

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

ANGEL TOURS, INC. and  
IGUALA BUSMEX, INC.  
1505 Telephone Road  
Houston, TX 77023

)  
)  
)  
)  
)  
)

Order OOSO-2008-01  
Service Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Person Served: \_\_\_\_\_

**OPERATIONS OUT-OF-SERVICE ORDER**

This notice constitutes an **Operations Out-of-Service Order** by the United States Department of Transportation (DOT) pursuant to 49 U.S.C. § 521(b)(5)(A), Public Law 105-59, § 4114, 119 Stat. 1144 (Aug. 10, 2005), and 49 C.F.R. § 386.72(b)(1), and pursuant to delegation of authority to the Field Administrator, Federal Motor Carrier Safety Administration ("FMCSA"), United States Department of Transportation, Atlanta, Georgia. The Order applies to Angel Tours, Inc., Iguala Busmex, Inc. and each of its officers and directors, including but not limited to Mr. Angel De La Torre (referred to collectively herein as "you," "your" or "Angel Tours" or "Iguala").

The United States finds your motor coach operations constitute an **"imminent hazard."** This finding means that based upon your present state of unacceptable safety compliance, and your failure to adequately establish safety management systems and ensure your vehicles are properly maintained, your motor carrier operations pose an **"imminent hazard"** to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION OF PASSENGERS BY DRIVERS FROM ALL DISPATCHING**

**LOCATIONS OR TERMINALS.**

Vehicles and their drivers now in interstate 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 passengers can be safely accommodated. (See 49 C.F.R. 386.72(b)).

**NO ADDITIONAL PASSENGERS MAY BE LOADED OR TRANSPORTED,  
NOR MAY THE BUSES BE OPERATED IN INTERSTATE OR INTRASTATE  
COMMERCE DURING THE PERIOD OF TIME THIS ORDER IS IN EFFECT. A BUS  
MAY BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON APPROVAL  
FROM THE FIELD ADMINISTRATOR.**

**JURISDICTION**

Angel Tours and Iguala are motor carriers engaged in interstate commerce and are therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.F.R. Parts 350-399, as well as the Orders of the DOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 13501 and 31133.)

Angel Tours and Iguala are required to comply, and to ensure their drivers comply, with the FMCSRs (49 C.F.R. § 390.11). This Order shall have the force and effect of any other Order issued by the FMCSA and shall be binding upon Angel Tours and Iguala, as well as any and all of their officers, directors, successors and assigns.

**BASIS FOR THE OUT-OF-SERVICE ORDER**

The basis for determining that Angel Tours' and Iguala's motor carrier operations pose an "imminent hazard" to the public is that Angel Tours and Iguala currently operate vehicles in a mechanically unsafe operating condition which, if operated, would pose an imminent hazard to

the public. Further, Angel Tours and Iguala fail to ensure their vehicles are properly and regularly inspected, repaired and maintained, thereby posing a continuing imminent hazard to the public. In addition, Angel Tours and Iguala fail to ensure they are complying with the Federal controlled substances and alcohol use and testing requirements, qualification of drivers requirements and drivers' hours of service requirements, thereby posing a continuing imminent hazard to the public. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to Angel Tours and Iguala drivers and to the motoring public.

### **BACKGROUND**

On August 8, 2008, a bus operated by Angel Tours and/or Iguala, Inc. transporting passengers from Houston, Texas to Carthage, Missouri crashed on Highway 75 traveling Northbound near Sherman, Texas. The initial investigation of the Sherman, Texas Police Department determined a contributing factor to the crash was that the right front tire blew out causing the driver to lose control of the bus. The bus hit a guard rail, ran off a bridge and struck an embankment. There are currently 14 fatalities and more than 40 injuries. A number of the injuries are critical. The National Transportation Safety Board ("NTSB") is investigating the incident.

As a result of this multi-fatality accident, FMCSA initiated an accident investigation on August 8, 2008. The initial investigation revealed that Angel Tours was the subject of a Compliance Review (CR) initiated on May 1, 2008. The result of the CR was a proposed safety fitness rating of "Unsatisfactory," finding that Angel Tours has a grossly ineffective or nonexistent inspection, repair and maintenance program. The CR also uncovered violations of

other FMCSRs so widespread as to demonstrate a continuing and flagrant general disregard for compliance with the FMCSRs and a management philosophy indifferent to motor carrier safety. Moreover, the CR identified a total and complete breakdown of management controls and oversight to ensure safe operation of their commercial motor vehicles. On June 12, 2008, Angel Tours was served an Operations Out-of-Service Order. The Operations Out-of-Service Order became effective on June 23, 2008, and remains in effect. On June 24, 2008, Angel Tours requested an upgrade of its safety rating based upon corrective action. After a review of the corrective action submitted, the request for an upgrade was denied because Angel Tours failed to submit evidence that demonstrated correction of the violations leading to the unsatisfactory safety rating.

Iguala Busmex, Inc. constitutes a mere continuity of Angel Tours' operations. On or about June 27, 2008, immediately following the issuance of the Unsatisfactory safety fitness determination against Angel Tours, Iguala Busmex registered with FMCSA, and Angel Tours began to operate under the name of Iguala Busmex, Inc. A review of the motor carrier operations of Angel Tours and Iguala demonstrates that both are motor carriers transporting passengers with identical routes and the same customer base. Angel Tours and Iguala utilize the same equipment and same drivers. Angel Tours and Iguala operate from the same physical location and motor carrier operations and both are controlled by Angel De La Torre. A review of the operations of Angel Tours and Iguala demonstrate that Iguala is the continued operation of Angel Tours. Angel Tours' continuity of operation through Iguala demonstrates a blatant disregard for FMCSA Orders, which was issued based upon the company's substandard safety record. The operations of Angel Tours and Iguala have now reached the point where they constitute an imminent

**hazard to the public.**

The most immediate and severe hazard to the public stems from Angel Tours' and Iguala's grossly deficient vehicle maintenance performance. This agency requires that each motor carrier maintain its commercial motor vehicles in a safe operating condition at all times and continuously and effectively comply with the FMCSRs. Angel Tours and Iguala's vehicle inspection, repair and maintenance violations in the CR include:

- (a) failing to keep a maintenance record which identifies the vehicle, including make, serial number, year and tire size;
- (b) failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed;
- (c) failing to keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses;
- (d) failing to require driver to prepare driver vehicle inspection report;
- (e) using a commercial motor vehicle not periodically inspected; and
- (f) using regrooved, recapped, or retreaded tires on the front steering axle of a passenger carrying vehicle.

In addition, other widespread and serious violations of the FMCSRs reflect a continuing and flagrant general disregard for safety and compliance by Angel Tours and Iguala. These violations in the CR include:

- (a) using a driver before the motor carrier has received a negative pre-employment controlled substance test result;
- (b) failing to conduct random alcohol testing at an annual rate of not less than the

- applicable annual rate of the average number of driver positions;
- (c) failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions;
  - (d) failing to provide educational material explaining requirements of 49 C.F.R. Part 382 (Controlled Substances and Alcohol Use and Testing) and employer's policies (49 C.F.R. Subpart F);
  - (e) failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances;
  - (f) using a driver who has not completed and furnished an employment application;
  - (g) failing to maintain a driver qualification file on each driver employed;
  - (h) failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 49 C.F.R. § 391.27;
  - (i) failing to maintain a copy of the driver record(s) obtained in response to the inquiry or inquiries to each State driver record agency required by paragraph (a)(1) of this section that must be placed in the driver qualification file within 30 days of the date the driver's employment begins;;
  - (j) failing to investigate each driver's background; and
  - (k) requiring or permitting drivers to drive more than 10 hours;

**ANGEL TOURS AND IGUALA'S INEFFECTIVE INSPECTION, REPAIR AND  
MAINTENANCE PROGRAM AND VIOLATIONS OF OTHER  
FEDERAL MOTOR CARRIER SAFETY REGULATIONS POSE AN IMMINENT  
HAZARD TO THE PUBLIC**

As of August 8, 2008, Angel Tours and Iguala have demonstrated an ongoing failure to ensure their vehicles are adequately maintained and in safe operating condition. Angel Tours and Iguala have also demonstrated an ongoing failure to ensure they are complying with the controlled substances and alcohol use and testing requirements, drivers' qualifications requirements, and drivers' hours of service requirements. This failure resulted in the FMCSA issuing an Operations Out-of-Service Order based upon the unsatisfactory safety rating. Angel Tours and Iguala's substandard safety compliance and their flagrant operation in violation of the FMCSA's Order show their operations pose an imminent hazard. The violations documented in the CR demonstrate substantial vehicle maintenance problems. The failure to address the safety management issues, particularly related to vehicle maintenance, was a contributing factor in a crash resulting in 14 fatalities, to date.

**REMEDIAL ACTION**

To eliminate this "imminent hazard," and before Angel Tours and Iguala will be permitted to resume those operations which are placed out of service by this Order, Angel Tours and Iguala must undertake positive steps which will ensure and demonstrate compliance with the FMCSRs.

