

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

COACH USA TOUR, INC.,  
USDOT 2121253  
MC 739291  
XIAOJIE SHUN

) Order No.: MA-2013-5003-IMH  
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) Service  
) Date: \_\_\_\_\_  
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**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.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration ("FMCSA"), United States Department of Transportation ("USDOT"), Glen Burnie, Maryland. This Order applies to Coach USA Tour, Inc. (USDOT# 2121253) and Xiaojie Shun, individually (referred to collectively herein as "you," "your," and/or "Coach USA Tour"), and to all vehicles owned or operated by Coach USA Tour, including without limitation the commercial motor vehicles identified herein.

The Secretary and FMCSA find your continued operation of any commercial motor vehicle (herein "commercial motor vehicles," "motor vehicles," and/or "motor coaches") constitutes 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 Appendix A to this Order.** "Operate" or "Operating" includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. Coach USA Tour's commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to 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 Coach USA Tour's commercial motor vehicles, specifically including the commercial motor vehicles identified in Appendix A of 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; Coach USA Tour's commercial motor vehicles may be moved only upon the written approval of the Regional Field Administrator for FMCSA's Eastern Service Center.

Your 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)). 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 Regional Field Administrator in writing by facsimile the location of each of the commercial motor vehicles operated by Coach USA Tour, including those vehicles identified in Appendix A of this Order.** Your submission must be sent to:

Regional Field Administrator  
(443) 703-2253 (facsimile)

## **I. JURISDICTION**

Coach USA Tour, Inc. 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.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.) Coach USA Tour 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). Xiaojie Shun is the President of Coach USA Tour and is the individual directly responsible for management, control, direction, and oversight of the operations of Coach USA Tour. This Order has the force and effect of any other Order issued by the FMCSA and is binding upon Coach USA Tour, 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 Coach USA Tour.

## **II. BASIS FOR ORDER**

The basis for determining that Coach USA Tour's motor carrier operations pose an imminent hazard to the public is that Coach USA Tour fails to monitor and ensure that its drivers comply with drivers' controlled substances and alcohol use and testing requirements, hours of service requirements, and records of duty status requirements. Further, Coach USA Tour fails to ensure that its commercial motor vehicles are properly and regularly inspected, repaired and maintained. Individually and cumulatively, these violations and conditions of dispatch and operation substantially increase the likelihood of serious injury or death to Coach USA Tour drivers and the motoring public.

Xiaojie Shun, Coach USA Tour's President, is the individual responsible for the oversight and management of the motor carrier's safety operations.

### **III. BACKGROUND**

On April 11, 2013, FMCSA began an investigation of Coach USA Tour as part of the Agency's 2013 passenger carrier safety initiative. Coach USA Tour operates tour buses, and is primarily engaged in transporting passengers on sightseeing tours in the northeastern United States. FMCSA's investigation revealed egregious regulatory violations demonstrating Coach USA Tour's blatant disregard for motor coach passenger safety.<sup>1</sup>

Coach USA Tour 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. Coach USA Tour is not requiring its drivers to turn in records of duty status or supporting documents related to the records of duty status.<sup>2</sup> During the compliance review, Coach USA Tour was asked to produce copies of its drivers' records of duty status for November 2012, and was unable to do so. Coach USA Tour also fails to maintain driver itineraries and fuel records. Further, Coach USA Tour does not have a system for checking drivers' records of duty status to ensure its drivers do not exceed the hours of service limits; indeed, during the compliance review, FMCSA's investigators found that over 15% of the records of duty status produced by Coach USA Tour were false, and every driver employed by Coach USA Tour had falsified at least one record of duty status during the review period. Coach USA Tour's reckless actions result in drivers transporting passengers at a time

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<sup>1</sup> In conjunction with the investigation, FMCSA completed a compliance review of Coach USA Tour. The compliance review resulted in a proposed safety rating of "Unsatisfactory."

<sup>2</sup> See 49 C.F.R. § 395.8(k)(1).

when they may be fatigued because of driving in excess of the maximum driving time and/or other hours of service regulations.

Coach USA Tour's compliance with FMCSA mandated controlled substances and alcohol use and testing requirements is also deficient. Coach USA Tour is using drivers to operate passenger-carrying commercial motor vehicles before receiving negative pre-employment controlled substance test results, and only recently enrolled in a controlled substances and alcohol testing consortium.

Moreover, Coach USA Tour does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe motor coaches.<sup>3</sup> Coach USA Tour fails to keep minimum records of inspection and vehicle maintenance and fails to keep records of tests conducted on pushout windows, emergency doors, and emergency door marking lights, and in some cases, included copies of the same inspection form in the vehicle file for multiple vehicles.<sup>4</sup> Further, Coach USA Tour requires its drivers to maintain and repair its vehicles, but fails to ensure its drivers are properly trained and qualified to perform such maintenance and repairs. Investigators' inspection of six Coach USA Tour vehicles resulted in four of those motor vehicles being placed out-of-service for safety violations. Coach USA Tour's inadequate maintenance program substantially increases the risk of serious injury or death and is an imminently hazardous and potentially deadly situation for Coach USA Tour's drivers and passengers and the motoring public.

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<sup>3</sup> 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.")

<sup>4</sup> See 49 C.F.R. 396.3(a)(2).

In sum, Coach USA Tour'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 Coach USA Tour will be permitted to resume operations placed out-of-service by this Order, Coach USA Tour must take specific steps to ensure and demonstrate compliance with the FMCSRs.

**1. Coach USA Tour must drastically change its company and management philosophy regarding driver oversight and vehicle maintenance.**

- a. Coach USA Tour must 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. Coach USA Tour must ensure and demonstrate that driver qualification and drug and alcohol compliance is a company priority and must ensure and demonstrate that records are accurately completed.
- b. Coach USA Tour must establish policies and procedures to ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. Coach USA Tour must ensure that every driver it uses has completed and furnished an employment application. Coach USA Tour 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. Coach USA Tour 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. Coach USA Tour 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. Coach USA Tour 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.

- c. Coach USA Tour must provide to the Eastern Service Center Regional Field Administrator evidence of a DOT controlled substance and alcohol testing program that complies 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). Coach USA Tour 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. Coach USA Tour must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Coach USA Tour 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.
- d. Coach USA Tour must establish policies and procedures to ensure that each driver selected for random controlled substances or alcohol testing has an equal chance of being selected in accordance with Parts 40 and 382. Coach USA Tour 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.

- e. Coach USA Tour 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.
- f. Coach USA Tour must ensure and demonstrate that its commercial motor 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).

2. **Coach USA Tour must drastically change its maintenance and hours of service posture, philosophy and infrastructure.**

- a. Coach USA Tour must 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. Coach USA Tour must ensure and demonstrate that vehicle maintenance and safety is a company priority and must ensure and demonstrate that inspection records are accurately completed.
- b. Coach USA Tour 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. Coach USA Tour 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.

- c. Coach USA Tour must ensure that each of its drivers records his or her duty status for each 24-day period in accordance with 49 C.F.R. § 395.8. Coach USA Tour must ensure that each of its drivers complies with the hours of service rules in 49 C.F.R. § 395.8. Coach USA Tour must maintain each record of duty status and all supporting documents for a minimum of six months in accordance with 49 C.F.R. § 395.8.
- d. Coach USA Tour must implement a system to ensure that all its drivers accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395. Coach USA Tour must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to Coach USA Tour within 13 days of their completion. Coach USA Tour must maintain drivers' records of duty status and demonstrate a system showing that the company can and will maintain all supporting documents. Further, Coach USA Tour must ensure that all records of duty status are accurate by using all means available to Coach USA Tour and by comparing each record with all supporting documentation.
- e. Coach USA Tour 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.

**3. Coach USA Tour must comply with all Orders issued by FMCSA.**

**V. RESCISSION OF ORDER**

Coach USA Tour 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 Coach USA Tour has a valid and active USDOT number and operating authority registration, Coach USA

Tour is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This Order will not be rescinded until the Regional Field Administrator for FMCSA's Eastern 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, Coach USA Tour 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 Regional Field Administrator for FMCSA's Eastern Service Center the actions taken to eliminate the safety problems. Coach USA Tour 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 Coach USA Tour requires the written approval of the Eastern Service Center Regional Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, Coach USA Tour 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 Coach USA Tour 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 Regional Field Administrator, Eastern Service Center, with a copy to the Division Administrator, Massachusetts Division, at the following addresses:

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

Division Administrator  
Massachusetts Division  
Federal Motor Carrier Safety Administration  
50 Mall Road  
Suite 212  
Burlington, MA 01803

Rescission of this Order does not constitute a reinstatement of Coach USA Tour's Federal operating authority registration or its USDOT Number. In order for Coach USA Tour to resume motor carrier operations transporting passengers in the United States, Coach USA Tour 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 Coach USA Tour to an action in the United States District Court for equitable relief and punitive damages. Coach USA

Tour 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 in accordance with 5 U.S.C. § 554 pursuant to 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 Regional Field Administrator, Eastern Service Center at the following addresses:

Assistant Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

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

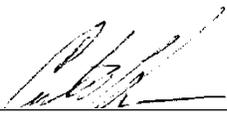
Regional Field Administrator  
Eastern Service Center  
Federal Motor Carrier Safety Administration  
802 Cromwell Park Drive  
Suite N  
Glen Burnie, MD 21061

The request must state the material facts at issue which you believe dispute or contradict the finding that Coach USA Tour'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: May 1, 2013

  
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Curtis L. Thomas  
Regional Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration

## APPENDIX A

YEAR	MAKE	MODEL	TAG NUMBER	VIN
1997	Vanhool	T900	20698	YE2TC76B7U2028593
1998	Vanhool	Bus	10656	YE2TA76BOW2029173
1999	Setr	Coach	319	WKK138UC5X1045155
2001	MCI	Coach	10655	3BMKHM3A41S090029
2002	MCI		21275	3BMXSMPAX2S080236
2012	Inti	Krysta	36722	3HAMMAAN8CL688371