



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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May 18, 2022

Amanda Maxwell, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Creative Bus, LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-220268

Dear Ms. Maxwell:

On May 6, 2022, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Creative Bus, LLC (Creative Bus or Company) in the amount of \$3,400 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing; 49 C.F.R. Part 383 – Commercial Driver's License Standards; Requirements and Penalties; and 49 C.F.R. Part 391 – Qualification of Drivers, as follows:

- **One violation of 49 C.F.R. § 382.115(a) – Failing to implement an alcohol/controlled substances testing program on the date the employer begins commercial motor vehicle (CMV) operations.** The Company failed to ensure a random drug and alcohol testing program was in place.
- **Three violations of 49 C.F.R. § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** The Company failed to ensure drivers Charmage Bell, Kathryn Major, and Geordan Newbill had received a negative pre-employment controlled substance test prior to operating a CMV.
- **One violation of 49 C.F.R. §383.37(b) – Knowingly allowing, requiring, permitting, or authorizing a driver to operate a CMV during any period in which the driver has a current commercial learner's permit (CLP) or commercial driver's license (CDL) disqualified by a State, has lost the right to operate a CMV in a State, or has been**

disqualified from operating a CMV. The Company allowed driver Brian Green to operate a CMV with a suspended CDL.

- **Three violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Michael Langdon to operate a CMV without having a valid medical certificate on three occasions between October 9 and 16, 2021.

On May 11, 2022, Creative Bus filed with the Commission its application for mitigation of penalties. In the request for mitigation, Ranjana Langdon, owner of Creative Bus, admits the violations, states the Company had compliance issues related to the COVID-19 pandemic, and asks that the penalties be reduced.

Previously, on April 22, 2022, Creative Bus submitted a safety management plan (SMP) to Commission staff (Staff) detailing the corrective actions the Company has taken to remedy the violations and prevent recurrence.

In response to the Company's application for mitigation of penalties, the Creative Bus submitted a SMP demonstrating that the Company: (1) enrolled in a random controlled substances and alcohol random testing program; (2) drivers Bell and Major resigned; (3) will perform a pre-employment controlled substances test for driver Newbill upon return to duty; (4) removed Green from driving duties; and (5) provided a valid medical certificate for Langdon. Staff addresses the penalties, as follows:

- The Commission assessed a penalty of \$1,500 for one violation of 49 C.F.R. § 382.115(a). The Company took corrective action by enrolling in a controlled substances and alcohol random testing program, using a third-party consortium. Staff recommends the \$1,500 penalty be reduced to \$750.
- The Commission assessed a penalty of \$500 for each occurrence of three violations of 49 C.F.R. § 382.301(a). The Company's SMP states that two of the drivers in violation have resigned and that the third will perform a pre-employment test if they return to duty. The SMP did not state how Creative Bus will prevent future occurrence of this violation. Staff recommends no mitigation of this penalty.
- The Commission assessed a penalty of \$100 for one violation of 49 C.F.R. § 383.37(b). The SMP states that Creative Bus has removed the driver from service but fails to state how the Company will prevent future occurrences of this violation. Staff recommends no mitigation of this penalty.
- The Commission assessed a penalty of \$100 for each occurrence of three violations of 49 C.F.R. § 391.45(a). The Company took corrective action and implemented protocols to ensure future compliance. Staff recommends the \$300 penalty be reduced to \$150.

Amanda Maxwell

May 18, 2022

Page 3

Staff recommends the assessed penalty of \$3,400 be reduced to \$2,500. Staff further recommends that \$1,250 of the reduced penalty be suspended for a period of two years, and then waived, subject to the following conditions:

1. Staff conducts a follow-up investigation at least six months from the date of an order;
2. Creative Bus must not incur repeat violations of acute or critical regulations; and
3. The Company pays the \$1,250 non-suspended portion of the reduced penalty within 10 days of an order or enter a mutually agreeable payment arrangement with Staff.

If you have any questions, please contact Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety, at (360) 701-1603, or by email at jason.sharp@utc.wa.gov.

Sincerely,

Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety