

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA * **CRIMINAL NO. 14-165**
v. * **SECTION: "F"**
DUNWOODIE MCDUFFIE *
* * *

FACTUAL BASIS

The defendant, **DUNWOODIE MCDUFFIE** (“**MCDUFFIE**”), has agreed to plead guilty as charged to each count of the eight count Bill of Information. Each of the counts in the Bill of Information charges **MCDUFFIE**, through his company, Mr. Move, Inc. (“Mr. Move”), with knowingly and willfully violating Title 49, United States Code, Section 31134, by performing for hire interstate household good moves with a revoked USDOT number and without registering for HHG operating authority.

Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and other admissible evidence, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant:

Mr. Move was a moving company based in Metairie, Louisiana that performed both local moves and interstate moves of household goods (“HHG”) as an interstate commercial motor carrier.¹ **MCDUFFIE**, a resident of Louisiana, was the owner and operator of Mr. Move at all

¹ The legal name of Mr. Move was originally Mister Mover, Inc., and the name changed for reasons that are not relevant to the charges in the instant matter. The parties agree and stipulate that the name change has no legal significance with respect to this case.

times relevant herein. **MCDUFFIE** admits that he controlled Mr. Move and that he was responsible for Mr. Move's acts at all times relevant herein.

MCDUFFIE knew that as an interstate commercial motor carrier engaged in interstate moves of HHG Mr. Move was required to register with the Federal Motor Carrier Safety Administration ("FMCSA"). The FMCSA is an administration within the United States Department of Transportation ("USDOT") that was established by the Motor Carrier Safety Improvement Act of 1999 (Pub. L. No. 106-159 (1999)). FMCSA has the authority to regulate the interstate HHG moving company industry and is responsible for the process of granting HHG operating authority to eligible businesses and for monitoring their continuous compliance with the applicable laws and regulations.

A representative of the FMCSA would explain the regulatory scheme covering interstate commercial motor carriers, including the following. Under the authority of various statutes, including but not limited to Title 49, United States Code, Sections 31134, 31136, 31142, 31144, and 31502, the Secretary of Transportation has promulgated various regulations relating to the safe operation of motor carriers. The Motor Carrier Safety Regulations, Title 49, Code of Federal Regulations, Parts 350 to 399, govern the activities of commercial motor carriers. A motor carrier is forbidden from operating as an interstate HHG motor carrier unless the motor carrier receives HHG operating authority in accordance with the requirements prescribed by the Secretary of Transportation, as delegated to the FMCSA, pursuant to Title 49, United States Code, Section 13902. Title 49, United States Code, Section 31134, which took effect on October 1, 2012, established new safety registration requirements for all interstate motor carriers. The safety registration requirements require an employer or person to register with the Secretary, as

delegated to the FMCSA, and receive a USDOT number, a unique identifier used by the FMCSA to monitor a company's safety information. This section also requires all interstate HHG operators to obtain HHG operating authority registration in accordance with the requirements prescribed by the Secretary of Transportation, as delegated to FMCSA, pursuant to Title 49, United States Code, Section 13902. Even after an applicant receives safety registration, a USDOT number, or operating authority, the Secretary of Transportation may revoke or suspend the safety registration, USDOT number, or operating authority for a variety of reasons. The effect of a revocation or suspension of safety registration or USDOT number is that the operator no longer has authority to operate in interstate commerce. The effect of a revocation or suspension of HHG operating authority is that the operator no longer has authority to operate as an interstate HHG motor carrier. If a HHG motor carrier's safety registration, USDOT number, or HHG operating authority registration is not granted or is subsequently suspended or revoked, the HHG motor carrier must obtain new registration before operating as an interstate HHG motor carrier

MCDUFFIE caused Mr. Move to apply for a USDOT number under the name Mr. Mover, Inc. On or about May 29, 2007, Mr. Move obtained USDOT Number 1649583. Mr. Move also applied for HHG operating authority registration on or about May 29, 2007. Over the following several months, Mr. Move failed to comply with safety review requirements, which specify that a safety audit must be performed on a new entrant's operations within 18 months after receipt of its USDOT number. Mr. Move also failed to submit information required in order to receive HHG operating authority. Because Mr. Move failed to respond to multiple attempts by the FMCSA to conduct the required safety review and failed to meet the safety

review requirements, Mr. Move's USDOT number was revoked on or about December 3, 2008, and Mr. Move was issued an out of service order stating that Mr. Move could not operate as an interstate motor carrier. Mr. Move also failed to submit information required to receive HHG operating authority. As a result of failing to submit the required information, Mr. Move was not granted HHG operating authority. As a result of the revocation of its USDOT number and the denial of operating authority, Mr. Move could not operate as an interstate HHG motor carrier as of on or about December 3, 2008. **MCDUFFIE** knew that as of December 3, 2008, Mr. Move could not operate as an interstate HHG motor carrier.

Despite lacking the proper authority, Mr. Move continued to conduct interstate moves. Mr. Move's records of interstate moves are incomplete but show that Mr. Move conducted at least twelve interstate moves in 2009, at least twelve interstate moves in 2010, at least four interstate moves in 2011, and at least seventeen interstate moves in 2012.

On May 8, 2012, in response to the filing of a complaint against Mr. Move related to a HHG move, the Louisiana State Police, in coordination with the FMCSA, conducted a compliance review of Mr. Move. During the review, the Louisiana State Police learned that Mr. Move operated as a for-hire HHG carrier in Louisiana and in other southern states. The Louisiana State Police also confirmed that Mr. Move did not have the required interstate HHG operating authority and that its USDOT number had been revoked. The investigation revealed that following the revocation of its USDOT number on December 3, 2008, Mr. Move never obtained approval to conduct interstate moves of HHG and instead operated its business in knowing violation of the USDOT regulations. Mr. Move used rented Budget trucks for interstate moves instead of the company-owned trucks that Mr. Move used for most intrastate moves,

which were marked with the company's name and address. Mr. Move also maintained internal records of interstate moves in such a way as to hide from regulatory oversight the fact that Mr. Move was conducting these interstate moves without the required operating authority. The Louisiana State Police cited Mr. Move for numerous violations during the compliance review, including operating in violation of a FMCSA out of service order; operating without HHG authority; failure to file a Motor Carrier Identification Report, Form MCS-150, every twenty-four months; and using drivers without a valid operator's license or permit. **MCDUFFIE** later admitted to Louisiana State Police troopers conducting the August 15, 2013 compliance review that Mr. Move had engaged in additional interstate moves in 2012 and that the only reason the troopers were aware of the two interstate moves noted in their report was that the paperwork for those moves had been filed "improperly," meaning in such a way that the moves were not hidden in Mr. Move's records.

On August 15, 2013, the Louisiana State Police, in coordination with the FMCSA, conducted another compliance review of Mr. Move. The Louisiana State Police cited Mr. Move for many of the same violations that they had observed during the 2012 compliance review. The investigation revealed that Mr. Move continued to lack the required interstate HHG operating authority and that its USDOT number was still revoked. The investigation revealed that Mr. Move had conducted at least seventeen interstate HHG moves between January 1, 2013 and August 15, 2013, despite having been cited the year before for conducting illegal interstate moves. The eight interstate moves that are charged in the Bill of Information were conducted as set forth below, with each move taking place in part within the Eastern District of Louisiana:

Count	Date	Description of Operation
1	On or about February 2, 2013	Mr. Move conducted a for hire interstate HHG move from Laplace, Louisiana to Corpus Christi, Texas.
2	On or about February 4, 2013	Mr. Move conducted a for hire interstate HHG move from Waggaman, Louisiana to Bay Saint Louis, Mississippi.
3	On or about March 16, 2013	Mr. Move conducted a for hire interstate HHG move from New Orleans, Louisiana to Natchez, Mississippi.
4	On or about April 10, 2013	Mr. Move conducted a for hire interstate HHG move from Vicksburg, Mississippi to New Orleans, Louisiana.
5	On or about April 10, 2013	Mr. Move conducted a for hire interstate HHG move from River Ridge, Louisiana to Pensacola, Florida.
6	On or about April 16, 2013	Mr. Move conducted a for hire interstate HHG move from Metairie, Louisiana to Spring, Texas.
7	On or about April 23, 2013	Mr. Move conducted a for hire interstate HHG move from Laplace, Louisiana to Pensacola, Florida.
8	On or about April 26, 2013	Mr. Move conducted a for hire interstate HHG move from Land O'Lakes, Florida to Metairie, Louisiana.

MCDUFFIE knew that Mr. Move's registration as an interstate motor carrier was suspended and revoked at the time it performed each of these for hire interstate household good moves.

DAVID HALLER
Assistant United States Attorney

Date

DUNWOODIE MCDUFFIE
Defendant

Date

RICHARD ANDERSON
Attorney for Defendant

Date