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**WRITTEN DECISION  
OF THE TRAFFIC COMMISSIONER  
FOR THE NORTH WEST OF ENGLAND**

**RYAN FLOWERS trading as SI-TEC SUPPLIES  
OC1138567**

In the matter of the  
Goods Vehicles (Licensing of Operators) Act 1995 (The Act)

Public Inquiry held at Golborne  
on 18 June 2018.

**Decision**

In accordance with findings under section 26 (1) (c) (iii), (f) and (h) of the Act, the latter in respect of both fitness and the availability of financial resources sufficient to maintain vehicles in fit and serviceable condition, I revoke this operator's licence with effect from 23:59 hours on 21 August 2018.

**Background**

1. Ryan Flowers, a sole trader, trading as Si-Tec Supplies, is the holder of a Restricted Goods Vehicle Operator's licence authorising the use of 3 vehicles: the licence was granted on 21 July 2015. The business is concerned with the sale of reclaimed building supplies from derelict sites.
2. This licence has had a relatively unremarkable previous history since its grant in July 2015. There had been a mostly satisfactory maintenance inspection in September 2016. An offence prohibition for a tachograph chart failure in December 2015 and a prohibition for overloading in February 2017 (27% on 2<sup>nd</sup> axle and 13% gross vehicle weight), together with a 60% MOT failure rate at first presentation contributed to Amber/Amber OCRS assessments.
3. This operator was called to this Public Inquiry following an incident on 24 January 2018 when a DVSA stopping officer sought to bring a large goods vehicle, which

the operator himself was driving, into a check site. I have seen the CCTV footage from the stopping vehicle (albeit without sound recording) and the same opportunity was afforded the operator before the Public Inquiry held on 18 June 2018.

### **The calling-in letter**

4. The calling-in letter raised prohibitions, breaches of undertakings and material change relevant to the fitness of the sole trader to hold the licence and the sufficiency of financial resources to keep vehicles in a fit and serviceable condition, as matters for consideration at the hearing.

### **The Hearing**

5. Ryan Flowers attended the hearing in company with his father, Stephen Flowers. The operator was unrepresented but ready to proceed with the hearing.
6. Three issues were pertinent to the consideration during the hearing.

#### **Actions of Ryan Flowers during the stopping of a large goods vehicle:**

7. For reasons that were never fully explained, Ryan Flowers had become angry at the request made of him to follow the DVSA vehicle to the check site, although it is claimed by him that the request was made in a less than courteous manner. He did not follow the instructions of the officer initially and I found that by his actions, he made it more difficult for DVSA to carry out its role. The officer's statement referred to him feeling intimidated by the actions of Mr Flowers. When, after further intervention Mr Flowers did eventually join the lane to follow the stopping vehicle, his driving of his vehicle became erratic by closing the gap between the vehicles at speed on more than one occasion, only to stop inches from the rear bumper of the DVSA vehicle. To his credit, Ryan Flowers accepted that he "lost his rag" in this fashion, that he acted "stupidly" and swore at the officer. He admitted the circumstances, and was regretful for his loss of control, yet sadly, no prior apology had been communicated to the party before the hearing. As it transpired, upon inspection of his vehicle at Chadderton, no issues of any concern were raised by DVSA.
8. Ryan Flowers does not hold professional vocational driving entitlement.

#### **The entity holding the licence and the provision of evidence of financial resources:**

9. As is commonplace, the operator was also required to produce evidence of his financial resources over the preceding 3 months with a view to satisfaction of the requirement to show ready access to £6500. To that end, the calling-in letter had sought the latest certified profit and loss account for the business, original bank statements for the last 3 months and details of any overdraft or loan arrangement facility.
10. My clerk prepared an initial calculation based on the evidence produced, which included bank statements in the name "Si-Tec Build". The calculation disclosed the average availability over a three-month period 27 February to 28 May 2018 of

[REDACTED]. This calculation took account of missing bank statements produced shortly after the hearing had concluded.

11. Closer inspection of the profit and loss account and balance sheet for the year ended 31 March 2017 revealed that the Si-Tec business was in fact owned by Stephen M Flowers, and not his son, Ryan. Further bank evidence showed that the bank account referred to above, was actually in the name of Stephen Flowers and could not be used in that form to meet the financial standing requirement.
12. It was pointed out to those present that it appeared that the entity which had been granted a licence and which operated vehicles, that is Ryan Flowers as a sole trader, had not been doing so. It appeared that any licence ought to have been granted to Stephen Flowers. Ryan Flowers admitted that at the time of application for the licence neither he nor his father had known what they needed to do. Ryan Flowers had however been advised that he needed to open a bank account at that time but that someone had stolen the cheque book and began to use it; a matter which he had reported to the police at that time. After money had been taken from that account, he said that he had stopped using it. Correspondence with the Central Licensing Office at Leeds in 2015 included references to it being reported by Ryan Flowers that he was taking over the family business from his father. It was pointed out to him then that he was required to satisfy financial standing *in his own name* and to that effect, he signed an undertaking on 6 July 2015 to provide evidence, which would cover the month of October 2015, to this office in November 2015. No such further evidence could be traced as having been supplied.
13. Ryan Flowers described himself as having sufficient monies personally to meet financial standing but could not explain why the issues with the bank account, which had been opened at the time of grant of the licence, had never been resolved. Ryan Flowers indicated that the plan remained that his father would retire and he would take over the business. By contrast, it was his father's evidence that in fact there was "no date on it (the retirement) yet" but that he was down to 3 days per week. Ryan Flowers was willing to open a bank account. On 21 June 2018, after the closure of the hearing, he produced evidence of a [REDACTED] account into which had been deposited £[REDACTED] those deposits coming from [REDACTED] and from his father's Si-Tec bank account.

Inspection of maintenance records produced:

14. The perusal of maintenance records produced at the hearing by the operator revealed stretched frequencies beyond the 56 day period set out in the licence undertakings as follows:
  - DX55 CFA - 59 days, 55 days and 56 days
  - DX04 MHM - 70 days, 85 days and 47 days.

**Findings and Consideration**

15. Having considered all of the evidence both written and oral, I made the following findings:
  - Ryan Flowers was culpable in respect of conduct wholly unbecoming of a licence holder during the incident with the DVSA stopping officer on 24

January 2018. It is evident that his actions made DVSA's job more difficult than it otherwise would have been and that through his wholly disproportionate and angry demeanour and actions, he will have increased the risk to other road users through his driving at that time. In this fashion he will have reduced his credibility with other staff in his employment to manage the proper expectations of them as drivers;

- I find that at the time of the original grant of this licence in 2015 that there had been concerns about the entity operating it. Advice was provided at that time which led to Ryan Flowers opening a bank account in his name and depositing a sum to meet initial financial resource requirements. For reasons that have not been disclosed the purported transfer of the business from his father at that time did not take place. I find that the reality is that the business of Stephen Flowers has been operating vehicles under this licence and that, as has been admitted, Ryan Flowers is simply an employee of that business. Of course, it is the case, that operator's licences may not be transferred between entities in this way. The operation of vehicles has been unlawful.

16. I am unable to conclude that the actions of Ryan Flowers amount to simple ignorance of the expectations of a restricted licence holder. The circumstances, as evidenced in the correspondence at the time of grant of the licence, demonstrate that he was placed on notice that it was necessary that – as operator – he held the licence and that monies were held in his name. He is culpable for the state of affairs in which vehicles have been operated unlawfully for a period now close to 3 years. He has closed his eyes to the reality of the circumstances in which he has found himself. On the face of it, the opening of a bank account then and the deposit of monies would seem only to have been window dressing for the purposes of the grant.

17. Whilst some steps have been taken by the licence holder to put right that which has been unlawful through the opening of his own bank account, I am not satisfied that it would be possible that these failures be cured by the taking of such steps after such an interval. Furthermore, I am not satisfied from the evidence before me that Stephen Flowers is yet ready to transfer his business to his son. It seems to me that it is entirely necessary and proportionate to revoke this operator's licence. It follows that if future operation of vehicles is desired, to require this business to seek to obtain a new authority, in the form of an entity that will both operate the licence and hold monies.

18. For the record, I set out that this revocation also takes effect because of the findings I have made about the DVSA stop check, the offence prohibition and a failure to ensure that maintenance inspections are carried out in timely manner.

## **Decision**

19. In accordance with findings under section 26 (1) (c) (iii), (f) and (h) of the Act, the latter in respect of both fitness and the availability of financial resources sufficient to maintain vehicles in fit and serviceable condition, I revoke this operator's licence with effect from 23:59 hours on 21 August 2018.

20. Whether any further licence should be sought in the form of a limited company or a partnership with his father is a matter for Messrs. Flowers to resolve. The hot-headed conduct of Ryan Flowers evidenced in the wholly improper actions at the time of the stop of themselves point to the likely need for him to hold any future

licence alongside a more experienced and mature individual. As a minimum, it would also be necessary that the individuals be required to attend a suitable operator's licence awareness training course at their own expense. What will be clear is that if a hiatus is to be avoided during which no operator's licence is in force, the operator will have to proceed with speed to the process a fully compliant application.

A handwritten signature in black ink, appearing to read 'Simon Evans', with a horizontal line underneath the name.

*Simon Evans*  
Traffic Commissioner  
for the North West of England  
27 June 2018