

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**MR. HO CHARTER** ) **Order No.: PA-2011-0002-IMH**  
**SERVICE, INC.** )  
)  
**USDOT 1612422** )  
)  
) **Service**  
) **Date:** \_\_\_\_\_  
)  
) **Time:** \_\_\_\_\_  
)  
)

**OPERATIONS OUT-OF-SERVICE ORDER**

This notice is an Operations Out-of-Service Order (“ORDER”) by the United States pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (2), 49 U.S.C. § 31144(c)(5), and 49 C.F.R. § 386.72(b)(1), and pursuant to delegation of authority to the Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Glen Burnie, Maryland. This ORDER applies

to MR. HO CHARTER SERVICE, INC., USDOT number 1612422 (referred to herein as “you”, “your”, and/or “MR. HO CHARTER SERVICE, INC.”).

The United States finds your operations constitute an "imminent hazard." This finding means that based upon your present state of unacceptable safety compliance and your failure to adequately establish and maintain safety management systems and ensure your drivers are qualified, your operations pose an imminent hazard to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION OF PASSENGERS BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.**

Vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the passengers can be safely accommodated. (*See* 49 C.F.R. § 386.72(b)(4) and (5)).

**NO ADDITIONAL PASSENGERS MAY BE LOADED OR TRANSPORTED, NOR MAY THE BUSES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE DURING THE**

**PERIOD OF TIME THIS ORDER IS IN EFFECT. A BUS MAY  
BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON  
APPROVAL FROM THE FIELD ADMINISTRATOR.**

**YOU ARE FURTHER NOTIFIED THAT, AS A RESULT OF  
THE ISSUANCE OF THIS ORDER, AND PURSUANT TO 49  
U.S.C. § 13905(f)(2), YOUR FEDERAL OPERATING  
AUTHORITY REGISTRATION IS HEREBY REVOKED.**

**I. JURISDICTION**

MR. HO CHARTER SERVICE, INC. is a motor carrier engaged in interstate commerce and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501 and 31133.)

MR. HO CHARTER SERVICE, INC. is required to comply, and to ensure its drivers comply, with the FMCSRs (49 C.F.R. § 390.11). This Order shall have the force and effect of any other Order issued by the FMCSA and shall be binding upon MR. HO CHARTER SERVICE, INC., as well as any and all of its officers, directors, successors, assigns

and closely affiliated companies. MR. HO CHARTER SERVICE, INC. may not use van services, shuttles or other commercial motor vehicles to continue or resume operations.

## **II. BASIS FOR ORDER**

The basis for determining that MR. HO CHARTER SERVICE, INC.'S motor carrier operations pose an imminent hazard to the public is that MR. HO CHARTER SERVICE, INC. fails to ensure it is complying with the Federal controlled substances and alcohol use and testing requirements and drivers' hours of service requirements, thereby posing a continuing imminent hazard to the public. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to MR. HO CHARTER SERVICE, INC. drivers and to the motoring public.

## **III. BACKGROUND**

On June 27, 2011, a motor coach operated by MR. HO CHARTER SERVICE, INC. was involved in a crash on the Pennsylvania Turnpike. The driver of the motor coach was Bo Hua Tan, and the co-driver was Simon Chen. Bo Hua Tan was killed, and 24 passengers and the driver

of the other vehicle were injured. FMCSA's investigation of the crash and investigations by other State and Federal agencies are ongoing.

MR. HO CHARTER SERVICE, INC. has had previous contact with FMCSA. Specifically, it was subject to a Compliance Review on or about August 12, 2009, and again on or about June 7, 2011. As a result of each of these Compliance Reviews, enforcement action was taken against MR. HO CHARTER SERVICE, INC. for violations of 49 C.F.R. Part 382 (Controlled Substances and Alcohol Use and Testing).

FMCSA's investigation of the crash has revealed serious violations of the FMCSRs, including violations of 49 C.F.R. Part 382. Specifically, MR. HO CHARTER SERVICE, INC. hired two new drivers, Bo Hua Tan and Simon Chen, after the conclusion of the June 2011 Compliance Review. MR. HO CHARTER SERVICE, INC. allowed each of these drivers to perform safety-sensitive functions before having received a negative pre-employment controlled substances test result.

More significantly, the drivers' records of duty status for the day before the crash are false. The drivers had not been off-duty for eight

consecutive hours before coming on duty at 11:00 p.m. on June 26, 2011.

Driver Tan shows on his June 26, 2011 record of duty status that he was driving on Interstate 70 at milepost 12 in West Virginia at 4:00 a.m. and on Interstate 71 at milepost 32 in Ohio at 7:00 a.m., and that he arrived in Louisville, KY at 10:00 a.m. and was off-duty in Louisville, KY from 10:00 a.m. to 11:00 p.m. Driver Chen shows on his June 26, 2011 record of duty status that he arrived in Louisville, KY at 10:00 a.m. and was off-duty in Louisville, KY from 10:00 a.m. to 11:00 p.m. Additional documentation reveals, however, that Drivers Tan and Chen falsified their logs for June 26.

FMCSA's crash investigation uncovered violations of the FMCSRs that demonstrate a continuing disregard for compliance with the FMCSRs and a management philosophy indifferent to motor carrier safety.

#### **IV. REMEDIAL ACTION**

To eliminate this imminent hazard, and before MR. HO CHARTER SERVICE, INC. will be permitted to resume those

operations placed out of service by this Order, MR. HO CHARTER SERVICE, INC. must undertake positive steps which will ensure and demonstrate compliance with the FMCSRs.

**YOU MUST COMPLY WITH THE PROVISIONS OF THIS**  
**ORDER**

**1. MR. HO CHARTER SERVICE, INC. must ensure that each driver it uses, including Simon Chen, has submitted to a pre-employment controlled substances test, and MR. HO CHARTER SERVICE, INC. must receive a controlled substances test result indicating a verified negative test result for the driver before using that driver to perform a safety-sensitive function.**

**2. MR. HO CHARTER SERVICE, INC. must acquire and install Automatic On-Board Recording devices (AOBRDs) that are equipped with electronic mobile communication/tracking (EMC/T) technology for driver hours-of-service dispatch and recordkeeping as part of its safety management system to ensure driver compliance with 49 C.F.R. Part 395 (Hours of Service of Drivers). MR. HO CHARTER SERVICE, INC. must agree in a manner acceptable to the Eastern Service Center Field Administrator to implement, use, and maintain the AOBRDs as part of its safety management system.**

a. AOBRD means an electric, electronic, electromechanical, or mechanical device capable of recording drivers' duty status information accurately and automatically. EMC/T technology means those technologies and records that allow a motor carrier to identify the location of a motor vehicle or

driver, or that allow a motor carrier to send or receive messages to or from its drivers. To be acceptable, the AOB RD must:

- be integrally synchronized with specific operations of the commercial motor vehicle in which it is installed. “Integrally synchronized” refers to an AOB RD that receives and records the engine use status and distance traveled for the purpose of deriving on-duty driving status from a source or sources internal to the CMV;
- meet the display and performance standards in 49 C.F.R. § 395.15;
- record engine use, road speed, miles driven, the date, and time of day;
- have the capability of real-time wireless communication between the CMV and the motor carrier’s base of operations; and
- meet the following vehicle tracking specifications:
  - Must be set up to communicate position location at a rate of at least one time per hour, per vehicle, while the vehicle is in motion; and
  - Must be capable of generating on demand a document/record, either printed (paper) or electronically rendered, showing at minimum vehicle identification information, date, time, proximity location (reference points), and latitude and longitude for each position communication.

b. MR. HO CHARTER SERVICE, INC. must agree to acquire, install, implement, use, and maintain in good working order AOB RDs, including all necessary equipment and software, meeting the standards set forth above, on all CMVs it operates, including CMVs operated by independent contractors and owner/operators, in order to improve its drivers’ compliance with 49 C.F.R. Part 395. MR. HO CHARTER SERVICE, INC. must install and calibrate all AOB RDs for all CMVs in compliance with

the requirements of 49 C.F.R. § 395.15 and the specifications of the manufacturer. MR. HO CHARTER SERVICE, INC. must set all AOBDRs for the time zone of MR. HO CHARTER SERVICE, INC.'S home terminal.

c. MR. HO CHARTER SERVICE, INC. must agree to require and ensure that each driver assigned and/or dispatched in a CMV required to be equipped with an AOBDR uses the AOBDR for recording and documenting the driver's duty status information. Each driver's use of an AOBDR must comply with the requirements 49 C.F.R. Part 395 specifically including 49 C.F.R. § 395.15. MR. HO CHARTER SERVICE, INC. must agree to ensure that each driver operating a CMV equipped with an AOBDR is trained in the proper use of the installed AOBDR, MR. HO CHARTER SERVICE, INC.'S policies and procedures related to AOBDRs, management of supporting documents, and carrier policies and procedures for driver RODS and compliance with the HOS regulations. MR. HO CHARTER SERVICE, INC. must agree to ensure that each employee responsible for auditing, verifying, and/or checking driver RODS is trained in the use of records and information generated by AOBDRs for monitoring driver compliance with 49 C.F.R. Part 395 and MR. HO CHARTER SERVICE, INC.'S safety management system.

d. Each AOBDR must record, and must be used to record, all information as specified in 49 C.F.R. § 395.15.

e. MR. HO CHARTER SERVICE, INC. must create a list of all drivers, using the unique identifier of the driver's commercial driver's license (CDL) number for creating each driver account for AOBDR implementation. For those drivers operating commercial motor vehicles not requiring a CDL, MR. HO CHARTER SERVICE, INC. will use the unique identifier of the driver's classified operator's license. MR. HO CHARTER SERVICE, INC. will not create a driver account without an associated driver CDL/classified operator's license number. MR. HO CHARTER SERVICE, INC. must maintain and update the

driver list and account information as necessary to ensure that it is current.

f. MR. HO CHARTER SERVICE, INC. must establish and agree to utilize a management system of controls capable of effectively detecting and preventing violations of 49 C.F.R. Part 395, including the requirements of 49 C.F.R. § 395.15, by each of its drivers and verify the accuracy of the information in the drivers' records of duty status.

g. MR. HO CHARTER SERVICE, INC. must review and modify its safety management system to include the use of AOBDRs for monitoring driver compliance with 49 C.F.R. Part 395. MR. HO CHARTER SERVICE, INC.'S safety management system must include safety management controls to effectively ensure acceptable compliance with 49 C.F.R. Part 395, including recordkeeping, detection of driving over hours, and falsification. At a minimum, MR. HO CHARTER SERVICE, INC.'S safety management system must: establish procedures and policies for driver submission of RODS and supporting documents and for the maintenance of such records; monitor driver RODS; ensure that its drivers continually and correctly use the installed AOBDRs; monitor driver use of AOBDRs; establish a reporting system and monitor for driver noncompliance with the use of AOBDRs; establish requirements for driver documentation of any lack or failure of the vehicle tracking signal and monitor driver RODS and supporting documents for loss of vehicle tracking signal; monitor for on-board sensor failures; monitor for amended and edited data; establish a disciplinary policy for drivers who fail to use or fail to properly use an AOBDR and/or otherwise do not comply with 49 C.F.R. Part 395; and require documentation of driver discipline.

h. MR. HO CHARTER SERVICE, INC. must review and update its safety management system as often as necessary to ensure its safety management controls effectively monitor and ensure acceptable compliance with 49 C.F.R. Part 395, including detection of driving over hours and falsification.

**3. MR. HO CHARTER SERVICE, INC. must comply with all Orders issued by the FMCSA.**

## **V. RECISSION OF ORDER**

Before resuming motor carrier operations MR. HO CHARTER SERVICE, INC. must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations pose and adequately demonstrate to the Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. MR. HO CHARTER SERVICE, INC. cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person or company. Any lease of equipment and/or direct assignment of contracts or other arrangements require the written approval of the Eastern Service Center Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service Order must cease immediately. MR. HO CHARTER SERVICE, INC. must have the Order rescinded by the Eastern Service Center Field Administrator before it may continue interstate or intrastate

operations. Prior to rescission of the Order, MR. HO CHARTER SERVICE, INC. will be required to:

- 1. IDENTIFY THE CAUSE FOR ITS NONCOMPLIANCE.**
- 2. DEVELOP A DETAILED PLAN OF ACTION THAT ADDRESSES EACH AREA OF NON-COMPLIANCE, THE STEPS IT INTENDS TO TAKE TO OVERCOME ITS NON-COMPLIANCE AND A TIMETABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF MR. HO CHARTER SERVICE, INC. TO COMPLY WITH THE FMCSRS.**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS.**

Any request to rescind this ORDER and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Eastern Service Center, with a copy

of the request and documentation to the Division Administrator,

Pennsylvania Division, at the following addresses:

Field Administrator, Eastern Service Center  
Federal Motor Carrier Safety Administration  
801 Cromwell Park Drive  
Suite N  
Glen Burnie, MD 21061

Division Administrator, Pennsylvania Division  
Federal Motor Carrier Safety Administration  
215 Limekiln Road Suite 200  
New Cumberland, PA 17070

## **VI. FAILURE TO COMPLY**

Failure to comply with the provisions of this Operations  
Out-of-Service Order may subject MR. HO CHARTER SERVICE, INC.  
to an action by the United States Attorney in the United States District  
Court for equitable relief and punitive damages. MR. HO CHARTER  
SERVICE, INC. may be assessed civil penalties of up to \$16,000 per  
day for each day it continues the proscribed interstate or intrastate  
operations after the effective date and time of this Order. (49 C.F.R. Part  
386, App. A. § IVg)). If violations are determined to be willful,

criminal penalties may be imposed, including a fine of up to \$25,000 and a prison term of one year. (49 U.S.C. § 521(b)(6)(A)).

## **VII. PENALTIES FOR VIOLATIONS**

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions for violations of Federal statutes and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

## **VIII. RIGHT TO REVIEW**

You have a right to administrative review pursuant to 49 C.F.R. § 386.72(b)(2) in accordance with 5 U.S.C. § 554. If requested, administrative review shall occur within 10 days of the issuance of this ORDER. (*See* 49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier

Safety Administration, with a copy sent to the Field Administrator,

Eastern Service Center at the following addresses:

Assistant Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue SE  
Washington, DC 20590

Field Administrator, Eastern Service Center  
Federal Motor Carrier Safety Administration  
801 Cromwell Park Drive  
Suite N  
Glen Burnie, MD 21061

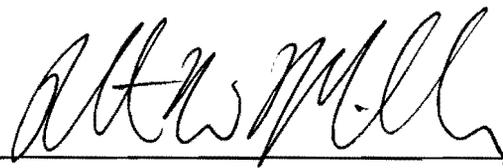
The request must state the material facts at issue which you believe dispute or contradict the finding that MR. HO CHARTER SERVICE, INC.'S operation constitutes an "imminent hazard" to the public.

**A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY**

**YOUR DUTY TO COMPLY WITH THIS ORDER**

**IMMEDIATELY.**

Date: 6/30/2011



Robert W. Miller, Field Administrator  
United States Department of  
Transportation  
Federal Motor Carrier Safety  
Administration