

Service Date: April 10, 2024

TV-240198

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Received
Records Management
Apr 10, 2024

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

PENALTY ASSESSMENT: TV-240198

PENALTY AMOUNT: \$100

Magik Corp.
d/b/a Magik Relocation
5305 NE 121st Ave, #112
Vancouver, WA 98682

The Washington Utilities and Transportation Commission (Commission) believes Magik Corp. d/b/a Magik Relocation (Magik Relocation or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On March 21, 2024, Commission Motor Carrier Investigator Tracy Cobile completed a routine safety investigation of Magik Relocation and documented the following violation:

- **One violation of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire.** The Company failed to acquire a criminal background check prior to hiring driver Ethan Bishop.

The Commission considered the following factors in determining the appropriate penalties for this violation:

1. **How serious or harmful the violation is to the public.** The violation noted is serious and potentially harmful to the public. Household goods moving companies that fail to conduct criminal background checks on their employees put their customers and their customers' belongings at risk. This violation presents safety concerns.
2. **Whether the violation was 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.

On August 19, 2020, Charity Joswick attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On July 20, 2022, Charity Joswick filed with the Commission a joint application for reinstatement and transfer of temporary household goods authority. In the application,



James Joswick, owner of Magik Relocation, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety laws and regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violation.** Magik Relocation did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative and responsive during the safety investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** Magik Relocation corrected some violations prior to closing of the investigation.
6. **The number of violations.** Staff identified five violation types with a total of five individual occurrences during the routine safety investigation of Magik Relocation. Of those violations, Staff identified one violation type with one individual occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Magik Relocation last reported traveling 31,130 miles for 2023. This safety violation presents a public safety risk.
8. **The likelihood of recurrence.** The Company was cooperative throughout the safety investigation and was provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** The Company has no history of penalties for safety violations.
10. **The Company's existing compliance program.** James Joswick, owner, is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs three drivers and operates two commercial motor vehicles. The Company reported \$795,350 in gross revenue in 2023.

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.¹ The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety

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

Administration's "out-of-service" criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Magik Relocation \$100 (Penalty Assessment), calculated as follows:

- One violation of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire. The Commission assesses a \$100 penalty for this first-time critical-type violation.

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 the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation or for mitigation of the penalty 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 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 their 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 violation.
- Admit the violation but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.² If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

² <https://efiling.utc.wa.gov/Form>.



If you wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).³

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 Lacey, Washington, and effective April 10, 2024.

/s/ Michael Howard
MICHAEL HOWARD
Director, Administrative Law Division

³ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-240198

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 \$100 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 violation(s), 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**):
 - 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: April 10, 2024 [month/day/year], at Bellevue, WA [City, State]

JAMIES JOSWICK
Name of Respondent (company) – please print

[Signature] 4/10/2024 112817125
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 or she makes a materially false statement which he or she 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 or her 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.