

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

HAENG KYU (JAMES) HWANG)
) **Order No.: WA-2013-5002-IMH**
)
) **Service**
) **Date:** _____
)
) **Time:** _____
)

IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER

This is an Imminent Hazard Operations Out-of-Service Order ("ORDER") issued by the Secretary of Transportation (the "Secretary") pursuant to 49 U.S.C. § 521(b)(5)(A) and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Lakewood, Colorado. This ORDER applies to HAENG KYU (JAMES) HWANG, of British Columbia, Canada, (referred to herein as "you", "your", and /or "HWANG"), a commercial motor vehicle driver.

The Secretary and the FMCSA find that your continued operation of any commercial motor vehicles, as defined in 49 C.F.R. § 390.5, (herein "vehicles," "motor vehicles," and/or "motor coaches") in the United States constitutes an **imminent hazard**. This finding means that, based upon your present state of unacceptable safety compliance, your operation of a commercial motor vehicle substantially increases the likelihood of serious injury or death if not discontinued immediately.

EFFECTIVE IMMEDIATELY, YOU MUST CEASE OPERATING ANY

COMMERCIAL MOTOR VEHICLE IN INTERSTATE TRANSPORTATION.

YOU ARE PROHIBITED FROM OPERATING ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE COMMERCE IN THE UNITED STATES WHILE THIS ORDER IS IN EFFECT.

I. JURISDICTION

HWANG is a driver engaged in interstate commerce in the United States 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, 31144 and 31306.)

II. BASIS FOR ORDER

The basis for determining that your driving operations pose an imminent hazard to the public is that you failed to monitor and ensure that you adhered to the drivers' hours of service requirements and/or willfully violated hours of service requirements. On or about December 30, 2012, while driving in the United States, you drove far in excess of the maximum hours of service (70 hours) contained in 49 C.F.R. § 395.5(b)(2) (you were at 92 hours) when you were involved in a crash resulting in 9 passenger fatalities and 39 passenger injuries. You violated the 70-hour rule contained in 49 C.F.R. § 395.5(b)(2) on each day of the three days preceding the deadly crash.

Furthermore, while driving in the United States, you engaged in unsafe driving while operating a commercial motorcoach filled with passengers. On or about December 30, 2012, you were driving at speeds too fast for conditions and driving in a manner unsafe to existing road conditions. You exhibited a careless or reckless disregard for the safety of yourself, your passengers and the general public. You were driving in such a manner at or around the time of

the crash mentioned above.

Individually and cumulatively, these deficiencies substantially increase the likelihood of serious injury or death to HWANG, passengers and the motoring public.

III. BACKGROUND

On December 30, 2012, MI JOO TOUR & TRAVEL was operating two 57-passenger motorcoaches on a tour of the Western United States, nearing completion of the final leg. At approximately 10:11 a.m. (Pacific Time) you were driving one of the motorcoaches, which crashed on I-84 near Pendleton, Oregon, resulting in 9 passenger deaths and 39 passenger injuries. You and the other driver were in significant non-compliance with the driver hours-of-service requirements.

As noted, HWANG failed to adhere to hours of service requirements and violated hours of service requirements. At the time of the crash, HWANG had been driving far in excess of the maximum hours of service (70 hours) contained in 49 C.F.R. § 395.5(b)(2). You exceeded maximum driver hours of service requirements on each of the three days preceding the crash. HWANG's callous violation of hours of service requirements results in driver fatigue that puts passengers and the public at risk of death or serious injury. Moreover, at or around the time of the crash, various witnesses observed that HWANG was driving too fast for the wintry conditions on a mountain roadway and in an unsafe manner likely to cause a crash, which in fact occurred. Such actions establish an imminently hazardous and potentially deadly situation for HWANG, passengers, and the motoring public.

IV. REMEDIAL ACTION

To abate this imminent hazard, and before you may operate a commercial motor vehicle in interstate commerce in the United States, you must take specific steps to ensure and demonstrate

compliance with the FMCSRs and be able to operate a commercial motor vehicle safely.

YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER

1. You must take aggressive and progressive steps to learn to adhere to United States drivers' hours of service requirements while operating in the United States.

2. You will ensure you accurately and fully complete daily records of duty status and submit them to your motor carrier employer within 13 days of completion. You must also submit all supporting documents for each transportation. Further, you must ensure that all records of duty status submitted to your motor carrier employer are true and correct for each 24-hour period.

3. You must notify any motor carrier employer when you do not have the necessary available hours of service to complete a trip in accordance with 49 C.F.R. Part 395.

4. You must comply with all Orders issued by FMCSA and must submit to the Regional Field Administrator a plan detailing how you will (i) obtain training on compliance with the HOS regulations, (ii) monitor each 24-hour period for compliance with the HOS regulations, and (iii) ensure that each period complies with the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

5. You must ensure safe operation of each commercial motor vehicle you operate.

6. You must obtain adequate training to ensure you know how to operate commercial motor vehicles safely in normal and adverse driving conditions and/or otherwise prove that you can and will operate commercial motor vehicles in the United States in a safe manner.

V. RESCISSION OF ORDER

You are subject to this Order unless and until the Order is rescinded by the FMCSA. Before operating any commercial motor vehicle in the United States, you must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that your operations pose, and adequately demonstrate to the Regional Field Administrator, Western Service Center, 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 for another company.

Prior to rescission of the Order, You will be required to:

- 1. IDENTIFY THE CAUSE OF 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 YOUR COMMITMENT TO COMPLY WITH THE FMCSRS.**

Any request to rescind this ORDER, and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Regional Field Administrator, Western Service Center with a copy to the Division Administrator, Washington Division, at the following addresses:

Mr. William R. Paden
Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

Mr. Jeffrey James
Division Administrator, Washington Division
Federal Motor Carrier Safety Administration
2424 Heritage Court, SW, Suite 302
Olympia, WA 98502-6031

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Operations Out-of-Service Order may subject you to an action by the United States Attorney in the United States District Court for equitable relief and civil penalties. You may be assessed civil penalties of at least \$2500 and be disqualified from operating commercial motor vehicles for not less than 180 days if you operate a commercial motor vehicle violation of this Order. You may be assessed civil penalties of at least \$5000 and be disqualified from operating commercial motor vehicles for not less than two years and not more than five years for a second violation of this Order. (49 U.S.C. §§ 521(b)(2)(A) and 31310(i) and 49 C.F.R. § 386.82(a)(4)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521 (b)(6)).

VII. PENALTIES FOR VIOLATIONS

Any commercial motor vehicle driver that violates Federal requirements, including the FMCSRs, 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, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to an administrative review in accordance with 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. (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 Regional Field Administrator, Western Service Center at the following addresses:

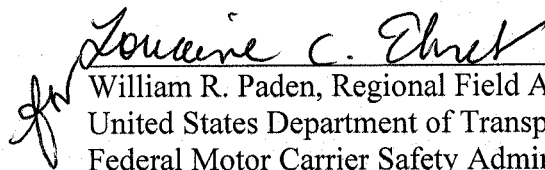
Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

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 the United States constitutes an "imminent hazard" to the public.

A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. THIS ORDER IS INDEPENDENT AND SEPARATE FROM ALL OTHER ORDERS OR ACTIONS THAT MAY BE ISSUED BY FMCSA AND ANY REQUEST FOR REVIEW OF THIS ORDER WILL APPLY TO THIS ORDER ONLY.

Date: January 17, 2013


William R. Paden, Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration