



# The Truth About Work Preservation Agreements and Logistics

*From the Teamsters National Carhaul Division, August 2016*

Since 2014, the Carhaul Division has pressed NMATA carriers for detailed information under the terms of the Work Preservation Agreement (WPA) about how they conduct business with logistics companies, specifically how Jack Cooper Logistics (JCL/AXIS) interacts with other shippers, carriers and, most importantly, Jack Cooper Transport (JCT).

## **Some background facts are important:**

The previous Carhaul Director settled a work preservation grievance in 2008, *with prejudice*, against Allied Systems Holdings (ASHI) by signing a "Side Letter" arrangement that granted ASHI and Axis the right to subcontract more than 80% of new and used car loads in violation of the text of the WPA to non-Teamsters carriers, without any enforceable terms to maintain this Carhaul Work for Teamsters. The "Side Letter" also barred the Teamsters from organizing Axis jobs and completely eliminated the WPA successor clause as to Axis.

In 2011, the then-Carhaul Director, continued the terms of the Axis "Side Letter" and left NMATA negotiations *without* having ASHI sign an Ultimate Parent WPA. This action left the Carhaul membership subject to continued unrestricted ASHI and Axis subcontracting and brokerage of both new and used car loads for over two years, including during the last, protracted Allied bankruptcy proceeding.

In 2012, the current Carhaul Division leadership required Jack Cooper Holdings (JCH) to sign an Ultimate Parent WPA which gave us investigatory control over their business practices. In 2013, JCH acquired the assets of Allied, including Axis, under the JCH WPA, but JCH also succeeded to the terms of the secret "Side Letter" that contradicts the language of the WPA.

## **Carhaul Division Audits of JCH and JCL/AXIS**

Since 2014, we have conducted on-site audits of JCL/AXIS and JCT and confirmed they operate on a completely different set of books, independently (arm's length) of each other.

We also learned the following:

a. JCT does not broker any freight. They haul contractual business (1-3 year OEM contracts) for 98% of their loads and get "spot-buy" freight from direct inquiries of OEMs and other sources for traffic that scour the marketplace for load matches.

b. Otherwise, JCT may get loads from three other sources in the "spot" market (*all traffic moves typically within 48 hours*): 1) JCT direct bill, OEMs looking for "new" car hauling capacity on the spot market (overflow) and/or Transport looking for a timely backhaul; 2) JCL/AXIS's "Direct Marketing" or cold calls for off-lease, rental car and auction business in known empty lanes – billed thru Logistics to the customer with JCT or Cassens as the carriers; 3) JCL/AXIS has established operations in Georgia. It is a traditional brokerage with rental car, remarketing, reconditioning or new car traffic not covered by an OEM transportation contract with either JCT or Cassens (could be VW or Glovis for example)– traffic with no direct relationship with Jack Cooper Transport. JCL/AXIS may or may not get the business based on cost, location, or availability. Logistics also operates domestic and international businesses that perform vehicle transport support services such as inspections, document management, etc. The Carhaul Division has also audited these businesses.

## **Since 2012 we've learned and proved the following:**

Because of active enforcement measures by the Carhaul Division, JCL/AXIS now offers all available loads to NMATA carriers, who have the first right of refusal. Last year, the number-one hauler of used car loads brokered by JCL/AXIS was JCT and there were a couple thousand loads. The second biggest hauler was Cassens. This practice gives our members and companies opportunities for earnings not otherwise possible. Combined, these two carriers hauled the majority of all eight-car loads that were brokered. Most loads were moved on small trailers or flatbeds, too few VINs for NMATA carriers.



The number of new car loads moving through JCL/AXIS is much smaller. Once the Carhaul Division complained that large direct competitors were getting fed new car traffic from JCL/AXIS in late 2014, almost all of that behavior stopped last year. While Cassens and Cooper do haul an increasing number of new car spot loads, the largest haulers only move a couple hundred units annually. It is not a big piece of business for JCL/AXIS or our auto transporters due to price.

There is no evidence that Jack Cooper Transport or Cassens is brokering spot buys now or intends to do so in the future. Simply put, this is just rumor, innuendo and scare tactics from persons outside the Carhaul craft who don't know or understand the vehicle logistics sector. How do you broker a spot buy if you're a carrier? You either agree to haul it or not, it's that simple and you usually have a few hours to decide. You don't own the traffic and you're not a broker! In our realm, only JCL/AXIS can broker a load and they do not have any contracts to haul new car overflow or spot buy traffic anyway. Any critics saying otherwise are simply making things up.

Usually a carrier submits a fixed bid on a piece of quick moving traffic and the carrier either gets it or it doesn't. Now, for JCL/AXIS and any other entity under the WPA, that's only after Cooper and Cassens, both who need backhaul traffic, have a chance to refuse the load. It is much more profitable to haul a load than broker a load, the critics simply ignore this basic fact of the business. Only non-union carriers broker contractual loads, some all the time, to handle peaks and overflow. Their workers have no rights or claims to traffic. The Teamsters' WPA prevents our carriers from doing so.

**The new language in the WPA offers major job security protections that do not exist under the weak 2011 WPA agreements:**

For the first time, the Carhaul Division has the right to demand audits of the detailed

books and records of all corporate entities to verify the statements and claims of subcontracting activity that Local Unions may observe on the road or at the terminals. The only reason there are outstanding grievances on this issue is because certain Local Unions refuse to sign confidentiality agreements, a standard practice in the industry, to get the detailed records. Some would rather complain than work to resolve serious issues for members.

The Carhaul Division has explored all the detailed relationships between the nine or ten corporate entities that each operate under all three large NMATA corporations and has tied them all together under the 2015 to 2020 WPA. Contrary to the outcome in 2011, the Carhaul Division has obtained signed Ultimate Parent WPAs with Jack Cooper Enterprises Inc. (JCEI) and Cassens Corporation before the membership ratification vote. The new language of the 2015 to 2020 WPA is required to expressly repeal the secret "Side Letter" arrangement made with Axis in 2008 when the work preservation grievance was dropped with prejudice by the prior Director.

The new WPA contractually binds the parent companies and their subsidiaries FOR THE FIRST TIME to offer temporary traffic loads, both new and used, to each other before going to the street. This includes spot buys from OEMs and 3PL providers which is unheard of in the auto logistics industry. Because more than two-thirds of all the VINs are small loads (four units or less), usually offered at low rates, it's hard to regularly build profitable freight for big OTR carriers in this sector. That said, Carhaul Division audits since 2013 have confirmed that our carriers are hauling more loads that used to go non-union than ever before. The Carhaul Division will continue to vigorously monitor the logistical operations of all these companies for WPA compliance. We take this aspect of our members' job security very seriously.