



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

December 12, 2014

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Adam's Moving and Delivery Service, LLC.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-143801

Dear Mr. King:

On November 17, 2014, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-143801 against Adam's Moving and Delivery Service, LLC. (Adam's Moving) in the amount of \$4,500, for one violation of WAC 480-15-560, which requires household goods carriers to comply with CFR Part 396 – Inspection, repair and maintenance, and 44 violations of Washington Administrative Code (WAC) 480-15-570, which requires household goods carriers to comply with parts of Title 49, Code of Federal Regulations (CFR), including Part 391 - Qualification of drivers as follows:

- **\$100 for one violation of WAC 480-15-560 –Failing to require driver to prepare a vehicle inspection report.** Five drivers did not prepare daily vehicle inspection reports on 53 separate occasions. This is a critical regulation but these are first-time violations, so the Commission assessed a penalty of \$100 for one violation of this type. Future violations of this regulation will result in penalties assessed for each violation.
- **\$4,400 for 44 violations of WAC 480-15-570 – Using a driver not medically examined and certified.** Four of Adam's Moving's drivers drove a total of 44 days without a valid medical certification. The commission grants no leeway with this type of violation.

On December 5, 2014, Adam's Moving filed with the commission its application for mitigation of penalties (Mitigation Request). Adam French, owner of Adam's Moving, admitted the violations but asked that the penalty amount be reduced for the reasons set out in the response.

Adam's Moving operates as a household goods carrier under permit number HG-62045. On October 16, 2014, Motor Carrier Safety Inspector Alan Dickson conducted a compliance review inspection at the carrier's terminal. Compliance reviews are an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."¹ Acute regulations are identified where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates.² Mr. Dickson found 104 total violations; 97 of these included violations of critical regulations.

In the Mitigation Request, Mr. French requests leniency in the assessed penalty based on the following factors. Staff's response to each factor is included below:

Adam's Moving Mitigation Request: Mr. French did not attend the portion of the November 18, 2013, household goods training session that covered safety requirements.

Staff Response: Mr. French chose not to attend the entire November 18, 2013 household goods training. Mr. French admits that if had attended he would have been aware of the regulation. At the portion of the training Mr. French did attend he was provided a copy of the commission publication called "Your Guide to Achieving a Satisfactory Safety Record" (Guide). This Guide provides information on medical certification requirements.

Technical assistance about safety requirements has also been provided to Adam's Moving several times in the past. In 2005, commission Motor Carrier Safety Inspector Leon Macomber provided technical assistance on driver record requirements³ and provided Mr. French a copy of the Guide. Additionally, in May 2006 during a compliance review Mr. Macomber found that one driver was not medically examined and certified. A violation was noted and Mr. French was provided a copy of the compliance review report showing that violation.⁴

1 Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](#)

2 *Id.*

3 Dec. 14, 2005 technical assistance memo, enclosed.

4 May 28, 2006 Part B of compliance review, enclosed.

As a regulated household goods moving company, it is Mr. French's responsibility to be familiar with, and remain educated about, all laws, rules and requirements. Staff recommends no mitigation.

Adam's Moving Mitigation Request: According to Mr. French, all violations and issues have been corrected, Mr. French noted that he takes these very seriously, and he took immediate steps to comply.

Staff Response: On October 30, 2014, Mr. French provided copies of current medical examiner's certificates for four drivers. Mr. French submitted a compliance plan November 10, 2014, and on staff's advice submitted a more detailed plan November 14, 2014. Mr. French has implemented changes that he believes will bring Adam's Moving into compliance during future compliance reviews.

While staff appreciates Mr. French's efforts to comply with commission requirements after the most recent compliance review. Staff recommends no mitigation.

As stated in the penalty assessment, the commission could have assessed up to \$9,700 in penalties against Adam's Moving for the violations found in the compliance review. Instead, based on the specific factors outlined in the penalty assessment, the commission assessed \$4,500 in penalties. In its Mitigation Request, Adam's Moving did not provide any new information that supports further mitigation of the penalty; therefore, staff recommends the request be denied. Staff does not oppose payment arrangements on the penalty amount.

If you have any questions, please contact Pam Smith, Compliance Investigator, Transportation Safety, at 360-664-1320, or by e-mail at psmith@utc.wa.gov.

Sincerely,



David Pratt
Assistant Director, Transportation Safety

Enclosures

MEMORANDUM

December 14, 2005

Assignment No: 105346
Industry Code: 207

TO: Vicki Elliott, Assistant Director Transportation Safety
FROM: Leon Macomber, MCLE Special Investigator

SUBJECT: Adam's Moving & Delivery Service, LLC. HG-62045
14419 Greenwood Avenue NE PMB 206
Seattle, WA. 98133
Phone: (206) 251-1725
UBI# 602-536-995
MotCar# 43968
P-79400

On December 13, 2005 I contacted Mr. Adam French, Owner/Manager/Driver, concerning technical assistance regarding terminal safety record requirements and maintenance of vehicle as required during six-month provisional status of household goods permit operation.

Mr. Adam French currently operates a pickup truck licensed for less than 10,000# GVWR and thus does not fall under Controlled Substances and Alcohol Testing and Commercial Drivers License requirements.

Mr. French does occasionally rent a vehicle licensed between 10,001# and 26,000# GVWR, and will be purchasing a similar vehicle in the near future.

