



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Western Service Center
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February 7, 2020

Clussie Bagby, President
Blessed Limousine, Inc.
15 S Grady Way, Suite 634
Renton, WA 98057

USDOT: 2822783

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). Your request was denied on December 27, 2019. On January 8, 2020, the Federal Motor Carrier Safety Administration (FMCSA) received your second request to upgrade your safety rating.

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 January 8, 2020 ("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.

Your “Unsatisfactory” safety rating became effective January 4, 2020 and remains in effect. Therefore, you were ordered to cease all transportation in interstate and intrastate commerce and your operating authority registration was revoked effective on that date.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 383.37(a) was inadequate. Your upgrade request included a draft policy that says you will obtain driver abstract every 90 days and you submitted abstracts for Clussie Bagby and Curtis McCraney. You stated that your driver list now includes expiration dates of CDLs and medical cards and that drivers will not be allowed to operate when required credentials expire. However, your explanation again, only accounts for one of three violations of 49 C.F.R. § 383.37 that were discovered during the review. Your upgrade request again, failed to include an explanation of why Mattie Raiford and Clussie Bagby operated in violation of intrastate restrictions and why Mr. Bagby continued to operate when his CDL was suspended. As described in our December 27, 2019 denial, it does not appear that the on-board checklist you provided to ensure compliance in the future would have effectively prevented the violations discovered. In addition, you failed to describe how obtaining abstracts every 90 days per your draft policy would prevent violations in the future, given that the abstract you submitted for Clussie Bagby is dated December 5, 2018, which predates the suspension for which he was cited and shows an intrastate restriction with no medical certificate on file, yet you still allowed Clussie Bagby to drive. Your upgrade request again, 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 includes an explanation that you will check your new form weekly to ensure that you “don’t slip up” and dispatch a driver who is over hours, “Tours Driver’s Weekly Timesheets,” and included “7 Day Sheets” for Clussie Bagby and Curtis McCraney. However, your upgrade request again, 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, yet again you failed to describe in detail the process you will follow to ensure “7 Day Sheets” are requested and reviewed for intermittent drivers. Your upgrade request again failed to address how you will review supporting documents to ensure you require drivers prepare a record of duty status using an appropriate method. For example, during the review you stated that Mattie Raiford did not have RODS because she did not work, but the investigator discovered supporting documents that showed trips where she should have recorded hours.

The upgrade request you submitted to address the violation(s) of 49 C.F.R. § 396.9(c)(2) was inadequate. Your second upgrade request states you have implemented a policy for roadside inspections to be submitted immediately and that out of service defects will be repaired on site or the vehicle will be towed. However, your upgrade request again failed to include an explanation why the vehicle cited in the review was operated prior to being repaired. Further, your upgrade request again failed to describe the roles of your management staff or officials and the detailed process they will follow to ensure you do not to require or permit the operation of a motor vehicle declared “out-of-service” before repairs are 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 that you will conduct annual inspections every 8-10 months, annual inspection stickers will be placed on the vehicles and drivers will report on their DVIRs when the due date is within 30 days. You submitted photos of annual inspection stickers for VINs that correspond with #778 and 9875 with expiration dates 12 months from the inspection date. You reported five vehicles on your vehicle list and submitted

annual inspections for #181, #9785 and #779. However, there are several inconsistencies that make it unclear which vehicles were actually inspected. Your vehicle list reflects unit #9875 but you submitted an inspection for unit #9785 with the same VIN. You submitted an annual inspection with unit #779 with VIN ending 7229 which corresponds with unit #778. When the discrepancy was brought to your attention by FMCSA staff on January 22, 2019, you failed to explain the discrepancy and stated only that the vans are being sold. On January 22, 2019, FMCSA staff requested, yet you did not submit photos of annual inspection stickers on all of your vehicles to demonstrate that you have implemented your safety management plan, you stated that the vans are being sold and #777 is out of service because there is not enough business. Furthermore, your upgrade request again 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.

The upgrade request you submitted to address your unsatisfactory vehicle out of service rate was inadequate. Your upgrade request included a statement that you came to the conclusion that you need to make changes to your maintenance system, will conduct training on how to conduct daily inspections and have revised your scheduled maintenance intervals. You stated that Clussie Bagby will check DVIRs each day ensuring safety related defects are corrected before the next dispatch and minor repairs are conducted when the vehicle has routine maintenance. Your scheduled inspections are to be conducted each 60-90 days at the same time as your emergency exit inspections and the technician will place a sticker in the windshield. The inspection will reportedly include brakes, steering and suspension, tires and wheels and vehicle connecting devices such as fifth wheels, kingpins, pintle hooks, drawbars and chains. You submitted a chart that includes a column for service due dates. However, your chart does not include a due date for unit #775 which is not included on the vehicle list you submitted, but appears to be the same make and model as unit #779, which was included. You failed to describe why your previous maintenance procedures were ineffective, how your new procedures are different from the previous procedures, and how they will prevent defects and improve your out of service rate. In addition, when FMCSA requested photos of the annual inspection stickers to demonstrate that you have implemented your safety management plan, you submitted a photo of only one sticker that appears to be for an oil change that could not be associated with any specific vehicle. You also failed to provide evidence that you have provided training on daily vehicle inspections.

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.

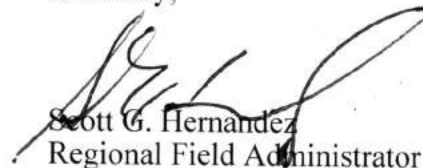
If you elect to submit another request for a safety rating upgrade under 49 C.F.R. § 385.17, you must address the deficiencies discussed above, include evidence of corrective action that

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 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, complete 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 inspected. Provide evidence that the 2006 Ford Econoline/VIN ending with 7229, has a current annual inspection.
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