



## **SOUTH EASTERN AND METROPOLITAN TRAFFIC AREA**

### **DECISION OF THE TRAFFIC COMMISSIONER**

**PUBLIC INQUIRY HELD IN WEST CROYDON ON 14 DECEMBER 2018**

**OPERATOR: JOSEPH JAMES JEBB  
OK0217458**

#### **Decision**

1. The standard international goods vehicle operator's licence held by Joseph James Jebb is revoked with effect from 0001 hours on 1 March 2019, pursuant to Sections 26(1)(f) and 27(1)(a) and (b) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").

#### **Background**

##### *Operator*

1. Joseph James Jebb holds a standard international goods vehicles licence OK0217458 for six vehicles. He is also the nominated transport manager on the licence.

##### *Police report*

2. In autumn 2018 a police report was submitted which stated that, on 19 June 2018, officers in Erith had stopped one of Joseph Jebb's specified vehicles, a 32 tonne tipper registration number N500 VJM. The vehicle was carrying a load of hardcore. The driver had fled the scene but was detained after a

chase. He initially gave a false name but eventually his identity was established as Nicholas James Jebb, Joseph Jebb's son. Nicholas Jebb currently had only a provisional category B driving licence and was therefore not entitled to drive an HGV. He was therefore driving without insurance. He was not using a tachograph card. He was wanted on recall to prison. Nicholas Jebb was later sentenced to six months imprisonment for the offences committed on 19 June 2018.

3. A subsequent investigation by the police showed that vehicle N500 VJM had been driven without a card on four other occasions in the 28 days prior to 19 June 2018. On 18 June it had been driven without a card for a total of one hour 22 minutes. On 12 June it had been driven without a card for a total of one hour and 13 minutes. On 30 May it had been driven without a card for a total of one hour and three minutes. On 25 May it had been driven without a card for a total of 40 minutes. The driver on all other occasions apart from one during this 28 day period was Joseph Jebb. Police suspected that Nicholas Jebb had driven the vehicle on the four occasions prior to 19 June when driving without a card had occurred, just as he had done on 19 June.
4. The police report noted that Joseph Jebb had stated in interview that he was in the operating centre on three days a week. He managed the business by phoning his drivers the evening before to let them know the next day's schedule. Spare keys to the vehicles were kept in a tin in the office. Nicholas Jebb helped out in the business and often moved vehicles around the yard so would know where the keys were kept. He presumed that his son had taken the keys and driven the vehicle without his knowledge.
5. The police report further noted that it had not been possible to analyse tachograph data from N500 VJM prior to the 28 day period referred to above, as by the time they had interviewed Joseph Jebb he had sold the vehicle.
6. The police concluded that they believed that Joseph Jebb was aware that Nicholas Jebb was driving. But even if he had not been thus aware, Joseph Jebb was not effectively managing the day-to-day business.

### **Public inquiry**

7. In the light of this report the operator was called to a public inquiry. The call-up letter was sent on 17 November 2018, citing Sections 26(1)(c)(iii), (ca), (f) and (h) and 27(1)(a) and (b) of the 1995 Act as well as Article 4.1 of Regulation EU 1071/2009. By letter of the same date, Joseph Jebb was also called to the inquiry in his capacity as transport manager to consider his repute.
8. In advance of the inquiry I received submissions from Carolyn Evans, of CE Transport Law. These were to the effect that the part of the police evidence which referred to intelligence received that Nicholas Jebb had regularly driven HGVs for his father should not be taken into account, as it was unsubstantiated and completely without foundation.
9. The inquiry took place in West Croydon on 14 December 2018. Present were the operator Joseph Jebb, represented by Carolyn Evans; Trevor Uden, the

prospective new transport manager; Chris Farrar of Transport Help; and Police Constables Harvey and Trott from the Metropolitan Police. I referred to Ms Evans' submissions and stated that the inquiry would focus on the concrete evidence supplied by the police: primarily the tachograph data from May and June 2018 and the records of interviews. I would attach negligible weight to unsubstantiated assertions or "intelligence".

10. Ms Evans said that it was accepted that Joseph Jebb was likely to lose his repute as transport manager. It was accepted that N500 VJM was driven on 19 June by Nicholas Jebb. Unbeknownst to his father Joseph he had taken the vehicle to tip a load of hardcore, prior to the vehicle being inspected by a prospective purchaser, as it was for sale. It was also accepted that Joseph Jebb had not fulfilled his undertaking, given to me at a public inquiry in December 2014, that vehicles would be given four roller brake tests a year, in addition to the one at MOT. In the event, the vehicles had been given two such brake tests rather than four.

#### *Evidence of Joseph Jebb*

11. Pressed on who had driven N500 VJM on the four other occasions in May and June 2018 when it had been driven without a card, Joseph Jebb said it could only have been him. He recalled an occasion when at the start of the day the tachograph unit had come up with the message that a break was needed as he had left the card in overnight. I looked at the tachograph data report provided by the police and could see no such instance. I could see that Joseph Jebb's card had been left in overnight on 17/18 June but it had been left on break mode throughout the time (0100 hours to 1124 hours) so there would be no reason for the tachograph unit to tell him to take a break at the commencement of driving (without a card) at 1124 hours. Joseph Jebb was unable to provide an explanation for the discrepancy between his explanation and the data.
12. Joseph Jebb accepted that he had lied to police to cover up for his son Nicholas Jebb on a previous occasion in November 2013, when Nicholas Jebb had been wanted by the police for recall to prison. Nicholas Jebb had been a passenger in a vehicle driven by Joseph Jebb. When the vehicle had been stopped by police Nicholas Jebb had run off before being detained by a pursuing officer. Joseph Jebb claimed to police that he did not know the identity of his passenger who was just someone who he had picked up from a traveller site.
13. Ms Evans put to Joseph Jebb the allegation by the police that Nicholas Jebb had been unlawfully driving HGVs for him for a considerable period of time. Joseph Jebb said that this was not the case.

#### *Evidence of Trevor Udin*

14. The prospective transport manager Trevor Udin said that he had known Joseph Jebb for 25 years and had been his maintenance contractor for the last 15 years. He had known of the undertaking relating to regular roller brake testing and had reminded Joseph Jebb a few times of that obligation although the latter had not done anything to fulfil it. If accepted on the licence as transport manager he would ensure that it was fulfilled.

## *Summary*

15. Summing up, Ms Evans said it was accepted that the roller brake test undertaking had not been fully complied with. Joseph Jebb was sure that it was not Nicholas Jebb who had been driving without a card on the four occasions in May and June 2018 identified by police. He was not able definitively to identify who had been the driver, which was admittedly a significant shortcoming. He conceded that he was likely to lose his repute as transport manager, although he hoped to be able to continue as operator. He had failed as a transport manager in that he had not always known who was driving the vehicles, had not ensured the required number of roller brake tests and had not downloaded the tachograph unit of N500 VJM prior to its sale in early July 2018 (an omission which meant that data on any driving without a card prior to May 2018 was unavailable to police or the inquiry). But with a new transport manager in Trevor Udin, it was submitted that Joseph Jebb should be allowed to continue as an operator, albeit with a probable suspension or curtailment of the licence.
16. If I was against her on this point and concluded that the licence should be revoked, Ms Evans asked that at least 12 weeks be given before any revocation came into effect, as there were two drivers of some 15 years standing with the operator who would need to find alternative employment.

## **Conclusions**

17. I conclude that, on the balance of probability, it was Nicholas Jebb who drove N500 VJM without a tachograph card (or a licence) on four occasions in May and June 2018 as well as on 19 June 2018 when he was stopped by the police. I have reached this conclusion for two main reasons:
  - i) Joseph Jebb initially stated to me at the inquiry that he must have been the driver on the four occasions. However, his explanation of why he had driven without a card was clearly invented, as it did not at all tally with the tachograph unit record. He was not able (or willing) to say for sure who had been the driver;
  - ii) Joseph Jebb has in the past lied to the police to try to cover for his son (the November 2013 incident described above). The fact that he has done so lends less credence to his assertion that he is not doing so on this occasion.
18. Having come to this conclusion, I find – again on the balance of probability – that Joseph Jebb knows full well that Nicholas Jebb drove the vehicle on four occasions in May and June 2018 (as well as on 19 June). Even if he did not know at the time, he certainly knew afterwards but has not come clean about this either to the police or to myself at the inquiry. And even if he did not know at the time, his systems were clearly so lax that they did not prevent someone who had been disqualified from driving from taking out an HGV on several occasions in May and June 2018. Joseph Jebb knew that Nicholas Jebb was not authorised to drive HGVs; he knew that his son Nicholas had previously (in September 2013) been found driving while disqualified; yet Joseph Jebb

took no action to prevent unauthorised drivers from driving his specified vehicles.

19. Joseph Jebb has therefore failed to fulfil his undertaking to ensure the lawful driving of vehicles (Section 26(1)(f) of the 1995 Act refers). I find also that Joseph Jebb has failed to fulfil his undertaking, given to me in 2014, that vehicles would be given roller brake tests four times a year. He has failed to do so despite being reminded of his promise by Mr Udin.
20. In view of this degree of negligence and his subsequent attempt to cover up the fact that Nicholas Jebb drove N500 VJM on several occasions, I find that Joseph Jebb has lost his repute. He has lost his repute both as operator and transport manager, since the reasons for loss of repute (essentially, dishonesty) are such that I find I cannot trust him to be a compliant operator in the future even if he were to engage a competent and reputable transport manager such as Trevor Udin.
21. Having concluded that Joseph Jebb has lost his good repute, revocation of the licence is mandatory under Section 27(1)(a) and (b) of the 1995 Act. I accept that the operator's maintenance record has improved since the 2014 public inquiry (no prohibitions from five encounters over the last two years, although the MOT pass rate is still below average), but this is significantly outweighed in the balance by Nicholas Jebb's illegal driving, the operator's lack of systems to prevent this and Joseph Jebb's lack of honesty about what has happened.
22. I have allowed a slightly longer period than usual before the revocation takes effect, in order to allow blameless drivers a period (which includes the dead Christmas holiday period) to find alternative employment, but it is a shorter period than the 12 weeks requested by Ms Evans because the employment market currently is in drivers' favour. The revocation will take effect on 1 March 2019.
23. I am allowing this slightly extended period before revocation takes effect on the explicit understanding that Trevor Udin acts as the operator's *de facto* transport manager until the date of revocation. I am not formally putting him on the licence as transport manager, as to do so would require him in future to declare an association with a revoked licence, whereas in reality he has had nothing to do with the reasons for revocation.

#### *Disqualification - operator*

24. For the reasons outlined above, I conclude that Joseph Jebb deserves to be disqualified under Section 28 from holding a licence in the future. In deciding upon the length of his disqualification, I have taken account of paragraph 100 of the STC's Statutory Guidance Document 10. This posits a starting point of between one and three years for a first public inquiry (this is his second) and a period of between five and ten years where there is an element of deceit, which there has been here. I conclude that a disqualification period of five years is proportionate, appropriate, and in line with the STC's guidelines.

#### *Disqualification – transport manager*

25. Joseph Jebb has failed to demonstrate the degree of integrity required of a transport manager. Although I have some sympathy with his loyalty to his son, the fact is that such loyalty should never override Mr Jebb's responsibility to the wider public – to ensure that his vehicles are driven only by drivers holding the correct entitlement. I allowed Joseph Jebb to retain his reputation as a transport manager in 2014 after significant maintenance failings had been revealed, but this was in the expectation that he would fulfil his undertaking for vehicles to be roller brake tested four times a year. In the event he did not. Together with the dishonest conduct revealed by this present inquiry, I conclude that Joseph Jebb should not act as a transport manager again and so disqualify him from doing so for an indefinite period.

A handwritten signature in black ink that reads "Nicholas Denton". The signature is written in a cursive style with a large initial 'N' and 'D'. Below the signature is a horizontal line.

Nicholas Denton  
Traffic Commissioner  
20 December 2018