**YOU MUST COMPLY WITH THE PROVISIONS OF THIS ORDER**

1. Angel Tours and Iguala must ensure and demonstrate that its vehicles are in a safe operating condition, they are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance), and there is an adequate maintenance program in place to ensure compliance with the FMCSRs.
2. Angel Tours and Iguala must require all drivers to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that your drivers can report safety defects and/or deficiencies and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately.
3. Angel Tours and Iguala must maintain a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. Parts 40 and 382.
4. Angel Tours and Iguala must ensure their personnel are adequately trained in the requirements of the FMCSRs and they are able to conduct motor carrier operations consistent with those regulations.
5. Angel Tours and Iguala must ensure they maintain driver qualification files, as required by 49 C.F.R. Part 391 (Qualification of Drivers and Longer Combination Vehicle Driver Instruction).
6. Angel Tours and Iguala must ensure drivers accurately complete their daily records of duty status and submit them to the carrier within 13 days of their completion. Angel Tours and Iguala must maintain drivers' records of duty status and all supporting documents for a minimum period of 6 months. Further, you must ensure that all records of duty status are accurate by using all means available to you and by comparing each with all supporting documentation.



**7. Angel Tours and Iguala must comply with all Orders issued by the FMCSA.**

**RESCISSION OF THIS ORDER**

Before resuming motor carrier operations Angel Tours and Iguala must comply with the provisions of this Order, eliminate the problems constituting the "imminent hazard" which your operations pose and adequately demonstrate to the Southern Field Administrator, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. You cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person or company. Any lease of equipment and/or direct assignment of contracts or other arrangements require the written approval of the Southern Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service Order must cease immediately. You must have the Order rescinded by the Southern Field Administrator before you may continue interstate or intrastate operations. Prior to rescission of the Order, you will be required to:

- 1. IDENTIFY THE CAUSE FOR YOUR NONCOMPLIANCE.**
- 2. DEVELOP A DETAILED PLAN OF ACTION THAT ADDRESSES EACH AREA OF NON-COMPLIANCE, THE STEPS YOU INTEND TO TAKE TO OVERCOME YOUR NON-COMPLIANCE AND A TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF ANGEL TOURS AND IGUALA TO COMPLY WITH THE FMCSRS.**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE**

**CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS.**

Your request to rescind this Operations Out-of-Service Order must be directed to the Southern Field Administrator, Federal Motor Carrier Safety Administrator, with a copy to Joanne Cisneros, Texas Division Administrator, Federal Motor Carrier Safety Administration, United States Department of Transportation, 903 San Jacinto Boulevard, Suite 101, Austin, Texas.

**The request for rescission must be in written form, include the Safety Management Plan, and include certification by ALL corporate officers and managers of Angel Tours and Iguala that the provisions of the Order have been complied with, and that the imminently hazardous conditions have been eliminated.**

**FAILURE TO COMPLY**

Failure to comply with the provisions of this Operations Out-of-Service Order may subject Angel Tours and Iguala to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. Angel Tours and Iguala may be assessed civil penalties of up to \$16,000 per day for each day you continue the proscribed interstate or intrastate operations after the effective date and time of this Order. (49 C.F.R. Part 386 App. A. § IV(b)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 and a prison term of one year. (49 U.S.C. § 521(b)(6)(A)).

**RIGHT TO REVIEW**

You have the right to an administrative review pursuant to 49 C.F.R. § 386.72(b)(2), in accordance with 5 U.S.C. § 554. The administrative review, if requested, must be provided within 10 days of issuance of the Out-of-Service Order. The Request for Review must be addressed to Ms. Rose McMurray, Associate Administrator and Chief Safety Officer, Federal

Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington DC 20590.

The request must state the material facts at issue which you believe dispute or contradict the finding that your company's operation constitutes an imminent hazard to the public. A

**REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO COMPLY WITH THIS ORDER. ANGEL TOURS AND IGUALA'S RESPONSE TO THIS OPERATIONS OUT-OF-SERVICE ORDER WILL NOT ALTER THE "UNSATISFACTORY" SAFETY FITNESS RATING THAT RESULTED FROM THE MAY 2008 CR OR THE RESULTING OPERATIONS OUT-OF-SERVICE ORDER.**



---

Darrell L. Ruban  
Federal Motor Carrier Safety Administration  
Field Administrator  
Southern Service Center  
1800 Century Boulevard, Suite 1700  
Atlanta, Georgia 30345  
(404) 327-7400