

To the Utilities and Transportation Commission,

John A. Lutz with PMC Moving following up. **We are requesting an Application for Mitigation** in the penalty assessment case: TV-240603 in the amount of \$3,600.00

Although I am acknowledging that some of the violations were committed, I'm requesting that the penalty should be reduced for the following reasons that are outlined below, along with the supporting evidence I am including:

- 1) **Nine Violations of WAC 480-15-555 – Carrier failed to complete a national criminal background check for an employee.** Sandi, your senior compliance investigator, listed “nine” individuals, that is inaccurate. The total was actually six where I did not have supporting evidence available despite having previously run all these checks, but nonetheless → “Memo Will” is Guillermo who has been with our company since 2021, background check is on file. I repeatedly told Sandi that “Memo” is a nickname for Guillermo. “Alex” is for John Alex (myself, owner of PMC), which is noted on several occasions on the paperwork to distinguish from John Mitchell, one of our main drivers. Again, I told this to Sandi multiple times. Lastly, “Guy Higa” has been with our company since early 2022, another one of our drivers whose background check is also on file and info was taken by Sandi. So not sure where the disconnect on those occurred. Furthermore, the other six in violation that she alluded to, were on file through the WSP, a file I emailed her, but since a local check is no longer valid, that now leads me to my next point.

On October 1, 2023 the UTC initiated a new requirement for household goods carriers to conduct background checks on a national level. However, upon reviewing all my emails received from the UTC during the entire 2023 leading up to that date, there were no specific emails in regards to what would have been considered to be a Big Change. I regularly receive emails any time a new carrier applies for authority in the moving industry, so why were there no real notifications about this? One would see in the email's headline “National Background Checks for Movers now required” and it would catch your attention. Moreover, how about a paper letter issued to all carriers to announce something to this extent? Any time our cargo insurance, for example, is set to expire, we get a Paper Letter from the UTC to remind us of that. Just saying that would have been an appropriate move on your behalf, and not just a leaflet with a broad statement and no real explanation. It wasn't until the Mover News Letter for October 2023 (sent out on Oct 4, 2023) where there was any mentioning of this change. You have to scroll half way down that letter to locate >> *There are now increased requirements for household good companies to conduct national background checks vs. state level checks.*

Very vaguely worded and casually placed in that newsletter, which would have been after the ordinance had already gone into effect. That was the only mentioning of it (other than the leaflet I referred to, also sent after the fact) and if your staff is genuinely trying to ensure that all carriers are in compliance, I would expect more effort on your end in disseminating this message to everyone.



2) **One Violation of 49 C.F.R. 390.19 (b) (2) – Failing to file the appropriate form under 390.19 (a) (MCS-150, 150B, or 150C) each 24 months according to schedule.** Although the biennial update for 2023 was submitted on time, I do acknowledge that one small error was made which was Number 21. “Carrier Mileage for the last calendar year” and it had our mileage from 2021 (48,000) and not 2022 (57,000). Not sure if the online file was not correctly saved, but ultimately in the future I will go line-by-line to ensure no small detail is overlooked.

3) **Twenty-six Violations of 49 C.F.R. 391.45(a) – Using a driver not medically examined and certified.** I am acknowledging the lapse in his certification, however what I am contesting is the amount of times it occurred. It was not twenty-six different times driven with an expired card, it was only twenty-two. John Mitchell’s medical card had expired on 5/9/2024 and he was issued a recertification on 6/19/2024. Please see his old medical card along with the new one in the email attachments included. Also, please see a rundown of the dates he had driven, which was also previously submitted to Sandi, along with all the daily sheets she had scanned during the compliance investigation on July 9, 10, 11 – so this is information she would have saved on file for you to reference.

When this was brought to Sandi’s attention, since she had originally cited 30 violations for the above mentioned driver, she followed up on Mon 8/26 and adjusted the amount of violations to 27, then in a subsequent email on that same day sent 25 minutes later (not sure if she made a mistake or had actually tried to go back to review it once more), she put down “26 violations.” I have included both of those emails for you to reference.

But nonetheless, those are Both Inaccurate. And I have the evidence to clearly support that it was only twenty-two times. Again, please refer to all attachments and the Daily Log sheets Sandi had scanned during the investigation.

Some other notes to close out the Mitigation Request:

- PMC did not fail to conduct criminal background checks, we were simply using the WSP Platform which is considered no longer valid and we did not have enough information provided to us to make the appropriate change
- These violations were by no means intentional. Based on past history we have had some compliance violations, but have since worked extremely hard on many aspects of safety compliance and most specifically ensuring that our trucks that are used to haul household goods across public roadways are in tip-top shape and have regular, meticulous maintenance done to them at level I would argue few do, based on the comments made by Sandi and her feedback she gave to us when inspecting our trucks and reviewing our associated maintenance files
- I believe the total number of violations were somewhat misconstrued according to the evidence I have included in the mitigation request
- And one other correction → we did not report \$1,500,000 gross revenue in 2023, it was actually \$1,293,000.

I am proposing a 30% reduction on the penalty assessment made based on the evidence I have presented. I would prefer to opt for two payments to close out the fine. October 1 for the first half and November 1 for the 2nd half. Would be open to further discussion about the matter or to hear your comments about any of the points presented. Please let me know what the next step will be. Once again, I appreciate the time you have taken to review the mitigation request and looking forward to your response

Sincerely,  9/13/2024