Based on size of rental vehicles and future purchase Mr. French will be setting-up appropriate terminal safety records which include:

- 1) Driver's Qualification File
- 2) Insurance Requirements
- 3) Parts and Accessories Necessary For Safe Operation
- 4) Accidents
- 5) Hours of Service Records
- 6) Inspection, Repair, and Maintenance
 - a) Daily repair records
 - b) Scheduled, preventative maintenance records
 - c) Annual periodic inspections

- 7) Safety Compliance Review
- 8) Suggestions for Establishing an Effective Safety Program
- 9) Marking of Vehicles

At this time, I handed Mr. French our safety guide, "Your Guide to achieving a satisfactory safety record" and we discussed the requirements in Section 3, Qualifications of Drivers, Section 5, Insurance Requirements, Section 6, Parts and Accessories, Section 7, Accidents, Section 8, Drivers Hours of Service, Section 9, Inspection Repair, and Maintenance, Section 12, Safety Compliance Review, Section 13, Suggestions for Establishing an Effective Safety Program and Section 14, Marking of Vehicles.

Appropriate forms to establish these records follow each section and I gave Mr. French considerable educational, technical assistance in filling-out forms.

Mr. Adam French has a doctor's appointment December 13, 2005 to get his medical certificate and will be road tested December 14, 2005.

I am submitting this assignment for closure at this time.



Leon Macomber
MCLE Special Investigator



ADAMS MOVING AND DELIVERY SERVICE LLC

U.S. DOT #:

State #: HG-62045

Review Date:

05/18/2006

Part B Violations

1 STATE	Primary: 391.45(a) Secondary: 391.11(a) CFR Equivalent: 391.45(a)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

Using a driver not medically examined and certified.

Example

Driver, Alex White, did not have a medical certificate. Hire Date 05/01/06, Trip Date 05/14/06.

2 STATE	Primary: 391.51(b)(1) CFR Equivalent: 391.51(b)(1)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to maintain driver's employment application in driver's qualification file.

Example

Driver, Alex White, does not have an employment application. Hire Date 05/01/06. Trip Date 05/14/06.

3 STATE	Primary: 391.51(b)(3) CFR Equivalent: 391.51(b)(3)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to maintain road test certificate in driver's qualification file, or copy of license or certificate the motor carrier accepted as equivalent.

Example

Driver, Alex White, did not have a road test. Hire Date 05/01/06. Trip Date 05/15/06.

4 STATE	Primary: 396.3(a)(1) CFR Equivalent: 396.3(a)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to inspect and maintain vehicle to ensure safe and proper operating condition.

Example

Performed a Level 5 terminal safety inspection on one 2006 Isuzu Truck License# (Temp) (WA) E6-744985. 1 of 1 vehicle inspected found with defects (100% Defect Ratio). 0 of 1 vehicle inspected placed out-of-service (0% Out-of-Service Ratio). Specific defects can be seen by referencing my Uniform Driver/Vehicle Inspection Report form #1224647.

Safety Fitness Rating Information:

Total Miles Operated 1,000
Recordable Accidents 0
Recordable Accidents/Million Miles 0.000

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 1
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

SATISFACTORY

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	N	0	0
Factor 6:	S	-	-





ADAMS MOVING AND DELIVERY SERVICE LLC

U.S. DOT #:

State #: HG-62045

Review Date:

05/18/2006

Part B Requirements and/or Recommendations

1. Send response letter to WUTC within 15 days addressed to WUTC P.O. Box 47250, Olympia, Washington 98504-7250, Attention: Carolyn Caruso
2. Ensure that all drivers are fully and properly qualified before operating in intrastate commerce. Maintain a complete file as required for each driver, documenting the qualification process.



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US DOT #

Legal: ADAMS MOVING AND DELIVERY SERVICE LLC
Operating (DBA):

MC/MX #: State #: HG-62045 Federal Tax ID: 36-4578736 (EIN)

Review Type: Compliance Review (CR) - Receipt

Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory:

Operation Types Interstate Intrastate

Carrier: N/A Non-HM
Shipper: N/A N/A
Cargo Tank: N/A

Business: Corporation
Gross Revenue: \$34,694.00 for year ending: 12/31/2005

Company Physical Address:

130 NE 95th Street A#206
Seattle, WA 98115

Contact Name: Adam French
Phone numbers: (1) 206-251-1725 (2) Fax
E-Mail Address: adam@adamsmovingservice.com

Company Mailing Address:

14419 Greenwood Ave NE PMB 206
Seattle, WA 98133

Report Summary

Report	# of Pages
Part A - General	1
Part B - Violations	1
Part B - Recommendations	1
Review/Audit Receipt Page	1
Total Pages	4

Disclaimer: By signing below, I acknowledge that I have received a copy of this review/audit and agree with the total number of pages indicated (above) for each document. My signature does not imply agreement with the findings of the review/audit, however they have been discussed in detail with me.

QUESTIONS regarding this report or the Federal Motor Carrier Safety Regulations should be address to:
Washington Utilities & Transportation Commission

P.O. Box 47250, Olympia, WA. 98504-7250
Attention: Leon Macomber (360) 664-1236 Office, (360) 412-8614 Pager

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Adam French Title: Managing Partner/Driver
Name: Title:

Reported By: *Leon Macomber* Title: *MCU Special Inv.* Code: WA0526 Date: 5/18/2006

Received By: *Adam French* Title: *Owner*

