

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

CARNELL POMPEY  
DBA MORTISE TRUCKING  
COMPANY  
US DOT No. 01339109

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Order No.: SC-2015-5000-IMH



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

This is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) issued by the Secretary of Transportation (the “Secretary”) pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133(a)(10) and 49 U.S.C. § 31134, 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). This ORDER applies to CARNELL POMPEY DBA MORTISE TRUCKING COMPANY, US DOT No. 01339109, (referred to herein as “you,” “your,” and /or “CARNELL POMPEY”), and to all commercial motor vehicles (CMVs) owned or operated by CARNELL POMPEY DBA MORTISE TRUCKING COMPANY, including without limitation your CMV with VIN number 4V4ND1GH0YN231964.

The Secretary and FMCSA find your operations and your continued operation of any CMV(s) in the United States constitutes an **IMMINENT HAZARD**. This finding means that based upon your present state of unacceptable safety compliance, your operation of any CMV(s) poses an **IMMINENT HAZARD** to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE OPERATING ANY CMV IN THE UNITED STATES. "OPERATE" OR "OPERATING" INCLUDES WITHOUT LIMITATION ALL, INTERSTATE AND INTRASTATE TRANSPORTATION BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.**

Your CMVs and 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 cargo can be safely secured. (See 49 C.F.R. § 386.72(b)(4) and (5)).

**CARNELL POMPEY MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL CARGO, NOR MAY CARNELL POMPEY OPERATE ANY CMV IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT**

CARNELL POMPEY's CMVs, including CMV with VIN number 4V4ND1GH0YN231964, may not be operated in interstate or intrastate commerce by any other motor carrier or any driver; such CMVs may not be operated even without freight. CARNELL POMPEY's CMVs may be moved only upon the written approval of the Field Administrator for FMCSA's Southern Service Center. Unless otherwise approved in writing by the Field Administrator, any movement of CARNELL POMPEY's CMVs to any storage or repair or other location for the purposes of storage, repair, sale, or final disposition must be accomplished only by towing, such that the CMV itself is not driven or operated.

**Within eight (8) hours of service of this ORDER, you must submit to the Field Administrator for the Southern Service Center in writing by fax and/or electronic mail (email) the location of each CMV under your control. Your submission must be sent to:**

**Darrell Ruban  
Field Administrator Southern Service Center  
Fax: 404-327-7359  
Email: matthew.hardy@dot.gov (Attorney for Field Administrator)**

## **I. JURISDICTION**

CARNELL POMPEY DBA MORTISE TRUCKING COMPANY of Darlington County, South Carolina, is a motor carrier engaged in interstate commerce as an authorized for-hire motor carrier hauling steel, wood, and recycle plastic. CARNELL POMPEY is subject to Federal motor carrier safety statutes and regulations including the Federal Motor Carrier Safety Regulations ("FMCSR"), 49 C.F.R. Parts 350-399, the Federal Hazardous Materials Regulations ("HMRs"), 49 C.F.R. Parts 171-180, the alcohol and controlled substances regulations at 49 C.F.R. Part 40, and Orders of the USDOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 5121, 13501, 31133, 31136, and 31144). CARNELL POMPEY is required to comply, and to ensure its drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. (49 U.S.C. § 31135(a) and 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 CARNELL POMPEY, 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 CMVs owned, leased, rented or otherwise operated by CARNELL POMPEY. You may not use lessees, lessors, owner-operators, affiliates, assigns or other CMVs or motor carriers to conduct any continued operations.

## **II. BASIS FOR ORDER**

The basis for determining that your operation of CMVs poses an imminent hazard to the public is that you have engaged in egregious, willful, dangerous conduct while operating CMVs. You fail to ensure that your vehicle(s) are inspected, repaired and maintained for safe operation, fail to promptly repair safety defects, and routinely operate CMV(s) despite serious

safety violations. Your motor carrier operation, and lack of CMV maintenance and safety compliance, substantially increases the likelihood your driver(s) will lose control of your CMV(s) and crash. You have been cited on multiple inspections for several dangerous out-of-service maintenance deficiencies of the same or similar nature, which substantially increases the likelihood of severe injury or death if not discontinued immediately.

### **III. BACKGROUND**

In March 2015, FMCSA conducted a compliance investigation on CARNELL POMPEY DBA MORTISE TRUCKING COMPANY because of several serious roadside out-of-service violations. Before that compliance investigation, the FMCSA had not yet issued you a safety rating.

The March 2015 investigation discovered that on March 13 and 23, 2015 your CMV – tractor VIN 4V4ND1GH0YN231964, trailer VIN 1TTF4820311067041, hereinafter referred to as “CMV 1964” - was placed out-of-service for deficient brakes after being placed out-of-service for the same maintenance deficiency in 2014 on March 19, August 25, August 27, and September 3. The March 13 and 23, 2015 inspections both placed CMV 1964 out-of-service for defective and inadequate brakes and pressure loss in the brake system. Moreover, you have been cited with out-of-service violations related to defective and inadequate brakes during every Level I (full) inspection conducted on CMV 1964 during the period of March 2014 through March 2015. And further, each of the Level I inspections also cited you with repeated and continuing maintenance violations including worn, inadequate, and inoperable components and tires. From March 2014 through March 2015, your only vehicle inspection that did not place your vehicle out-of-service for brakes was a Lever II walk around inspection that would not involve an inspection under the vehicle.

On March 24, 2015, you received official notice from the FMCSA that your proposed unsatisfactory safety rating will take effect 60 days from the FMCSA official notice.

CARNELL POMPEY has an ineffective maintenance program and fails to systematically inspect, repair, and maintain CMVs. CARNELL POMPEY continues to operate CMVs on the Nation's highways with ongoing uncorrected serious violations. Its last three roadside inspections, including two in the last three weeks, have resulted in the vehicle being placed out-of-service.

In seven roadside inspections between March 2014 and March 2015, your CMV 1964 was placed out-of-service for similar and related maintenance deficiencies. In six of the seven inspections, CMV 1964 was placed out-of-service for failing to maintain brake system air pressure due to a severe air leak and over 50% of brakes being out-of-adjustment. These out-of-service maintenance deficiencies can significantly decrease the CMV's stopping power and the driver's ability to control the CMV. In five of the seven inspections, CMV 1964 was cited for tire violations that can also decrease the driver's ability to control the CMV. In addition, CMV 1964 was placed out-of-service for oil-contaminated brake components, steering components, and wheel hub seal leaks.

The repeated violations for the same maintenance deficiencies indicate you have not made the necessary repairs to operate safely. You have been unable or unwilling to produce records indicating that all out-of-service maintenance violations and deficiencies were corrected before the CMV was again operated, that the violations are currently corrected, or even a file that identifies CMV 1964. You have failed to demonstrate that the CMV has had an adequate annual inspection that complies with the FMCSRs.

In addition, you are not enrolled in a drug and alcohol testing program, have failed to conduct required controlled substances and alcohol testing, neglected to comply with required driver qualification requirements, violated hours of service regulations, and failed to maintain records of duty status as required by the FMCSRs.

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

To eliminate this imminent hazard, and before CARNELL POMPEY will be permitted to resume operations placed out-of-service by this ORDER, CARNELL POMPEY must take specific steps to ensure and demonstrate compliance with the FMCSR. In addition, before resuming interstate operations subject to operating authority registration requirements, CARNELL POMPEY must apply for and receive new operating authority registration from FMCSA pursuant to 49 U.S.C. § 13902 and 49 C.F.R. Part 365.

#### **YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER**

- 1. CARNELL POMPEY must establish procedures to ensure that maintenance violations, defects and/or deficiencies are repaired before the CMV is operated again.**
- 2. CARNELL POMPEY must train all of its drivers and ensure all drivers understand the meaning of roadside out-of-service orders and comply with roadside out-of-service orders.**
- 3. CARNELL POMPEY must maintain records of inspections, repairs, and maintenance indicating the date and nature of the work performed.**
- 4. CARNELL POMPEY must maintain at its principal place of business completed inspection forms for 12 months from the date of inspection.**
- 5. CARNELL POMPEY must maintain evidence of inspectors' and brake inspectors' qualifications.**

6. **CARNELL POMPEY must implement a procedure so that drivers can report safety defects and/or deficiencies and establish procedures to ensure that reported safety defects and/or deficiencies are repaired before the commercial vehicle is operated again.**

7. **CARNELL POMPEY must implement a system to ensure that all its drivers comply with the hours-of-service regulations, and accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395.**

8. **CARNELL POMPEY must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to CARNELL POMPEY within 13 days of their completion. Further, CARNELL POMPEY must demonstrate a system to ensure that all records of duty status are accurate by using all means available to it and by comparing each record with all supporting documentation.**

9. **CARNELL POMPEY must comply with all Orders issued by FMCSA and must submit to the Field Administrator a plan detailing how CARNELL POMPEY will: (i) train all drivers used by CARNELL POMPEY or its successors, assigns or closely related affiliates, in compliance with the HOS regulations; (ii) monitor the compliance of all drivers used by CARNELL POMPEY or its successors, assigns or closely related affiliates with the HOS regulations; and (iii) ensure that all drivers used by CARNELL POMPEY or its**

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**successors, assigns or closely related affiliates 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.**

10. **CARNELL POMPEY 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. CARNELL POMPEY 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.**

**11. CARNELL POMPEY 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.**

**12. CARNELL POMPEY must demonstrate to the Field Administrator, Southern Service Center, full compliance with all applicable controlled substance testing and return-to-duty requirements within 49 C.F.R. parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing).**

