

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

)	Order No.: MA-2014-5000-IMH	
)		
D’FAMILY TRANSPORTATION, LLC)		
USDOT NO.: 2332595)	Service Date:	_____
)		
D’BOSTON TRANSPORTATION, INC.)		
USDOT NO.: 2456132)	Service Date:	_____
)		
LUIS CONTRERAS)	Service Date:	_____
)		
JUAN STEPAN)	Service Date:	_____
)		
RAMON CASTILLO)	Service 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.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Easter Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”), Glen Burnie, Maryland. This Order applies to **D’Family Transportation, LLC** (USDOT# 2332595), **D’Boston Transportation, Inc.** (USDOT# 2456132), and **Luis Contreras, Juan Stepan, and Ramon Castillo**, individually (referred to collectively herein as “you”, “your”, “it”, and/or “D’Boston”) and to all vehicles owned or operated by or on behalf of D’Boston, including without limitation the commercial motor vehicles identified herein.

The Secretary and FMCSA find your operations and the continued operation of any commercial motor vehicles (including but not limited to VINs 1FBSS3BLXADA83012,

1FBSS31L38DB36788, 1FBSS31L69DA30420, 1FBSS3BL3BDB10214, 1FBSS3BLBDA98946, and 1FBSS31L26DA49347), referred to herein as “commercial motor vehicles,” and/or “motor vehicles,” 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 vehicle, 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.

D’Boston’s commercial motor vehicle(s), 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 vehicle may not be operated – even without passengers. Any movement of D’Boston’s commercial motor vehicles(s), 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 vehicles themselves are not driven or operated. D’Boston’s commercial motor vehicles may be moved only upon the written approval of the Regional Field Administrator for FMCSA’s Eastern 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 accommodated. (*See* 49 C.F.R. § 386.72(b)(4) and (5)).

D'BOSTON MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL PASSENGERS, NOR MAY D'BOSTON 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, D'Boston must submit to the Regional Field Administrator in writing by facsimile the location of each of the commercial motor vehicles operated by or on behalf of D'Boston, including the vehicles identified in this Order. The submission must be sent to:

Regional Field Administrator
443-703-2253 (facsimile)

I. JURISDICTION

D'Boston 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, as well as the Orders of the USDOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, and 31144). Luis Contreras, Juan Stepan, and Ramon Castillo are individuals who own, manage, control, direct or otherwise oversee the operations of D'Boston. D'Boston 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 D'Boston, Luis Contreras, Juan Stepan, and Ramon Castillo, as well as any and all D'Boston 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 or under the registration and authority of D’Boston, including but not limited to the vehicles identified in this Order.

II. BASIS FOR ORDER

The basis for determining that D’Boston’s motor carrier operations pose an imminent hazard to the public is D’Boston’s widespread and serious noncompliance with Federal safety regulations.¹ D’Boston fails to ensure that its motor vehicles are systematically and properly inspected, repaired and maintained and meet minimum safety standards. Further, D’Boston fails to monitor and ensure that its drivers comply with drivers’ hours of service requirements, drivers’ records of duty requirements, and driver qualification requirements.

D’Boston has an inherently unsafe vehicle maintenance and driver oversight program because of the business model it has chosen to follow. Specifically, D’Boston has organized itself as group of independent passenger van owners who share business expenses. D’Boston permits individual passenger van owners to operate under its registration and authority in exchange for those passenger van owners sharing a portion of the trip fare with D’Boston. D’Boston, however, fails to ensure that the motor vehicles being operated under its registration and authority are periodically inspected or that these motor vehicles are in safe operating condition. Moreover, D’Boston has no system for monitoring and tracking drivers’ hours of service and does not require its drivers to complete records of duty status; during FMCSA’s investigation, Mr. Contreras asserted that D’Boston could not force or require its drivers to complete records of duty status, and that D’Boston left it to the individual driver to ensure compliance with the hours of

¹ Luis Contreras as the President, and Juan Stepan and Ramon Castillo as Corporate Officers, are responsible for ensuring D’Boston’s compliance with the FMCSRs.

service requirements.

D'Boston's lack of regulatory compliance with regard to driver oversight amounts to more than merely benign neglect. Indeed, FMCSA investigators discovered that D'Boston takes affirmative steps to violate safety regulations and ensure that its drivers avoid regulatory action by FMCSA by scheduling its trips in such a way that it would be impossible for a driver to complete the trip without either speeding or violating the hours of service regulations, and instructing its drivers to avoid toll roads and roads where inspection stations are located.

D'Boston'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.

III. BACKGROUND

Luis L. Contreras applied for a USDOT number on or about August 9, 2012 and was assigned USDOT# 2332595. Mr. Contreras later notified FMCSA that he had changed the name of this entity to D'Family Transportation, LLC. On its MCS-150 Form dated November 21, 2012, D'Family Transportation, LLC identified its President as Luis L. Contreras. On or about December 16 2013, FMCSA placed D'Family Transportation, LLC out-of-service for failure to submit to a New Entrant safety audit. This out-of-service Order remains in effect.

D'Boston Transportation, Inc. was created and applied for a USDOT number on or about November 22, 2013. FMCSA attempted on several occasions to conduct a review of D'Boston Transportation, Inc.'s safety practices. D'Boston Transportation,

Inc. did not respond to FMCSA's attempts to schedule the review until FMCSA served on D'Boston Transportation, Inc. a demand for records.

During FMCSA's review of D'Boston Transportation, Inc., Mr. Contreras, Mr. Stepan, and Mr. Castillo represented the company. Mr. Contreras admitted that D'Boston Transportation, Inc. was a successor to and continuation of D'Family Transportation, Inc., and that he was the President of D'Boston Transportation, Inc. On behalf of D'Family Transportation, Inc. and D'Boston Transportation, Inc., Mr. Contreras agreed that FMCSA should link the safety records of the two entities.

FMCSA's review uncovered egregious regulatory violations demonstrating D'Boston's flagrant disregard for passenger safety.² D'Boston fails to ensure that its motor vehicles are systematically and properly inspected, repaired and maintained and meet minimum safety standards; indeed, inspections during February 2014 of four (4) motor vehicles operated by D'Boston resulted in all being placed out of service for vehicle defects.³

D'Boston has an inherently unsafe and ineffective inspection repair and maintenance program because of the business model it has chosen to follow. Specifically, D'Boston has organized itself as group of independent passenger van owners who share business expenses. D'Boston permits individual passenger van owners to operate under its registration and authority in exchange for those passenger van owners sharing a portion of the trip fare with D'Boston. D'Boston, however, fails to

² As part of its investigation, FMCSA completed a compliance review of D'Boston. D'Boston received a proposed safety rating of "Unsatisfactory."

³ The violations discovered included no or unsecured fire extinguisher, no or defective bus emergency exit windows, no or insufficient warning devices, no or inadequate bus emergency exit markings, no bus driveshaft protection, and numerous other violations.

ensure that the motor vehicles being operated under its registration and authority are periodically inspected or that these motor vehicles are in safe operating condition.

For example, FMCSA investigators discovered that a motor vehicle being operated under D’Boston’s registration and authority was placed out of service for various safety defects on February 6, 2014. During an interview on February 26, 2014, Luis Contreras did not know whether the defects had been repaired or even whether the vehicle was still in operation. Despite clear regulatory language to the contrary, Mr. Contreras denied that D’Boston was responsible for ensuring that vehicles being operated under D’Boston’s registration and authority were adequately maintained. D’Boston’s inadequate maintenance program substantially increases the risk of serious injury or death and is an imminently hazardous and potentially deadly situation for D’Boston’s drivers, passengers, and the motoring public.

D’Boston fails to monitor and ensure that its drivers comply with drivers’ hours of service requirements, drivers’ records of duty requirements, and drivers’ qualification requirements. D’Boston has no system for monitoring and tracking drivers’ hours of service and does not require its drivers to complete records of duty status. As with the vehicle maintenance deficiencies discovered, D’Boston’s business model is the cause of its driver oversight failures. Mr. Contreras asserted during the investigation that D’Boston could not force or require its drivers to complete records of duty status, and that D’Boston left to the individual driver the responsibility to ensure compliance with the hours of service requirements. Moreover, FMCSA investigators discovered that D’Boston schedules its trips in such a way that it would be impossible for a driver to complete the trip without either speeding or violating the hours of

service regulations and instructs its drivers to avoid toll roads and roads where inspection stations are located.

D’Boston also fails to ensure that its drivers are qualified before allowing them to perform safety-sensitive functions. Specifically, D’Boston fails to inquire into its drivers’ driving records, which led to D’Boston dispatching a driver whose license had been suspended for a moving violation. Further, D’Boston fails to ensure that its drivers are medically examined and certified.

Individually and cumulatively, these violations and conditions of dispatch and operation substantially increase the likelihood of serious injury or death to D’Boston drivers and passengers and the motoring public.

IV. REMEDIAL ACTION

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

1. D’Boston must drastically change its company and management philosophy regarding driver oversight and vehicle maintenance.
2. D’Boston must establish sufficient safety management controls to abate the hazards associated with its lack of safety management controls over its drivers’ hours of service. D’Boston must ensure its drivers accurately and fully complete their daily records of duty status and submit them to the carrier within 13 days of completion. D’Boston must maintain drivers’ records of duty status and all supporting documents for a minimum period of 6 months. Further, D’Boston must ensure that all records of duty status are accurate by using all means available to it and by comparing each with all supporting documentation.

3. D’Boston must take aggressive and progressive steps to control drivers’ hours of service.

4. D’Boston 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.

5. D’Boston must ensure that each of its drivers accurately records his or her duty status for each 24-hour period, including without limitation all on-duty time spent in other employment, in accordance with 49 C.F.R. § 395.8. D’Boston must ensure that each of its drivers complies with the hours of service rules in 49 C.F.R. § 395.8.

D’Boston must maintain each record of duty status for a minimum of six months in accordance with 49 C.F.R. § 395.8.

6. D’Boston 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.

7. D’Boston must submit to the Regional Field Administrator a plan detailing how it will: (i) train all drivers used on compliance with the HOS regulations; (ii) monitor the compliance of all drivers with the HOS regulations; and (iii) ensure that all drivers are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

8. D’Boston must establish safety management controls and procedures that ensure that each and every commercial motor vehicle it operates is systematically and properly inspected, maintained and repaired as required by 49 C.F.R. Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required.

9. D’Boston 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. D’Boston 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. D’Boston 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).

11. D’Boston 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. D’Boston 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. D’Boston 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. D’Boston must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of passengers prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

13. D’Boston must contact FMCSA’s Massachusetts Division and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

14. D’Boston must ensure that it only dispatches drivers who are able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.

15. D’Boston must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

D’Boston 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 D’Boston has a valid and active USDOT number and operating authority registration, D’Boston 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, D’Boston 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’s satisfaction the actions taken to eliminate the safety problems.

D’Boston 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 D’Boston 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 this Order, D’Boston 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 D’Boston 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 D’Boston’s Federal operating authority registration or its USDOT Number. In order for D’Boston to resume motor carrier operations in the United States, D’Boston will be required to apply to reactivate its USDOT number registration, reapply for and receive operating authority registration, and demonstrate that D’Boston 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 D'Boston to an action in the United States District Court for equitable relief and punitive damages. D'Boston 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 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 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 D'Boston's operations constitute 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: March 6, 2014



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