



**NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF HIGHWAY SAFETY
WASHINGTON, D.C.**

**MOTOR CARRIER FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT**

A. CRASH INFORMATION

Location: Interstate 15 (I-15) southbound approximately 2,900 feet south of California State Route 79 (CA-79), Pala Mesa, San Diego County, California

Vehicle 1: 2014 Freightliner S2 chassis with a General Coach America 30 passenger coach body.

Operator 1: Executive Lines Inc.; USDOT # 1215546

Date: February 22, 2020

Time: Approximately 10:23 a.m. PST

NTSB #: **HWY20FH003**

B. MOTOR CARRIER FACTORS GROUP

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C. CRASH SUMMARY

For a summary of the crash, refer to the Crash Summary Report in the docket for this investigation.

D. DETAILS OF THE MOTOR CARRIER FACTORS INVESTIGATION

This investigation will focus on the operation of the motor carrier in this crash, Executive Lines Inc, as well as the maintenance of the medium-size shuttle bus involved in this crash. It will also examine the general qualification, training, drug testing, hours of service, and medical qualification of the bus driver. The report will also look at the regulatory oversight of the carrier by the Federal Motor Carrier Safety Administration as well the oversight provided by the State of California.

1. EXECUTIVE LINES INC.

1.1. Present Information

Executive Lines Inc., (hereafter Executive) was registered with the Federal Motor Carrier Safety Administration (FMCSA) on February 28, 2004, and has a United States Department of Transportation (USDOT) Number 1215546¹ The carrier has Motor Carrier (MC) number 476980 because it is an interstate carrier and is required to have operating authority. Executive started operations in 1997 under California Public Utilities Commission (CPUC) permit number 11128. The carrier currently operates 8 vehicles and employs 12 drivers. The carrier's Principal Place of Business (PPOB) is 11723 Garvey Ave Unit B in El Monte, California. The vehicles are garaged, and the carrier's maintenance facility is at 2420 Durfee Ave in El Monte, California.

Executive currently operates between terminals in the Los Angeles, California area and San Ysidro, California. While this transportation is within the state of California, Executive sells tickets through an interline agreement to and from destinations in Mexico. Carriers that transport passengers within a single State (intrastate travel) may be subject to Federal regulations on the intrastate transportation. Because the trip begins or ends outside the United States and the passenger has pre-arranged the highway portion of the trip, all U.S. transportation during the trip is considered interstate commerce. Therefore, Executive is subject to all the safety regulations found in the Federal Motor Carrier Safety Regulations (FMCSRs) that pertain to passenger carrier operations.

¹ Motor Carrier Attachment - Executive's MCS-150 dated October 23, 2019.
Pala Mesa, California – Motor Carrier Factors Group Chairman's Factual Report

1.2. The Executive Driver

The driver in this crash was a 52-year-old male (hereinafter “the Executive driver”). The driver started working for Executive in April 2019. The driver had 2 years’ experience operating busses. The driver had been trained by his previous employers, Transdev and Greyhound.²

Greyhound driver training is extensive and consists of three phases described below.³

Phase I Qualifying:

During this phase, the driver candidate is not compensated. The driver candidate must take 10 hours of online training through a web service called “skillport.com.” The driver applicant must complete 38 modules of training obtaining 80 percent or higher grade on all testing. After completing all the training modules, the driver candidate must also pass a “Mastery Test.” The candidate has two opportunities to pass the Mastery Test, or they will not advance in the program. To advance to the next phase, the driver candidate must pass all testing, possess either a Commercial Driver’s License (CDL) with Passenger “P” endorsement or CDL learners permit and then pass a DOT physical examination and pass a DOT drug and alcohol test.

Phase II Driving School:

During this phase, the driver candidate is offered a “trainee driver position” and is not considered an employee however they are paid a daily per diem of \$50.00. The driver trainee must attend a two-week course of instruction at one of three company driver schools in either Los Angeles, California; Atlantic City, New Jersey; or Atlanta, Georgia. The driver trainee receives instruction on the hours-of-service rules, company safety practices and customer service requirements. Additionally, the driver trainee will perform over 40 hours of behind the wheel training in a Greyhound training bus.

Phase III Finishing School:

If the driver trainee passes phase II, they are sent to their home terminal. During this period, the driver goes through “route break-in” and rides a motorcoach with an instructor and learns the routes. This period normally takes between 4-7 days on a training bus. The driver then has a “cubing” phase in which they ride with a senior driver for approximately 3 weeks. At the end of phase III, the driver is offered a full-time job with a 90-day probationary period. After 90 days the driver then joins the union and is considered a full-time employee.

The Executive driver completed this training in Los Angeles in May of 2018.⁴

1.3. Driver Qualification

² Greyhound is a for hire carrier that provides intercity transportation throughout the United States and Canada. Transdev is a private passenger carrier operator that contracts with municipalities to provide public transit bus transportation.

³ See Motor Carrier Attachment- Excerpts from the Greyhound Motorcoach Operator Training Manual.

⁴ See Motor Carrier Attachment- Greyhound Training Certificate.

The Executive driver's driver qualification (DQ) file was examined and followed the requirements found in Title 49 CFR 391. The file included the following documents:

- Pre-Employment Drug Test.
- Employment Application.
- DMV Abstract copy of Driver's License.
- Previous Employer check.
- Road Test or Equivalent.
- Annual Review of Driving Record.
- Annual List of Violations.
- Copy of the Medical Certificate.

The DQ File also contained all the drug testing information in relation to the driver, as well as first time hours of service record, payroll records, and a California pull notice form showing the driver added to the Pull Notice System on May 1st, 2019.⁵ The file did not contain any reports of violations or disciplinary action against the driver.

1.4. Executive Driver's License and Medical Certificate

The driver had a class B California CDL with Passenger Endorsement.⁶ His license also had restrictions for automatic transmission equipped vehicles only as well as restricting him from operating Class A passenger vehicles.⁷ The license was issued in May 2018 and will expired in August 2022.

A Commercial Driver License Information System (CDLIS) report was obtained which listed no violations, but it did list one accident. The accident occurred on August 7, 2018, in Santa Cruz, CA. This was in a Greyhound bus. The driver struck a pedestrian crossing signal while turning.⁸

A California Department of Motor Vehicles (CDMV) report was also obtained, it also listed no violations, but did list the accident in Santa Cruz, CA.⁹ The Executive driver did not receive any roadside inspections while employed by Executive until the post-crash inspection initiated because of the crash.

⁵ The Pull Notice Program provides notice to employers, including self-employed drivers, when a driver is convicted of a violation of California Vehicle Code (CVC), has an accident posted to his or her driving record, is classified as a negligent operator, or has his or her license suspended or revoked.

⁶ A Class B CDL is required for operation of a single vehicle with a gross GVWR of over 26,001 LBS. A Passenger endorsement is required for operating a vehicle that seats greater than 16 passengers.

⁷ These restrictions require the operator be limited to a vehicle with automatic transmission and may not operate a Class A passenger vehicle.

⁸ See Motor Carrier Attachment – Executive driver's CDLIS Report

⁹ See Motor Carrier Attachment – Executive driver's California DMV Report

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The Executive driver had a medical certificate that was issued in February 2020 and was to expire in February 2022. The certificate was valid for 2 years and was performed by a medical provider listed on the National Medical Examiners Registry.

1.5 Executive Driver’s Drug and Alcohol Testing

The Executive driver held a Class B CDL, the subject vehicle in this accident had a seating capacity of 30, weighed more than 26001 LBS, and requires a CDL to operate. The Executive driver was subject to the requirements 49 CFR §382. The Executive driver had a pre-employment drug test on March 26, 2019, this test was negative. The driver was entered into Executive’s random test pool but had not been selected for a random test as of the date of the crash. Executive did perform a post-crash drug test, but it was beyond the 32-hour time limit specified in the regulations.¹⁰ This test was negative.¹¹ CHP had conducted a Drug and Alcohol testing, performed on blood voluntarily provided by the driver. The test results were negative. CHP test results were not provided to the carrier.¹² Further information on the Executive Driver’s drug and alcohol testing can be found in the *Human Performance Group Chairman’s* report located in the docket for this investigation.

1.6 Executive Driver’s Hours of Service

The Executive driver’s driving and on-duty hours were reviewed for 10-hour, 15-hour, and 70-hour violations as well as for any false log entries. Date from the driver’s logbook entries for the previous 7 days before the crash are presented in Table 1 below. This information was also verified by the driver’s timecard records. Using information from the electronic logging device (ELD) and timecards that the driver was using the following table lists the driver’s hours of service prior to the crash.¹³

Table 1 Hours of Service

Date	Times worked	Source	Total Hours
February 22, 2020	Driving: 2:04 Hours	ELD and Timecards	3.18 Hours
February 21, 2020	Off Duty	ELD and Timecards	Off Duty
February 20, 2020	Off Duty	ELD and Timecards	Off Duty
February 19, 2020	Driving: 8.15 Hours	ELD and Timecards	10:06 Hours

¹⁰ *Controlled substance tests.* If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.

¹¹ See Motor Carrier Attachment – Post Crash Controlled Substance Testing.

¹² 49 CFR §382.303 (g)(1) and (2) allow a carrier to meet this requirement if the results of the tests by Federal, State, or local officials are obtained by the carrier.

¹³ Motor Carrier Attachment – Executive Driver’s Record of Duty Status (RODS)

February 18, 2019	Driving: 7:46 Hours	ELD and Timecards	10:21 Hours
February 17 2020	Driving: 7:44 Hours	ELD and Timecards	9:47 Hours
February 16 2020	Off Duty	ELD and Timecards	Off Duty

The driver was on duty a total of 32.92 hours in the seven days prior to the crash. The day of the crash the driver had been on duty/driving 3.18 hours at the time of the crash.

The Executive driver was paid from a timecard which was used in determining his hours of service. When a Commercial Motor Vehicle (CMV) driver is paid on timecard and operates within 100 air miles of his home location and returns to that location after each tour of duty the driver is not required to use an ELD. 100 air miles is the equivalent of 115 statutory miles. The distance from El Monte, California to San Ysidro, California is 143 statutory miles. The Executive driver was using an ELD that was on the list of approved providers as mandated. The ELD was a Samsara model 18-09.

1.6.1 Electronic Logging Device (ELD) Rule Implementation

ELDs have technology that automatically records a driver’s driving time and other HOS data. An ELD monitors a vehicle’s engine to capture when the engine is running, the vehicle is moving, miles driven and engine hours. The driver of the bus was required to have an ELD under this requirement. The FMCSA Final Rule on ELD’s was published on December 16, 2015 and required all carriers and drivers subject to the hours-of-service regulations to use either an ELD or automatic on-board recording device (AOBRD) by December 18, 2017.¹⁴ AOBRDs may be used until December 16, 2019 if the devices were put into use before December 18, 2017. Starting December 16, 2019, all carriers and driver must use ELDs unless exempted.

1.7. Crash Trip

The trip started on February 22, 2019, in El Monte, California at the bus parking lot which is at the company maintenance facility of Executive. The driver performed a pre-trip inspection and then proceeded to pick up passengers at the terminal in El Monte. The driver also picked up passengers in Baldwin Park, Riverside, and Pomona. The driver than stopped at about 09:53 a.m. in Temecula, California for a rest stop. Per the ELD the bus departed Temecula at about 10:08 to continue to San Ysidro, California. The carrier was operating a scheduled trip at the time of the crash.

1.8. Executive Safety Culture

Executive stated that they do not have a safety plan or training program. Newly hired drivers are expected to come already trained and be familiar with tour bus operations as a condition

¹⁴ Retrieved from www.fmcsa.dot.gov

of hire. The minimum driver qualification standards adopted by Executive for new hires consists of the following:

- A minimum age of 21 Years Old
- Have a clean DMV record
- Have two years' experience in bus operations.
- Successful completion of a Pre-Employment Drug Test.
- Accepted by the carrier's insurance company to be added to the insurance policy.

The carrier does not advertise for drivers but accepts applications from drivers who learn about the company by word of mouth. The carrier is non-union. The drivers are paid per hour from a timecard. The carrier does not have a bonus program for the drivers. It does host an annual safety meeting/lunch for the drivers.

2.0 Vehicle Information

The accident vehicle was a 2014 Freightliner chassis with a General Coach America 30-passenger coach body. The vehicle was put into service by the carrier on August 20, 2019. The vehicle had 131,496 miles when put into service by Executive. The company provided maintenance records for the vehicle that indicated the vehicle had received a safety inspection every 45 days as required by California regulations.¹⁵ The vehicle had its last 45-day California Safety Inspection on February 10, 2020, at 189927 miles. At the time of the crash the mileage was 193,408. The file indicated the vehicle had undergone repairs and regular maintenance as required.¹⁶

3.0 Federal Oversight

The carrier is overseen by FMCSA as well as by the 1 (CHP) At the time of the crash, the carrier had an alert in the Hours of Service Basic at 74% in the Safety Management System (SMS)¹⁷ Executive's had six (6) FMCSA compliance reviews dating from 2006 till 2019, all but 1 were satisfactory. The review in 2010 was conditional and upgraded to satisfactory later in 2010.

3.1. CSA and SMS

In 2010, the FMCSA introduced the Compliance, Safety, Accountability (CSA) system as an initiative to improve large truck and bus safety and ultimately reduce crashes, injuries, and fatalities that are related to CMVs. It introduced a new in 2010, enforcement and compliance model that allows the FMCSA and its state partners to contact a larger number of carriers earlier to address safety problems before crashes occur. Along with CSA, the FMCSA also introduced an

¹⁵ CVC- 34505: '(a) Tour bus operators shall, in addition to the systematic inspection, maintenance, and lubrication services required of all motor carriers, require each tour bus to be inspected at least every 45 days, or more often, if necessary, to ensure safe operation.'

¹⁶ Further vehicle information is in the *Vehicle Factors Group Chairman's* report in the docket for this investigation.

¹⁷ See Motor Carrier Attachment – Executive's SMS Scores as of February 22, 2020

operational model called the Safety Measurement System (SMS), which replaced its predecessor, known as the SAFESTAT model. SMS uses a motor carrier's data from roadside inspections, (including all safety-based violations), state-reported crashes, and the Federal Motor Carrier Census to quantify performance in the following Behavior Analysis and Safety Improvement Categories (BASICS).

3.2. CSA BASICS

- **Unsafe Driving** — Operation of CMVs by drivers in a dangerous or careless manner. *Example violations:* Speeding, reckless driving, improper lane change, and inattention. (FMCSR Parts 392 and 397)
- **Hours-of-Service (HOS) Compliance** — Operation of CMVs by drivers who are ill, fatigued, or in non-compliance with the HOS regulations. This BASIC includes violations of regulations pertaining to records of duty status (RODS) as they relate to HOS requirements and the management of CMV driver fatigue. *Example violations:* false HOS RODS and operating a CMV while ill or fatigued. (FMCSR Parts 392 and 395)
- **Driver Fitness** — Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations:* Failure to have a valid and appropriate commercial driver's license (CDL) and being medically unqualified to operate a CMV. (FMCSR Parts 383 and 391)
- **Controlled Substances and Alcohol** — Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications. *Example violations:* Use or possession of controlled substances/alcohol. (FMCSR Parts 382 and 392)
- **Vehicle Maintenance** — Failure to properly maintain a CMV and/or properly prevent shifting loads. *Example violations:* Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement. (FMCSR Parts 392, 393, and 396)
- **Hazardous Materials (HM) Compliance** — Unsafe handling of HM on a CMV. *Example violations:* Release of HM from package, no shipping papers (carrier), and no placards/markings when required. (FMCSR Part 397 and Hazardous Materials Regulations Parts 171, 172, 173, 177, 178, 179, and 180)
- **Crash Indicator** — Histories or patterns of high crash involvement, including frequency and severity based on information from state-reported crashes.

A carrier's measurement for each BASIC depends on the following:

- The number of adverse safety events (violations related to that BASIC or crashes).
- The severity of violations or crashes.
- When the adverse safety events occurred (more recent events are weighted more heavily).

After a measurement is determined, the carrier is then placed in a peer group (i.e., other carriers with similar numbers of inspections and carrier size). Percentiles from 0 to 100 are then determined by comparing the BASIC measurements of the carrier to the measurements of other carriers in the peer group. A percentile of “100” indicates the worst performance.

To address carrier specific safety issues, the FMCSA established threshold levels that would require agency action. Unsafe Driving, HOS, and Crash BASICs were set at lower thresholds because of their inherent risk. Additionally, passenger and hazmat carriers have lower thresholds than all other carriers because of their inherent risk. Table 2 represents the thresholds set by the FMCSA that help prioritize agency intervention and resource management.¹⁸

Table 2 BASIC thresholds.¹⁹

BASIC	Passenger Carrier	HM Carrier	All Other Motor Carriers
Unsafe Driving, HOS, Crash	50%	60%	65%
Driver Fitness, Drug & Alcohol, Maintenance	65%	75%	80%
Hazardous Materials	80%	80%	80%

Executive is classified as a Passenger Carrier and falls under the “passenger carrier” criteria. Executive became “alert” in the HOS basic 12 months prior to the crash on February 22, 2019. The carrier was removed from “alert” status in HOS on June 26, 2020. The carrier had never been “alert” in the Vehicle Maintenance Basic.

The carrier’s SMS profile, which is publicly available on the Safer website, provides for an alert symbol to be displayed in any designated BASIC where the carrier has exceeded the corresponding threshold.²⁰ This is also referred to as having an “alert” in a BASIC. At the time of the crash Executive was alert in the Safety Management System (SMS)²¹

The BASICs scores reflected the following data elements:

- Unsafe Driving- 0 percent
- Hours of Service- 74 percent
- Vehicle Maintenance – 48 percent
- Crash Indicator - 0 percent (Zero Crashes reported.)

¹⁸ Retrieved from www.fmcsa.dot.gov.

¹⁹ Retrieved from <http://csa.fmcsa.dot.gov/FAQs.aspx>.

²⁰ FMCSA BASIC information publicly available for passenger and Hazardous Material carriers only. See additional information at the FMCSA Safer website: <http://safer.fmcsa.dot.gov/CompanySnapshot.aspx>.

²¹ The Safety Measurement System (SMS) is FMCSA’s workload prioritization tool. FMCSA uses the SMS to identify carriers with potential safety problems for interventions. <https://ai.fmcsa.dot.gov/SMS>

The numbers represented on the SMS profile are a result of 20 driver inspections that resulted in seven (7) violations of the Hours-of-Service Compliance. These inspections were from June 18, 2019, until February 2, 2019. These violations were as follows:

- Onboard recording device info not available.
- Driver failed to have instructions onboard CMV for installed automatic on-board recording device.
- Driver not adequately trained in the operation of the automatic onboard recording device.
- The ELD's display screen cannot be viewed outside of the commercial motor vehicle.
- Driver failing to maintain ELD user's manual.
- Driver failed to maintain supply of blank driver's records of duty status graph-grids.
- Driver failing to retain previous 7 days records of duty status.

None of these violations were Out of Service (OOS) violations. The maintenance violations were based on 19 vehicle inspections. There was one (1) maintenance violation that was an OOS violation. It was tire-ply or belt material exposed under 49 CFR 393.75 (a)(1)

The other BASICs showed 0 percent. The carrier's registration required the carrier be entered in the FMCSA New Entrant Program. The carrier had a New Entrant audit on February 25, 2005, and the result was a "PASS"

3.3. Safety Rating and OOS Rates

At the time of the crash Executive had a Satisfactory safety rating. This rating was based on a compliance review dated April 27, 2017. Executives' vehicle OOS rate was 6.45% This compares to a passenger carrier vehicle OOS rate of 8.75% nationally and 6.35% in California. Executive had a 0% OOS rate for passenger carrier driver inspections compared to 4.76% nationally and 2.07 for California.²²

²² Retrieved from: <https://ai.fmcsa.dot.gov/SafetyProgram/spRptRoadside.aspx?rpt=RDOOS>
Pala Mesa, California – Motor Carrier Factors Group Chairman's Factual Report

3.4. FMCSA Compliance Review (CR)

As a result of this crash the FMCSA conducted a post-crash rated CR on the carrier.²³ The carrier had seven (7) violations.²⁴

- §382.303(d)(2) Failing to prepare and maintain on file a record stating the reasons the controlled substances post-accident test was not properly administered.²⁵
- §391.21(a) Incomplete or no employment application.
- §395.5(b)(2) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in 8 consecutive days.
- §395.8(a)(1) Failing to require a driver to prepare a record of duty status using the appropriate method.
- §395.8(e)(1) False reports of records of duty status (inaccurate)
- §395.8(f) Failing to require a driver to prepare a record of duty status in the form and manner prescribed.
- §396.9(d)(3) Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier’s principal place of business or where the vehicle is housed.

The FMCSA gathers information through an in-depth examination of the motor carrier’s compliance with identified “acute” or “critical” regulations of the FMCSRs and Hazardous Materials Regulations (HMRs)²⁶

None of the violations noted in the compliance review performed on March 5, 2020, were acute or critical violations as a result the compliance review (CR) was rated as satisfactory.²⁷ The compliance review does not note information from level 1,2 or 5 inspections.

4. State of California Oversight

The oversight of motor carriers operating in California is a shared responsibility between, the Public Utilities Commission (PUC), the Department of Motor Vehicles (DMV) and the California Highway Patrol (CHP). The CHP is the designated law enforcement agency responsible for compliance with portions of the California Vehicle Code (CVC) relating to the safe operation

²³ FMCSA conducts both rated and non-rated compliance reviews depending on the circumstances of the intervention with the carrier.

²⁴ See Motor Carrier Attachment – Executive’s Compliance Review dated October 2, 2019.

²⁵ This was based on the testing of the crash driver.

²⁶ Following a compliance review of a motor carrier operation, the FMCSA, using the factors prescribed in §385.7 as computed under the Safety Fitness Rating Methodology set forth in appendix B of this part, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standard set forth in §385.5, and assign a safety rating accordingly.

²⁷ See Motor Carrier Attachment –Executive’s Compliance Review dated October 2, 2019, page Six (6).

of commercial motor vehicles. The Motor Carrier Safety Operations (MCSO) Program is part of the CHP's Commercial Enforcement Program. CVC requires the CHP to inspect every designated maintenance facility, or terminal, or any person who operates any regulated truck or bus. Carriers must designate those terminals which will be subject to the Basic Terminal Inspection program (BIT) Under the CVC the CHP conducts inspections of commercial motor vehicles (CMV's) and on-site terminal inspections of motor carrier operations.

California Public Utilities Commission (CPUC) is responsible for licensing of Executive as a passenger carrier in California. This process ensures that the carrier has the proper level of insurance, and the drivers are monitored in the California "Pull" program. Executive started operations in California in 1997 under PSC # 11128. This was changed to the current permit system in 2006.²⁸

Executive has a Class A Charter-party Certificate TCP0020609-A that is valid until December 4, 2021²⁹

4.1 CHP- BIT Program

Effective January 1, 2016, the terminal inspection requirements changed from a time-based inspection system to a performance-based inspection selection system.³⁰ Terminals selected for inspection are based on the California Performance Safety Score (CPSS). The CPSS is derived from the Federal Motor Carrier Safety Administration (FMCSA) Safety Measurement System (SMS) Behavior Analysis and Safety Improvement Category (BASIC) percentiles. Generally, carriers with a BASIC percentile at or above the Federal alert level, it will select all terminals located in California for inspection. Additionally, the prioritized inspection of terminals includes those never inspected and those from which hazardous materials are transported. This is for property carriers located in California. Passenger carriers are inspected every 13 months.

4.2 Terminal Inspections

Division 14.8 of the California Vehicle Code outlines the CHP's authority and mandate to conduct terminal inspections and describes the vehicles and records that are subject to CHP inspection. Terminal inspections are like the Safety Audits and Compliance Reviews conducted by the FMCSA but have a greater focus on maintenance. During Terminal Inspections the CHP is required to inspect a portion or all the carrier's fleet.

California Vehicle Code Section 34501 requires the CHP to inspect every designated maintenance facility, or terminal, of any person who operates any bus, at least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus. If the bus operation includes more than 100 buses, the inspection shall be without prior notice.

²⁸ See Motor Carrier Attachment - Executive Lines CPCU authorization letter dated December 10, 1997.

²⁹ See Motor Carrier Attachment - Executive Lines CPCU Class A Certificate TCP0020609-A dated December 28, 2018.

³⁰ Prior to 2016 a property carrier in California was inspected every 25 months, passenger carriers have always been inspected every 13 months.

Carriers must designate those terminals which will be subject to the Basic Terminal Inspection program (BIT). Executive has had five (5) CHP Terminal Inspections. The last one was on January 3, 2019. All the inspections were rated as “Satisfactory”

4.3 Inspection Process and Rating

Four categories of a motor carrier’s operation are inspected for purposes of establishing a safety rating. These categories include inspection of the following:

1. The carrier’s preventive maintenance program.
2. The condition of the carriers regulated vehicles.
3. The carrier’s hours of service or time records.
4. If applicable, compliance of the Hazardous Material Regulations.

Completion of the Terminal Inspection will result in either a “satisfactory” (S) or “unsatisfactory” (U) rating in each category and an overall rating for the terminal. A rating of “satisfactory” (“S”) rating means that the carrier was found in compliance with all the applicable laws and regulations and all inspection categories were found satisfactory. If any inspection category is found unsatisfactory, then the terminal will receive an “unsatisfactory “U” rating. Unsatisfactory means that the carrier was found to be out of compliance in several areas or had violations of a serious nature. Violations of a serious nature are those which, whether imminently dangerous or not, represent consistent failure on the part of the motor carrier to comply with applicable requirements.

4.4 DMV Pull Notice Program

California Vehicle Code section 1808.1 requires all drivers who possess a Class A or Class B CDL to be enrolled in the DMV Pull Notice Program. The Pull Notice Program provides notice to employers, including self-employed drivers, when a driver is convicted of a violation of CVC, has an accident posted to his or her driving record, is classified as a negligent operator, or has his or her license suspended or revoked. Employers must obtain reports periodically on all their Class A or B drivers and must review the reports. Employers must maintain the report on file and keep a record stating the report was reviewed and must be signed and dated and kept on file for inspection by the CHP. According to carrier records, the accident driver was subject to annual pull notices. The driver was entered into the program on May 1, 2019.³¹

³¹ See Motor Carrier Attachment – California DMV Pull Notice Agreement.
Pala Mesa, California – Motor Carrier Factors Group Chairman’s Factual Report

4.5. California Public Utilities Commission (CPUC)

The Commission has regulatory and safety oversight over for-hire passenger carriers (limousines, airport shuttles, charter, and scheduled bus operators) and Transportation Network Companies. The Transportation Enforcement Branch responds to and investigates complaints of unsafe, unlicensed, and uninsured passenger carriers, and responds to complaints against licensed carriers concerning fitness, overcharging, discrimination, failure to provide service or failure to respond to customer complaints.

The commission's oversight consists of licensing requirements for Charter Party Carriers as follows:

- All carriers must have public liability and property damage insurance on file with the CPUC – see General Order 115 or levels of insurance required for charter-party carriers.
- Carriers who have employees must also have workers' compensation insurance on file with the CPUC.
- Information relating to vehicle liability, cargo, and workers' compensation insurance policies for motor carriers of passengers and household goods must be filed with the Commission electronically. Executive had the required levels of insurance.
- **Controlled Substance and Alcohol Testing Program:** Carriers must be enrolled in a controlled substance and alcohol testing program.
- **Employer Pull Notice:** Complete and submit forms INF 1104, accessible on the DMV's. Employer Pull Program Notice webpage. It may take approximately six weeks to receive a Pull Notice Contract.
- **DMV Weight Certificate:** Vehicles are required to have a DMV weight certificate.
- **Secretary of State filings:** If you intend to apply as an LLC, LP or Corporation, get your articles of incorporation, file that with the Secretary of State If you don't include this, your application may be returned.
- **Airport licensing:** If you intend to operate at an airport, you will need to contact the Ground Transportation Unit of each airport and inquire into the airport permitting process.
- **Motor Carrier Profile with CHP:** If you intend to operate equipment that would require CHP inspection (Buses, Modified Limos, etc.), complete the CHP 362 Motor Carrier Profile and obtain a CA Number with the CHP prior to submitting your CPUC application.

- Application fee: Non-refundable. \$1500 for a charter-party “A” certificate, \$1000 for all other permit or certificate types
- Inspection fees: If you intend to operate a bus, be aware that there is an inspection fee due to the California Highway Patrol, currently set at \$15 per vehicle. Effective January 1, 2018, Modified Limousines are subject to inspection as well.

This process is repeated every two years when the certificates are renewed. Every time the carrier adds a driver or adds or deletes a vehicle from its operation it must notify the CPUC. The CPUC did not have any record of complaints for Executive during the time it has been operating.³²

Docket Material

The following attachments are included in the docket for this investigation:

LIST OF ATTACHMENTS

Motor Carrier Attachment – Executive’s MCS-150 dated October 23, 2019

Motor Carrier Attachment – Greyhound Motorcoach Operator Training.

Motor Carrier Attachment – Greyhound Training Certificate.

Motor Carrier Attachment – Executive Driver’s CDLIS Report.

Motor Carrier Attachment – Executive Driver’s California DMV Record.

Motor Carrier Attachment – Executive Driver’s Post Crash Controlled Substance Testing.

Motor Carrier Attachment – Executive Driver’s Record of Duty Status (RODS)

Motor Carrier Attachment – Executive’s SMS Scores as of February 22, 2020.

Motor Carrier Attachment – Executive’s Compliance Review dated March 5, 2020.

Motor Carrier Attachment – Executive’s Compliance Review dated March 5, 2020, page Six (6)

Motor Carrier Attachment – CPCU authorization letter dated December 10, 1997.

Motor Carrier Attachment – Executive’s Class A Certificate TCP 0035871-A dated December 28, 2018.

³² Retrieved from - <https://www.cpuc.ca.gov/>

Motor Carrier Attachment – California DMV Pull Notice Agreement.

Michael LaPonte

Highway Accident Investigator