

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

<b>ADVERSITY TRANSPORT INC.</b>	)	<b>Order No.: TX-2022-5000-IMH</b>
	)	
<b>USDOT NO. 3424480</b>	)	<b>Service Date: January __, 2022</b>
<b>MC NO. 1107888</b>	)	<b>Service Time: _____</b>
	)	

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

This is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) issued by the Secretary of the United States Department of Transportation (the “Secretary”) pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31132(3), 31133(a)(10), 31134, 31144(c)(1), and 49 CFR § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), and the United States Department of Transportation (“USDOT”). This ORDER applies to Adversity Transport Inc. (USDOT No. 3424480) (collectively referred to as “you,” “your,” or “Adversity”). Additionally, this ORDER applies to all your officers, agents, and employees and to all commercial motor vehicles owned or operated on your behalf.

The Secretary and the FMCSA find your continued operation of any commercial motor vehicle (“CMV”)<sup>1</sup> in interstate or intrastate commerce constitutes an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your

---

<sup>1</sup> Under 49 CFR § 390.5T, a commercial motor vehicle includes “any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—(1) [h]as a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) [i]s designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) [i]s designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.”

operation of any CMV substantially increases the likelihood of serious injury or death if not discontinued immediately.

**EFFECTIVE IMMEDIATELY YOU MUST**  
**CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS IN**  
**INTERSTATE AND INTRASTATE TRANSPORTATION.**

Your vehicles and drivers now in interstate or intrastate commerce may proceed to the next scheduled stop where the cargo on board can be safely secured. However, because [REDACTED] [REDACTED] is a prohibited driver under 49 CFR § 382.503 and [REDACTED] is prohibited from operating under 49 CFR § 383.37 based on his suspended license, both of these drivers are ordered out-of-service and must cease driving immediately. *See* 49 CFR § 386.72(b)(4) and (5).

**YOU MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL CARGO OR**  
**OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR**  
**INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.**

“Operate” or “operating” includes without limitation all interstate and intrastate transportation by your drivers from all dispatching locations or terminals.

Commercial motor vehicles may not be operated in interstate or intrastate commerce by you or on your behalf.

**Within eight (8) hours of the service of this ORDER, you must submit to the Regional Field Administrator in writing by electronic mail the location of each CMV under your control. You must identify the vehicle by year, make, model and vehicle identification number (VIN). You must include a copy of the current registration. You must also identify the street address, city, and state of the location of each vehicle, and you must identify the driver last operating the vehicle. Your submission must be sent to:**

Regional Field Administrator  
WSCENF@dot.gov (electronic mail)

Any sale, lease, or other transfer of equipment under your control and/or direct assignment of contracts or other agreements for service by you requires written approval by the Regional Field Administrator.

You cannot avoid this ORDER by continuing operations under the name of another person or company. *See* 49 CFR § 386.73.

## **I. JURISDICTION**

You conduct motor vehicle operations in interstate commerce using a combination of motor vehicles with a gross vehicle weight rating (“GVWR”) of 26,001 pounds or more. Therefore, you are subject to Federal motor carrier safety statutes and regulations, including the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 CFR Parts 350-399, and the alcohol and controlled substances regulations at 49 CFR Part 40, as well as Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, 31144, and 31306. You are required to comply, and to ensure your drivers comply, with the FMCSRs, alcohol and controlled substances regulations, and Orders of the USDOT and FMCSA. *See* 49 U.S.C. § 31135(a); 49 CFR § 390.11.

This ORDER has the force and effect of any other Order issued by FMCSA and is binding on you, and all owners, 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 you.

## **II. BACKGROUND AND BASIS FOR ORDER**

The basis for determining that your motor vehicle operations pose an imminent hazard to the public is your continued widespread noncompliance with the FMCSRs, including

regulations in 49 CFR Part 392 (Driving of CMVs), 49 CFR Part 393 (Parts and Accessories Necessary for Safe Operation), 49 CFR Part 395 (Hours of Service of Drivers), and 49 CFR Part 396 (Inspection, Repair, and Maintenance).

FMCSA's investigation and inspections by FMCSA's state partners reveal that you lack any safety management controls to ensure that your drivers operate your CMVs safely and that your CMVs are in safe operating condition. The cumulative violations of the FMCSRs substantially increase the likelihood of death or serious injury to your drivers and the motoring public and establishes an imminent hazard.

The specific deficiencies that substantially increase the likelihood of serious injury or death if not discontinued immediately are as follows:

A. Egregious Safety Violations Discovered During Roadside Inspections

Since August 2020, based on data collected from FMCSA's state partners, your drivers and/or CMVs have been the subject of fourteen roadside inspections. In eleven of those fourteen inspections roadside officers discovered out-of-service violations. Your driver out-of-service rate is 50%, compared to the national average of 6%, and your vehicle out-of-service rate is 89%, compared to the national average of 21%. These extensive and repeated violations in 49 CFR Parts 392, 393, 395, and 396 demonstrate your lack of any safety management controls.

1. Vehicle Maintenance and Inspection

You do not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe CMVs in violation of 49 CFR § 396.3(a). As explained in greater detail below, we have attempted to contact you to determine the size of your operation and your compliance with the FMCSRs. You have failed to respond and/or avoided our contact attempts. On the Unified Registration System Application ("MCSA-1")

submitted to FMCSA on May 5, 2020, you indicated that you owned one truck tractor and one trailer and did not rent any CMVs. However, since August 7, 2020, four truck tractors and four trailers operated by you have been inspected by roadside officers. Three of the truck tractors and three of the trailers were placed out-of-service during these roadside inspections. In other words, your vehicle maintenance problems are pervasive as 75% of your vehicles that have been inspected have been placed out-of-service on at least one occasion. Further, on at least one occasion, it appears that even when an out-of-service vehicle violation was discovered by a roadside officer, you allowed your drivers to continue operating the vehicle prior to repairs being made, in violation of 49 CFR § 396.9(c)(2).

Specific roadside inspections with the violations discovered are identified below:

- a) On August 7, 2020, the Kansas Highway Patrol inspected your CMV. During the inspection, six vehicle maintenance violations were discovered including one out-of-service violation of 49 CFR § 393.75(a) for a flat and shredded tire.
- b) On October 12, 2020, the Colorado State Patrol inspected your CMV and discovered eighteen vehicle maintenance violations including four vehicle out-of-service violations: (1) 49 CFR § 393.9T, inoperative turn signal on trailer; (2) 49 CFR § 393.9, inoperative brake lamps on the trailer; (3) 49 CFR § 396.3(a)(1), 20% or more of brakes out-of-service; (4) 49 CFR § 393.47(a), inadequate brakes for safe stopping.
- c) On April 25, 2021, the Nebraska State Patrol inspected your CMV and discovered twelve vehicle maintenance violations including four out-of-service violations: (1) 49 CFR § 393.207, air suspension pressure loss; (2) 49 CFR § 393.75(a)(2), tire-tread and/or sidewall separation, axle four right outside; (3) 49 CFR § 393.47(d)

insufficient brake lining; and (4) 49 CFR § 396.3(a)(1), 20% or more of brakes out-of-service.

- d) On June 11, 2021, the Missouri State Highway Patrol inspected your CMV and discovered four vehicle maintenance violations including two out-of-service violations: (1) 49 CFR § 393.9, inoperable rear brake lights on the trailer; (2) 49 CFR § 393.75(a)(3) blown outside tire at axle four. This is the same CMV that had tire tread and/or sidewall separation in the same location during the inspection on April 25, 2021.
- e) On December 10, 2021, the Missouri State Highway Patrol inspected your CMV. During the inspection, eight vehicle maintenance violations were discovered including four out-of-service violations: (1) 49 CFR § 393.75(a) – tire flat and/or audible air leak; (2) 49 CFR § 393.45 – brake tubing and hose adequacy; (3) 49 CFR § 393.201(a) – cracked frame; and (4) 49 CFR § 393.104(c) – damaged vehicle structures/anchor points.
- f) The Texas Department of Public Safety Commercial Vehicle Enforcement inspected a different CMV of yours on December 10, 2021 as well. During this inspection, the roadside officer discovered ten vehicle maintenance violations including an out-of-service violation of 49 CFR § 396.3(a), 20% or more of brakes out-of-service.

Additionally, on at least five trips you operated a CMV in interstate commerce without a current annual inspection in violation of 49 CFR § 396.17(a).

## 2. Hours of Service

You fail to have a system in place to monitor your drivers' hours of service compliance as required by 49 CFR Part 395. You do not require your drivers to complete records of duty status ("RODS") as required by 49 CFR § 395.8. Five out of the ten drivers inspected while

operating your CMVs have been placed out-of-service for hours of service (“HOS”) violations.

On April 9, 2021, you failed a new entrant safety audit based on your failure to use electronic logging devices (“ELDs”) in violation of 49 CFR § 395.8(a)(1). You submitted a corrective action plan (“CAP”) on June 7, 2021 indicating that you installed Keep Truckin ELDs. However, since you submitted your CAP, out of ten inspections, at least five were in interstate commerce and resulted in driver out-of-service violations for no ELD in violation of 49 CFR § 395.8(a)(1) or failure to retain records of duty status (“RODS”) in violation of 49 CFR § 395.8(k)(2).

### 3. Unsafe Driving

You fail to ensure that your drivers safely operate CMVs, including operating in accordance with the laws, ordinances and regulations of the jurisdiction in which the CMVs are operated, as required by 49 CFR Part 392.

On October 22, 2020, your owner, Shaquan Jeremaine Jelks, caused a single vehicle rollover crash resulting in damage to the road and concrete barrier. The investigating officer determined that unsafe speed was a contributing factor to the crash and issued Mr. Jelks a citation for unsafe speed.

More recently, three additional drivers were cited for driving over the speed limit while operating your CMVs in interstate commerce in violation of 49 CFR § 392.2: (1) On October 1, 2021, your driver was cited for operating 11-14 miles per hour (“mph”) over the speed limit; (2) On October 29, 2021, a second driver was cited for operating 6-10 mph over the speed limit; and (3) On November 15, 2021, a third driver was cited for operating 6-10 mph over the speed limit.

Additionally, on June 11, 2021, while operating a CMV in interstate commerce, your driver was in possession of marijuana and used a handheld mobile telephone in violation of 49 CFR §§ 392.4 and § 392.82(a)(1) respectively.

#### 4. Driver Qualification

You fail to ensure that only qualified drivers operate your CMVs. Your driver was cited during roadside inspections for operating with a suspended license on October 1 and December 10, 2021. Additionally, on August 26, 2021, your driver operated truck tractor with VIN ending in 4056 and trailer with VIN ending in 1008 while he was prohibited in FMCSA's drug and alcohol clearinghouse.

#### B. Pattern of Evading FMCSA

You have repeatedly ignored FMCSA's contact attempts and denied FMCSA access to records required to complete an investigation of your motor carrier operations. On November 19, 2021, after attempting to contact you by phone and email, FMCSA served a Demand to Inspect and/or Copy Records ("Demand") on you. The Demand provided notice to you that failure to comply with the Demand could result in FMCSA ordering your motor carrier operations out-of-service and/or suspending or revoking your operating authority registration. The Demand also provided notice of the procedure to request administrative review. You did not respond to the Demand or request administrative review.

On December 1, 2021, FMCSA served on you an Out-of-Service Order and Order to Cease All Interstate Operations ("OOS Order") issued pursuant to 49 U.S.C. § 521(b)(2)(E) for failure to comply with the Demand. You failed to respond to the OOS Order, which took effect December 8, 2021. You ignored the OOS Order and allowed two CMVs to operate on your behalf in interstate commerce on December 10, 2021.



Finally, on December 28, 2021, FMCSA served on you an Order Suspending Operating Authority Registration pursuant to 49 U.S.C. §§ 525 and 13905(d) based on your continued and willful failure to comply with applicable regulations and an Order of the Secretary.

As a result of your continued refusal to respond to FMCSA and allow access to records, FMCSA has not been able to conduct an investigation into your compliance with Federal requirements including the FMCSRs.

### C. Effect of Violations

Your complete and utter disregard for the FMCSRs substantially increases the likelihood of serious injury or death for your drivers and the motoring public if your operations are not discontinued immediately. Your entire operations constitute an imminent hazard to safety which may only be abated by the cessation of your entire operations.

## **III. REMEDIAL ACTION**

To eliminate this imminent hazard, and before you will be permitted to resume your motor carrier operations placed out of service by this Order, you must take specific steps to ensure and demonstrate compliance with the FMCSRs including the following:

1. You must establish safety management controls and procedures to ensure that your drivers comply with the hours of service requirements as set forth in 49 CFR Part 395 including ensuring that your drivers (1) prepare and submit records of duty status using the appropriate method (2) retain and submit supporting documents, (3) do not exceed maximum driving times, and (4) do not falsify records of duty status. Your safety management controls must also ensure that you maintain drivers' records of duty status and supporting documents for 6 months in accordance with 49 CFR § 395.8(k).
2. You must establish safety management controls and procedures that ensure that each and every CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, is safe and is systematically and properly inspected, maintained, and repaired as required by 49 CFR Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required. Your

safety management controls must ensure that your drivers complete Driver Vehicle Inspection Reports when required in accordance with 49 CFR § 396.11.

3. You must ensure that each CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, has been and is periodically inspected as required by 49 CFR § 396.17 and Appendix G to Subchapter B of Chapter III.
4. You must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of your CMVs are repaired and that vehicle out-of-service defects discovered are repaired before the vehicle is operated in accordance with 49 CFR § 396.9(c)(2).
5. You must contact FMCSA's Texas Division and arrange for inspection of each of your CMVs by an FMCSA inspector or an inspector designated by FMCSA.
6. In accordance with 49 CFR § 390.3T(e), you must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they can conduct motor carrier operations consistent with those regulations.
7. You must demonstrate that your drivers will operate CMVs in accordance with the laws, ordinances, and regulations of the jurisdiction(s) in which you are operating especially compliance with the posted speed limits.
8. You must establish safety management controls and procedures to ensure that your drivers do not operate CMVs while they possess, are under the influence of, or use, any of drugs and controlled substances identified in 49 CFR § 392.4.
9. You must establish safety management controls and procedures to ensure that your drivers do not use hand-held mobile telephones while operating CMVs.
10. You must comply with all Orders issued by FMCSA.

#### **IV. RESCISSION OF ORDER**

You are subject to this ORDER unless and until this ORDER is rescinded in writing by FMCSA. Until this ORDER is rescinded and you have a valid and active USDOT number and, as applicable, operating authority registration, you are prohibited from operating any commercial motor vehicle, as defined by 49 CFR § 390.5T, in interstate and/or intrastate

commerce. This ORDER will not be rescinded until the Regional Field Administrator for FMCSA's Western Service Center has determined that the Remedial Action requirements, specified in Paragraph III of this ORDER, have been fully satisfied and acceptable documentation submitted.

Before this ORDER may be rescinded, you must comply with the provisions of this ORDER, eliminate the deficiencies constituting the imminent hazard that your CMV operations pose, and provide evidence to the Regional Field Administrator for FMCSA's Western Service Center of the actions taken to eliminate safety problems.

Any request to rescind this ORDER and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Regional Field Administrator, Western Service Center, with a copy to the Division Administrator, Texas Division, at the following addresses:

Regional Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, CO 80215  
wscenf@dot.gov

Division Administrator, Texas Division  
Federal Motor Carrier Safety Administration  
903 San Jacinto Blvd., Suite 1100  
Austin, TX 78701  
Joanne.cisneros@dot.gov

In order for you to resume motor carrier operations in interstate or intrastate commerce, you will be required to apply for any required operating authority registration and demonstrate that you are 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 31139.

To be eligible for registration, you must not be subject to any other order prohibiting you from operating in interstate commerce.

## **V. ENFORCEMENT OF ORDER**

This ORDER, issued pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31144(c)(1) and (5), 31132(3), 31133, and 31134 and 49 CFR § 386.72(b)(1), is an Order of, and enforceable by, the Secretary. Violations of this ORDER may subject you to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. You may be assessed civil penalties of up to \$28,142 for each violation of this ORDER. *See* 49 U.S.C. §§ 507, 521(b)(2)(F) and 521(b)(4) and 49 CFR Part 386 App. A. § IV(g)). You may also be assessed civil penalties of not less than \$11,256 for providing transportation requiring registration, including operating a CMV in interstate commerce, without operating authority registration and up to \$15,876 for operating a CMV in interstate commerce without USDOT number registration. *See* 49 U.S.C. §§ 14901, 14702-03, 507, 521(b)(2)(F) and 31134. 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).

## **VI. PENALTIES FOR VIOLATIONS OF FEDERAL REQUIREMENTS**

Any person, including any CMV operator, employer, and/or 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 statute 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.

## **VII. RIGHT TO REVIEW**

You have the right to administrative review under 5 U.S.C. § 554 and 49 CFR § 386.72(b)(4). If requested, administrative review must commence within ten days after the petition for review is filed and must be concluded as expeditiously as practicable but may run longer than ten days from the date of issuance of such Order or the filing of the petition for review. See 49 U.S.C. § 521(b)(5) and 49 CFR § 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 Adjudications Counsel and the Regional Field Administrator, Western Service Center, via electronic mail or at the following addresses:

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

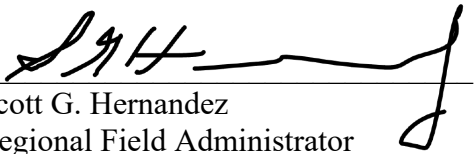
Adjudications Counsel (MC-CCA)  
Federal Motor Carrier Safety Administration  
Office of the Chief Counsel  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590  
FMCSA.Adjudication@dot.gov

Regional Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 W. Colfax Ave., Suite B-300  
Lakewood, CO 80215  
wscenf@dot.gov

The request must state the material facts at issue which you believe dispute or contradict the finding that your CMV operations in interstate or intrastate commerce constitute an imminent hazard to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY.** *See* 49 CFR § 386.72(b)(4). This ORDER is separate and independent from all other orders or actions that may be issued by FMCSA or other jurisdiction, and does not amend or modify any other orders or actions. Any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: January 21 2022

  
\_\_\_\_\_  
Scott G. Hernandez  
Regional Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration