

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

CHAN-YEH LIN)	Order No.: GA-2013-5004-IMH
DBA BEST LIMO SERVICE)	
USDOT 1634683)	Service
MC 500227)	Date:
)	
CHAN-YEN LIN,)	Service
Individually)	Date:
)	

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

This is an Imminent Hazard Operations Out-of-Service Order ("Order") issued by the Secretary of Transportation pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1), (2), and (5), and 49 C.P.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 Chan-Yen Lin dba Best Limo Service (USDOT# 1634683) and Chan-Yen Lin, individually (referred to collectively herein as "you," "your," and/or "Best Limo Service") and to all vehicles owned or operated by Best Limo Service, including without limitation the commercial motor vehicles identified herein.

The Secretary and FMCSA find your operations and the continued operation of your commercial motor vehicles (including but not limited to VIN 1FDXE45526HA53726, VIN 1M8TRMPA51P061489, VIN 3FRNF65B08V569003, VIN 1GBZGNBG2A1128332, and VIN 1FVACWDC07HX58911), referred to herein as "commercial motor vehicles," "motor vehicles," and/or "motor coaches," constitute an imminent hazard. This finding means that based upon

your present state of unacceptable safety compliance, your operation of any commercial motor vehicle poses an imminent hazard to public safety.

Effective immediately, you must cease operating any commercial motor vehicles, specifically including the commercial motor vehicles listed in this Order. "Operate" or "Operating" includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. Best Limo Service's commercial motor vehicles, specifically including the commercial motor vehicles listed in this Order, may not be operated in interstate or intrastate commerce by any other motor carrier or any driver; such commercial motor vehicles may not be operated-even without passengers. Any movement of Best Limo Service's commercial motor vehicles, specifically including the commercial motor vehicles identified in this Order, to any storage or repair or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated; Best Limo Service's commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA's Southern Service Center.

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 secured. (*See* 49 C.P.R. § 386.72(b)(4) and (5)).

YOU MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL PASSENGERS, NOR MAY YOU OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.

Within eight (8) hours of the service of this Order, you must submit to the Field Administrator in writing by facsimile the location of each of the commercial motor vehicles operated by Best Limo Service, including those vehicles identified in this Order. Your submission must be sent to:

Field Administrator
404-327-7349 (facsimile)

I. JURISDICTION

Best Limo Service is a passenger motor carrier engaged in interstate commerce using commercial motor vehicles and employing drivers and is therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.P.R. Parts 350-399, and the alcohol and controlled substances regulations at 49 C.P.R. Part 40, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, and 31144). Chan-Yeh Lin is an individual who owns, manages, controls, directs or otherwise oversees the operations of Best Limo Service. Best Limo Service is required to comply with, and to ensure that its drivers comply with, the FMCSRs and Orders of the USDOT and FMCSA. (49 C.P.R. § 390.11). This Order shall have the force and effect of any other Order issued by the FMCSA and is binding upon Best Limo Service and Chan-Yeh Lin, as well as any and all of its officers, members, 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 Best Limo Service, including but not limited to those identified in this Order.

II. BASIS FOR ORDER

The basis for determining that Best Limo Service's motor carrier operations pose an imminent hazard to the public is that Best Limo Service fails to monitor and ensure that its

drivers comply with drivers' qualification requirements, drivers' controlled substances and alcohol use and testing requirements, drivers' hours of service requirements, and drivers' records of duty status requirements. Further, Best Limo Service fails to ensure that its commercial motor vehicles are properly and regularly inspected, repaired and maintained.¹ Individually and cumulatively, these violations and conditions of dispatch and operation substantially increase the likelihood of serious injury or death to Best Limo Service drivers and the motoring public.

III. BACKGROUND

On April 9, 2013, FMCSA initiated an investigation of Best Limo Service as part of the Agency's 2013 passenger carrier safety initiative. Best Limo Service is an authorized for-hire passenger motor carrier operating in Georgia, Florida, South Carolina and the District of Columbia. The investigation uncovered egregious regulatory violations demonstrating Best Limo Service's flagrant disregard for motor coach passenger safety.²

Best Limo Service's compliance with driver qualification requirements is almost nonexistent. At the instigation of the investigation, Best Limo Service advised FMCSA safety investigators that during the past year it employed six drivers. Upon review of carrier documents, however, FMCSA safety investigators discovered that Best Limo Service actually employed a total of thirteen drivers. Further, Best Limo Service had a driver qualification file for only one driver and did not maintain driver qualification files on its other twelve drivers.³ As a result of its dismal driver qualification practices, Best Limo Service is using a driver to transport passengers in its commercial motor vehicles who had previously tested positive for

¹ Chan-Yen Lin, as the CEO, is responsible for ensuring Best Limo Service's compliance with the FMCSRs.

² As part of its investigation, FMCSA completed a compliance review of Best Limo Service. The compliance review contains a proposed safety rating of "Unsatisfactory."

³ See 49 C.P.R. § 391.51.

controlled substances while employed with another carrier. Best Limo Service has also been using a driver with a suspended commercial driver's license to operate its passenger-carrying commercial motor vehicles.

Best Limo Service's compliance with FMCSA mandated controlled substances and alcohol use and testing requirements is also egregiously deficient. Best Limo Service is using drivers to operate passenger-carrying commercial motor vehicles before receiving negative pre-employment controlled substance test results. Best Limo Service is also using drivers to transport passengers in its vehicles when the drivers have not been randomly tested for controlled substances or alcohol.⁴ Best Limo Service's irresponsible actions in allowing unqualified drivers to operate its motor coaches substantially increase the likelihood of serious injury or death to Best Limo Service's drivers and passengers and the motor public.

Moreover, Best Limo Service does not have safety management practices in place to ensure its drivers are preparing and submitting accurate records of duty status and that they comply with the maximum hours of service limitations. Best Limo Service is not requiring its drivers to turn in records of duty status or supporting documents related to the records of duty status. During March 2013, Best Limo Service was missing 50% of its drivers' records of duty status.⁵ Further, Best Limo Service does not have a system for checking drivers' records of duty status to ensure its drivers do not exceed the hours of service limits. Best Limo Service's reckless actions result in drivers transporting passengers at a time when they may be fatigued because of driving in excess of the maximum driving time and/or other hours of service regulations.

⁴ During 2011, Best Limo Service failed to send drivers for random controlled substances and alcohol testing.

⁵ See 49 C.P.R. § 395.8(k)(1).

Moreover, Best Limo Service does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe motor coaches.⁶ Best Limo Service is not inspecting pushout windows, emergency doors, and emergency marking lights on its commercial motor vehicles.⁷ Further, Best Limo Service has failed to ensure its inspectors are properly trained, qualified and certified to conduct annual inspections on its commercial motor vehicles. Best Limo Service fails to monitor and require its drivers to prepare driver vehicle inspection reports which would identify any vehicle defects and repairs.⁸ Investigators' inspection of three Best Limo Service vehicles resulted in all three motor vehicles being placed out-of-service for safety violations.⁹ Best Limo Service's inadequate maintenance program substantially increases the risk of serious injury or death and is an imminently hazardous and potentially deadly situation for Best Limo Service's drivers and passengers and the motoring public.

In sum, Best Limo Service's continued and blatant disregard for the FMCSRs substantially increases the likelihood of serious injury or death and is an imminently hazardous and potentially deadly risk for its drivers and passengers and for the motoring public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before Best Limo Service will be permitted to resume operations placed out-of-service by this Order, Best Limo Service must take specific steps to ensure and demonstrate compliance with the FMCSRs.

⁶ See 49 C.F.R. § 396.3(a) ("Every motor carrier...must systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicle...equipment subject to its control.")

⁷ See 49 C.F.R. 396.3(a)(2).

⁸ See 49 C.P.R. § 396.11(a).

⁹ The inspections found 15 mechanical violations including 5 out-of-service violations.

1. Best Limo Service must drastically change its company and management philosophy regarding driver qualification and drug and alcohol compliance and demonstrate that it has an effective program in place to ensure that only qualified drivers operate its commercial motor vehicles and to ensure compliance with the FMCSRs. Best Limo Service must ensure that it maintains driver qualification files, as required by 49 C.P.R. Part 391. Best Limo Service must ensure that every driver it uses has completed and furnished an employment application. Best Limo Service 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. Best Limo Service 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. Best Limo Service 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.P.R. § 391.23. Best Limo Service must ensure each driver possesses a DOT medical examiner's certificate as well as ensure that a copy of each driver's medical examiner's certificate is maintained in the driver's qualification file.

2. Best Limo Service must establish a DOT controlled substance and alcohol testing program in compliance with 49 C.P.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. Best Limo Service 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. Best Limo Service must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.P.R. § 382.601(b). Best Limo Service 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.P.R. § 382.603.

3. Best Limo Service 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. Best Limo Service must ensure that it has received a negative pre-employment controlled substances test for each driver before using that driver to perform safety-sensitive functions. Best Limo Service must establish policies and procedures to ensure that it does not dispatch a driver who has tested positive for controlled substances or alcohol until that driver has completed the return-to-duty process in 49 C.P.R. Part 40.

4. Best Limo Service must take aggressive and progressive steps to control drivers' hours of service.

5. Best Limo Service 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.P.R. Part 395.

6. Best Limo Service must ensure that each of its drivers records his or her duty status for each 24-day period in accordance with 49 C.P.R. § 395.8. Best Limo Service must ensure that each of its drivers complies with the hours of service rules in 49 C.P.R. § 395.8. Best Limo Service must maintain each record of duty status for a minimum of six months in accordance with 49 C.P.R. § 395.8.

7. Best Limo Service must implement a system to ensure that all drivers accurately complete their records of duty status in the form and manner required in 49 C.P.R. Part 395. Best Limo Service must ensure that its drivers accurately complete their daily records of duty

status and that they submit these records to Best Limo Service within 13 days of their completion.

Best Limo Service must maintain drivers' records of duty status and demonstrate a system showing that the company can and will maintain all supporting documents. Further, Best Limo Service must ensure that all records of duty status are accurate by using all means available to Best Limo Service and by comparing each record with all supporting documentation.

8. Best Limo Service 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. Best Limo Service must drastically change its maintenance posture, philosophy and infrastructure and demonstrate that it has an effective commercial motor vehicle maintenance program in place to inspect, maintain, and repairs its fleet and ensure compliance with the FMCSRs. Best Limo Service must ensure and demonstrate that vehicle maintenance and safety is a company priority and must ensure and demonstrate that inspection records are accurately completed.

10. Best Limo Service must ensure and demonstrate that its vehicles are in a safe operating condition and are in full compliance with 49 C.P.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance). Best Limo Service must also ensure that it has an adequate maintenance program in place to ensure compliance with the FMCSRs.

11. Best Limo Service must require its drivers 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 and abide by procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again.

Best Limo Service 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.

12. Best Limo Service must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

Best Limo Service is subject to this Order unless and until the Order is rescinded in writing by FMCSA. Unless and until this Order is rescinded, and until such time as Best Limo Service has a valid and active USDOT number and operating authority registration, Best Limo Service is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This Order will not be rescinded until the Field Administrator for FMCSA's Southern Service Center has determined that the Remedial Action requirements specified in Paragraph IV of this Order have been fully satisfied and acceptable documentation submitted.

Before this Order will be rescinded, Best Limo Service must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations and motor vehicles pose, and adequately demonstrate to the Field Administrator for FMCSA's Southern Service Center the actions taken to eliminate the safety problems. Best Limo Service cannot avoid this Order by continuing operations under the name of another person or company. Any sale, lease, or other transfer of commercial motor vehicles and/or direct assignment of contracts or other agreements for service by Best Limo Service requires the written approval of the Southern Service Center Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of this Order, Best Limo Service will be required to:

- 1. Identify the cause for its noncompliance.**
- 2. Develop a detailed Safety Management 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.

3. Certify in writing the commitment of Best Limo Service to comply with the FMCSRs.

4. Execute the Safety Management Plan and provide certification by all owners and officers.

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, Georgia 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, Georgia Division
Federal Motor Carrier Safety Administration
1745 Phoenix Boulevard, Suite 380
Atlanta, Georgia 30349

Rescission of this Order does not constitute a reinstatement of Best Service Limo's Federal operating authority registration or its USDOT Number. In order for Best Limo Service to resume motor carrier operations in the United States, Best Limo Service will be required to apply to reactivate its USDOT number registration, reapply for operating authority registration, and demonstrate that it is fit and willing and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the FMCSRs; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set forth in 49 U.S.C. § 31144; and 5) minimum financial responsibility requirements established under 49 U.S.C. §§ 13906 and 31138.

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Order may subject Best Limo Service to an action in the United States District Court for equitable relief and punitive damages. Best Limo Service maybe assessed civil penalties of up to \$25,000 for a violation of this Order. (49 U.S.C. § 521(b)(2)(F) and 49 C.P.R. Part 386 App. A.§ IV(g)). If violations are detemined to be willful, criminal penalties maybe imposed, including a fine of up to \$25,000 and imprisonment for a term not to exceed 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 and Orders of the FMCSA, previously discovered, discovered after the service of this Order, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.P.R.§ 386.72(b)(4). If requested, administrative review shall occur within 10 days of the issuance of this Order. (49 U.S.C. § 521(b)(5) and 49 C.P.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

Federal Motor Carrier Safety Administration
Office of the Chief Counsel - Adjudications
1200 New Jersey Avenue S.E., W61-323
Washington, DC 20590

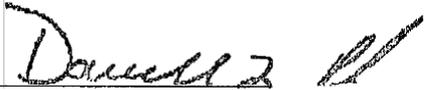
Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Blvd., NE, Suite 1700
Atlanta, Georgia 30345

The request must state the material facts at issue which you believe dispute or contradict the finding that Best Limo Service's operation of its commercial motor vehicle(s) constitutes an imminent hazard to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT IN ANY WAY
SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER**

IMMEDIATELY. This Order is separate and independent from all other orders or actions that may be issued by FMCSA, and does not amend or modify any other such orders or actions, and any request for administrative review of this Order does not attach to or apply to any other order or action.

Date: April 25, 2013



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