

TRANSTRENDS

THE TRANSLAW GROUP, INC.

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IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO JBURNS@TRANSREGS.COM

FIVE YEARS IN THE SLAMMER



A former bookkeeper at a California trucking company was sentenced to five years in prison after pleading guilty to skimming almost \$3.5 million from the company since 1998.

Patricia A. Francisco, 62, of Huntington Beach, was sentenced to 63 months in prison. Francisco pleaded guilty to four counts of wire fraud last August. In addition to the jail time, she has been ordered to repay the nearly \$3.5 million she admitted to siphoning off her employer, Long Beach-based California Multimodal.

According to court records, beginning in around 1998 and continuing until April of last year, authorities alleged that Francisco knowingly executed a scheme and defrauded the company of nearly \$3.5 million. The scheme revolved around Francisco stealing her supervisor's signature stamp from his file cabinet when he was not in the office. She then stole company checks from a locked cabinet in the office, made them out to

cash, and either deposited them in her personal account or cashed them, according to the indictment.

The indictment stated that Francisco also caused checks to be written to legitimate vendors, which she then endorsed and deposited into her personal account and created false expense vouchers for company employees. She covered her tracks by keying entries in the company's books distinguishing the checks as payments to vendors. She deleted incriminating files on her work computer once the theft was discovered.

Prosecutors said the stolen funds were used for various purposes: \$300,000 went toward a down payment on her home; another \$50,000 was used to remodel the property; \$25,000 for down payment on a condo; \$40,000 to purchase a 2013 Cadillac LE; approximately \$100,000 in jewelry; \$30,000 worth of plastic surgery; and an undisclosed amount on multiple trips to Hawaii, Oklahoma, and Las Vegas, as well as the purchase of clothing, shoes, handbags and other gifts for herself, her family and friends.

TRANSTRENDS is always fascinated by such stories. How can a company NOT miss the dollars that go south. It is hard enough to simply get by in business without losing money to theft. There are many simple ways to establish checks and balances to prevent and uncover this type of fraud. And, most importantly didn't anyone notice the plastic surgery "enhancement". \$30,000.00 buys a lot of "work".

NEW DATES FOR SPEED LIMITER PROPOSAL



TRANSTRENDS LOVES THESE DECALS, WANT THEM ON OUR STREET

Two U.S. federal agencies are still pushing toward a rule in 2015 that would require speed limiters on heavy trucks, but they have pushed back their projected timeline by a month.

The National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration now anticipate their joint notice of proposed rulemaking to be sent to the White House Office of Management and Budget on March 2 after a previous projection of Feb. 2 passed.

The adjustment pushes back other projected benchmarks for the proposal by a month. The agencies are now projecting clearance from OMB on June 4 instead of May 4 and for a rule to be published on June 8 instead of May 7. If the agencies meet their new

intended deadlines, publication of a rule would trigger a 60-day public comment period.

Specifically, the NHTSA portion of the rule, proposed in 2011, responds to petitions filed in 2006 by the American Trucking Associations and Roadsafe America to require the installation of speed-limiting devices on newly manufactured heavy trucks. The agency believes the proposal will decrease fatal crashes involving trucks on roads with posted speed limits of 55 mph and above.

The FMCSA portion of the rule is identical except it would call for all trucks – not just new ones – to activate their speed limiters within the electronic control modules (ECMs). At this stage, the joint proposal does not prescribe a specific speed for the limiters to be set, but it is widely believed that it would be either 68 mph or 65 mph.

Setting speed limiters at either of those speeds would force trucks to move at a slower speed than the flow of traffic on many, if not most, American interstate highways.

FEDS SHUT DOWN COLORADO CARRIER



Continuing the crackdown on delinquent trucking companies, the Federal Motor Carrier Safety Administration has declared a Colorado-based trucking company to be an imminent hazard to public safety and has placed it out of service, according to the agency. The company violated numerous regulations.

Sorbon Transport Inc., which is located in the Aurora area, was found to be in violation of maintenance, hours of service and controlled substance/alcohol regulations after a Feb. 9 federal investigation, according to official documents.

Court documents reveal that an investigation was prompted after two incidents earlier this month. On Feb. 6, a 2007 Peterbilt with a 1998 trailer owned by Sorbon was inspected. Eight serious out-of-service violations were found plus six other maintenance violations. The truck was towed to a nearby lodging facility on Feb. 9. Three days later, the Peterbilt was no longer in the lot. Sorbon Transport claimed it was unaware of the location of the truck or cargo.

On Feb. 9, an inspection of a Sorbon-owned 2007 Freightliner pulling a 1997 trailer was discovered to have two serious out-of-service violations and 12 other maintenance violations. According to legal documents, the violations were similar to those found during the Feb. 6 inspection.

Federal investigators were refused access to documents, facilities and vehicles during an investigation prompted on Feb. 9. A second request from investigators yielded limited access. After a few hours, investigators were told by Sorbon to leave the premises.

Despite an advanced notice from federal transportation officials, only one vehicle was provided to investigators during an inspection scheduled for Feb. 10. Sorbon refused access to two vehicles that were on the premises. One vehicle was intentionally moved from the location. In total, only two of nine vehicles were inspected.

Investigators ultimately determined that Sorbon Transport violated the following regulations:

- Adequate maintenance program and record keeping;
- Hours of service, including record keeping and violating the 14-hour rule twice in one trip; and
- Controlled substance and alcohol program; no pre-employment testing; only one in five enrolled in random test program, with three of four enrolled not identified as drivers for the company.

Sorbon Transport has been in operation since April 2014. Owner Jovidon Sorbon previously owned Five Star Auto Transporter. An “unsatisfactory” safety rating was given to the company on Dec. 23, 2013. Mr. Sorbon ran Sorbon Auto Trans in between Five Star Auto Transporter and Sorbon Transport. That company also experienced compliance issues with FMCSA regulations.

New regulations that will go into effect in October of 2015 will help to prevent persons from operating chameleon carriers after experiencing safety issues that close their operations. The regulations will impose additional regulatory burdens on all carriers but it is assumed that the rules will help to eliminate scenarios such as presented by Mr. Sorbon.

FINES FOR MISSED DELIVERY



Shippers will often try to assess fines or penalties to a motor carrier for a late or missed delivery time and date. Can a shipper assess such fines and penalties? Yes and no!

In a simplified sales transaction, there are two contractual relationships, the vendor-purchaser relationship, and the shipper-carrier relationship. Unfortunately the relationship integrity is jeopardized usually when a delivery appointment is missed. What ends up happening is the purchaser (or customer) assesses fines to the shipper on account of the carrier missing a delivery time.

What is the law concerning passing off fines to the carrier on missed delivery appointments?

As previously stated when the carrier misses the delivery date, customers then turn to the shipper to pay a fine. However any fines and conditions in which a fine can be assessed will be found in the purchase order or terms of sale. The penalty must be clearly stated; otherwise the purchaser has no right (legally) to charge a fine.

More specifically, the bill of lading must clearly lay out the conditions in which a delivery is made. If there is a specified date and time that the carrier must meet, then a penalty can be assessed to the carrier. It is commonly assumed that the intention of any bill of lading is a notice to the carrier that any delivery penalties will be passed on to them by the shipper. But, remember, the carrier must agree to the special circumstances of the delivery date and time.

Without any terms laid out, the carrier's only obligation is to deliver with "reasonable dispatch". Any penalties you seek to assess on the fault of the carrier will be considered "special damages" and will most likely fall through.

What works best in the shipper-carrier relationship is for the shipper to write out a transportation agreement. This transportation agreement lays out all terms and conditions, and clearly defines the obligations of each party. To this situation, specific delivery appointment conditions would need to be stated, and the consequences/penalties that would be assessed should the carrier fail to meet the standard.

A tariff would serve this purpose and the terms of the tariff do not need to be in the contract. You simply reference the tariff in the contract. Tariffs are "in-house" publications and are not required to be filed with any government agency. In fact, you do not have to give the shipper a copy of the tariff if the shipper does not ask for a copy of the tariff. Further, the tariff is applicable to common as well as contract authority, Call the office for more details on establishing a tariff for your operations.

Giving thought to a tariff that can be referenced in the shipping documents will give the carrier some protection to unlawful charge backs for missed deliveries.

CONNECTICUT APPROVED FOR PILOT TOLL PROGRAM



The Federal Highway Administration has approved Connecticut for a pilot program installing an electronic toll system. The pilot program for so-called value-pricing bypasses a federal ban on federal highway tolls by offering an exemption that allows certain types of electronic tolls.

Value-pricing, or congestion pricing as it's sometimes called, assigns values for trips at different times and places for different motorists to encourage driving at different times and places to reduce congestion.

The tolls can be placed on designated express lanes, along borders and sections of highway if the revenue generated finances public works improvements.

Hearst Connecticut Media reports that hundreds of opponents have taken to the website of the legislature's Transportation Committee. Not a bad idea!

TRANSTRENDS MARCH 2015

The study is focused on the New York corridor of Interstate 95 to New Haven and Interstate 84 around Hartford. **TRANSTRENDS** is certain that if the proposal is put into effect I-91 will fall victim as well and other states will follow!

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