

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

JOHN A. ROBLES
dba J AND J TRANSPORTATION
USDOT NO. 2497430

)
) Order No.: MA-2016-5000-IMH
)
) Service Date: February 25, 2016
) Service Time: 11:00 AM
)

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), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133(a)(10), 49 U.S.C. § 31134, and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”). This Order applies to **John A. Robles dba J and J Transportation (USDOT No. 2497430), a motor carrier, and its officers, agents, and employees** (hereinafter collectively referred to as “you,” “your,” “it,” and/or “J and J Transportation”), and to all commercial motor vehicles owned or operated by or on behalf of J and J Transportation, including those commercial motor vehicles identified in Appendix A attached hereto.

The Secretary and the FMCSA find your operations and continued operation of any commercial motor vehicle (hereinafter referred to as “commercial motor vehicles” and/or “vehicles”) in the United States 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 ALL COMMERCIAL MOTOR VEHICLE OPERATIONS INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION.

Your vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination. See 49 C.F.R. § 386.72(b)(4) and (5). You may not load or transport any additional freight or property while this order is in effect.

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 drivers from all dispatching locations or terminals. J and J Transportation’s commercial motor vehicles may not be operated in interstate or intrastate commerce by any other motor carrier or any driver, even without freight. Any movement of J and J Transportation’s commercial motor vehicles, including its trailers, to any storage, repair, or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the truck tractor is not driven or operated. Your commercial motor vehicles may be moved, including by tow, only upon the prior written approval of the Regional Field Administrator for FMCSA’s Eastern Service Center.

Within eight hours of your receipt of this Order, you must submit to the Regional Field Administrator in writing by facsimile the location of each commercial motor vehicle under your control. You must identify the

vehicle, including tractor, power unit, and/or trailer, by year, make, model and vehicle identification number (VIN). 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 faxed to the Regional Field Administrator at 443-703-2253.

You cannot avoid this Order by continuing operations under the name of another person or company. If you intend to sell, lease, loan or otherwise transfer or allow the use of any commercial motor vehicle, including any trailer, to any other person, motor carrier, or business, you must provide written notice to the Regional Field Administrator no less than five business days before any such sale, lease, loan, transfer or use.

I. JURISDICTION

J and J Transportation is a motor carrier engaged in interstate commerce using commercial motor vehicles and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 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 and 31136, and 31144. You are required to comply, and to ensure your 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 FMCSA and is binding upon J and J Transportation as well as any and all of its 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. BASIS FOR ORDER

The basis for determining that J and J Transportation's motor carrier operations pose an imminent hazard to the public is serious ongoing widespread noncompliance with Federal safety regulations and statutes, including the FMCSRs.

J and J Transportation does not adequately maintain its commercial motor vehicles, in violation of 49 C.F.R. Part 396. It has no effective maintenance program. It fails to retain maintenance records for its vehicles. It fails to require its drivers to make driver vehicle inspection reports. J and J Transportation is unable to show that vehicle defects discovered during roadside inspections are corrected before the vehicle is dispatched again. J and J Transportation's lack of a vehicle maintenance program has led to its vehicles repeatedly being operated in an unsafe condition. During roadside inspections over the past 12 months, J and J Transportation's vehicles have been placed out-of-service at a rate of 33%. This out-of-service rate is 1.5 times the national average.

Furthermore, J and J Transportation does not adequately oversee its drivers to ensure compliance with the FMCSRs. Specifically, J and J Transportation fails to maintain drivers' qualification files for most of its drivers, and even those driver qualification files that J and J Transportation does maintain are incomplete. J and J Transportation fails to maintain inquiries into its drivers' driving records and fails to maintain medical examiner's certificates in its drivers' qualification files. Moreover, J and J Transportation fails to comply with Hours of Service (HOS) regulations in violation of 49 C.F.R. Part 395. Upon demand, J and J Transportation refused or was unable to produce complete records of duty status or supporting documents for its drivers, and admitted that it did not retain toll records or fuel records. J and J Transportation produced no records to show that it ensures that its drivers comply with

HOS regulations. Indeed, J and J Transportation admitted that its owner and the sole person responsible for company management, John A. Robles, does not know how to check drivers' records of duty status for compliance with HOS regulations and has never done so. Roadside inspection reports for J and J Transportation's drivers show that its drivers were regularly cited for HOS and records of duty status violations, but J and J Transportation was unable to show that it had taken any training or disciplinary action to address these violations by its drivers. J and J Transportation has shown an ongoing pattern and practice of requiring or permitting drivers to falsify records of duty status or exceed maximum HOS limitations, and its owner demonstrates a blatant disregard for safety and lack of knowledge of FMCSRs.

J and J Transportation also fails to adequately comply with Controlled Substances and Alcohol regulations in violation of 49 C.F.R. Parts 40 and 382. J and J Transportation asserted during the recent investigation that it had only used two drivers during the previous 12 month period; however, the investigation discovered that J and J Transportation had actually used seven or more drivers during that period. J and J Transportation was unable to show that some of its drivers underwent pre-employment controlled substances testing before performing a safety-sensitive function for J and J Transportation and even those drivers who underwent pre-employment controlled substances testing were not timely added to J and J Transportation's random testing pool.

Individually and cumulatively, these violations and conditions of operation substantially increased the likelihood of serious injury or death to J and J Transportation's drivers and/or the motoring public.

III. BACKGROUND

On or about February 9, 2016, FMCSA began conducting an investigation into the motor carrier operations of John A. Robles dba J and J Transportation. During the investigation, John A. Robles admitted to the FMCSA investigator that he is unfamiliar with the FMCSRs and has little time to devote to the operation of J and J Transportation because he is busy with other business ventures.

J and J Transportation was unable to produce records indicating it had any sort of vehicle maintenance program, and it does not maintain vehicle files for the commercial motor vehicles it operates. J and J Transportation also was unable to produce any records of driver vehicle inspection reports for the vehicles it operates, and J and J Transportation's owner admitted that the carrier did not require the carrier's drivers to complete driver vehicle inspection reports. J and J Transportation could not produce a preventative maintenance schedule for its vehicles. J and J Transportation fails to retain copies of most roadside inspections, and is unable to determine whether vehicle defects are corrected before dispatching a vehicle again.

The investigation also revealed a complete lack of driver oversight by J and J Transportation. J and J Transportation refused or was unable to produce most of the requested records related to driver oversight. J and J Transportation fails to maintain drivers' qualification files for most of its drivers, and even those driver qualification files that J and J Transportation does maintain are incomplete. J and J Transportation fails to inquire into its drivers' driving records or fails to maintain inquiries into its drivers' driving records, leading to J and J Transportation permitting multiple drivers to operate its vehicles while their CDLs were suspended or otherwise invalid. J and J Transportation fails to maintain medical examiner's certificates in its drivers'

qualification files. J and J Transportation fails to ensure that its drivers are qualified. When questioned about a particular driver who had been placed out-of-service for driving while suspended during an August 7, 2015 roadside inspection, John A. Robles claimed that the driver had been terminated on the day of the inspection and no longer worked for J and J Transportation. The investigator discovered, however, that the driver had not been terminated and was actually driving for J and J Transportation as recently as February 2016.

Moreover, J and J Transportation fails to comply with Hours of Service (HOS) regulations in violation of 49 C.F.R. Part 395. Upon demand, J and J Transportation refused or was unable to produce complete records of duty status or supporting documents for its drivers. J and J Transportation does not maintain or could not produce HOS supporting documents such as fuel receipts or toll receipts. J and J Transportation produced no records to show that it ensures that its drivers comply with HOS regulations. Indeed, J and J Transportation's owner and the sole person responsible for company management, John A. Robles, admitted that he did not know how to check drivers' records of duty status for compliance with HOS regulations and had never done so. J and J Transportation admits that it is aware of its drivers' HOS violations, but was unable to demonstrate that it has conducted any training or taken any disciplinary action to address this unsafe driving behavior.

J and J Transportation's lack of compliance with the HOS regulations was a factor in its driver's December 4, 2015 fatal crash. The post-crash investigation by the New York State Police found that at the time of the single vehicle crash, the driver was in violation of the 11-hour and 14-hour HOS regulations. This same driver had been cited at an October 20, 2015 and a December 2, 2015 roadside inspection for false records of

duty status, but J and J Transportation was unable to show that it had taken any action to ensure that this driver began complying with the HOS and records of duty status regulations.

J and J Transportation also fails to adequately comply with Controlled Substances and Alcohol regulations in violation of 49 C.F.R. Parts 40 and 382. J and J Transportation claimed during the investigation that it only used two drivers during the previous 12 month period, but the investigation revealed that it had used seven or more drivers during that period. J and J Transportation was unable to show that most of its drivers underwent pre-employment controlled substances testing before performing a safety-sensitive function for J and J Transportation and indeed, even those drivers who did undergo pre-employment controlled substances testing were not timely added to J and J Transportation's random pool.

