



NATIONAL TRANSPORTATION SAFETY BOARD

OFFICE OF HIGHWAY SAFETY
WASHINGTON, D.C.

MOTOR CARRIER FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT

A. CRASH INFORMATION

Location: Intersection of State Route 30A and State Route 30, in Schoharie,
Schoharie County, New York

Vehicle 1: 2001 Ford Excursion "Stretch" Limousine

Operator 1: Prestige Limousine & Chauffeur Service

Vehicle 2: 2015 Toyota Highlander Sport Utility Vehicle

Operator 2: Private citizen

Date: October 6, 2018

Time: Approximately 1:55 p.m. EDT

NTSB #: **HWY19MH001**

B. MOTOR CARRIER FACTORS GROUP

Michael LaPonte, Motor Carrier Factors Investigator, Group Chairman
NTSB Office of Highway Safety
490 L'Enfant Plaza East, S.W., Washington, DC 20594

Jonathan Nicastro, Chief Motor Carrier Investigator
Office of Modal Safety & Security
NY Department of Transportation
Albany, New York 12232

Brian Temperine, Division Administrator
Federal Motor Carrier Safety Administration, New York Division
Leo W. O'Brien Federal Building
Albany, New York 12207

Laura Lawton, Safety Investigator
Federal Motor Carrier Safety Administration, New York Division
Leo W. O'Brien Federal Building
Albany, New York 12207

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 Prestige Limousine & Chauffer Service (Prestige), the legal business name of the motor carrier in this crash. The report will also discuss two related limousine companies operating under the “doing business as” names of Hasy Limousine (Hasy) and Saratoga Luxury Limousine (Saratoga) as they relate to Prestige’s operations. The report examines the regulatory oversight of Prestige by the state of New York Department of Motor Vehicles (NYSDMV), New York State Department of Transportation (NYSDOT), and the Federal Motor Carrier Safety Administration (FMCSA) oversight of the stretch limousine vehicle involved in the crash. The report also includes the information about the accident driver, including his commercial driver qualifications, his commercial driver medical qualification, his training, and his employer’s (Prestige) adherence to state and Federal regulations on driver drug and alcohol testing and hours of service. Finally, the report will describe the state of New York statutes enacted because of the fatal Schoharie, New York stretch limousine crash that occurred on October 6, 2018.

1.0 State and Federal Oversight of Involved Motor Carriers

1.1 State of New York Operating Authority to Transport Passengers

The New York State Department of Transportation (NYSDOT), Motor Carrier Compliance Bureau oversees passenger transportation (limousine, transit bus, and school bus) unless excepted by Section 151 of the New York Transportation Law. New York Transportation Law requires a company intending to provide passenger transportation for hire (referred to as a motor carrier) first obtain operating authority from the NYSDOT before passengers are carried for compensation within New York State.¹

There are two types of operating authority in New York to transport passengers: common carrier or contract carrier.² A common carrier authority “certificate” may be issued to motor carriers that service the general public and charge individual fares.³ Examples are bus lines, ambulette or airport services. The second type of operating authority for transportation passengers is a contract carrier. This type of authorization is issued to carriers who have an agreement, or contract, with a person or an organization that allows for the transportation of an individual or a group at a fixed price.⁴ A specific type of contract carrier permit, called a Charter or Special Party operating authority permit, is issued to carriers who contract with individuals or organizations to transport for a fixed charge and under a single contract, such as passengers who are traveling together as a group within New York.⁵ According to the NYSDOT, for the Prestige stretch limousine involved in the Schoharie crash, a Charter or Special Party operating permit is the appropriate authority.

The application process for operating authority to transport passengers in NY is a two-part process. First, a company must submit an *Application for Authority to Transport Passengers*. For a company applying for “Charter or Special Party” operating authority, an original application (form RA 52-1) must be submitted to the NYSDOT Office of Modal Safety and Security (NYOMSS).⁶ The RA 52-1 form lists the types of businesses with the required forms that must be provided with the application. For a form RA 52-1 business type “individual with a d/b/a” [doing

¹ Within the NYSDOT, the NYOMSS division was established to “promote the safe transportation of people” in New York as well as “to assist passenger transportation providers in complying with safety and regulatory requirements” The NYOMSS oversight authority encompasses bus, truck and motor carrier safety and compliance, along with commercial vehicle credentialing and permitting. Within NYOMSS, the Passenger Carrier Safety Bureau (NYPCSB) oversees 120 motor vehicle inspectors assigned to one of 11 regional safety inspection teams across the state of New York. According to the NYPCSB, there are close to 60,000 registered buses, vans and ambulettes subject to NYSDOT safety inspection reviews every 6-months. Please see <https://www.dot.ny.gov/divisions/operating/oss> and <https://www.dot.ny.gov/divisions/operating/oss/bus>.

² Instances when operating authority is *not* required can be found in the exemptions list at <https://www.dot.ny.gov/divisions/operating/oss/bus/passenger#exemptions>. None of the exemptions applied to Prestige, Hasy or Saratoga.

³ See <https://www.dot.ny.gov/divisions/operating/oss/bus/passenger>

⁴ See <https://www.dot.ny.gov/divisions/operating/oss/bus/passenger>

⁵ See <https://www.dot.ny.gov/divisions/operating/oss/bus/passenger>

⁶ See Motor Carrier Attachment – NYSDOT Application for Authority to Transport Passengers Form RA 52-1 Blank Example.

business as or (dba)], the applicant must also submit a State of New York County Clerk's Office approved *Certificate of Doing Business Under an Assumed Name* before NYSDOT operating authority can be processed for approval. In the state of New York, business entities such as sole proprietorships, file an Assumed Name Certificate directly with the appropriate County Clerk's Office in the county the entity conducts or transacts business from (their principal place of business address).⁷

Post-crash, the New York State Department of Motor Vehicle (NYSDMV) registration for the accident vehicle, the 2001 Ford Excursion stretch limousine, listed the vehicle owner as Mr. Shahed Hussain with the registration address for a hotel in Saratoga County.⁸ No documentation for an approved application "*Certificate of Conducting Business Under Assumed Name*" was documented as having been filed with the Saratoga County Clerk's office for Mr. Shahed Hussain or for anyone else using the name Prestige Limousine & Chauffeur Service as a "dba".

The Saratoga County Clerk's Office did have an application for a "*Certificate of Conducting Business Under Assumed Name*" filed by Nauman Hussain on August 6, 2014 for a company called Hasy Limousine with this same business address as Prestige.⁹ On September 7, 2016 Nauman Hussain also filed an application for a "*Certificate of Conducting Business Under Assumed Name*" with the Saratoga County Clerk's Office for a dba as Saratoga Luxury Limousine.¹⁰ The same business address (hotel) was listed as the business address on Prestige, Hasy, and Saratoga's applications to Federal, state and local agencies by Shahed Hussain and Nauman Hussain from 2014 through 2018.¹¹ No documentation for an approved or denied

⁷ In order to submit the completed RA 52-1 form for NYSDOT operating authority - the owner of Prestige was required to submit a separate approved *Certificate of Operating Under an Assumed Name* for doing business as (dba) Prestige from the state of New York county clerk's office in which Prestige was to operate. This would have been Saratoga County based on the principal place of business address listed on Prestige documents. See <https://www.dos.ny.gov/corps/assdnmins.html>

⁸ This address was linked to Hasy Properties LLC. Hasy Properties LLC is referred to in several NYSDOT documents linked to the accident stretch limousine and Mr. Shahed Hussain and his son, Mr. Nauman Hussain.

⁹ Hasy and Saratoga were reported as a sole proprietorship. This means the certificates filed for Hasy and Saratoga and approved in Saratoga County were specific to the owner/individual named Nauman Hussain. See Motor Carrier Attachment-DBA Certificate for Hasy Limousine and Saratoga Luxury Limousine filed with Saratoga County Clerk's Office.

¹⁰ See Motor Carrier Attachment – DBA Certificate for Hasy Limousine Filed with Saratoga County Clerk dated August 6, 2014 and Saratoga Luxury Limousine dated September 7, 2016

¹¹ FMCSA in 2018, NYSDOT and NYSDMV from 2014 through 2018 and locally at the Saratoga County Clerk's office in 2014 and 2016.

application “*Certificate of Conducting Business Under Assumed Name*” was documented as having been filed with the Saratoga County Clerks’ offices for Prestige, which had been found during the NTSB investigations to be also using this same hotel business address.

The *Application for Authority to Transport Passengers* (RA 52-1 form) also requires the applicant to detail the name, percent of ownership and titles of all owners and officers of the company and also to list the company’s vehicles.¹² For each listed vehicle, the applicant must include the year, make and model of the vehicle, along with the Gross Vehicle Weight Rating (GVWR) and the Manufacturer’s Rated Seating Capacity (MRSC). The GVWR is explained as “determined by the manufacturer and is the maximum weight that you can operate a vehicle. It may be different from the weight of a vehicle listed on the registration or title.” The MRSC is defined as “listed on a tag which is generally located on the jam of the driver’s door. It is the maximum seating capacity of the vehicle and may be different from the number of seats actually in a vehicle.”

According to the NYSDOT, the “authority to transport passengers” application process can take between 6 to 16 weeks to be completed. NYSOMSS states that the filing of an application confers no right upon the applicant to operate and operations that are started before a certificate or permit is issued and before a carrier has complied with applicable requirements may result in the denial of the application and the imposition of civil (\$5,000 fine) and/or criminal penalties.¹³ Per NYSDOT, the second part of the process (if the initial application is approved), requires that operations can only begin after the applicant has complied with the applicable NYSDOT compliance requirements for passenger carriers.¹⁴ Two of these requirements include proof of an active Federal Motor Carrier Safety Administration (FMCSA) United States Department of

¹² NYSDOT Application for Authority to Transport Passengers form RA 52-1 requires the applicant to certify that he/she will only operate vehicles that have passed a NYSDOT vehicle safety inspection. The applicant must sign the form which affirms that all the statements made in the form are true. The form also specifies that “false statements made in this application are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law”.

¹³ Included in the process is a filing by NYSDOT in a weekly bulletin so that other motor carriers have 30 days to file a challenge to the applicant’s request for operating authority.

¹⁴ Before operating authority can be granted, NYSDOT must make specific findings that the applicant carrier is fit, willing and able to provide the service. Please see the NYOMSS website for further information on the application for authority to transport passengers process. The website link as of March 24, 2020 is <https://www.dot.ny.gov/divisions/operating/osss/bus/passenger>

Transportation (USDOT) registration number and valid vehicle safety inspections by NYSDOT for all vehicles to be used in the authorized service (vehicles as listed on the RA 52-1 form).¹⁵ Prestige did not apply for a FMCSA USDOT registration number until August 29, 2018 (see section 3.1 for more information) and did not have any NYSDOT semi-annual vehicle safety inspections (see section 3.1.1 below).¹⁶

Post-crash, the NYSDOT did not have a copy of any RA 52-1 application on record for operating authority (as a Charter or Special Party contract carrier) by Prestige, Hasy or Saratoga. According to NYSDOT, when RA 52-1 applications for operating authority are denied, a denial letter is sent to the applicant along with the original application. The NYSDOT does not keep incomplete and denied applications on file.¹⁷

NYSDOT provided the NTSB with a copy of a letter dated May 3, 2018 from NYSDOT addressed to Hazy Limousine, Saratoga Luxury Limousine and Prestige Limousine and Chauffer Service that denied operating authority. The May 3 letter stated the application was denied because it was incomplete and NYSDOT returned the original RA 52-1 form to Hasy/Saratoga/Prestige because the applicant checked the box for “form of business” as an individual with a dba, but did not include the individual’s name or the required *Certificate of Doing Business Under an Assumed Name* for Hasy or Saratoga filed with the County Clerk’s office. The denial letter stated the applicant needed to clarify the additional name listed, which was “Prestige Limousine and Chauffer Service” on the form. The denial also stated that the applicant failed to include the Federal Employer identification Number (FEIN) and the individual social security number provided did not match the social security number provided on a previously submitted application. (See section 1.2 below for a similar NYSDOT denial of operating authority letter dated June 6, 2016.)

¹⁵ Additional requirements include evidence of liability insurance coverage, acquisition of vehicle identification receipts, and proof of compliance with the New York State Workers’ Compensation Law for both Workers’ Compensation and Disability Benefits Insurance.

¹⁶ See Motor Carrier Attachment-Prestige MCS-150 Original Application for USDOT number and MCS-150 Biennial Update both filed on August 29, 2018.

¹⁷ Although the letter spelled the name “Hazy” with a “z” instead of “s”, it is believed the application was submitted on behalf of “Hasy” and was a spelling error. See Motor Carrier Attachment- NYSDOT Return of ETA Applications dated May 20, 2016, May 26, 2016, and denial of application for operating authority letters dated June 6, 2016 and May 3, 2018.

1.2 NYSDOT Emergency Temporary Operating Authority

Per the NYSDOT, under 17 NYCRR 502.5, emergency temporary authority (ETA) may be requested “if an occasion arises where there is an emergency need to transport passengers and there is not sufficient time to process an application for temporary authority, a carrier may request NYSDOT to issue emergency temporary authority.” The NYSDOT can issue an ETA for up to a 30-day period if the applicant presents convincing evidence that there is a true emergency situation.¹⁸ According to NYSDOT, the only difference between the ETA authority and the RA 52-1 application process is the 30-day waiting period window is lifted.¹⁹ The applicant must also submit documentation showing that they are in compliance with NYSDOT's operating authority requirements (as described in section 1.1 above, including having an active USDOT number. The carrier's vehicles must also undergo the NYSDOT vehicle safety inspections. The NYOMSS specifically states that neither the actual ETA nor the Temporary Authority procedures have been established to bypass the normal application process. Both types of authority will only be issued within the above guidelines and when NYSDOT is convinced that an immediate need or emergency exists.

1.2.1 May 18, 2016 Prestige/Hasy Application for Emergency Temporary Operating Authority

On May 18, 2016 an application in Saratoga County was filed by Shahed Hussain d/b/a Prestige Limousine as the name of the company applying for “Emergency Temporary Operating Authority” to operate during the prom season (in Albany and Saratoga Counties and the Hudson

¹⁸ Temporary Authority - There are three common situations in which temporary authority for up to 180 days will be issued by NYSDOT: When an applicant demonstrates an immediate (but not necessarily an emergency) need; for a short term or temporary operation that will not become permanent (i.e., to serve an amusement park for one summer only); and, when a common carrier wants to test a market in which there is no other carrier service available for a short period (i.e., up to six months) before determining if it wants to provide service on a permanent basis. Such requests for emergency authority are issued for the benefit of the customer, not the applicant, to ensure that all regulations, including insurance and inspection requirements, are met prior to the trip without requiring the customer to seek alternate transportation. Evidence of a contract is generally required. Based on the application itself, the applicant was attempting to obtain authority prior to the trip and therefore, this would not be the same as operating without authority. The most common kind of applications approved for ETA are for contractually provided municipal bus lines.

¹⁹ NYSDOT clarified the ETA process during a telephone conference call with investigators. Because the ETA process is only authorized for a period of 30-days, if a carrier has not already obtained RA 52-1 operating authority through the regular procedures, then the carrier must apply through the RA 52-1 process for permanent authority once the 30-day ETA is over. Carriers may apply for an extension of the ETA provided they have applied for permanent authority and are awaiting a decision. The carrier cannot continue to operate on the ETA permit unless the ETA was issued to a carrier with permanent authority for an emergency need.

Valley). The form of business was reported as “individual with a dba” which the RA 52-1 form required a copy of a *Certificate for Doing Business Under an Assumed Name* (as filed with a county clerk’s office where the company’s business was located) be submitted with the application. The DBA application filed by Prestige listed the name Hasy Limo as the name that Prestige was applying to do business under the assumed name of Hasy. All contact information was for Hasy and the name listed in the application was Shahed Hussain as 100% ownership (the application didn’t specify which entity Hasy or Prestige) and owner/CEO (the 2014 Certificate for DBA under an assumed name for Hasy was filed by Nauman Hussain).²⁰

The application listed two (2) Ford Excursion stretch limousines, one with a seating capacity of 18 and one with a seating capacity of 21. Finally, the form required the applicant demonstrate that there is an “unforeseen emergency need” for ETA. Prestige listed the type of emergency as “prom season is very short this year” and “May 21st is a major date and we would highly appreciate if we could achieve a temporary DOT.” The request for emergency operating authority was for Prestige to transport passengers on May 21, May 28, June 4, and June 5, 2016.

The application using the name combination “Prestige/Hasy Limousine” did not provide any of the required documents listed on the ETA application form. On May 20, 2016, an administrative law judge (ALJ) with NYSDOT denied the emergency authority application, stating the denial was due to the judge determining “I do not find that this (reason submitted on form) meets the requirements of the aforementioned regulations.”²¹ The ALJ also pointed out that applicant failed to provide the documentation regarding the corporate status as required and that the form of business was listed as an “individual operating with a d/b/a” however the applicant listed the name of two companies. The NYSDOT required clarification on which DBA would be providing the service (granted the operating authority).” The clarification was in reference to whether the operator was Prestige or Hasy as the ETA applicant.

²⁰ See Motor Carrier Attachment- NYSDOT documentation of ETA Applications dated May 20, 2016, May 26, 2016, June 6, 2016, and May 3, 2018.

²¹ Reason for ETA request as quoted in the May 20, 2016 denial letter was “[p]rom season is very short this year...May 21st is a major date.” ETA regulations require applicant seeking ETA to demonstrate that there is an unforeseen emergency or an immediate or urgent need for such transportation. See Motor Carrier Attachment- NYSDOT documentation of ETA Applications dated May 20, 2016, May 26, 2016, June 6, 2016, and May 3, 2018.

On May 3, 2018 the NYSDOT (the NYOMSS) sent a letter addressed to Shahed Hussain DBA Prestige Limousine.” The letter stated the application was incomplete and returned to Prestige because the business name submitted “Prestige Limousine” is similar to a company name already in use and cannot be used as a DBA to provide passenger transportation in New York State. The letter advised a resubmission of the application with a new d/b/a accompanied by a copy of the *Certificate for Doing Business Under an Assumed Name* filed with the County Clerk. The letter also advised that the application did not have the Federal Employer Identification Number, which was a requirement.²²

According to the NYSDOT post-crash, this letter to Shahed Hussain was a denial for permanent authority.

1.2.2 May 26, 2016 Hasy Application for Emergency Temporary Operating Authority

On May 26, 2016 a separate application was filed by Nauman Hussain DBA Hasy applying for “Emergency Temporary Operating Authority” for Hasy to operate during the prom season.²³ The RA 52-1 form was submitted with Hasy listed as a business type “individual with a dba” and with the application was the 2014 Hasy *Certificate for Doing Business Under an Assumed Name* filed with Saratoga County Clerk’s office by Nauman Hussain. All contact information was for Hasy and the name listed in the application was Nauman Hussain as 100% ownership and owner and Shahed Hussain as 0% ownership and title of “manager”. The application listed a 2002 Ford Excursion stretch limousine with a seating capacity of 21.

Finally, the form required the applicant demonstrate that there is an “unforeseen emergency need” for ETA. Hasy listed the type of emergency as “We have contracted rides for the vehicles that is over 20 passenger for the dates of June 3, 4, as well as 10 and 11 for proms” and added “If we do not provide service we will be sued for breach of contract”. Attached to the ETA application was

²² See Motor Carrier Attachment- NYSDOT documentation of ETA Applications dated May 20, 2016, May 26, 2016, May 20, 2016, and May 3, 2018.

²³ The distinction between the May 26th application and the earlier May 18th application is the May 26th version only used the name “Hasy” without the “Prestige/” as shown on the May 18, 2016 application. Also, the application was filed by Nauman Hussain while the May 18th application was filed by Shahed Hussain.

a Saratoga Luxury Limo/dba Hasy Limousine contract signed on March 28, 2016 to transport passengers on June 4th to June 5th, 2016. ²⁴

On June 7, 2016, in accordance with NYSDOT standard process, the administrative law judge sent the ETA application to the NYSDOT Motor Carrier Compliance Bureau and their attorney for review and comment. The same day, NYSDOT Motor Carrier Compliance Bureau responded to the administrative law judge and copying Hasy Limousine, stating that there were no “objections to the issuance of ETA to Nauman Hussain DBA Hasy Limousine (case# 39756) to operate the 20 passenger limousine” The email did specify that neither the owner nor manager have the requisite CDL with passenger endorsement to operate the stretch limousine and the carrier must demonstrate that a driver with the CDL and passenger endorsement “is hired prior to the issuance of an ETA.” As discussed in section 3.0, the driver operating the accident stretch limousine on October 6, 2018 did not have the CDL with passenger endorsement.

After receipt of the NYSDOT Motor Carrier Compliance Bureau’s response, on the same day, the administrative law judge informed Hasy Limousine that they needed to provide “proof that you have a driver with the required license.” Hasy Limousine responded the next day with a photograph of a photocopied driver’s license for a driver with the requisite license. On June 9, 2016, the administrative law judge responded to Hasy Limousine’s submission requesting proof of employment for the driver. Hasy Limousine never responded to this request.

As such this May 26, 2016 application by Hasy was never granted. Even had the May 18, 2016 or May 2016 applications been granted, their duration would have been only for 30 days. Therefore, these above noted applications for Emergency Temporary Operating Authority would not have been applicable to any authorized or unauthorized transportation of passengers which occurred in October of 2018. These applications do demonstrate that Shahed Hussain and Nauman Hussain had notice of the process to acquire Emergency Temporary Operating Authority to transport passengers in New York.

²⁴The trip did not have to have already taken place to be considered as the carrier “operating without authority”. Specific to the NYSDOT oversight, entering a contract to provide the service as a motor carrier was considered to be the same as operating without authority.

As detailed above, there is no record of Prestige Limousine & Chauffer Service (Prestige), or its related firms of Hasy Limousine (Hasy) and Saratoga Luxury Limousine (Saratoga) having received statutorily required permanent or emergency temporary authority (ETA) to carry passengers within New York State.

1.3 Federal Motor Carrier Safety Administration Oversight

Per the FMCSA, the USDOT Number serves as a unique identifier when collecting and monitoring a company's safety information acquired during audits, compliance reviews, crash investigations, and inspections performed under the FMCSA purview by Federally-funded law enforcement and motor carrier compliance staff, compiling such information on nationwide basis. An active FMCSA USDOT number is required by New York regulation 17 NYCRR 820.1 as one of the requirements to obtain intrastate operating authority (see section 1.3.1 below). There is no record of either Hasy or Saratoga applying for an FMCSA USDOT number. On August 29, 2018, Prestige did apply for a FMCSA USDOT number.

For intrastate passenger-carrying companies, FMCSA has oversight in the areas of Federal Motor Carrier Safety Regulations (FMCSRs) for commercial driver license (CDL) regulations and drug and alcohol testing regulations.²⁵ These regulations are found in Title 49 CFR part 382 and 383 (and apply to both intra- and interstate motor carrier operations). It is the responsibility of motor carrier operators to know and comply with all applicable FMCSRs, which are the regulations that govern interstate, and some intrastate, commercial bus industries.

Even though Prestige did receive a USDOT number from the FMCSA on August 29, 2018, this was not an application for operating authority as an interstate carrier. No documentation has been received from Prestige as evidence that Prestige ever submitted an RA 52-1 “*Application for Authority to Transport Passengers*” as required to the NYSDOT. As such, Prestige was operating without New York State or Federal operating authority at the time of the crash. Post-crash, NTSB sent a letter on October 9, 2018 to Prestige requesting documentation of operating authority

²⁵ Companies that operate commercial vehicles transporting passengers in interstate commerce must be registered with the FMCSA and must have a USDOT number assigned to their company.

