

**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

NOTICE OF INTENT TO DENY
APPLICATION FOR PERMANENT
AUTHORITY

NOTICE OF OPPORTUNITY FOR
HEARING

BACKGROUND

- 1 On October 14, 2019, AmericaM Movers LLC (AmericaM Movers or Applicant) 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 RCW 81.80.075(3) requires the Commission to consider whether an applicant for a household goods carrier permit is fit to perform the services proposed and willing and able to conform to the requirements, rules, and regulations of the Commission, and whether the operations are consistent with the public interest.
- 3 The Commission will grant or deny an application for permanent authority after it conducts a complete review of the application, including supporting statements, reports, or other information necessary to determine fitness. RCW 81.80.075(3) provides that the Commission may reject or deny an application for permanent authority if the Commission believes the applicant is unfit, or if issuing the permit is not consistent with the public interest.
- 4 The Commission will not grant provisional or permanent authority if an applicant or any of its employees 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 within five years of the date of the application¹ or more than five years prior to the date of the application if the Commission determines

¹ WAC 480-15-302(8)(a), WAC 480-15-305(1)(d).

that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company.²

5 If it is necessary to resolve outstanding issues or concerns related to fitness, the public interest, or any other issue resulting from a complaint or public comment, the Commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority.³

6 Commission staff (Staff) has reviewed the Application and recommends that the Commission deny the Application for the reasons set out below.

FACTUAL ALLEGATIONS

7 The Commission's household goods carrier application requires applicants to disclose whether any person named in the application has been convicted of several enumerated crimes, including assault. The application also requires applicants to disclose whether any person named in the application has "been cited for violations of state laws or Commission rules."

8 The Commission has previously determined that the term "citation" includes "a notification of a violation and/or legal proceeding requesting the person's presence."⁴

9 AmericaM Movers' Application lists and identifies Camano Gahagan as CEO and part owner of AmericaM Movers.

10 The Application disclosed that one person on the application had been convicted of second degree assault. The Application further indicated that no person named in the application had been cited for violations of state laws or Commission rules. The Application did not disclose any other conviction or citation of any person named in the Application to the Commission.

11 On October 17, 2019, Staff conducted a LexisNexis background check and Washington State Patrol WATCH report for Mr. Gahagan.

² WAC 480-15-302(8)(b), WAC 480-15-305(2).

³ WAC 480-15-350.

⁴ *In re Application of Five Star Moving & Storage*, Docket TV-150223, Order 02, pp. 10-11 ¶ 23 (July 23, 2015).

- 12 Staff's background check revealed that Mr. Gahagan was convicted of 14 offenses between 1997 and 2010, including unlawful imprisonment, second degree assault involving a firearm, and attempted first degree robbery in Snohomish County in 2010. Staff further determined that Mr. Gahagan was incarcerated from January 19, 2010, to March 8, 2017, following his conviction for unlawful imprisonment, second degree assault, and attempted first degree robbery, and was subsequently placed on community supervision until September 7, 2018.
- 13 Staff also discovered that Mr. Gahagan had been convicted of fourth degree assault in 2004, which was not disclosed in the Application. Staff further noted that in addition to his conviction for second degree assault involving a firearm, Mr. Gahagan had been convicted of two additional firearm-related offenses, second degree possession of a firearm, and a firearm/dangerous weapon violation.
- 14 Under WAC 480-15-302(8)(b) and WAC 480-15-305(2), the Commission will not grant provisional or permanent operating authority to an applicant 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 Commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company. In evaluating whether the nature and extent of crimes will likely interfere with the proper operation of a household goods moving company, the Commission has previously considered whether a household goods carrier applicant is "sufficiently trustworthy to be granted a household goods permit."⁵
- 15 Staff believes the nature and extent of Mr. Gahagan's convictions will likely interfere with the proper operation of a household goods moving company and that such operation is not in the best interest of the public. Staff is concerned that the nature and extent of Mr. Gahagan's convictions, as well as the Application's failure to disclose both the additional fourth degree assault conviction and other convictions, indicates that AmericaM Movers is not sufficiently trustworthy to be granted a household goods permit.

5 In re Application of Ivan Ingram d/b/a AA Eagle Relocation Service, Docket TV-120721, Order 01, p. 5 ¶ 21 (December 21, 2012). Although the Commission adjudicated this case under the prior Commission rules regarding past convictions, its analysis has been cited by the Commission under the present rules. See In re Application of Richard and Laura Bell d/b/a Bell's Reliable Moving, Docket TV-160264, Order 01, p. 3 ¶ 14 fn. 4 (June 13, 2016).

- 16 Under WAC 480-15-302(13), the Commission will grant provisional operating authority unless other circumstances exist that cause the Commission to deny the application. While WAC 480-15-302(8)(b) does not include unlawful imprisonment as a crime that will cause the Commission to more closely scrutinize an application, Staff believes this violation is particularly concerning, given that household goods movers are given access to people's homes with little to no supervision. Moreover, Staff has determined that at least three of Mr. Gahagan's convictions, including the most recent 2010 second degree assault, involved the use or possession of a firearm. Staff further believes that the pattern of firearm possession in Mr. Gahagan's criminal record suggests that there may be safety concerns regarding AmericaM Movers acting as a household goods mover. Therefore, Staff asserts that the unlawful imprisonment conviction and Mr. Gahagan's pattern of firearm use or possession in his criminal history provide two additional bases on which to deny the application under WAC 480-15-302(13).
- 17 Staff recommends the Commission deny the Application for AmericaM Movers for failure to meet the requirements of WAC 480-15-302(8)(b) and WAC 480-15-302(13). Staff believes Mr. Gahagan's criminal history will likely interfere with the proper operation of a household goods moving company and presents additional circumstances that warrant the Commission's denial of the application.
- 18 Staff recognizes that a person's criminal history is not a permanent bar to receiving a household goods carrier permit and that AmericaM Movers may receive a permit in the future. However, given the nature and extent of Mr. Gahagan's convictions, AmericaM Movers' failure to disclose those convictions, the length of time that Mr. Gahagan has spent out of custody relative to his sentence, and the lack of other indicia of trustworthiness, Staff recommends that the Commission deny the Application.

DISCUSSION

- 19 Based on the information Staff presented, the Commission agrees with Staff's recommendation and intends to deny the Application. Mr. Gahagan's criminal history, as well as the Applicant's failure to fully disclose that history, renders AmericaM Movers unfit to operate as a household goods moving company.
- 20 Staff's findings support the conclusion that the Applicant has failed to meet the requirements of RCW 81.80.75(3) and WAC 480-15-302(8)(b), WAC 480-15-305(2), and WAC 480-15-302(13), and that the Commission should deny the Application.

NOTICE

- 21 The Commission hereby provides notice of its intention to deny AmericaM Movers' application for provisional and permanent authority for failure to meet the application requirements of RCW 81.80 and WAC 480-15.
- 22 **NOTICE OF OPPORTUNITY FOR HEARING.** AmericaM Movers may request a hearing to contest the factual allegations set out in this notice. AmericaM Movers may request such a hearing by filing a written request for a hearing with the Commission by **November 27, 2019**. The request must be directed to the attention of Mark L. Johnson, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-190858.
- 23 If AmericaM Movers requests a hearing by **November 27, 2019**, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If AmericaM Movers does not request a hearing by that date, the Commission will enter an order rejecting the Application.

DATED at Lacey, Washington, and effective November 13, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary