

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

KOBOAT TRUCKING, LLC	)	Order No.: TX-2022-5002-IMH
	)	
USDOT NO. 3273682	)	Service Date: March 4, 2022
MC NO. 1033898	)	Service Time: 4:34pm
	)	

**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 Koboat Trucking, LLC (USDOT No. 3273682) (referred to as “you,” “your,” or “Koboat”). 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

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<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 vehicle(s) and driver(s) now in interstate or intrastate commerce may proceed to the next scheduled stop where the cargo on board can be safely secured.

**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](mailto: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. You are therefore 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 382, (Controlled Substances and Alcohol Use and Testing), 49 CFR Part 383 (Commercial Driver’s License Standards), 49 CFR Part 391 (Qualifications of

Drivers), 49 CFR Part 395 (Hours of Service of Drivers), and 49 CFR Part 396 (Vehicle 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

During an investigation conducted in February 2022 and roadside inspections beginning in June 2021, extensive and repeated violations were discovered in 49 CFR Parts 382, 383, 391, 395, and 396 that demonstrate your lack of any safety management controls. The proposed safety rating based on the compliance investigation is Unsatisfactory.

1. Alcohol and Controlled Substances

You failed to implement an effective alcohol and controlled substances testing program: (1) you permitted a driver who tested positive for controlled substances and, as reflected in FMCSA's Drug and Alcohol Clearinghouse, is prohibited from driving, to drive a CMV, in violation of 49 CFR § 382.215; (2) you allowed all three of your drivers to drive your CMV before receiving a negative pre-employment drug test in violation of 49 CFR § 382.301(a); (3) you have not implemented a random testing program in violation of 49 CFR § 382.305; and (4) you have not conducted required pre-employment queries in the Drug and Alcohol Clearinghouse in violation of 49 CFR § 382.701(a).

On February 3, 2022 at approximately 8:01 a.m., while operating your CMV, your  
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driver, Christopher Savannah, failed to stop and caused a crash resulting in fatal injuries to a Sergeant from the Loudon County Sheriff's Office. At the time of the crash, your driver was under the influence of marijuana and in possession of several grams of marijuana, in violation of 49 CFR § 392.4(b).

## 2. Driver Qualification

You fail to ensure that only qualified drivers with proper licenses and medical examiner's certificates operate your CMV(s). Your driver Christopher Savannah's license was downgraded to a non-commercial driver status based on an expired medical certificate on September 21, 2021. Nonetheless, you hired driver Christopher Savannah in January 2022, and then allowed him to operate a CMV on February 3, 2022, the day he caused a fatal crash, without a valid commercial driver's license ("CDL") or commercial learner's permit ("CLP") in violation of 49 CFR § 383.37(a). Additionally, as Mr. Savannah's medical certificate was expired, you used a driver who had not been medically examined or certified during the preceding 24 months in violation of 49 CFR § 391.45(b)(1)/391.11(a).

You also failed to maintain copies of the motor vehicle record for any of your drivers in violation of 49 CFR § 391.51(b)(2).

## 3. 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") using the appropriate method, in violation of 49 CFR § 395.8(a)(1). Further, even if a driver does complete a RODS, you fail to ensure that the driver forwards the RODS to you within 13 days of completion in violation of 49 CFR § 395.8(a)(2)(ii). In addition, violations of hours of service regulations were discovered during roadside inspections.

Without RODS, neither you nor enforcement officials have any way of monitoring

whether your drivers are driving beyond the hours of service limits.

#### 4. Vehicle Maintenance and Inspection

You do not maintain inspection, repair, and maintenance records for your vehicles in violation of 49 CFR § 396.3(b)(1) and (2). You also fail to ensure that your vehicles are inspected on an annual basis in violation of 49 CFR § 396.17(a).

Based on the February 3, 2022 post-crash inspection, you were cited with numerous vehicle maintenance violations that were not attributed to the crash, including two out-of-service violations: (1) 49 CFR § 396.3(a)(1), number of defective brakes equal to or greater than 20 percent of the service brakes on the vehicle; (2) 49 CFR § 393.75(a)(3), tire flat and/or audible air leak.

#### B. Lack of Knowledge of Safety Regulations

Koboat's sole owner, Frederick Boateng, appears to lack any knowledge of the FMCSRs, in violation of 49 CFR § 390.3T. When interviewed, Mr. Boateng was unfamiliar with hours of service limits, recordkeeping requirements, driver qualification requirements, controlled substances testing requirement, and vehicle maintenance requirements.

Additionally, Mr. Boateng does not even know who is operating his CMV(s) or when and where they are being operated. Mr. Boateng indicated that driver Savannah was hired by Koboat on January 14, 2022. However, on December 30, 2021, driver Savannah was stopped for a roadside inspection in South Carolina while operating for Koboat.

#### 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 complete cessation of your 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 implement a controlled substance and alcohol testing program in accordance with 49 CFR Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing).
2. You must establish safety management controls and procedures to ensure that drivers that operate commercial motor vehicles, as defined in 49 CFR § 382.107, in interstate and intrastate commerce comply with the prohibitions and limitations on the use of alcohol and controlled substances in accordance with 49 CFR Part 382.
3. You must access FMCSA's Drug and Alcohol Clearinghouse as required and establish safety management controls and procedures to ensure that you perform all required employer functions, including conducting pre-employment queries as required by 49 CFR § 382.701.
4. In accordance with 49 CFR Part 383, you must establish safety management controls and procedures to ensure that each and every driver that operates a commercial motor vehicle, as defined in 49 CFR § 383.5, in interstate or intrastate commerce has the necessary driver's license, including any required endorsements, for the motor vehicles the driver operates.
5. In accordance with 49 CFR § 391.51(b)(2), you must obtain and maintain motor vehicle records for all drivers.
6. 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)(1).

7. 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.
8. 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 as well as Appendix G to Subchapter B of Chapter III.
9. In accordance with 49 CFR § 390.3T(e), you must be knowledgeable of and comply with the federal motor carrier statutes and regulations.
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 the associated 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  
mctxoff@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: March 4, 2022

A handwritten signature in cursive script, appearing to read "Scott G. Hernandez".

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