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Wisconsin Division Office
Highpoint Office Park Suite 101
567 D'Onofrio Drive
Madison, Wisconsin 53719-2814
Phone: (608) 829-7530
Fax: (608) 829-7540

April 24, 2003

(b)(3); (b)(7)(D)
(b) (6)

Dear (b)(3); (b)(7)(D)

This is in response to your January 23 and 24, 2003 letters to our Oregon office concerning the safety practices of Marten Transport Ltd. Your letters were forwarded to our office for review as Marten Transport Ltd is based in Mondovi, WI.

The Federal Motor Carrier Safety Administration is very much concerned with acts of noncompliance with the Federal Motor Carrier Safety Regulations by motor carriers and their employees. **A compliance review was recently conducted and an enforcement action was prepared to improve the company's compliance. We continue to monitor the company's safety performance.**

Future complaints addressing issues within our agency's jurisdiction must include a specific example of a Federal violation, which would include the date, location, and other pertinent information, and allege violations which have occurred within the previous sixty days.

We are returning the documents you submitted per the request in your letter.

Your interest in motor carrier safety is appreciated.

Sincerely,


For William G. Vickery
Division Administrator



Memorandum

Subject: Marten Transport Ltd - Complaint

Date: April 24, 2003

From: Mark Gessler, Federal Programs Specialist

To: File

Complaint received on Marten Transport Ltd., USDOT 74432, from Star Fuji, Federal Programs Specialist, FMCSA – OR. The complaint was originally sent in two separate letters to the FMCSA office in Oregon as the complainant is an Oregon resident. Complaint letters were dated January 23 and 24, 2003. They were forwarded from FMCSA – OR and received in the FMCSA – WI office on April 24, 2003.

Complaint included two handwritten letters and a substantial amount of documents including logs, scale receipts, trip reports, and various other receipts for the complainant covering dates 9/7/2002 thru 10/16/2002. The most recent log was dated 10/16/2002 and included signatures with the complainant name and driver ID number (b) (6) tractor number 11257. The handwritten letters failed to include specific dates of allegations. The date on the most recent log was 10/16/2002. The complaint letter was dated 01/23/2003 which would make the written complaint older than 60 days at the time of receipt in the Oregon Division. Complaint alleged Part 395 violations.

A compliance review had been completed on Marten Transport on 9/27/2003. Violations found during the 9/27/2003 CR included Part 395. No enforcement action was taken for Part 395 violations but enforcement was taken from this CR for Part 382 violations.

Review of the FOTM dated 8/1/2002, Volumn II, Chapter 10, Paragraph d., indicates complaints involving companies with a recent CR – defined as within 12 months – and where violations of the type alleged in the complaint are found - may be handled per the discretion of the Division Administrator. A compliance review may be conducted or the DA may choose to simply make a note to the carrier file for future reference.

The complaint circumstances were discussed and reviewed with WI Division Administrator Bill Vickery, and Midwest Service Center Enforcement Coordinator Donnell Mosley on 4/24/2003. Both agreed that a compliance review investigation was not necessary and a note to the motor carrier file would be sufficient for this complaint. The complainant was mailed a response and all logs and other supporting documents were returned via mail on 3/24/2003 per request in the complaint letter.

2. GENERAL GUIDANCE

- a. At a minimum, complaints of substantial violations of the FMCSR and HMR must contain the requirements of Part 386.12 as listed below:
 - (1) Allege a substantial violation of the Federal Motor Carrier Safety Regulations;
 - (2) The violation must have occurred within the previous 60 days;
 - (3) The name and address of the alleged violator;
 - (4) The specific provisions of the regulations that the complainant believed were violated; and
 - (5) A concise statement of the facts to substantiate each allegation, including the date of each alleged violation.
- b. Complaint tracking procedures: All jurisdictional non-frivolous complaints (including those complaints handled without the performance of a CR) and all Congressional requests must be recorded, tracked, and prioritized by using the Complaints/Enforcement Follow Ups function of SAFETYNET (a part of the Micro Census Module.) The manner of handling of each jurisdictional non-frivolous complaint and Congressional request (e.g. CR, letter, etc.) must be recorded. Commercial/economic complaints must be recorded in the Economic Complaint Register. All written frivolous complaints should be filed for future reference.
- c. Multiple complaints of this type filed against the same entity should be handled by a single action when feasible. The Division Administrator/State Director or his/her designee must eventually inform a person who submits this type of complaint, by letter or telephone call, about how the agency handled the complaint.
- d. Complaints of nonsubstantial violations: Complaints alleging nonsubstantial violations are generally not investigated. In any event, a copy of the complaint must be placed in the motor carrier's file for future reference. In the unusual event that a complaint of this type is investigated, the investigation must be initiated within 180 calendar days after receipt of the complaint. The Division Administrator/State Director or his/her designee must eventually inform a person who submits this type of complaint, by letter or telephone call, about how the agency handled the complaint.
- e. Oral allegations: Oral allegations of violations will generally not be investigated. Complainants who make allegations of violations by telephone should be encouraged to submit a written complaint. These individuals should be provided with the appropriate address of the FMCSA in the State where the motor carrier is domiciled and the specific information necessary to process the statement as a timely, nonfrivolous complaint of substantial violation. These individuals should be advised that they will not be granted immunity from prosecution if they are party to a violation.
- f. Anonymous complaints: Anonymous complaints that are timely, nonfrivolous, and jurisdictional alleging a substantial violation will be investigated. It is recommended that all attempts are made to obtain the identity of the complainant because having such information may be important for the investigation. Under such circumstances, remind the complainant of the protections provided under the law and our policy not to disclose their identity.

3. HANDLING PROCEDURES AND DEADLINES FOR SAFETY AND HAZARDOUS MATERIALS COMPLAINTS

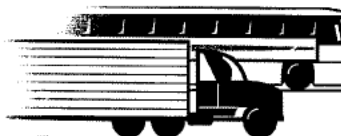
- a. In order to make a better informed decision as to whether a complaint is nonfrivolous, all reasonable attempts should be made to discuss the complaint with the complainant prior to the initiation of any CR. This discussion may be conducted by telephone. If a CR is conducted, a discussion with the complainant will often provide information that will facilitate an efficient investigation.
- b. When a complainant cites alleged violations of the HMRs by a Federal or other government agency that is offered a shipment of hazardous materials in commerce, the Division Administrator/State Director shall follow the complaint procedures as set forth in this Chapter.
- c. Timely, nonfrivolous, and jurisdictional complaints alleging a substantial violation must be handled by conducting a CR as soon as practicable, but no later than 90 calendar days after receipt of the complaint. A streamlined CR may be conducted in accordance with Paragraph 4 of this chapter.
- d. Complaint handling in the case of a recent CR: Complaints as described in Paragraph 3 (b) must be handled promptly regardless of the recentness of a previous CR. If a safety complaint (which meets the criteria in Paragraph 2 (b) of this chapter) is received about a motor carrier that had a CR in the previous 12 months, handle the complaint according to the following guidance based on the particular situation:
 - (1) If the alleged type(s) of violation(s) in the complaint was discovered during the recent CR and enforcement action was not taken, the Division Administrator/State Director has the discretion to either assign an investigator to conduct another CR or make a note in the agency's file on the motor carrier for future reference. In any case, the Division Administrator/State Director must inform the complainant by telephone or in writing how the complaint was handled.
 - (2) If the alleged type(s) of violation(s) in the complaint was discovered during the recent CR and enforcement action was taken, handle the complaint during an enforcement follow-up CR.
 - (3) If the alleged type(s) of violation(s) in the complaint was not discovered during the recent CR, but enforcement action was taken for other violations, handle the complaint during an enforcement follow-up CR.
 - (4) If the alleged type(s) of violation(s) in the complaint was not discovered during the recent CR, and enforcement action was not taken for other violations, conduct a CR as soon as practicable, but no later than 90 calendar days after receipt of the complaint. A streamlined CR may be conducted in accordance with section 5 of this chapter.



RECEIVED

APR 24 2003

US DOT Motor Carrier Safety
Madison Wisconsin



F M C S A

Federal Motor Carrier Safety Administration

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
530 Center Street NE, Suite 100
Salem, Oregon 97306

Memorandum

Subject: Marten Transport Ltd.
Complaint
USDOT 074432

Date: April 23, 2003

From: Star Fuji

Reply to
Attn. of: OR -EFW-OR.FPS

To: Mark Gessler, FPS

Hi Mark,

Here's the complaint from (b)(3); (b)(7)(D) an Oregon resident and (b)(3); (b)(7)(D) (b)(3); (b)(7)(D) with Marten Transportation (Transport LTD).

(b)(3); (b)(7)(D) were a sleeper team, but were not always operating as such despite what their logs say ... according to her allegations. She claims that Marten will often dispatch sleeper team runs to solo drivers and encourage falsification of logs accordingly.

(b)(3); (b)(7)(D) also states that Porterhouse Express is not a carrier in its own right and simply leases all of its equipment and owner-operators to Marten. Porterhouse will, however, dispatch its owner-operators, with approval from Marten. (I could not find any carrier information on Porterhouse Express.)

The complainant states that Porterhouse will have copies of its "drivers'" trip receipts but that Marten should also have copies of them ... including Petro and Comdata fuel purchases, shipping bills with times (but those times may not be accurate), etc.

(b)(3); (b)(7)(D) wishes to remain anonymous but is willing to testify if necessary. Her cell phone number is (b)(6) As you can see, she sent me originals and

would eventually like to get them back.

Please accept my apologies for getting this complaint to you so late. Tell Bill I said hello. Hope he doesn't have to go to the diversity meeting this year.
Thanks, star.

A handwritten signature in black ink, appearing to be 'Star' or similar, written in a cursive style.