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**WRITTEN CONFIRMATION OF AN ORAL DECISION
OF THE TRAFFIC COMMISSIONER
FOR THE NORTH WEST OF ENGLAND**

**AJG Logistics Ltd
OC2004113**

**Ellwood Transport
OB2006317**

**LNH Transport Services Limited
OC2008771**

**Stuart Murphy
Transport Manager**

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

Public Inquiry at Golborne
on 18 April 2018.

Decisions:

AJG Logistics Ltd

- I revoke this operator's licence with immediate effect.
- I make my direction under S.27 (1) (a) lack of repute, absence of financial standing and lack of professional competence, and S.26 (1) (h) material change.
- I shall consider whether, and for how, long Stuart Murphy should be disqualified from holding or obtaining an operator's licence at a hearing on 30 April 2018 at 10.00am.

Ellwood Transport Ltd

- I adjourn consideration of the appropriate direction, which might be made against this operator until 30 April 2018 at 10.00am.

LNH Transport Services Ltd

- The application is refused.
- I make my decision under S.13A (2) (b) lack of repute, (c) absence of financial standing and (d) lack of professional competence.

Stuart Murphy as Transport Manager

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- I find that Stuart Murphy's repute as a transport manager is forfeit. I shall consider for how long Stuart Murphy should be disqualified from acting as such at a hearing on 30 April 2018 at 10.00am.

Background

1. **AJG Logistics Limited (OC2004113)** (hereafter AJG) is the holder of a Standard National Goods Vehicle Operator's Licence for 2 vehicles, granted on 28 September 2017. Stuart Murphy replaced Gillian Murphy-Powell (née Hodson) as its sole director on 01 February 2018.
2. **Ellwood Transport (OB2006317)** (hereafter Ellwood) is the holder of a Standard National Goods Vehicle Operator's Licence for 4 vehicles and 3 trailers, granted on 28 September 2017. Its sole director is Martin Greenwood.
3. **LNH Transport Services Limited (OC2008771)** (hereafter LNH) is an applicant for a Standard National Goods Vehicle Operator's Licence for 2 vehicles and 1 trailer; the application was received on 22 November 2017. The sole director of that company is Nicole Cork.
4. The nominated transport manager for each of these licences was Stuart Murphy. He resigned as transport manager on the AJG Logistics Ltd licence on 05 February 2018.
5. Stuart Murphy is presently a transport manager on two further licences, Envirotec Site Services Limited (OB2005452) and Steptoe's Yard Ltd (OC1098453). These operators were not called to the Inquiry.

The calling-in to Public Inquiry

6. Each of these three operators (in paragraphs 1 – 3 above) and the transport manager, Stuart Murphy, were called before me at Public Inquiry at Golborne on 18 April 2018.
7. The circumstances leading to the calling-in for each of them arise from the provision of the evidence produced to meet the financial standing requirement:-
 - In the case of AJG, the licence had been granted with a finance undertaking requiring bank statements for July, August and September 2017 to be provided by 31 October 2017. Statements were provided only after a series of reminders on 16 February 2018. Those statements produced, covered the period 15 June to 14 September 2017;
 - In the case of Ellwood, the licence had been granted in September 2017, the operator had provided one month's worth of its bank statements purporting to be for the period 15 July 2017 to 10 August 2017;
 - In the case of the new application of LNH, the operator had provided one month's worth of its bank statements purporting to be for the period 15 November to 10 December 2017.
8. During the process of consideration of those applications by staff at the Central Licensing Office in Leeds, a member of staff noticed striking similarities in the financial documentation provided across these matters.
 - Each of the statements produced was for **{REDACTED}**;

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- In each case, two of the pages of entries were identical as far as the amounts into, and out of the account were concerned;
- Except for one line of narrative, each of the entries revealed exactly the same payers and payees on each statement day, in exactly the same order;
- In the case of the Ellwood bank statement the total values of each line (but not the individual transactions, had been inflated by £10,000;
- In the case of LNH, the months were no longer July to August but instead were November to December;
- The narrative entry on one line only was different in each case:

- In the case of AJG it read:

08 August online banking bill payment to Motion Graphix ref Austin James Group - £396.00

- In the case of Ellwood it read:

08 August online banking bill payment to Motion Graphix ref Ellwood Transport Lt (sic) - £396.00

- In the case of LNH it read:

08 December online banking bill payment to Motion Graphix ref LNH Transport Ltd - £396.00

The calling-in letters:

9. The calling-in letters for AJG and Ellwood referred to a material change relevant to each operator's good repute, financial standing and professional competence, each of which was brought into question. The repute of Stuart Murphy as Transport Manager was raised and he was called in to the hearing alongside the companies.
10. Before the hearing, an application was made by Nicole Cork to withdraw the application for LNH. In the light of the allegations about the presentation of a false bank statement, or forgery of such document, the application to withdraw was refused.
11. Stuart Murphy was in contact with my office in the week before the Public Inquiry when it was reiterated to him that directors of the companies and he should attend the Public Inquiry.
12. In the event, when the time for the start of the hearing had passed, only Stuart Murphy was present, in his capacity as recently appointed director of AJG, which had changed its name at Companies House to Austin James (Logistics) Ltd, and as transport manager for each company. His mother, who had been director of AJG at the material time, had decided not to attend the hearing.
13. Ellwood director, Martin Greenwood, was not present. An email referred to him being in Turkey for 10 days, apparently on holiday. Stuart Murphy contended that Mr Greenwood had not been served with papers calling him to the hearing, however the Post Office Track & Trace receipt showed the brief for the operator had been served and signed for at the company's correspondence address, which was recorded as that of Stuart Murphy's business. Mr Murphy told me that he had served a copy of the brief (which he had received as transport manager) on Mr Greenwood the day before he left for holiday. In these circumstances, I decided to proceed and to hear the case against Ellwood.

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14. LNH director, Nicole Cork, was Stuart Murphy's personal partner but from whom he is recently separated. An email thread between her and Stuart Murphy produced by him referred to her not attending the hearing as the company had "closed". I concluded she had voluntarily absented herself from the hearing, despite efforts by Stuart Murphy to obtain her attendance. In these circumstances, I decided to deal with the application in her absence.

15. I heard evidence from Stuart Murphy:

- i. He accepted that it was he that had filed with my office each of the bank statements in issue;
- ii. He told me that the AJG statement was legitimate and those produced for review at the hearing were exact photocopies of the originals produced;
- iii. He said that the statements produced for Ellwood transpired to be inaccurate but that he did not have that knowledge at the point they were submitted.;
- iv. He explained his belief that the impact of a system fault when he was exporting data from **{REDACTED}** Online to Excel at the time Mr Greenwood had purchased the company, by way of download had led to AJG data being listed on a bank statement of Ellwood, which, when it was printed off by him was presented. He said he had reported the matter to **{REDACTED}**, who said that such a discrepancy should not occur;
- v. He said he had not noticed that the data was that of AJG when it was submitted for Ellwood, and that it represented a "genuine mistake";
- vi. He said that the total balances, which had been inflated on the Ellwood statement were produced as the result the existence of a separate account holding such a sum being unaccountably added in to totals;
- vii. Asked about the change in the narrative for a single entry on both the statements of Ellwood and LNH, he was at a loss to explain them. When I offered that a possible explanation might be that someone had adjusted the entry to provide greater assurance to a reader that it was on an Ellwood (or LNH) bank statement – Mr Murphy said he could see why such a view might be taken – but that he was not dishonest;
- viii. He maintained that if the true Ellwood bank statement for the period had been provided that it *would have* shown a balance itself sufficient to meet financial standing; he had not however produced such a statement to me;
- ix. Further however, he went on to explain that sometime after the grant of the Ellwood licence, he came to appreciate that the mistake had been made by him in the submission of a false bank statement for it. He admitted that he knew he ought to have disclosed what he found out, but he had not. He could not explain why not;
- x. He was aware that his actions "put (his) repute into complete question"
- xi. Asked what the director of Ellwood, Mr Greenwood, had said when he reported the matter to him, he said he had not told him about his "wrongdoing". He felt his shame, disgust and inadequacy had stopped him. He said he had buried his head in the sand, although he had agonised about it constantly;
- xii. As regards the bank statement produced for LNH, *by contrast* he admitted this was deliberately amended by him at a time after he came to realise that the export facility on **{REDACTED}** Online allowed him to manipulate data;
- xiii. He described his "stupidity", "idiocy" and apologised for what he had done. He offered that monies sufficient to prove financial standing could have been in the bank account but they simply had not be transferred quickly enough at the time when the statement needed to be submitted.

16. I have concluded that I am satisfied on the evidence written and oral that in respect of Ellwood and LNH, evidence of financial standing that was false in a material particular, in

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that it did not in fact relate to those companies, was submitted by Stuart Murphy to the Office of the Traffic Commissioner. I find that licences were granted to those companies, which would not have been, if the truth were known.

17. In the case of LNH, the forgery by Stuart Murphy of a bank statement has been admitted.
18. In the case of Ellwood, on the balance of probabilities, I do not accept that the false statement was submitted by mistake. I reach that conclusion because, even if I were to believe that the export process of one of the UK's major banks was so faulty as to be capable of creating the discrepancy described, I find that clear manipulation has been made to one entry on 08 August 2017. I conclude that such a change will have been made by Mr Murphy to perpetuate the deception.
19. I conclude that the trust and confidence, which it is necessary that I have in Stuart Murphy as a licence holder or/and transport manager, has been entirely undermined such that I cannot be confident about future licence compliance. His conduct is criminal in nature. This is a bad case. It is plain that he should not be permitted to act as a director of a company holding an operator's licence. Nor to act as a transport manager, upon whom I would need to rely for continuous and effective management of operator's licences. His repute is lost.
20. I find this to be the case, even when I factor in the lack of previous concern about him of AJG, and a large level of openness and transparency within the hearing, albeit not in respect of every matter before me.

Decision

21. I therefore make the following directions:

AJG Transport Ltd

- I revoke this licence with immediate effect. No vehicle is presently in use under this licence;
- Whilst no false evidence would appear to have been produced to obtain this licence, it is tainted by the findings in respect of Ellwood and LNH, by the fact that Stuart Murphy used the bank statements of that company to deceive. It's director and transport manager are without repute;
- I make my direction under S.27(1)(a) lack of repute, absence of financial standing and lack of professional competence as well as S.26(1)(h) material change;
- I shall consider whether and for how long Stuart Murphy should be disqualified from holding or obtaining an operator's licence (as a director, partner or sole trader) at a hearing on 30 April 2018;
- I direct that any future application by Gillian Murphy-Powell (née Hodson) in any role be referred to a Traffic Commissioner. I do not find that disqualification of her is necessary or appropriate.

Ellwood Transport Ltd

- I am minded to adjourn consideration of the appropriate direction, which might be made in this case until Monday 30 April 2018 at 10.00am. The company's director, Martin Greenwood may not have a full understanding of the seriousness of the predicament, which his company faces, although his company was properly served.

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I record however that I am extremely disappointed at the director's failure to attend before his regulator. An effort will be made to serve this decision at his home address, although I am also aware that Stuart Murphy will be raising the matter with him also.

LNH Transport Services Ltd

- The application is refused;
- I reiterate the finding expressed by me before the Inquiry that allowing withdrawal of the application is inappropriate. False evidence was produced in support of the application for a licence by Stuart Murphy. Since she has chosen not to appear at the hearing I know nothing of the knowledge of the director in this regard;
- I make my decision under S.13A (2) (b) lack of repute, (c) absence of financial standing and (d) lack of professional competence;
- I direct that any future application by Nicole Cork in any role be referred to a Traffic Commissioner. I do not find that disqualification of her is necessary or appropriate.

Stuart Murphy as Transport Manager

- For the reasons given above, I find Stuart Murphy's repute as a transport manager is forfeit. He is unfit to hold that role and his name will be entered on the register kept for that purpose;
- I shall provide an opportunity for Mr Murphy to make representations to me at the resumed hearing for Ellwood on 30 April 2018 (and indeed written representations too, if he wishes) so that I may determine the length of the period for which he will be disqualified as a transport manager;
- As he is all too aware, the direction made will not only impact the licences now before me but also those others where he is presently transport manager - Envirotec Site Services Ltd (OB2005452) and Steptoe's Yard Ltd (OC1098453), which my clerk will be writing to.



Simon Evans
Traffic Commissioner
for the North West of England
20 April 2018