**13. CARNELL POMPEY must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b), ensuring that each driver selected for random controlled substances or alcohol testing has an equal chance of being selected each time selections are made, and that CARNELL POMPEY has received a negative pre-employment controlled substances test for each driver before using that driver.**

**14. CARNELL POMPEY must ensure that it maintains driver qualification files as required by 49 C.F.R. Part 391. CARNELL POMPEY must ensure that every driver it uses has furnished a complete employment application. CARNELL POMPEY 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.**

**CARNELL POMPEY must ensure that it obtains from each driver an annual list of traffic violations, that it obtains an annual Motor Vehicle Record, and that it performs an annual review on each driver's driving record.**

**15. CARNELL POMPEY must 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.**

**16. CARNELL POMPEY must ensure that drivers operate CMVs in compliance with all Federal Motor Carrier Safety Regulations, local laws, and ordinances as required in 49 CFR Part 392.**

#### **V. RECISSION OF ORDER**

You are 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 you have a valid and active USDOT number and operating authority registration, you are prohibited from operating any CMV 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 resuming motor carrier operations, you must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that your operations pose, and adequately demonstrate to the satisfaction of the Field Administrator for FMCSA's Southern Service Center the actions taken to eliminate the safety problems. You cannot avoid this ORDER by continuing operations under the name of another person or company. Any

sale, lease or other transfer of any CMV by you 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 this ORDER you will be required to:**

- 1. Identify the cause for your present noncompliance;**
- 2. Develop a detailed Safety Management Plan (SMP) of action that addresses each area of your non-compliance, the steps you intend to take to overcome your present non-compliance and a time table for these steps; and**
- 3. Execute the Safety Management Plan and provide certification by all of your owners and officers.**

Any request to rescind this ORDER, and documentation demonstrating satisfaction of the Remedial Action requirements, must be directed to Darrell Ruban, Field Administrator for the Southern Service Center, with a copy of the request and documentation to the FMCSA South Carolina Division Administrator, at the following addresses:

Darrell Ruban  
Field Administrator, Southern Service Center  
Federal Motor Carrier Safety Administration  
1800 Century Boulevard, Suite 1700  
Atlanta, Georgia 30345

Division Administrator, South Carolina Division  
Federal Motor Carrier Safety Administration  
1835 Assembly Street, Suite 1253  
Columbia, South Carolina 29201-2430

## **VI. ENFORCEMENT OF ORDER**

This ORDER, issued pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133, 49 U.S.C. § 31134 and 49 C.F.R. § 386.72(b)(1), is an Order of, and enforceable by, the Secretary.

Violation of this ORDER may subject CARNELL POMPEY to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. CARNELL POMPEY may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. §§ 507, 521(b)(2)(F), and 521(b)(4) and 49 C.F.R. Part 386 App. A. § IV(g)). CARNELL POMPEY may also be assessed civil penalties up to \$10,000 for providing transportation requiring registration, including operating a CMV in interstate commerce, without operating authority registration (49 U.S.C. §§ 14901, 14702-03) and up to \$25,000 for operating a CMV in interstate commerce without USDOT number registration (49 U.S.C. §§ 507, 521(b)(2)(F) and 31134). Violations of this ORDER may also subject CARNELL POMPEY to criminal penalties, 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) and 526).

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

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. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

## **VIII. RIGHT TO REVIEW**

You have the right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 days. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). If a petition for review is filed, a 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.

A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, and should be sent to the attention of Adjudications Counsel by facsimile or electronic mail as follows:

By Fax:  
Adjudications Counsel (MC-CCA)  
(202) 366-3602

or electronic mail:  
FMCSA.Adjudication@dot.gov

with a copy mailed or sent by commercial delivery service to the Assistant Administrator and Adjudications Counsel at the following address:

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

A copy of any request for administrative review should also be sent to the Field Administrator by facsimile or electronic mail as follows:

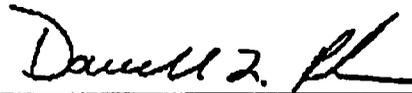
Field Administrator, Southern Service Center  
Federal Motor Carrier Safety Administration  
1800 Century Boulevard, NE, Suite 1700  
Atlanta, GA 30345  
Fax: 404-327-7359  
matthew.hardy@dot.gov

The request must state the material facts at issue which you believe dispute or contradict the finding that your operation of a commercial motor vehicle constitutes an "imminent hazard" to the public.

**A REQUEST FOR REVIEW DOES NOT IN ANY WAY 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 or apply to any other order or action.

ORDERED this the 2<sup>nd</sup> day of April, 2015.



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Darrell Ruban, Field Administrator  
Southern Service Center  
United States Department of Transportation  
Federal Motor Carrier Safety Administration