

IN THE SOUTH EASTERN & METROPOLITAN TRAFFIC AREA



REVO LIMITED (OK000000) (1) (name changed)

BENJAMIN ZIMMER (Transport Manager) (2) (name changed)

COSMO MIRAL (Former Transport Manager) (3) (name changed)

GOODS VEHICLES (LICENSING OF OPERATORS) ACT 1995

**TRAFFIC COMMISSIONER'S WRITTEN CONFIRMATION
OF AN ORAL DECISION ON 6 AUGUST 2020 (with update regarding Mr Zimmer*).**

Decision

1. Pursuant to adverse findings under Section 26(1)(a), (b), (ca) (c)(iii), (e), (f) and (h) of the 1995 Act and Section 27(1)(a) of the Goods Vehicle (Licensing of Operators) Act 1995, the Operator no longer meets the requirements of Section 13ZA (2) of the 1995 Act, namely good repute. Accordingly, Licence OK1112442 is revoked with effect from 23:45 on 07 August 2020.
2. The good repute of former Transport Manager Mr Cosmo Miral is severely tarnished but not lost as of 6 August 2020.
3. The good repute of former Transport Manager Mr Benjamin Zimmer is severely tarnished but not lost as of 13 August 2020.

Reasons

4. This is a bad case. The Licence was only granted on 27 March 2019. This is the Operator's first Public Inquiry. That of itself is not a bar to revocation. There is a sole director and that is the conduct I consider when deliberating on whether Revo Ltd remains of good repute. In my judgement the overwhelming evidence is that good repute is lost.
5. Particularly aggravating features of this case are:
 - The Operator's failure to produce complete records to Traffic Examiner to enable comprehensive analysis in January 2020.
 - Even on that incomplete data there was evidence of card pulling and driving without a card (p71 & 72 of the Public Inquiry bundle). That driver was Petras.

- The Operator's failure to produce complete records to the Traffic Examiner to enable comprehensive analysis for this Public Inquiry in July 2020.
 - Even on that incomplete analysis Petras continued pulling his driver card and driving without card at all until at least March 2020. We don't know the full extent because full data was not sent and he remains even today the main driver.
 - The most recent driving without a card was on 29 June 2020 for 18 minutes.
 - The Vehicle Examiner report from January investigation and the findings were disappointing. To presented Preventative Maintenance Inspection records for Public Inquiry had no declaration of roadworthiness at all on the form and no brake testing was recorded. This defies belief.
6. The only positives are :
- (a) reduced maintenance intervals to 6 weeks
 - (b) I have been told that the drivers have had some training and a telling off but I have no discernible evidence of that.
7. Taken together and individually the Vehicle Examiner and Traffic Examiner reports in January and today show a director with a reckless disregard to road safety and an unacceptable approach to risk. Drivers who disregard the rules for drivers' hours and tachographs and fail to do proper walk around checks are an accident waiting to happen. If a vehicle does not have an effective Preventative Maintenance Inspection with proper brake testing and defects rectified, it is an accident waiting to happen.
8. It is my responsibility to protect other road users and other Operators from the likes of Revo Limited. Whilst this director was out driving and in the office getting new work, he should have been spending the time on compliance, that is what his competitors do. The reason the records and data were late to DVSA for this Public Inquiry was because the vehicle was out working. That says it all about this Operator.
9. I accept that the Operator's transport managers have not done their roles but the director had abdicated any responsibility for compliance. Advice given on occasion was ignored e.g. around the Operating Centre and a driver with no CPC but allowed to drive.
10. The Senior Traffic Commissioner Statutory Document 10 Annex 4 places this Operator in the SEVERE category for everything that I have set out, not just particularly the aggravating features but all of them. The only proportionate outcome is to revoke and to find good reputation lost. There is no period of run off, where the vehicle can be put on the road for a few more days - it is too risky. Once that vehicle is back from work, whether it is today or tomorrow morning, it should stay parked up. The only thing that should happen tomorrow is that once the vehicle is back in the director's possession, is for the Licence disc to be removed and to be sent here by tracked delivery. The rest of the time will have to be spent reorganising the work with smaller vehicles. If, after tomorrow, the vehicle is out on the road on this Operator's or this director's work, and it is not on a legitimate third party working arrangement, that vehicle is liable to be impounded.
11. I have not disqualified the director from holding a Licence in the future but before Revo Limited or this director applies again, there is a great deal of work they need to do and I suggest take legal or similar advice.

12. In relation to Transport Manager Mr Zimmer, he was called to this Public Inquiry today but obviously a lot of adverse evidence has arisen on very short notice and so I will allow him until 13:00 on Tuesday 11 August 2020 to send in any written representations on his good repute. *Mr Zimmer has acknowledged a certain naivety as a result of his recent CPC qualification. To remedy this Mr Zimmer has booked on a 2 day Transport CPC Refresher to gain more practical experience. I accept that as an undertaking and the training must be completed by no later than 30 October 2020.
13. During the hearing, I issued a formal warning to Mr Miral considering his admissions (over stretched himself to meet all commitments) and assurances. However, his assurances on 6 August 2020 may be reviewed when the outcome of the DVSA Desk Based Assessment of Another Company Ltd, OK1111111 is available.



Miss Sarah Bell
Traffic Commissioner
Written confirmation: 12 August 2020



Office of the Traffic Commissioner

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THE DIRECTOR
REVO LIMITED (*name changed*)
100 HIGH STREET (*address changed*)
BIRMINGHAM
B1 2AB

13 August 2020

Dear Sir

OUTCOME OF THE PUBLIC INQUIRY HELD INTO YOUR GOODS VEHICLE OPERATOR'S LICENCE OK000000

Sent by Recorded Delivery & emailed to some_email_address@yahoo.com

I refer to your attendance at the public inquiry held in The Public Inquiry Room, 4th Floor, Ivy House, Ivy Terrace, Eastbourne, BN21 4QT on 6 August 2020, before the Traffic Commissioner Sarah Bell .

The inquiry was called under section 35 of the Goods Vehicles (Licensing of Operators) Act 1995. The reasons ("grounds") for the inquiry were set out in our letter of 7 July 2020.

The Traffic Commissioner reached the following decision:

Decision

1. Pursuant to adverse findings under Section 26(1)(a), (b), (ca) (c)(iii), (e), (f) and (h) of the 1995 Act and Section 27(1)(a) of the Goods Vehicle (Licensing of Operators) Act 1995, the Operator no longer meets the requirements of Section 13ZA (2) of the 1995 Act, namely good repute Accordingly, Licence OK000000 is revoked with effect from 23:45 on 07 August 2020.
2. The good repute of former Transport Manager Mr Cosmo Miral is severely tarnished but not lost as of 6 August 2020.
3. The good repute of former Transport Manager Mr Benjamin Zimmer is severely tarnished but not lost as of 13 August 2020.

In reaching this decision I balanced the following negative and positive points: -

A copy of the Traffic Commissioner's written version of the oral decision she gave at the inquiry is enclosed.

The Company is advised that now the company's licence is revoked, the Company have has no authority to operate a vehicle of over 3.5 tonnes gross plated weight to be used on the road for the carriage of goods for hire or reward or own account. Such use would be in contravention of Section 2 of the above Act, and may render the vehicle subject to detention by the DVSA in accordance with regulation 3 of the Goods Vehicles (Enforcement Powers) Regulations 2001.

Notification of this decision will be placed in the publication 'Applications and Decisions'. This decision may also be recorded on an electronic national register that can be inspected by the competent authorities of other EU member states.

What you must do now

You must now return the operator's licence and vehicle discs to me at the above address for cancellation. Failure to do this is *a criminal offence*.

Right of Appeal

There is a right of appeal against the Traffic Commissioner's decision. To appeal you should, **within one month from the date of this letter**, apply to:

Upper Tribunal (Transport)
Administrative Appeal Chamber
5th Floor, Rolls Building
7 Rolls Building
Fetter Lane
London
EC4A 1NL

Guidance on the appeal procedure, including an explanatory booklet, is available from the Upper Tribunal website –

www.gov.uk/courts-tribunals/upper-tribunal-administrative-appeals-chamber

Please contact me if you have any questions after reading this letter.

Yours faithfully

Clare Bell
Caseworker
E clare.bell@otc.gov.uk
cc.