



**SOUTH EASTERN AND METROPOLITAN TRAFFIC AREA**

**DECISION OF THE DEPUTY TRAFFIC COMMISSIONER**

**PUBLIC INQUIRY HEARD AT IVY HOUSE, IVY TERRACE, EASTBOURNE ON 3  
DECEMBER 2018**

**OK1099346 – HALL BROS. TRANSPORT LIMITED**

**Decision**

**Breach of Section 27 (Goods Vehicles) Licensing of Operators, Act, 1995 found in relation to loss of repute, lack of financial standing and professional competence**

**Licence revoked with effect from 00.01 hours on 24 December 2018.**

**Peter Hall disqualified for two years from holding or obtaining an operator's licence or being a director of a company that does so.**

**Repute of former transport manager Alan James Firkins retained but tarnished.**

**Background**

- 1. The operator Hall Bros. Transport Limited is the holder of a standard national licence granted on the 15 February 2013 authorising two vehicles with one vehicle currently in possession. The sole director of the company is Peter William Hall and there is no transport manager currently nominated on the licence.**
- 2. In January 2017 a letter was sent to the operators requesting financial information and thereafter a series of communications followed culminating in uncertainty as to whether the necessary financial standing could be shown.**
- 3. Whilst the investigation into financial standing was ongoing a letter dated 18 September 2017 was received from the named transport manager Alan James Firkins in which he stated that he had been nominated as transport manager for the operator in September 2015 but had "only lasted 6 weeks**

and then requested to resign from the licence with immediate effect as he was not confident about their support towards his duties and their systems” He said that he was told a letter would be sent to the central licensing office and assumed his name had been removed from the company’s licence record. Following receipt of the notification from Mr Firkins the central licensing office wrote to the operator and an application dated 29 September 2017 nominating Dean Jason Cartwright as transport manager was received together with an e mail dated 14 October which includes the statement that “Alan Firkins was our transport manager for the time until Dean Cartwright was nominated”.

4. In the light of the uncertainty as to financial standing and the dispute as to the length of time that Mr Firkins had worked as transport manager for the operator a decision was taken to call the operator to public inquiry together with the proposed transport manager Dean Cartwright and the former transport manager Alan Firkins.

### **The Public Inquiry**

5. The public inquiry was arranged initially for the 1 November when the operator attended represented by Mr Glover. I was told that it had been assumed by the operator that the proposed transport manager Dean Cartwright would attend but he failed to do so without explanation. Mr Firkins did not attend that hearing but was contacted subsequently by the office of the Traffic Commissioner and advised of the importance of him doing so at the adjourned hearing.
6. Mr Peter Hall attended the reconvened public inquiry and once again was represented by Mr Glover. Mr Robert Hall who is Peter Hall’s brother also attended the hearing as a witness together with the former transport manager Alan Firkins. I was advised that Dean Cartwright was no longer willing to be nominated as transport manager and that there was nobody else being put forward at this stage. An individual had been located and conversations had taken place but no formal application was being made pending the outcome of this public inquiry.
7. Mr Firkins gave evidence and told me that he was now a transport manager on another licence for SAS Logistics Limited authorised for one vehicle. In relation to the Hall Bros licence he said that he had worked for a person named Simon Kench and that this individual had asked him if he would be transport manager for “a new operator” who he (Simon Kench) was planning to take over. He said that Simon Kench had given him the TM1 form to sign which he had done at a meeting when a person from the operator (Hall Bros) was present at the offices of Simon Kench in Fareham. He saw that person once again at a meeting about six weeks later when he (Mr Firkins) resigned from his employment for Mr Kench and the position of transport manager with Hall Bros. He said that he had been asked if he would stay on as transport manager despite resigning as an employee but when he stated what his fees would be for doing so this was

rejected. He produced bank statements for the period from December 2014 to December 2017 and highlighted payments of £1692 from SKT (Simon Kench Transport) on 13 May 2015 and £864 on 29 May 2015. He said that these payments were the only payments he had received and represented the first and last payments incorporating an amount for the transport manager work. The 29 May 2015 was the last date he had undertaken the work and nothing had been done by him or payments made to him since that date. He accepted that he was wrong in not notifying the Traffic Commissioner of his resignation.

8. In cross examination he said that he believed that the person from Hall Bros he met on the two occasions was Robert Hall (brother of director Peter Hall and present at the inquiry). He said that he may also have seen Robert Hall when he met a person driving one of the authorised vehicles at a garden centre. He agreed that it had been a mistake to say in his letter to the central licensing office that he had resigned in September 2015 when it had been May 2015. Whilst he had been in post he had wanted to inspect relevant documents that were stored in the offices at Simon Kench's in Fareham but had not been allowed access to them. Simon Kench was the person who was supposed to send his resignation to the Traffic Commissioner.
9. Robert Hall said that he had met Mr Firkins when he had been appointed and had seen him on a number of occasions "more than you can count on two hands" since. This arrangement had continued from April 2015 until 2017 but no payment had been made to Mr Firkins for this work. All the paperwork was stored in Fareham and Mr Firkins oversaw the accuracy of this. Mr Hall said he had never been present when a discussion had taken place about Mr Firkins resigning. In reply to me Robert Hall accepted that Mr Firkins had resigned from his post with Mr Kench but said that he had continued nevertheless as transport manager for the company for no payment.
10. Peter William Hall said that he had never met Mr Firkins but confirmed that he had been the transport manager for the company from April 2015 until 2017. He corroborated what his brother Robert had said and added that Dean Cartwright had been the replacement transport manager and had undertaken those duties for 15 months. I pointed out that Dean Cartwright had only ever been a proposed transport manager and Mr Hall said that nevertheless he had been undertaking the duties. I asked how the hand over between Mr Firkins and Mr Cartwright had taken place and Mr Hall said it had "just happened" because the work for the manager had stopped being needed at Fareham and transferred to the operating centre in Surrey.

### **Findings and Decision**

11. The primary matter for me to decide in this case is whose version of events I believe is more likely than not to be true. The parties are in direct conflict as to the period of time that Mr Firkins was the transport manager

(paid or otherwise) for the operator. Mr Firkins says it was for the period from approximately the 13 May 2015 to on or around the 29 May 2015 and he has produced bank statements which he says corroborate his version of events because relevant payments are shown on those dates. The operator says that he undertook his duties from May 2015 until September 2017 or thereabouts when Dean Cartwright took over. The director Peter Hall claims that Mr Firkins continued working as transport manager without any payment after he (Mr Firkins) had left the employment of Simon Kench and did not dispute that this happened in 2015. Peter Hall also said that there was no formal meeting or decision to end the arrangement with Mr Firkins as "it just happened" when the arrangements for the location for storage of relevant records changed. I have no hesitation in finding that the evidence and version of events provided by Mr Firkins is more likely than not to be true. It is fanciful to suggest that a professional transport manager would undertake those duties at the premises of a former employer for over two years without any remuneration, meetings or discussions with the operator. The proof of payments made to Mr Firkin in 2015 adds weight to his version of events. The evidence given by Peter Hall and his brother is not credible.

- 12.** The consequences for the operator as a result of my findings are serious. It means that not only has there been a period of over 27 months where there was no transport manager in post but also that the operator and Robert Hall as a witness have attempted to mislead me and told lies in that attempt. It is a key principle of the operator licensing regime that the Traffic Commissioner must be able to trust an operator and in this case that trust has been fundamentally breached. In deciding whether the operator should be allowed to continue in business I have asked myself the question posed in the case of Priority Freight Limited & Paul Williams i.e. how likely is it that this operator will operate in compliance with the operator's licensing regime? In other words can the operator be trusted going forward? Bearing in mind my findings as detailed above I do not consider that the operator can be trusted and find that they deserve to be put out of business – the question posed in the case of Bryan Haulage. I therefore find that the operator no longer satisfies the requirement of good repute under Section 27 of the Goods Vehicles (Licensing of Operators) Act 1995. As there is still no transport manager in place I also find a lack of professional competence and as a matter of record a lack of financial standing required to meet the number of vehicles currently authorised. I record that if the licence had been allowed to continue I would have agreed to reduce the authorisation to one vehicle which was the proposal.
- 13.** My decision is therefore to revoke the licence and I do so from 00.01 hours on the 24 December 2018 so allowing a short period for the wind down of the business. I also consider this is a case where a disqualification of the director Peter Hall is appropriate and proportionate and I make such an order for a period of two years – this order means that he is disqualified from holding or obtaining an operator's licence for a period of two years or being a director of a company that does so. If he should ever decide to

apply for a licence again he will need to understand the importance of being open and truthful in any future dealings with the Traffic Commissioner. As Robert Hall is not a director of the company I can make no order in respect of him but will make sure a note is placed on the relevant records to refer to the Traffic Commissioner any future applications made by him or in which he is involved.

#### **Repute of former transport manager Alan James Firkins**

**14.** It is apparent that Mr Firkins failed in his duty to inform the Traffic Commissioner of his resignation and I also register my concern that he agreed in the first instance to be involved in an “arms-length” arrangement to be a transport manager for an operator he hardly knew. However there is no further evidence which reflects badly on his repute so I am prepared to find that it is retained but tarnished. He should learn from this experience and make sure that he takes personal responsibility for all communication with the Traffic Commissioner in the future.

A handwritten signature in black ink, appearing to read 'John Baker', with a long horizontal flourish extending to the right.

**John Baker**  
**Deputy Traffic Commissioner**  
**6 December 2018**