

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

_____)
)
In the Matter of:)
)
Stewart Hay Co., Inc.) **Docket No. FMCSA-2008-0088**
) **NV-2008-0004-US0420**
) **(Western Service Center)**
)
 Respondent.)
)
_____)

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DEPT. OF TRANSPORTATION
DOCKETS

**FIELD ADMINISTRATOR’S MOTION FOR EXTENSION OF TIME TO FILE
NOTICE OF CONSENT OR OBJECTION TO RESPONDENT’S
REQUEST FOR HEARING**

COMES NOW the Field Administrator for the United States Department of Transportation, Federal Motor Carrier Safety Administration, Western Service Center, (“FMCSA”) by and through the undersigned, and hereby respectfully requests a sixty day extension of time to submit Notice of consent or objection to Respondent’s request for hearing. In support thereof the Field Administrator respectfully states as follows:

1. This civil penalty proceeding was commenced through the issuance of a Notice of Claim on December 31, 2007, pursuant to 49 C.F.R. Part 386. The Notice of Claim was based on violations discovered during a compliance review of Stewart Hay Co., Inc. (“Stewart Hay” or “Respondent”) conducted on or about November 19, 2007. The Notice of Claim charged Respondent with one violation of 49 C.F.R. § 373.37(a), knowingly allowing, requiring, permitting, or authorizing an employee with a Commercial Driver’s License which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle; and seven violations of 49 C.F.R. §

395.8(e), false reports of records of duty status. The Notice of Claim proposed a civil penalty of \$7,300 for the charged violations.

2. Respondent timely served its reply to the Notice of Claim on January 29, 2008. In its reply, Respondent denies the charged violations, and requests administrative adjudication in the form of a formal hearing in this case.

3. The office of the Field Administrator has been engaged in settlement discussions with Respondent, and is reviewing the case as well as information submitted by Stewart Hay. The extension of time will allow time to adequately consider the information submitted by Respondent, and facilitate settlement discussions.

3. In accordance with the provisions of 49 C.F.R. §§ 386.16(b)(2) and 386.8(c)(3), the sixty-day period for the Field Administrator to serve Notice of consent or objection to Respondent's request for hearing runs April 3, 2008.

4. Pursuant to 49 C.F.R. § 386.5(f), the Field Administrator requests an extension of time of sixty (60) days to serve Notice of consent or objection to Respondent's request for hearing.

WHEREFORE, the Field Administrator respectfully requests that the Assistant Administrator grant an extension of time to serve Notice of consent or objection to Respondent's request for hearing.

Respectfully Submitted,
Attorneys for the Claimant

Date: April 3, 2008

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 3rd day of April 2008, the undersigned mailed or delivered as specified, the designated number of copies of the forgoing documents to the persons listed below.

Kim K. Stewart, President
Stewart Hay Co, Inc.
P.O. Box 149
Smith, NV 89430

One Copy
U.S. Mail

Christina Nugent, Esq.
Attorney for Stewart Hay Co, Inc.
Hanson Bridgett
980 Ninth Street, Suite 1500
Sacramento, CA 95814

One Copy
U.S. Mail

Bill Bensmiller, Division Administrator
U.S. Department of Transportation
FMCSA – Nevada Division
705 North Plaza Street, Suite 204
Carson City, NV 89701

One Copy
Internal Mail

U.S. DOT Dockets
U.S. Department of Transportation
Room PL-401
400 Seventh Street, SW
Washington, D.C. 20590

One Copy
Federal Express
Trk# 7920 3383 8122

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

One Copy
Personal Delivery

4/3/2008

Heather Horton