

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

	)	<b>Order No.: AL-2012-IMH-01</b>
	)	
<b>BM&amp;L TRUCKING, LLC,</b>	)	<b>Service</b>
<b>USDOT 2152496</b>	)	<b>Date: _____</b>
	)	
<b>ISAAC MCWILLIAMS,</b>	)	<b>Service</b>
<b>Individually</b>	)	<b>Date: _____</b>
	)	
<b>HERONDA MCWILLIAMS,</b>	)	<b>Service</b>
<b>Individually</b>	)	<b>Date: _____</b>
	)	
<b>IDM TRANSPORTATION, INC.,</b>	)	<b>Service</b>
<b>USDOT 1239196.</b>	)	<b>Date: _____</b>
	)	

**IMMINENT HAZARD**  
**OPERATIONS OUT-OF-SERVICE ORDER**

This notice is an Imminent Hazard Operations Out-of-Service Order (“Order”) by the United States pursuant to 49 U.S.C. § 521(b)(5)(A), 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 a delegation of authority to the Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Atlanta, Georgia. This Order applies to BM&L TRUCKING, LLC, USDOT number 2152496, Isaac McWilliams, Individually, Heronda McWilliams, Individually, and IDM TRANSPORTATION, INC., USDOT number 1239196 (referred to collectively herein as “you,” “your,” and /or “BM&L Trucking, LLC”) and to the commercial motor vehicles described herein.

The United States finds your commercial motor vehicle operations and the continued operations of your commercial motor vehicles (VIN 1FUJA3CG21LF23351,

VIN1FUYPDZYB5WP725443, VIN 1FUVDSEB1PH421503, VIN FUYDDYB4YLB15453, and VIN 2HSFMAMR5XC063585), herein “commercial motor vehicles,” “motor vehicles,” and/or “vehicles”) constitute an “imminent hazard.” This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicles poses an “imminent hazard” to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION OF VEHICLES AND/OR GOODS BY DRIVERS. FURTHER THE COMMERCIAL MOTOR VEHICLES IDENTIFIED IN THIS ORDER ARE PROHIBITED FROM BEING OPERATED IN INTERSTATE OR INTRASTATE COMMERCE BY ANY OTHER MOTOR CARRIER OR ANY DRIVER.**

Commercial motor 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 cargo can be safely secured. (*See* 49 C.F.R. § 386.72(b)(4) and (5)).

**NO ADDITIONAL CARGO MAY BE LOADED OR TRANSPORTED, NOR MAY THE COMMERCIAL MOTOR VEHICLES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT. A COMMERCIAL MOTOR VEHICLE MAY BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON APPROVAL FROM THE FIELD ADMINISTRATOR, FMCSA SOUTHERN SERVICE CENTER.**

## **I. JURISDICTION**

BM&L Trucking, LLC 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, 31133 and 31136). BM&L Trucking, LLC is required to comply, and to ensure its drivers comply, with the FMCSRs. (49 C.F.R. § 390.11). This Order applies to BM&L Trucking, LLC, Isaac McWilliams, Individually, Heronda McWilliams, Individually, and IDM Transportation, Inc., as well as any and all officers, directors, successors, assigns and closely affiliated companies. This Order applies to all motor carrier operations and all vehicles owned, leased, rented or otherwise operated by you, including but not limited to commercial motor vehicles, VIN 1FUJA3CG21LF23351, VIN1FUVDZYB5WP725443, VIN 1FUVDSEB1PH421503, VIN FUYDDYB4YLB15453, and VIN 2HSFMAMR5XC063585. You may not use lessees, lessors, owner-operators, affiliates, assigns or other commercial motor vehicles or motor carriers to conduct any continued operations.

## **II. BASIS FOR ORDER**

The basis for determining that your motor carrier operations pose an imminent hazard to the public is that BM&L Trucking, LLC fails to monitor and ensure that its drivers comply with drivers’ hours of service requirements, drivers’ qualification requirements, and drivers’ pre-employment controlled substances testing requirements. Further, BM&L Trucking, LLC fails to ensure its commercial motor vehicles are properly and regularly inspected, repaired and maintained. The FMCSA’s Safety Measurement System (“SMS”) also indicates that BM&L Trucking, LLC exceeds by a significant margin the intervention thresholds in four of the six BASICS: Unsafe Driving (99.2%), Fatigued Driving (86.9%), Driver Fitness (95.4%), and Vehicle Maintenance (99.4%).<sup>1</sup> Individually and cumulatively, these violations and conditions

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<sup>1</sup> The SMS is a tool for assessing available roadside performance data and ranking an entity’s relative performance in any of the six Behavior Analysis and Safety Improvement Categories

of operation substantially increase the likelihood of serious injury or death to BM&L Trucking, LLC drivers and to the motoring public.

