

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

All Nations Coach Inc.)
USDOT 2093932)
)
Tichy Express Inc.)
USDOT 1887890)

OPERATIONS OUT-OF-SERVICE

AND

RECORD CONSOLIDATION ORDER

The United States Department of Transportation (USDOT), Federal Motor Carrier Safety Administration (FMCSA), issues this **Operations Out-of-Service Order and Record Consolidation Order (ORDER)** pursuant to 49 C.F.R. § 386.73.¹

IT IS ORDERED that All Nations Coach Inc., (USDOT 2093932) and Tichy Express Inc., (USDOT 1887890) (hereinafter collectively referred to as “You”, “Your” and “RESPONDENTS”) must **CEASE ALL OPERATION OF ANY COMMERCIAL MOTOR VEHICLE(S) IN INTERSTATE AND INTRASTATE COMMERCE IN THE UNITED STATES ON THE EFFECTIVE DATE OF THIS ORDER.**

IT IS FURTHER ORDERED that all records maintained by FMCSA, including safety, performance, compliance, and enforcement records, related to the motor carrier operations of All Nations Coach Inc., (USDOT 2093932) and Tichy Express Inc., (USDOT 1887890) will be consolidated into one record.

¹ A copy of 49 C.F.R. Part 386 is enclosed with this Order.

I. EFFECTIVE DATE OF ORDER

This ORDER becomes a Final Agency Order and is effective on the twenty-first (21st) day after service of this ORDER, unless a request for administrative review is served and filed in accordance with the requirements of 49 C.F.R. § 386.73(g).

II. JURISDICTION

RESPONDENTS operate or have operated as for-hire motor carriers as defined in 49 U.S.C. § 13102 transporting passengers in interstate commerce using commercial motor vehicles. Accordingly, RESPONDENTS are subject to the jurisdiction of the FMCSA and Federal motor carrier safety statutes and regulations, including 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, 31144, 31135 and 31306). RESPONDENTS are required to comply with, and ensure that their drivers comply with, applicable federal statutes and regulations including 49 C.F.R. Parts 40 and 350-399. (*See* 49 C.F.R. §§ 390.3 and 390.11).

III. BASIS FOR ORDER

In issuing this ORDER, the Regional Field Administrator for FMCSA’s Eastern Service Center, in accordance with 49 C.F.R. § 386.73, has determined that RESPONDENTS have operated or attempted to operate under a new identity or as affiliated entities to (i) avoid complying with an FMCSA order; (ii) avoid a statutory or regulatory requirement; (iii) avoid paying a civil penalty; (iv) avoid responding to an enforcement action; and/or (v) avoid a negative compliance history. Accordingly, the Regional Field Administrator finds:

A. All Nations Coach Inc., (“All Nations”) is merely a continuation of Tichy Express Inc. (“Tichy”). All Nations and Tichy are the same motor carrier operation. All Nations is simply carrying on the motor carrier operations of Tichy under a different name.

B. Tichy has a negative compliance history, which includes its failure to pay a civil penalty, failure to abide by the terms of its Agreement for the Conditional Upgrade of Safety Rating, and it is currently subject to two Out of Service Orders. On November 8, 2011, FMCSA conducted a Compliance Review of Tichy's motor carrier operations and issued it an Unsatisfactory safety rating. On February 10, 2012, FMCSA and Tichy entered into an Agreement for the Conditional Upgrade of Safety Rating, however Tichy failed to comply with the terms of the Agreement and FMCSA placed the carrier Out of Service on June 17, 2012. FMCSA issued Tichy a second Out of Service notice on July 24, 2012 when the carrier failed to pay its civil penalty per the terms of a February 12, 2012, Settlement Agreement. The Settlement Agreement related to an Amended Notice of Claim FMCSA issued Tichy on February 1, 2012 in the amount of \$5,400 for its violations of 49 C.F.R. §§ 383.37(a), 390.35/390.19(a), 391.51(b)(2), 395.8(e), and 396.11(a).

C. Tichy's president, Isa Nebi, had his wife purchase All Nations in order to evade Tichy's negative compliance history and enforcement actions. On December 8, 2011, Nebi went to FMCSA's New York Division office in Albany, New York, to hand deliver a safety management plan, upgrade request letter, and supporting documents. During that visit, Nebi told FMCSA representatives that if Tichy's safety rating upgrade request was denied he would open up another bus company under his wife's name. On or about April 13, 2012, Aryana Dilla, Nebi's wife, purchased All Nations, an existing motor carrier operation that received a satisfactory safety rating effective October 12, 2011. The purchase included All Nations' DOT# and MC#, but did not include any commercial motor vehicles or the assumption of any loans or leases. Eleven days after Dilla purchased All Nations, Tichy ceased making civil penalty payments per the terms of its February 12th Settlement Agreement.

IV. FINDINGS OF FACT

1. On or about November 8, 2011, FMCSA conducted a Compliance Review of Tichy's motor carrier operations. Isa Nebi identified himself as the president. The purpose of the Compliance Review was to determine whether Tichy was operating in compliance with applicable Federal requirements, including the FMCSRs. During the Compliance Review, FMCSA discovered critical violations of the FMCSRs, including noncompliance with controlled substance testing requirements, intentionally making a false entry on its MCS-150, multiple false reports of records of duty status, and multiple instances of failing to require a driver to prepare a driver vehicle inspection report. As a result of the violations, FMCSA issued Tichy an Unsatisfactory safety rating, rendering it unable to lawfully operate commercial motor vehicles in interstate commerce.

2. On December 8, 2011, Nebi told Employee A, that if Tichy's safety rating upgrade request was denied, he would open another bus company in his wife's name.

3. On December 16, 2011, FMCSA issued a Notice of Claim related to the violations discovered during Tichy's November 8th Compliance Review. FMCSA issued Tichy an Amended Notice of Claim on February 1, 2012 ordering civil penalties totaling \$5,400 for violations of 49 C.F.R. §§ 383.37(a), 390.35/390.19(a), 391.51(b)(2), 395.8(e), and 396.11(a). FMCSA and Tichy entered into a Settlement Agreement on February 15, 2012, whereby Tichy agreed to pay the civil penalties.

4. On February 10, 2012, FMCSA and Tichy entered into an Agreement for the Conditional Upgrade of Safety Rating whereby Tichy's safety rating was upgraded from Unsatisfactory to Conditional. The Agreement detailed Tichy's corrective actions and the actions it agreed to take in the future to ensure ongoing compliance. On June 17, 2012, FMCSA retracted the safety rating upgrade and placed Tichy Out of Service for multiple instances of failing to comply with

the terms and conditions of the Agreement, including entering into a business relationship with I-95 Coach in violation of Paragraph III.B.2.e of the Agreement.

5. Aryana Dilla purchased All Nations on April 13, 2012. All Nations was an existing motor carrier that received a Satisfactory safety rating on October 12, 2011. Dilla purchased this entity in order to evade Tichy's negative compliance history, including its requirement to pay civil penalties and abide by the terms of Tichy's Agreement for the Conditional Upgrade of Safety Rating.

6. The timing of the All Nations acquisition is illustrative of Nebi's motive to purchase All Nations in order to avoid Tichy's negative compliance history and enforcement actions. Tichy ceased making payments under its February 14, 2012, settlement agreement after Dilla purchased All Nations. Two months after Dilla purchased All Nations, on June 17, 2012, FMCSA placed Tichy Out of Service for its failure to comply with the terms and conditions of its Agreement for the Conditional Upgrade of Safety Rating. On July 24th, FMCSA issued Tichy a second Out of Service notice for Tichy's failure to comply with the terms of its Settlement Agreement. Tichy ignored the Out of Service orders and has not paid the outstanding civil penalty.

7. There is commonality of officers and managers between All Nations and Tichy. Aryana Dilla is the owner of All Nations and the wife of Isa Nebi, Tichy's president. Nebi is also All Nations' manager. On July 2, 2012, Employee A, interviewed Dilla. Dilla stated that she relies on her husband, Nebi, to run the business. She indicated that Nebi proposed the idea to purchase All Nations. On September 26, 2012, Employee B sought to interview Dilla for the purpose of clarifying Nebi's role in All Nations, however Dilla was traveling outside of the United States and left Nebi in charge of operations until she returned. Nebi told Employee B that he did engage in managerial activities, such as processing payroll and responding to employee

concerns. He was knowledgeable about All Nations' route operations, property acquisitions, and insurance coverage. Nebi is listed as Tichy's president on the carrier's MCS-150 Biennial Updates and was the motor carrier's representative during its November 2011 Compliance Review.

8. There is a commonality of an address between both motor carriers. The principle place of business for both All Nations and Tichy is 300 Cortelyou Avenue, Staten Island, NY, 10312, which is Nebi's and Dilla's residence. This address is listed on All Nations' August 19, 2012 MCS-150 and Tichy's January 4, 2011 MCS-150 Biennial Update. Dilla told FMCSA in her July 2, 2012 interview that she operates All Nations out of 300 Cortelyou Avenue, Staten, Island, NY 10312. Nebi told FMCSA during the November 2011 Compliance Review that Tichy's principle place of business is located at 300 Cortelyou Avenue.

9. There is a commonality of drivers between All Nations and Tichy. The evidence shows that a total of six drivers have worked for both entities.

10. There is a commonality of commercial motor vehicles between All Nations and Tichy. Tichy operated four commercial motor vehicles, all of which are now operated by All Nations under Dilla and Nebi's management. According to her interview with FMCSA, Dilla purchased two of the motor coaches from Tichy for a deposit of \$5,000 per motor coach. In his September 26, 2012 interview with Employee B, Nebi confirmed that Tichy transferred all four of its motor coaches to All Nations; All Nations purchased two of the coaches from Tichy for only a deposit, and the remaining two were transferred to All Nations for free.

There is a continuity of operations between All Nations and Tichy. The evidence shows that both entities are motor coach operations with routes originating in New York, NY traveling to Rocky Mount, North Carolina and to Ohio.

V. RIGHT TO PETITION FOR ADMINISTRATIVE REVIEW

You may petition for administrative review of this ORDER in accordance with 49 C.F.R. § 386.73(g). A petition for administrative review is limited to contesting factual or procedural errors in the issuance of this Order and may not be submitted to demonstrate corrective action. If you wish to demonstrate corrective action, you may do so by submitting a Petition for Rescission of Order under Section VI.

Your petition for administrative review must be in writing and served to both of the following parties within fifteen (15) days of the date this Order was served to you:

1. The Assistant Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001, Attention: Adjudications Counsel. Alternatively, you may serve your petition for administrative review by electronic mail to FMCSA.Adjudication@dot.gov; and
2. You must also serve a copy of your petition for administrative review to the Eastern Service Center Regional Field Administrator at 802 Cromwell Park Drive, Suite N, Glen Burnie, MD 21061.

You must also file your petition for administrative review in a manner consistent with 49 C.F.R. § 386.7.

Your request for administrative review must include a copy of this Order and a statement of all factual and procedural issues in dispute. If you serve the petition for administrative review within 15 days of the date the Order was served to you, you may supplement your petition by serving the Assistant Administrator and Regional Field Administrator with documentary evidence and/or written argument that supports your position regarding the procedural or factual issues in dispute, no later than 30 days from the date the Order was served to you.

Failure to timely serve a petition for administrative review, and supplementary evidence and argument, if any, constitutes a waiver of your right to do so and will result in the Order becoming a Final Agency Order 21 days after the Order was served.

VI. PETITION FOR RESCISSION OF ORDER

In accordance with 49 C.F.R. § 386.73(h), you may petition to rescind the Operations Out-of-Service Order if you have taken action to correct the deficiencies that resulted in the Order. A petition for rescission must be made in writing to FMCSA's Regional Field Administrator for the Eastern Service Center. The petition for rescission must include a copy of this ORDER, a factual statement identifying all corrective action taken, and copies of supporting documentation. Any petition for rescission must be directed to the Regional Field Administrator, Eastern Service Center, at the following address:

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

In accordance with 49 C.F.R. § 386.73(h)(4), the Regional Field Administrator will issue a written decision on a petition for rescission within 60 days of the service date of the petition. If the Regional Field Administrator grants the request for rescission, the written decision is the Final Agency Order. If the Regional Field Administrator denies the request for rescission, you may file a petition for administrative review of the denial with the Assistant Administrator, Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. § 386.73(h)(6). A petition for administrative review of a denial of a request for rescission must be served and filed within 15 days of the service date of the decision denying the request for rescission. The petition for administrative review of the denial of a request for rescission must be in writing, and must identify the disputed factual or

procedural issues related the denial of the petition for rescission. A petition for administrative review of a denial of a request for rescission may not challenge the underlying basis of the order for which rescission was sought.

RESPONDENTS are subject to this ORDER unless and until the ORDER, or any part of the ORDER, is rescinded in writing by the Regional Field Administrator.

You cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person, company or entity. Any sale or lease of equipment and/or direct assignment of contracts or other arrangements requires the prior written approval of the Regional Field Administrator for the Eastern Service Center.

VII. FAILURE TO COMPLY

Violation(s) of this ORDER may result in penalties of not more than \$16,000 for each day the operation in violation of this ORDER continues after the effective date of the out-of-service order. Failure to comply with the provisions of this ORDER may also result in an action in the United States District Court for equitable and/or declaratory relief and civil penalties.

VIII. PENALTIES FOR VIOLATIONS

Penalty provisions for violations of federal statutes and regulations are separate and distinct from penalties for violations of this ORDER. This ORDER is in addition to, and does not supersede, amend, or modify, any other orders or notices in any other case or proceeding. FMCSA may assess penalties for violations of federal statutes and regulations, including the FMCSRs, as well as for violations of FMCSA Orders and prohibitions. RESPONDENTS have ongoing responsibility for compliance with all applicable provisions of Federal statute and regulations, including the Federal Motor Carrier Safety Regulations. The duties imposed by this Order are in addition to the duties imposed by applicable statute and regulations. Nothing in this Order will be

construed to waive or modify any Federal statutory or regulatory requirement and compliance with the terms and conditions of this Order does not excuse any failure to comply with any such requirement.

Penalties may be assessed for violations previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

IX. OTHER ORDERS UNAFFECTED

This ORDER is in addition to, and does not amend or supersede any other Order, prohibition, or requirement to which RESPONDENTS are or may become subject.

Date: July 1, 2013



Curtis L. Thomas
Regional Field Administrator
FMCSA Eastern Service Center
United States Department of Transportation