

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

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<b>DND INTERNATIONAL, INC</b>	)	<b>Order No.: IL-2014-5002-IMH</b>
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<b>USDOT No. 1434005</b>	)	<b>Service Date:</b> _____
	)	
	)	<b>Service Time:</b> _____
	)	
	)	<b>Person Served:</b> _____
	)	

**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) and (5), and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Midwestern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Matteson, Illinois. This Order applies to DND INTERNATIONAL, INC, USDOT No. 1434005 (also referred to herein as “you,” “your”, and/or “DND International”) and to all vehicles owned or operated by or for DND International, Inc, including without limitation the commercial motor vehicles identified in Attachment A, attached hereto.

The Secretary and FMCSA find DND International, Inc’s operations and continued operation of any commercial motor vehicle, referred to herein as “commercial motor vehicles” and/or “vehicles”, constitute an **imminent hazard** to public safety. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle(s) poses an **imminent hazard** to public safety.

**EFFECTIVE IMMEDIATELY YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE OR INTRASTATE TRANSPORTATION FROM ALL DISPATCHING LOCATIONS OR TERMINALS.**

“Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. DND International’s commercial motor vehicles(s) may not be operated in interstate or intrastate commerce by any other motor carrier or by any driver. Any movement of DND International’s commercial motor vehicles 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 vehicle itself is not operated under its own power. DND International’s commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA’s Midwestern Service Center.

Commercial motor vehicles and their drivers now in interstate commerce 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)).

**NO ADDITIONAL CARGO MAY BE LOADED OR TRANSPORTED, NOR MAY YOU 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, you must submit to the Field Administrator in writing by facsimile the location of each of DND International, LLC's commercial motor vehicles. Your submission must be faxed to:**

Darin G. Jones, Field Administrator  
FMCSA – Midwestern Service Center  
708-283-3579

**I.**  
**JURISDICTION**

DND International is a for hire property 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, the hours of service regulations at 49 C.F.R. Part 395, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136 and 31144). DND International is required to comply, and to ensure its drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. (*See* 49 C.F.R. §390.11). This Order has the force and effect of any other Order issued by FMCSA and is binding upon DND International and its officers, members, directors, successors, assigns and closely affiliated companies. This Order applies to all motor carrier operations and to all motor vehicles owned, leased, rented or otherwise operated by and/or for DND International.

**II.**  
**BASIS FOR ORDER**

The basis for determining that DND International's motor carrier operations pose an imminent hazard to the public is DND International's serious noncompliance with the FMCSRs, specifically 49 C.F.R. Parts 395 and 392. DND International does not have adequate safety management practices in place to ensure its drivers are preparing and submitting accurate records of

duty status and that they comply with the hours of service driving limitations. DND International's drivers routinely falsify their records of duty status and exceed the hours of service limitations in the FMCSRs. DND International also does not have adequate safety management practices in place to prevent its drivers from operating their commercial motor vehicles in an unsafe manner.

DND International's failure to establish an effective driver hours of service safety management program, including an effective driver's records of duty status monitoring system, was a key contributing factor to a recent catastrophic crash. On January 27, 2013, a DND International driver, while in violation of 49 C.F.R. Parts 395 and 392, crashed his commercial motor vehicle into two stationary Illinois government vehicles, causing one death and one serious life-threatening injury. Individually and cumulatively, these violations substantially increase the likelihood of serious injury or death to DND International's drivers and the motoring public.

### **III.** **BACKGROUND**

On January 27, 2014, Renato Velasquez was driving for DND International in DuPage County, Illinois on US Interstate Highway 88 when his commercial motor vehicle struck two emergency vehicles (an Illinois State Police cruiser and an Illinois Toll Authority vehicle), both with activated emergency/warning lights, resulting in the death of the Toll Authority worker and life-threatening injuries to the Illinois State Police officer.

On January 28, 2014 FMCSA initiated an investigation to examine the circumstances of the fatal crash and driver Velasquez's compliance with the FMCSRs. FMCSA found that at the time of the crash driver Velasquez was driving after having been on duty in excess of 26 hours and having had an opportunity for no more than a 5 ½ hour break from duty. Driver Velasquez's hours on duty were in direct violation of the maximum allowable duty hours

established by the FMCSRs to prevent driver fatigue and impairment while operating a commercial motor vehicle. The investigation also revealed that Velasquez falsified his records of duty status on four out of the seven days immediately leading up to the day of the crash. As a result of these findings, on February 10, 2014, FMCSA declared Renato Velasquez's egregious violations and reckless operation of a commercial motor vehicle to pose an imminent hazard to him and the public, and ordered Velasquez to cease operating any commercial motor vehicles.

FMCSA expanded its investigation to examine additional records of driver Velasquez and six more drivers operating under the authority of DND International. The investigation established that DND International's safety performance history reflected a continuous pattern of violations - with the carrier's Safety Management System (SMS) BASIC scores in Unsafe Driving and Hours of Service (HOS) Compliance being above the intervention threshold in each of the previous 24-months.<sup>1</sup> DND International's current BASIC score in Unsafe Driving is 91.1% and in HOS Compliance is 88.9%. Numerous roadside citations contributed to DND International's poor Unsafe Driving performance over the past year, including six speeding violations, three citations for failing to obey a traffic control device, three citations for failing to use a seat belt while driving a commercial motor vehicle, one citation for an improper lane change and one citation for an improper turn.

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<sup>1</sup> The SMS is a tool for assessing available roadside performance data and ranking an entity's relative performance in any of the six Behavior Analysis and Safety Improvement Categories (BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems an entity exhibits, and monitor safety problems through the Intervention Process. The SMS computes a percentile for each BASIC using a time-weighted methodology, and assigns a percentile rank to each BASIC, on a 0-100 scale, with 100 indicating the worst performance.

DND International does not have in place an effective management oversight and control system to ensure drivers comply with hours of service requirements in Part 395 of the safety regulations. In the past year, DND International's drivers accumulated several roadside hours of service violations, including six false records of duty status violations, five 14-hour duty limit violations, two 11-hour driving limit violations and eight violations for driving more than eight hours since the last break of at least 30 minutes. DND International has no effective system in place to ensure that drivers are only dispatched when they have sufficient hours available to complete the assigned trip or that drivers will pull off the road and take required rest breaks. DND International's drivers routinely travel on Illinois Toll Roads, but DND International refuses to compare toll transaction information to its drivers' logs to monitor hours of service compliance. When FMCSA's investigators compared toll transaction data with the logs from the seven sampled drivers, an unmistakable, dangerous pattern of serious falsification emerged -- the drivers had falsified in excess of 25% of their records of duty status. All seven drivers falsified their logs during this period.

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

To eliminate this imminent hazard, and before DND International will be permitted to resume operations placed out of service by this Order, DND International must take specific steps to ensure and demonstrate compliance with the Federal Motor Carrier Safety Regulations. DND International must comply with all Orders issued by FMCSA and must submit to the Field Administrator a plan detailing how DND International will:

- 1. Establish a comprehensive and effective system of obtaining all reasonably available supporting documents generated or obtained by drivers during the ordinary course of operation under the authority of DND International.**
- 2. Establish and implement a comprehensive and effective hours of service (HOS) safety management system that ensures all drivers prepare accurate records of duty status (RODS) in accordance with 49 CFR Part 395, and submit these records to DND International within 13 days of their completion.**
- 3. Ensure that its drivers accurately complete their daily records of duty status and that they submit these records to DND International within 13 days of their completion. DND International must maintain drivers' records of duty status for a minimum of six months, and demonstrate a system showing that the company can and will maintain all supporting documents. Further, DND International must ensure that all records of duty status are accurate by using all means available to DND International and by comparing the records with all supporting documentation.**
- 4. Establish and implement effective policies, procedures and management accountability standards that ensure all personnel engaged in assigning loads or directing drivers delivery schedules must first evaluate and verify the driver's hours driven and on-duty since last mandatory off duty period, the hours available to complete the pick-up, and the hours available to complete the delivery, including hours available to ensure the proper 30-minute rest break and mandatory off duty or sleeper berth period are met, prior to any dispatch or assignment in accordance with 49 CFR Part 395.**
- 5. Establish and implement a comprehensive training program ensuring all personnel are trained on FMCSRs – Hours of Service (49 CFR Part 395) and DND International policies, procedures and systems to fully comply with the FMCSRs.**
- 6. Establish and implement a comprehensive driver safety training program to ensure that drivers are trained on safe CMV driving behaviors, habits, fatigue management and traffic safety laws.**
- 7. Establish and implement a comprehensive and progressive disciplinary program: (a) for drivers in the safe and lawful operation of a CMV, compliance with the HOS regulations, and preparation of accurate RODS; (b) for safety personnel in proper monitoring, oversight and auditing of driver RODS, including timely submission of RODS and all supporting documents, and accountability for discovering of HOS and unsafe driving violations by drivers; and (c) for dispatchers or personnel responsible for assigning loads in adhering to the verification and validation of each driver's HOS prior to dispatch. The disciplinary program must include sanctions, suspensions, loss of loads, and termination of employment provisions for all**

employees found to have violated DND International's safety management program, policies, procedures or the FMCSRs.

8. **Establish and implement a formal whistleblower protection program for employees to report safety violations. You must notify every employee that it is his or her right and obligation to report safety violations to management officials. Furthermore, the plan must inform employees that, if a responsible DND International management official fails to correct a reported safety violation, an employee may report this failure to the FMCSA – Illinois Division, 3250 Executive Park Drive, Springfield, Illinois 62703-4514.**

**V.**  
**RESCISSION OF ORDER**

DND International is subject to this Order unless and until the Order is rescinded in writing by FMCSA. Unless and until this Order is rescinded, DND International is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This Order will not be rescinded until the Field Administrator for FMCSA's Midwestern Service Center has determined that the Remedial Action requirements specified in Paragraph IV of this Order have been fully satisfied and acceptable documentation has been submitted.

Before resuming motor carrier operations DND International must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Field Administrator's satisfaction the actions taken to eliminate the safety problems. **DND International cannot avoid this Operations Out-of-Service Order by continuing to operate under the name of another person or company, including operations by the entity DND Solutions, Inc., USDOT #2152132.** Additionally, any sale, lease, or other agreements for service by DND International requires the written approval of the Midwestern Service Center Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

**Prior to rescission of the Order, DND International will be required to:**



- 1. Identify the cause for your noncompliance.**
- 2. Develop a detailed Safety Management Plan of action that addresses each area of noncompliance, the steps it intends to take to overcome its noncompliance, and a time table for these steps. The SMP must address each element outlined in section IV 1-8 above.**
- 3. Certify in writing the commitment of DND International to comply with the Federal Motor Carrier Safety Regulations.**
- 4. Execute the Safety Management Plan and provide certification by all owners, members and officers.**

Any request to rescind this ORDER must be in writing. Written documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Midwestern Service Center, with a copy to the Division Administrator, Illinois Division, at the following addresses:

Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, Illinois 60443

Division Administrator, Illinois Division  
Federal Motor Carrier Safety Administration  
3250 Executive Park Drive  
Springfield, Illinois 62703-4514

Rescission of this Order does not constitute a reinstatement of DND International's Federal operating authority registration or its USDOT Number. Before DND International will be permitted to resume motor carrier operations in the United States, DND International will be required to reactivate its USDOT Number registration, and reapply for and receive operating authority registration, and demonstrate that it is fit, willing and able to comply with: 1) the statutory and regulatory requirements; 2) applicable safety regulations including the Federal

Motor Carrier Safety Regulations; 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 49 C.F.R. § 386.72(b)(1), is an Order of the Secretary.

Violation of this Order may subject DND International to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. DND International 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)). DND International 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 (49 U.S.C. §§ 14901, 14702-03) and up to \$25,000 for operating a commercial motor vehicle 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 DND International 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. ADDITIONAL PENALTIES FOR OTHER 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 pursuant to 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 the FMCSA's Adjudications Counsel by mail and electronic mail, and the Field Administrator, Midwestern 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  
FMCSA.Adjudication@dot.gov

Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, IL 60443

The request must state the material facts at issue which you believe dispute or contradict the finding that DND International'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: April 1, 2014



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Darin G. Jones, Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration