

Service Date: October 3, 2023

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-230696

PENALTY AMOUNT: \$5,400

Americam Movers LLC
3616 Colby Avenue #812
Everett, WA 98201

The Washington Utilities and Transportation Commission (Commission) believes Americam Movers LLC (Americam Movers or Company) violated Washington Administrative Code (WAC) 480-15-530, Public Liability and Property Damage Insurance, WAC 480-15-550, Cargo Insurance, and WAC 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391– Qualifications of Drivers, and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance.

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 August 28, 2023, Commission Motor Carrier Investigator Tracy Cobile completed a follow-up safety investigation of Americam Movers and documented the following violations:

- **Five violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Americam Movers failed to maintain the required public liability and property damage insurance. The Company allowed its drivers to operate a commercial motor vehicle (CMV) without the required insurance on five occasions between April 21 and June 29, 2023.
- **Five violations of WAC 480-15-550 – Operating a commercial motor vehicle without having adequate cargo insurance coverage.** The Company failed to maintain the required cargo insurance coverage. The Company allowed its drivers to operate a CMV without the required cargo insurance on five occasions between April 21 and June 29, 2023.
- **Forty-two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Camano Gahagan to operate a CMV without a valid medical certificate on 42 occasions between February 16 and August 1, 2023.
- **One violation of 49 C.F.R. § 396.21(b)(1) – Failing to retain periodic inspection report for 14 months from date of inspection.** The Company failed to maintain a periodic inspection report for 14 months from date of inspection for one CMV.

- **One violation of 49 C.F.R. § 396.3(a)(1) – Parts and accessories shall be in safe and proper operating condition at all times.** Commission staff's (Staff) discovered a CMV that failed the air loss rate test. This CMV was placed out-of-service.¹

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) operate CMVs without the required public liability and property damage insurance, (2) operate CMVs without the required cargo insurance coverage (3) use drivers that are not medically examined and certified, (4) fail to retain periodic inspection reports, and (5) use CMVs in need of repairs 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 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 9, 2019, Camano Gahagan and Rianna Davis, owners of Americam Movers, attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On October 16, 2019, the Commission received the Company's application for household goods moving authority. In the application, Rianna Davis acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On April 21, 2021, Staff completed a routine safety investigation of Americam Movers and identified violations of 49 C.F.R. § 391.45(a) and 49 C.F.R. § 396.21(b). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Americam Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Americam Movers provided Staff with evidence that its driver received a new medical

¹ Company vehicle number 4, VIN: 1HTMMAAL15H167600

certificate. Staff has not received evidence that the remaining violations have been corrected.

6. **The number of violations.** Staff identified 20 violation types with a total of 77 individual occurrences during its follow-up safety investigation of Americam Movers. Of those violations, Staff identified five violation types with 54 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Americam Movers reported traveling 44,670 miles in 2023. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred repeat violations despite prior technical assistance and suspended penalties. 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 May 3, 2021, the Company was penalized \$2,800 in Docket TV-210275 for safety violations of WAC 480-15-555 and WAC 480-15-570. On May 17, 2021, the Company responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty.

On June 14, 2021, the Commission entered Order 01 in Docket TV-210275. Order 01 granted Americam Mover's request for mitigation, assessed a penalty of \$1,400 and suspended a \$700 portion of the penalty for two years. On August 10, 2021, Americam Movers paid the \$700 non-suspended portion of the penalty in full.
10. **The Company's existing compliance program.** Camano Gahagan is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs three drivers and operates five commercial motor vehicles. The Company reported \$828,473.00 in gross revenue for 2022.

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.² 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 for repeat violations of critical regulations, including each occurrence of a repeat violation.

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

The Commission has considered these factors and determined that it should penalize Americam Movers \$5,400 (Penalty Assessment), calculated as follows:

- Five violations 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 each occurrence of this acute violation, for a total of \$500.
- Five violations of WAC 480-15-550 – Operating a commercial motor vehicle without having adequate cargo insurance coverage. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$500.
- Forty-two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this repeat critical-type violation, for a total of \$4,200.
- One violation of 49 C.F.R. § 396.21(b)(1) – Failing to retain periodic inspection report for 14 months from date of inspection. The Commission assesses a penalty of \$100 for this violation.
- One violation of 49 C.F.R. § 396.3(a)(1) – Brakes (general): Failed air loss rate test. The Commission assesses a penalty of \$100 for this out-of-service violation.

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

Your penalty is due and payable now. If you believe any or all 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 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 notice 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 at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.³ 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 wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).⁴

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 October 3, 2023.

/s/Michael Howard
MICHAEL HOWARD
Director, Administrative Law Division

³ <https://efiling.utc.wa.gov/Form>.

⁴ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-230696

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.
 - [] Enclose \$5,400 in payment of the penalty.
 - OR [] Attest that I have paid the penalty in full through the Commission’s payment portal.

- [] 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.