(Federal or state). Prestige did not produce any records or allow any interviews of company officials regarding their operating authority on the advice of their attorney.²⁶

3.1 Application Process for a USDOT number

To apply for a USDOT number, a company representative must fill out an MCS-150 form.²⁷ Prestige filed an MCS-150 form listing the reason for filing as “new application” which is used to obtain a USDOT number. The MCS-150 form stated the Legal Business Name as Prestige with dba as both Saratoga Luxury Limousine and Hasy Limousine. The “form of business” was listed as sole proprietor, the owner (sole proprietor) was Shahed Hussain.²⁸ The FMCSA electronically issued Prestige the USDOT number 3180110.²⁹

Once issued a USDOT number, also on August 29, 2018 Prestige then filed another MCS-150 form, this time the reason for filing was “biennial update or changes”. This “updated” MCS-150 reported that in 2017 (prior to being issued the USDOT number) Prestige had operated 3,500 miles, employed two intrastate drivers and operated 3 limousine vehicles: one limousine with seating for 16 or more passengers (including the driver) and two limousines with a seating capacity of 9-15 passengers (including the driver). Note the information provided by Prestige regarding seating capacity of over 16 and 9-15 listed on the FMCSA MCS-150 did not correspond with Prestige’s NYSDMV vehicle registrations for the same vehicles. See section 3.1.1 for the limousine registration information with the NYSDMV.

1.3.2 Prestige Motor Carrier Safety Profile with FMCSA

Once Prestige received the USDOT number on August 29, 2018, the FMCSA profile for Prestige was updated with the 6 roadside inspections performed by the NYSDOT that occurred between March 21, 2018 up to August 29, 2018 (see section 2.0 below).³⁰ Another set of

²⁶ Statement is accurate as of April 2, 2020.

²⁷ An MCS-150 is the form a carrier fills out to register with FMCSA.

²⁸ During the NTSB investigation, it was determined that Shahed Hussain was no longer residing in the United States in August 29, 2018. It is not determined who filed the MCS-150 under his name.

²⁹ Prestige was not issued an FMCSA Motor Carrier (MC) number as the MC number is for a carrier with operating authority for interstate operations.

³⁰ Any inspections performed prior to a motor carrier receiving a USDOT number is uploaded by the MCSAC partner (state inspector) into the FMCSA database (Motor Carrier Management Information System or MCMIS). The

inspections were uploaded into the Prestige profile on September 4, 2018. Once these inspections were uploaded by NYSDOT into the FMCSA database, Prestige received a vehicle (Out of Service) OOS rating as 80% OOS compared to a national average for passenger motor carriers as 6.16% for inspected vehicles. In addition, Prestige's profile for driver OOS rates was updated to 100% OOS compared to national average of 4.19% in driver inspection OOS rates for passenger motor carriers.³¹

FMCSA has no record of interstate operations for Prestige that would subject Prestige to all the FMCSR's. The accident driver had a Class A CDL but did not have a passenger endorsement as required. Prestige has refused to cooperate in the investigation, so it is unknown if any drug testing program or tests existed on the day of the crash. However, documented evidence exists that NYSDOT advised Naumann Hussain on June 9, 2017 via email that a testing program was required. On September 9, 2018, NYSDOT requested drug/alcohol testing records from Naumann Hussain via email. He was asked to provide the records or state that the records do not exist. No records were furnished nor was a statement provided. While interviewing Naumann Hussain after the crash, NYSDOT verbally requested drug/alcohol testing records from Nauman Hussain and his attorney, then subsequently re-requested in writing for these records. No records were furnished by either party to NYSDOT.

New York is one of several states that require their intrastate commercial motor vehicle registrants (carriers) to obtain a FMCSA USDOT Number. Prestige did not get a USDOT Number until August 2018. FMCSA has not had any intervention or contact with Prestige. FMCSA was not aware of Prestige until the crash occurred because the carrier did not "alert" in any SMS category due to lack of a USDOT number prior to August 2018. Post-crash, Prestige does not currently have an alert in any SMS category.³²

inspections while in the MCMIS system – do not attach to any carrier under their safety profile or affect their safety rating. Once the carrier has the USDOT number, such as when Prestige obtained theirs on August 29, 2018, and the NYSDOT inspector went back into the FMCSA database and assigned the inspections to the USDOT number for Prestige.

³¹ Source: FMCSA Motor Carrier Management Information System (MCMIS) 6/26/2020 data snapshot.

³² The Safety Measurement System (SMS) is FMCSA's workload prioritization tool. FMCSA uses the SMS to identify carriers with potential safety problems for interventions. The SMS is designed to incorporate the safety-based regulations related to motor carrier operations. SMS information accessed on 10-28-2019 from www.FMCSA.gov

2.0 2001 Ford Excursion Stretch Limousine and NYSDMV and NYSDOT Oversight

2.1 2001 Ford Excursion Stretch Limousine Information

The accident vehicle was a 2001 Ford Excursion Stretch Limousine. Prestige Limousine was the 3rd owner of this vehicle. Prestige purchased the vehicle from RLS Limousines of the Capital District on July 21, 2016. A maintenance vendor located in Saratoga Springs, New York performed some vehicle maintenance while the vehicle was owned by Prestige. Vehicle maintenance records were obtained from the Saratoga Springs vendor.

Royale Limousines ordered the 2001 Ford Excursion stretch limousine accident vehicle in January 2001 from 21st Century Coach of Rogersville, Missouri. The Royale Limousine purchase order was for a stock Ford Excursion and for 21st Century Coach to modify the vehicle by “stretching” it 180 inches.³³ Ford Motor Company records document the vehicle warranty was registered to 21st Century Coach on March 28, 2001. Royale Limousine paid \$89,000 to 21st Century Coach for the stretched limousine. In March 2001, Royale Limousine’s owner traveled to 21st Century Coach in Rogersville to take possession of the modified stretch limousine and drove it to New York where it was registered and licensed in New York for the first time. During this registration with the NYSDMV, Royale licensed the stretch limousine with the NYSDMV as a “bus”. The accident vehicle was owned and operated by Royale Limousine until 2006 when Royale Limousine (the company) was purchased by Advantage Transit Group, DBA RLS Limousines of the Capital District located in Albany, New York. RLS Limousines operated the accident vehicle until they sold it to Prestige Limousines on July 21, 2016. According to NYSDOT, as noted below in section 2.2, proper designation of vehicle seating capacity and status of a registered vehicle as a stretch limousine is required for the vehicle registration and oversight process within the State of New York.

Prestige also purchased a 2002 Ford Excursion from RLS Limousines in June of 2016. The 2002 Ford Excursion had been modified (stretched) to 220 inches for a seating capacity of 21

³³This accident vehicle, the 2001 Ford Excursion, limousine was stretched by inserting a 144-inch structure into the vehicle to stretch it. The accident vehicle was then referred to as a “180 stretch” which in the industry is to designate to seat 18 passengers.

occupants not including the driver. The vehicle modification was performed by a company in Los Angeles, California that has since gone out of business. Prestige sold the 2002 Ford Excursion stretch limousine to Charlton Limousine of Saratoga on July 21, 2016 (USDOT Number 2914496). Charlton Limousine then sold the 2002 Ford Excursion limousine in October 2018 to a private party.³⁴ Prestige also purchased three Lincoln Town Cars from different owners. At the time of the crash, Prestige was operating four vehicles.³⁵

2.2 State of New York Vehicle Oversight

The State of New York has two primary agencies that are involved in the oversight of passenger carriers and the vehicles used in carrier operations. The New York Department of Motor Vehicles (NYSDMV) and the NYSDOT. Section 1.0 discussed the NYSDOT oversight of passenger carriers as operators, section 2.2.1 below will discuss NYSDMV and NYSDOT oversight of the commercial vehicles operated by these carriers in the state of New York.

2.2.1 NYSDMV Oversight

NYSDMV is the oversight state agency for vehicle registration, licensing, and annual inspections for all vehicles in the state of New York except those requiring NYSDOT or FMCSA authority. In February of 2011, the NYSDMV issued an exception (updating their regulations) that instructed NYSDMV certified inspection stations not to inspect or issue an inspection decal to a modified or “stretch” vehicle but to require the vehicle’s owner to contact the NYSDOT for the required safety inspection.³⁶ As of 2011, NY law required any passenger vehicle that has been “stretched” regardless of seating capacity must be inspected by NYSDOT or it cannot be used for-hire unless/until the owner receives an exemption letter from

³⁴ The private party owner of the 2002 Ford Excursion, who purchased the vehicle from Charlton in October 2018, permitted the NTSB to examine the 2002 stretch limousine as part of this investigation.

³⁵ For further vehicle information, see the vehicle report CMVSC-18-VA-253 in the public docket for this investigation HWY19MH001.

³⁶ The NYSDOT explains on their website that the NYSDMV “changed its vehicle inspection regulations” and “owners of these of vehicles, that have had a DMV annual vehicle inspection in the past, will now be directed to contact the NYSDOT”. The website also states: “the purpose of this regulation change is to insure that stretch vehicles that fall under NYSDOT’s definition of a “bus” undergo a NYSDOT safety inspection if that vehicle falls under the Department’s jurisdiction.” This change is pursuant to the language found in Title 17 NYCRR Section 720.1(b) that “a bus is a motor vehicle designed to carry more than 10 persons (including the driver).” See <https://www.dot.ny.gov/divisions/operating/oss/bus/stretch-modified-vehicle-policy>. See Motor Carrier Attachment – NYSDOT Notice of February 2011 Stretch-Modified Vehicle Policy.

the NYSDOT.³⁷ Only with an exemption letter from the NYSDOT is the vehicle permitted to be inspected on an annual basis at a NYSDMV inspection station (rather than semi-annual by NYSDOT) and the exemption letter must identify the vehicle by its unique Vehicle Identification Number (VIN).³⁸ Below are the sections from the NYSDMV Motor Vehicle Inspection Regulations that pertain to the inspection process³⁹.

“(1) All motor vehicles that provide school transportation, regulated passenger transportation (including vehicles commonly referred to as a “stretch limousine”), and municipal passenger transportation, as defined in 17 NYCRR 720.1, are subject to NY State Department of Transportation periodic inspection requirements, and as provided in Section 79.2(d)(3) of this Part, are exempt from the NY State Department of Motor Vehicles periodic inspection requirements. (Added 2/23/11)”

“(2) If a passenger car, multipurpose passenger vehicle, or truck is presented for inspection, and such vehicle has been altered (a vehicle commonly referred to as a “stretch limousine”) so as to have an extended chassis, or a lengthened wheel base, or an elongated seating area, or in the case of a truck, has been modified to transport passengers in addition to having been altered, the inspection station shall refuse to perform the inspection. The inspection station shall not charge the motorist for the inspection and shall provide the motorist with instructions about how to comply with NY State Department of Transportation periodic inspection requirements. (Added 2/23/11)”

“(3) The provisions of paragraph two of this subdivision shall not apply if the NY State Department of Transportation has determined that the vehicle is not subject to its jurisdiction, and it has issued an “Exemption to NYSDOT Inspection Form Letter.”⁴⁰ However, if an altered vehicle, as set forth in paragraph one of this subdivision, is presented for inspection, and the motorist provides a copy of the “Exemption to NYSDOT Inspection Form Letter” for the vehicle, then the inspection station shall verify that the vehicle identified in the letter is the same as the vehicle being presented for inspection. All entry blanks in the letter must be

³⁷ New York State regulates altered vehicles, also referred to as stretched or modified, limousines. For the purposes of the following guidance, an altered limousine is defined as a limousine capable of transporting 11 or more persons (including the driver). See <https://webapps.dot.ny.gov/operator-safety-inspection-performance-data>

³⁸ NHTSA regulations at 49 CFR Part 565 require a motor vehicle manufacturer to assign to each motor vehicle manufactured for sale in the United States a 17-character vehicle identification number (VIN) that uniquely identifies the vehicle. **The VIN has become a key identifier in data systems** that track compliance with Federal and state safety programs and that manage and analyze information on vehicle manufacturing processes, **vehicle registrations**, insurance programs, crash investigations, and safety research. **Organizations that use VINS in data systems** include NHTSA, manufacturers, **state motor vehicle departments**, law enforcement agencies, insurance companies, and motor vehicle safety researchers. Also see Motor Carrier Attachment- Exemptions from Authority, Page Four Passenger Carrier’s Guide for Administrative Compliance Section 1.2 dated December 1, 2017.

³⁹ Part 79 New York Motor Vehicle Inspection Regulation, 79.20(c)7(i)(f)(1 thru 3)

⁴⁰ See Motor Carrier Attachment – Exemptions from Authority, Page Four Passenger Carrier’s Guide for Administrative Compliance Section 1.2 Dated December 1, 2017.

completed, and that the letter has been signed by an employee of the Department of Transportation. If the letter meets these requirements, the inspection station shall accept the vehicle for inspection. (Added 2/23/11)⁴¹

In addition to the status of “stretch” or “modified” for vehicles, if a vehicle is presented to the NYSDMV for registration and the vehicle has a seating capacity of 15 or more passengers, the applicant is referred to the NYSDOT for a vehicle inspection. This is due to NYSDMV’s definition that any vehicles with a seating capacity of 15 or more passengers is considered a bus. NYSDOT defines any vehicle that seats 10 or more passenger that is for hire as a bus and the NYSDOT has oversight of bus inspections.⁴² NYSDOT requires bus inspections every six months, including vehicle safety inspections on altered or “stretched” limousines.⁴³ However, NYSDMV will not refer a vehicle used for hire that has seating between 10 and 15 to the NYSDOT (unless registered as stretched or modified per the 2011 regulation update) even though the NYSDOT defines buses as vehicles that seat 10 or more and requires them to undergo the semiannual inspection process.

2.2.2 NYSDMV Registration History for 2001 Ford Excursion Stretch Limousine

Because the 2001 Ford Excursion stretch limousine involved in the October 6, 2018 crash was (1) stretched (modified) and (2) had a seating capacity of 18, it was not permitted under the NYSDMV waiver and was required to be sent by any certified New York inspection station to the NYSDOT for semi-annual inspections (per the 2011 regulations as discussed above in section 2.2.1).

While the accident stretch limousine was owned by Royale and RLS, the 2001 Ford Excursion stretch limousine was inspected by the NYSDOT semi-annually and passed the NYDOT safety inspections performed by the NYSDOT commercial vehicle unit. However, when Prestige purchased the 2001 Ford Excursion stretch limousine in 2016, and submitted the transfer of vehicle ownership and new vehicle registration documents to the NYSDMV, Prestige (1) did

⁴¹ During the first inspection by the NYSDOT, a vehicle that has seating for more than 10 can get one of twelve exemptions, to only be inspected on an annual basis at a regular NYSDMV Inspection Station.

⁴² The National Highway Traffic Safety Administration (NHTSA) has the authority under the National Traffic and Motor Vehicle Safety Action 49 *USC* 30101 et seq) to regulate motor vehicle safety. Per 49 *CFR* 571.3(b) of the Federal Motor Vehicle Safety Standards (*FMVSSs*), a bus is defined as “a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons”.

⁴³ <https://webapps.dot.ny.gov/operator-safety-inspection-performance-data>

not disclose that the vehicle was “stretched” or modified as required and (2) falsified a reduction in the seating capacity from 18 down to 11.

In 2017, Prestige registered the accident stretch limousine with a seating capacity further “reduced” to 8 (instead of 18). Then in 2018, Prestige again submitted the NYSDMV registration paperwork showing the accident vehicle seating capacity as 10 (instead of 18). As a result of this false “reduction” in seating capacity under the NYSDMV limit of 15 (the NYSDMV seating capacity definition of a bus), and the omission of the vehicle’s status as “modified” or “stretched” on the NYSDMV registration documents, the 2001 Ford Excursion stretch limousine was not referred to the NYSDOT for semi-annual inspection as required in New York state.

2.3 Prestige NYSDMV Inspection Program History

When Prestige brought the accident stretch limousine for annual inspection (as required by NYSDMV for passenger vehicles but not permitted for stretch limousines), Prestige took the vehicle to two different “official NY inspection stations” that were operated by contractors and located throughout New York. These inspection stations did not follow the NYSDMV policy issued in 2011 that instructed NYSDMV inspection stations not to inspect or issue an inspection decal to a modified or “stretch” vehicle but to require the vehicle’s owner to contact the NYSDOT for the required semi-annual bus safety inspection. One inspection station located in Wilton, New York inspected the vehicle on July 22, 2016 and issued an annual inspection decal.⁴⁴

When a vehicle passes an annual inspection, it is issued an inspection decal that must be visible on the left side of the windshield. The vehicle cannot be newly registered, vehicle registration cannot be renewed, nor can a vehicle license plate be issued without a current state inspection. Prestige failed to have the vehicle inspected again before registering it again on October 12, 2017 without the required vehicle safety inspection decal from either NYSDMV or NYSDOT (the June 2016 22 NYSDMV decal would have been expired as of August 2017 – well before the October 12 registration was permitted).

⁴⁴ This inspection took place July 22, 2016 (performed at Wilton Truck Center in Wilton, New York), the day after the title and vehicle registration on July 21, 2016 were transferred to Prestige. The name on the NYSDMV transfer paperwork was Shahed Hussain dba as Prestige. However, according to Prestige applications to FMCSA and state of New York, Nauman Hussain was the sole owner of Prestige. See Motor Carrier Attachment-2016 Wilton Truck Center Inspection.

Prestige operated the accident vehicle with an expired (and incorrect) NYSDMV vehicle safety decal for at least 10 months (documentation of Prestige's operations during this time was discussed in section 1.0).⁴⁵

On May 11, 2018, Prestige again brought the accident stretch limousine for an annual NYSDMV (instead of the required semi-annual NYSDOT safety inspection) to a state certified inspection station in Saratoga New York.⁴⁶ This inspection station, instead of referring Prestige to the NYSDOT and refusing to conduct the inspection per NYSDMV policy, did inspect the vehicle and issue an inspection decal. Because Prestige was issued the NYSDMV vehicle safety inspection decals improperly by the 2 inspection stations (in addition to failing to disclose the vehicle was a stretch limousine to the NYSDMV), the carrier was able to register the vehicles with the NYSDMV and bypass the semi-annual inspections required by the NYSDOT for stretch limousines.

2.4 NYSDMV Vehicle Inspection Process and Inspection Station Oversight

The NYSDMV vehicle inspection process is regulated by Part 79 Motor Vehicle Inspection. This 103-page regulation, details all of the requirements of the NYSDMV inspection program to include in part 79.21 "Inspection of motor vehicles" In sub part (a) Service brake system (amended 7/01/12).⁴⁷

This regulation has 14 test protocols that the inspection station must perform as well three (3) for the parking brake. Included is the requirement that the inspector must remove at least one front axle wheel for the brake inspection. The location must be noted on the VS-1074 or on the CVIS when prompted. The inspector may remove as many wheels as necessary to determine the condition of the braking system. In 2012, this was amended to allow use of a brake tester approved by the commissioner to be used in lieu of performing a brake equalization test and the requirement that a wheel be removed. In all there are 17 pages of inspection protocols that cover the following areas to be inspected:

- Inspection of motor vehicles (amended 12/29/10, 7/01/12 and 01/01/17)

⁴⁵ NYSDMV policy clearly states that a registration cannot be renewed if the vehicle has not been inspected in the past 12 months. (<https://dmv.ny.gov>.) In addition, the stretch limousine should have been inspected by NYSDOT commercial vehicle units within 6 months (of the erroneous June 22, 2016 inspection performed by a contracted inspection station) which would have been sometime at the end of December 2016.

⁴⁶ See Motor Carrier Attachment - Mavis Discount Tire Inspection and decal from May 11, 2018.

⁴⁷ See Motor Carrier Attachment - NYSDMV Inspection Excerpts from Part 79 Motor Vehicle Inspection.

- Service brake system (amended 7/01/12)
- Parking brake
- Tires
- Steering, suspension, front end, and chassis/frame
- Lighting and reflectors
- Windshield and other glass (amended 7/01/12 and 01/01/17)
- Mirrors
- Windshield wipers
- Horn
- Seat belts
- Fuel leaks

It is unknown if the inspection stations that inspected the Prestige accident stretch limousine followed all the procedures as outlined in this regulation. The NYSDMV sets the amount that an inspection station can charge for these inspections the current charge for a vehicle in Group 2 is \$20.00.⁴⁸

The NYSDMV has the authority to oversee the individual vehicle inspection stations. New York State Vehicle and Traffic Safety Law language stipulates that falsification of the inspection paperwork or unauthorized use of an inspection decal is a misdemeanor.⁴⁹ The NYSDMV commissioner has the authority to suspend, revoke, or fail to renew the license to operate an official New York inspection station for any of the following reasons:

- Failure to conduct inspections in conformance with the provisions of this article and the rules and regulations promulgated there under or improper issuance of certificates of inspections.
- Conviction of a crime involving fraud, theft, perjury or bribery or other cause which would permit disqualification from receiving a license or a certificate to inspect vehicles upon the original application.
- Fraud, and deceit or misrepresentation in securing the license or a certificate to inspect vehicles or in the conduct of licensed or certified activity.
- Excessive charges for conducting inspections and for making adjustments, corrections or repairs required by such inspections.

⁴⁸ See Motor Carrier Attachment - NYSDMV Inspection Groups and Fee Chart, Effective January 1, 2011.

⁴⁹ See Motor Carrier Attachment – Article 5 New York State Vehicle and Traffic Law.

- Violation of any provision of this article or any rule or regulation promulgated thereunder.

2.4.1 Accident Stretch Limousine Registration NYSDMV History. Prestige indicated on page 2 of the NYSDMV registration form in 2016 that the vehicle had not been modified to change its registration class.⁵⁰ In 2017 Prestige listed that "the vehicle is a passenger vehicle that will be used for hire with a driver and will be operated in...a jurisdiction that does not regulate taxis." It also listed that the "vehicle is used as a contracted carrier ". It did not list that the "vehicle is subject to Department of Transportation inspection requirements for carriers that transport passengers". It also listed that the vehicle had not been modified to change its registration class.⁵¹ As stated in section 2.3, this registration took place on October 12, 2017 which was 2.5 months after the annual inspection from 2016 had expired on August 1, 2017. See table 1 for the registration history of the 2001 Ford Excursion stretch limousine in New York state.

Table 1. Accident Stretch Limousine Vehicle NYSDMV Registration History

Vehicle Registration Years	True Seating Capacity	Reported Seating Capacity	Vehicle Owner	NYSDMV Definition	NYSDOT Definition	Vehicle Safety Inspections
2001 - 2006	18	18	Royale	Bus (sent to NYSDOT)	Bus	Semi-annual (CMV-bus)
2006 - 2016	18	18	RLS	Bus (sent to NYSDOT)	Bus	Semi-annual (CMV-bus)
July 21, 2016	18	11	Prestige	Passenger Vehicle	Bus	Annual (DMV)
October 12, 2017	18	8	Prestige	Passenger Vehicle	n/a	Annual (DMV)
May 11, 2018	18	10	Prestige	Passenger Vehicle	n/a	Annual (DMV)

In 2018 Prestige documented on page 2 of the registration that "the vehicle is a passenger vehicle that will be used for hire with a driver and will be operated in...a jurisdiction that is not NYC that regulates taxis." It also listed that the "vehicle is used as a contracted carrier". Included in the documents used to register the vehicle was an insurance certificate that indicated the vehicle had 16 seats.⁵² Prestige did not report that the "vehicle is subject to Department of Transportation

⁵⁰ In 2016, Prestige reported an odometer reading of 182,000 miles. See Motor Carrier Attachment- 2016 Accident Stretch Limousine Vehicle Registration.

⁵¹ In 2017, Prestige reported an odometer reading of 197,000 miles, indicating use of 15,000 miles (average of 1,000 miles per month) for the accident vehicle between July 2016 and October 2017.

See Motor Carrier Attachment - 2017 Accident Stretch Limousine Vehicle Registration.

⁵² See Motor Carrier Attachment- 2018 Accident Stretch Limousine Vehicle Registration.

inspection requirements for carriers that transport passengers". Prestige stated that the vehicle had not been modified to change its registration class.⁵³

The NYSDMV did have access to the old registrations from 2001 to 2016 (showing seating capacity and vehicle classification as bus) when processing the application for title transfer from RLS to Prestige that Prestige submitted in July 2016 to verify the accuracy of the new registration information (seating capacity and vehicle classification including stretch/modified limousine status and bus classification). In addition, the NYSDMV has access to a document called the "Abstract of Title Record" which would have indicated that the vehicle had been registered as a bus by the previous owners in the state of New York. Then in 2018, the NYSDMV also had access to the Prestige insurance card (required documentation for the registration process) that stated the vehicle had a seating capacity of 16 passengers, which meets the NYSDMV definition of a bus. Verification of these classifications would have flagged the registration as inconsistent for the VIN of the vehicle for prior year registrations and insurance requirements.

2.5 NYSDOT Altered, Modified, or Stretch Limousine and Bus Inspections

The NYSDOT Motor Carrier Compliance Bureau is responsible for the inspections of commercial motor vehicles, including buses and stretch limousines, operated by passenger carriers. The NYSDOT vehicle safety inspection program requires that the passenger-carrying vehicles be inspected every six months by a certified NYSDOT inspector assigned to that carrier based on the regional area in which the carrier operates or has their base of business (address). The NYSDOT bus or limousine vehicle safety inspection is different from the annual inspection program overseen by the NYSDMV of passenger cars, sport utility vehicles (SUVs), pickup trucks and motorcycles. All altered vehicles (stretch limousines) must be inspected by the NYSDOT unless they have been issued an exemption letter that indicates they are not subject to NYSDOT jurisdiction.

⁵³ In 2018, Prestige reported an odometer reading of 195,000 miles, which is 5,000 less than reported in 2017. See Motor Carrier Attachment- 2018 Accident Stretch Limousine Vehicle Registration.

2.5.1 NYSDOT Bus Inspection Program Details.

The NYSDOT Bus Inspection program performs semi-annual safety inspections. Inspections are conducted on vehicles as required by the NYS Transportation Law and regulations (17 NYCRR parts 720-723). Inspections conducted under this program are modeled after the CVSA roadside inspection program but are not the same as those conducted on commercial motor vehicles as part of the federally sponsored CVSA roadside inspection program. They are also different from the NYS DMV inspections described in section 2.4 above. The vehicle inspections are performed by NYSDOT Motor Vehicle Inspectors who are CVSA certified to conduct level 1 through level 7 roadside inspections.⁵⁴

The NYSDOT inspection program is required for all for-hire passenger carrying vehicles with a seating capacity of 10 or more, and for all “stretch vehicles” regardless of the seating capacity subject to NYSDOT operating authority. As described in section 2.2 and 2.3 above, a carrier with vehicles required to be inspected as part of the NYSDOT Bus Inspection Program is notified by NYSDOT Inspector assigned to the geographical area the carrier is in of the date and time of the required NYSDOT six-month inspection to be performed. Inspections can be performed either at the carrier’s location if the carrier has facilities to accommodate the inspections or at a commercial garage facility (fees paid by the carrier) as the NYSDOT does not operate inspection stations. If the carrier’s vehicle passes the NYSDOT inspection, the vehicle is issued a windshield decal applied to the right side of the windshield and the carrier is issued a MC-300e form (to be maintained by the carrier.)⁵⁵

The NYSDOT inspectors maintain inspection records for each inspected vehicle and any required vehicle repairs completed as result of each inspection.⁵⁶ If a vehicle fails an inspection, the NYSDOT places the vehicle in an Out-of-Service (OOS) status and the vehicle cannot be operated until it has been repaired and then re-inspected. This step, the vehicle repair and re-inspection process, must be completed within 15 days. After the October 6, 2018 crash, the State of New York began to require repairs and re-inspection be completed within 15 days or the vehicle

⁵⁴ The *North American Standard Inspection Program Guidelines* were developed by the CVSA and the FMCSA. See Motor Carrier Attachment- CVSA Inspection Definitions by Level.

⁵⁵ See Motor Carrier Attachment- NYSDOT 6-month Inspection Decal Example.

⁵⁶ See Motor Carrier Attachment- NYSDOT July 2014, January 2015, and July 2015 inspections of accident stretch limousine while operated by RLS Limousines of the Capitol District.

registration issued by NYSDMV may be revoked and the vehicle license plates removed by the NYSDOT.

All NYSDOT inspections conducted are recorded on an inspection form, a copy of which is provided to the operator at the conclusion of the inspection/re-inspection and also entered into the NYSDOT's Bus Safety Information Network (BUSNET) computer system.⁵⁷ The BUSNET system generates an Operator Profile Report, which is a summary of an operator's NYSDOT inspection record over a specified period.⁵⁸ Prestige, Hasy and Saratoga were not entered into the Bus Inspection Program because none of these carrier's applied for NYSDOT authority to transport passengers. As a result, none of these three companies had profiles in the BUSNET system before the crash.⁵⁹

2.5.2 Prestige and NYSDOT Interactions Precrash. Prestige received six total roadside inspections between March 21, 2018 to September 4, 2018; five were conducted by the NYSDOT, one by the NYSP. Three inspections were performed on the crash-involved stretch limousine (two by the NYSDOT and one by the NYSP) along with 3 on other commercial passenger vehicles operated by Prestige. These inspections were initiated in conjunction with the NYSDOT investigation of Prestige for operating as a passenger motor carrier transporting passengers within the state of New York without NYSDOT Operating Authority.⁶⁰ None of 2018 vehicle inspections were part of the Bus Inspection Program of semi-annual vehicle safety inspections which occur for commercial vehicles and motor carriers with operating authority.

See table 2 for the NYSDOT inspection history of the 2001 Ford Excursion stretch limousine while owned by Prestige.

⁵⁷ <https://www.dot.ny.gov/divisions/operating/osss/bus/busnet>

⁵⁸ This profile is a public record and includes the carrier's number of inspections (passed and percentage) along with OOS and the percentage of inspections with OOS, along with the average defects found and OOS defects per inspection. <https://www.dot.ny.gov/divisions/operating/osss/bus/busnet>

⁵⁹ <https://www.dot.ny.gov/divisions/operating/osss/bus/busnet>

⁶⁰ Based on an NTSB interview with the NYSDOT Intermodal Transportation Specialist post-crash, the NYSDOT investigation of Prestige began because of a customer complaint. No further information regarding this complaint was available. The investigation resulted in a Notice of Violation for operating without authority. See Motor Carrier Attachment- Notice to Appear NOV Issued 8/15/2017 Dated September 14, 2017.

Table 2. Accident Stretch Limousine Vehicle Inspection History Under Prestige

Date	Inspection Number	Inspection Level	Location	Violations
March 21, 2018 ⁶¹	NYMC35000868	Level 5	Saratoga Springs, NY ^a	14 violations (4 OOS)
<ol style="list-style-type: none"> 1. BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination: 25% of brakes defective. Out-Of-Service (OOS) 2. Operating a Motor Coach or other Passenger Carrying vehicle with seating, secured or unsecured, in excess of the manufacturer's designed seating capacity. Vehicle missing final manufacturer's tag - vehicle only has MPV FMVSS label (no more than 10 passengers including the driver). Vehicle inspected has 18 seats. Out-Of-Service (OOS) 3. Brakes (general) Explain: Hydraulic brake line going to front axle left dangling and can contact front axle left tire. Out-Of-Service (OOS) 4. No or Defective bus emergency exits: Rear emergency exit window inoperable. Rear compartment right side emergency door inoperable due to child lock being engaged. Out-Of-Service (OOS) 				
August 25, 2018 ⁶²	NYSPG0017993	Level 3	Roadside ^b	3 violations (1 OOS)
<ol style="list-style-type: none"> 1. No passenger vehicle endorsement on CDL. Out-Of-Service (OOS) 				
September 4, 2018 ⁶³	NYMC35000906	Level 5	Terminal	14 violations (3 OOS)
<ol style="list-style-type: none"> 1. Operating a motor coach or other passenger-carrying vehicle with seating, secured or unsecured, in excess of the manufacturer's designed seating capacity. Vehicle missing final manufacturer's tag - vehicle only has MPV FMVSS label (no more than 10 passengers including the driver). Vehicle inspected has 18 seats. Out-Of-Service (OOS) 2. Inspection, repair and maintenance or parts & accessories: ABS line going to axle No. 1 left side wheel assembly hanging and is able to contact axle No. 1 left side tire. 3. No or defective bus emergency exits: Rear emergency exit window inoperable. Rear compartment right side emergency door inoperable due to child lock being engaged. Out-Of-Service (OOS) <p>*The same NYSDOT inspector performed the March 21 and September 4, 2018 inspections and noted that Prestige had failed to correct defects noted on the March 21, 2018 inspection report and no evidence of correction was provided to NYSDOT. As a result, at the September 4, 2018 inspection the inspected vehicle was placed OOS.</p>				
<p>^a Prestige parked their vehicles in a parking lot in Saratoga Springs, NY.</p> <p>^b Driver-only inspection that was performed because of a traffic stop. Schoharie accident driver was the driver inspected during this roadside level 3 inspection.</p>				

⁶¹ See Motor Carrier Attachment- NYMC35000868 Inspection Report dated March 21, 2018.

⁶² See Motor Carrier Attachment- NYSPG0017993 Inspection Report dated August 25, 2018.

⁶³ See Motor Carrier Attachment - NYMC35000906 Inspection Report dated September 4, 2018

2.6. New York State Notice of Violation (NOV) History for Prestige

In the state of New York, an administrative process adopted in 1984 by NYSDOT called a Notice of Violation (NOV), is an enforcement policy to provide a “continuous and structured approach to encourage acceptable inspection results by all operators subject to a NYSDOT semi-annual inspection.”⁶⁴ The process begins with a NOV sent to the carrier in writing from NYSDOT. Next, the motor carrier can appear before a New York administrative law judge to plead their case or accept the penalties for the violation described in the NOV and pay the accompanying monetary fine.⁶⁵

Prestige has received 3 NOV’s from the NYSDOT. On August 15, 2017 Prestige was issued an NOV for transporting passenger (operating) without having NYSDOT-issued operating authority (the NOV was issued against “Hazy Properties LLC”). An administrative law hearing was scheduled for October 6, 2017 and the respondent (Prestige) failed to appear at the hearing. According to the hearing transcript, NYSDOT requested the respondent be found guilty in all the matters within the NOV and an order be issued for the NOV’s penalty amounts listed. The Administrative Law Judge ruled in favor of the NYSDOT. Records show Prestige paid a cashier’s check on March 6, 2018 for \$500.00 to settle the penalty.

On January 8, 2018 Prestige was issued a second NOV for the same violation of transporting passengers for compensation (operating) without having NYSDOT-issued operating authority. This 2nd NOV is separate from the initial NOV (described above) issued August 15, 2017 to which Prestige had failed to appear for the hearing on October 6, 2017. A hearing for the 2nd NOV was scheduled for May 4, 2018. Prestige failed to appear for the May 4 hearing on the 2nd NOV, the NYSDOT requested the penalty for \$500 against Shahed Hussain for the NOV of operating without passenger NYSDOT authority and the Administrative Law Judge issued the order. Separate from the hearing proceedings, as part of the 2nd NOV, Prestige’s vehicle registrations were suspended on September 17, 2018. On September 19, 2018, Prestige paid a default civil penalty of \$500.00 and the registration was reinstated.⁶⁶

⁶⁴ See Motor Carrier Attachment- NYSDOT Passenger Carrier Guidebook Section 2.12 dated December 1, 2017.

⁶⁵ See New York State Department of Transportation Passenger Carrier Guidebook, Page 21.

⁶⁶ See Motor Carrier Attachment- Notice to Appear NOV Issued January 8, 2018.

In the meantime, prior to the suspension of registration, Prestige was issued a 3rd NOV on September 1, 2018 for: (1) transporting passengers for compensation (operating) without NYSDOT-issued operating authority; (2) not having a NYSDOT semi-annual vehicle inspection. (3) operating without having a safety registration (not having an active USDOT Number); (4) and, using a driver not qualified (not having a passenger endorsement on his CDL under FMCSA’s FMCSRs 383 and not in the New York 19-A program.⁶⁷ An administrative law hearing was scheduled for October 5, 2018 and Prestige failed to appear for this hearing, NYSDOT requested the penalty for \$2,000 be ordered and the Administrative Law Judge issued the order. As of March 26, 2020, this \$2,000.00 default civil penalty remains outstanding for the 3rd NOV (dated September 1, 2018).⁶⁸ The crash occurred on October 6, 2018. See table 3 below for the history of interactions between Hasy, Prestige and Saratoga with the NYSDOT.

Table 3. Summary of Interactions involving NYSDOT and/or Hasy, Saratoga, and Prestige.

Date	Involved Party	Activity or Correspondence
August 6, 2014 ⁶⁹	Hasy Limousine ^a	Saratoga County Clerk’s Office <i>Certificate of Conducting Business Under Assumed Name</i> issued to Hasy Limousine (application had been submitted by Shahed Hussain).
May 18, 2016	Hasy Limousine ^b	Application for NYSDOT Emergency Temporary Authority (ETA) to transport passengers for prom season (under Hasy Limousine and Prestige Limousine). Application lists 2002 Ford Excursion stretch limousine with a seating capacity of 21 passengers.
May 20, 2016	NYSDOT to Hasy Limousine	NYSDOT letter denial of application for ETA. Denial due to failure to meet requirements for an ETA. Denial also states incomplete application submitted and failure to list either Hasy or Prestige as the sole operator (not both receiving the ETA).
May 24, 2016	Prestige Limousine	Application submitted to NYSDOT for ETA to transport passengers for prom season. Application lists 2002 Ford Excursion stretch limousine with a seating capacity of 21 passengers that had been listed on the May 18, 2016 application.
May 26, 2016	Hasy Limousine	Re-application for NYSDOT ETA to transport passengers for prom season. Includes copy of a contract for transportation to perform transportation in June 2016 (contract dated March 28, 2016.) Application lists 2002 Ford Excursion stretch limousine with a seating capacity of 21 passengers.

⁶⁷ FMCSR 383 requires a driver of a bus that is designed to transport 16 or more persons, or that has a GVWR of 26,001 pounds or more, is required to obtain a CDL in the applicable class with a passenger endorsement.

⁶⁸ See Motor Carrier Attachment- Notice to Appear NOV Issued September 1, 2018 dated September 11, 2018.

⁶⁹ This was with the Saratoga County Clerk’s office. The DBA certificate is required by the NYSDOT when an applicant is applying for operating authority.

		*No further action by NYSDOT after the denial letter sent to determine whether Hasy or Prestige had operated without authority to fulfill the June 2016 contract after the ETA denial issued.
June 6, 2016	NYSDOT to Shahed Hussain dba Prestige Limousine	NYSDOT sends written letter to Shahed Hussain dba Prestige Limousine & Chauffer Service returning Prestige's application for NYSDOT operating authority. Letter does not state which type of operating authority had been applied for.
June 8, 2017	NYSDOT	According to NYSDOT Intermodal Transportation Specialist deposition post-crash, the inspector observed the 18-passenger accident stretch limousine (2001 Ford Excursion) with a registration 29056LV parked outside Mavis Tire in Saratoga Springs, NY. The inspector recognized that due to the vehicle size, it would have required a NYSDOT authority to operate. The Inspector checked the NYSDMV database and the registration listed the vehicle as only 11-passenger seating capacity. The inspector also found that the NYSDOT had inspected the vehicle previously and listed as 18-passenger vehicle. Further online checks showed a public email for HasyLimousine@yahoo.com. The inspector also noticed the vehicle had a livery license plate that would normally indicate the vehicle would transport passenger for hire (requiring operating authority). The NYSDOT Intermodal Transportation Specialist then contacted Hasy via email on June 9, 2017 (see below) regarding their operating authority.
June 9, 2017	NYSDOT to Hasy / Prestige Limousine	Email from an NYSDOT Intermodal Transportation Specialist titled "Warning-No Authority". In email, NYSDOT specialist explains requirements to obtain NYSDOT operating authority. The Email also stated that a drug and alcohol testing program was required. Email also specifically discusses error between current 2001 Ford Excursion (accident vehicle) stretch limousine vehicle registration seating capacity reported as 11 while previous NYSDOT vehicle records show this vehicle had a seating capacity of 18.
June 26, 2017	NYSDOT Internal	Above email dated June 9 th from NYSDOT to Hasy was forwarded internally (within NYSDOT) from Intermodal Transportation Specialist to NYSDOT Supervising Motor Carrier Investigator. The inspector also checked the NYSDOT database and found Hasy had still not applied for NYSDOT authority to transport passengers in New York.
July 24, 2017	NYSDOT to Hasy Limousine	Hasy Limousine received email from NYSDOT investigator (undercover) to arrange transportation from Rotterdam, New York to the Albany Airport for 8 passengers. Hasy Limousine provided the NYSDOT a quote of \$175.00 plus tip.
August 15, 2017	NYSDOT to Hasy Limousine	As a result of the July 24, 2017 email from NYSDOT to Hasy with Hasy acceptance to transport passenger from Rotterdam, NY to the Albany Airport, NYSDOT issued Hasy Limousine a Notice of Violation and cited Transportation Law 152, Passenger Authority/None as violation. Hasy was fined \$5,000.00 for this violation. Specific to: Notice of Violation #1 (NYSDOT violation #F-10138)
September 14, 2017	NYSDOT to Hasy Limousine	NYSDOT sent a letter for <i>Notice to Appear</i> in court for a hearing on October 6, 2017 to Hasy in response to NOV issued on August 15, 2017. Notice of Violation #1 (NYSDOT violation #F-10138 issue to "Hazy Properties LLC".)
October 6, 2017	NYSDOT to Hasy Limousine	Hasy did not appear at the court hearing. As a result of failure to appear, the NYSDOT requested the respondent be found guilty and an order issued for total penalty amount. The Administrative Law Judge agreed and ordered it. NYSDOT then sent an Order After Hearing Default Notice to Hasy specific to: Notice of Violation #1 (NYSDOT NOV #10138)
January 5, 2018	NYSDOT	According to NYSDOT Intermodal Transportation Specialist deposition post-crash, the inspector checked the internet to search for any operators transporting passengers without authority. The inspector

		found Saratoga Luxury Limousines and shown on Facebook was a photograph of the accident vehicle, the 2001 Ford Excursion available for transporting passengers with the same license plate observed on June 8, 2017 on the accident vehicle at Mavis Tire. The inspector contacted Saratoga at the email address info@saratogaluxurylimo.com . The inspector received a response from Saratoga with a quote to transport 13 passengers for 5 hours with a quoted contract price.
January 8, 2018	NYSDOT to Hasy Limousine	<p>NYSDOT Intermodal Transportation Specialist issued Saratoga a Notice of Violation and cited Transportation Law 152, Passenger Authority/None as violation for this email quoted contract to transport passengers. Saratoga (specifically Shahed Hussain as registered owner of the vehicle) was fined \$500.00 for this violation. Specific to: Notice of Violation #2 (NYSDOT violation #F-08320)</p> <p>NYSDOT then called the phone number listed for Saratoga, asked for Mr. Shahed Hussain, and the person who answered the phone affirmed he was Shahed Hussain (it was reported Shahed Hussain was not residing in the United States at the time). NYSDOT notified the person who answered the phone that Notice of Violation #2 (NYSDOT #F-08320) had been issued. The Saratoga representative (who affirmed he was Shahed Hussain) confirmed that the license plate 29056LV was the license plate for the vehicle.</p> <p>The inspector then confirmed an appointment for NYSDOT to inspect the accident vehicle - 2001 Ford Excursion stretch limousine for January 12, 2018. This was then confirmed by email from NYSDOT to Saratoga. Specific to: Notice of Violation #2 (NYSDOT violation #F-08320)</p>
January 12, 2018	NYSDOT to Hasy Limousine	NYSDOT Intermodal Transportation Specialist emailed Hasy Limousine (although contact to Saratoga had been made on January 8 th originally) to confirm 12:00pm appointment to inspect 2001 Ford Excursion (accident limousine) based on the Notice of Violation #2 issued to Shahed Hussain for Saratoga. Email response from Saratoga Limousine explained the 2001 Ford Excursion stretch limousine (accident vehicle) has been sent to Mavis Discount Tire in Saratoga Springs, NY for repairs. The NYSDOT vehicle safety inspection was then cancelled for January 12 th (cannot conduct a NYSDOT roadside inspection while a vehicle is under repair).
February 21, 2018	NYSDOT to Hasy Limousine	Four months after Hasy fails to appear at the hearing on October 6, 2017 for NSDOT Notice of Violation #1 (#F-10138) , NYSDOT sends Hasy Limousine a letter "offer of settlement" and an adjourned hearing date set for March 6, 2018 for Notice of Violation #1 (NYSDOT NOV #F-10138 -issued August 15, 2017). The offer of settlement reduced the penalty for operating without authority from \$5,000.00 to a proposed settlement of a fine of \$500.00 and a guilty plea.
March 6, 2018	Prestige Limousine	Date of adjourned hearing for NYSDOT Notice of Violation #1 (NYSDOT #F-10138) . Hasy paid the reduced settlement fine of \$500.00 to settle Notice of Violation #1 . Court records do not indicate whether the adjourned hearing was held.
March 15, 2018	NYSDOT to Hasy Limousine	NYSDOT Intermodal Transportation Specialist email sent to Shahed Hussain to confirm NYSDOT inspection of 2001 stretch limo (accident vehicle) on March 21, 2018 at 12:00pm. Email includes request that Hasy Limousine make available the other 2 stretch limousines (two 2008 Lincoln Limousines registered to Hasy) for NYSDOT inspection. This email included instructions to Hasy on how to apply for NYSDOT operating authority as required by law.
March 21, 2018	NYSDOT to Hasy Limousine	Intermodal Transportation Specialist performed NYSDOT roadside inspection on 2001 Ford Excursion (accident vehicle) stretch limousine and one of the two 2008 Lincoln stretch limousines. Four Out-of-Service (OOS) violations reported on the 2001 Ford Excursion stretch limousine (accident vehicle) and 10 non-OOS violations including for the carrier as operating without authority (see vehicle inspection history in section

		<p>2.0 above). 2001 Ford Excursion stretch limousine (accident vehicle) placed Out-of-Service with OOS sticker affixed to vehicle by NYSDOT.</p> <p>Also, on March 21, NYSDOT sends email to Hasy Limousine with copies of vehicle inspection reports with explanation that all vehicle repairs required to be performed before vehicles can be used in for-hire service.</p> <p>NYSDOT email also reminds the carrier of the outstanding Notice of Violation #2 (NYSDOT #F-08320) issued on January 8, 2018 for operating without authority and that Hasy Limousine is required to obtain an active USDOT number from the FMCSA per NY state law.</p>
April 12, 2018	NYSDOT to Mr. Shahed Hussain	NYSDOT send <i>A Notice to Appear</i> to Mr. Shahed Hussain for the Notice of Violation #2 (NYSDOT NOV #F-08320) issued January 8, 2018 for operating without NYSDOT-issued operating authority. The notice includes a notice of the penalty civil fine of \$500 for the violation.
May 3, 2018	NYSDOT to Shahed Hussain dba Prestige Limousine	NYSDOT sends single letter addressed to Hasy Limousine, Saratoga Luxury Limousine, and Prestige Limousine & Chauffeur Service returning Prestige's RA 52-1 application for NYSDOT operating authority.
May 4, 2018	NYSDOT public hearing for NOV #F-08320	Shahed Hussain failed to appear at public hearing in front of Administrative Law Judge, NYSDOT requested default judgment against Shahed Hussain for \$500 penalty for violation #F-08320 "Operating Without Passenger NYSDOT Authority" issued for Mr. Shahed Hussain offering a 22-passenger limousine for a trip for compensation through email on January 5, 2018 for price of \$695 for a 5-hour trip. NYSDOT asked for entry of an order against Shahed Hussain for \$500 and Administrative Law Judge ordered the entry.
August 2, 2018	NYSDOT to Hasy Limousine	NYSDOT Intermodal Transportation Specialist email sent as follow-up to a verbal conversation that NYSDOT Notice of Violation #2 (#F-08320) was still outstanding. NYSDOT inspector advised for company to become compliant with NYSDOT operating regulations, including applying for active FMCSA USDOT number as required. Inspector's email provided guidance to apply online with the FMCSA.
August 26, 2018	NYSDOT internal	NYSDOT Intermodal Transportation Specialist received information that another NYSDOT inspector had come into contact with the accident stretch vehicle, the 2001 Ford Excursion, that now had a new license plate (new license plate was TOGALUX1, old license plate was 29056LV) and the carrier registered for the vehicle was Nauman Hussain.
August 27, 2018	NYSDOT to Hasy Limousine	NYSDOT Intermodal Transportation Specialist called and spoke with a representative who identified himself as Shahed Hussain. The NYSDOT inspector scheduled a NYSDOT roadside inspection for the 2001 Ford Excursion limousine (accident vehicle) for September 4, 2018 at 10a. He then sent an email to confirm the appointment and received an affirmative response.
August 29, 2018	Prestige Limousine ^d	<p>Prestige applies online with FMCSA for a USDOT number as an authorized for hire intrastate passenger carrier (this is form MCS-150 with the reason for filing listed as "new application". The application uses the legal business name as "Prestige Limousine & Chauffeur Service" and the doing business name (dba) as "Saratoga Luxury Limousine/Hasy Limousine". Application is for for-hire motor carrier of passengers in charter & special operations and regular route operations. Application reports vehicles to be operated as "8 non-CMV's" to transport passengers but only reports 4 vehicles owned that can transport 8 passengers including the driver. Prestige is issued USDOT number 03180110.⁷⁰</p> <p>After applying for a USDOT number, Prestige then filed (on 8/29/2018) another MCS-150 form, this time stating the reason for filing as "biennial update or change". The "updated" MCS-150 form reported 3 passenger-</p>

⁷⁰This interaction by Prestige and FMCSA was part of the requirement to obtain New York operating authority.

		carrying vehicles had been operated in 2017 for a total of 3,500 miles. Three vehicles listed were (1) limousine with seating capacity of 16+ passenger (including the driver) and (2) limousines with seating capacity of 9-15 passengers (including driver).
September 1, 2018	NYSDOT to Nauman Hussain ^e	NYSDOT issued a Notice of Violation #3 (NYSDOT #F-08858) for 4 violations of the NYSDOT regulations with a fine of \$2,000.
September 4, 2018	NYSDOT to Prestige/Hasy Limousine	<p>NYSDOT Intermodal Transportation Specialist arrives at Saratoga Springs vehicle storage lot and meets with Nauman Hussain who had first introduced himself as Shahed Hussain. Then he stated Shahed was his father even though previously he had met in person with the same NYSDOT Intermodal Transportation Specialist and identified himself as being Shahed. Nauman then identified the company as being Prestige (to which the accident stretch limousine, the 2001 Ford Excursion) was registered to. That Prestige was a sole proprietorship company doing business as Prestige as applied for by Shahed but that he (Nauman) had authority to act for Shahed Hussain.</p> <p>NYSDOT Intermodal Transportation Specialist performed the NYSDOT roadside inspection on two 2008 Ford stretch limousines (license plate TOGALUX2 and 31905LV) and found a total of 3 OOS violations and 11 non-OOS violations. A NYSDOT inspection was also performed on the 2001 Ford Excursion stretch limousine with the license plate TOGALUX1. The inspection report lists 3 Out-of-Service (OOS) violations and 10 non-OOS violations. This report also lists that the defects from the earlier inspection on March 21, 2018 had not been corrected and no evidence was produced by Prestige that the repairs had been completed as required. The NYSDOT Intermodal Transportation Specialist again placed an OOS sticker on the accident stretch limousine.</p> <p>Three vehicle inspection reports were discussed with Nauman Hussain in person and also sent by email from NYSDOT Intermodal Transportation Specialist to Hasy Limousine. Email explains the violations found, and requests documentation from Hasy Limousine that repairs to address the March 21, 2018 OOS violations were completed. Email also states that NYSDOT will again send information on how Hasy Limousine can become compliance with the NYSDOT regulations as a commercial motor carrier company.</p>
September 6, 2018	NYSDOT to Prestige/ Hasy Limousine	<p>NYSDOT Intermodal Transportation Specialist emailed Prestige that because the Notice of Violation #2 (NYSDOT #F-08320) had not yet been addressed by Prestige, that Prestige/Hasy Limousine's NYSDMV vehicle registrations would be suspended.</p> <p>A second email the same day was sent to Prestige with a copy of the NYSDOT Passenger Carrier Informational Packet (published April 2016) as follow-up from email sent September 4th about how to become complaint with NYSDOT regulations.</p>
September 11, 2018	NYSDOT to Nauman Hussain ^f	NYSDOT sends Notice to Appear to Nauman Hussain regarding Notice of Violation #3 (NYSDOT #F-08858) -issued September 1, 2018) with a hearing date of October 5, 2018
September 11, 2018	NYSDOT to Prestige	NYSDOT Intermodal Transportation Specialist sent 4 separate emails to Prestige between the dates of September 11 and October 1, 2018 regarding the Prestige improper registration with the FMCSA for Prestige's USDOT number. See September 19 and 20, 2018 emails sent by NYSDOT below.
September 17, 2018	NYSDOT	NYSDOT through NYSDMV suspends Prestige Limousine's vehicle registrations for failure to address the Notice of Violation #2 (NYSDOT #F-08320) - issued January 8, 2018).
September 19, 2018	NYSDOT to Nauman Hussain	Responding to a September 18, 2019 email from Mr. Nauman Hussain, NYSDOT Intermodal Transportation Specialist provided instructions on how to correct the MCS-150 form filed with FMCSA.

		By email, the NYSDOT Intermodal Transportation Specialist also requested from Mr. Hussain required drug and alcohol testing records and copies of the Saratoga County Clerk's Office form <i>Certificate of Doing Business Under Assumed Name</i> filings for Saratoga Luxury Limousine and Prestige Limousine & Chauffeur Service. The request was for the copies of all records to be provided to the NYSDOT by September 21, 2018. No records were furnished.
September 19, 2018	Prestige Limousine and NYSDMV	Prestige paid the \$500.00 fine for Notice of Violation #2 (NYSDOT #F-08320) - issued January 8, 2018). NYSDMV lifted the suspended vehicle registrations and reinstated them after payment was made.
September 20, 2018	NYSDOT to Hasy Limousine	NYSDOT employee sends Mr. Hussain an email with a screenshot of the FMCSA MCS-150 form correction and that it had been updated in the FMCSA's Motor Carrier Management Information System (MCMIS). The NYSDOT Intermodal Transportation Specialist was included in this email correspondence.
October 1, 2018	NYSDOT to Mr. Nauman Hussain	NYSDOT Intermodal Transportation Specialist emailed Mr. Nauman Hussain stating he had not yet received the documents NYSDOT requested in the September 19, 2018 email (drug and alcohol testing records and Saratoga County DBA forms for Prestige).
October 5, 2018	Hasy Limousine	Mr. Nauman Hussain fails to appear for hearing set for October 5, 2018 for the Notice of Violation #3 that NYSDOT issued on September 1, 2018. Crash occurred on October 6, 2018. The Notice of Violation #3 (NYSDOT #F-08858) has not been closed out with NYSDOT as of April 2, 2020.
October 6, 2018	Prestige Limousine	Crash occurs in Schoharie, NY involving the 2001 Ford Excursion stretch limousine registered to Prestige.
a, e, f Nauman Hussain applies for <i>Certificate of Conducting Business Under Assumed Name</i> issued to operate as Hasy Limousine.		
b Hasy Limousine ETA application states Nauman Hussain as owning 100% of the company. Shahed Hussain is listed as manager but owning 0% of company.		
c, d Prestige ETA application reports Shahed Hussain as owning 100% of company. Nauman Hussain is not listed.		
According to the NYSDOT Intermodal Transportation Specialist, most of the email correspondence sent to the carrier was emailed to hasylimousine@yahoo.com. All responding emails contained a signature line with an email address of info@saratogaluxurylimo.com . On September 19, 2018, the signature line changed to only a telephone number for Hasy Limousine.		

3.0 The Accident Driver

The driver of the Ford Excursion stretch limousine involved in the Schoharie crash on October 6, 2018 (hereinafter “the Prestige driver”) was a 53-year-old male. The Prestige driver had a class A New York commercial driver’s license (CDL) with Tank and Doubles/Triples endorsements and a Corrective Lenses (must be worn) restriction. The Prestige driver did not have a passenger endorsement on his CDL.⁷¹ The CDL was issued in May 2018 and was due to expire in May 2026. The driver had worked for Prestige since 2017. The driver held a class A CDL since 1991. Prestige company records were unavailable to NTSB investigators for review (as of March

⁷¹ See Motor Carrier Attachment – Prestige Driver’s CDLIS Report.

24, 2020) due to Prestige's attorney who refused to turn over company documents, including the Prestige accident driver's qualification (DQ) file. Prior to operating limousines for Prestige, he drove dump trucks for a paving company.

NTSB investigators located the Prestige driver's United States Department of Transportation (USDOT) Driver Physical Examination card at the CME office where it was performed. The card reported the Prestige driver had been examined on September 6, 2017 by an advanced practice nurse listed in the FMCSA's Certified Medical Examiner (CME) registry and he was issued a two-year medical certificate. The Prestige driver's medical certificate and examination information was shown in his Commercial Driver License Information System (CDLIS) report as well as in his New York Department of Motor Vehicles (NYSDMV) driving record.⁷²

3.1 Prestige Driver's Driving Record

The Prestige driver's CDLIS report did not list any violations. The CDLIS report listed one accident in New York on November 11, 2015 but did not indicate if the accident driver was operating a commercial motor vehicle (CMV).

The NYDMV report for the November 11, 2015 crash reported the Prestige driver as operating a private vehicle. The same NYSDMV abstract report for the accident driver listed two citations. The first citation for \$27.00 fine was issued on March 2, 2018 in Albany County for operating an uninspected vehicle (a personal vehicle, not a commercial motor vehicle). The second citation with a \$37.00 fine was issued on May 12, 2018 in Saratoga County for operating an unregistered vehicle (a personal vehicle, not a commercial motor vehicle). Neither citation in the NYSDMV report stated whether the vehicle was a CMV. The Prestige driver's failure to pay the fine for operating an unregistered vehicle on May 12, 2018 resulted in his license being suspended/withdrawn on September 6, 2018. The driver paid the fine and his license was reinstated on September 7, 2018.⁷³

⁷² For additional medical information on the Prestige driver, please see the Human Performance Factual Report in the public docket for this investigation HWY19MH001.

⁷³ A withdrawal is when the state withdraws the driving privileges of a license holder for violations or failure to pay fines. See Motor Carrier Attachment – New York DMV Abstract Report.

The driver did not have a passenger endorsement which is required to operate the accident vehicle because it has a seating capacity of 15 or more. Holding a passenger endorsement under New York Vehicle and Traffic Law requires the driver to be subject to Article 19-A, Section 509a of the New York State Vehicle and Traffic Law. Details of these regulations are discussed in section 3.2.7.⁷⁴

3.2 Prestige Driver's Roadside Inspection History

While employed by Prestige, the accident driver was subject to one roadside inspection on August 25, 2018. The Level Three (driver-only) inspection was conducted by the New York State Police at the parking location Prestige maintained in Saratoga Springs, New York. This location was not the Principal Place of Business (PPOB) for Prestige, it was a parking lot where Prestige kept the limousine vehicles they operated. The driver received one violation for "operating a passenger vehicle without a passenger endorsement" on his CDL, which was an Out-Of-Service (OOS) violation.⁷⁵ Prestige was cited for two non-OOS violations: (1) failing to file for MCS-150 as required and (2) failure to display Prestige's name and USDOT Number as required.

3.3 Prestige Driver's Drug and Alcohol Testing

Prestige company records were unavailable to NTSB investigators for review (as of March 24, 2020) due to Prestige's attorney who refused to turn over company documents. This included any documentation regarding drug or alcohol testing by Prestige as required by the FMCSRs and NYSDOT. NTSB investigators interviewed the Prestige driver's previous employer (local paving company). The paving company owner stated he did not have any drug testing records for the Prestige driver while he was employed by the paving company (on a part-time basis in 2017).

3.4 Prestige Driver's Hours of Service

NTSB investigators interviewed the Prestige driver's wife who stated he had also worked as an Uber driver for about three months in 2018 before the crash occurred. In the days before the crash, she stated he worked on October 3, 4, and 5. NTSB obtained records from Uber that also

⁷⁴ See State of New York oversight in section 1.0 of this report for further information.

⁷⁵ The Prestige driver received two inspections in 2017 while employed by a dump truck carrier. These inspections did not list any driver violations, only equipment violations.

document the Prestige driver worked for Uber on October 3,4 and 5.⁷⁶ Using information obtained from an interview with the Prestige driver’s spouse, along with records obtained during the investigation from Uber, the following table of the driver’s hours of work in the days prior to the crash was developed.

Table 4. Prestige Driver’s Work Schedule as an Uber Driver in 2018

Date	Times worked	Source	Total Hours
October 5, 2018	Driving: Uber: Approx. 5 Hours	Interview w/ Wife Uber Records	Approx. 5 Hours
October 4, 2018	Driving: Uber: Approx. 5 Hours	Interview w/Wife Uber Records	Approx. 5 Hours.
October 3, 2018	Driving: Uber: Approx. 3 hours	Uber Records	Approx. 3 Hours
October 2, 2018	None	Uber Records	None
October 1, 2018	None	Uber Records	None
September 30, 2018	None	Uber Records	None
September 29, 2018	None	Uber Records	None

3.5 Accident Trip

On the day of the crash, Prestige was hired to take a group of passengers from Amsterdam, New York to Cooperstown, New York, with additional stops to follow. According to Prestige’s representative (Nauman Hussain) in a statement to law enforcement, he received an inquiry phone call about 9:00 a.m. on October 6 for the availability of a limousine and driver for hire. (The caller was one of the limousine passengers fatally injured in the crash.) According to the Prestige representative, the caller stated he had a reservation with a different company for the trip; however, that limousine had “problems”.⁷⁷ He (the caller) had contacted at least 2 other limousine companies that morning; however, one did not have any available vehicles and the other had quoted him a price of \$795.00 but he had not heard back from the booking party. The Prestige representative reached an agreement on the fee with the caller and he booked the limousine for the October 6th trip for the group from 1 p.m. to 6 p.m.⁷⁸ Then the Prestige representative called the accident driver to see if he was available to drive the group charter. The Prestige representative then reported he texted the details to the accident driver.

⁷⁶ Records from Uber received on March 21, 2019.

⁷⁷ The original carrier contacted was Charlton Limousine of Saratoga. They refunded the deposit for the trip two days before the accident trip date of October 6, 2018.

⁷⁸ See Human Performance Group Chairman Report Attachment- NYSP Interviews in the public docket for this investigation HWY19MH001.

3.6 New York Driver Oversight Under Article 19-A

The state of New York has oversight of all New York licensed drivers that operate passenger vehicles. This applies to intra and interstate drivers in commercial passenger transportation operations.⁷⁹ For vehicles considered to be buses (over 15 passengers per NYSDMV and over 10 passengers per NYSDOT), bus drivers are not allowed to operate a bus for a motor carrier unless they are qualified according to Article 19-A and Part 6 of the Commissioner's Rules and Regulations. Motor carriers must verify that their drivers comply with Article 19-A requirements, including completion of pre-employment and biennial medical examinations and any required medical follow-ups. Motor carriers also must:

- submit pre-employment and annual driver license abstracts
- submit fingerprints of school bus drivers for a DCJS & FBI criminal history review
- complete of annual defensive driving observations
- complete of biennial road tests
- complete of biennial oral/written tests

Motor carriers must review the driving records of their Article 19-A drivers annually and file an affidavit of Article 19-A compliance with the NYSDMV no later than July 1 each year. Motor carriers must attest to compliance with the regulation. Passenger motor carriers are required to provide a complete updated list of active drivers, so those drivers can be properly monitored.

Prestige did not register its drivers with the state of New York as required under the Article 19-A program, including the accident driver. In addition, the accident driver was not qualified to operate the vehicle because he did not have a passenger endorsement on his CDL

4.0 New York Regulations Enacted as a Result of the Schoharie Crash

The New York state legislature and the Governor of New York proposed new laws because of the Schoharie, New York crash that occurred on October 6, 2018. These new laws were added to the state of New York 2020 budget and were adopted on April 12, 2019. The provisions take effect in 2020.⁸⁰

⁷⁹ See Motor Carrier Attachment – Article 19-A Information Packet published by NYSDMV.

⁸⁰ See Motor Carrier Attachment – New York State Budget Page 4 and Pages 97 to 108 Part III.

The new laws include but are not limited to the following:

- A prohibition on stretch limousines making U-turns.
- Creates a new Class E felony for knowingly operating a limousine with a suspended vehicle registration in a manner that causes a death.
- Increases civil penalties, including fines, for operating without NYSDOT authority or violating NYSDOT safety regulations.
- New laws also give the New York State Police and NYSDOT clearer authority to confiscate license plates when limousines are out of compliance.
- Authorize NYSDOT to immobilize or impound an altered vehicle for an out of service defect.
- Gives the NYSDMV authority to revoke vehicle registrations for limousines that do not meet Federal Motor Vehicle Safety Standards as determined by the National Highway Traffic Safety Administration.
- Requires state-certified inspection stations to report if a limousine that requires NYSDOT inspection seeks a NYSDMV inspection instead, with a possible penalty of having the inspection station's certification suspended if it doesn't report incident.
- Creating a \$85.00 NYSDOT inspection fee for any NYSDOT Inspection. Due to the amended New York State Transportation Law ([Section 144](#)), beginning October 1, 2019, an inspection fee of \$85.00 per vehicle will be applied to all charter, contract or common carrier services providing commercial passenger services unless specifically exempted. The fee will be applied for initial, semi- annual and re-inspections. NYSDOT will be sending invoices to carriers on a periodic basis beginning January 1, 2020.⁸¹

The NYSDMV in August 2019 introduced new registration forms to be used to register vehicles in New York. The new form, MV-82, has two pages and includes clearly marked sections on vehicle modifications and certifications. An additional form, MV-82 NPSUP, is required to be filled out if the vehicle is used in a for hire operation.⁸²

D. DOCKET MATERIAL

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

⁸¹ Information taken from <https://www.dot.ny.gov/divisions/operating/osss/bus#>.

⁸² See Motor Carrier Attachment - NYSDMV MV-82 and MV-82 NP Supplemental Information forms.

LIST OF ATTACHMENTS

- Motor Carrier Attachment - NYSDOT Application for Authority to Transport Passengers Form RA 51-2 Blank Example
- Motor Carrier Attachment - DBA Certificate for Hasy Limousine Filed with Saratoga County Clerk dated August 6, 2014 and Saratoga Luxury Limousine dated September 7, 2016
- Motor Carrier Attachment - Prestige MCS-150 Original Application for USDOT number and MCS-150 Biennial Update both filed on August 29, 2018.
- Motor Carrier Attachment - NYSDOT Documentation of ETA Application Letters dated May 20, 2016, May 26, 2016, June 6, 2016, and May 3, 2018.
- Motor Carrier Attachment - NYSDOT February 2011 Stretch - Modified Vehicle Policy
- Motor Carrier Attachment - Exemptions from Authority, Page Four Passenger Carrier's Guide for Administrative Compliance Section 1.2 dated December 1, 2017
- Motor Carrier Attachment - Wilton Inspection from July 22, 2016.
- Motor Carrier Attachment - Mavis Inspection and Decal from May 11, 2018
- Motor Carrier Attachment - NYSDMV Inspection Excerpts from Part 79 Motor Vehicle Inspection.
- Motor Carrier Attachment - NYSDMV Inspection Groups and Fee Chart, Effective January 1, 2011
- Motor Carrier Attachment - Article 5 New York State Vehicle and Traffic Law
- Motor Carrier Attachment - 2016 Accident Stretch Limousine Vehicle Registration
- Motor Carrier Attachment - 2017 Accident Stretch Limousine Vehicle Registration
- Motor Carrier Attachment - 2018 Accident Stretch Limousine Vehicle Registration
- Motor Carrier Attachment - CVSA Inspection Definitions by Level
- Motor Carrier Attachment - Photo of NYSDOT 6-Month Inspection Decal Example

- Motor Carrier Attachment - NYSDOT July 2014, January 2015, and July 2015 inspections of accident stretch limousine while operated by RLS Limousines of the Capital District
- Motor Carrier Attachment - CVSA Inspection Program Procedures
- Motor Carrier Attachment - Notice to Appear NOV Issued August 15, 2017 dated September 14, 2017
- Motor Carrier Attachment - NYMC 35000868 Inspection Report dated March 21, 2018
- Motor Carrier Attachment - NYSPG 0017993 Inspection Report dated August 25, 2018
- Motor Carrier Attachment - NYMC 35000906 Inspection Report dated September 4, 2018
- Motor Carrier Attachment - NYSDOT Passenger Carrier Guidebook Section 2.12 dated December 1, 2017
- Motor Carrier Attachment - Notice to Appear NOV Issued January 8, 2018
- Motor Carrier Attachment - Notice to Appear NOV Issued September 1, 2018 dated September 11, 2018
- Motor Carrier Attachment- Prestige Driver's CDLIS Report
- Motor Carrier Attachment- New York DMV Abstract Report
- Motor Carrier Attachment - Article 19-A Information Packet published by NYDMV
- Motor Carrier Attachment - New York State Budget Page 4 and Pages 97-108 Part III
- Motor Carrier Attachment - NYSDMV MV-82 and MV-82 NP Supplemental Information forms

LIST OF PHOTOGRAPHS

- Motor Carrier Photo 1 - Photo of NYSDOT 6-Month Inspection Decal.

END OF REPORT

Michael LaPonte
 Motor Carrier Group Chairman