.
 - OR Attest that I have paid the penalty in full through the Commission’s payment portal.

- 2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):
 - 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 violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

PLEASE SEE THE ATTACHED

 - 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: 2/21/2024 [month/day/year], at TUKWILA WA [city, state]

BAYVIEW CHAUFFEURS TRANSPORTATION
Name of Respondent (company) – please print

[Signature]
Signature of Applicant
DAN KENNER

February 21, 2024

Washington Utilities and Transportation Commission

Re: Penalty Assessment TE-240056

Application for Mitigation

We appreciate the opportunity to request mitigation regarding the penalty assessment.

We are grateful for the professional manner in which the recent investigation was conducted. Both employees from the UTC (Arber Demiri and Sandy Yeomans) were exceptional examples of reflecting that they care about not how important and critical nature of the regulations. Most important for us was the time they both took in providing guidance to allow us the opportunity to learn what do we can be in compliance.

Although we have been operating CMV for since 2015 I am new to the responsibilities surrounding CMV regulations. During Covid-19 we basically shut down our entire operation and as we came back I was thrown into a role that I was unfamiliar with. I am extremely grateful to the Inspectors that performed our investigation and the education that they provided during the investigative process. As I move forward, I will be accessing training programs and educational opportunities to better understand the compliance and regulations. Safety is a vital part of what our company provides and I need to increase my knowledge to remain in compliance.

We are asking for relief from the fines that have been assessed. I will list below the violation and a reason as to why we are asking for the relief.

Violation 49 C.F.R. 382.301 Using a driver before a motor carrier has received a negative pre-employment controlled substance test result.

To my embarrassment, this did occur. I was under a mistake understanding that a current DOT Medical examination was adequate to allow a driver to operate a CMV. I have been advised and realize that a pre-employment drug test is required before a new driver can operate our vehicles. We have taken the action that all drivers listed in the violation have provided a negative pre-employment controlled substance test. (Steven Fosight, Trudy Mitchell, and Benjamin Tseng have completed testing with negative results)(Hubert Montgomery has moved from the area and is not expected to return)

We have further established a process that includes a check list of all the requirements, including a pre-employment drug test, that we need to meet- prior to allowing a driver to operate a CMV.

Violation of 49 C.F.R. 393.62 Using a CMV with inoperative emergency exits.

We agree that at the time of the inspection the driver that was asked to assist with the inspection was not able to operate two the emergency exits. 1) a side window and 2) a roof hatch. The vehicle was taken out of service and we immediately contacted our mechanic who had inspected the vehicles in preparation for the UTC investigation.

I asked our mechanic to double check the window in questions and the roof hatch. When he arrived at the yard he showed me that the window opened without issue and the roof hatch was operable. It appears that we had an issue of user error with regard to the window and the roof hatch. The window does open as it is intended and swings freely. With regard to the roof hatch the written instructions on the roof hatch, when followed, the hatch opens and operates freely.

To prevent any issues in the future we have trained all of the drivers on exactly how to operate the emergency exits in all the units. We have certified that they can provide verbal direction as well as hands on operation of all emergency exits, including the process to override the passenger doors in case of power or compression failure.

We ask the Commission to review our explanation and the steps that we have taken to correct the current violations and for preventing future violations with understanding. We also ask that you consider our commitment to improve and strictly follow regulations as we move forward.

Thank you for your consideration,

Dan Renner
Bayview Chauffeured Transportation