



## **WEST MIDLANDS TRAFFIC AREA**

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

**PUBLIC INQUIRY HELD IN BIRMINGHAM ON 8 APRIL 2019**

**OPERATOR: SAHOTA TRANSPORT SERVICES LTD**

**LICENCES OD1142621 and OF1146457**

#### **Decision**

1. The standard national goods vehicle operator's licences OD1142621 and OF1146457 held by Sahota Transport Services Ltd are revoked with effect from 0001 hours on 29 May 2019, pursuant to Section 27(1)(a) and (b) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").
2. Sahota Transport Services Ltd and company director Daljit Singh Sahota are disqualified for five years, from 29 May 2019 until 29 May 2024, from holding or obtaining any type of operator's licence in any traffic area and (in Mr Sahota's case) from being the director of any company holding or obtaining such a licence, pursuant to section 28 (1), (4) and (5) of the 1995 Act.
3. Daljit Singh Sahota has lost his good repute as a transport manager, pursuant to schedule 3 paragraph 1 of the 1995 Act. Under paragraph 16(2) of that schedule, he is disqualified, for a period of five years from 0001 hours on 29 May 2019 until 29 May 2024, from acting as a transport manager on any operator's licence in any Member State of the European Union.

#### **Background**

##### *Operator details*

1. Sahota Transport Services Ltd ("Sahota") holds standard national goods vehicle operator's licences OD1142621 and OF1146457 in the West Midlands and Eastern Traffic Areas respectively. The licences are for five and eight vehicles respectively, with a total of three vehicles in possession across the two licences. The sole director of the company is Daljit Singh Sahota and he is also the nominated transport manager on both licences.

##### *DVSA report*

2. In March 2019 I received a report from DVSA traffic vehicle examiner James Phillips. He reported that:
- i) he had stopped one of Sahota's vehicles on 18 May 2018. The driver gave his name as Daljit Singh Sahota. He was not carrying his driver CPC card which is a requirement. TE Phillips removed the driver's tachograph card from the vehicle unit and noticed that the photograph on the card did not resemble the driver. The driver however was adamant that he was Daljit Singh Sahota;
  - ii) the driver appeared extremely agitated and made a number of calls on his mobile phone;
  - iii) TE Phillips telephoned the operator from the roadside and asked to speak to Daljit Singh Sahota. The man at the other end of the line claimed not to know of either Mr Sahota or Sahota Transport Services;
  - iv) the driver had been issued with a fixed penalty of £50 at the roadside for failure to carry his CPC card. He had signed the penalty form as Daljit Singh Sahota. Mr Phillips had resolved to continue his inquiries back at the office;
  - v) on 27 July 2018 he had visited the operator's premises to meet director and transport manager Daljit Singh Sahota and had immediately seen that Mr Sahota was not the driver stopped on 18 May. Mr Sahota insisted that he had been the driver: the interview was then suspended at the request of his solicitor;
  - vi) six weeks later, on 7 September 2018, the operator's solicitor contacted TE Phillips to say that the driver of the vehicle on 18 May 2018 had been a Mr Amrinder Singh Mann;
  - vii) TE Phillips subsequently analysed Mr Mann's driver tachograph card and found that, by using his own card in conjunction with Mr Sahota's card on 18 and 19 May 2018, he had on 18 May exceeded the maximum permitted daily driving time by 44 minutes and the maximum permitted duty time by 7 hours and 9 minutes. He had taken a daily rest period of only 3 hours 32 minutes, far short of the minimum 9 hours. On 19 May he exceeded the maximum permitted daily driving time by 3 hours and 46 minutes;
  - viii) after some to-ing and fro-ing between Mr Phillips and Mr Sahota's solicitor, Mr Phillips was finally informed on 2 October 2018 that Mr Sahota did not wish to attend a voluntary interview. He did provide a witness statement confirming that the driver of the vehicle on 18 May had been Mr Mann;
  - ix) driver Mann also declined to be interviewed;
  - x) TE Phillips believed that the person to whom driver Mann had spoken to on the phone at the roadside on 18 May was Mr Sahota and that Mr Sahota had aided Mr Mann in his attempted impersonation of him by feeding him with answers relating to date of birth, address, number of points on licence etc. Mr Phillips also believed that the person who had answered his phone call and claimed not to know Mr Sahota was in fact Mr Sahota.

### **Public inquiry**

#### *Call to public inquiry*

3. Concerned by this report, I decided to call the operator to a public inquiry. The call-up letter was sent on 27 February 2019, citing Sections 26(1)(b), (ca), (e), (f) and (h) and 27(1)(a) and (b) of the 1995 Act as well as Article 4.1(a) of Regulation EC

1071/2009. By letter of the same date Mr Sahota was also called in his capacity as transport manager to consider his repute. Mr Sahota and Mr Mann were also called to a parallel driver conduct hearing.

