



STATE OF WASHINGTON

## UTILITIES AND TRANSPORTATION COMMISSION

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August 23, 2016

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. Sino-M International LLC d/b/a  
Seattle May Travel*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-160911

Dear Mr. King:

On August 3, 2016, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment TE-160911 against Sino-M International LLC d/b/a Seattle May Travel (Seattle May Travel) in the amount of \$6,900 for eighty-three (83) critical violations of WAC 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 391 – Qualifications of Drivers, and Part 396 – Inspection, Repair, and Maintenance, as follows:

- **Five violations (65 occurrences) of CFR Part 391.45(a) – Using a driver not medically examined and certified.** Seattle May Travel allowed employees Zhaoxing Li, Shuxiang Guo, Tong Liu, Juncheng Huang, and Parker Gao to drive on a total of 65 occasions between January 2016 and May 2016. None of the drivers had been medically examined and certified prior to driving.
- **Five violations of CFR Part 391.51(a) – Failing to maintain a qualification file on each driver employed.** Seattle May Travel failed to maintain driver qualification files for drivers Zhaoxing Li, Shuxiang Guo, Tong Liu, Yuqi Zhao, and Jian Li.
- **Three violations of CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Seattle May Travel did not have any files for its three commercial motor vehicles.

- **Sixty-seven violations of CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Seattle May Travel failed to require its drivers to prepare a driver vehicle inspection report on 67 occasions.
- **Three violations of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** None of the company's three commercial motor vehicles had been periodically inspected.+

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation of Title 49 CFR Part 391 and Title 49 CFR Part 396. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On August 19, 2016, Seattle May Travel filed with the Commission its application for mitigation of penalties. Hongsheng (May) Zhang, owner of Seattle May Travel, admits the violations, provides a minimal explanation of the corrective action steps taken by the company, and asks that the penalties be reduced for the reasons set out in her response.

Seattle May Travel operates as a charter and excursion carrier under permit number CH-064755. In its application for charter and excursion authority filed with the Commission on October 9, 2012, May Zhang acknowledged her responsibility to understand and comply with applicable motor carrier safety rules. Commission staff conducted a new entrant visit with Seattle May Travel on October 17, 2012, and provided additional technical assistance to the company.

On May 23, 2016, Commission Motor Carrier Safety Investigator Sandi Yeomans conducted a compliance review investigation, an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where non-compliance is so severe as to require immediate corrective action 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 unusually higher than average accident rates.<sup>2</sup> Ms. Yeomans documented 83 violations of critical regulations, all of which were first-time violations, resulting in a conditional safety rating.

The Commission's Enforcement Policy provides that some Commission requirements are so essential to safe operations that the Commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.<sup>3</sup>

In the mitigation request, Ms. Zhang admitted the violations and provided a bulleted list of the corrective steps taken for each violation. Staff found the company's response to be minimal at best, and provides its response below:

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<sup>1</sup> Code of Federal Regulations, Appendix B to Part 385—Explanation of safety rating process

<sup>2</sup> *Id.*

<sup>3</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.



- **Mitigation Request: CFR Part 391.45(a) – Using a driver not medically examined and certified.** Seattle May Travel states that it now has medically examined drivers and keeps this information in its driver qualification files.

**Staff response:** It is the company's responsibility to ensure that its drivers have current medical certification and to not allow its drivers to operate a vehicle when medical certification has expired. The company failed to provide copies of its driver's medical certificates, or provide supporting documentation of how the company intends to comply with the medical certification requirements.

The assessed penalty is \$6,500 for 65 occurrences of this violation. Staff recommends the penalty be reduced \$3,000, for a total of \$3,500.

- **Mitigation Request: CFR Part 391.51(a) – Failing to maintain a qualification file on each driver employed.** Seattle May Travel's request for mitigation did not address this violation.

**Staff response:** The company failed to provide an example of a driver qualification file, a list of the documents the company keeps in such a file, or any supporting evidence or documentation with respect to steps taken to correct this violation.

The assessed penalty is \$100 for one violation of this type. Staff recommends no mitigation of this penalty.

- **Mitigation Request: CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Seattle May Travel states that it now has compliant maintenance files for all commercial motor vehicles.

**Staff response:** The company failed to explain how the violations occurred, and failed to provide any supporting evidence or documentation of the steps it has taken to avoid reoccurrence.

The assessed penalty is \$100 for one violation of this type. Staff recommends no mitigation of this penalty.

- **Mitigation Request: CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Seattle May Travel states that it has designed driver vehicle inspection reports that will be filled out pre-trip and post-trip, and will be filed and retained for a minimum of ninety days.

**Staff response:** The company failed to provide a copy of the driver vehicle inspection reports that will be filled out pre-trip and post-trip, a list of what is included in the driver vehicle inspection reports, or any supporting evidence or documentation of the steps it has taken to avoid reoccurrence.

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The assessed penalty is \$100 for one violation of this type. Staff recommends no mitigation of this penalty.

- **Mitigation Request: CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Seattle May Travel states that its Mercedes Sprinter vans are maintained by the Mercedes dealership, which the company believed was better than annual inspections. Seattle May Travel states that it now understands that a separate annual inspection is needed for each commercial motor vehicle used during the previous twelve months.

**Staff response:** The company failed to have its vehicles DOT inspected in accordance with minimum standards. The company states that its Sprinter vans are serviced by the Mercedes dealership, however all components required of an annual vehicle inspection report are not covered by a dealership's routine maintenance.

The assessed penalty is \$100 for one violation of this type. Staff recommends no mitigation of this penalty.

Seattle May Travel is a small company currently operating three commercial vehicles and employing seven drivers. The company reported \$688,120.91 in gross revenue and 94,148 miles traveled in 2015. Staff recommends that the penalty of \$6,900 be reduced to \$3,900.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at 360-664-1320, or by e-mail at [JHoxit@utc.wa.gov](mailto:JHoxit@utc.wa.gov).

Sincerely,



David Pratt  
Assistant Director, Transportation Safety

Enclosures