

US Department of Labor

Occupational Safety and Health Administration
Sam Nunn-Atlanta Federal Center
61 Forsyth Street, SW Room 6T50
Atlanta, Georgia 30303
(404) 562-2300 FAX (404) 562-2295



FEB 23 2011

Brent Siler
Baker Donnelson
165 Madison Avenue, Suite 2000
Memphis, Tennessee 38103

RE: United Auto Delivery and Recovery, Memphis Auto Auction, Jeffrey Marlin & Bradley Huddleston/Beecher/4-1760-09-016
USDOT No. 909371

Dear Mr. Siler:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by William Beecher (Complainant) against United Auto Delivery and Recovery, Memphis Auto Auction (MAA) (collectively United¹), Jeffrey Marlin and Bradley Huddleston (collectively Respondents), on March 13, 2009, under the employee protection provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No.110-53 (STAA). In brief, Complainant alleges that he repeatedly raised DOT-related safety concerns about the condition of his truck and was terminated in retaliation for refusing to drive the truck because it was leaking coolant. Complainant also refused to drive another truck for which he did not have a commercial driver's license (CDL).

Following an investigation of this matter by a duly authorized investigator, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration, Region IV, finds reasonable cause to believe that Respondents did violate 49 U.S.C. §31105.

Secretary's Findings

Respondents are persons within the meaning of 1 U.S.C. §1 and 49 U.S.C. §31105. Respondent United is also a commercial motor carrier within the meaning of 49 U.S.C. §31101. Respondents are engaged in transporting products on the highways via commercial

¹ United Auto Delivery and Recovery and Memphis Auto Auction operate as a single entity. Bradley Huddleston is the Chief Financial Officer for both companies, which also share a Director of Business Development and a Chief Operating Officer. According to United, Complainant worked for United Auto Delivery and Recovery, while Complainant's unemployment records indicate he worked for MAA.

motor vehicle, that is, a vehicle with a gross vehicle weight rating of 10,001 pounds or more. Respondents maintain a place of business in Memphis, Tennessee. Respondent Marlin is Transportation Manager of United Auto Delivery and Recovery and Respondent Huddleston is Chief Financial Officer of both United Auto Delivery and Memphis Auto Auction.

Complainant is an employee within the meaning of 49 U.S.C. 31105. In the course of his employment, Complainant directly affected commercial motor vehicle safety, in that he drove Respondents' truck over highways in commerce to haul vehicles that were repossessed or involved in accidents as well as to deliver trucks to be sold or auctioned.

Respondents hired Complainant on July 17, 2006 as a Rollback Truck Driver. Complainant was terminated on February 6, 2009. On March 19, 2009, Complainant filed a complaint with the Secretary of Labor alleging that Respondents discriminated against him in violation of STAA. As this complaint was filed within 180 days of the alleged adverse action, it is timely.

49 U.S.C. §31105(a)(1)(A)(i) prohibits discharging or otherwise discriminating against an employee because "the employee ...has filed a complaint...related to a violation of a commercial motor vehicle safety...regulation..."

49 U.S.C. §31105(a)(1)(B)(i) and (ii) prohibit discharging or otherwise discriminating against an employee because the employee refuses to operate a vehicle because, (i) "the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health or security," or because (ii) "the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition."

Complainant refused to drive truck T-16 on February 5, 2009 because the truck had repeated mechanical problems and in particular, a coolant leak. Operating a truck with a coolant leak is an actual violation of 49 C.F.R. 396.7(a) which states, "A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle." Complainant identified mechanical concerns with truck T-16 since December 3, 2008 and, while Respondents made some efforts to repair the truck, not all defects were repaired, such as the coolant leak. Complainant first identified a coolant leak on December 20, 2008, when he noted in the inspection report that the truck had a "blown" head gasket. Complainant continued to raise a concern about the leak in almost every vehicle inspection report until he refused to continue driving the truck because of the coolant leak on February 5, 2009.

Complainant not only repeatedly listed the coolant leak on his inspection reports, but his co-workers knew that he carried extra coolant when he drove, and Respondents' garage noted that Complainant was repeatedly given coolant. Respondents provided four invoices from their internal garage for Complainant's truck for January of 2009 and all listed coolant that was provided for his truck. The January 15, 2009 invoice stated that Complainant's truck needed coolant four times in the last two weeks and that Respondent Marlin informed the garage that the truck's head gasket was leaking externally. The invoice also noted that the truck was "not driveable". Yet, Respondents required Complainant to continue driving the truck until he refused to continue driving the truck on February 5, 2009.

Respondents assert that Complainant's truck was sent to Bruce Warren Truck Service to be pressure tested just a couple of days before February 5, 2009, and that no leak was found. Respondent Marlin also stated in his interview that Respondents' garage pressure-tested the coolant system two times and never found a leak. However, Bruce Warren Truck Service provided two invoices regarding Complainant's truck in January of 2009, and neither invoice mentioned a pressure test on the cooling system. In addition, MAA's garage invoice on January 15, 2009 said the truck had a head gasket leak.

Moreover, during the state's unemployment compensation hearing held on April 23, 2009, Respondent Marlin stated that he "*had repaired this leak prior to this*" (referring to Complainant's truck), and that the leak was from a radiator hose clamp. Respondent Marlin stated to OSHA that he went to the shop on February 5, 2009 to check the truck for leaks and found that the radiator cap was leaking. MAA's January 5, 2009 garage invoice noted a leak from a hose clamp.

Complainant told Transportation Manager, Respondent Marlin, that he was not going to drive "*this piece of sh*t truck*" any longer and suggested he would go home and wait for a call from Respondent Marlin when the truck was ready. Respondent Marlin responded to Complainant's suggestion with "*okay*" or "*fine Will*".

Respondents informed the State of Tennessee unemployment compensation board on February 25, 2009 in a request for separation information, that Complainant "*refused to drive the truck (emphasis added) that was available to him to perform his job. He then left the premises without authorization during work hours.*" There was another truck available for Complainant to drive, a 4900 four-car hauler. However, Complainant could not drive this other truck because it could only be driven by an operator with a commercial driver's license (CDL), which Complainant did not have. 49 CFR 383.23(a). Complainant left the premises and went home. After Respondent Marlin told his manager, Respondent Brad Huddleston, about the situation, Respondent Huddleston decided to terminate Complainant. When Complainant called on February 6, 2009 to see whether the truck was ready, Respondent Marlin notified Complainant that he was terminated.

All the elements of a prima facie case are present in this complaint. Complainant engaged in protected activity when he refused to operate truck T-16 because the truck had a coolant leak and he refused to drive it. Not only would driving Truck T-16 have constituted a violation of 49 CFR 396.7(a), Complainant had a reasonable belief that the mechanical problems presented safety hazards with a potential for serious injury to himself and to the public. Complainant sought from Respondents, and was unable to obtain, correction of the unsafe conditions. Complainant also engaged in protected activity when he refused to drive the 4900 four-car hauler because that driving would have violated 49 CFR 383.23(a). Complainant also engaged in protected activity when he reported the coolant leaks.

A preponderance of the evidence indicates that Respondents had knowledge of Complainant's protected activity of reporting coolant leaks. Complainant submitted repeated vehicle inspection reports from December 20, 2008 until February 5, 2009, indicating that truck T-16

had a coolant leak. Respondents knew that Complainant refused to drive this truck. Respondents also knew that Complainant could not drive the other available truck because he did not have a CDL to drive that truck.

A preponderance of the evidence indicates that Complainant experienced an adverse action when his employment was terminated on February 6, 2009.

A preponderance of the evidence indicates that Complainant's protected activities were contributing factors in the adverse action. The close proximity in time between the protected activities and the adverse action supports the inference that Complainant's reports about the coolant leaks, and refusals to operate truck T-16 for mechanical reasons on February 5, 2009 and to operate the other truck which he was not licensed to drive were contributing factors in his termination the day after the refusals. In addition, Respondents' failure to repair the serious mechanical problem for over a year evidences animus toward Complainant and his protected activity of continually reporting the problem.

On October 8, 2010, OSHA issued a Due Process Letter to Respondents, outlining its initial findings, and advising the Respondents that it had reasonable cause to believe that Respondents violated the whistleblower protection provisions of the STAA. Respondents were provided with an opportunity to meet with OSHA and provide any additional evidence. On October 14, 2010, Respondents requested to meet with OSHA and present new evidence. Respondents and their legal representative met face to face with the Investigator and the Nashville Area Director in the Nashville Area Office and by teleconference with OSHA's Technical Advisor and the Solicitor's Office on November 8, 2010. No new information was provided at this meeting that changed OSHA's determination.

Because of his termination, Complainant personal income has been reduced significantly. This resulted in falling behind on his payments for his house and other expenses. Complainant has fallen into a deep depression but cannot undergo medical treatment for lack of health insurance. Complainant and his family had to eliminate all recreational activities and gift giving, including holidays, birthdays, etc., as well as vacation plans. Complainant and his family have suffered mental anguish due to this financial stress. Complainant even had to apply for public assistance (e.g., food stamps) to support his family and can no longer financially support his local church.

On May 5, 2010, Complainant suffered a non-occupational injury, which placed Complainant under temporary disability status. It is expected that Complainant will be no longer be disabled within two months from the date of the issuance of these findings.

Respondents' immediate retaliation against an employee for refusing to drive the trucks exhibited reckless disregard for the law and complete indifference to complainant's rights. Respondent's complete disregard for the law and the rights of an employee under STAA warrants punitive damages.

In the absence of clear and convincing evidence indicating that Respondents would have taken the same adverse action even if Complainant had not engaged in protected activity, OSHA finds reasonable cause to believe that Respondents violated 49 U.S.C. 31105(a)(1)(A)(i) and (B) and issues the following order to remedy the violation:

Preliminary Order

1. As soon as the Complainant's temporary disability ends, Respondents shall reinstate Complainant to his former position with all the pay, benefits, and other rights he had before his discharge.
2. Respondents shall pay Complainant back wages at a gross bi-weekly rate of \$2,152.00 per week minus the following interim earnings: \$1,047.04 bi-weekly from April 18, 2009 through January 23, 2010, and \$1,204.00 bi-weekly from January 23, 2010 through May, 5, 2010, when Complainant went on temporary disability for a non-occupational injury, totaling \$38,447.80, as noted in the attached spreadsheet marked as Exhibit A.
3. Respondents shall pay Complainant interest in accordance with 26 U.S.C §6621, which sets the interest rate for underpayment of federal taxes.
4. Respondents shall pay Complainant compensatory damages, totaling \$20,000.00 for emotional distress.
5. Respondents shall pay Complainant punitive damages in the amount of \$40,000.00 for its reckless disregard for the law and indifference to Complainant's rights.
6. Respondents shall pay Complainant's attorney fees in the amount of \$10,634.58, as noted in the attached spreadsheet marked as Exhibit B.
7. Respondents shall expunge any adverse references from Complainant's personnel records relating to the discharge and in any future request for employment references.
8. No future retaliation or discrimination will be directed against Complainant in any manner for instituting or causing to be instituted any proceeding under or related to the referenced Act.
9. Respondents shall post immediately the attached "Fact Sheet" in a conspicuous place in or about Respondent's facility, including all places where notices for employees are customarily posted, including on a Website for employees, if there is one, and maintain for a period of at least 60 consecutive days from the date of posting, said Notice to Employees to be signed by a responsible official of the Respondents and the date of actual posting to be shown thereon.

Objection Notification

Respondents and Complainant have 30 days from the receipt of these Findings and Preliminary Order to file objections and to request a hearing on the record, or they will become final and not subject to court review. An Objection does not stay Respondents' obligation to immediately reinstate the Complainant as ordered above. Objections must be filed with the following:

Chief Administrative Law Judge
U. S. Department of Labor
800 K Street NW, Suite 400
Washington, D.C. 20001
PH: (202) 693-7542; Facsimile: (202) 693-7365

With a copy to:

Brent Siler
Baker Donnelson
165 Madison Avenue, Suite 2000
Memphis, Tennessee 38103

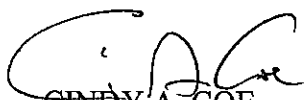
Paul Taylor
Truckers Justice Center
900 West 128th Street, Suite 104
Burnsville, Mn 55337

Cindy A. Coe
Regional Administrator
U.S. Department of Labor/OSHA
61 Forsyth Street, SW, Room 6T50
Atlanta, GA 30303

In addition, please be advised that the hearing is an adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence for the record. The ALJ who conducts the hearing will issue a decision based on the evidence, arguments, and testimony presented by the parties. This decision will become final unless one of the parties files a timely appeal with the Administrative Review Board (ARB), to which the Secretary of Labor has delegated responsibility for reviewing final agency decisions under STAA. Note, however, that an ALJ's order of reinstatement is effective immediately upon receipt of the decision, and is not stayed pending review by the ARB.

A copy of this letter has been sent to the Chief Administrative Law Judge along with a copy of the complaint. The rules and procedures for the handling of STAA cases can be found in Title 29, code of Federal Regulations, Part 1978, and may be obtained at www.whistleblowers.gov

Sincerely,



CINDY A. COE
Regional Administrator

cc: Paul Taylor
Truckers Justice Center
900 West 128th Street, Suite 104
Burnsville, Mn 55337

Chief Administrative Law Judge, USDOL
Federal Motor Carrier Safety Administration

United States Department of Labor

Occupational Safety and Health Administration
 61 Forsyth Street, SW, Room 6T50
 Atlanta, Georgia 30303
 Tel: (404) 562-2300
 Fax: (404) 562-2295



Name: United Auto Delivery/Memphis Auto/Beecher
 Docket Number: 4-1760-09-016
 Exhibit A: Calculation of Back Pay
 Date of Discharge: 2/5/2009
 Date Backpay Liability Ended: 5/10/2010

TOTALS:	Work Days: 325	Gross Wages: \$69,940.00	Lost Overtime or Bonus: \$0.00	Interim Earnings: \$31,620.20	Total Loss Before Interest: \$38,447.80
----------------	----------------	--------------------------	--------------------------------	-------------------------------	---

Week Ending Saturday	Work Days	Hours per day	Hourly Rate	Gross Wages	Lost Overtime or Bonus	Interim Earnings	Weekly Loss	Running Total	Remarks
2/21/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$0.00	\$2,152.00	\$2,152.00	
3/7/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$0.00	\$2,152.00	\$4,304.00	
3/21/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$0.00	\$2,152.00	\$6,456.00	
4/4/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$0.00	\$2,152.00	\$8,608.00	
4/18/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$9,712.96	
5/2/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.40	\$1,104.60	\$10,817.56	
5/16/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$11,922.52	
5/30/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$13,027.48	
6/13/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$14,132.44	
6/27/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$15,237.40	
7/11/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$16,342.36	
7/25/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$17,447.32	
8/8/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$18,552.28	
8/22/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$19,657.24	
9/5/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$20,762.20	
9/19/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$21,867.16	
10/3/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$22,972.12	
10/17/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$24,077.08	
10/31/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$25,182.04	
11/14/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$26,287.00	
11/28/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$27,391.96	
12/12/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$28,496.92	
12/26/2009	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$29,601.88	
1/9/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$30,706.84	
1/23/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,047.04	\$1,104.96	\$31,811.80	
2/6/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$32,759.80	
2/20/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$33,707.80	
3/6/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$34,655.80	
3/20/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$35,603.80	
4/3/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$36,551.80	
4/17/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$37,499.80	
5/1/2010	10	8	\$26.90	\$2,152.00	\$0.00	\$1,204.00	\$948.00	\$38,447.80	
5/15/2010	5	8	\$26.90	\$1,076.00	\$0.00	\$1,204.00	\$0.00	\$38,447.80	
			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$38,447.80	

United States Department of Labor

Occupational Safety and Health Administration
 61 Forsyth Street, SW, Room 6T50
 Atlanta, Georgia 30303
 Tel: (404) 562-2300
 Fax: (404) 562-2295



Name; **United Auto Delivery/Memphis Auto/Beecher/4-1760-09-016**
 Docket Number: **4-1760-09-016**
 Exhibit B: **Attorney's Fees Breakdown**

Total: \$10,634.58

Date	Amount	Description	Remarks
Feb 2011	\$10,634.58	Attorney fees for Paul Taylor and Associates	
		23.02 hours at \$325.00 per hour for Attorney Paul Taylor	\$7,481.50
		14.17 hours at \$185.00 per hour for Non-Attorney Practitioner Joseph Taylor	\$2,621.45
		7/8/09 JR Lamberth Inspection Fee	\$500.00
		.17 hours (Email from Siler re: Sale of Truck) @ \$200.00 hour	\$33.33
			\$10,634.58

OSHA FactSheet

Whistleblower Protection for Trucking Employees

Truck drivers and other employees working for commercial motor carriers are protected from retaliation for reporting or engaging in activities related to certain commercial motor vehicle safety, health or security conditions.

On August 3, 2007, the *Surface Transportation Assistance Act of 1982 (STAA)*, 49 U.S.C. Section 31105, was amended by *The Implementing Recommendations of the 9/11 Commission Act* (Public Law 110-53) to include new rights and remedies.

Covered Employees

STAA protects private sector drivers and other employees (including owner-operators, mechanics and freight handlers) of commercial motor carriers from retaliation for reporting certain commercial motor vehicle safety, health or security conditions and for engaging in certain other safety or security activities. To qualify for coverage, employees must be involved in activities directly affecting commercial motor vehicle safety or security.

A commercial motor vehicle covered by STAA is defined as any self-propelled or towed vehicle used on the highway in commerce principally to transport cargo or passengers. To qualify for coverage, such a vehicle must also:

- *Have a vehicle rating or gross vehicle weight of at least 10,001 pounds; or,*
- *Be designed to transport more than 10 passengers, including the driver; or,*
- *Transport certain hazardous materials in a quantity requiring that the cargo be placarded.*

Protected Activity

If you are covered under STAA, your employer may not discharge or in any other manner retaliate against you for filing a complaint or participating in a proceeding related to the violation of a commercial motor vehicle safety or security rule; cooperating with certain federal safety or security investigations; or providing information in an investigation by a federal, state or local regulatory or law enforcement agency relating to any accident or incident resulting in injury or death or property damage related to commercial motor vehicle transportation.

In addition, under STAA, your employer may not discharge or in any manner retaliate against you for

refusing to operate a vehicle because the operation would violate a federal commercial motor vehicle rule related to safety, health, or security because you had a reasonable apprehension of serious injury to yourself or to the public related to a vehicle's safety or security condition, or for reporting accurate hours of service (HOS). (For more detail about federal HOS requirements, please visit the Federal Motor Carrier Safety Administration's website, www.fmcsa.dot.gov).

Unfavorable Personnel Actions

Your employer may be found to have violated one of these statutes if your protected activity was a contributing factor in its decision to take unfavorable personnel action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

Deadline for Filing a Complaint

Complaints must be filed within 180 days after the alleged unfavorable personnel action occurs.

How to File a Complaint

An employee, or representative of an employee, who believes that he or she has been retaliated against in violation of this statute may file a complaint with OSHA.

The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. For more information, call your closest OSHA Regional Office:

- *Boston* (617) 565-9860
- *New York* (212) 337-2378
- *Philadelphia* (215) 861-4900
- *Atlanta* (404) 562-2300
- *Chicago* (312) 353-2220
- *Dallas* (972) 850-4145
- *Kansas City* (816) 283-8745
- *Denver* (720) 264-6550
- *San Francisco* (415) 625-2547
- *Seattle* (206) 553-5930

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories.

Complaints may be filed orally or in writing, by mail (we recommend certified mail), fax, or hand-delivered during business hours. The date postmarked, faxed or hand-delivered is considered the date filed.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring your employer to reinstate you, pay back wages, restore benefits, and other possible relief to make you whole, including:

- Reinstatement with the same seniority and benefits.
- Payment of back pay with interest.
- Compensatory damages, including compensation

for special damages, expert witness fees, and reasonable attorney's fees.

- Punitive damages not to exceed \$250,000, in certain cases.

OSHA's findings and order become the final order of the Secretary of Labor, unless they are objected to within 30 days.

Hearings and Review

After OSHA issues its findings and order, either party may request an evidentiary hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision and order may be appealed to the Department's Administrative Review Board for review.

Under STAA, the National Transit Systems Security Act (NTSSA) and the Federal Rail Safety Act (FRSA), if a final agency order is not issued within 210 days from the date your complaint is filed, then you may file a civil action in the appropriate U.S. district court.

To Get Further Information

For a copy of the statutes, the regulations, and other whistleblower information, go to www.osha.gov and click on the link for "Whistleblower Protection."

For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more complete information:



U.S. Department of Labor
www.osha.gov
 (800) 321-OSHA



NOTICE TO EMPLOYEES



PURSUANT TO AN ORDER BY THE U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:

UNITED AUTO DELIVERY AND RECOVERY, MEMPHIS AUTO AUCTION, JEFFREY MARLIN & BRADLEY HUDDLESTON have been ordered to make whole an employee who was found to have been retaliated against for exercising his rights under the employee protection provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No.110-53. The above-mentioned Respondents have also taken affirmative action to ensure the rights of its employees under employee whistleblower protection statutes including STAA.

PURSUANT TO THAT ORDER, UNITED AUTO DELIVERY AND RECOVERY, MEMPHIS AUTO AUCTION, JEFFREY MARLIN & BRADLEY HUDDLESTON AGREE THAT THEY WILL NOT:

Discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because -

(A)(i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

(B) the employee refuses to operate a vehicle because -

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

(C) the employee accurately reports hours on duty pursuant to chapter 315;

(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

United Auto Delivery and Recovery/Memphis Auto Auction
Jeffrey Marlin & Bradley Huddleston

Date

*THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE. THIS NOTICE MUST REMAIN POSTED
AND MUST BE NOT ALTERED, DEFACED, OR COVERED BY OTHER MATERIAL.*