

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

	)	<b>Order No.: FL-2013-5001-IMH</b>
	)	
<b>MCREA TRANSPORTATION, INC.</b>	)	<b>Service</b>
<b>USDOT 1838244</b>	)	<b>Date: _____</b>
	)	
<b>WILBER MCREA</b>	)	<b>Service</b>
	)	<b>Date: _____</b>
	)	

**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 Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”), Atlanta, Georgia. This Order applies to MCREA TRANSPORTATION, INC. (USDOT# 1838244) and WILBER MCREA, individually, (referred to collectively herein as “you,” “your,” and/or “MCREA TRANSPORTATION, INC.”) and to the commercial motor vehicles described herein.

The Secretary and FMCSA find your operations and the continued operation of your commercial motor vehicles (VIN YE2TC12B312043994 and VIN YE2TC13B7Y2043456), (herein “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 identified this Order.** “Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. MCREA TRANSPORTATION, INC.’s commercial motor vehicles, specifically including the commercial motor vehicles identified 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 MCREA TRANSPORTATION, INC.’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; MCREA TRANSPORTATION, INC.’s commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA’s Southern 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.

**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 identified in this Order.** Your fax must include the Order No., DOT No. and be to the Attention of LUCI JOHNSON. Your submission must be sent by facsimile to:

Field Administrator: 404-327-7349 (facsimile).

## **I. JURISDICTION**

MCREA TRANSPORTATION, 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 (“FMCSR”), 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.) WILBER MCREA is an individual who owns, manages, controls, directs or otherwise oversees the operations of MCREA TRANSPORTATION, INC. MCREA TRANSPORTATION, INC. is required to comply with, and to ensure that its drivers comply with, the FMCSR 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 MCREA TRANSPORTATION, INC. and WILBER MCREA, 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 MCREA TRANSPORTATION, INC., including but not limited to the commercial motor vehicles identified in this Order.

## **II. BASIS FOR ORDER**

The basis for determining that MCREA TRANSPORTATION, INC.’s motor carrier operations pose an imminent hazard to the public is that MCREA TRANSPORTATION, INC. fails to monitor and ensure that its drivers comply with drivers’ hours of service requirements, drivers’ records of duty status requirements, drivers’ qualification requirements and drivers’ controlled substances and alcohol use and testing requirements, thereby posing an ongoing and continuing imminent hazard. Further, MCREA TRANSPORTATION, INC.’s reckless business practice of structuring trips that require its drivers to either speed, exceed hours-of-service regulations and/or to falsify records of duty status - in an attempt to conceal hours of service

violations - while transporting passengers in its motor coaches between Atlanta, Georgia to New York City, New York, poses an ongoing and continuing imminent hazard. In addition, MCREA TRANSPORTATION, INC. fails to repair vehicle deficiencies thereby posing an ongoing and imminent hazard to the public. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to MCREA TRANSPORTATION, INC. drivers, passengers and the motoring public.

### **III. BACKGROUND**

On or about July 15, 2013 FMCSA began an investigation of MCREA TRANSPORTATION, INC. after a MCREA TRANSPORTATION, INC. motor coach broke down during a trip from Atlanta, Georgia to New York City, New York. The tour operator was HORSE RUN TOUR, INC. (USDOT# 1192242) and the carrier was MCREA TRANSPORTATION, INC. The bus broke down on or about July 11, 2013 at approximately 2:30 AM just south of the North Carolina and Virginia border leaving 50 passengers stranded for over 10 hours. Virginia and North Carolina law enforcement arranged for the passengers to be driven by a school bus to the Virginia Welcome Center. FMCSA's subsequent investigation revealed egregious regulatory violations demonstrating MCREA TRANSPORTATION, INC.'s blatant disregard for motor coach passenger safety.<sup>1</sup>

MCREA TRANSPORTATION, INC. is flagrantly operating in violation of FMCSA's hours of service and controlled substance testing requirements. MCREA TRANSPORTATION, INC. admitted that its curbside trips from Atlanta, Georgia to New York

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<sup>1</sup> FMCSA's compliance review of MCREA TRANSPORTATION, INC. contains a proposed safety rating of "Unsatisfactory." The Compliance Review discovered violations in Parts 382 (Controlled Substances and Alcohol use and testing); 383 (Commercial Driver's License Standard); 390 (Federal Motor Carrier Safety Regulations); 391 (Qualifications of Drivers); 392 (Driving of Commercial Motor Vehicles); 395 (Hours of Service of Drivers) and 396 (Inspection, Repair and Maintenance).

City, New York are often arranged a few hours before the trips begin without adequate time to ensure drivers are qualified and have passed pre-employment controlled substance and alcohol screens. MCREA TRANSPORTATION, INC. also admitted that its curbside trips from Atlanta, Georgia to New York City, New York cannot be accomplished within allowable time limits, requiring the drivers to either speed, exceed the hours-of-service regulations and/or to falsify records of duty status in order complete the route as advertised and dispatched. In addition, the review found that MCREA TRANSPORTATION, INC. does not pay its drivers. The drivers are paid by Horse Run Tour, Inc., an inactive and defunct Georgia company that is not authorized to operate commercial motor vehicles in interstate commerce.

In the past 13 months MCREA TRANSPORTATION, INC. has a 75% roadside inspection vehicle out-of-service rate. MCREA TRANSPORTATION, INC. has admitted it has no control over vehicle maintenance, which is conducted in New York City, New York where its vehicles are stored. WILBER MCREA has admitted to having no internal preventative maintenance program to ensure the safe operation of the vehicles under his control and further provided no evidence or documentation that periodic preventative maintenance has been completed for MCREA TRANSPORTATION, INC. vehicles. In addition, MCREA TRANSPORTATION, INC. does not conduct Emergency Exit Inspections. MCREA TRANSPORTATION, INC. fails to require its drivers to report vehicle deficiencies on required daily inspection reports, thereby posing an ongoing and imminent hazard to the public.

MCREA TRANSPORTATION, INC. also does not follow FMCSA driver qualification requirements to ensure that its drivers are qualified to transport passengers in its motor coaches. MCREA TRANSPORTATION, INC. fails to ensure that its drivers have valid Commercial Drivers Licenses. On or about December 17, 2012, MCREA TRANSPORTATION, INC.

authorized its Driver A to operate a 50 passenger motor coach on a trip from New York City, New York to Atlanta, Georgia. The tour operator was Horse Run Tour, Inc. and the carrier was MCREA TRANSPORTATION, INC. The driver's Class A Commercial Driver's License restricted his operation of commercial motor vehicles to vehicles containing 7 passengers or less. On the same day the driver was also cited for unloading passengers, and parking, on a major highway while blocking traffic. FMCSA's investigation has revealed egregious regulatory violations demonstrating MCREA TRANSPORTATION, INC.'s blatant disregard for motor coach passenger safety.

MCREA TRANSPORTATION, INC. is using drivers who have not completed pre-employment controlled substance testing. MCREA TRANSPORTATION, INC. has admitted that it does not have a random controlled substance and/or alcohol testing program and has not completed any random controlled substance and/or alcohol testing in 2013. MCREA TRANSPORTATION, INC. has failed to comply with FMCSA mandated random controlled substance testing requirements to ensure that its drivers are able to safely operate its motor coaches. MCREA TRANSPORTATION, INC.'s irresponsible actions in allowing unqualified drivers to operate motor coaches substantially increases the likelihood of serious injury or death to MCREA TRANSPORTATION, INC.'s drivers, passengers, and the motoring public.

In sum, MCREA TRANSPORTATION, INC.'s continued and blatant disregard for the FMCSR substantially increases the likelihood of serious injury or death and is an imminently hazardous and potentially deadly risk for its own drivers, passengers, and for the motoring public.

#### **IV. REMEDIAL ACTION**

To eliminate this imminent hazard, and before MCREA TRANSPORTATION, INC. will

be permitted to resume operations placed out-of-service by this Order, MCREA TRANSPORTATION, INC. must take specific steps to ensure and demonstrate compliance with the FMCSR.

1. MCREA TRANSPORTATION, INC. must drastically change its company and management philosophy regarding driver oversight and vehicle maintenance.
2. MCREA TRANSPORTATION, INC. must take aggressive and progressive steps to control drivers' hours of service.
3. MCREA TRANSPORTATION, INC. 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.
4. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC. must ensure that each of its drivers complies with the hours of service rules in 49 C.F.R. § 395.8. MCREA TRANSPORTATION, INC. must maintain each record of duty status for a minimum of six months in accordance with 49 C.F.R. § 395.8.
5. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC. must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to MCREA TRANSPORTATION, INC. within 13 days of their completion. MCREA TRANSPORTATION, INC. must maintain drivers' records of duty status and demonstrate a system showing that the company can and will maintain all supporting documents. Further, MCREA TRANSPORTATION, INC. must ensure that all records of duty status are accurate by

using all means available to MCREA TRANSPORTATION, INC. and by comparing each record with all supporting documentation.

6. MCREA TRANSPORTATION, INC. must establish policies and procedures to ensure that all drivers are adequately trained in the requirements of the FMCSR and that they are able to conduct motor carrier operations consistent with those regulations.

7. MCREA TRANSPORTATION, INC. 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). MCREA TRANSPORTATION, INC. must also ensure that it has an adequate maintenance program in place to ensure compliance with the FMCSR.

8. MCREA TRANSPORTATION, INC. 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 procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. MCREA TRANSPORTATION, INC. 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.

9. MCREA TRANSPORTATION, INC. must establish policies and procedures to ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. MCREA TRANSPORTATION, INC. must ensure that every driver it uses has completed and furnished an employment application. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC.

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. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC. 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.

10. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC. 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. MCREA TRANSPORTATION, INC. must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). MCREA TRANSPORTATION, INC. 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.

11. MCREA TRANSPORTATION, INC. 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 49 and 382. MCREA TRANSPORTATION, INC. 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.

12. MCREA TRANSPORTATION, INC. must mark, in accordance with 49 CFR § 390.21, any commercial motor vehicles owned or operated by MCREA TRANSPORTATION, INC. with the appropriate carrier name and US DOT number.

13. MCREA TRANSPORTATION, INC. must contact FMCSA's Florida Division and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

14. MCREA TRANSPORTATION, INC. must comply with all Orders issued by FMCSA.

#### **V. RESCISSION OF ORDER**

MCREA TRANSPORTATION, INC. 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 MCREA TRANSPORTATION, INC. has valid and active USDOT number and operating authority registration, MCREA TRANSPORTATION, INC. 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, MCREA TRANSPORTATION, INC. 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.

MCREA TRANSPORTATION, INC. 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 MCREA

TRANSPORTATION, INC. 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 the Order, MCREA TRANSPORTATION, INC. 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. Submit a statement of the owners and managing officers of MCREA TRANSPORTATION, INC. that they are committed to complying with the FMCSR.**
- 4. Submit a list of all owners, managing officers, partners and employees of MCREA TRANSPORTATION, INC. directly involved in the implementation of the items listed in the Safety Management Plan of action. Identify by name, title and description of duties.**
- 5. 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, Florida 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, Florida Division  
Federal Motor Carrier Safety Administration  
545 Knox Road, Room 102

Tallahassee, Florida 32303

Rescission of this Order does not constitute a reinstatement of MCREA TRANSPORTATION, INC.'s Federal operating authority registration or its USDOT Number. In order for MCREA TRANSPORTATION, INC. to resume motor carrier operations transporting passengers in the United States, MCREA TRANSPORTATION, INC. 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 FMCSR; 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 C.F.R. §§ 385.5 and 385.7; and 5) the 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 MCREA TRANSPORTATION, INC. to an action in the United States District Court for equitable relief and punitive damages. MCREA TRANSPORTATION, INC. may be assessed civil penalties of up to \$25,000 for a violation of this Order. (49 U.S.C. § 521(b)(2)(F)). 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 FMCSR, 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 FMCSR 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 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, DC 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, GA 30345

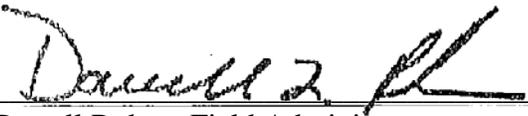
The request must state the material facts at issue which you believe dispute or contradict the finding that MCREA TRANSPORTATION, INC.'s operation of its commercial motor vehicle(s) constitutes an imminent hazard to the public.

**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: July 24, 2013

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