

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

)	Order No.: AL-2012-5002-IMH
)	
MTI TRANSPORTATION, LLC,)	Service
USDOT 2296470)	Date: _____
)	
OLLIE L. MCWILLIAMS,)	Service
Individually)	Date: _____
)	
AUTORA “TORY” ROGERS)	Service
Individually)	Date: _____

IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER

This notice is an Imminent Hazard Operations Out-of-Service 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.

For the reasons set forth below, the Imminent Hazard Operations Out-of-Service Order served on May 11, 2012 (May 11 IH Order) against BM&L Trucking, LLC, Isaac McWilliams, Individually, Heronda McWilliams, Individually, and IDM Transportation, Inc., applies to MTI Transportation, LLC, USDOT number 2296470, Ollie McWilliams, Individually, and Autora “Tory” Rogers, Individually, as well as any and all officers, directors, successors, assigns and closely affiliated companies (MTI Transportation, LLC, Ollie McWilliams, and Autora “Tory” Rogers referred to collectively herein as “MTI Transportation,” “you,” and/or “your”). This IH Order applies to all motor carrier operations by MTI Transportation and all vehicles owned,

leased, rented or otherwise operated by MTI Transportation, including but not limited to commercial motor vehicles, VIN 1FUVDZYBXTL793854 and VIN 1FUYSZB3XLA10081. Further, the May 11 IH Order is attached hereto and incorporated by reference herein and continues without interruption.

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

MTI Transportation 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). Isaac McWilliams, Ollie McWilliams, and Autora “Tory” Rogers are individuals who own, manage, control, direct or otherwise oversee the operations of MTI Transportation. MTI Transportation is required to comply, and to ensure its drivers comply, with the FMCSRs. (49 C.F.R. § 390.11).

II. BASIS FOR ORDER

With the issuance of the May 11 IH Order, BM&L Trucking, LLC was ordered to immediately cease all commercial motor vehicle operations and prohibited from continuing to operate through use of lessees, lessors, owner-operators, affiliates, assigns or other commercial motor vehicles or motor carriers. BM&L Trucking, LLC is owned, managed and controlled by Isaac McWilliams and operates as a motor carrier from 27631 Azalea Trail, Athens, Alabama 35613. The May 11 IH Order also applies to Isaac McWilliams, Individually, Heronda McWilliams, Individually, and IDM Transportation, Inc. The May 11 IH Order prohibited these persons from engaging in commercial motor vehicle operations until such time as the conditions leading to the issuance of the May 11 IH Order were eliminated and the May 11 IH Order was rescinded.

FMCSA’s continued investigation of motor carrier activities from the 27631 Azalea Trail location shows that the persons identified in the May 11 IH Order did not comply with that Order; instead, they were joined by Ollie McWilliams and Autora Rogers to continue commercial motor vehicle operations under the name “MTI Transportation, LLC.”

III. BACKGROUND

On May 11, 2012, FMCSA issued an IH Order to BM&L Trucking, LLC, finding violations of the FMCSRs so widespread as to demonstrate a continuing and flagrant general

disregard for compliance with the FMCSRs. Isaac McWilliams owned, managed and controlled BM&L Trucking, LLC. The May 11 IH Order further found BM&L Trucking, LLC to be a successor carrier of IDM Transportation, Inc. Isaac McWilliams also owned, managed and controlled IDM Transportation, Inc.

MTI Transportation is managed and controlled by Isaac McWilliams and owned by his brother, Ollie McWilliams. MTI Transportation is also located at 27631 Azalea Trail, Athens, Alabama 35613. Both companies' operations are conducted out of the personal residence of Isaac McWilliams. The companies have the same physical address, mailing address, and telephone number. MTI Transportation's three drivers were previously employed by BM&L Trucking, LLC or IDM Transportation, Inc. MTI Transportation uses two commercial motor vehicles, still registered to BM&L Trucking, LLC or IDM Transportation, Inc.¹ MTI Transportation did not produce any vehicle lease agreements showing payment terms between the motor carriers. MTI Transportation also used the same insurance agent as BM&L Trucking, LLC to obtain its liability insurance.

After BM&L Trucking, LLC was placed out-of-service pursuant to the May 11 IH Order, MTI Transportation began operations transporting lumber, building materials and general freight for BM&L Trucking, LLC's former customers. Isaac McWilliams, the point of contact for these customers at BM&L Trucking, LLC, remained the point of contact for the same customers now being served by MTI Transportation. The customers contact Isaac McWilliams to arrange for

¹ During the FMCSA investigation, MTI Transportation provided a statement indicating that it used three commercial motor vehicles, VIN 1FUJA3CG21LF23351, VIN 1FUVDZYBXTL793854, and VIN 1FUYDSZB3XLA10081. The first commercial motor vehicle is registered to BM&L Trucking, LLC and is already subject to the May 11 IH Order. The second commercial motor vehicle is registered to IDM Transportation, Inc. and was not included in the May 11 IH Order because its identity was unknown. This second commercial motor vehicle is included in this IH Order. The third commercial motor vehicle, which is registered to Antonio Stinnett, is also included in this IH Order.

shipment of goods or products.

MTI Transportation continues, in all significant aspects, the operations of BM&L Trucking, LLC. BM&L Trucking, LLC's management structure has not changed and exhibits the same safety deficiencies, which were the basis for the May 11 IH Order. As a full-time truck driver working for another motor carrier, Ollie McWilliams is an absentee owner and participates infrequently, if at all, in the management of MTI Transportation. Isaac McWilliams manages and controls MTI Transportation and is assisted by Aurora "Tory" Rogers who is currently working as an Operations Manager/Dispatcher for MTI Transportation and formerly held this position at IDM Transportation, Inc., as well as the position of driver at BM&L Trucking, LLC. Isaac McWilliams also drives for MTI Transportation. On June 14, 2012, Isaac McWilliams operated a commercial motor vehicle, originating in Littleville, Alabama with a destination of Atlanta, Georgia. Mr. McWilliams was placed out-of-service at a roadside inspection by an Alabama Department of Public Safety officer because lumber was falling out of his truck onto the roadway.

MTI Transportation's operational structure and inadequate safety management controls do not function to effectively ensure acceptable compliance with applicable safety requirements to reduce associated risks. By continuing to operate in this manner and in violation of previous FMCSA Orders, MTI Transportation attempts to evade safety regulation and accountability. MTI Transportation is a disguised reincarnation of BM&L Trucking, LLC. MTI Transportation is currently being used by Isaac McWilliams and Ollie McWilliams to circumvent the May 11 IH Order and continue BM&L Trucking, LLC's operations under a different name. In sum, MTI Transportation's operations are in violation of the May 11 IH Order. The deficiencies cited in the May 11 IH order resulted in violations which substantially increase the likelihood of serious

injury or death to commercial motor vehicle drivers and the motoring public. FMCSA has therefore determined that MTI Transportation's continued operations constitute an imminent hazard under 49 U.S.C. § 521(b)(5)(A) and 49 C.F.R. § 386.72(b)(1). Accordingly, MTI Transportation must cease all motor carrier operations immediately.

IV. RESCISSION OF ORDER

Before resuming motor carrier operations, you must comply with the provisions of this IH Order as well as the remedial action set forth in the May 11 IH Order, eliminate the problems constituting the imminent hazard that your 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. You cannot avoid this IH 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 MTI Transportation requires the written approval of the Southern Service Center Field Administrator. Any such action taken in anticipation of this IH Order must cease immediately. You must have the IH Order rescinded by the Southern Service Center Field Administrator before you may continue interstate or intrastate operations.

Prior to rescission of the IH Order, MTI Transportation 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 YOU INTEND TO TAKE TO OVERCOME NON-COMPLIANCE AND A TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF MTI TRANSPORTATION**

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 THE COMPANY, 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 IH 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

V. FAILURE TO COMPLY

Failure to comply with the provisions of this IH Order may subject you to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. You 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)).

VI. 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 IH Order. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs, previously discovered, discovered after the service of this IH Order, and/or discovered during subsequent investigations.

VII. 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 IH 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 your operation constitutes an imminent hazard to the public.

**A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO
COMPLY WITH THIS IH ORDER IMMEDIATELY.**

Date: 7-11-12

A handwritten signature in black ink, appearing to read "Darrell Ruban", written over a horizontal line.

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