



**US Department  
Of Transportation  
Federal Motor Carrier  
Safety Administration**

Joseph DeLorenzo  
202-366-8577

1200 New Jersey Ave, SE  
Washington, DC 20590

In Reply, refer to  
HQ Tracking No.:  
FMCSA-MC2012-0003-APX

**ORDER TO SHOW CAUSE**

**APEX BUS, INC.,  
USDOT 1648076**

HQ Tracking No.:  
FMCSA-MC2012-0003-APX

**NEW EGG,  
USDOT 1782669**

**AISA TOURS, INC.,  
USDOT 1981036**

**A-ONE BUS, INC.,  
USDOT 2042137**

**ALL STATE TRAVEL BUS,  
USDOT 1504113,**

**UNIVERSE BUS, INC.,  
USDOT 1301467**

APEX BUS, INC, USDOT 1648076, NEW EGG, USDOT 1782669, ASIA TOURS, INC., USDOT 1981036, A-ONE BUS, INC., USDOT 2042137, ALL STATE TRAVEL BUS, USDOT 1504113, AND UNIVERSE BUS, INC., USDOT 1301467, COLLECTIVELY ONE MOTOR CARRIER OPERATION (hereafter referred to as "APEX"), IS HEREBY ORDERED TO SHOW CAUSE WHY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION ("FMCSA") SHOULD NOT REVOKE EACH OF APEX'S OPERATING AUTHORITY REGISTRATIONS PURSUANT TO 49 U.S.C. § 13905 FOR ITS WILLFUL FAILURE TO COMPLY WITH APPLCIABLE REGULATIONS, FMCSA ORDERS OR CONDITIONS OF ITS REGISTRATION.

This ORDER TO SHOW CAUSE, issued this 30th day of May, 2012 pursuant to 49 U.S.C. § 13905 and 49 U.S.C. § 14701, is based upon an investigation initiated on or about June 20, 2011 finding Apex in violation of 49 C.F.R. § 385.5, 49 C.F.R. Part 395, 49 C.F.R. Parts 40 and 382, 49 C.F.R. Parts 383 and 391, 49 C.F.R. Part 390, and 49 C.F.R. Part 396.

By this Show Cause Order, FMCSA finds that:

1. On or about June 20, 2011, FMCSA initiated an investigation concerning the operations of Apex to determine the scope of the motor carrier's operations and safety management controls. During the course of the investigation, FMCSA discovered anomalies in the management structure of Apex Bus, Inc, USDOT 1648076, New Egg, USDOT 1782669, Asia Tours, Inc., USDOT 1981036, A-One Bus, Inc., USDOT 2042137, All State Travel Bus, USDOT 1504113, and Universe Bus, Inc., USDOT 1301467. Upon closer inspection, FMCSA determined that the several entities are in fact collectively one motor carrier operation under common control and management. The investigation also revealed widespread violations of the Federal Motor Carrier Safety Regulations (FMCSRs) demonstrating a continuing and flagrant disregard for regulatory compliance and an organizational and safety management structure indifferent to motor carrier safety.
2. At various times, FMCSA placed segments of the collective Apex motor carrier operation out-of-service. FMCSA issued these orders to individual components of the collective Apex motor carrier operation because Apex used its organizational and management structure, including obtaining multiple motor carrier registrations, to mask the true nature of its identity and operational scope. Apex was able to continue motor carrier operations in flagrant violation of these orders until FMCSA discovered the motor carrier's true identity, organizational structure and operational scope through the Agency's investigation.

3. On October 7, 2011, FMCSA served Asia Tours with notice of a proposed Unsatisfactory safety rating based on a Compliance Review completed on October 5, 2011, which resulted in FMCSA finding that Asia Tours failed to comply with 49 C.F.R. Part 382, controlled substance and alcohol use testing requirements; 49 C.F.R. Part 395, driver hours of service requirements; and 49 C.F.R. Part 396, vehicle inspection, repair and maintenance requirements. The proposed rating became final on November 22, 2011 and FMCSA revoked Asia Tours' registration pursuant to 49 U.S.C. 13905(f)(1)(B). The order remains in effect.
4. At all times material to this Order, Pao Hua Yu, Tom Chen and To Lee a/k/a Leo Lee served as Asia Tours' owners, officers, and/or managers and maintained controlling influence over Asia Tours' operations and safety management practices.
5. On August 15, 2011, FMCSA served All State Travel Bus with notice of a proposed Unsatisfactory safety rating based on a Compliance Review completed on August 9, 2011, which resulted in FMCSA finding that All State Travel Bus failed to comply with 49 C.F.R. Part 382, controlled substance and alcohol use testing requirements; 49 C.F.R. Part 391, driver qualification requirements; 49 C.F.R. Part 395, driver hours of service requirements; and 49 C.F.R. Part 396, vehicle inspection, repair and maintenance requirements. The proposed rating became final on September 30, 2011, and FMCSA revoked All State Travel Bus's registration pursuant to 49 U.S.C. 13905(f)(1)(B). The order remains in effect.
6. At all times material to this Order, Pao Hua Yu, Tom Chen and To Lee served as All State Travel Bus's owners, officers, and/or managers and maintained controlling influence over All State Travel Bus's operations and safety management practices.

7. Between about August 2007 and about July 2008, Apex Bus, Inc. maintained active operating authority registration and operated as a for-hire passenger motor carrier. During this period, Apex Bus, Inc. also operated as a motor coach ticket sales company, selling tickets and directing passenger movement for multiple motor carriers, including the carriers identified in this Order. Apex Bus, Inc.'s motor carrier operations and ticket seller operations are indistinguishable and were primarily conducted from one location: 13 Allen Street, New York, NY, 10002.
8. Following revocation of its operating authority in July 2008 for failure to maintain evidence of adequate financial responsibility, Ming Zhong Yu, manager of Apex Bus, Inc., filed an application (Form MCS-150) biennial update on December 2, 2011. Apex Bus, Inc.'s operating authority registration was not reinstated. Although Apex Bus, Inc. represented itself as only a ticket seller between July 2008 and December 2011, FMCSA's investigation revealed that it was in fact providing commercial motor vehicle transportation during this period and was therefore a motor carrier as defined by 49 U.S.C. § 13102. As of May 27, 2012, Apex Bus, Inc.'s operating authority remained revoked.
9. At all times material to this Order, Pao Hua Yu, Tom Chen, To Lee and Ming Yu served as the owners, officers, and/or managers and maintained controlling influence over the operations and safety management practices of Apex Bus, Inc.
10. As of the date of this Order, New Egg, A-One Bus and Universe Bus, Inc. all have active operating authority registrations.
11. At all times material to this Order, Pao Hua Yu, Tom Chen and To Lee served as the owners, officers, and/or managers and maintained controlling influence over the operations and safety management practices of New Egg, A-One Bus and Universe Bus.

12. At all times material to this Order, Apex Bus, Inc., New Egg, Asia Tours, Inc., A-One Bus, Inc., All State Travel Bus and Universe Bus, Inc., had substantial commonality of ownership, officers or management.
13. At various times material to this Order, the carriers subject to this Order shared financial responsibilities by paying the employee salaries, fuel expenses, maintenance expenses, and/or toll receipts of other carriers. Additionally, the carriers subject to this Order frequently shared drivers and vehicles.
14. At various times material to this Order, one carrier in the affiliated network would maintain responsibility for dispatching the other carriers' drivers. That carrier directed the passenger routes and controlled passenger transportation.
15. In addition to the violations noted above, the investigation initiated on or about June 20, 2011, revealed that Apex does not monitor its drivers' hours of service (HOS) to ensure compliance with the hours-of-service regulations in 49 C.F.R. Part 395. Apex does not require its drivers to prepare and submit records of duty status. Apex's negligent oversight of its drivers results in violations of the HOS regulations. For example, Apex's practice of permitting drivers to operate more than one bus in a given duty period, and its failure to adequately document which buses the drivers operate, results in drivers transporting passengers at a time when they may be driving in excess of the maximum driving time, driving after the maximum on-duty time, and/or in violation of other HOS regulatory requirements.
16. The results of the investigation also disclosed that Apex has not properly implemented an alcohol or controlled substances testing program. Apex fails to consistently require pre-employment or random testing of employees to ensure that its drivers are able to safely

operate commercial motor vehicles. Apex fails to adequately maintain records of its alcohol misuse and controlled substances use prevention programs, thereby thwarting FMCSA's ability to determine Apex's compliance.

17. In addition, Apex fails to follow FMCSA driver qualification requirements. Apex fails to consistently maintain driver qualification files for all drivers operating commercial motor vehicles in Apex's operation. Apex fails to consistently require that employees operating commercial motor vehicles possess a valid commercial driver's license. As a consequence, Apex is unable to ensure that its drivers are qualified to transport passengers in commercial motor vehicles.
18. Apex does not have an adequate vehicle maintenance monitoring program. In fact, Apex does not routinely require its drivers to complete driver vehicle inspection reports on its commercial motor vehicles. This lack of oversight permits operation of unsafe commercial motor vehicles in violation of applicable safety regulations in 49 C.F.R. Part 396.
19. Apex has attempted to shield the true nature of its operations by failing to designate a qualifying principal place of business. Indeed, Apex has designated multiple locations as its principal place of business where in fact no motor carrier operations are conducted. Further, Apex does not maintain records required by the FMCSRs at a properly designated principal place of business. Apex's failure to designate a qualifying principal place of business has resulted in FMCSA being unable to monitor Apex's commercial motor vehicle operations and ensure compliance with the FMCSRs.
20. Apex's operational structure and inadequate safety management controls do not function to effectively ensure acceptable compliance with applicable safety requirements to reduce the risk associated with violations of the FMCSRs. Moreover, Apex's operational structure and

inadequate safety management control demonstrates flagrant disregard of the FMCSRs and that Apex is unwilling or unable to comply with applicable requirements.

### **COMPLIANCE WITH ORDER TO SHOW CAUSE**

WITHIN 30 DAYS OF SERVICE OF THIS ORDER APEX MUST PRESENT EVIDENCE DEMONSTRATING IT HAS CORRECTED THE COMPLIANCE DEFICIENCIES IDENTIFIED IN THIS ORDER AND ALL PREVIOUS FMCSA ORDERS AND MUST SHOW GOOD CAUSE WHY FMCSA SHOULD NOT SUSPEND OR REVOKE EACH OF ITS DISCRETE REGISTRATIONS, PURSUANT TO 49 U.S.C. 13905. TO DEMONSTRATE CORRECTIVE ACTION, APEX MUST, AT A MINIMUM:

1. Comply with all orders FMCSA issued to any segment of the APEX motor carrier operation;
2. Consent in writing to FMCSA permanently revoking all certificates of registration previously issued to APEX pursuant to 49 U.S.C. § 13902
3. Consent to operate under one certificate of registration and one USDOT number;
4. Consent to FMCSA consolidating the records of all USDOT numbers currently held by APEX;
5. Identify by name and title management officials responsible for safety oversight and compliance with the Federal Motor Carrier Safety Regulations;
6. Require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies, and establish procedures to ensure that reported safety defects and/or deficiencies are repaired before the commercial motor vehicle is operated again;
6. Ensure its drivers accurately and fully complete their daily records of duty status and submit them to the carrier within 13 days of their completion. APEX must maintain drivers' records of duty status and all supporting documents for a minimum period of 6 months. Further, APEX must ensure

that all records of duty status are accurate by using all reasonable means available to it and by comparing each with all supporting documentation;

7. Submit to the Field Administrator a plan detailing how APEX will (i) train all drivers used by APEX or its successors or assigns, on compliance with the HOS regulations, (ii) monitor the compliance of all drivers used by APEX or its successors or assigns with the HOS regulations, and (iii) ensure that all drivers used by APEX or its successors or assigns are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 CFR § 395.5;

8. Establish a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Eastern Service Center Field Administrator;

9. Ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391;

10. Ensure that a three-year previous employment check is performed on all its drivers prior to their operating a commercial motor vehicle, in accordance with 49 C.F.R. § 391.23;

11. Ensure that all its drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations;

12. Ensure that an annual list of traffic violations is obtained from each driver, an annual Motor Vehicle Record is obtained, and that an annual review is performed on each driver's driving record;

13. Mark, in accordance with 49 CFR § 390.21, any vans or other commercial motor vehicles owned by APEX or transporting passengers as part of a transportation initiated or continued by APEX. This requirement applies to vehicles designed to carry 9 or more passengers, including



passenger vans, owned, operated, or affiliated with APEX. APEX must ensure that drivers operating such vans or other commercial motor vehicles comply with the FMCSRs, including the HOS regulations;

14. Identify a qualifying principal place of business;

APEX must send evidence of its performance of the foregoing, via certified mail, to:

Joseph P. DeLorenzo  
Director of Enforcement and Compliance  
Federal Motor Carrier Safety Administration  
1200 New Jersey Ave, SE  
Washington, DC 20590

with a copy to:

Robert W. Miller, Field Administrator  
FMCSA Eastern Service Center  
801 Cromwell Park Drive, Ste. N  
Glen Burnie, MD 21061

**FAILURE TO PRESENT EVIDENCE AS DESCRIBED ABOVE WITHIN THIRTY (30) DAYS OF SERVICE OF THIS ORDER WILL RESULT IN A DETERMINATION ADOPTING AS FINAL THE FINDINGS IN THIS ORDER, SPECIFICALLY, THAT APEX DID WILLFULLY FAIL TO COMPLY WITH APPLICABLE REGULATIONS, FMCSA ORDERS OR CONDITIONS OF ITS REGISTRATION.**

**IN THE EVENT OF SUCH A DETERMINATION, EACH OF APEX'S FEDERAL OPERATING AUTHORITY REGISTRATION(S) WILL BE REVOKED PURSUANT TO 49 U.S.C. § 13905(e), AND APEX, AND EACH OF ITS COMPONENTS, WILL BE PROHIBITED FROM TRANSPORTING PASSENGERS FOR COMPENSATION IN INTERSTATE COMMERCE, OR OTHERWISE ENGAGING IN TRANSPORTATION SUBJECT TO THE REGISTRATION REQUIREMENTS OF 49 U.S.C. SUBTITLE IV, CHAPTER 139.**

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Joseph P. DeLorenzo  
Director of Enforcement and Compliance  
Department of Transportation  
Federal Motor Carrier Safety Administration

HQ Tracking No.:  
FMCSA-MC2012-0003-APX

**CERTIFICATE OF SERVICE**

This is to certify that on the \_\_\_\_ day of May, 2012, the undersigned mailed or delivered,  
as specified, the designated number of copies of the Order to Show Cause to \_\_\_\_\_

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By: \_\_\_\_\_