

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

	*	Order No.: OK-2012-5000-IMH
	*	
HEARTLAND CHARTERS & TOURS	*	Service Date: _____
USDOT 1460491,	*	
	*	
BERTHA MUZQUIZ	*	Service Date: _____
Individually, and	*	
	*	
GENARO MUZQUIZ	*	Service Date: _____
Individually.	*	
	*	

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. § 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 a delegation of authority to the Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Darrell Ruban. This ORDER applies to **HEARTLAND CHARTERS & TOURS**, USDOT number 1460491, **BERTHA MUZQUIZ**, individually, and **GENARO MUZQUIZ**, individually, (referred to herein as “you,” “your,” and /or “HEARTLAND CHARTERS & TOURS”).

The United States finds your commercial motor vehicle operations 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 OR INTRASTATE TRANSPORTATION OF PASSENGERS BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.

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 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 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.

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

HEARTLAND CHARTERS & TOURS (DOT 1460491/MC 551768) of Oklahoma City, Oklahoma 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). HEARTLAND CHARTERS & TOURS is required to comply, and to ensure its drivers comply, with the FMCSRs. (49 C.F.R. § 390.11). This ORDER applies to Bertha Muzquiz, Genaro Muzquiz,

and HEARTLAND CHARTERS & TOURS as well as any and all officers, directors, successors, assigns and closely affiliated companies. You may not use lessees, lessors, owner-operators, affiliates, assigns or other commercial motor vehicles or motor carriers to conduct any continued operations.

THE PROHIBITIONS ON OPERATION IN THIS ORDER APPLY TO HEARTLAND CHARTERS & TOURS, AS WELL AS ANY AND ALL OF ITS OFFICERS, DIRECTORS, MANAGERS, SUCCESSORS, ASSIGNS AND CLOSELY AFFILIATED COMPANIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, HEARTLAND CHARTERS & TOURS MAY NOT USE VAN SERVICES, SHUTTLES, OR OTHER COMMERCIAL MOTOR VEHICLES TO SUPPLEMENT ANY CONTINUED OPERATIONS

II. BASIS FOR ORDER

The basis for determining that HEARTLAND CHARTERS & TOURS's motor carrier operations pose an imminent hazard to the public is that HEARTLAND CHARTERS & TOURS currently fails to monitor and ensure that its drivers comply with drivers' hours of service (HOS) requirements, drivers' records of duty status requirements, drivers' qualification requirements, drivers' controlled substances and alcohol use and testing requirements, and vehicle inspection and maintenance requirements, thereby posing an ongoing and continuing imminent hazard.

HEARTLAND CHARTERS & TOURS's most recent Compliance Review resulted in a proposed safety rating of "UNSATISFACTORY." As a result of the Compliance Review, HEARTLAND CHARTERS & TOURS was found to have committed violations including 49 C.F.R. § 382.301(a) using a driver before the motor carrier has received a negative pre-employment controlled substance test result; 49 C.F.R. 382.305(i)(2) failing to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being

selected each time selections are made; 49 C.F.R. 382.305(i)(3) failing to ensure that drivers are tested within the selection period; 49 C.F.R. 391.23(e)(1) failing to investigate the driver's alcohol and controlled substance history for the previous 3 years; 49 C.F.R. § 391.51(a) failing to maintain driver qualification file on each driver employed; 49 C.F.R. § 391.51(b)/391.51(a) failing to maintain driver qualification file in accordance with 49 C.F.R. § 391.51(b); 49 C.F.R. § 391.51(b)(2) failing to maintain inquiries into driver's driving record in driver qualification files; 49 C.F.R. § 395.5(a)(1) requiring or permitting a passenger-carrying commercial motor vehicle driver to drive more than 10 hours; 49 C.F.R. § 395.5(a)(2) requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty 15 hours; 49 C.F.R. § 395.8(e) false reports of records of duty status; 49 C.F.R. § 395.8(i) failing to require driver to forward within 13 days of completion the original of the record of duty status; 49 C.F.R. § 395.13(c)(1) requiring or permitting a driver declared out-of-service to operate a motor vehicle before prescribed off duty (or sleeper berth) time has been accumulated; 49 C.F.R. § 396.11(a) failing to require driver to prepare driver vehicle inspection report; and 2 out of the carrier's 3 buses were declared to be out-of service having mechanical defects rendering them unfit for operation.

Individually and cumulatively, these violations and these conditions of commercial motor vehicle operation substantially increase the likelihood of serious injury or death to HEARTLAND CHARTERS & TOURS's drivers, passengers, and the motoring public.

III. BACKGROUND

HEARTLAND CHARTERS & TOURS is managed and/or controlled by Bertha Muzquiz, Vice President, and Genaro Muzquiz, President. On or about April 4, 2012, FMCSA conducted a Compliance Review of HEARTLAND CHARTERS & TOURS, based on passenger complaints, uncovering violations of the FMCSRs so widespread as to demonstrate a

continuing, blatant and flagrant general disregard for compliance with the FMCSRs and a management philosophy indifferent to motor carrier safety. The Compliance Review resulted in a proposed safety fitness rating of “Unsatisfactory.”

The compliance review of HEARTLAND CHARTERS & TOURS demonstrates a continuing pattern and practice of disregarding FMCSRs. HEARTLAND CHARTERS & TOURS does not adequately monitor its drivers’ hours of service to ensure that they do not violate the HOS regulations. HEARTLAND CHARTERS & TOURS’s negligent oversight of its drivers results in drivers transporting passengers 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 violating other HOS regulations. HEARTLAND CHARTERS & TOURS also permitted drivers to drive before having received a negative pre-employment controlled substances test result. HEARTLAND CHARTERS & TOURS fails to follow FMCSA driver qualification requirements to ensure that its drivers are qualified to transport passengers in its commercial motor vehicles. HEARTLAND CHARTERS & TOURS also failed to ensure that its commercial motor vehicles were properly inspected, maintained, and tested in accordance with the commercial motor vehicle inspection and maintenance requirements.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before HEARTLAND CHARTERS & TOURS will be permitted to resume operations placed out of service by this Order, HEARTLAND CHARTERS & TOURS must take specific steps to ensure and demonstrate compliance with the FMCSRs. In addition, before resuming interstate operations, HEARTLAND CHARTERS & TOURS must apply for and receive new operating authority registration from FMCSA pursuant to 49 U.S.C. § 13902 and 49 C.F.R. Part 365.

YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER

1. HEARTLAND CHARTERS & TOURS must comply with all Orders issued by FMCSA and must submit to the Field Administrator a plan detailing how HEARTLAND CHARTERS & TOURS will: (i) train all drivers used by HEARTLAND CHARTERS & TOURS or its successors, assigns or closely related affiliates, on compliance with the HOS regulations; (ii) monitor the compliance of all drivers used by HEARTLAND CHARTERS & TOURS or its successors, assigns or closely related affiliates with the HOS regulations; and (iii) ensure that all drivers used by HEARTLAND CHARTERS & TOURS or its successors, assigns or closely related affiliates are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

2. HEARTLAND CHARTERS & TOURS must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Further, HEARTLAND CHARTERS & TOURS 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. HEARTLAND CHARTERS & TOURS must ensure that it has received a negative pre-employment controlled substances test for each driver before using that driver.

3. HEARTLAND CHARTERS & TOURS must ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. HEARTLAND CHARTERS & TOURS must ensure that every driver it uses has completed and furnished an employment application. HEARTLAND CHARTERS & TOURS 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. HEARTLAND CHARTERS & TOURS must ensure that it obtains from each driver an annual list of traffic violations, that it

obtains an annual Motor Vehicle Record, and that it performs an annual review on each driver's driving record.

4. HEARTLAND CHARTERS & TOURS must implement a system to ensure that all its drivers comply with the hours of service regulations, and accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395.

HEARTLAND CHARTERS & TOURS must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to HEARTLAND CHARTERS & TOURS within 13 days of their completion. Further, HEARTLAND CHARTERS & TOURS must demonstrate a system to ensure that all records of duty status are accurate by using all means available to it and by comparing each record with all supporting documentation.

5. HEARTLAND CHARTERS & TOURS 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.

6. HEARTLAND CHARTERS & TOURS must require all its drivers to prepare accurate and complete Driver Vehicle Inspections Reports at the end of each day, and must implement procedures so that drivers can report safety defects or deficiencies and that such defects or deficiencies are repaired before the commercial vehicle is operated again.

7. HEARTLAND CHARTERS & TOURS must maintain records of inspections, repairs, and maintenance indicating the date and nature of the work performed.

HEARTLAND CHARTERS & TOURS must keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on all buses.

HEARTLAND CHARTERS & TOURS must maintain completed inspection forms for 12 months from the date of inspection at HEARTLAND CHARTERS & TOURS's principal

place of business. HEARTLAND CHARTERS & TOURS must maintain evidence of brake inspectors' qualifications.

V. RESCISSION OF ORDER

Before resuming motor carrier operations, HEARTLAND CHARTERS & TOURS 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. HEARTLAND CHARTERS & TOURS 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 HEARTLAND CHARTERS & TOURS 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. HEARTLAND CHARTERS & TOURS 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, HEARTLAND CHARTERS & TOURS 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 HEARTLAND CHARTERS & TOURS TO COMPLY WITH THE FMCSRs.**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS. FOR PURPOSE OF THIS PARAGRAPH, "OWNERS AND COMPANY OFFICIALS" MEANS ANY PERSON OWNING MORE THAN A 10 PERCENT SHARE IN HEARTLAND CHARTERS & TOURS, 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, Oklahoma Division, at the following addresses:

Darrell Ruban
Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Boulevard, Suite 1700
Atlanta, Georgia 30345

Jerry Mac Kirk
Division Administrator, Oklahoma Division
Federal Motor Carrier Safety Administration
300 North Meridian, Suite 106 North
Oklahoma City, Oklahoma 73107

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Operations Out-of-Service Order may subject HEARTLAND CHARTERS & TOURS to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. HEARTLAND

CHARTERS & TOURS 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

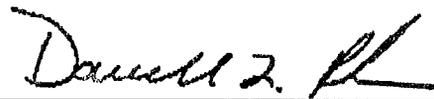
Darrell Ruban
Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Boulevard, Suite 1700

Atlanta, Georgia 30345

The request must state the material facts at issue which you believe dispute or contradict the finding that HEARTLAND CHARTERS & TOURS'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. HEARTLAND CHARTERS & TOURS'S RESPONSE TO THIS OPERATIONS OUT-OF-SERVICE ORDER WILL NOT ALTER THE PROPOSED "UNSATISFACTORY" SAFETY FITNESS RATING THAT RESULTED FROM THE APRIL 4, 2012 COMPLIANCE REVIEW.

Date: April 4, 2012



Darrell Rubán
Field Administrator
Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Boulevard, Suite 1700
Atlanta, Georgia 30345