Since beginning operations, J and J Transportation has shown an alarming and steady increase in violation rates in the areas of Unsafe Driving, Hours of Service, Vehicle Maintenance, and Crash. These patterns of violations were not only contributors to the fatal crash on December 4, 2015, but also are risk factors for additional crashes.

This was the first compliance investigation conducted on J and J Transportation, which began operations in or around June 2014. J and J Transportation was subject to a new entrant safety audit in October 2015, which found violations in 49 C.F.R. Parts 382, 391, 392, 395, and 396.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before J and J Transportation will be permitted to resume 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 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 Eastern Service Center Regional Field Administrator.
2. You must establish safety management controls and procedures to ensure that your drivers comply with HOS requirements as set forth in 49 C.F.R. Part 395. Your safety management system must ensure that your drivers comply with HOS requirements and do not exceed maximum driving times. You must establish safety management controls and procedures to require drivers to prepare and submit records of duty status and associated supporting documents as required, ensure that drivers' records of duty status are checked, ensure that your drivers are not violating HOS requirements, ensure drivers do not falsify records of duty status, and ensure that each driver accurately completes his or her records of duty status in the form and manner required under 49 C.F.R. Part 395.
3. You must ensure and demonstrate that each and every commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, is in a safe operating condition and in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operation) and Part 396 (Inspection, Repair and Maintenance), and that all defects and deficiencies have been corrected and repaired.
4. You must establish safety management controls and procedures that ensure that each and every commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, 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.
5. You must ensure that each commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, has been and is periodically inspected as required by 49 C.F.R. Part 396 and Appendix G to Subchapter B of Chapter III, and that such periodic inspections are conducted by qualified inspectors.
6. You must ensure that employees, contractors and/or agents used to inspect and maintain each commercial motor vehicle you operate and/or intend to operate are trained and qualified to conduct such inspections, maintenance and repairs, and documentation of training and qualifications is maintained in accordance with 49 C.F.R. Part 396.

7. You must require drivers to conduct pre-trip and post-trip commercial motor vehicle inspections, and must require drivers to prepare Driver Vehicle Inspection Reports in accordance with 49 C.F.R. § 396.11 at the end of each day and establish procedures to ensure that reported safety defects and/or discrepancies are corrected before the vehicle is again operated as required by 49 C.F.R. Part 396.

8. You must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of your commercial motor vehicles are repaired prior to the vehicle being operated. You must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

9. You 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.

V. RESCISSION OF ORDER

J and J Transportation's motor carrier operations are subject to this Order unless and until this 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 (if applicable), you are 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 V of this Order have been fully satisfied and acceptable documentation submitted.

Before this Order will be rescinded, 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 Regional Field Administrator for the FMCSA's Eastern 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 agreements involving your commercial motor vehicles or motor carrier operations require five business days written notice to the Regional Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, J and J Transportation 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 noncompliance, and a time table for these steps.
3. 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 your USDOT Number or operating authority registration. In order for J and J Transportation to resume motor carrier operations transporting property in interstate or intrastate commerce, J and J Transportation will be required to apply to reactivate its USDOT number registration, and if its operations require Federal operating authority, apply for

new 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 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. 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), § 31133, and § 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 J and J Transportation to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. J and J Transportation may be assessed civil penalties of up to \$25,000 for each 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). J and J Transportation may also be assessed civil penalties up to \$10,000 for providing transportation requiring registration, including operating a commercial motor vehicle in interstate commerce, without operating authority registration and up to \$25,000 for operating a commercial motor vehicle 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) and 526.

VII. PENALTIES FOR VIOLATIONS OF FEDERAL REQUIREMENTS

Any motor carrier or driver 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 under 5 U.S.C. § 554 and 49 C.F.R. § 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 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, 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 must also be sent to the Regional Field Administrator by mail and/or facsimile as follows:

Regional Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive
Suite N
Glen Burnie, MD 21061
Fax: (443) 703-2253

The request must state the material facts at issue which you believe dispute or contradict the finding that your operations constitute an “**imminent hazard**” to the public.

A REQUEST FOR ADMINISTRATIVE 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 to or apply to any other order or action.

Date: February 25, 2016



Acting for
Curtis L. Thomas

Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration
Eastern Service Center

APPENDIX A

YEAR	MAKE	MODEL	TAG NUMBER	VIN
2007	Volvo	VT880	MA 94223	4V4LC9KL27N453120
2006	Volvo	VT880	MA 91325	4V4LC9KK86N425067
2002	Volvo	VN	MA 99566	4V4NC9GH62N329373