



Reply to the Attention of RSI/WPP

September 30, 2013

Mr. Binder Singh
14445 W. 140th Terrace
Olathe, KS 66062

CERTIFIED MAIL # 7010 0290 0003 5632 1566

Re: Freight, Inc. and Successors; Binder Singh/Kloster/7-5880-13-025

Dear Mr. Singh:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by Mr. Kent Kloster ("Complainant") against you and Freight, Inc. and successor companies ("Respondents") under the whistleblower provision of the Surface Transportation Assistance Act ("STAA"), 49 U.S.C. §31105. In brief, Complainant alleges that Respondents terminated his employment in retaliation for raising concerns about defective trailer brakes and for refusing to operate a commercial motor vehicle with defective trailer brakes.

Following an investigation by a duly-authorized investigator, the Secretary of Labor, acting through his agent, the Acting Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region VII, finds that there is reasonable cause to believe that Respondents violated STAA and issues the following findings:

Secretary's Findings

Complainant's employment was terminated on December 13, 2012. On December 20, 2012, Complainant filed a complaint under STAA against Freight, Inc. ("Freight"). On April 8, 2013, Complainant filed an amended complaint, adding Binder Singh ("Singh") as a Respondent and adding a cause of action under Section 11(c) of the Occupational Safety & Health Act of 1970 ("the Act"), 29 U.S.C. §660(c).¹ The first complaint is timely because it was filed within 180 days of the alleged adverse action. The amended complaint – although filed after 180 days of the adverse action – is a valid amendment because it reasonably falls within the scope of the original complaint.

Respondents are a person within the meaning of 1 U.S.C. §1 and 49 U.S.C. §31105. Respondents are 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 motor vehicle, that is, a vehicle with a gross vehicle weight rating of 10,001 pounds or more.

¹ Complainant withdrew his cause of action under Section 11(c) of the Occupational Safety and Health Act on July 10, 2013. The complaint under the Surface Transportation Assistance Act and the amendment adding Binder Singh as a Respondent were not withdrawn.

Complainant is an employee within the meaning of 49 U.S.C. §31101. In the course of his employment, Complainant directly affected commercial motor vehicle safety, in that he drove Respondents' trucks over highways in commerce to haul freight.

Complainant was employed by Respondents as an over-the-road truck driver. Complainant and Respondents are, therefore, covered by STAA.

Facts:

The events relevant to this investigation took place between December 8 and 13, 2012. Complainant, during this time period, drove Truck #667 and Trailer #9714 for Freight and Singh, Freight's owner and president.

On December 8, 2012, Complainant picked up a load in Kansas City, KS to be delivered to the Phoenix, AZ area.

On December 10, 2012, Complainant made two stops. On the second stop, Complainant set the trailer brakes per the receiver's instructions. After setting the trailer brakes, Complainant could hear air hissing from the brake system. At 4:04 p.m., Complainant sent the following text message to Singh. "You need to text me route out of Nogales...how much will I weigh and by the way...your trailer brakes are crap and barely work." Complainant, at some point, was dispatched by Singh to pick up a load in or around Rio Rico, AZ to be delivered to Wilder, KY.

In his statement to OSHA, Complainant stated the following: Before sending the above text message, he called and notified Singh of the issue with the trailer brakes. Singh promised to have the brakes serviced at Complainant's next stop. Singh, however, did not make any arrangements to have the brakes fixed.

The following took place on December 11, 2012:

Complainant sent the following text message to Singh at 9:00 a.m.: "P.s. you have no trailer brakes..."

In his statement to OSHA, Complainant stated the following: He again called Singh to let him know about the problems with the trailer brakes. Singh, this time, promised to have them repaired once Complainant got back to Kansas City.

At 10:00 a.m., Complainant sent the following text message to Singh:

You need a load to KC if there is one. I am going to clean out the truck and start a new job Monday. My wife went off on me when she saw my cell bill and 65% of it is you or brokers.

She was pissed about the constant breakdowns...four in less than a month...she didn't [sic] understand why you didn't [sic] pay someone to bring me fuel...why your disregard...disrespect for me she said made it ok that I walk a total of 6 ...

At 4:24 p.m., Complainant sent the following text message to Singh:

Talked to tom over at ooida compliance officer 18004445791 and paul at dac and all agreed if the load isn't even in the united states yet much less on the truck...and i have repeatedly informed you i quit and need to return to the kc area that it is not abandoning the load...further ooida suggests if i feel the truck has issues i can park the truck and write it up.

Again let me state in writing with others as witness...load me for kc...i am not accepting a kentucky load. Thank you.

Singh replied with the following text message: "[Complainant]. You pick up ky load bc I don't want the customer be mad and put us on no load list you can bring to Kc ... Can you check with shipper and ask what time they load you so you just bring to Kc."

In his statement to OSHA, Complainant stated the following about the text messages mentioning quitting and starting a new job: He sent them out of frustration with Singh's failure to take his concerns about the brakes seriously. His intent behind the messages was to show Singh that he was growing increasingly fed up with the way he was being treated. It was not his intent to quit – and he wasn't actually starting a new job on Monday – but he wanted to show Singh that he would not tolerate unsafe equipment. Singh told him that if he refused to continue driving, he would tell others that Complainant had abandoned the load. In the end, he kept on driving because he was fearful that Singh would fire him and keep him from finding another trucking job by telling prospective employers that he had abandoned the load.

In his statement to OSHA, Singh claimed the following: Complainant did not start complaining about the brakes until after he had sent the messages referencing that he was quitting. He instructed Complainant to take the trailer to a repair shop to have the brakes repaired, but Complainant refused to do so.²

Complainant stated, however, that Singh never instructed him to take the trailer to a repair shop to have the brakes examined, noting that Singh did not provide the name of a particular repair shop to take the trailer to or tell him how to pay for any services that might be needed.

On December 12, 2012, before arriving back in Kansas City, Complainant sent the following text message to Singh: "...meet me tomorrow with cash not a check for my full pay."

Sometime after 11:00 p.m. on December 12, Complainant arrived back in Overland Park, KS, which is just outside of Kansas City.

² Respondents provided an invoice showing that the brakes for this particular trailer were last serviced on July 20, 2012.

The following took place on December 13, 2012:

Complainant drove the truck and trailer to the Freightliner dealership in Olathe, KS – where Singh parks his trucks. In his statement to OSHA, Complainant offered the following account of what transpired:

I called Binder Singh from [the] yard in Olathe, KS. Mr. Singh told me that I needed to leave immediately to deliver the load in Cincinnati, OH.

I told [him] that I refused to drive the tractor-trailer set until the trailer brakes were repaired and functioning properly. (At this point, I was still with the truck at the Freightliner yard in Olathe.)

Mr. Singh became irate. He told me that if I did not deliver the freight, he would tell people that I had abandoned it, and that he would put it on my employment record making sure that I never got another driving job. I again told him that I would not drive the truck. Mr. Singh told me he would meet me at the Freightliner yard in Olathe.

In the meantime, I went up to a nearby 7-Eleven in my personal vehicle to get some coffee. ... While I was leaving to go back to the Freightliner yard, a couple of DOT officers pulled up. I thought it would be a good idea to run my situation by them, so I stopped and told them about it. I stated that I had been operating a tractor-trailer set without operational trailer brakes, and that my requests to my employer for the trailer brakes to be repaired were refused. I also told the law enforcement officers that Binder Singh had dispatched me to take a load to Cincinnati using the trailer with the non-functioning service brakes, that I had refused the dispatch and that Binder Singh had threatened to blacklist me if [I] did not take the load ...³

After talking to the officers, I went back to the Freightliner yard and got back in the truck to wait for Mr. Singh to arrive. Mr. Singh showed up. He was very irate with me, demanding that I deliver the freight to Cincinnati. I stood my ground and told him that I would not drive the truck with the trailer brakes not working. I told him that I had just spoken with two DOT officers and reported to them that I had been operating a trailer without working service brakes which [Respondents] had refused to have repaired. Mr. Singh directed me to get out of the truck. He opened the truck door, grabbed my arm, and assaulted me by jerking me out of the truck. This caused me to fall to the ground on one knee. Mr. Singh then got in the truck. I then called 9-1-1 on my cell ...

³ The load, as stated above, was actually for a receiver in Wilder, Kentucky, which is located near Cincinnati, OH. The parties, during this investigation, used both Wilder and Cincinnati interchangeably to describe the load's final destination.

Officer Eric M. Hardman from the Olathe Police Department arrived at the scene. OSHA obtained the police officer's report, which states:

On 12132012 at approximately 0956 hours, I (Officer Hardman-unit 182) and unit 183-was dispatched to 15580 S US 169hwy (Freightliner) on a report of a verbal disturbance. Just prior to my arrival, the reporting party, [Complainant], told dispatch that he was also battered. Upon arrival, I made contact with [Complainant].

[Complainant] advised that he drives a semi-truck and trailer for Binder Singh. He said Singh wanted him to drive that truck today, but he refused, because he said the truck was unsafe.

He said he told Singh this over the phone. He said he was at Freightliner and Singh arrived and refused to pay him. He said the two argued and then Singh grabbed him by his arm while he was in the truck and pulled him from the semi and he fell to the ground. He said he wanted to prosecute Singh for Battery.

I spoke to Singh and he advised that there was nothing wrong with his truck and [Complainant] refused to drive for him today, **so he fired him** [emphasis added]. He said [Complainant] then demanded to be paid, but Singh could not do so because he needed to go through the paperwork to see what, if anything was owed to [Complainant].

I asked why he pulled him from the semi and he said he never touched [Complainant]. He said when he arrived at the business; [Complainant] was in the parking lot and was not even in the semi. He said the two argued and [Complainant] walked away and apparently called the police.

There were no witnesses to this incident. The parking lot was also a gravel parking lot and I did not observe any dirt on [Complainant] when speaking to him ...⁴

Two officers with the highway patrol also arrived at the scene and looked at the truck and instructed Mr. Singh not to move it.

Complainant's "Driver's Vehicle Inspection Report" for December 13, 2012 states:

PER MY REPEATED TEXT MESSAGES PER MY REPEATED
PHONE CALLS I REFUSE TO OPERATE TRAILER NO. 9714
UNTIL THE BRAKES ARE REPAIRED.

⁴ The matter was closed on December 17. Singh was not prosecuted.

I HAVE SPOKEN TO TWO STATE TROOPERS THIS MORNING AND THEY TOLD ME I AM LEGALLY LIABLE IF THIS TRAILER FAILS ENROUTE TO KENTUCKY. I AM TAKING THIS TRAILER OUT OF SERVICE DUE TO BRAKES NOT WORKING.

A "Driver/Vehicle Examination Report" from the Missouri State Highway Patrol shows that at 11:21 p.m. on December 13, 2012 (after Complainant's employment had already been terminated), truck #681 (a different truck than the one that had been driven by Complainant) and trailer #9714 (the same trailer that had been hauled by Complainant) were stopped for inspection by the Highway Patrol in the county of Lafayette, MO. The Report shows that the load was going to Wilder, KY, and that the patrol officer conducted a Driver-Only Inspection, or a Level III Inspection, defined as "a roadside examination of the driver's license, medical certification and waiver, if applicable, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, and HM requirements, as applicable." The Report, which notes "No Brake Measurements Required for Level 3," shows that the equipment was "over weight on tandem trailer axles by 1100 pounds."

On December 20, 2012, Freight issued Complainant his final paycheck in the amount of \$963.94.

Common Relationships:

According to Singh, Freight is no longer in operation, although he is now operating Midwest A, Inc. ("Midwest").

In his statement to OSHA, Singh stated the following: He was responsible for the day-to-day operations of Freight, which hauled frozen and dry goods. Freight owned and operated eight trucks, all of which were parked at a Freightliner dealership in Olathe, KS. Freight, which was operated out of his personal residence, employed on or about five drivers and ceased operating in early May 2013. Midwest began operating shortly thereafter, also out of his personal residence and also parking its vehicles at the Freightliner dealership. According to Singh, the trucks used by Freight are under contract to be sold, and Midwest, which employs two drivers, one of which was employed by Freight, is currently operating with two trucks, both of which are new.⁵ Singh stated that Midwest will most likely buy more new trucks and hire additional drivers.

On January 25, 2013, the Federal Motor Carrier Safety Administration ("FMCSA") issued an "Operations Out-of-Service and Record Consolidation Order" ("Order") to Freight and other-related companies. The Order states that the companies will "cease all operation of any commercial motor vehicles in interstate and intrastate commerce in the United States." It states that "[t]he motor carrier entities of Nationwide, Inc., Freight, Inc. and Midwest A, Inc. are merely continuations of Royal Transport, Inc."

⁵ Singh did not provide documentation regarding the sale of the Freight trucks.

It states that Nationwide, Inc. ("Nationwide") was created in 2005 "to avoid and evade" Royal Transport, Inc.'s ("Royal") conditional safety rating; Freight was created "to avoid and evade" the No Pay Order to Cease served on Nationwide; and that Midwest was created to "avoid and evade" an Order to Cease, conditional safety rating, and agency debt collection efforts for Freight, which "underwent a Focused Compliance Review in 2011 that was triggered by high BASIC scores for fatigued driving and vehicle maintenance.

The Compliance Review discovered violations of driver hours of service and vehicle maintenance and inspection regulations."⁶

The Order goes on to state that "In February 2011 Freight, Inc. had Safety Measurement System ("SMS") scores of 87.8% in the Unsafe Driving BASIC and 85.2% in the Vehicle Maintenance BASIC."

In addition, "in September 2012 Freight, Inc. had Safety Measurement System ("SMS") scores of 97.6% in the Unsafe Driving BASIC, 83.1% in the Vehicle Maintenance BASIC and 96.9% in the Vehicle Maintenance Basic. The carrier had SMS scores above the FMCSA intervention threshold in all three BASICS for 18 consecutive months prior to October 2012."

Singh requested administrative review of the Order. On April 15, the FMCSA upheld the Order, noting that "Freight's safety scores were egregious," and that "Binder Singh has demonstrated a pattern of creating new companies to avoid the negative compliance history of old companies."

The findings also note that ***"Nationwide, Freight, and Midwest are therefore mere continuations of Royal; they are the same motor carrier operations, and are simply the carrier operations of Royal under different names."*** [emphasis added]

Records from the Kansas Secretary of State reveal the following about Freight: It was formed on May 15, 2009 in the state of Kansas. It is currently "Active and In Good Standing" and classified as a "Kansas For Profit Corporation." (In addition, according to FMCSA records, on October 12, 2012, Singh filed a Form MCS-150 for Freight and identified both he and his father as Freight's presidents. Singh was also listed as the safety officer.)

Records from the Kansas Secretary of State reveal the following about Midwest: It is a "Kansas For Profit Corporation" that was formed on September 14, 2011. It is "Active and in Good Standing." The resident agent is listed as Singh, who, as noted in the FMCSA's April 15 findings, identified himself as "the sole director and President of Midwest."

Records from the FMCSA show the following current status for Singh's companies: Royal Transport, Nationwide and Freight are "inactive," and not permitted to operate as motor carriers. Midwest is "active" and permitted to operate after Singh paid any and all penalties levied against the four companies.

⁶ BASIC scores measure elements of driver and vehicle safety.

Singh was allowed to operate under the name Midwest and US DOT number of his choosing after reapplying for authority to operate.

Midwest appears to be a direct continuation of Freight. They share, among many other things, the same ownership/management, principal place of business and purpose for operating.

Analysis:

Under STAA, Complainant must show, by a preponderance of the evidence, that (1) he engaged in protected activity, (2) Respondents knew that he engaged in protected activity, (3) he suffered an adverse action, and (4) his protected activity was a contributing factor in the adverse action. If Complainant makes this showing, the burden shifts to Respondents to show, by clear and convincing evidence, that they would have taken the same adverse action even in the absence of the protected activity.

Complainant engaged in protected activity under 49 U.S.C. §31105(a)(1)(A)(i), which protects employees who make a complaint "related to a violation of a commercial motor vehicle safety or security regulation, standard, or order" Complainant notified Singh by telephone and by text message on December 10 and 11, 2012 that his trailer brakes were not functioning properly. The evidence also shows that Complainant notified law enforcement – a police officer and two highway patrol officers – on December 13, 2012 about the brakes. He also made note of the defective brakes and of his refusal to continue driving on his "Driver's Vehicle Inspection Report" for December 13, 2012.

Complainant engaged in protected activity under the STAA work-refusal provisions of 49 U.S.C. §31105(a)(1)(B)(i) and §31105(a)(1)(B)(ii). Section 31105(a)(1)(B)(i) protects employees who refuse to operate a vehicle because "the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security."

The following commercial motor vehicle regulations apply: 49 C.F.R. §392.7 (Equipment, inspection and use), 49 C.F.R. §393.40 (Required brake systems), 49 C.F.R. §393.45 (Brake tubing and hoses; hose assemblies and end fittings), 49 C.F.R. §393.48 (Brakes to be operative), 49 C.F.R. §396.3 (Inspection, Repair and Maintenance), 49 C.F.R. §396.7 (Unsafe operations forbidden), and 49 C.F.R. §396.13 (Driver inspection).

Complainant – whose testimony about the condition of the brakes was found to be more credible than Singh's – would have been in violation of the above-referenced regulations had he continued on with the load to its final destination of Wilder, KY.

Section §31105(a)(1)(B)(ii) protects employees who refuse to operate a vehicle because "the employee had a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition."

Section §31105(a)(1)(B)(ii) also states that “an employee’s apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.”

Complainant had a “reasonable apprehension of serious injury to [himself] or the public” with regard to the brakes. Complainant communicated his “reasonable apprehension” about the brakes in his telephone calls and text messages to Singh and in conversations with law enforcement. The police report establishes that Complainant told the officer that he refused to continue driving due to safety concerns, and that Singh was made aware of the refusal. Singh was also instructed by two highway patrol officers not to move the truck.

Respondents had direct knowledge of the above-referenced protected activity. Singh admitted that he received the text messages. He also admitted to the police officer that Complainant had refused to drive the truck.

Complainant suffered an adverse action when Singh terminated his employment on December 13, 2012. Singh claimed that Complainant voluntarily quit his employment, citing the text messages sent by Complainant that make reference to him quitting. The evidence shows, however, that while Complainant did reference quitting in his messages, he did not actually quit; he was fired.

The police report makes clear that Singh told the officer that he fired Complainant after Complainant refused to continue driving. Complainant was credible when he explained that he did not quit, and that his messages making reference to quitting were sent out of frustration with Singh’s failure to take his concerns about the brakes seriously. As stated, Complainant’s explanation that he did not quit is supported by the police report.

A preponderance of the evidence shows that Complainant’s protected activity was a contributing factor in the adverse action. There is evidence of temporal proximity between the protected activity and adverse action and evidence of animus toward the protected activity. Complainant was fired within days of his telephone calls and text messages to Singh regarding the trailer brakes and the same day he refused to continue driving and notified law enforcement about the condition of the brakes. As for animus toward the protected activity, the evidence shows that Respondents, which have an egregious safety record, failed to address Complainant’s concerns about the brakes, and that Singh grew very irate when he learned that Complainant had notified law enforcement about the brakes and when he refused to continue driving to Wilder, KY.

Respondents have failed to show, by clear and convincing evidence, that they would have taken the same adverse action even in the absence of the protected activity. As noted above, Singh’s claim that Complainant quit was refuted by the evidence, most notably the police report, which states that Singh told the officer that he fired Complainant after he refused to keep on driving. Complainant refused to drive due to the poor condition of the trailer brakes; therefore, Singh fired him for refusing to operate an unsafe commercial motor vehicle.

Respondents' actions warrant an award of compensatory damages, in the form of pain and suffering, to Complainant. Complainant stated that he suffered embarrassment from having his employment terminated and stress from threats made by Singh that he would ensure Complainant never found another trucking job. Complainant stated that he suffered financial hardship in the midst of the holiday season, having been fired just before Christmas, making it difficult for him and his wife to purchase presents for their children. According to Complainant, he did not find new employment until late February 2013 and his wages for this new job are \$150.00 less per week than what he was earning with Freight.

In addition, Respondents' actions warrant the payment of punitive damages to Complainant. Respondents' actions demonstrate a callous and reckless disregard for Complainant's rights under the whistleblower provision of STAA and serve to chill the reporting of safety-related concerns. Further, Respondents' overall safety record demonstrates a callous and reckless disregard for commercial motor vehicle safety in general.

Order:

1. Upon receipt of these Findings and Preliminary Order, Respondents shall immediately reinstate Complainant to his former position with all the pay, benefits, and rights he had before his discharge.
2. Respondents shall pay Complainant back wages in the amount of \$340.00 for the period from December 13, 2012 through December 15, 2012, \$850.00 weekly from December 15, 2012 through February 23, 2013, and \$150 weekly from February 23, 2013 until Respondents make Complainant a bona fide offer of reinstatement.
3. Respondents shall pay Complainant interest at the rate paid on tax overpayments determined under Section 6621 of the Internal Revenue Code.
4. Respondents shall file with the Social Security Administration all forms necessary to ensure that Complainant is properly credited for the months of service that he would have earned absent Respondents' adverse action. Respondents' report will allocate the back wage award to the appropriate calendar quarter in which Complainant would have earned the compensation.
5. Respondents shall pay Complainant punitive damages in the amount of \$25,000.00.
6. Respondents shall pay Complainant compensatory damages in the amount of \$2,500.00 for pain and suffering.
7. Respondents shall pay reasonable attorney's fees to Complainant's attorney.
8. Respondents shall refrain from retaliating or discriminating against Complainant in any manner for exercising his rights under STAA.
9. Respondents shall provide to all employees a copy of the STAA Fact Sheet included with this Order.

10. Respondents shall post for 60 consecutive days the Notice to Employees included with this Order in all areas where employee notices are customarily posted.
11. Respondents shall remove from Complainant's employment records any reference to the exercise of his rights under STAA and expunge his employment records of any and all discipline stemming from the termination of his employment on December 13, 2012.

Respondents have thirty (30) days from the receipt of these Findings to file objections and to request a hearing before an Administrative Law Judge (ALJ). If no objections are filed, these Findings will become final and not subject to court review. Objections must be filed in writing with:

Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Department of Labor
800 K Street NW, Suite 400 North
Washington, D.C. 20001-8002
PH: (202) 693-7300; Facsimile: (202) 693-7365

With copies to:

Mr. Paul O. Taylor
Attorney for Complainant
Truckers Justice Center
Attorneys at Law
900 West 128th Street, Suite 104
Burnsville, MN 55337

Ms. Marcia P. Drumm
Acting Regional Administrator
U.S Department of Labor-OSHA
2300 Main Street, Suite 1010
Kansas City, MO 64108

In addition, please be advised that the U.S. Department of Labor generally does not represent any party in the hearing; rather, each party presents his or her own case. The hearing is an adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence de novo for the record. The ALJ who conducts the hearing will issue a decision based on the evidence and arguments presented by the parties. Review of the ALJ's decision may be sought from the Administrative Review Board, to which the Secretary of Labor has delegated responsibility for issuing final agency decisions under STAA. 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.

If further information is desired concerning this matter, please contact Steve Carmichael, Assistant Regional Administrator, at (816) 283-8745 ext. 251.

Sincerely,



Marcia P. Drumm
Acting Regional Administrator

cc: Complainant's Attorney (Certified # 7012 1010 0000 0087 7099)
USDOL/OALJ-Chief ALJ (Certified # 7012 1010 0000 0087 7105)
USDOL/SOL-OSH Division (Certified # 7012 1010 0000 0087 7112)
FMCA- Office of Enforcement (Certified # 7012 1010 0000 0087 7082)

Enclosures: (3)

United States Department of Labor

Occupational Safety and Health Administration
 2300 Main Street, Suite 1010
 Kansas City, MO 64108
 Tel: (816) 252-5245
 Fax: (816) 252-0547



Printed Rates Updated Unit: 01-2014
 Freight, Inc. and Successors: Binder Singleclass#7-0600-12-026

DocId: Number: 129132613
 Date Back Pay Started: Saturday, December 13, 2012
 First Saturday Pay Date

Date	Rate	Unit	Payable	Rate	Unit	Payable
Saturday, December 15, 2012	\$21.25	6	\$127.50			
Saturday, December 22, 2012	\$21.25	6	\$127.50			
Saturday, December 29, 2012	\$21.25	6	\$127.50			
Saturday, January 5, 2013	\$21.25	6	\$127.50			
Saturday, January 12, 2013	\$21.25	6	\$127.50			
Saturday, January 19, 2013	\$21.25	6	\$127.50			
Saturday, January 26, 2013	\$21.25	6	\$127.50			
Saturday, February 2, 2013	\$21.25	6	\$127.50			
Saturday, February 9, 2013	\$21.25	6	\$127.50			
Saturday, February 16, 2013	\$21.25	6	\$127.50			
Saturday, February 23, 2013	\$21.25	6	\$127.50			
Saturday, March 2, 2013	\$21.25	6	\$127.50			
Saturday, March 9, 2013	\$21.25	6	\$127.50			
Saturday, March 16, 2013	\$21.25	6	\$127.50			
Saturday, March 23, 2013	\$21.25	6	\$127.50			
Saturday, March 30, 2013	\$21.25	6	\$127.50			
Saturday, April 6, 2013	\$21.25	6	\$127.50			
Saturday, April 13, 2013	\$21.25	6	\$127.50			
Saturday, April 20, 2013	\$21.25	6	\$127.50			
Saturday, April 27, 2013	\$21.25	6	\$127.50			
Saturday, May 4, 2013	\$21.25	6	\$127.50			
Saturday, May 11, 2013	\$21.25	6	\$127.50			
Saturday, May 18, 2013	\$21.25	6	\$127.50			
Saturday, May 25, 2013	\$21.25	6	\$127.50			
Saturday, June 1, 2013	\$21.25	6	\$127.50			
Saturday, June 8, 2013	\$21.25	6	\$127.50			
Saturday, June 15, 2013	\$21.25	6	\$127.50			
Saturday, June 22, 2013	\$21.25	6	\$127.50			
Saturday, July 6, 2013	\$21.25	6	\$127.50			
Saturday, July 13, 2013	\$21.25	6	\$127.50			
Saturday, July 20, 2013	\$21.25	6	\$127.50			
Saturday, July 27, 2013	\$21.25	6	\$127.50			
Saturday, August 3, 2013	\$21.25	6	\$127.50			
Saturday, August 10, 2013	\$21.25	6	\$127.50			
Saturday, August 17, 2013	\$21.25	6	\$127.50			
Saturday, August 24, 2013	\$21.25	6	\$127.50			
Saturday, September 7, 2013	\$21.25	6	\$127.50			
Saturday, September 14, 2013	\$21.25	6	\$127.50			
Saturday, September 21, 2013	\$21.25	6	\$127.50			
Saturday, September 28, 2013	\$21.25	6	\$127.50			
Saturday, October 5, 2013	\$21.25	6	\$127.50			
Saturday, October 12, 2013	\$21.25	6	\$127.50			
Saturday, October 19, 2013	\$21.25	6	\$127.50			
Saturday, October 26, 2013	\$21.25	6	\$127.50			
Saturday, November 2, 2013	\$21.25	6	\$127.50			
Saturday, November 9, 2013	\$21.25	6	\$127.50			
Saturday, November 16, 2013	\$21.25	6	\$127.50			
Saturday, November 23, 2013	\$21.25	6	\$127.50			
Saturday, November 30, 2013	\$21.25	6	\$127.50			
Saturday, December 7, 2013	\$21.25	6	\$127.50			
Saturday, December 14, 2013	\$21.25	6	\$127.50			
Saturday, December 21, 2013	\$21.25	6	\$127.50			
Saturday, December 28, 2013	\$21.25	6	\$127.50			
Saturday, January 4, 2014	\$21.25	6	\$127.50			
Saturday, January 11, 2014	\$21.25	6	\$127.50			

Rate	Unit	Payable	Rate	Unit	Payable
\$346.00		\$346.00			
\$360.00		\$360.00			
\$380.00		\$380.00			
\$400.00		\$400.00			
\$420.00		\$420.00			
\$440.00		\$440.00			
\$460.00		\$460.00			
\$480.00		\$480.00			
\$500.00		\$500.00			
\$520.00		\$520.00			
\$540.00		\$540.00			
\$560.00		\$560.00			
\$580.00		\$580.00			
\$600.00		\$600.00			
\$620.00		\$620.00			
\$640.00		\$640.00			
\$660.00		\$660.00			
\$680.00		\$680.00			
\$700.00		\$700.00			
\$720.00		\$720.00			
\$740.00		\$740.00			
\$760.00		\$760.00			
\$780.00		\$780.00			
\$800.00		\$800.00			
\$820.00		\$820.00			
\$840.00		\$840.00			
\$860.00		\$860.00			
\$880.00		\$880.00			
\$900.00		\$900.00			
\$920.00		\$920.00			
\$940.00		\$940.00			
\$960.00		\$960.00			
\$980.00		\$980.00			
\$1,000.00		\$1,000.00			
\$1,020.00		\$1,020.00			
\$1,040.00		\$1,040.00			
\$1,060.00		\$1,060.00			
\$1,080.00		\$1,080.00			
\$1,100.00		\$1,100.00			
\$1,120.00		\$1,120.00			
\$1,140.00		\$1,140.00			
\$1,160.00		\$1,160.00			
\$1,180.00		\$1,180.00			
\$1,200.00		\$1,200.00			
\$1,220.00		\$1,220.00			
\$1,240.00		\$1,240.00			
\$1,260.00		\$1,260.00			
\$1,280.00		\$1,280.00			
\$1,300.00		\$1,300.00			
\$1,320.00		\$1,320.00			
\$1,340.00		\$1,340.00			
\$1,360.00		\$1,360.00			
\$1,380.00		\$1,380.00			
\$1,400.00		\$1,400.00			
\$1,420.00		\$1,420.00			
\$1,440.00		\$1,440.00			
\$1,460.00		\$1,460.00			
\$1,480.00		\$1,480.00			
\$1,500.00		\$1,500.00			
\$1,520.00		\$1,520.00			
\$1,540.00		\$1,540.00			
\$1,560.00		\$1,560.00			
\$1,580.00		\$1,580.00			
\$1,600.00		\$1,600.00			
\$1,620.00		\$1,620.00			
\$1,640.00		\$1,640.00			
\$1,660.00		\$1,660.00			
\$1,680.00		\$1,680.00			
\$1,700.00		\$1,700.00			
\$1,720.00		\$1,720.00			
\$1,740.00		\$1,740.00			
\$1,760.00		\$1,760.00			
\$1,780.00		\$1,780.00			
\$1,800.00		\$1,800.00			
\$1,820.00		\$1,820.00			
\$1,840.00		\$1,840.00			
\$1,860.00		\$1,860.00			
\$1,880.00		\$1,880.00			
\$1,900.00		\$1,900.00			
\$1,920.00		\$1,920.00			
\$1,940.00		\$1,940.00			
\$1,960.00		\$1,960.00			
\$1,980.00		\$1,980.00			
\$2,000.00		\$2,000.00			

Rate	Unit	Payable	Rate	Unit	Payable
0.000001987	2	\$0.00			
0.000001987	7	\$0.08			
0.000001987	7	\$1.17			
0.000001987	7	\$1.60			
0.000001987	7	\$2.15			
0.000001987	7	\$2.64			
0.000001987	7	\$3.14			
0.000001987	7	\$3.65			
0.000001987	7	\$4.12			
0.000001987	7	\$4.61			
0.000001987	7	\$5.10			
0.000001987	7	\$5.28			
0.000001987	7	\$5.46			
0.000001987	7	\$5.64			
0.000001987	7	\$5.82			
0.000001987	7	\$6.00			
0.000001987	7	\$6.18			
0.000001987	7	\$6.37			
0.000001987	7	\$6.55			
0.000001987	7	\$6.73			
0.000001987	7	\$6.91			
0.000001987	7	\$7.09			
0.000001987	7	\$7.28			
0.000001987	7	\$7.46			
0.000001987	7	\$7.64			
0.000001987	7	\$7.82			
0.000001987	7	\$8.00			
0.000001987	7	\$8.18			
0.000001987	7	\$8.36			
0.000001987	7	\$8.54			
0.000001987	7	\$8.72			
0.000001987	7	\$8.90			
0.000001987	7	\$9.08			
0.000001987	7	\$9.26			
0.000001987	7	\$9.44			
0.000001987	7	\$9.62			
0.000001987	7	\$9.80			
0.000001987	7	\$9.98			
0.000001987	7	\$10.16			
0.000001987	7	\$10.34			
0.000001987	7	\$10.52			
0.000001987	7	\$10.70			
0.000001987	7	\$10.88			
0.000001987	7	\$11.06			
0.000001987	7	\$11.24			
0.000001987	7	\$11.42			
0.000001987	7	\$11.60			
0.000001987	7	\$11.78			
0.000001987	7	\$11.96			
0.000001987	7	\$12.14			
0.000001987	7	\$12.32			
0.000001987	7	\$12.50			
0.000001987	7	\$12.68			
0.000001987	7	\$12.86			
0.000001987	7	\$13.04			
0.000001987	7	\$13.22			
0.000001987	7	\$13.40			
0.000001987	7	\$13.58			
0.000001987	7	\$13.76			
0.000001987	7	\$13.94			
0.000001987	7	\$14.12			
0.000001987	7	\$14.30			
0.000001987	7	\$14.48			
0.000001987	7	\$14.66			
0.000001987	7	\$14.84			
0.000001987	7	\$15.02			
0.000001987	7	\$15.20			
0.000001987	7	\$15.38			
0.000001987	7	\$15.56			
0.000001987	7	\$15.74			
0.000001987	7	\$15.92			
0.000001987	7	\$16.10			
0.000001987	7	\$16.28			
0.000001987	7	\$16.46			
0.000001987	7	\$16.64			
0.000001987	7	\$16.82			
0.000001987	7	\$17.00			
0.000001987	7	\$17.18			
0.000001987	7	\$17.36			
0.000001987	7	\$17.54			
0.000001987	7	\$17.72			
0.000001987	7	\$17.90			
0.000001987	7	\$18.08			
0.000001987	7	\$18.26			
0.000001987	7	\$18.44			
0.000001987	7	\$18.62			
0.000001987	7	\$18.80			
0.000001987	7	\$18.98			
0.000001987	7	\$19.16			
0.000001987	7	\$19.34			
0.000001987	7	\$19.52			
0.000001987	7	\$19.70			
0.000001987	7	\$19.88			
0.000001987	7	\$20.06			

United States Department of Labor

Occupational Safety and Health Administration
 2300 Main Street, Suite 1010
 Kansas City, MO 64108
 Tel: (816) 283-0545
 Fax: (816) 283-0547



Interest Rates Updated Until: **Q1-2014**

Docket Number: **Freight, Inc. and Successors; Binder Singh/Kloster/7-5850-13-025**

Quarterly Backpay and Interest Compounded Daily

Quarter	Rate	Back Pay	Interest	Total	Accumulated Total
Q4-2012	0.000081967	\$2,040.00	3.00%	\$1.91	\$2,041.91
Q1-2013	0.000082192	\$7,550.00	3.00%	\$53.90	\$7,603.90
Q2-2013	0.000082192	\$1,950.00	3.00%	\$80.29	\$2,030.29
Q3-2013	0.000082192	\$1,950.00	3.00%	\$95.53	\$2,045.53
Q4-2013	0.000082192	\$0.00	3.00%	\$0.00	\$0.00
Q1-2014	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q2-2014	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q3-2014	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q4-2014	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q1-2015	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q2-2015	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q3-2015	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q4-2015	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q1-2016	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q2-2016	0.000000000	\$0.00	0.00%	\$0.00	\$0.00
Q3-2016	0.000000000	\$0.00	0.00%	\$0.00	\$0.00

Total Loss To Complainant

Description	Amount	Remarks
Total Back Pay Loss Before Interest (minus interim earnings)	\$13,490.00	
Total Interest	\$231.62	
Subtotal Back Pay Plus Interest	\$13,721.62	
Compensatory Damages	\$2,500.00	
Front Pay (if applicable)	\$0.00	
Punitive Damages (if applicable)	\$25,000.00	
Attorney's Fees	Reasonable Fees	
Total Make-whole Damages Due Complainant:	\$41,221.62	

Date Printed September 27, 2013



NOTICE TO EMPLOYEES

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

Freight, Inc. and Successors and Binder Singh have been ordered to make whole an employee who was found to have been retaliated against for exercising his rights under the Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105. Freight, Inc. and Successors and Binder Singh have also taken affirmative action to ensure the rights of its employees under employee whistleblower protection statutes including STAA.

PURSUANT TO THAT ORDER, FREIGHT, INC. AND SUCCESSORS AND BINDER SINGH AGREE THAT THEY WILL NOT:

1. Discharge any employee or discriminate against any employee with respect to his/her compensation, terms, conditions, or privileges of employment because the employee (or person acting pursuant to a request of the employee):
 - a. Filing a complaint, beginning a proceeding or testifying or being about to testify in a proceeding related to a violation of commercial motor vehicle safety or security regulation, standard, or order;
 - b. Being perceived to have filed or to about to file a complaint or to have begun or to be about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;
 - c. Refusing to operate a vehicle because the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security;
 - d. Cooperating, or being perceived as cooperating or being 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;
 - e. Refusing to operate a vehicle because the employee has a reasonable apprehension of serious injury to the employee or to the public because of the vehicle's hazardous safety or security condition;

**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.**



www.osha.gov

- f. Reporting accurate hours on duty pursuant to chapter 315 of Title 49 of the United States Code; and
- g. Furnishing, or being perceived to have furnished or be 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 connecting with commercial motor vehicle transportation.

Freight, Inc. and Successors and Binder Singh

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.

OSHA[®] FactSheet

Whistleblower Protection for Commercial Motor Carrier Workers

Truck drivers and other individuals 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 (STAA)*, 49 U.S.C. §31105, was amended by *The Implementing Recommendations of the 9/11 Commission Act (Public Law 110-53)* to include new rights, remedies and procedures.

Covered Employees

In general, STAA covers private sector drivers (including independent contractors while personally operating a commercial motor vehicle) and other employees of commercial motor carriers (including mechanics and freight handlers). 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 weight rating or gross vehicle weight of at least 10,001 pounds (whichever is greater); or,
- Be designed to transport more than 10 passengers, including the driver; or,
- Transport materials deemed hazardous by the Secretary of Transportation in a quantity requiring placarding (posting) under applicable regulations.

Protected Activity

If you are covered under STAA, your employer may not discharge you or in any manner retaliate against you for:

- filing a complaint or initiating or participating in a proceeding related to the violation of a commercial motor vehicle safety or security rule; or
- 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

that occurred in connection with commercial motor vehicle transportation.

In addition, under STAA, your employer may not discharge you or in any manner retaliate against you for refusing to operate a vehicle because to do so would violate a federal commercial motor vehicle rule related to safety, health, or security or because you had a reasonable apprehension of serious injury to yourself or to the public related to a vehicle's safety or security condition. STAA also prohibits your employer from discharging or otherwise retaliating against you for accurately reporting 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). You may also be covered if you were perceived as having engaged in the activities described above.

Adverse Actions

Your employer may be found to have violated STAA if your protected activity was a contributing factor in its decision to take adverse 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
- Making threats
- Reassignment affecting promotion prospects
- Reducing pay or hours

Deadline for Filing a Complaint

Complaints must be filed within 180 days after the alleged adverse action occurred.

How to File a Complaint

A worker, or representative of a worker, 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 geographic area where the worker lives or was employed, but may be filed with any OSHA officer or employee. For more information, call your nearest 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 the Whistleblower Protection Program's website, www.whistleblowers.gov, and in local directories. Complaints may be filed orally or in writing, by mail (we recommend certified mail), e-mail, fax, or hand-delivery during business hours. The date of postmark, delivery to a third party carrier, fax, e-mail, phone call or hand-delivery is considered the date filed. If the worker or his or her representative is unable to file the complaint in English, OSHA will accept the complaint in any language.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will

issue a preliminary order requiring the appropriate relief to make you whole. Ordered relief may include:

- Reinstatement with the same seniority and benefits.
- Payment of backpay with interest.
- Compensatory damages, including compensation for special damages, expert witness fees and reasonable attorney's fees.
- Punitive damages of up to \$250,000.

OSHA's findings and preliminary order become a final order of the Secretary of Labor, unless a party objects within 30 days.

Hearings and Review

After OSHA issues its findings and preliminary order, either party may request a hearing before an administrative law judge of the U.S. Department of Labor. A party may seek review of the administrative law judge's decision and order before the Department's Administrative Review Board. Under STAA, if there is no final order issued by the Secretary of Labor within 210 days after the filing of the complaint, then you may be able to 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.whistleblowers.gov. 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