### **III. BACKGROUND**

On May 11, 2012, FMCSA completed an on-going investigation of BM&L Trucking, LLC, uncovering violations of the FMCSRs so widespread as to demonstrate a continuing and flagrant general disregard for compliance with the FMCSRs. Indeed, BM&L Trucking, LLC's operations are reckless, with its management unable to accurately provide investigators with the number of commercial motor vehicles it owns, leases, or otherwise operates, and drivers it employs or uses.<sup>2</sup>

BM&L Trucking, LLC does not monitor its drivers' hours of service (HOS) to ensure that its drivers do not violate the hours-of-service regulations. In fact, BM&L Trucking, LLC does not require its drivers to timely prepare and submit records of duty status. BM&L Trucking, LLC's negligent oversight of its drivers result in drivers operating commercial motor vehicles at a time when they may be fatigued because of driving in excess of the maximum driving time, driving after the maximum on-duty time, and/or other HOS regulations.

In addition, BM&L Trucking, LLC does not follow FMCSA mandated pre-employment

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(BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems an entity exhibits, and monitor safety problems through the Intervention Process. The SMS computes a percentile for each BASIC on a 0-100 scale and assigns a percentile rank to each BASIC, with 100 indicating the worst performance. BM&L Trucking, LLC's score is near the worst safety performance in these four BASICS. In the past six months, BM&L Trucking, LLC's score in these four BASICS has exceeded 90%.

<sup>2</sup> BM&L Trucking, LLC is a successor carrier of IDM Transportation, Inc. Both carriers had the same management. On June 14, 2011, IDM Transportation, Inc. was placed out-of-service for failure to pay its civil penalty. On June 13, 2011, BM&L Trucking, LLC entered into a carrier/broker agreement with IDM Transportation, Inc. and began operating its commercial motor vehicles. The prohibitions against operation and the requirement for remedial actions in this Order apply to the operation of BM&L Trucking, IDM Transportation, Inc., and the individuals named herein, regardless of the name or corporate form used.

controlled substance testing requirements to ensure that its drivers are able to safely operate its commercial motor vehicles. BM&L Trucking, LLC also fails to follow FMCSA driver qualification requirements to ensure that its drivers are qualified to operate its commercial motor vehicles.

BM&L Trucking, LLC does not have a vehicle maintenance program in place to prevent the operation of unsafe motor vehicles. BM&L Trucking, LLC does not prepare or maintain vehicle inspection, repair and maintenance records, and it does not require its drivers to complete driver vehicle inspection reports. Indeed, BM&L Trucking, LLC's BASIC vehicle maintenance score of 99.4% exceeds the established BASIC threshold and is alarmingly high.

BM&L Trucking, LLC's BASIC scores in Unsafe Driving (99.2%), Fatigued Driving (86.9%), and Driver Fitness (95.4%) also exceeds the established BASIC threshold and reflect its dismal safety performance. BM&L Trucking, LLC's continued and blatant disregard for the FMCSRs establishes an imminently hazardous and potentially deadly risk for its drivers and the motor public.

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

To eliminate this imminent hazard, and before BM&L Trucking, LLC will be permitted to resume operations placed out of service by this Order, BM&L Trucking, LLC must take specific steps to ensure and demonstrate compliance with the FMCSRs.

#### **YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER**

**1. The commercial motor vehicles identified in this Order (VIN 1FUJA3CG21LF23351, VIN1FUJDZYB5WP725443, VIN 1FUJDSEB1PH421503, VIN FUYDDYB4YLB15453, and VIN 2HSFMAMR5XC063585) may not be operated in interstate and/or intrastate commerce**

by any entity or by any individual until you have fully complied with the Remedial Actions set forth in this section.

2. BM&L Trucking, LLC must ensure and demonstrate that its vehicles are in a safe operating condition, are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance), and there is an adequate maintenance program in place to ensure compliance with the FMCSRs.

3. BM&L Trucking, LLC must require its driver to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. BM&L Trucking, LLC must train its drivers and ensure all drivers understand the meaning of a roadside out-of-service order and comply with roadside out-of-service orders.

4. BM&L Trucking, LLC must ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. BM&L Trucking, LLC must ensure that every driver it uses has completed and furnished an employment application. BM&L Trucking, LLC must investigate each driver's background within 30 days of employment, and must maintain a copy of the response from each State agency in the driver's qualification file. BM&L Trucking, LLC must ensure that an annual list of traffic violations is obtained from each driver, an annual Motor Vehicle Record is obtained, and that an annual review is performed on each driver's driving record. BM&L Trucking, LLC must ensure that a three-year previous employment check is performed on its drivers prior to their operating a commercial motor vehicle, in accordance with 49 C.F.R. § 391.23.

**5. BM&L Trucking, LLC must establish a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Southern Service Center Field Administrator. BM&L Trucking, LLC must use only those laboratories certified by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration for the analysis of urine specimens. BM&L Trucking, LLC must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). BM&L Trucking, LLC must ensure that driver supervisors undergo at least 60 minutes of training on alcohol misuse as well as an additional 60 minutes of training on controlled substance use that conforms to 49 C.F.R. § 382.603.**

**6. BM&L Trucking, LLC must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Further, BM&L Trucking, LLC must ensure that each driver selected for random controlled substances or alcohol testing has an equal chance of being selected each time selections are made. BM&L Trucking, LLC must ensure that it has received a negative pre-employment controlled substances test for each driver before using that driver.**

**7. BM&L Trucking, LLC must implement a dispatch system that ensures that no driver will be dispatched on any trip unless the driver has the necessary available hours of service to complete the trip in accordance with 49 C.F.R. Part 395.**

**8. BM&L Trucking, LLC must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations**

**consistent with those regulations.**

**9. BM&L Trucking, LLC must comply with all Orders issued by FMCSA.**

**V. RESCISSION OF ORDER**

Before resuming motor carrier operations, BM&L Trucking, LLC 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, Southern Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. BM&L Trucking, LLC cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person or company. Any sale, lease, or other transfer of equipment and/or direct assignment of contracts or other agreements for service by BM&L Trucking, LLC requires the written approval of the Southern Service Center Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service Order must cease immediately. BM&L Trucking, LLC must have the Order rescinded by the Southern Service Center Field Administrator before it may continue interstate or intrastate operations.

Prior to rescission of the Order, BM&L Trucking, LLC 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 TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF BM&L TRUCKING, LLC TO COMPLY WITH THE FMCSRs.**

**4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS. FOR PURPOSES OF THIS PARAGRAPH, “OWNERS AND COMPANY OFFICIALS” MEANS ANY PERSON OWNING MORE THAN A 10 PERCENT SHARE IN BM&L TRUCKING, LLC, ALL REGISTERED CORPORATE OFFICERS AND ANY INDIVIDUAL RESPONSIBLE FOR OR PERFORMING HIRING, QUALIFYING, OR SCHEDULING OF DRIVERS, OR SCHEDULING OR DIRECTING VEHICLE INSPECTION, REPAIR AND/OR MAINTENANCE.**

Any request to rescind this ORDER, and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Southern Service Center with a copy to the Division Administrator, Alabama Division, at the following addresses:

Field Administrator, Southern Service Center  
Federal Motor Carrier Safety Administration  
1800 Century Blvd., NE, Suite 1700  
Atlanta, Georgia 30345

Division Administrator, Alabama Division  
Federal Motor Carrier Safety Administration  
520 Cotton Gin Road  
Montgomery, Alabama 36117

**VI. FAILURE TO COMPLY**

Failure to comply with the provisions of this Operations Out-of-Service Order may subject BM&L Trucking, LLC to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. BM&L Trucking, LLC 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. § IV(g)). If violations are determined to be willful, criminal penalties may be imposed, including

a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521 (b)(6)(A)).

## **VII. ADDITIONAL PENALTIES FOR OTHER 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 the right to an administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 working days of the issuance of this ORDER. (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, Southern Service Center at the following addresses:

Assistant Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Field Administrator, Southern Service Center  
Federal Motor Carrier Safety Administration  
1800 Century Blvd., NE, Suite 1700  
Atlanta, Georgia 30345

The request must state the material facts at issue which you believe dispute or contradict the finding that BM&L Trucking, LLC'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: 5/11/12



Darrell Rubin, Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration