



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

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Eastern Service Center

May 30, 2012

OPERATIONS OUT-OF-SERVICE

AND

RECORD CONSOLIDATION ORDER

IT IS ORDERED THAT 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 SHALL CEASE ALL OPERATION OF ANY COMMERCIAL MOTOR VEHICLE(S) IN INTERSTATE COMMERCE ON THE EFFECTIVE DATE OF THIS ORDER AND THAT THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) RECORDS CONCERNING EACH ENTITY SHALL BE CONSOLIDATED INTO ONE RECORD.

I. JURISDICTION

FMCSA issues this Operations Out-of-Service and Record Consolidation Order ("Order"), pursuant to 49 C.F.R. § 386.73, to 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 (hereafter referred to by name or collectively, "you" or "affiliated carriers"), which are for-hire motor carriers subject to FMCSA jurisdiction that have operated or attempted to operate under a new identity or as affiliated entities to (i) avoid complying with an FMCSA order, (ii) avoid a statutory or regulatory requirement, (iii) avoid paying a civil penalty, (iv) avoid responding to an enforcement action, and/or (v) avoid a negative compliance history.

II. BASIS FOR ORDER

FMCSA initiated a comprehensive investigation on or about June 20, 2011 to determine the operational scope and safety management controls of each carrier identified above. During the course of the investigation, FMCSA discovered anomalies in the motor carriers' management structure. FMCSA determined that Apex Bus, New Egg, Asia Tours, A-One Bus, All State Travel Bus and Universe Bus are in fact affiliated carriers operating with a common organizational, management and safety control structure that functions to obscure the true nature of the motor carrier's identity and responsibility for regulatory compliance. The investigation results also revealed widespread violations of the Federal Motor Carrier Safety Regulations (FMCSR) demonstrating a continuing and flagrant disregard for regulatory compliance. Facts supporting this determination include, but are not limited to the following:

1. 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.
2. 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.
3. 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. That Compliance Review 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.
4. 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.
5. 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 and ticket seller operations are

indistinguishable, and both were primarily conducted from one location: 13 Allen Street, New York, NY, 10002.

6. Following revocation of its operating authority for failure to maintain evidence of adequate financial responsibility in July 2008, Ming Zhong Yu, manager of Apex Bus, Inc., filed an application (Form MCS-150) biennial update with FMCSA 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.
7. 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.
8. As of the date of this Order, New Egg, A-One Bus and Universe Bus, Inc. all have active operating authority registrations.
9. 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.
10. 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.
11. 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.
12. 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.
13. The investigation initiated on or about June 20, 2011, revealed that the affiliated carriers do not adequately monitor drivers' hours of service (HOS) to ensure that they do not violate the hours-of-service regulations. The affiliated carriers' negligent oversight of drivers, including not requiring drivers to prepare and submit records of duty status, results in violations of the HOS regulations. For example, the affiliated carriers permit drivers to operate more than one bus in a given duty period and fail to adequately document which buses the drivers operate, resulting in drivers transporting passengers 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 regulations.

14. The investigation also disclosed that the affiliated carriers have not properly implemented an alcohol or controlled substances testing program. The affiliated carriers do not consistently require pre-employment or random testing of employees to ensure that drivers are able to safely operate commercial motor vehicles. The affiliated carriers do not adequately maintain records of alcohol misuse and controlled substances use prevention programs thereby impeding FMCSA's ability to determine the affiliated carriers' collective compliance.
15. In addition, the affiliated carriers do not comply with FMCSA driver qualification requirements. The affiliated carriers do not consistently maintain driver qualification files for all drivers operating commercial motor vehicles in affiliated carriers' operation. The affiliated carriers do not consistently require that employees operating commercial motor vehicles possess a valid commercial driver's license. As a consequence, the affiliated carriers are unable to ensure that drivers are qualified to transport passengers in commercial motor vehicles thereby substantially increasing the likelihood of injury or death to passengers and the motoring public.
16. The affiliated carriers do not have an adequate vehicle maintenance monitoring program. In fact, the affiliated carriers do not routinely require drivers to complete driver vehicle inspection reports on commercial motor vehicles. Permitting operation of unsafe commercial motor vehicles creates an unacceptable risk and potentially deadly situation for the driver, the affiliated carriers' passengers, and the motoring public.
17. The affiliated carriers have attempted to shield the true nature of their operations by failing to designate a qualifying principal place of business. Indeed, the affiliated carriers have designated multiple locations as their place of business where in fact no motor carrier operations are conducted. Further, the affiliated carriers do not maintain records required by the FMCSRs at a properly designated principal place of business. The affiliated carriers' failure to designate a qualifying principal place of business has resulted in FMCSA being unable to monitor the affiliated carriers' commercial motor vehicle operations and ensure compliance with the FMCSRs.
18. The affiliated carriers' have used their operational and management structure to mask their true identities in order to (i) avoid complying with an FMCSA order, (ii) avoid a statutory or regulatory requirement, (iii) avoid paying a civil penalty, (iv) avoid responding to an enforcement action, and/or (v) avoid being linked to a negative compliance history. Moreover, the affiliated carriers' operational structure and inadequate safety management controls demonstrate flagrant disregard of the FMCSRs and pose a safety risk to the public that warrants imposition of an out-of-service order.

EFFECTIVE DATE AND ADMINISTRATIVE REVIEW

This Order shall become a Final Agency Order and be effective on the 21st day after it is served unless you request administrative review within 15 days of the date the Order is served to you.

Your petition for administrative review must be in writing and served on the Assistant Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001, Attention: Adjudications Counsel. You may also serve your petition for administrative review by electronic mail to "FMCSA.Adjudication@dot.gov". You must also serve a copy of your petition for administrative review to the Eastern Service Center Field Administrator at 801 Cromwell Park Drive, Suite N, Glen Burnie, MD 21061.

Your request for administrative review must include a copy of this Order and a statement of all factual and procedural issues in dispute. If you serve the petition for administrative review within 15 days of the date the Order was served to you, you may supplement your petition by serving the Assistant Administrator and Field Administrator with documentary evidence and/or written argument that supports your position regarding the procedural or factual issues in dispute, no later than 30 days from the date the Order was served to you.

Failure to timely serve a petition for administrative review, and supplementary evidence and argument, if any, constitutes a waiver of your right to do so and will result in the Order becoming a Final Agency Order 21 days after the Order was served.

Robert W. Miller
Eastern Service Center Field Administrator