

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

CARBO LIMO OF OXFORD, LLC)	Order No.: MS-2013-5000-IMH
DBA CARBO LIMO)	
USDOT 1525224, and)	Service
)	Date: _____
)	
AUDIE BRANCH,)	Service
Individually.)	Date: _____
)	

**IMMINENT HAZARD INTERSTATE
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.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 the interstate operations of **CARBO LIMO OF OXFORD, LLC** (USDOT# 1525224) and **AUDIE BRANCH**, individually (referred to collectively herein as “you,” “your,” and/or “Carbo Limo”), and to all vehicles owned or operated in interstate commerce by Carbo Limo, including without limitation the commercial motor vehicles identified herein.

The Secretary and FMCSA find your operations and the continued operation of any commercial motor vehicle in interstate commerce (including but not limited to motor coaches with VIN numbers 1M8GDM9A9JP042179 and 1M8SDMTA4VP049470), 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 in interstate commerce poses an

imminent hazard to public safety.

Effective immediately, you must cease operating any commercial motor vehicles in interstate commerce, specifically including the commercial motor vehicles listed in this Order. “Operate” or “Operating” includes without limitation all interstate transportation by drivers from all dispatching locations or terminals. Carbo Limo’s commercial motor vehicles, specifically including the commercial motor vehicles identified in this Order, may not be operated in interstate commerce by any other motor carrier or any driver, even without passengers.

Commercial motor vehicles and their drivers now in interstate 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)).

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

I. JURISDICTION

Carbo Limo is a passenger motor carrier engaged in intrastate and interstate commerce using commercial motor vehicles and employing drivers and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399, and the alcohol and controlled substances regulations at 49 C.F.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). Audie Branch is an individual who owns, manages, controls, directs or otherwise oversees the operations of Carbo Limo. Carbo Limo is required to comply with, and to ensure that its drivers comply with, the

FMCSRs and Orders of the USDOT and FMCSA. (49 C.F.R. § 390.11). This Order has the force and effect of any other Order issued by the FMCSA and is binding upon Carbo Limo and Audie Branch, 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 in interstate commerce and all vehicles owned, leased, rented or otherwise operated by Carbo Limo in interstate commerce, including but not limited to those identified in this Order.

II. BASIS FOR ORDER

The basis for determining that Carbo Limo's interstate motor carrier operations pose an imminent hazard to the public is that Carbo Limo 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, Carbo Limo fails to ensure that its commercial motor vehicles are properly and regularly inspected, repaired and maintained, and fails to ensure that the commercial motor vehicles it operates meet minimum safety standards.¹ Individually and cumulatively, these violations and conditions of dispatch and operation substantially increase the likelihood of serious injury or death to Carbo Limo drivers and the motoring public.

III. BACKGROUND

On or about May 7, 2013, FMCSA initiated an investigation of Carbo Limo as part of the Agency's 2013 passenger carrier safety initiative. Carbo Limo is a for-hire passenger carrier operating out of Oxford, Mississippi, using 10 small passenger vans/minibuses, all of which seat over 16 passengers plus the driver, 2 motor coaches both seating over 45 passengers, and 1 stretch limousine.

¹ Audie Branch, as the owner, is responsible for ensuring Carbo Limo's compliance with the FMCSRs.

The investigation uncovered egregious regulatory violations demonstrating a flagrant disregard for motor coach passenger safety.² The investigation found significant evidence of noncompliance with the Federal Motor Carrier Safety Regulations (FMCSR) and significant maintenance problems with Carbo Limo's two motor coaches that operate in interstate commerce.³ The May 2013 investigation resulted in a proposed Unsatisfactory safety rating.

Carbo Limo's compliance with FMCSA mandated controlled substances and alcohol use and testing requirements is egregiously deficient. The investigation found Carbo Limo using drivers before receiving pre-employment test results; failing to conduct random alcohol and controlled substance tests at the applicable rates; failing to provide employees a written policy on the misuse of alcohol and controlled substances; and failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training on alcohol and controlled substances.

Carbo Limo's compliance with driver qualification requirements is also egregiously deficient. Carbo Limo does not have safety management practices in place to ensure its drivers are preparing and submitting accurate records of duty status and to ensure they comply with the maximum hours of service limitations. In addition, Carbo Limo has allowed operation of its commercial motor vehicles by a driver without a valid commercial driver's license (CDL) and is failing to maintain in driver's qualification files inquiries into driver's driving record.

Carbo Limo does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe motor coaches in interstate commerce and

² As part of its investigation, FMCSA completed a compliance review of Carbo Limo on May 7, 2013. The compliance review contains a proposed safety rating of "Unsatisfactory."

³ In addition, and despite being cited for operating without operating authority on May 10, 2011 and August 21, 2012, Carbo Limo continued to operate commercial motor vehicles without the operating authority required for for-hire interstate transportation, and only recently obtained its operating authority registration.

is using commercial motor vehicles not periodically inspected and in conditions likely to cause an accident or breakdown.⁴ Level V inspections on both of Carbo Limo's motor coaches resulted in the vehicles being placed out-of service (OOS) for multiple OOS violations, including defective emergency exits and brakes out of adjustment. In addition, Carbo Limo is not keeping minimum records of inspection and vehicle maintenance; fails to maintain evidence of inspector qualifications; does not have a means of indicating the nature and due dates of various inspection and maintenance operations to be performed; does not keep records of tests conducted on push-out windows, emergency doors and emergency door markings lights on buses; and operates vehicles that cannot be started without external assistance.

Finally, the investigation discovered Carbo Limo making false statements or records. Both Annual Vehicle Inspection stickers on its two motor coaches were found to be falsified; one of the inspections had been pre-dated and the second inspection had not occurred and the sticker completely falsified. The vehicle inspector who falsified the stickers admitted that he did so at the request of Carbo Limo's owner Audie Branch.

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

IV. REMEDIAL ACTION

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

⁴ 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.")

1. Carbo Limo 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. Carbo Limo must ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. Carbo Limo must ensure that every driver it uses has completed and furnished an employment application. Carbo Limo 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. Carbo Limo 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. Carbo Limo 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. Carbo Limo 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. Carbo Limo 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. Carbo Limo 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. Carbo Limo must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Carbo Limo 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.

3. Carbo Limo 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. Carbo Limo 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. Carbo Limo 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.F.R. Part 40.

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

5. Carbo Limo 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.

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

7. Carbo Limo must implement a system to ensure that all drivers subject to 49 C.F.R. § 395.8 accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395. Carbo Limo must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to Carbo Limo within 13 days of their

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

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

11. Carbo Limo 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. Carbo Limo 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. Carbo Limo must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of its commercial motor vehicles are repaired prior to the vehicle being operated. Carbo Limo must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of passengers prior to the necessary repairs being made and the vehicle passing an appropriate safety inspection.

13. Carbo Limo must contact FMCSA's Mississippi Division and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

14. Carbo Limo must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

Carbo Limo 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 Carbo Limo has a valid and active USDOT number and operating authority registration, Carbo Limo is prohibited from operating any commercial motor vehicle in interstate 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, Carbo Limo 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 satisfaction of the Field Administrator for FMCSA's Southern Service Center the actions taken to eliminate the safety problems. Carbo Limo cannot avoid this Order by continuing interstate 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 interstate service by Carbo Limo 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, Carbo Limo 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 time table for these steps.**
- 3. Certify in writing the commitment of Carbo Limo 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, Mississippi
Federal Motor Carrier Safety Administration
100 West Capitol St., Suite 1049
Jackson, Mississippi 39269

Rescission of this Order does not constitute a reinstatement of Carbo Limo's Federal operating authority registration or its USDOT Number. In order for Carbo Limo to resume motor carrier operations in the United States, Carbo Limo 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 Carbo Limo to an action in the United States District Court for equitable relief and punitive damages. Carbo Limo may be 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.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 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 under 5 U.S.C. § 554 and 49 C.F.R. § 386.72(b)(4). An administrative review, if requested, must occur within 10 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 FMCSA's Adjudications Counsel and 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

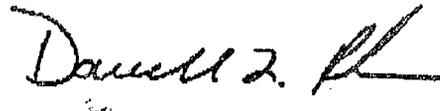
The request must state the material facts at issue which you believe dispute or contradict the finding that Carbo Limo's operation of its commercial motor vehicle(s) constitutes an imminent hazard to the public.

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. Any request for administrative review of this Order does not attach to or apply to any other order or action.

Date: May 24, 2013



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