

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

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ON EAGLES WINGS CHARTERS, INC.)	Order No.: MN-2014-5000-IMH
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USDOT No. 01100785)	Service Date: _____
)	
)	Service Time: _____
)	
)	Person Served: _____
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**IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER**

This is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) issued by the Secretary of Transportation pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1), (2), and (5), 49 U.S.C. § 31133(a)(10), and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Midwestern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Matteson, Illinois. This Order applies to ON EAGLES WINGS CHARTERS, INC., USDOT No. 01100785 (also referred to herein as “you,” “your”, and/or “ON EAGLES WINGS”) and to all commercial motor vehicles owned or operated by or for ON EAGLES WINGS CHARTERS, INC.

The Secretary and FMCSA find ON EAGLES WINGS’s operations and continued operation of any commercial motor vehicle, referred to herein as “commercial motor vehicles” and/or “vehicles”, constitute an **imminent hazard** to public safety. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle(s) poses an **imminent hazard** to public safety.

EFFECTIVE IMMEDIATELY YOU MUST CEASE OPERATING ANY

COMMERCIAL MOTOR VEHICLE.

“Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. ON EAGLES WINGS’s commercial motor vehicles(s) may not be operated in interstate or intrastate commerce by any other motor carrier or by any driver; such commercial motor vehicle may not be operated – even without passengers. Any movement of ON EAGLES WINGS’s commercial motor vehicle(s) to any storage or repair or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not operated under its own power. ON EAGLES WINGS’s commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA’s Midwestern Service Center.

Commercial motor vehicles and their drivers now in interstate commerce 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)(4) and (5)).

**NO ADDITIONAL PASSENGERS MAY BE LOADED OR TRANSPORTED, NOR
MAY YOU OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR
INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.**

Within eight (8) hours of the service of this Order, you must submit to the Field Administrator in writing by facsimile the location of each of ON EAGLES WINGS's commercial motor vehicles. Your submission must be faxed to:

Darin G. Jones, Field Administrator
FMCSA – Midwestern Service Center
708-283-3579

I. JURISDICTION

ON EAGLES WINGS CHARTERS, INC. is a for-hire passenger carrier engaged in interstate commerce using commercial motor vehicles and employing drivers and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399; the alcohol and controlled substances regulations at 49 C.F.R. Part 40; the hours of service regulations at 49 C.F.R. Part 395; as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136 and 31144). ON EAGLES WINGS is required to comply, and to ensure its drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. (*See* 49 U.S.C. § 31135(a) and 49 C.F.R. § 390.11). This ORDER has the force and effect of any other ORDER issued by FMCSA and is binding upon ON EAGLES WINGS and its officers, members, directors, successors, assigns and closely affiliated companies. This ORDER applies to all motor carrier operations and to all motor vehicles owned, leased, rented or otherwise operated by and/or for ON EAGLES WINGS.

II. BASIS FOR ORDER

The basis for determining that ON EAGLES WINGS's motor carrier operations pose an imminent hazard to the public is ON EAGLES WINGS's serious noncompliance with the FMCSRs, specifically 49 C.F.R. Parts 396, 395 and 382. ON EAGLES WINGS fails to ensure that its commercial motor vehicles are properly inspected, repaired and maintained. ON EAGLES WINGS does not have adequate safety management practices in place to ensure its drivers are

preparing and submitting accurate records of duty status and that they comply with the hours of service driving limitations in the FMCSRs. ON EAGLES WINGS's owner directs drivers to falsify their records of duty status to conceal hours of service limitations. ON EAGLES WINGS also uses drivers before it receives a negative pre-employment controlled substances test result. Individually and cumulatively, these violations substantially increase the likelihood of serious injury or death to ON EAGLES WINGS's drivers and the motoring public.

III. BACKGROUND

On or around April 30, 2014, FMCSA received a complaint alleging that on April 14, 2014, ON EAGLES WINGS used a non-employee passenger to drive one of its motor coaches from Tomah, Wisconsin to Edina, Minnesota after its scheduled driver became ill. The complaint also alleged that ON EAGLES WINGS used unsafe motor coaches. In May 2014, FMCSA began a compliance investigation of ON EAGLES WINGS to investigate this complaint and the carrier's overall compliance with the FMCSRs. During the investigation, the owner of ON EAGLES WINGS admitted that it used an unknown passenger to drive a motor coach from Tomah, Wisconsin to Edina, Minnesota on April 14, 2014. When ON EAGLES WINGS used this driver, it was not aware of his qualifications to drive a commercial motor vehicle. This action placed the passengers on the motor coach, and the motoring public, at great risk of serious injury or death. While the imminent danger associated with the actions of ON EAGLES WINGS has abated, this incident evidences the severity of the disregard of the FMCSRs and passenger safety held by ON EAGLES WINGS and its management.

FMCSA's investigators also found that ON EAGLES WINGS CHARTERS does not have a systematic vehicle inspection, repair and maintenance program in place to prevent the

operation of unsafe motor coaches.¹ FMCSA performed inspections on the five ON EAGLES WINGS CHARTERS, INC. motor coaches that were available for dispatch. As a result of the inspections, FMCSA declared four out of the five motor coaches to be out of service. The inspections revealed a total of 40 vehicle defects, including nine out-of-service defects. The out-of-service defects included inoperative brakes and broken frame rails. The motor coach that was not declared out-of-service nevertheless contained defects such as inoperative brakes on one axle, multiple air leaks in the braking system, and damaged windshield. FMCSA also learned that on April 13 and 14, 2014, the owner of ON EAGLES WINGS operated a motor coach with passengers onboard when he was aware that the rear frame of the motor coach had collapsed and a portion of the suspension system protruded through the floor. The unsafe condition of ON EAGLES WINGS's motor coaches demonstrates a blatant disregard for motor coach passenger safety.²

FMCSA's investigation also found serious violations of the Hours of Service rules in Part 395. During the compliance review, the owner of ON EAGLES WINGS admitted that he ordered one of his drivers to falsify his logs for the April 14, 2014 trip in an attempt to conceal the fact that a non-employee passenger drove the motor coach from Tomah, Wisconsin to Edina, Minnesota³. The owner of ON EAGLES WINGS also admitted that he ordered his drivers to falsify their logs for a trip that began on April 10, 2014 and ended on April 14, 2014 to conceal maximum hours rule violations. The investigation also revealed that the drivers

¹ See 49 C.F.R. § 396.3(a) ("Every motor carrier . . . must systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicle . . . equipment subject to its control.")

² See 49 C.F.R. § 396.7(a) ("A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.")

³ See 49 C.F.R. § 396.8(e) ("(The) (M)aking of false reports in connection with such duty activities shall make the driver and/or carrier liable for prosecution.")

whose records were examined falsified their logs at a critical rate. Finally, ON EAGLES WINGS used all five drivers out of the five drivers whose records were examined to operate a motor coach in commerce before learning that a pre-employment controlled substance test was negative.⁴ These violations substantially increased the likelihood of serious injury or death to ON EAGLES WINGS drivers and the public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before ON EAGLES WINGS will be permitted to resume operations placed out of service by this Order, ON EAGLES WINGS must take specific steps to ensure and demonstrate compliance with the Federal Motor Carrier Safety Regulations. ON EAGLES WINGS must comply with all Orders issued by FMCSA and must submit to the Field Administrator a plan detailing how ON EAGLES WINGS will:

- 1. Establish safety management controls and procedures that ensure that each and every commercial motor vehicle it operates is systematically and properly inspected, maintained and repaired by a qualified person, as required by 49 C.F.R. Part 396, and that documentation of inspections, maintenance and repairs are obtained and maintained as required.**
- 2. Ensure and demonstrate that its vehicles are in a safe operating condition and are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance).**

⁴ See 49 C.F.R. 382.301(a) (“No employer shall allow a driver . . . to perform safety-sensitive functions unless the employer has received a controlled substances test result . . . indicating a verified negative test result for that driver.”)

- 3. Train all mechanics and inspectors on the tools, methods, requirements for vehicle maintenance and periodic inspections found at 49 C.F.R. §§ 393, 396, and 396 Appendix G. ON EAGLES WINGS must provide the curriculum for the training course, and this course must include a written assessment that tests the mechanic's or inspector's knowledge of the applicable regulations.**
- 4. 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 and abide by procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again.**
- 5. Train its drivers and ensure all drivers understand the meaning of a roadside out-of-service order and comply with roadside out-of-service orders.**
- 6. Establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of its commercial motor vehicles are repaired prior to the vehicle being operated. Ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of passengers prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.**
- 7. Refrain from using a driver until ON EAGLES WINGS evaluates the driver's qualifications using FMCSA's Pre-Employment Screening Program, completes a driver qualification file, confirms that the driver has a valid CDL with proper endorsements, and completes training and orientation on the policies and**

procedures required by ON EAGLES WINGS to ensure compliance with the FMCSRs.

8. Take aggressive and progressive steps to control drivers' hours of service. Ensure that all drivers accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395. ON EAGLES WINGS must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to ON EAGLES WINGS within 13 days of their completion. ON EAGLES WINGS must maintain drivers' records of duty status for a minimum of six months, and demonstrate a system showing that the company can and will maintain all supporting documents. Further, ON EAGLES WINGS must ensure that all records of duty status are accurate by using all means available to ON EAGLES WINGS and by comparing the records with all supporting documents.
9. Ensure that each of its drivers complies with the hours of service rules in 49 C.F.R. § 395.3. ON EAGLES WINGS must implement a dispatch and trip booking system that ensures that no driver will be dispatched on any trip unless the driver has the necessary available hours of service to complete the trip in accordance with 49 C.F.R. Part 395. ON EAGLES WINGS must implement a disciplinary policy that effectively discourages hours of service violations by its drivers and dispatch personnel. ON EAGLES WINGS must ensure that all management officials, safety management employees, drivers and dispatch personnel are adequately trained on the hours of service rules and that they are able to conduct motor carrier operations in compliance with those regulations.
10. Ensure that all drivers are adequately trained in the requirements of the FMCSRs

and that they are able to conduct motor carrier operations consistent with those regulations.

11. Submit to the Field Administrator a plan detailing how it will: (i) train all drivers used on compliance with the HOS regulations; (ii) monitor the compliance of all drivers with the HOS regulations; and (iii) ensure that all drivers are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.
12. Ensure that it complies with the drug and alcohol testing requirements of 49 C.F.R. Parts 382 and Part 40. ON EAGLES WINGS must ensure that it has received a negative pre-employment controlled substances test for each driver before using that driver to perform safety-sensitive functions.
13. ON EAGLES WINGS must contact FMCSA's Minnesota Division and arrange for inspection of each of its motor coaches by an FMCSA inspector or an inspector designated by FMCSA.
14. Establish and implement a formal whistleblower protection program for employees to report safety violations. You must notify every employee that it is his or her right and obligation to report safety violations to management officials. Furthermore, the plan must inform employees that, if a responsible ON EAGLES WINGS management official fails to correct a reported safety violation, an employee may report this failure to the FMCSA – Minnesota Division, 380 Jackson Street, Cray Plaza, Suite 500, St. Paul, Minnesota 55101.
15. Comply with all Orders issued by FMCSA.
- 16.

V. RESCISSION OF ORDER

ON EAGLES WINGS CHARTERS, INC. is subject to this ORDER unless and until the ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, ON EAGLES WINGS CHARTERS, INC. is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Field Administrator for FMCSA's Midwestern Service Center has determined that the Remedial Action requirements specified in Paragraph IV of this ORDER have been fully satisfied and acceptable documentation has been submitted.

Before resuming motor carrier operations ON EAGLES WINGS CHARTERS, INC. must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Field Administrator's satisfaction the actions taken to eliminate the safety problems. **ON EAGLES WINGS CHARTERS, INC. cannot avoid this ORDER by continuing to operate under the name of another person or company.** Additionally, any sale, lease, or other agreements for service by ON EAGLES WINGS CHARTERS, INC. requires the written approval of the Midwestern Service Center Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, ON EAGLES WINGS CHARTERS, INC. will be required to:

- 1. Identify the cause for your noncompliance.**
- 2. Develop a detailed Safety Management Plan of action that addresses each area of noncompliance, the steps it intends to take to overcome its noncompliance, and a time table for these steps. The SMP must address each element outlined in section IV 1-9 above.**

- 3. Certify in writing the commitment of ON EAGLES WINGS CHARTERS, INC. to comply with the Federal Motor Carrier Safety Regulations.**
- 4. Execute the Safety Management Plan and provide certification by all owners, members and officers.**

Any request to rescind this ORDER must be in writing. Written documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Midwestern Service Center, with a copy to the Division Administrator, Illinois Division, at the following addresses:

Field Administrator, Midwestern Service Center
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300A
Matteson, Illinois 60443

Division Administrator, Minnesota Division
Federal Motor Carrier Safety Administration
380 Jackson Street, Cray Plaza, Suite 500,
St. Paul, Minnesota 55101

Rescission of this ORDER does not constitute a reinstatement of ON EAGLES WINGS CHARTERS, INC.'s Federal operating authority registration or its USDOT Number. Before ON EAGLES WINGS CHARTERS, INC. will be permitted to resume motor carrier operations in the United States, ON EAGLES WINGS CHARTERS, INC. will be required to reactivate its USDOT Number registration, and reapply for and receive operating authority registration, and demonstrate that it is fit, willing and able to comply with: 1) the statutory and regulatory requirements; 2) applicable safety regulations including the Federal Motor Carrier Safety Regulations; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set forth in 49 U.S.C. § 31144;

and 5) minimum financial responsibility requirements established under 49 U.S.C. § 13906 and 31138.

VI. ENFORCEMENT OF ORDER

This ORDER, issued pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), § 31133 and 49 C.F.R. § 386.72(b)(1), is an ORDER of the Secretary. Violation of this ORDER may subject ON EAGLES WINGS CHARTERS, INC. to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. ON EAGLES WINGS CHARTERS, INC. may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. §§ 507, 521(b)(2)(F), and 521(b)(4) and 49 C.F.R. Part 386 App. A. § IV(g)). ON EAGLES WINGS CHARTERS, INC. may also be assessed civil penalties up to \$10,000 for providing transportation requiring registration, including operating a commercial motor vehicle in interstate commerce, without operating authority registration (49 U.S.C. §§ 14901, 14702-03) and up to \$25,000 for operating a commercial motor vehicle in interstate commerce without USDOT number registration (49 U.S.C. §§ 507, 521(b)(2)(F) and 31134). Violations of this ORDER may also subject ON EAGLES WINGS CHARTERS, INC. to criminal penalties, including a fine of up to \$25,000 and imprisonment for a term not to exceed one year. (49 U.S.C. §§ 521(b)(6)(A) and 526).

VII. ADDITIONAL PENALTIES FOR OTHER VIOLATIONS

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements 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 and Orders of the FMCSA, previously discovered, discovered after the

service of this ORDER, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). Subsequent to the issuance of the ORDER, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than ten days after issuance of such ORDER. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). If a petition for review is filed within ten days of issuance of such ORDER, a review must commence within ten days after the petition for review is filed and must be concluded as expeditiously as practicable but may run longer than ten days from the date of issuance of such ORDER or the filing of the petition for review. 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 FMCSA's Adjudications Counsel by mail and electronic mail, and the Field Administrator, Midwestern Service Center at the following addresses:

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

Federal Motor Carrier Safety Administration
Office of the Chief Counsel - Adjudications
1200 New Jersey Avenue S.E., W61-323
Washington, DC 20590
FMCSA.Adjudication@dot.gov

Field Administrator, Midwestern Service Center
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300A
Matteson, IL 60443

The request must state the material facts at issue which you believe dispute or contradict

the finding that ON EAGLES WINGS CHARTERS, INC.'s operations constitute an imminent hazard to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT IN ANY WAY
SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER**

IMMEDIATELY. This ORDER is separate and independent from all other orders or actions that may be issued by FMCSA, and does not amend or modify any other such orders or actions. Any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: June 20, 2014



Darin G. Jones, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

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

ON EAGLES WINGS CHARTERS, INC.)	Order No.: MN-2014-5000-IMH
)	
USDOT NO. 01100785)	Service
MC NO. 457066)	Date: _____
)	

**NOTICE OF REVOCATION OF OPERATING AUTHORITY REGISTRATION
AND SUSPENSION OF USDOT NUMBER**

By Order dated and served June 20, 2014, the Secretary of the United States Department of Transportation (the Secretary) found that the commercial motor vehicle operations of ON EAGLES WINGS CHARTERS, INC. (USDOT# 01100785) constitute an imminent hazard to public safety. 49 U.S.C. § 13905(f)(2) requires the Federal Motor Carrier Safety Administration (FMCSA) to revoke the operating authority registration of a motor carrier of passengers if FMCSA finds that such carrier is or has been conducting unsafe operations which are an imminent hazard to public health or property. Additionally, in accordance with 49 U.S.C. § 31134(c)(1), the Secretary is required to suspend the USDOT number registration of a motor carrier if the Secretary determines that the motor carrier's operating authority registration is subject to revocation as a result of such imminent hazard finding.

Accordingly, as a result of the issuance of the June 20, 2014 Imminent Hazard Out-of-Service Order, and pursuant to 49 U.S.C. § 13905(f)(2), EAGLES WINGS CHARTERS, INC.'s Federal operating authority registration is revoked. Further, in accordance with 49 U.S.C. § 31134(c)(1) EAGLES WINGS CHARTERS, INC.'s USDOT number is suspended.

If FMCSA rescinds the Imminent Hazard Out-of-Service Order, EAGLES WINGS CHARTERS, INC. may reapply for operating authority registration as a property carrier in accordance with the provisions of 49 C.F.R. Part 365 by submitting form OP-1(P) to the

FMCSA. EAGLES WINGS CHARTERS, INC. may apply to reactivate its USDOT number registration by submitting a Motor Carrier Identification Report, form MCS-150. The form may be obtained by calling FMCSA's technical support at 1-800-832-5660 or via FMCSA's website (<http://safer.fmcsa.dot.gov>). At the time of application, FMCSA will assess whether EAGLES WINGS CHARTERS, INC. is fit, willing and able to operate safely and in compliance with all regulatory and statutory requirements. In accordance with 49 U.S.C. 13902(a)(4), FMCSA will withhold registration if it determines that the carrier, broker or freight forwarder does not meet, or is unable to meet, any of these requirements.

Date: June 20, 2014



Darin G. Jones, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration