

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

PENALTY ASSESSMENT: TV-220509

PENALTY AMOUNT: \$2,500

JFS Transport, Inc.
d/b/a Coast Movers
PO Box 190
Gig Harbor, WA 98335

The Washington Utilities and Transportation Commission (Commission) believes JFS Transport, Inc., d/b/a Coast Movers (Coast Movers or Company) violated Washington Administrative Code (WAC) 480-15-530, Public Liability and Property Damage Insurance, WAC 480-15-550, Cargo Insurance, WAC 480-15-555, Criminal Background Checks for Prospective Employees, WAC 480 15-560, Equipment Safety Requirements which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 396 – Inspection, Repair, and Maintenance and WAC 480-15-570, Driver Safety Requirements which adopts 49 C.F.R. 391 – Qualification of Drivers and 49 C.F.R. 395 – Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On June 29, 2022, Commission Motor Carrier Investigator Francine Gagne completed a routine safety investigation of Coast Movers and documented the following violations:

- **One violation of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** The Company failed to maintain appropriate liability insurance.
- **One violation of WAC 480-15-550 – Failure to obtain and maintain proper levels of cargo insurance.** The Company operated without maintaining appropriate cargo insurance.
- **Seventeen violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington.** The Company failed to conduct a criminal background check for prospective employees Samuel Pump, Tyler Forbes, Jason Mellin, Erick Chenoweth, Terry Moffitt, Daniel Shank, Sean Selig, Tristan Bryant, Jimmy Mckenzie, Xavier Wells, Simeon Wells, Trevor Camm, Jeremy Partyka, Timothy Broad, Robert Bray, Cameron Broad, and Oliver Orr.
- **Two violations of 49 C.F.R. § 391.45 (a) – Using a driver not medically examined and certified.** The Company allowed drivers Jonathan Sheridan and Samuel Pump to

operate a commercial motor vehicle (CMV) without a valid medical certificate on two occasions.

- **Two violations of 49 C.F.R. § 391.51 (a) – Failing to maintain driver qualification file on each driver employed.** The Company failed to maintain a driver qualification file for drivers Jonathan Sheridan and Samuel Pump.
- **Forty-six violations of 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.** The Company failed to require drivers Jonathan Sheridan and Samuel Pump to prepare records of duty status.
- **One violation of 49 C.F.R. § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** The Company failed to keep proper inspection and vehicle maintenance records for one CMV.
- **One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected.** The Company failed to have its CMV periodically inspected.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that: (1) fail to maintain appropriate liability insurance, (2) fail to maintain appropriate cargo insurance, (3) fail to perform background checks on their employees, (4) allow drivers to operate CMVs without valid medical certificates, (5) fail to maintain driver qualification files, (6) fail to require drivers to prepare records of duty status, (7) fail to keep proper inspection and vehicle maintenance records, and (8) operate CMVs that are not periodically inspected put their customers, their customers' belongings, and the traveling public at risk. These violations present significant safety concerns.
2. **Whether the violations were intentional.** Considerations include:
 - Whether the Company ignored Commission staff's (Staff) previous technical assistance; and
 - Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

On October 1, 2010, the Commission received the Company's application for household goods moving authority. In the application Jonathon Sheridan, owner of Coast Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On August 30, 2012, The Commission received the Company's application to transfer Johnathon Sheridan's household goods moving authority to JFS Transport, Inc. In the application Jonathon Sheridan acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On February 2, 2021, the Commission received the Company's application to reinstate household goods moving authority. In the application Jonathon Sheridan acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On July 12, 2011, Jonathon Sheridan, Jory Barclay, and Vincent Flores attended household goods training provided by Staff, which included training pertaining to motor carrier safety regulations. On August 15, 2016, Jonathon Sheridan, Brad Merrin, and Terry Moffitt attended household goods training provided by Staff. The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Coast Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was uncooperative, slow to respond to investigator requests, and failed or refused to present requested documentation throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company has not provided Staff with evidence that the violations have been corrected.
6. **The number of violations.** Staff identified 18 violation types with a total of 83 individual occurrences during the routine safety investigation of Coast Movers. Of those violations, Staff identified eight violation types with 71 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Coast Movers reported traveling 9,500 miles in 2021. These violations presented a public safety risk.
8. **The likelihood of recurrence.** Although Staff provided the Company with technical assistance that included specific remedies to help it assess how well its safety management controls support safe operations and how to begin improving its safety performance, Coast Movers was uncooperative during the safety investigation. Absent a significant commitment to prioritize safe operations, the violations are likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On September 6, 2013, Coast Movers' household goods moving authority was suspended for failing to file acceptable proof of insurance in Docket TV-131657. The Company's authority suspension was lifted on September 11, 2013.

On December 10, 2013, Coast Movers' household goods moving authority was suspended for failing to file acceptable proof of insurance in Docket TV-132247. The Company's authority was cancelled on January 15, 2014.

On February 14, 2014, the Company applied for reinstatement of its household goods moving authority in Docket TV-140269. On March 3, 2014, the Company's authority was reinstated.

On April 28, 2014, Coast Movers' household goods moving authority was suspended for failing to file acceptable proof of insurance in Docket TV-140730. The Company's authority suspension was lifted on May 12, 2014.

On May 29, 2015, the Commission assessed a \$100 penalty against Coast Movers for failing to file an annual report and pay regulatory fees in Docket TV-150911. The Company paid regulatory fees and the \$100 penalty in full on October 5, 2015.

On June 20, 2018, the Commission issued a complaint for penalties against the Company in Docket TV-180315. The Commission issued a penalty of \$15,000 with a \$10,000 portion suspended for a period of two years subject to conditions. On April 30, 2021, the Commission imposed the \$10,000 suspended portion of the penalty and suspended a \$5,000 portion of the that penalty for a period of two years subject to conditions.

On December 5, 2018, the Commission cancelled the Company's household goods moving authority for failing to file an annual report and pay regulatory fees in Docket TV-180772. On December 14, 2018, the Company applied for reinstatement of its authority in Docket TV-181027. The Company's authority was reinstated on December 19, 2018.

On March 2, 2020, the Commission cancelled the Company's household goods moving authority for failing to file an annual report and pay regulatory fees in Docket TV-191046.

On December 1, 2020, Staff initiated a special proceeding to determine if the Company was operating without household goods moving authority and to impose suspended penalties in consolidated Dockets TV-180315 and TV-200861. On January 22, 2021, the Commission issued a default order ordering the Company to cease and desist operations and to impose and suspend penalties.

On May 11, 2021, the Company's household goods moving authority was reinstated in Docket TV-210054.

Coast Movers has no history of penalties for safety violations with the Commission.

10. **The Company's existing compliance program.** Jonathon Sheridan is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs two drivers and operates one commercial motor vehicle. The Company reported \$127,000 in gross revenue in 2021.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each

occurrence of a first-time violation.¹ The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Coast Movers \$2,500 (Penalty Assessment), calculated as follows:

- One violation of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. The Commission assesses a penalty of \$100 for this acute violation.
- One violation of WAC 480-15-550 – Failure to obtain and maintain proper levels of cargo insurance. The Commission assesses a penalty of \$100 for this acute violation.
- Seventeen violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington. The Commission assesses a penalty of \$100 for each occurrence of these critical violations, for a total of \$1,700.
- Two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a \$100 penalty for each occurrence of these critical violation, for a total of \$200.
- Two violations of 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification file on each driver employed. The Commission assesses a "per category" penalty of \$100 for these critical violations.
- Forty-six violations of 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method. The Commission assesses a "per category" penalty of \$100 for these critical violations.
- One violation of 49 C.F.R. § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. The Commission assesses a penalty of \$100 for this violation.
- One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected. The Commission assesses a penalty of \$100 for this violation.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

¹ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision. **You must act within 15 days after receiving this Penalty Assessment** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation(s).
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective July 25, 2022.

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-220509

PLEASE NOTE: You must complete and sign this document and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred and enclose \$2,500 in payment of the penalty.

2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020 "Perjury in the first degree."

- (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.
- (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- (3) Perjury in the first degree is a class B felony.