

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

In the Matter of)	
)	Case No. WI-2016-5000-IMH
MARY LYONS and)	
PATRICK LYONS,)	
DBA)	Service Date: _____
LYONS LIMOUSINE, LLC.)	
)	Service Time: _____
USDOT NO. 2314875)	
)	Person Served: _____

IMMINENT HAZARD OPERATIONS OUT-OF-SERVICE ORDER

This is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) issued pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31144(c)(1) and (5), 31333(a)(10) and 31134, and 49 C.F.R. § 386.72(b)(1) by the Regional Field Administrator, Midwestern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Matteson, Illinois under a delegation from the Secretary of Transportation (the "Secretary").

This ORDER applies to MARY LYONS AND PATRICK LYONS, doing business as LYONS LIMOUSINE, LLC (referred to herein as “you,” “your,” and /or “LYONS LIMOUSINE”).

FMCSA finds that LYONS LIMOUSINE’s operations and continued operation of any commercial motor vehicle (referred to herein as “commercial motor vehicles” and/or “vehicles”)¹, in the United States constitutes an **imminent hazard** to public safety. This finding means that based upon your present state of unacceptable safety compliance, your operation of

¹ Under 49 C.F.R. § 390.5 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) has 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) is designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.

any commercial motor vehicle substantially increases the likelihood of serious injury or death if not discontinued immediately.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL
MOTOR VEHICLE OPERATIONS INCLUDING ALL INTERSTATE AND
INTRASTATE TRANSPORTATION**

Your vehicles and their drivers now in interstate 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 and additional freight, property or passengers while this order is in effect.

**YOU ARE PROHIBITED FROM OPERATING ANY COMMERCIAL MOTOR
VEHICLE IN INTERSTATE OR INTRASTATE COMMERCE AT ANY TIME 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. LYONS LIMOUSINE’s commercial motor vehicles may not be operated in interstate or intrastate commerce by any other motor carrier or any driver, even without freight or passengers. Any movement of LYONS LIMOUSINE’s commercial motor vehicles to any storage, repair, or other location for the purposes of repair, sale, storage or final destination must be accomplished by towing, such that the vehicle is not driven or operated. Your commercial vehicles may be moved, including by tow, only upon the prior written approval of the Regional Field Administrator for FMCSA’s Midwestern Service Center.

Within eight (8) hours of receipt of this ORDER, you must deliver to the Regional Field Administrator a document identifying the location of each commercial motor vehicle under your control. The identification must include the street address, city, state, and driver operating the vehicle. The document must identify the vehicle by year, make, model

and vehicle identification number (VIN), and you must attach a copy of the current registration. Your submission must be faxed to the Regional Field Administrator at 708-283-2379.

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 to any other person, motor carrier, or business, you must provide written notice to the Regional Field Administrator no less than five (5) business days before any such sale, lease, loan, transfer, or use.

I. JURISDICTION

LYONS LIMOUSINE is a motor carrier transporting passengers 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, as well as the Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136 and 31144.

This ORDER has the force and effect of any other Order issued by FMCSA and is binding upon LYONS LIMOUSINE 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

LYONS LIMOUSINE used an underage driver, Aaron Nash, to transport passengers in interstate commerce and failed to conduct a pre-employment background investigation on that driver and its other driver, Mary Lyons. Aaron Nash was involved in a fatal accident on March 25, 2016, killing one passenger and injuring several others. Had LYONS LIMOUSINE conducted the required pre-employment background check on the driver involved in the accident, it would have seen that the Aaron Nash had a history of violations including a license

suspension, and moving violations of following too closely in an accident involving property damage, obstructing traffic, and speeding. None of your drivers have been subject to required pre-employment safety background investigation checks and therefore they are not qualified to transport passengers in interstate commerce.

LYONS LIMOUSINE does not require its drivers to prepare and submit records of duty status or time records, and it does not have safety management practices in place to ensure that its drivers comply with the maximum hours or service limitations.

LYONS LIMOUSINE also completely ignores the FMCSRs regarding vehicle maintenance. LYONS LIMOUSINE lacks vehicle maintenance records, a preventative vehicle maintenance program, periodic vehicle inspection reports, and does not retain Driver Vehicle Inspection Reports.

LYONS LIMOUSINE is not registered to provide interstate passenger transportation and failed to maintain liability insurance for its commercial motor vehicles. LYONS LIMOUSINE's deficiencies are set forth in the Background portion of this Order which is incorporated by reference herein.

III. BACKGROUND

On March 25, 2016, underage LYONS LIMOUSINE driver, Aaron Nash, was driving eastbound on U.S. Interstate Highway 90 in Illinois when his commercial passenger vehicle crashed into a traffic attenuator, causing the vehicle to flip and come to rest on its roof. One of the six passengers in the vehicle was killed and several were injured.

At the time of the accident, Aaron Nash, was only 20 years of age, and not licensed to operate a commercial motor vehicle because 49 C.F.R. § 391.11(b)(1) requires that drivers of commercial motor vehicles be at least 21 years old. LYONS LIMOUSINE used Aaron Nash to

driver commercial motor vehicles in interstate commerce on at least two other occasions in March 2016.

LYONS LIMOUSINE used Aaron Nash and Mary Lyons to transport passengers in interstate commerce but failed to conduct any pre-employment background checks before allowing them to transport passenger vehicles in interstate commerce. Neither driver is qualified to operate its vehicles because neither possesses a valid medical examiner's certificate, which is required by 49 C.F.R. § 391.41.

Because LYONS LIMOUSINE did not conduct the required background checks it failed to discover that both drivers have poor driving records. Aaron Nash's driver's license was suspended on September 10, 2015 because he failed to pay a fine. On June 7, 2015, Nash was convicted of failing to fasten his seat belt. On May 8, 2015, Nash was convicted of failing to obey a traffic sign or signal. On March 20, 2015, Nash was convicted of following too closely in a property damage accident. On March 11, 2013, Nash was convicted of obstructing traffic in a property damage accident. On April 11, 2012, Nash was convicted of a speeding violation.

On August 14, 2014, Mary Lyons was convicted of a speeding violation. On September 4, 2013 Mary Lyons' license was suspended because she failed to pay a fine. On August 14, 2014 Mary Lyons was convicted of a speeding violation. On May 1, 2013 Mary Lyons was convicted of failing to fasten her seat belt.

LYONS LIMOUSINE does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe motor vehicles² and was unable to produce any maintenance records identifying the date and nature of inspection, repairs, and

² See 49 C.F.R. § 396.3(a) ("Every motor carrier . . . must systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles . . . subject to its control.")

maintenance conducted.³ LYONS LIMOUSINE also does not retain any periodic inspection reports on its vehicles,⁴ and could not produce any Driver Vehicle Inspection Reports.⁵

LYONS LIMOUSINE does not require its drivers to complete records of duty status or time records, which is a violation of 49 C.F.R. § 395.8.⁶ LYONS LIMOUSINE could not produce any records of duty status at all documenting how long the drivers were operating commercial motor vehicles. The failure to monitor and track its drivers hours of service, shows an alarming disregard of the hours of service rules that are designed to prevent fatigued driving. Moreover, LYONS LIMOUSINE'S two drivers are employed outside of LYONS LIMOUSINE. LYONS LIMOUSINE should have considered the hours worked both outside LYONS LIMOUSINE and for LYONS LIMOUSINE when determining if its drivers could safely operate commercial motor vehicles in interstate commerce within the hours of service limitations in 49 C.F.R. Part 395.

Further, LYONS LIMOUSINE failed to register as a passenger motor carrier with FMCSA. A for-hire motor carrier transporting passengers in interstate commerce is required to register with FMCSA. As a condition of registration, a motor passenger carrier is required to file and maintain \$1,500,000 in liability insurance. At the time of the fatal accident, LYONS LIMOUSINE had been operating in violation of the registration requirements for over three years and did not have any public liability insurance in place.⁷

³ See 49 C.F.R. § 396.3(b) (Motor carriers must maintain records for each motor vehicle they control for 30 consecutive days. The required records include: (1) an identification of the vehicle including company number, if so marked, make, serial number, year and tire size; (2) a means to indicate the nature and due date of the various inspection and maintenance operations to be performed; and (3) a record of inspection, repairs, and maintenance indicating their date and nature.)

⁴ 49 C.F.R. § 396.21(b) requires a motor carrier to retain the periodic inspection report for 14 months from the date of the inspection report.

⁵ 49 C.F.R. § 396.11 requires a motor carrier to require its drivers to prepare a report at the end of each day's work that identifies certain maintenance deficiencies.

⁶ See 49 C.F.R. §395.8(a) ("Every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24 hour period . . .")

⁷ Transporting passengers in interstate commerce without federal operating authority is a violation of 49 C.F.R. §392.9a(a)(1). See 49 C.F.R. § 387.31(a) ("No motor carrier shall operate a commercial motor vehicle until the

LYONS LIMOUSINE's use of unqualified and underage drivers with poor driving records; lack of inspection, repair and maintenance records, and complete disregard of the hours of service regulations substantially increase the likelihood of death or serious injury to drivers, passengers and the motoring public if not discontinued immediately.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before LYONS LIMOUSINE will be permitted to resume operations placed out-of-service by this ORDER, LYONS LIMOUSINE must take specific steps to ensure and demonstrate compliance with the FMCSRs, including the following:

1. You must ensure that all your drivers are qualified to drive a commercial motor vehicle, as required by 49 C.F.R. Part 391. You must not use drivers that have not reached the age of 21 to drive a commercial motor vehicle. You must maintain driver qualification files. You must ensure that all your drivers are physically qualified to drive a commercial motor vehicle, and you must ensure that all your drivers have a valid medical examiner's certificate and appropriate driver's license. You must ensure that every driver you use has completed and furnished an employment application. You 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. You must ensure that you perform a three-year previous employment check on your drivers prior their operating a commercial motor vehicle. You must ensure that you obtain from each driver an annual list of traffic violations and an annual Motor Vehicle Record and that you perform an annual review on each driver's driving record.

2. 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 C.F.R. Part 395. You must establish safety management controls and procedures to require drivers to prepare and submit records of duty status or time records and associated supporting documents as required, ensure that drivers' records of duty status or time records are reviewed, ensure drivers do not falsify records of duty status or time record, and ensure

motor carrier has obtained and has in effect the minimum levels of financial responsibility as set forth in § 387.9 of this subpart.”)

that each driver accurately completes his or her records of duty status or time records 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 is in a safe operating condition and in full compliance with 49 C.F.R. Parts 393 and 396, 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 is systematically and properly inspected, maintained and repaired as required by 49 C.F.R. Part 396, and that documentation of inspection, maintenance and repair are obtained and maintained as required.

5. 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.

6. You must comply with all Orders issued by FMCSA.

7. 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.

8. You must contact FMCSA's Wisconsin Division and arrange for inspection of each of your commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

V. RESCISSION OF ORDER

LYONS LIMOUSINE is subject to this ORDER unless and until the ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, LYONS LIMOUSINE is prohibited from operating any commercial motor vehicle, as defined by 49 C.F.R. § 390.5, in interstate and intrastate commerce. This ORDER will not be rescinded until the Regional 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 had been submitted.

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

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

Division Administrator, Wisconsin Division
1 Point Place
Suite 101
Madison, Wisconsin 53719

VI. FAILURE TO COMPLY WITH THIS ORDER

This ORDER, issued pursuant to 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 Agency. Violation of this ORDER may subject LYONS LIMOUSINE to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. LYONS LIMOUSINE 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)). LYONS LIMOUSINE may also be assessed civil penalties of not less than \$25,000 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 \$16,000 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 LYONS LIMOUSINE 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 who violates Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions 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 pursuant to 5 U.S.C. § 554 and 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 days of the issuance of this ORDER. See 49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72. FMCSA interprets this requirement to mean that if a petition for review is filed within ten days of issuance of such ORDER, 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, with a copy sent to FMCSA's Adjudication's Counsel by mail and electronic mail, and the Regional Field Administrator, Midwestern Service Center at the following addresses:

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

Federal Motor Carrier Safety Administration
Office of the Chief Counsel- Adjudications
1200 New Jersey Avenue S.E. W61-323
Washington, D.C. 20590
FMCSA.Adjudication@dot.gov

Regional 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 your operation of a commercial motor vehicle in interstate commerce constitutes 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, 2016



Patrick Fernan, Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration