



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Western Service Center
12600 W. Colfax Ave., Suite B-300
Lakewood, CO 80215

Phone: (303) 407-2350
Fax: (303) 407-2339

December 27, 2019

USDOT: 2822783

Clussie Bagby, President
Blessed Limousine, Inc.
3932 62nd Avenue Crt E
Fife, WA 98424

via email: info@blessedlimo.net

RE: Request for Change in Safety Rating under 49 C.F.R. § 385.17

Dear Mr. Bagby:

On October 31, 2019, a compliance review was conducted on Blessed Limousine Inc (hereinafter "you" or "your"). The review resulted in a proposed safety fitness rating of "Unsatisfactory". On November 29, 2019, you submitted a request to upgrade your safety rating based on corrective action that you took to come into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and/or Hazardous Materials Regulations (HMRs).

During the compliance review, you were cited for violations of the FMCSRs and/or HMRs, including violations of acute and critical regulations:

- 49 C.F.R. Section 382.105 – Using a DOT custody and control form to perform non-DOT test,
- 49 C.F.R. Section 382.305(i)(2) – Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made,
- 49 C.F.R. Section 382.305(k)(2) – Failing to ensure that random testing dates are reasonably spread throughout the calendar year,
- 49 C.F.R. Section 382.601(b) – Failing to provide to employees a written policy on misuse of alcohol and controlled substances that meets the requirements of 382.601(b) 1-11,
- 49 C.F.R. Section 383.37(a) – Allowing, requiring, permitting, or authorizing a driver to operate a CMV during any period in which the driver does not have a current CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL (**acute**),
- 49 C.F.R. Section 387.31(d) – Failing to maintain at principal place of business required proof of financial responsibility for passenger vehicles,
- 49 C.F.R. Section 390.21(b)(1) – Failing to mark a commercial motor vehicle with the legal name or a single trade name,

- 49 C.F.R. Section 391.21(a) – Using a driver who has not completed and furnished an employment application,
- 49 C.F.R. Section 391.23(m)(2)(i)(a) – Did not verify and document, using a CDLIS motor vehicle record from the current licensing State, the type of operation the driver self-certified that he or she will perform in accordance with § 383.71(b)(1) of this chapter,
- 49 C.F.R. Section 391.25(c)(2) – Failing to maintain record of annual review in driver's qualification file,
- 49 C.F.R. Section 391.27 – Failing to require each driver it employs to prepare and furnish a list, at least once every 12 months, of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he/she has forfeited bond or collateral during the preceding 12 months,
- 49 C.F.R. Section 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file (**critical**),
- 49 C.F.R. Section 391.51(b)(7)(ii) – Failing to maintain the CDLIS motor vehicle record that contains medical certification status information in driver's qualification file,
- 49 C.F.R. Section 391.51(b)(9) – Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s),
- 49 C.F.R. Section 391.53(a) – Failing to maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to paragraphs (d) and (e) of §391.23,
- 49 C.F.R. Section 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using appropriate method (**critical**),
- 49 C.F.R. Section 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance,
- 49 C.F.R. Section 396.3(b)(2) – Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed,
- 49 C.F.R. Section 396.3(b)(3) – Failing to keep a record of inspection, repairs and maintenance indicating their date and nature,
- 49 C.F.R. Section 396.9(c)(2) – Requiring or permitting the operation of a motor vehicle declared “out-of-service” before repairs were made (**acute**),
- 49 C.F.R. Section 396.9(d)(3) – Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier's principal place of business or where vehicle is housed,
- 49 C.F.R. Section 396.11(a) – Failing to require driver to prepare driver vehicle inspection report, and
- 49 C.F.R. Section 396.17(a) – Using a commercial motor vehicle not periodically inspected (**critical**).

The compliance review also revealed an unsatisfactory vehicle out-of-service rate of 60%.

Your request for an upgrade and/or evidence of corrective action received on October 31, 2019 (“upgrade request”) was reviewed by FMCSA and is not sufficient to justify an upgrade to your

safety rating, and it failed to demonstrate that adequate corrective actions have been taken to address the violations cited during the compliance review. As required by 49 C.F.R. § 385.17(c) a motor carrier must base its request upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in 49 C.F.R. §§ 385.5 and 385.7 and must include a written description of corrective actions taken and other documentation that may be relied upon as a basis for the requested change to the proposed rating.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 383.37 was inadequate. Your upgrade request included an explanation that one violation occurred because Gary Miller's passenger endorsement was removed by the Department of Licensing, that Clussie Bagby will no longer driver for the company, and that moving forward you will use an onboard checklist to ensure drivers have the proper endorsements. In addition, your upgrade request included a blank Driver Onboard Checklist, driver list, motor vehicle records (MVRs) and annual reviews for Daryl Robers, Curtins McCraney, and Melissa Thomas. However, your explanation only accounts for one of three violations of 49 C.F.R. § 383.37 that were discovered during the review. Your upgrade request also failed to include an explanation of why Mattie Raiford and Clussie Bagby operated in violation of intrastate restrictions and/or why Mr. Bagby continued to operate when his CDL was suspended. Further, it does not appear that the on-board checklist you provided to ensure compliance in the future would have effectively prevented the violations discovered. Therefore, your upgrade request failed to describe an effective plan that your management staff or officials will follow to ensure drivers have valid commercial driver's licenses (CDLs) and endorsements for the vehicles they operate.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 395.8(a)(1) was inadequate. Your upgrade request included an explanation that you failed to have drivers include a "total hours on duty column," that you have now created a compliant local timesheet for record of duty status (RODS) reporting within the short haul exception, that you have given training to drivers on the short haul exemption parameters, required them to sign an agreement to report hours of service, and that Clussie Bagby now reviews drivers records of duty status on a weekly basis to verify that drivers are filling them out correctly. Documentation you submitted with your upgrade request includes an Agreement to Report Hours of Service signed by Melissa Thomas and Curtis McCraney along with a training attendance record signed by Melissa Thomas, Curtis McCraney, and Daryl Roberts. Documentation you submitted also includes various "Tours Driver's Weekly Timesheets" for Curtis McCraney and Daryl Roberts. Your upgrade request, however, failed to indicate how you will verify that all requirements of the short-haul exception, if applicable, are met. For example, during the review it was discovered that drivers were failing to include seven day statements for intermittent drivers. Further, during the review you stated that Mattie Raiford did not have RODS because she did not work but the investigator discovered trips where she should have recorded hours. Your upgrade request fails to address how you will prevent this from happening in the future such as comparing your drivers' RODS to supporting documents.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 396.9(c)(2) was inadequate. Your upgrade request included a brief explanation that you failed to retain documentation, that you have obtained the work order showing the date of tire and light repairs, and that you have now created compliant files and understand that you must maintain work

orders and receipts. However, the invoice and maintenance records that you submitted with your upgrade request were for Unit #181 and during the review Unit #777 (VIN ending with 6591) was cited. During the review, you admitted that the vehicle was towed from the inspection location but then driven to another location for repair. Your upgrade request failed to include an explanation as to why this vehicle was operated prior to being repaired. Further, your upgrade request failed to describe the roles of your management staff or officials and the detailed process they will follow to ensure you do not require or permit the operation of a motor vehicle declared "out-of-service" to drive before repairs were made.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 396.17(a) was inadequate. Your upgrade request included an explanation and evidence that the motorcoach in violation was out of service at the time the violation was noted, a statement that you are now aware of maintenance record keeping requirements, and explained that you have now assigned specific identifying numbers to each bus. Further, you stated that you are implementing a procedure to give all units annual inspections in the same month each year. You submitted annual inspections for units #777 (October 5, 2018), #181 (October 8, 2019) and #9785 (December 4, 2018). However, the vehicle you reference as being out of service, #777 and VIN ending with 6591, was not the vehicle cited during the review, #181 and VIN ending with 6594. Additionally, you failed to provide an annual inspection for the 2006 Ford Econoline, VIN ending with 7229, which was cited during the review. Further, your upgrade request failed to describe the roles of your management staff or officials and the process they will follow to ensure you do not use a commercial motor vehicle not periodically inspected.

Your upgrade request failed to address your unsatisfactory vehicle out of service rate.

After reviewing your upgrade request, the Federal Motor Carrier Safety Administration (FMCSA) is **DENYING** your request. You have failed to provide sufficient evidence that the violations cited in the compliance review have been corrected and that your current operation meets the safety fitness standard and factors specified in 49 C.F.R. §§ 385.5 and 385.7.

To change a safety rating under the provisions of 49 C.F.R. § 385.17, the Field Administrator must be assured that corrective action has been taken and that the motor carrier's current operations meet the safety fitness standard and factors specified in 49 C.F.R. §§ 385.5 and 385.7. You may submit another request for a change to the proposed or final safety rating under 49 C.F.R. § 385.17. If you believe FMCSA made an error in this denial of request for rating change, you may also request administrative review of this denial under the procedures of 49 C.F.R. § 385.15 (see 49 C.F.R. § 385.17(j)) within 90 days of this denial. If you choose to request administrative review of this denial under the procedures of 49 C.F.R. § 385.15, your request for review must be submitted in writing to the Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, W60-312, Washington, D.C. 20590. **The petition for an administrative review will not stay the proposed safety rating and any pending prohibition on your operation of commercial motor vehicles in interstate or intrastate commerce unless you request a stay of the proposed safety rating and such stay is granted by the Assistant Administrator. If the proposed safety rating has become final, the rating shall remain in effect during the period of administrative review.**

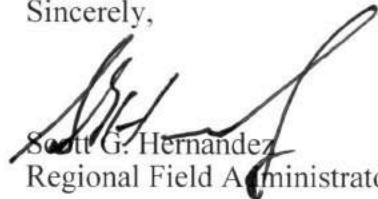
If you elect to submit another request for a safety rating upgrade under 49 C.F.R. § 385.17, you must address the deficiencies discussed above, include evidence of corrective action that demonstrates that you have remedied your safety management deficiencies and are in compliance with the safety factors and standards in 49 C.F.R. §§ 385.5 and 385.7, and should include:

1. A detailed description of the procedures you have implemented or will implement to ensure that your drivers' commercial driver license (CDL) and corresponding endorsements are valid, active and appropriate for the type of vehicle operated, particularly after a driver obtains a new medical certificate. Identify the person(s) and title(s) responsible, with specific roles and duties described for ensuring your drivers are and remain licensed, including proper endorsements for the type of commercial motor vehicles (CMV), to be driven and monitoring expiration dates. Provide evidence that you are now in compliance with 49 CFR 383.73 such as a driver list with evidence that all drivers have a valid CDL with proper endorsements, including a current driver driving history abstract from the issuing State of domicile.
2. A detailed description of the safety management system you have implemented to monitor and control driver compliance with hours of service (HOS) requirements and verify drivers complete and timely submit records of duty status (RODS) and/or local time records, and verify driver RODS and/or local time records are accurate and complete. This description should include procedures for verifying the accuracy and completeness of RODS and/or local time records; a description of supporting documents used to compare with the RODS and or time records; the frequency of RODS and/or local time record checks; and a description and frequency of RODS and/or local time records audit summaries. This description should identify the person(s) and title(s) responsible for verifying that drivers operate in compliance with the short haul exception and submit accurate and complete RODS and/or time records and associated supporting documents.
3. Evidence that you are checking RODS/local time records for accuracy and completeness, such as an RODS audit summary of all drivers for the month of December 2019.
4. A detailed description of the process you will follow to ensure you do not use a commercial motor vehicle that has not been periodically inspection. Provide evidence that the vehicles cited during the review, #181/VIN ending with 6594 and the 2006 Ford Econoline/VIN ending with 7229, have current annual inspections.
5. A written and detailed description of procedures and safety management controls you have implemented to ensure systematic inspections, repairs, maintenance and periodic inspection of your commercial motor vehicles to prevent and address vehicle out-of-service defects. Your upgrade request should include an explanation of how you will ensure that repairs are made on vehicles that are placed out-of-service. In addition, your upgrade request needs to describe procedures and steps you will take to reduce vehicle out-of-service defects and violations, and how your maintenance program will improve your vehicle out-of-service rate and roadside inspection performance. Provide evidence

of repairs performed for all vehicle out-of-service defects and deficiencies noted on federal and state vehicle inspections in the past 90 days.

Should you have any questions, please feel free to contact an Enforcement Program Specialist or the Enforcement Program Manager by telephone at (303) 407-2350.

Sincerely,



Scott G. Hernandez
Regional Field Administrator

cc: Jeffrey A. James, Division Administrator