4. In preparing for the public inquiry I noted that the operator had written to my office on 14 June 2018 to notify me that “our driver Mr Daljit Singh has been issued with a fixed penalty for not carrying his driver qualification card while driving for Sahota Transport Services Ltd. The driver has been reinducted and a tool box talk has been organised for all the drivers who work for Sahota Transport Services Ltd.” The letter was signed by Davinder Kaur Sidhu, the office manager. In the light of TE Phillips’s report, it now struck me that this letter was potentially disingenuous for two reasons:
  - i) by naming the driver as Daljit Singh (a common name) rather than Daljit Singh Sahota, the fact that the offending driver was actually the director and transport manager was downplayed if not outright concealed. The reference to the driver having been reinducted did not give the impression that the driver was actually the transport manager;
  - ii) the letter did not mention at all that the driver had in fact been Mr Amrinder Singh Mann using Daljit Singh Sahota’s tachograph card, a fact which was known to the operator by 14 June.
5. As this notification of a fixed penalty appeared unexceptional, my office had sent a simple acknowledgement.

#### *Holding of public inquiry*

6. The inquiry was held in Birmingham on 8 April 2019. Present were DVSA traffic examiner James Phillips and company director and transport manager Daljit Singh Sahota. The company and Mr Sahota were represented by Philip Brown of AMD Solicitors. Both Mr Sahota and Mr Mann attended the parallel driver conduct hearings I had called.

#### *Evidence of TE James Phillips*

7. TE Phillips summarised his report. He stressed that when he had been speaking to Mr Mann (as he turned out to be) at the roadside, asking him for his personal details, Mr Mann had been on the phone and there had been a delay between TE Phillips’s questions and the responses given, as if Mr Mann was being fed the replies by the person at the other end of the line. He felt that it was inherently unlikely that Mr Mann would be familiar with details such as Mr Sahota’s date of birth, address and postcode, number of points on his driving licence etc. When he had subsequently met Mr Sahota on 27 July 2018 he had made the clear observation to him that Mr Sahota was not the driver of the vehicle stopped on 18 May: Mr Sahota had clearly replied “yes I was”.

#### *Evidence of Daljit Singh Sahota*

8. Mr Sahota stated that:
  - i) Mr Mann had driven vehicle OO05 STS during the day on 18 May 2018, finishing his shift at around 1645 hours. He had then taken the vehicle out again at 2055 hours and had been due to hand it over to another driver, a Robert Schama, at a service station, so that the vehicle could continue its journey. Mr Schama had not driven for the company before and in the event had not turned up at the arranged handover point. Mr Mann had therefore driven it onwards;

- ii) Mr Mann had told him about the DVSA stop and the discovery of Mr Mann's use of Mr Sahota's tachograph card only the next day. On the evening of 18 May he (Mr Sahota) had been having some family and health problems and had been drinking with friends in Walsall. He thought that the phone call to his mobile from TE Phillips might have been answered by one of his companions who had not recognised the name of the company and had said they did not know of it;
- iii) he had not knowingly lent his card to Mr Mann but had inadvertently left it in the vehicle on the last occasion he drove it;
- iv) when Mr Phillips had visited on 27 July 2018 he (Mr Sahota) had thought that the traffic examiner had been asking him who drove the vehicles generally during the night shift. So he had replied that it was him who was the driver, as he often covered night shifts. He had not understood that the question was about the identity of the driver on the specific occasion on the evening of 18 May;
- v) he had thought that the fixed penalty had been issued to the company on 18 May rather than to the driver. That is why the office assistant had paid the penalty and had written to my office to inform me. There had been no intention to deceive;
- vi) he had undergone transport manager refresher training in June 2018; he accepted that he needed assistance as he could not do the transport manager, director and driver jobs as he had been attempting to do. He had not driven HGVs since July 2018. He had recently been interviewing for an additional transport manager;
- vii) vehicles now had remote tachograph download facilities. He accepted that the driver defect reporting system had been poor (I had noted the numerous driver detectable defects on almost all the six-week safety inspection sheets) and intended to move to an electronic system of driver defect reporting which could be more easily overseen.

*Evidence of driver Amrinder Singh Mann*

9. Mr Mann stated that he had driven vehicle OO05 STS on 18 May. When he had first taken over the vehicle at around 0500 hours he had found Mr Sahota's tachograph card in it. He had put it in his pocket in order to give to Mr Sahota when he next saw him. He had driven until 1645 hours and then returned home to see his wife [REDACTED]. Later he had been asked to drive the vehicle to a rendezvous point on the A41/M54 junction with the other driver, Robert Schama. When he had taken the vehicle from the yard he had by mistake put Mr Sahota's tachograph card in the unit rather than his own. Both had been in his pocket and in his hurry (he was late) he had not noticed he was using the wrong one. He had arrived at the rendezvous point but Mr Schama was not there. He had refuelled the vehicle and had tried to contact Mr Sahota by phone to ask what he should do but there had been no reply. He had therefore decided that he had better carry on and drive to the next service station to see if Mr Schama was waiting there. A little further on he had been stopped by DVSA.
10. Mr Mann accepted that he had given false information to TE Phillips. He denied he had been on the phone to Mr Sahota being fed personal details. He had known the address and date of birth of Mr Sahota and the number of penalty points on his driving licence: that was why he had been able to give them.

11. Asked by me why he had continued his journey after the stop still using Mr Sahota's card, Mr Mann said that he had been afraid that DVSA might follow him and stop him again. If he was found to be using his own card, DVSA would realise that he had lied to them about his identity.
12. I noted that Mr Mann had finished his work (using Mr Sahota's card) at 0312 hours on 19 May. He had started again (using his own card) at 0644 hours, after a rest of only 3 hours and 32 minutes. Why had he not phoned Mr Sahota to say that he could not take the vehicle out? Mr Mann replied that he had tried to phone Mr Sahota several times but without success. He had only been able to speak to him later in the day. In the absence of any advice, he had thought he should press on with the job, as he feared dismissal if he did not carry out his assigned work.

#### *Concluding remarks*

13. Summing up, Philip Brown accepted that Mr Mann had driven considerably in excess of his maximum permitted hours. He had worked for almost 23 hours on 18-19 May 2018 and had then started work again 3.5 hours later. Faced with the non-appearance of the other driver he had panicked. It was a one-off incident: Mr Brown recognised that disciplinary action would be taken but urged me not to disqualify Mr Mann.
14. As far as the operator was concerned, Mr Brown accepted that the one-off incident had been made more serious by Mr Sahota's subsequent insistence that he had been the driver and his failure, for some time, to provide correct information as to the driver's real identity. But the operator was otherwise generally compliant. Mr Sahota did accept that he had been stretched too thinly and would be appointing a new transport manager. He had attended a refresher course, had moved to an electronic vehicle inspection system with Renault and had acquired new vehicles which should minimise mechanical problems. A one-off incident had grown legs, but as of today the operator was compliant and could be trusted to comply in the future. The company did not deserve to be put out of business.

#### *Adjournment and further information*

15. At this point I adjourned the inquiry in order to prepare and issue a written decision.

#### **Considerations**

16. In order to take as true the account of Mr Sahota and Mr Mann, I am being asked to accept the following:
  - i) that Mr Sahota accidentally left his tachograph card in vehicle OO05 STS;
  - ii) that Mr Mann subsequently picked it up and put it in the same place he kept his own card. That he subsequently did not realise that he was putting Mr Sahota's card, not his own, into the slot of the vehicle tachograph unit even though the card would clearly have had Mr Sahota's photograph uppermost and even though the unit would then display Mr Sahota's name which Mr Mann would be required to confirm by pressing "OK";
  - iii) that the driver Robert Schama (of whose existence no evidence has been provided) failed to appear at the handover point and failed to make any contact with Mr Sahota, either that evening or subsequently;
  - iv) that Mr Mann, although apparently knowing the date of birth, address and driving licence penalty points details of Mr Sahota, which indicates an unusually close relationship between a driver and the company director, could only give this information while on the phone and after a short delay;

- v) that Mr Sahota, although he took his mobile phone with him to his evening out in Walsall on 18 May, left it unattended during which time one of his friends answered TE Phillips's call and denied knowledge both of Mr Sahota and Sahota Transport Services Ltd. That the friend then neglected to mention to Mr Sahota that there had been any phone call;
- vi) that, when TE Phillips had said to him on 27 July that "you are not the driver of the vehicle stopped on 18 May" and Mr Sahota had answered "yes I was", Mr Sahota had thought that Mr Phillips had asked him who the normal night shift driver was.

## **Findings**

17. I find it inconceivable that the sequence of events outlined above took place. By contrast, I find it highly likely (on the balance of probability) that Mr Mann, knowing that he was out of hours (ie required to take a daily rest period) by 2001 hours on 18 May 2018, deliberately inserted Mr Sahota's card when starting his (illegal) evening shift at 2054.
18. I further find the statement by both Mr Mann and Mr Sahota that Mr Mann was to hand over to another driver to be a fiction invented to try to reduce the seriousness of the offence. It is clear to me that Mr Mann set out that evening with the intention of using Mr Sahota's card to complete the entire shift, which he in fact proceeded to do, notwithstanding the fact that he was caught using Mr Sahota's card. No evidence of the existence of "driver Schama" was presented: if he had been a genuine person I would have expected Mr Sahota to have his driving licence details, to check entitlement before he took the vehicle out.
19. I find that Mr Sahota deliberately tried to perpetuate the falsehood that it was he who had been driving the vehicle, when TE Phillips visited him on 27 July, and subsequently practised an extended obfuscation to try to avoid revealing the true identity of the driver to Mr Phillips. This obfuscation, and the refusal of both Mr Sahota and Mr Mann to be formally interviewed does not speak to an operator or driver who had made an innocent mistake.
20. I have stopped just short of making a finding that Mr Sahota deliberately lent his tachograph card to Mr Mann, although I suspect very strongly that this was the case. But I do find that Mr Sahota's own driver records clearly failed to record as "other work" any of his considerable director and transport manager duties. As a qualified transport manager he should have known that a driver is required to make a record of all other work in any week he has driven an EU-regulated journey. His frequent night-shift driving, together with his daily duties as transport manager and director, mean that he cannot possibly have been taking sufficient daily rest.
21. I find that the driver defect reporting regime was ineffective. The periodic safety inspection sheets for the vehicles are littered with driver detectable defects such as broken lights, insecure wings etc., issues which should be identified by drivers and rectified on a daily basis, not at the next six week inspection.

## **Balancing exercise**

22. I conducted a balancing exercise. On the positive side of the balance were the operator's excellent MOT pass rate and lack of roadworthiness prohibitions (albeit from only one encounter). There was also the fact that Mr Sahota has attended a transport manager CPC refresher course and has taken steps to modernise driver defect reporting systems and his vehicles. On the negative side were the above findings, notably the fact that a driver had deliberately and inexcusably used Mr

Sahota's tachograph card to enable him (with the outward appearance of legality) to work and drive for a truly shocking length of time and, still worse, to try to cover that up by giving false driver details to the traffic examiner. Worse still, he was aided and abetted in this false account by the director and transport manager Mr Sahota himself. It was only in October 2018, some five months after the stop in May and three months after TE Phillips's visit, that Mr Sahota eventually gave the correct driver details to DVSA.

23. I conclude that that the positive factors are very significantly outweighed by the negative factors above. The Upper Tribunal is on record as stating that lying to DVSA officials may be sufficient in itself to entail loss of repute. In this case the falsehood was a gross and continuing one and has, I have found, continued right through the public inquiry where the version of events presented to me is - frankly - incredible.

### **Repute**

24. In the light of the above I find that both Sahota Transport Services Ltd and Daljit Singh Sahota have lost their repute (Section 27(1)(a) and (b) of the 1995 Act refer). Given that they were prepared to practise a gross deceit upon DVSA to try to cover up a most serious infringement of the drivers' hours and tachograph rules by one of their drivers, I can no longer trust this operator or the transport manager to operate compliantly in future. The answer to the *Priority Freight* question of how likely it is that this operator will comply in the future is therefore "very unlikely". A negative answer to this question would tend to suggest a positive answer to the *Bryan Haulage* question of whether the operator's conduct is so serious that it should be put out of business. I find that it is. The director and transport manager Daljit Singh Sahota conspired with his driver to maintain the fiction that it was Mr Sahota driving the vehicle when stopped on 18 May 2018 and thus to conceal a number of extraordinarily serious drivers' hours offences. Mr Sahota maintained this fiction for the next five months before eventually admitting that he had not been the driver. For dishonesty on this scale and for this length of time, the loss of the business would be an entirely merited outcome.

### **Decisions**

#### *Operator licence*

25. Having concluded that Mr Sahota has lost his repute as transport manager, revocation of the licence is mandatory under Section 27(1)(b) of the 1995 Act. Revocation is also mandatory under Section 27(1)(a) as the company now lacks professional competence and also itself lacks good repute. The revocation will take effect on 29 May 2019.

#### *Disqualification – company and director*

26. For the reasons outlined in paragraphs 17 to 23 above, and having performed the same balancing act described therein, I conclude that both Sahota Transport Services Ltd and Daljit Singh Sahota deserve to be disqualified under Section 28 from holding a licence in the future. In deciding upon the length of the 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 (which this is) but a period of between five and ten years where an operator has allowed drivers to falsify records (which Mr Sahota has, with the aggravating factor that he conspired for a long time to cover it up). Because the evidence before me was confined to the one instance of falsification (although a very grave one, and one which the operator was very slow to admit) I have determined upon a disqualification at the lower end of this scale. A period of five years is proportionate, appropriate, and in line with the STC's guidelines.

#### *Disqualification – transport manager*

27. Having concluded that Mr Sahota's good repute is lost I must also disqualify him under paragraph 16 of Schedule 3 to the 1995 Act from being a transport manager on any licence. For the same reasons which have led me to conclude that a five year disqualification from holding a licence is appropriate, I am disqualifying him from acting as a transport manager for the period of five years.

Nicholas Denton

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Nicholas Denton  
Traffic Commissioner  
29 April 2019