

U.S. DEPARTMENT OF TRANSPORTATION
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**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

_____)
)
)
In the Matter of:)
) **Docket No. FMCSA-2007-0037**
Economy Express, Inc.,) **CA-2007-0400-US0931**
) **(Western Service Center)**
Respondent.)
)
)
_____)

**FIELD ADMINISTRATOR'S OBJECTION TO
RESPONDENT'S REQUEST FOR INFORMAL HEARING**

COMES NOW, the Field Administrator for U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), Western Service Center (WSC) by and through the undersigned, and hereby objects to Respondent's request for hearing. In support thereof, the Field Administrator states as follows:

Procedural History

1. This civil penalty proceeding was commenced through the issuance of a Notice of Claim on August 17, 2007, pursuant to 49 C.F.R. Part 386, which included a Statement of Charges detailing the violations of the Federal Motor Carrier Safety Regulations (FMCSRs) discovered during a compliance review of Economy Express, Inc. ("Economy Express" or "Respondent"). The Notice of Claim charged Respondent with eighteen violations of failing to require driver to forward within thirteen (13) days of completion, the original of the record of duty status in violation of 49 C.F.R. § 395.8(i).

The Notice of Claim proposed a total civil penalty of \$18,000. A copy of the Notice of Claim is attached hereto and identified as Attachment A.

2. Respondent timely served its reply to the Notice of Claim. A copy of the Respondent's reply is attached hereto and identified as Attachment B. In its reply, Respondent denies certain violations and contests the proposed penalty; Respondent requests an informal hearing in this case.

Objection with Basis

3. The FMCSA revised its Rules of Practice effective on November 14, 2005. As revised, the Rules of Practice permit a respondent in a civil penalty proceeding to request administrative adjudication in the form of an informal hearing as an alternative to either a request for a formal hearing or request to submit written evidence without a hearing. "As the informal hearing process is a new alternative for motor carriers, FMCSA will implement this alternative in two phases. . . . [d]uring the first phase of implementation, FMCSA will only consider requests for an informal hearing from respondents with a principal place of business within the FMCSA Midwest Service Center's geographical area."¹ See 71 Fed. Reg. 13894 (March 17, 2006). On February 13, 2007 the phased implementation of the informal hearing option for administrative adjudication of civil penalty proceedings was expanded to include respondents with a

¹ The Midwest Service Center's geographical area encompasses the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

principal place of business within the FMCSA Eastern Service Center's geographical area.² See 72 Fed. Reg. 6806 (February 13, 2007).

4. At this time FMCSA only considers requests for informal hearings from respondents with a principal place of business within States included in the FMCSA Midwest or Eastern Service Centers. Respondent's principal place of business is in the State of California; the State of California is serviced by the Western Service Center, and is not within the geographical area of either the Midwest or Eastern Service Centers.

5. Additionally, in the instant case, the violations were charged pursuant to the maximum statutory penalty provisions of § 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Pursuant to § 222, FMCSA is required to assess maximum statutory penalties if a Respondent is found to have committed a pattern of violations of acute or critical regulations, or previously committed the same or related violation of critical or acute regulations. The informal hearing process, established as a streamlined process allowing minimal written submittals and which does not allow for discovery or a transcribed record, is not well suited for cases charged under the provisions of § 222, and where the case involves analysis of important policy issues.

6. Further, the Rules of Practice limit the opportunity for a hearing by requiring, at 49 C.F.R. § 386.16(b), the Assistant Administrator determine whether there exists any material facts in dispute before setting a case for hearing. While Respondent denies charged violations and contests the penalty proposed in the Notice of Claim, there is not a material factual dispute warranting a hearing, and this matter may be decided on

² The Eastern Service Center's geographical area encompasses the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, the District of Columbia and Puerto Rico.

the written record; if Respondent's request for informal hearing is denied by the Assistant Administrator, the Field Administrator will file a motion for final order pursuant to 49 C.F.R. § 386.16(b)(4)(i)(B).

WHEREFORE, the Field Administrator gives notice of his objection to Respondent's request for informal hearing.

Respectfully Submitted,
Attorneys for the Claimant
Field Administrator

Date: November 20, 2007

By:



Nancy Jackson
Office of Chief Counsel
Federal Motor Carrier Safety Administration
12600 West Colfax Avenue., Suite B-300
Lakewood, Colorado 80215
303-407-2363
303-407-2339 (Fax)

CERTIFICATE OF SERVICE

This is to certify that on this 20th day of November 2007, the undersigned mailed or delivered as specified, the designated number of copies of the forgoing documents to the persons listed below.

Tracie L. Goodwin, Esq.
Economy Express, Inc.
2445 Capitol Street, 2nd Floor
Post Office Box 1632
Fresno, CA 93717-1632

One Copy
U.S. Mail

Steve Farbman, Adjudications Counsel
U.S. Department of Transportation
1200 New Jersey, SE
Sixth Floor, West Building, Room W61-308
Washington, DC 20590-0001

One Copy
Federal Express
Trk#

Terry D. Wolf, Division Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1325 J Street, Room 1540
Sacramento, CA 95814

One Copy
Internal Mail

U.S. DOT Dockets
U.S. Department of Transportation
Docket Operations, M-30
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

One Copy
Federal Express
Trk #

Nancy Jackson
Trial Attorney
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Suite B-300
Lakewood, CO 80215

One Copy
Personal Delivery

11/20/2007

Heather Horton

Attachment A

FMCSA-2007-0037
In the Matter of Economy Express, Inc.
Field Administrator's Objection to Respondent's Request for Informal Hearing



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

Western Service Center

Golden Hill Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Phone: (303) 407-2350

Fax: (303) 407-2339

Certified Receipt Number: 7006 0810 0001 3724 1996

August 17, 2007

Amarjit Gill, Corp Director/Gen Manager
Economy Express, Inc.
PO Box 911
Los Banos, CA 93635

NOTICE OF CLAIM¹ -- Violations of 49 CFR § 395.8(i).

CIVIL PENALTY: \$18,000

Case Number: CA-2007-0400-US0931

US DOT Number: 625135

Dear Mr. Gill:

A compliance review was conducted at Los Banos, CA on April 12, 2007. The purpose of this review was to determine your compliance with the Federal Motor Carrier Safety Regulations (FMCSR), the Federal Hazardous Materials Regulations (HMR), and the Federal Motor Carrier Commercial Regulations (FMCCR).

As a result of this review, violations were discovered. This letter constitutes a Notice of Claim by the United States Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) against Economy Express, Inc. for the amount of \$18,000.

Unless settled or otherwise resolved in a manner set forth below, the FMCSA can recover these penalties, with interest and costs, in a civil action brought in a United States District Court. Additional collection efforts may include, but are not limited to: Internal Revenue Service offsets against tax refunds, and the referral to and the use of collection agencies to collect penalties. **Also, under 49 Code of Federal Regulations (CFR) §§ 386.83 and 386.84, once a final order has been issued, the FMCSA may prohibit Economy Express, Inc. from operating in interstate commerce until the civil penalty is paid in full and, if applicable, your FMCSA registration will be suspended.**

1) A Notice of Claim is the official charging document used by the Federal Motor Carrier Safety Administration to initiate a civil action for violations of Federal Laws.

SUMMARY OF VIOLATIONS

Your company is charged with:

1. Eighteen (18) violations of 49 CFR § 395.8(i)- Failing to require driver to forward within 13 days of completion, the original of the record of duty status.

A copy of the documentary evidence collected during the investigation is available from this office. Upon request, the FMCSA will forward a copy of this evidence within a reasonable period of time. For additional details see the attached "Statement of Charges."

NOTICE OF ABATEMENT

This letter also constitutes a Notice of Abatement of all violations. In order to ensure that these violations cease, your company must take the following actions:

1. Ensure that driver's record of duty status reports together with all supporting documents, such as toll, fuel, repair, and other on the road expense receipts, as well as invoices, bills of lading, dispatch records, trip reports, and any other document generated by the trip are kept on file for at least six months in accordance with 49 CFR Part 395.

Failure to Abate Cited Violations

Failure to abate the cited violations could cause penalties to be increased in future enforcement actions. Under Section 222 of the Motor Carrier Safety Improvement Act of 1999, recurring violations of the same or related acute or critical regulations (violations of the same Part in Title 49 of the Code of Federal Regulations) that result in three or more enforcement actions within a six-year period will cause the maximum penalties allowed by law to be assessed for the third and subsequent enforcement actions. Any violations with a checkmark in the "§ 222 Applied" column in the penalty table below are subject to this "Section 222" provision and the maximum penalties have been assessed. See 49 USC § 521 note, 49 USC § 521(b), 49 USC § 5123, 49 USC Chapter 149, and 49 CFR Part 386, Appendix A.

PENALTY

Penalty Factors for Violations of Safety and Hazardous Materials Regulations

In accordance with 49 USC §§ 521(b)(2)(D) and 5123(c), the FMCSA must, before proposing or claiming a civil penalty, take into consideration the nature, circumstances, extent, and gravity of the violation committed and with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. The civil penalty proposed shall be calculated to induce compliance. These factors will not be considered, however, for violations subject to the Section 222 provision described above.

Penalty Factors for Violations of Commercial Regulations

In the case of violations of the commercial regulations FMCSA also is not required by statute to consider the Section 521 factors. However, before proposing penalties for violations of the

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commercial regulations (more specifically the transportation of household goods), 49 U.S.C. § 14901 (c) requires FMCSA to take into consideration the degree of culpability, any prior history of such conduct, the degree of harm to shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the civil penalty proceeding, and such other matters as fairness may require.

Discovered Versus Charged Violations

Violations of either safety or hazardous materials regulations discovered during the course of the compliance review, but not proposed for penalty in this Notice of Claim, may have increased the civil penalty claimed for the violations charged in this Notice of Claim. The violations found in Table 1, as attached to this Notice of Claim, detail the violations discovered during our review/inspection.

History of Prior Violations

Your history of prior violations of the FMCSRs, HMRs and/or FMCCRs, where applicable, also may have increased the civil penalty beyond that which would have otherwise been proposed in this Notice of Claim. [The following enforcement actions have been considered in the calculation of the civil penalty proposed herein:]

CA-2006-0208-US1073

CA-2006-0022-US1073

A listing of the statutes governing maximum and minimum penalties for violations of specific regulations is enclosed.

Given the statutorily mandated items listed above, the FMCSA is proposing a civil penalty as follows:

<u>VIOLATION</u>	<u>TYPE OF VIOLATION²</u>	<u>NUMBER OF COUNTS</u>	<u>ASSESSMENT PER COUNT</u>	<u>§222 APPLIED</u>	<u>TOTAL</u>
395.8(i)	R	18	\$1,000.00	✓	\$18,000.00

Accordingly, the total amount assessed by the Federal Government as the result of these violations is \$18,000.

HOW TO REPLY TO THE NOTICE OF CLAIM

Under 49 CFR Part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings," you have specific rights with respect to this Notice of Claim. You are advised to carefully read Part 386 and follow the course of action appropriate for you in this case. A copy of Part 386 is attached to this Notice of Claim for your information. You may wish to seek legal counsel for answers to any questions in reference to this Notice of Claim or procedures under Part 386. DO NOT call the FMCSA Service Center or the Chief Counsel's office for advice or assistance in your defense. You may pursue the following courses of action:

2) CDL=Commercial Driver's License; FR=Financial Responsibility; HM=Hazardous Materials (the total penalty assessed is per citation, not per number of counts); NO=Notice and Orders; NR=Nonrecordkeeping; R=Recordkeeping; COM=Commerical Regulations.

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(1) PAYMENT OF PENALTY: Within 30 days of service of this Notice of Claim: (a) Pay the assessed penalty in full, or (b) Establish a monthly payment plan by contacting an Enforcement Specialist (NOTE: A payment plan may be available for respondents who demonstrate financial difficulty), or (c) Contact an Enforcement Specialist outlining in writing compelling reasons why the assessed penalty should be reduced and discuss potential settlement. You may be required to submit a current, certified balance sheet or other evidence of assets and liabilities. An Enforcement Specialist can be reached at (303) 407-2350. If you pay the full penalty within thirty (30) days of service of this Notice of Claim, you do not need to file a written Reply to the Notice of Claim.

You may pay the fine electronically through our SAFER website at <<http://safer.fmcsa.dot.gov>> by selecting "Online Fine Payment."

Alternatively, you may pay by cashier's check, certified check, or money order made payable to the FMCSA and mailed to:

United States Department of Transportation
Federal Motor Carrier Safety Administration
Western Service Center
Golden Hill Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Personal or company checks will not be accepted and will be returned.

Payment of the penalty will constitute admission of the violation(s) set forth in the Notice Claim and these violations shall constitute prior offenses under either 49 USC § 521(b)(2)(D) (for violations of the Federal Motor Carrier Safety Regulations), 49 USC § 14901(c) (for violations of the Federal Motor Carrier Commercial Regulations involving transportation of household goods) or 49 USC § 5123(c) (for violations of the Hazardous Materials Regulations) unless you proceed under the provisions of 49 C.F.R. § 386.18(c). These offenses may lead to higher penalties in future enforcement actions and adverse future SafeStat rankings.

(2) REQUEST FOR ADMINISTRATIVE ADJUDICATION: You may contest the claim and request Administrative adjudication. If you choose this course of action, you must carefully follow the provisions within 49 CFR § 386.14, including filing a written Reply within thirty (30) days after service of this Notice of Claim.

Your Reply must be in writing, and clearly state the grounds for contesting the Notice of Claim, and must state any affirmative defenses you intend to assert. You must separately admit or deny each violation alleged in this Notice of Claim. Any allegations in the Notice of Claim not specifically denied in the Reply will be deemed admitted. A general denial of the claim is insufficient and may result in a default being entered by the Assistant Administrator. Your Reply must include a statement selecting one of the options for administrative adjudication available under 49 CFR § 386.14(d)(1)(iii). Once you select an adjudication option, you are bound by that selection.

You must serve your reply on all persons listed in the Certificate of Service attached to this Notice of Claim and in accordance with the requirements of 49 CFR § 386.6.

(3) REQUEST FOR BINDING ARBITRATION: If you dispute **only** the amount of the civil penalty and/or the length of time to pay, you can select to have the civil penalty amount adjudicated through

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FMCSA's binding arbitration program. You should notify the FMCSA of your request in writing when you submit your Reply. The Assistant Administrator will determine if your case is appropriate for binding arbitration. You will be notified in writing of the Assistant Administrator's decision regarding your request. You may choose binding arbitration if the only issues that you dispute are the amount of the civil penalty and/or the length of time to pay. FMCSA's guidance on the use of binding arbitration is available through the following link: <<http://www.fmcsa.dot.gov/>>. You can also request a copy of the guidelines from the Service Center.

YOU MUST CERTIFY THAT YOUR REPLY HAS BEEN SERVED IN ACCORDANCE WITH THE REQUIREMENTS CONTAINED WITHIN 49 CFR § 386.6.

THE SPECIFIC RIGHTS PROVIDED FOR IN 49 CFR § 386.14 MAY BE WAIVED IF YOU FAIL TO SUBMIT A WRITTEN REPLY WITHIN THIRTY (30) DAYS AFTER THE SERVICE OF THIS NOTICE OF CLAIM.

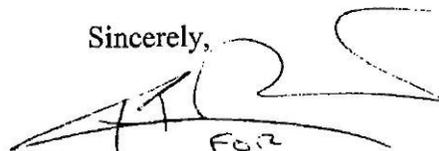
FAILURE TO REPLY TO THE NOTICE OF CLAIM IN THE **EXACT** MANNER SPECIFIED IN 49 CFR § 386.14 MAY BE TREATED AS IF NO REPLY HAS BEEN FILED. UNDER 49 CFR § 386.14(c), A FAILURE TO REPLY MAY CAUSE THE FMCSA TO ISSUE A NOTICE OF DEFAULT AND FINAL AGENCY ORDER THIRTY (30) DAYS AFTER THIS NOTICE OF CLAIM IS SERVED. THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER WILL DECLARE YOU TO BE IN DEFAULT AND DECLARE THE NOTICE OF CLAIM, INCLUDING THE CIVIL PENALTY PROPOSED IN THE NOTICE OF CLAIM, TO BE THE FINAL AGENCY ORDER IN THE PROCEEDINGS. THE FINAL AGENCY ORDER WILL BECOME EFFECTIVE FIVE (5) DAYS AFTER THE NOTICE OF DEFAULT AND FINAL AGENCY ORDER IS SERVED. THE DEFAULT WILL CONSTITUTE AN ADMISSION OF ALL FACTS ALLEGED IN THE NOTICE OF CLAIM AND A WAIVER OF YOUR OPPORTUNITY TO CONTEST THE CLAIM.

A GENERAL DENIAL DOES NOT MEET THE REQUIREMENTS OF 49 CFR § 386.14(d)(1). UNLESS YOUR REPLY COMPLIES WITH THE REQUIREMENTS OF 49 CFR § 386.14(d)(1), THE ASSISTANT ADMINISTRATOR MAY ENTER A DEFAULT AGAINST YOU.

IF YOU DO NOT UNDERSTAND OR ARE CONFUSED ABOUT YOUR RIGHTS AND OBLIGATIONS AS OUTLINED WITHIN THIS NOTICE OF CLAIM, YOU MAY WISH TO SEEK LEGAL ADVICE.

Copies of the procedural regulations, applicable statutes and the Service List are enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Paden', with a stylized flourish extending to the right.

William R. Paden
Field Administrator
Federal Motor Carrier Safety Administration

Enclosures

APPLICABLE STATUTES

Section 521(b)(2)(B)(i) of 49 USC provides for a maximum civil penalty of \$1,000 for each recordkeeping offense, (including the failure to make a required report; or making a required report that does not specifically, completely, and truthfully answer a required question; or does not make, prepare, or preserve a record in the form and manner prescribed), and each day of the violation shall constitute a separate offense. The maximum of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000 (49 USC § 521(b)(2)(B)(i); August 10, 2005).

STATEMENT OF CHARGES

Violation 1 --- 49 CFR 395.8(i) - Failing to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #1:

On or about 02/13/2007, Economy Express, Inc. used driver, Bobby Bratcher, to drive a commercial motor vehicle in interstate commerce from Stockton, CA to Phoenix, AZ. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #2:

On or about 02/14/2007, Economy Express, Inc. used driver, Bobby Bratcher, to drive a commercial motor vehicle in interstate commerce from Yuma, AZ to Compton, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #3:

On or about 02/23/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #4:

On or about 02/24/2007, Economy Express, Inc. used driver, Tony Perez, to drive a commercial motor vehicle in interstate commerce from Springfield, OK to Seattle, WA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #5:

On or about 02/24/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #6:

On or about 02/25/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #7:

On or about 02/26/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #8:

On or about 02/27/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial

STATEMENT OF CHARGES

motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #9:

On or about 02/28/2007, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from Independence, MO to Arlington, TX. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #10:

On or about 03/03/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #11:

On or about 03/04/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #12:

On or about 03/05/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #13:

On or about 03/06/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #14:

On or about 03/18/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Kansas City, KS to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

STATEMENT OF CHARGES

CHARGE #15:

On or about 3/19/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Kansas City, KS to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #16:

On or about 3/20/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Pineville, NC to Kansas City, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #17:

On or about 03/29/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Puyallup, WA to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

CHARGE #18:

On or about 03/30/2007, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Puyallup, WA to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

TABLE 1: VIOLATIONS DISCOVERED DURING REVIEW/INSPECTION

NUMBER	VIOLATION	IDENTIFYING INFORMATION: DRIVER EQUIPMENT COMMODITY	DATE OF VIOLATION
1	49 CFR 395.8(i)	Driver/Bobby Bratcher Equipment/Unit #5120 Commodity/Empty	02/13/2007
2	49 CFR 395.8(i)	Driver/Bobby Bratcher Equipment/Unit #5120 Commodity/Empty	02/14/2007
3	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/23/2007
4	49 CFR 395.8(i)	Driver/Tony Perez Equipment/Unit #5138 Commodity/Mocha Frappuccino	02/24/2007
5.	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/24/2007
6.	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/25/2007
7.	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/26/2007
8.	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/27/2007
9.	49 CFR 395.8(i)	Driver/William Helm Equipment/Unit # 5121 Commodity/Gen Freight	02/28/2007
10.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/03/2007
11.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/04/2007
12.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/05/2007
13.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/06/2007
14.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/18/2007
15.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/19/2007

Case Number: CA-2007-0400-US0931

16.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/20/2007
17.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/29/2007
18.	49 CFR 395.8(i)	Driver/Sean Lindstedt Equipment/Unit # 5134 Commodity/Gen. Freight	03/30/2007

SERVICE LIST

This is to certify that on August 17, 2007, the undersigned sent, by the method indicated, the designated number of copies of the Notice of Claim to each of the parties listed below.

Each party listed below must receive the designated number of copies of each filing made in this proceeding in the future.

Amarjit Gill, Corp Director/Gen Manager
Economy Express, Inc.
PO Box 911
Los Banos, CA 93635

Original

7006 0810 0001 3724 1996

Terry D. Wolf, Division Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1325 J Street, Suite 1540
Sacramento, CA 95814

One Copy

Internal Mail

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

One Copy

Internal Mail

Western Service Center
Golden Hill Office Centre
12600 W. Colfax Ave. Suite B-300
Lakewood, CO 80215

Max LeBlou

U.S. DEPARTMENT OF TRANSPORTATION
 Federal Motor Carrier Safety Administration
 Western Service Center
 12600 W. Colfax Ave., Suite B-300
 Lakewood, Colorado 80215



7006 0810 0001 3724 1996



Rate for Private Use, \$300

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Amarjit Gill, Director/Gen. Mgr. ECONOMY EXPRESS, INC. PO Box 911 Los Banos, CA 93635</p> <p>CA-2007-0400-US0931 U.S. DOT # 625135 NOC / Max</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7006 0810 0001 3724 1996</p>

**Amarjit Gill, Director/Gen. Mgr.
 ECONOMY EXPRESS, INC.
 PO Box 911
 Los Banos, CA 93635**

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Amarjit Gill, Director/Gen. Mgr.
ECONOMY EXPRESS, INC.
 PO Box 911
 Los Banos, CA 93635

CA-2007-0400-US0931
U.S. DOT # 625135 NOC / Max

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 x *Louis Robledo* Addressee

B. Received by (Printed Name) *Eric Robledo* C. Date of Delivery *8/22/07*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

AUG 27 2007

FinUSA
LAKEWOOD, CO

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 Restricted Delivery? (Extra Fee) Yes

7006 0810 0001 3724 1996

Attachment B

FMCSA-2007-0037

In the Matter of Economy Express, Inc.

Field Administrator's Objection to Respondent's Request for Informal Hearing

SAGASER, JONES & HELSLEY
2445 Capitol Street, 2nd Floor
Post Office Box 1632
Fresno, California 93717-1632

Telephone: (559) 233-4800
Facsimile: (559) 233-9330

Michael S. Helsley #199103
Tracie L. Goodwin #250119

Attorneys for: Respondent Economy Express, Inc.

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

**IN THE MATTER OF
ECONOMY EXPRESS, INC.**

Case No. CA-2007-0400-US-0931
US DOT No. 625135

**RESPONDENT ECONOMY
EXPRESS, INC.'S REPLY TO
NOTICE OF CLAIM AND
REQUEST FOR INFORMAL
HEARING**

Respondent Economy Express, Inc. ("Economy Express") hereby replies to the Notice of Claim in the above-referenced case pursuant to 49 Code of Federal Regulations § 386.14(b)(2).

REPLY

Violation 1 – 49 C.F.R. § 395.8(i) – Failing to require driver to forward within 13 days of completion, the original of the record of duty status.

Charge No. 1: On or about 02/13/07, Economy Express, Inc. used driver, Bobby Bratcher, to drive a commercial motor vehicle in interstate commerce from Stockton, CA to Phoenix, AZ. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Admitted. However, Economy Express alleges that pursuant to Economy Express' policy, Economy Express did require Bobby Bratcher to forward the original record of his duty status within 13 days of its completion but through

inadvertence or error, Economy Express did not receive Bratcher's original log for this date.

Charge No. 2: On or about 02/14/07, Economy Express, Inc. used driver, Bobby Bratcher, to drive a commercial motor vehicle in interstate commerce from Yuma, AZ to Compton, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Admitted. However, Economy Express alleges that pursuant to Economy Express' policy, Economy Express did require Bobby Bratcher to forward the original record of his duty status within 13 days of its completion but through inadvertence or error, Economy Express did not receive Bratcher's original log for this date.

Charge No. 3: On or about 02/23/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after

February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 4: On or about 02/24/07, Economy Express, Inc. used driver, Tony Perez, to drive a commercial motor vehicle in interstate commerce from Springfield, OK to Seattle, WA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Admitted. However, Economy Express alleges that pursuant to Economy Express' policy, Economy Express did require Tony Perez to forward the original record of his duty status within 13 days of its completion but through inadvertence or error, Economy Express did not receive Bratcher's original log for this date.

Charge No. 5: On or about 02/24/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day

late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 6: On or about 02/25/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's

refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 7: On or about 02/26/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 8: On or about 02/28/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from San Diego, CA to Carthage, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 9: On or about 02/28/07, Economy Express, Inc. used driver, William Helm, to drive a commercial motor vehicle in interstate commerce from Independence, MO to Arlington, TX. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require William Helm to forward the original record of his duty status within 13 days of its completion but Helm willfully refused to do so. Helm was scheduled to make a delivery to Los Angeles, California on March 10, 2007. On or about March 9, 2007, Helm informed Economy Express he was having family problems and thereafter abandoned Economy Express' truck and the trailer he was scheduled to deliver in

Merced, California. On March 10, 2007, Amarjit Gill, the Operations Manager of Economy Express had to drive to Merced, California to pick up the truck and trailer. Economy Express then delivered the loaded trailer to the customer in Los Angeles a day late. After Helm abandoned the truck and trailer, he refused to turn over his logbooks to Economy Express and refused to return its telephone calls. Economy Express continued to try to contact Helm, but his telephone was eventually disconnected. At no time after February 23, 2007, did Helm return to Economy Express' dispatch office in Lodi, California. Despite its best efforts at compliance with the applicable regulations, Economy Express was unable to obtain Helm's daily log for this date due to Helm's refusal to turn in the daily log and his secreting himself from Economy Express and continued refusal to cooperate.

Charge No. 10: On or about 03/03/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 11: On or about 03/04/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from

Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 12: On or about 03/05/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 13: On or about 03/06/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from

Compton, CA to Clackamas, OR. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 14: On or about 03/18/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Kansas City, KS to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 15: On or about 03/19/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from

Kansas City, KS to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 16: On or about 03/20/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Pineville, NC to Kansas City, MO. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 17: On or about 03/29/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from

Puyallup,WA to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

Charge No. 18: On or about 03/30/07, Economy Express, Inc. used driver, Sean Lindstedt, to drive a commercial motor vehicle in interstate commerce from Puyallup,WA to Sacramento, CA. The carrier failed to require driver to forward within 13 days of completion, the original of the record of duty status.

Reply: Denied. Pursuant to Economy Express' policy, Economy Express did require Sean Lindstedt to forward the original record of his duty status within 13 days of its completion but Lindstedt failed to do so. Lindstedt began work on February 8, 2007, after just completing driver's training. Economy Express gave Lindstedt additional training because he was not proficient on accurately completing his logs. After Lindstedt failed to turn his logs in correctly, he was issued a written warning. To ensure compliance with the applicable Federal motor carrier act safety regulations, Lindstedt was terminated on or about April 10, 2007 for his failure to properly turn in his daily logs to Economy Express.

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AFFIRMATIVE DEFENSES

First Affirmative Defense

As its first affirmative defense, Economy Express alleges that the penalty of \$18,000 is excessive and not authorized by 49 U.S.C. § 521(b)(2)(B)(i). Economy Express has been charged with one violation, i.e., a violation of 49 C.F.R. § 395.8(i). Therefore, the maximum penalty that can be assessed against Economy Express pursuant to 49 U.S.C. § 521(b)(2)(B)(i) is \$10,000.

Second Affirmative Defense

As its second affirmative defense, Economy Express alleges that 49 U.S.C. § 222 is not applicable, and no previous enforcement actions should have been taken into consideration when calculating the penalties, as the FMCSA has not established a pattern of violations within the last six years.

Third Affirmative Defense

As its third affirmative defense, Economy Express alleges the penalties are excessive and not consistent with the purpose of 49 U.S.C. §§ 222 and 521(b)(2)(B)(i). On or about March 12, 2007, Economy Express notified the Department of Transportation in writing that it would no longer be engaging in the transport of interstate commerce and providing services to the public. Economy Express no longer transports interstate and foreign commerce under Economy Express' operating authority and therefore the purpose behind 49 U.S.C. §§ 222 49 U.S.C. and 521(b)(2)(B)(i), to ensure prompt and sustained compliance with the Federal motor carrier safety and commercial driver's license laws (See Docket No. FMCSA-2004-19882) is not applicable.

Fourth Affirmative Defense

As its fourth affirmative defense, objection is made to the Notice of Claim to the extent the charges and/or the penalties are based on the "Signed Statement of Amarjit Gill" dated May 1, 2007, on the grounds the statement was improperly procured from and is not an accurate statement of Amarjit Gill. The purported statement was sent

to Amarjit Gill from the FMCSA on May 1, 2007 by facsimile. It was Mr. Gill's understanding the declaration had to be reviewed and returned immediately to expedite the FMCSA's investigation. In the crush of business, and in a good faith effort to cooperate with the FMCSA in its investigation, Mr. Gill signed the declaration and returned it shortly after it was faxed to him from the FMCSA. Contrary to what is represented on the statement, Mr. Gill did not sign the statement in the presence of Sergio S. Servin. The statement also did not consist of two pages. Therefore, it is Economy Express' position the statement is not accurate and was not voluntarily given to the FMCSA.

Fifth Affirmative Defense

As its fifth affirmative defense, Economy Express alleges the FMCSA has failed to set forth a claim upon which relief can be granted. Economy Express has not violated 49 C.F.R. § 395.8(i). Section 395.8(i) requires the driver to submit or forward by mail the original driver's record of duty status to the regular employing entity within 13 days following completion of the form. Section 395.8(i) imposes no legal duty on Economy Express. As such, the charges should be dismissed. If the FMCSA intends to charge Economy Express with a violation of 49 C.F.R. § 390.11, which provides that when "... a duty is prescribed for a driver...it shall be the duty of the motor carrier to require observance of such duty....," the Notice of Claim should be amended to allege the correct code section.

Sixth Affirmative Defense

As its sixth affirmative defense, to ensure compliance with the applicable Federal motor carrier safety regulations, Economy Express has an express policy in which drivers are required to turn in their original logs with their payroll and other required documents. Economy Express insures that it has received the driver's logs before issuing the driver his or her paycheck. However, when a driver fails or refuses to turn in his or her logs timely with their payroll documents, by law, Economy Express

cannot withhold the driver's paycheck until the driver turns in the daily logs. Economy Express issues a written warning to a driver who does not turn in his or her logs accurately and/or timely. After three warnings, the driver is terminated.

REQUEST FOR INFORMAL HEARING

Pursuant to 49 C.F.R. § 386.14(d)(1)(iii)(B), Economy Express requests an informal hearing on the charges of violations of 49 C.F.R. § 395.8(i). The following issues are in material dispute: (1) Whether Economy Express violated 49 C.F.R. § 395.8(i) as alleged in the Charges with regards to William Helm and Sean Lindstedt; and (2) Whether the FMCSA properly applied the Uniform Fine Assessment criteria and statutory factors when determining the amount of the penalty for Violation 1.

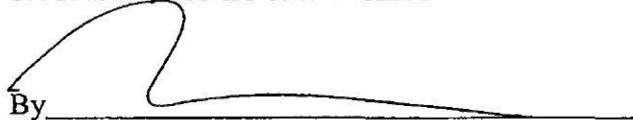
CONCLUSION

Economy Express respectfully requests copies of all documentary evidence upon which the above-referenced claim is based, including the previous enforcement actions that were considered in calculating the penalties.

In order to resolve this matter expeditiously, Economy Express is willing to negotiate a settlement as to terms and conditions of the order and amount of the claim.

DATED: September 17, 2007.

SAGASER, JONES & HELSLEY

By 

Tracie L. Goodwin, Attorneys for
Respondent Economy Express, Inc.

PROOF OF SERVICE

My business address is 2445 Capitol Street, Post Office Box 1632, Fresno, California 93717-1632. I am employed in Fresno County, California. I am over the age of 18 years and am not a party to this case.

On the date indicated below, I served the foregoing document(s) described as on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Terry D. Wolf, Division Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1325 "J" Street, Suite 1540
Sacramento, California 95814

William R. Paden, Field Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Western Service Center
12600 West Colfax Avenue, Suite B-300
Lakewood, Colorado 80215

I caused the above-referenced envelope(s) to be delivered via Federal Express to the addressee(s).

EXECUTED ON September 17, 2007, at Fresno, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Lorayne Hogan

311

100

FedEx US Airbill
Express

FedEx Tracking Number

8581 7089 2775

Form ID No.

0215

1 From This portion can be removed for Recipient's records.

Date 11/10/07 FedEx Tracking Number 858170892775

Sender's Name TRAC (WOODRIDGE) Phone _____

Company _____

Address _____
Dept./Floor/Suite/Room _____

City _____ State _____ ZIP _____

2 Your Internal Billing Reference 4515-101

3 To

Recipient's Name William Padon Phone _____

Company US Dept of Transportation

Recipient's Address 1000 West Colfax Ave, Suite 100
We cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room _____

Address _____
To request a package be held at a specific FedEx location, print FedEx address here.

City WOODRIDGE State IL ZIP 60155

RECEIVED
SEP 18 2007

FMCSA
LAKESWOOD, CO

4a Express Package Service Packages up to 150 lbs.

FedEx Priority Overnight Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Standard Overnight Next business afternoon.* Saturday Delivery NOT available.

FedEx First Overnight Earliest next business morning delivery in select locations.* Saturday Delivery NOT available.

FedEx 2Day Second business day.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Express Saver Third business day.* Saturday Delivery NOT available.

FedEx Envelope rate not available. Minimum charge: One-pound rate. *To most locations.

4b Express Freight Service Packages over 150 lbs.

FedEx 1Day Freight* Next business day.** Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx 2Day Freight Second business day.** Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx 3Day Freight Third business day.** Saturday Delivery NOT available.

** To most locations.

5 Packaging

FedEx Envelope* FedEx Pak* FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak. FedEx Box FedEx Tube Other

*Declared value limit \$500

6 Special Handling

SATURDAY Delivery Not available for FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 2Day Freight.

HOLD Weekday at FedEx Location Not available for FedEx First Overnight.

HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

Does this shipment contain dangerous goods?
 No Yes As per attached Shipper's Declaration. Yes Shipper's Declaration not required. Dry Ice Dry Ice, 9, UN 1845 Cargo Aircraft Only

7 Payment Bill to: Enter FedEx Acct. No. or Credit Card No. below.

Sender Acct. No. in Section 1 will be billed. Recipient Third Party Credit Card Cash/Check

Total Packages _____ Total Weight _____ Total Charges _____

Credit Card Auth. _____

Your liability is limited to \$100 unless you declare a higher value. See the current FedEx Service Guide for details.

8 NEW Residential Delivery Signature Options If you require a signature, check Direct or Indirect.

No Signature Required Package may be left without obtaining a signature for delivery.

Direct Signature Anyone at recipient's address may sign for delivery. Fee applies.

Indirect Signature If no one is available at recipient's address, anyone at a neighboring address may sign for delivery. Fee applies.

fedex.com 1.800.GoFedEx 1.800.463.3339

RECIPIENT: PREP HERE



8581 7089 2775

519