



the President and Chief Executive Officer of BEAM TRUCKING, and GARLAND BEAM was its Vice-President and Chief Operating Officer. Defendant SHAUN BEAM was BEAM TRUCKING's Operations Manager, and Defendant NICKOLAS KOZEL ("KOZEL") was its Chief Financial Officer.

#### United States Postal Service

4. The USPS is an independent agency of the United States, explicitly authorized by the United States Constitution and responsible for providing postal service in the United States. To execute its mission, the USPS entered into contracts with private motor carriers ("motor carriers") to provide ground transportation and services related to the transportation of mail ("mail contracts").

5. Each mail contract required the motor carrier to, among other things:
- a. Protect and safeguard the mail from loss, theft, or damage and to prevent unauthorized persons from having access to the mail;
  - b. To comply with all applicable federal, state and local laws and regulations;
  - c. To faithfully discharge all duties and obligations imposed by all applicable federal, state and local laws and regulations; and
  - d. To acknowledge and certify under penalty of law that it would comply with the provisions of the McNamara-O'Hara Service Contract Act of 1965, 41 U.S.C. §§ 351-358, and its implementing regulations ("SCA").

The USPS would not award a mail contract to a motor carrier who did not agree to these standard provisions.

6. While each mail contract specified the time of pick-up from and delivery to postal facilities, the motor carrier was solely responsible for ensuring that each trip/route driven by a

motor carrier's drivers was set up, scheduled and staffed so that the drivers could comply with all applicable federal, state and local laws and regulations.

**Federal Motor Carrier Safety Administration  
and Federal Motor Carrier Safety Regulations**

7. The Federal Motor Carrier Safety Administration ("FMCSA"), is an administration of the United States Department of Transportation ("DOT") responsible for regulating and providing safety oversight of companies operating commercial motor vehicles ("CMVs"). Its mission is to reduce crashes, injuries and fatalities involving CMV's and buses. Through powers delegated to it by the Secretary of Transportation, the FMCSA issues and enforces safety regulations to promote the safe operation of CMVs, to minimize dangers to the health of operators of CMVs and other employees whose employment directly affects motor carrier safety, and to ensure increased compliance with traffic laws and with the CMV safety and health regulations and standards prescribed under the law. 49 U.S.C. §§ 31131, 31136(a); see also, 49 U.S.C. § 1.87 (delegating authorities vested in the Secretary of Transportation to the FMCSA Administrator). The United States Congress specifically directed that the FMCSA's highest priority is "the furtherance of the highest degree of safety in motor carrier transportation." 49 U.S.C. § 113(b).

8. To implement this directive, the FMCSA prescribed highway safety regulations, 49 C.F.R. Parts 350-399 ("FMCSA Safety Regulations"). The FMCSA Safety Regulations impose a duty on all motor carrier employers and employees to "be knowledgeable of and comply with" FMCSA highway safety regulations. 49 C.F.R. §§ 390.3(e)(1), 392.1, and 396.1. In addition, the FMCSA Safety Regulations make it clear that whenever a duty or prohibition is imposed upon a driver, "it shall be the duty of the motor carrier to require observance of such duty or prohibition." 49 C.F.R. § 390.11. The FMCSA Safety Regulations also warn that "[a] person who violates the rules ... may be subject to civil or criminal penalties." 49 C.F.R. § 390.37.

9. Under the FMCSA Safety Regulations:

- a. "Motor carrier" means a person engaged in the transportation of goods or passengers for compensation or a person who provides transportation of property or passengers, by commercial motor vehicle, not for compensation. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories and "any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it." 49 C.F.R. §§ 390.5, 390.5T; 49 U.S.C. § 13102(14), (15).
- b. "Commercial motor vehicle" includes "any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle...has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater, and a "highway" includes "any road, street, or way, whether on public or private property, open to public travel." 49 C.F.R. § 390.5.
- c. "No person shall aid, abet, encourage, or require a motor carrier or its employees to violate ..." any FMCSA Safety Regulations. 49 C.F.R. § 390.13.
- d. "No motor carrier, its agents, officers, representatives, or employees shall make or cause to make .... [a] fraudulent or intentionally false entry on any ... record required to be used, completed, or retained, to comply with any requirement of

...” the FMCSA Safety Regulations. 49 C.F.R. § 390.35. This applies to CMV driver records of duty status required to be completed and maintained by 49 C.F.R. § 390.8.

- e. “Every commercial motor vehicle must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.” 49 C.F.R. § 392.2.
- f. “No driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver’s ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle.” 49 C.F.R. § 392.3.
- g. “No motor carrier shall schedule a run nor permit nor require the operation of any commercial motor vehicle between points in such period of time as would necessitate the commercial motor vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the commercial motor vehicle is being operated.” 49 C.F.R. § 392.6.
- h. “Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day’s work on each vehicle operated ... The report shall cover at least the following parts and accessories: (i) Service brakes, including trailer brake connections; (ii) Parking brake; (iii) Steering mechanism; (iv) Lighting devices and reflectors; (v) Tires; (vi) Horn; (vii) Windshield wipers; (viii) Rear vision mirrors; (ix) Coupling devices; (x) Wheels and rims; (xi) Emergency equipment.” 49 C.F.R. § 396.11. This inspection and report is often referred to as the “post-trip inspection.”

- i. “Before driving a motor vehicle, the driver shall: (a) Be satisfied that the motor vehicle is in safe operating condition; (b) Review the last driver vehicle inspection report; and (c) Sign the report, only if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed.” 49 C.F.R. § 396.13.
- j. No commercial motor vehicle shall be driven unless the driver is satisfied that the following parts and accessories are in good working order: service brakes (including trailer brake connections), parking (hand) brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear-vision mirror or mirrors and coupling devices. 49 C.F.R. § 392.7. This inspection is often referred to as a “pre-trip inspection.”

10. To fulfill its safety mission, as part of its safety regulations, the FMCSA restricts the hours of service for CMV drivers in 49 C.F.R., Part 395 (“FMCSA HOS safety regulations”). Under the FMCSA HOS safety regulations (49 C.F.R. § 395.3) no motor carrier “shall permit or require” any driver used by it to drive a property-carrying CMV, nor shall any such driver drive a property-carrying CMV unless the driver complies with the following requirements:

- (1) **Start of work shift.** A driver may not drive without first taking 10 consecutive hours off duty;
- (2) **14-hour period.** A driver may drive only during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty. The driver may not drive after the end of the 14-consecutive hour period without first taking 10 consecutive hours off duty; and
- (3) **Driving time.** A driver may drive a total of 11 hours during the 14-hour period specified [above].

11. In addition, no motor carrier shall “permit or require” a CMV driver to drive a property-carrying CMV for any period after having been on duty 70 hours in any period of 8 consecutive days if the motor carrier operates CMVs every day of the week. 49 C.F.R. § 395.3(b).

12. The FMCSA HOS safety regulations require motor carriers and CMV drivers to make and retain a true and accurate written or electronic record of duty status (also known as “driver logs, “paper logs,” “electronic logs” or “elogs”) that includes the time each CMV driver spent “Driving,” “On-duty not driving” (also known as “On-Duty”), in the “Sleeper Birth,” or “Off-Duty” for each 24-hour period. 49 C.F.R. §§ 395.8, 395.15.

13. The FMCSA HOS safety regulations define “Driving time” (also known as “Driving”) as “all time spent at the driving controls of a commercial motor vehicle in operation.” 49 C.F.R. § 395.2.

14. The FMCSA HOS safety regulations define “On-duty time” to include “all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.” It further describes, in relevant part, on-duty time to include:

- a. All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
- b. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- c. All driving time as defined in the term driving time;
- d. All time in or on a commercial motor vehicle, other than time spent resting in or on a parked vehicle or time spent resting in a sleeper berth;

- e. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle;
- g. All time spent providing a breath sample or urine sample;
- h. Performing any other work in the capacity, employ, or service of, a motor carrier; and
- i. Performing any compensated work for a person who is not a motor carrier.

49 C.F.R. § 395.2.

15. A motor carrier may permit driving a CMV while not on duty only for purely personal use under very limited circumstances, such as to drive “short distances from a driver’s en route lodgings (such as en route terminals or motels) to restaurants in the vicinity of such lodgings.” This would be shown on the driver’s record of duty status as “Off-Duty time” (sometimes this is referred to as “Off-Duty Driving”). A driver may only drive a CMV while “Off-Duty Driving” when the driver is completely relieved from all work or any responsibility for performing work. In addition, “Off-Duty Driving” may never be used if the CMV is carrying any cargo. 49 C.F.R. § 395.8 (Regulatory Guidance for 49 C.F.R. § 395.8, Question 26, 62 Fed. Reg. 16,370, 16,426 (April 4, 1997)).

16. Every CMV driver is required to certify that all entries on his/her record of duty status were true and correct. 49 C.F.R. §§ 395.8(f)(7), 395.15(h). Each driver is required to keep a copy



of his/her record of duty status for each day and the “previous 7 consecutive days which shall be in his/her possession and available for inspection when on duty.” Each motor carrier is required to keep all driver records of duty status and all supporting documents for each driver it employed for a period of “not less than six months.” 49 C.F.R. § 395.8(k).

17. The motor carrier has primary responsibility for ensuring compliance with the FMCSA Safety Regulations with regard to its own employees. The FMCSA Safety Regulations require that whenever a duty or prohibition is imposed on a driver, “it shall be the duty of the motor carrier to require observance of such duty or prohibition.” In addition, the FMCSA HOS safety regulations specifically require that “no motor carrier shall permit or require any driver” to violate the FMCSA HOS safety regulations. 49 C.F.R. §§ 390.11, 395.3.

18. The FMCSA enforces the FMCSA Safety Regulations by conducting onsite motor carrier compliance investigations as well as through roadside compliance inspections. Both onsite motor carrier investigations and roadside compliance inspections depend upon true, correct, and complete driver records of duty status and other records to ensure compliance with the FMCSA Safety Regulations, including the FMCSA HOS safety regulations.

19. The FMCSA has the authority to impose significant penalties for a driver’s violation of the FMCSA’s Safety Regulations, including the FMSCA’s HOS safety regulations, including placing the driver out of service, imposing fines, issuing adverse safety ratings, and prohibiting the motor carrier from operating a CMV. A driver or motor carrier who fails to complete or preserve records of duty status entries, or who makes a false record of duty status entries related to a driver’s duty activities may be prosecuted for a criminal violation. 49 C.F.R. §§ 390.37, 395.8(e).

20. The defendants were aware of both the FMCSA's onsite motor carrier investigations, roadside compliance inspections, and the need for true, correct, and complete driver records of duty status and other records to conduct these enforcement activities.

21. In 2004, 2007 and 2010, the FMCSA conducted onsite compliance investigations/reviews of BEAM TRUCKING for violations of the FMCSA Safety Regulations, including violations of the FMCSA HOS safety regulations.

**Service Contract Act/Fair Labor Standards Act  
and Compensation for "Hours Worked"**

22. The SCA requires contractors and subcontractors performing services under contracts with the United States government in excess of \$2,500 to pay their employees for each hour or portion of an hour worked at a rate no less than a prevailing minimum wage rate as determined by the United States Department of Labor ("DOL"). 41 U.S.C. §§ 6701-6707; 29 C.F.R. § 4.151. The SCA applies to all service employees working on or in connection with the contract, either performing the specific services called for by its terms or in performing other duties necessary to the performance of the contract. 29 C.F.R. § 4.150. The SCA specifically applies to truck drivers engaged in "mail hauling." 29 C.F.R. § 4.130(a)(31).

23. The SCA requires employers to compute the hours worked by employees under the contract in each workweek. 29 C.F.R. § 4.178. "In general, the hours worked by an employee include all periods in which the employee is suffered or permitted to work whether or not required to do so, and all time during which the employee is required to be on duty or to be on the employer's premises or to be at a prescribed workplace." The regulation further directs that an employer must apply the principles set forth in the Fair Labor Standards Act, ("FLSA"), 29 U.S.C. §§ 201-219 and 29 C.F.R. Part 785 ("FLSA regulations"), which include the requirement that "[a]n employer may not arbitrarily fail to count as hours worked any part, however small, of the employee's fixed

or ascertainable period of time he is regularly required to spend on duties assigned to him.” 29 C.F.R. § 785.47.

24. The FLSA regulations, applicable to contractors and subcontractors subject to the SCA, include:

- a. Waiting time, is considered to be “on-duty” and are unpredictable periods of inactivity, usually of short duration, in which the employee is unable to use the time for his/her own purposes because it belongs to and is controlled by the employer. 29 C.F.R. § 785.15.
- b. “Off-duty” refers to periods during which an employee is completely relieved from duty, and the period is long enough to enable him/her to use the time effectively for his/her own purposes. An employee is not completely relieved from duty and cannot use the time effectively for his/her own purposes unless he/she is definitely told in advance that he/she may leave the job and that he/she will not have to commence work until a definitely specified hour has arrived. 29 C.F.R. § 785.16.
- c. The following example is specifically applicable to truck drivers:  
A truck driver who has to wait at or near the job site for goods to be loaded is working during the loading period. If the driver reaches his destination and while awaiting the return trip is required to take care of his employer's property, he is also working while waiting. In both cases the employee is engaged to wait. Waiting is an integral part of the job. On the other hand, for example, if the truck driver is sent from Washington, DC to New York City, leaving at 6 a.m. and arriving at 12 noon, and is completely and specifically relieved from all duty until 6

p.m. when he again goes on duty for the return trip the idle time is not working time. He is waiting to be engaged. 29 C.F.R. § 785.16.

- d. Rest periods of short duration running from 5 minutes to about 20 minutes, are common in industry and must be counted as hours worked. 29 C.F.R. § 785.18.
- e. Bona fide meal periods, in which the employee is completely relieved from duty for the purpose of eating regular meals are not worktime. An employee's meal period must be counted as time worked if the employee is "required to perform any duties, whether active or inactive, while eating." Bona fide meal periods do not include coffee breaks or time for snacks since these are rest periods and must be counted as time worked. 29 C.F.R. § 785.19.
- f. An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. 29 C.F.R. § 785.21.
- g. Work not requested but suffered or permitted is work time, because the employer knows or has reason to believe that the employee is continuing to work. 29 C.F.R. § 785.11.
- h. Work performed away from the premises or the job site, or even at home is work time if the employer knows or has reason to believe that the work is being performed, 29 C.F.R. § 785.12.

25. The SCA also requires contractors and subcontractors performing services under contracts with the United States government to pay certain fringe benefits to employees for the first forty hours worked in each pay period. 41 U.S.C. § 6703. It also requires that hourly wages and fringe benefits be paid "promptly and in no event later than one pay period following the pay period in which they are earned." 29 C.F.R. § 4.165(a)(1).

26. The SCA also requires a contractor and subcontractors to maintain, for three years, certain records, including time sheets showing the “number of daily and weekly hours so worked by each employee,” that must be made available for inspection by representatives of the Wage and Hour Division of the Employment Standards Administration of the DOL. 29 C.F.R. §§ 4.6(g)(1), 4.185.

27. “A contractor has an affirmative obligation to ensure that its pay practices are in compliance with the ... [SCA], and cannot itself resolve questions which arise, but rather must seek advice from the Department of Labor.” 29 C.F.R. § 4.188(b)(4).

28. The DOL (Wage and Hour Division) conducts compliance investigations to ensure that employers compensate their employees as required by the SCA. In conducting its compliance investigations, the DOL relies upon the availability of true, accurate, and complete time sheets.

29. The defendants were aware of the DOL (Wage and Hour Division) compliance investigations and the need for true, accurate, and complete time sheets because in 1991 and 2001, investigators conducted significant onsite compliance investigations of BEAM TRUCKING for underpaying its CMV drivers in violation of the SCA.

### COUNT ONE

#### **(Conspiracy to Obstruct a Lawful Function of Government)**

30. Paragraphs 1 through 29 of this indictment are re-alleged and incorporated by reference as if fully set forth herein.

31. Beginning as early as in or about June 1999, the exact date being unknown to the Grand Jury, and continuing to on or about the date of this indictment, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, did knowingly and willfully conspire, combine, confederate, and agree

together and with each other and with other individuals both known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of:

- a. The DOT and the FMCSA in promoting the safe operation of CMVs, minimizing the dangers to the health of CMV drivers, and ensuring increased compliance with traffic laws and FMCSA Safety Regulations;
- b. The DOL in accomplishing its mission to ensure that covered employees are properly paid for all hours worked under the SCA, the FLSA and their related regulations (“SCA/FLSA”); and
- c. The USPS in obtaining the transportation and delivery of the mail by motor carriers who would (1) operate legally by complying with all applicable federal, state and local laws and regulations, and faithfully discharge all duties and obligations imposed by all applicable federal, state and local laws and regulations; including the FMCSA safety compliance regulations and the SCA/FLSA and (2) not impede, impair, obstruct its right to have its business and its affairs, and particularly the process of bidding and awarding of contracts and contract renewals for the ground transportation of mail, conducted honestly and impartially, free from corruption, fraud, dishonesty, unlawful impairment and obstruction.

#### **Manner and Means**

32. The defendants and their co-conspirators carried out the objects of the conspiracy by various means, at various times, including:

- a. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING employees to violate the FMCSA Safety Regulations, including, but not limited to, the FMCSA HOS safety regulations;
- b. Making trip/route schedules for BEAM TRUCKING CMV drivers and CMV drivers of its sub-contractors that could not be legally completed within the FMCSA HOS safety regulations as scheduled;
- c. Making trip/route schedules for BEAM TRUCKING CMV drivers and CMV drivers of its sub-contractors that aided, abetted, encouraged, required and permitted such drivers to violate the FMCSA HOS safety regulations;
- d. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers and other employees to make false statements on the drivers' records of duty status;
- e. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to exceed the legal speed limit to make it falsely appear on their records of duty status that the trips/routes had been completed in compliance with the FMCSA HOS safety regulations;
- f. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to falsify their records of duty status by:
  - (1) Falsely recording their duty status as "Off-Duty" when in fact their true status was "On-Duty" while performing work under the mail contracts, including pre-trip and/or post-trip inspections of their tractors/trailers and required paperwork;
  - (2) Falsely recording their duty status as "Off-Duty Driving" when in fact their true status was "Driving;"

- (3) Failing to sign onto or to sign off of the electronic record of duty status system so that their records of duty status would falsely appear to be "Off-Duty" when their drivers' true status was "Driving" and/or "On-Duty;"
  - (4) Falsely recording their duty status as "Off-Duty" when in fact their true duty status was "On-Duty" and/or "Driving;" and
  - (5) Falsely certifying that their record of duty status was accurate when in fact it was not accurate.
- g. Manipulating the electronic Record of Duty Status system to make it falsely appear that BEAM TRUCKING CMV drivers were "Off-Duty" or "On-Duty" when in fact their true status was "Driving," and to make it falsely appear that the drivers were "Off-Duty" when in fact their true status was "On-Duty" and/or "Driving;"
  - h. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to operate CMVs while their driving ability and alertness were so impaired and likely to become impaired through fatigue, illness, and any other cause, as to make it unsafe for the CMV drivers to begin or continue to operate the commercial motor vehicle;
  - i. Failing to ensure that BEAM TRUCKING employees comply with all FMCSA Safety Regulations;
  - j. Aiding, abetting, encouraging, causing and requiring BEAM TRUCKING CMV drivers to falsify their time sheets to report fewer hours worked than they actually worked, in violation of the SCA/FLSA and the mail contracts;
  - k. Aiding, abetting, encouraging, causing and requiring BEAM TRUCKING CMV drivers to falsify their time sheets to report fewer hours worked than they



actually worked by instructing the drivers that their time sheets should match the false records of duty status, in violation of SCA/FLSA and the mail contracts;

- l. Falsely and fraudulently representing to BEAM TRUCKING CMV drivers that they were entitled to be paid only for a pre-set fixed amount of time, often referred to as "standard hours," for completing a trip/route, even if the trip/route took more time to complete than the "standard hours," and even when the drivers were paid less than they were entitled to be paid under the mail contracts and the SCA/FLSA;
- m. Falsely and fraudulently representing to BEAM TRUCKING CMV drivers that they were permitted only to report "standard hours" on their time sheets even when the actual hours worked were greater;
- n. Telling BEAM TRUCKING CMV drivers that they would not be paid for short rest periods, for time remaining in readiness to operate a CMV, for time waiting for their trailers to be loaded or unloaded at postal facilities, for time spent assisting or supervising the loading or unloading of their trailers at postal facilities, for time waiting at a relay location for the arrival of another driver, and for the time during mechanical breakdowns, weather delays, accident delays, and traffic delays;
- o. Failing to inform BEAM TRUCKING CMV drivers of the pay requirements of the mail contracts and the SCA/FLSA;
- p. Preventing BEAM TRUCKING CMV drivers who were aware of the pay requirements of the mail contracts and the SCA/FLSA, as well as BEAM TRUCKING's practice of paying drivers less than required under the

SCA/FLSA, from sharing that information with other drivers, DOL, DOT, and any other government agency in an effort to conceal the ongoing conspiracy;

- q. Creating an "Over Hours List audit program" that identified drivers who reported on their time sheets more time than the "standard hours," and contacting these drivers to convince them to report the "standard hours" or less time on future time sheets to conceal the fact that BEAM TRUCKING CMV drivers were being underpaid in violation of the SCA/FLSA and driving in violation of the FMCSA HOS safety regulations;
- r. Failing to inform the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program how the BEAM TRUCKING CMV drivers were required to be paid under the SCA/FLSA and the mail contracts;
- s. Directing the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program to implement the program to pay BEAM TRUCKING CMV drivers in violation of the SCA/FLSA and the mail contracts;
- t. Failing to review and consider BEAM TRUCKING CMV drivers' requests for additional pay;
- u. Failing to pay BEAM TRUCKING CMV drivers as required under the SCA/FLSA and mail contracts;
- v. Falsely promising the USPS in mail contracts that BEAM TRUCKING would comply with all applicable federal, state and local laws and regulations and faithfully discharge all duties and obligations imposed by all applicable federal,

state and local laws and regulations, including the FMCSA Safety Regulations and the SCA/FLSA;

- w. Failing to comply during the course of the mail contracts with all applicable federal, state and local laws and regulations and failing to faithfully discharge all duties and obligations imposed by all applicable federal, state and local laws and regulations, including the FMCSA safety compliance regulations and the SCA/FLSA; and
- x. Obtaining an improper and unfair competitive advantage over other potential mail contract competitors who intended to comply with all applicable federal, state and local laws and regulations and too faithfully discharge all duties and obligations imposed by all applicable federal, state and local laws, including the FMCSA safety compliance regulations and the SCA/FLSA.

#### **Overt Acts**

33. In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Western District of Virginia, and elsewhere.

34. Each factual allegation of Counts Three through One Hundred and Six of this indictment are re-alleged and incorporated by reference as if fully set forth herein, and each allegation separately constitutes an overt act in furtherance of the conspiracy charged in this Count.

35. In violation of Title 18, United States Code, Section 371.

#### **COUNT TWO**

##### **(Conspiracy to Commit an Offense Against the United States)**

36. Paragraphs 1 through 29 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

37. Beginning as early as in or about June 1999, the exact date being unknown to the Grand Jury, and continuing to on or about the date of this indictment, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, did knowingly and willfully conspire, combine, confederate, and agree together and with each other and with other individuals both known and unknown to the Grand Jury, to commit an offense against the United States, namely:

- a. Knowingly altered, concealed, covered up, and falsified, a record or document, namely, a CMV driver's record of duty status ("record of duty status") and a "BEAM Bros. Trucking INC BI-WEEKLY TIME SHEET" ("time sheet"), with intent to impede, obstruct and influence the investigation and proper administration of, and in contemplation of and in relation to, any matter within the jurisdiction of any department or agency of the United States, namely, the DOT, the FMCSA and the DOL, in violation of 18 U.S.C. § 1519; and
- b. Knowingly and willfully, made and used any false writing and document, namely, a record of duty status and a time sheet, knowing the same to contain any materially false, fictitious, and fraudulent statement and entry, in a matter within the jurisdiction of the executive branch of the government of the United States, namely, the DOT, the FMCSA and the DOL, in violation of 18 U.S.C. § 1001.

#### **Manner and Means**

38. The defendants and their co-conspirators carried out the objects of the conspiracy by various means, at various times during the conspiracy, including:

- a. Aiding, abetting, encouraging, permitting or requiring BEAM TRUCKING employees to violate the FMCSA Safety Regulations, including the FMCSA HOS safety regulations;
- b. Making trip/route schedules for BEAM TRUCKING CMV drivers and CMV drivers of its sub-contractors that could not be legally completed within the FMCSA HOS safety regulations as scheduled;
- c. Making trip/route schedules for BEAM TRUCKING CMV drivers and CMV drivers of its sub-contractors that aided, abetted, encouraged, required or permitted such drivers to violate the FMCSA HOS safety regulations;
- d. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers and other employees to make false statements on the drivers' records of duty status;
- e. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to exceed the legal speed limit to make it falsely appear on the records of duty status that the trip/route had been completed in compliance with the FMCSA HOS safety regulations;
- f. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to falsify their records of duty status by:
  - (1) Falsely recording their duty status as "Off-Duty" when in fact their true status was "On-Duty" while performing work under the mail contracts, including pre-trip and/or post-trip inspections of their tractor/trailer and required paperwork;
  - (2) Falsely recording their duty status as "Off-Duty Driving" when in fact their true status was "Driving;"

- (3) Failing to sign onto or to sign off of the electronic record of duty status system so that their records of duty status would falsely appear to be "Off-Duty" when their drivers' true status was "Driving" and/or "On-Duty;"
  - (4) Falsely recording their duty status as "Off-Duty" when in fact their true duty status was "On-Duty" and/or "Driving;" and
  - (5) Falsely certifying that their record of duty status was accurate when in fact it was not accurate.
- g. Manipulating the electronic record of duty status system to make it falsely appear that BEAM TRUCKING CMV drivers were "Off-Duty" or "On-Duty" when in fact their true status was "Driving," and to make it falsely appear that the drivers were "Off-Duty" when in fact their true status was "On-Duty" and/or "Driving;"
  - h. Failing to ensure that BEAM TRUCKING employees comply with all FMCSA Safety Regulations;
  - i. Aiding, abetting, encouraging, causing and requiring BEAM TRUCKING CMV drivers to falsify their time sheets to report fewer hours worked than they actually worked, in violation of the SCA/FLSA and the mail contracts;
  - j. Aiding, abetting, encouraging, causing and requiring BEAM TRUCKING CMV drivers to falsify their time sheets to report fewer hours worked than they actually worked by instructing the drivers that their time sheets should match the false records of duty status described above, in violation of SCA/FLSA and the mail contracts;
  - k. Fraudulently representing to BEAM TRUCKING CMV drivers that they were entitled to be paid only for a pre-set fixed amount of time, often referred to as

“standard hours,” for completing a trip/route, even if the trip/route took more time to complete than the “standard hours,” and even when the drivers were paid less than they were entitled to be paid under the mail contracts and the SCA/FLSA;

- l. Falsely and fraudulently representing to BEAM TRUCKING CMV drivers that they were permitted only to report “standard hours” on their time sheets even when the actual hours were greater;
- m. Telling BEAM TRUCKING CMV drivers that they would not be paid for short rest periods, for time waiting for their trailers to be loaded or unloaded at postal facilities, for time spent assisting or supervising the loading or unloading of their trailers at postal facilities, for time waiting at a relay location for the arrival of another driver, and for the time during mechanical breakdowns, weather delays, accident delays, and traffic delays;
- n. Failing to inform BEAM TRUCKING CMV drivers of the pay requirements of the mail contracts and the SCA/FLSA;
- o. Preventing BEAM TRUCKING CMV drivers who were aware of the pay requirements of the mail contracts and the SCA/FLSA, as well as BEAM TRUCKING’s practice of paying drivers less than required under the SCA/FLSA, from sharing that information with other drivers, DOL, DOT, and any other government agency in an effort to conceal the ongoing conspiracy;
- p. Creating an “Over Hours List” audit program that identified drivers who reported on their time sheets more time than the “standard hours,” and contacting these drivers to convince them to report the “standard hours” or less time on future time sheets to conceal the fact that BEAM TRUCKING CMV

drivers were being underpaid and driving in violation of the FMCSA HOS safety regulations;

- q. Failing to inform the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program how the BEAM TRUCKING CMV drivers were required to be paid under the SCA/FSLA and the mail contracts;
- r. Directing the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program to implement the program to pay BEAM TRUCKING CMV drivers in violation of the SCA/FSLA and the mail contracts;
- s. Failing to review and consider BEAM TRUCKING CMV drivers' requests for additional pay; and
- t. Failing to pay BEAM TRUCKING CMV drivers as required under the SCA/FLSA and the mail contracts.

#### **Overt Acts**

39. In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Western District of Virginia, and elsewhere.

40. Each factual allegation of Counts Three through One Hundred and Six of this indictment are re-alleged and incorporated by reference as if fully set forth herein, and each allegation separately constitutes an overt act in furtherance of the conspiracy charged in this Count.

41. In violation of Title 18, United States Code, Section 371.



## COUNTS THREE TO FORTY-SEVEN

(Falsification of Records in Contemplation of Federal Matter)

42. Paragraphs 1 through 29 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

43. On or about the dates set forth below, as to each count, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, did knowingly alter, conceal, cover up, and falsify, as set forth below, a record or document, namely, a CMV driver's Record of Duty Status, for the BEAM TRUCKING driver identified by his/her initials, with intent to impede, obstruct and influence the investigation and proper administration of any matter and in contemplation of and in relation to any such matter within the jurisdiction of the United States Department of Transportation and the United States Federal Motor Carrier Safety Administration, a department and administration of the United States.

44. On or about the stated dates, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, (1) were members of a conspiracy as described in Count Two of this indictment, (2) the offense of falsification of records in contemplation of a federal matter was committed or was caused to be committed by a member of and during the conspiracy, (3) the member of the conspiracy committed or caused the offense to be committed while a member of and during the existence of the conspiracy, and (4) the offense was committed in furtherance of the conspiracy.

Count	Date (On or About)	Driver & Falsifications
		<b>DRIVER TB</b>
3.	9/29/12	<ul style="list-style-type: none"> <li>a. TB was Off-Duty between 00:00 and 06:37 when he was actually On-Duty during some or all of that period of time.</li> <li>b. TB was Off-Duty Driving between 06:37 and 06:58 when he was actually Driving during some or all of that period of time.</li> <li>c. TB was Off-Duty between 20:11 and 20:35 when he was actually On-Duty during some or all of that period of time.</li> <li>d. TB was Off-Duty Driving between 20:35 and 20:44 when he was actually Driving during some or all of that period of time.</li> <li>e. TB was Off-Duty between 20:44 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>f. TB's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 27 minutes.</li> <li>g. TB did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
4.	3/7/13	<ul style="list-style-type: none"> <li>a. TB was Off-Duty between 00:00 and 06:39 when he was actually On-Duty during some of that period of time.</li> <li>b. TB was Off-Duty Driving between 06:39 and 07:03 when he was actually Driving during some or all of that period of time.</li> <li>c. TB was Off-Duty between 07:03 and 08:14 when he was actually On-Duty during some or all of that period of time.</li> <li>d. TB was Off-Duty Driving between 20:16 and 20:24 when he was actually Driving during some or all of that period of time.</li> <li>e. TB was Off-Duty between 20:24 and 20:50 when he was actually On-Duty during some or all of that period of time.</li> <li>f. TB was Off-Duty Driving between 20:50 and 21:02 when he was actually Driving during some or all of that period of time.</li> <li>g. TB was Off-Duty between 21:02 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>h. TB's total Driving time was 11 hours when it was actually approximately 11 hours and 44 minutes.</li> <li>i. TB did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
		<b>DRIVER JM</b>
5.	9/22/12	<ul style="list-style-type: none"> <li>a. JM was Off-Duty Driving between 02:37 and 03:03 when he was actually Driving during some or all of that period of time.</li> <li>b. JM was Off-Duty between 03:03 and 03:36 when he was actually On-Duty during some or all of that period of time.</li> <li>c. JM was Off-Duty Driving between 17:03 and 17:27 when he was actually Driving during some or all of that period of time.</li> </ul>

		<p>d. JM's total Driving time was 10 hours and 49 minutes when it was actually approximately 11 hours and 39 minutes.</p> <p>e. JM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
6.	3/9/13	<p>a. JM was Off-Duty Driving between 02:13 and 02:35 when he was actually Driving during some or all of that period of time.</p> <p>b. JM was Off-Duty Driving between 16:40 and 17:01 when he was actually Driving during some or all of that period of time.</p> <p>c. JM's total Driving time was 10 hours and 40 minutes when it was actually approximately 11 hours and 23 minutes.</p> <p>d. JM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER KC</b>
7.	9/15/12	<p>a. KC was Off-Duty between 00:00 and 03:31 when she was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. KC was Off-Duty Driving between 03:31 and 04:18 when she was actually Driving during some or all of that period of time.</p> <p>c. KC was Off-Duty Driving between 17:51 and 18:04 when she was actually Driving during some or all of that period of time.</p> <p>d. KC was Off-Duty between 18:16 and 00:00 when she was actually On-Duty some or all of that period of time.</p> <p>e. KC's total Driving time was 10 hours and 54 minutes when it was actually approximately 12 hours and 13 minutes.</p> <p>f. KC did not drive a CMV after 14 consecutive hours after coming On-Duty when she actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
8.	2/9/13	<p>a. KC was Off-Duty between 00:00 and 02:51 when she was actually On-Duty during some or all of that period of time.</p> <p>b. KC was Off-Duty Driving between 02:51 and 03:13 when she was actually Driving during some or all of that period of time.</p> <p>c. KC was Off-Duty Driving between 17:05 and 17:21 when she was actually Driving during some or all of that period of time.</p> <p>d. KC was Off-Duty between 17:21 and 00:00 when she was actually On-Duty some or all of that period of time.</p> <p>e. KC's total Driving time was 10 hours and 40 minutes when it was actually approximately 11 hours and 18 minutes.</p> <p>f. KC did not drive a CMV after 14 consecutive hours after coming On-Duty when she actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
9.	8/16/14	<p>a. KC was On-Duty or Off-Duty between 06:31 and 06:45, between 06:52 and 07:29, between 09:35 and 09:53, between 13:12 and 13:31, between 13:31 and 14:06 and between 19:33 and 20:09 when she was actually Driving for some period of time during some or all of those periods of time.</p>

		b. KC's total Driving time was 10 hours and 59 minutes when it was actually more than 11 hours.
		<b>DRIVER TM</b>
10.	9/22/12	<p>a. TM was Off-Duty between 00:00 and 02:42 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. TM was Off-Duty between 16:33 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. TM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
11.	12/21/12	<p>a. TM was Off-Duty between 00:00 and 03:22 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. TM was Off-Duty between 17:18 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
12.	3/21/13	<p>a. TM was Off-Duty between 00:00 and 02:45 when he was actually On-Duty during some or all of that period of time.</p> <p>b. TM was Off-Duty between 16:21 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. TM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER RM</b>
13.	9/19/12	<p>a. RM was Off-Duty between 00:00 and 04:06 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RM was Off-Duty between 10:03 and 12:11 when he was actually On-Duty during some or all of that period of time.</p> <p>c. RM was Off-Duty between 17:37 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>d. RM's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 55 minutes.</p> <p>e. RM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>f. RM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
14.	3/22/13	<p>a. RM was Off-Duty and Off-Duty Driving between 00:00 and 04:12 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RM was Off-Duty Driving between 09:48 and 09:57 when he was actually Driving during some or all of that time.</p>

		<p>c. RM was Off-Duty between 09:57 and 12:08 when he was actually On-Duty during some or all of that period of time.</p> <p>d. RM was Off-Duty and Off-Duty Driving between 17:45 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>e. RM's total Driving time was 10 hours and 58 minutes when it was actually approximately 11 hours and 27 minutes.</p> <p>f. RM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>g. RM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER RL</b>
15.	9/22/12	<p>a. RL was Off-Duty between 00:00 and 02:19 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RL was Off-Duty between 15:52 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RL's total Driving time was 10 hours and 52 minutes when it was actually approximately 11 hours and 12 minutes.</p> <p>d. RL did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
16.	1/18/13	<p>a. RL was Off-Duty and Off-Duty Driving between 00:00 and 02:24 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RL was Off-Duty and Off-Duty Driving between 16:24 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RL's total Driving time was 10 hours and 54 minutes when it was actually approximately 11 hours and 25 minutes.</p> <p>d. RL did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER DP</b>
17.	9/21/12	<p>a. DP was Off-Duty between 00:00 and 02:57 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. DP was Off-Duty between 16:46 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. DP's total Driving time was 11 hours when it was actually approximately 11 hours and 28 minutes.</p> <p>d. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
18.	12/19/12	<p>a. DP was Off-Duty between 00:00 and 04:28 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. DP was Off-Duty between 19:57 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. DP's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 30 minutes.</p>

		<p>d. DP drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER GR</b>
19.	12/30/12	<p>a. GR was Off-Duty between 00:00 and 01:40 when he was actually On-Duty during some or all of that period of time.</p> <p>b. GR was Off-Duty Driving between 07:13 and 07:22, between 07:33 and 07:41, and between 08:31 and 08:39 when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>c. GR was Off-Duty between 07:02 and 07:13, between 07:41 and 08:31, and between 08:48 and 09:20 when he was actually On-Duty for some period of time during some or all of those periods of time.</p> <p>d. GR was Off-Duty between 14:57 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. GR's total Driving time was 10 hours and 50 minutes when it was actually approximately 11 hours and 15 minutes.</p>
20.	2/6/13	<p>a. GR was Off-Duty between 00:00 and 01:40 when he was actually On-Duty during some or all of that period of time.</p> <p>b. GR was Off-Duty Driving between 07:38 and 07:44, between 07:51 and 08:11, and between 09:09 and 09:19 when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>c. GR was Off-Duty between 07:25 and 07:38, between 08:11 and 09:09, and between 09:25 and 09:59 when he was actually On-Duty for some period of time during some or all of those periods of time.</p> <p>d. GR was Off-Duty between 15:11 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. GR's total Driving time was 10 hours and 46 minutes when it was actually approximately 11 hours and 22 minutes.</p>
		<b>DRIVER CS</b>
21.	9/18/12	<p>a. CS was Off-Duty Driving between 07:24 and 07:30 when he was actually Driving during some or all of that period of time.</p> <p>b. CS was Off-Duty Driving between 08:35 and 09:17 when he was actually Driving during some or all of that period of time.</p> <p>c. CS was Off-Duty Driving between 11:49 and 12:01 when he was actually Driving during some or all of that period of time.</p> <p>d. CS was Off-Duty between 14:50 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. CS's total Driving time was 10 hours and 56 minutes when it was actually approximately 11 hours and 56 minutes.</p>
22.	3/8/13	<p>a. CS was Off-Duty Driving between 03:08 and 03:14 when he was actually Driving during some or all of that period of time.</p> <p>b. CS was Off-Duty Driving between 08:43 and 09:20 when he was actually Driving during some or all of that period of time.</p>

		<p>c. CS was Off-Duty Driving between 10:26 and 10:35 when he was actually Driving during some or all of that period of time.</p> <p>d. CS was Off-Duty between 16:41 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. CS's total Driving time was 10 hours and 49 minutes when it was actually approximately 11 hours and 41 minutes.</p>
		<b>DRIVER RK</b>
23.	9/25/13	<p>a. RK was Off-Duty between 00:00 and 02:32 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RK was Off-Duty between 08:44 and 09:34 when he was actually On-Duty during some or all of that period of time.</p> <p>c. RK was Off-Duty Driving between 09:34 and 10:34 when he was actually Driving during some or all of that period of time.</p> <p>d. RK was Off-Duty between 15:01 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. RK was On-Duty or Off-Duty between 02:32 and 02:38, between 02:51 and 03:06, and between 08:44 and 09:34, when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>f. RK's total Driving time was 10 hours and 18 minutes when it was actually approximately 11 hours and 18 minutes.</p>
24.	9/26/13	<p>a. RK was Off-Duty between 00:00 and 02:15 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RK was Off-Duty between 07:45 and 08:49 when he was actually On-Duty during some or all of that period of time.</p> <p>c. RK was Off-Duty Driving between 08:49 and 09:49 when he was actually Driving during some or all of that period of time.</p> <p>d. RK was Off-Duty between 15:06 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. RK was On-Duty or Off-Duty between 07:45 and 07:54, between 07:54 and 08:49, between 11:20 and 11:41, and between 14:59 and 15:06, when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>f. RK's total Driving time was 10 hours and 19 minutes when it was actually approximately 11 hours and 19 minutes.</p>

		<b>DRIVER SG</b>
25.	10/21/12	<p>a. SG was Off-Duty between 00:00 and 01:25 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. SG was Off-Duty Driving between 14:53 and 15:19 when he was actually Driving during some or all of that period of time.</p> <p>c. SG was Off-Duty between 15:19 and 00:00 when he was actually On-Duty during some of that period of time.</p> <p>d. SG's total Driving time was 10 hours and 53 minutes when it was actually approximately 11 hours and 54 minutes.</p> <p>e. SG did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
26.	4/14/13	<p>a. SG was Off-Duty between 00:00 and 01:35 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. SG was Off-Duty between 14:40 and 15:01 when he was actually On-Duty during some or all of that period of time.</p> <p>c. SG was Off-Duty Driving between 15:25 and 15:32 when he was actually Driving during some or all of that period of time.</p> <p>d. SG was Off-Duty between 15:32 and 15:38 when he was actually On-Duty during some or all of that period of time.</p> <p>e. SG was Off-Duty Driving between 15:38 and 16:00 when he was actually Driving during some or all of that period of time.</p> <p>f. SG was Off-Duty between 16:00 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>g. SG's total Driving time was 10 hours and 55 minutes when it was actually approximately 11 hours and 47 minutes.</p> <p>h. SG did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER AM</b>
27.	9/15/12	<p>a. AM was Off-Duty between 00:00 and 00:53 when he was actually On-Duty during all or some of that period of time.</p> <p>b. AM was Off-Duty Driving between 00:53 and 01:16 when he was actually Driving during some or all of that period of time.</p> <p>c. AM was Off-Duty between 01:16 and 01:35 when he was actually On-Duty during some or all of that period of time.</p> <p>d. AM was Off-Duty Driving between 01:35 and 01:58 when he was actually Driving during some or all of that period of time.</p> <p>e. AM was Off-Duty between 07:08 and 08:36 when he was actually On-Duty during some or all of that period of time.</p> <p>f. AM's total Driving time was 10 hours and 48 minutes when it was actually approximately 11 hours and 34 minutes.</p> <p>g. AM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>



28.	4/25/13	<ul style="list-style-type: none"> <li>a. AM was Off-Duty between 00:00 and 01:01 when he was actually On-Duty during all or some of that period of time.</li> <li>b. AM was Off-Duty Driving between 01:01 and 01:26 when he was actually Driving during some or all of that period of time.</li> <li>c. AM was Off-Duty between 01:26 and 01:35 when he was actually On-Duty during some or all of that period of time.</li> <li>d. AM was Off-Duty between 07:14 and 08:45 when he was actually On-Duty during some or all of that period of time.</li> <li>e. AM was Off-Duty Driving between 15:05 and 15:17 when he was actually Driving during some or all of that period of time.</li> <li>f. AM was Off-Duty between 15:17 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>g. AM's total Driving time was 10 hours and 58 minutes when it was actually approximately 11 hours and 48 minutes.</li> <li>h. AM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
<b>DRIVER JH</b>		
29.	12/18/12	<ul style="list-style-type: none"> <li>a. JH was Off-Duty between 00:00 and 03:48 when he was actually On-Duty during some or all of that period of time.</li> <li>b. JH was Off-Duty Driving between 03:48 and 04:06 when he was actually Driving during some or all of that period of time.</li> <li>c. JH was Off-Duty between 04:06 and 04:51 when he was actually On-Duty during some or all of that period of time.</li> <li>d. JH was Off-Duty Driving between 04:51 and 05:02 when he was actually Driving during some or all of that period of time.</li> <li>e. JH was Off-Duty Driving between 11:12 and 11:18 when he was actually Driving during some or all of that period of time.</li> <li>f. JH was Off-Duty between 17:31 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>g. JH's total Driving time was 10 hours and 54 minutes when it was actually approximately 11 hours and 29 minutes.</li> </ul>
30.	3/26/13	<ul style="list-style-type: none"> <li>a. JH was Off-Duty between 00:00 and 03:54 when he was actually On-Duty during some or all of that period of time.</li> <li>b. JH was Off-Duty Driving between 03:54 and 04:06 when he was actually Driving during some or all of that period of time.</li> <li>c. JH was Off-Duty between 04:06 and 04:42 when he was actually On-Duty during some or all of that period of time.</li> <li>d. JH was Off-Duty Driving between 04:42 and 04:50 when he was actually Driving during some or all of that period of time.</li> <li>e. JH was Off-Duty Driving between 10:50 and 10:55 when he was actually Driving during some or all of that period of time.</li> <li>f. JH was Off-Duty between 17:39 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>g. JH's total Driving time was 10 hours and 59 minutes when it was actually approximately 11 hours and 24 minutes.</li> </ul>

<b>DRIVER MB</b>		
31.	12/20/12	<p>a. MB was Off-Duty between 00:00 and 07:01 when she was actually Driving and On-Duty during some of that period of time.</p> <p>b. MB was Off-Duty Driving between 19:12 and 19:52 when she was actually Driving during some or all of that period of time.</p> <p>c. MB was Off-Duty between 19:52 and 00:00 when she was actually On-Duty during some or all of that period of time.</p> <p>d. MB's total Driving time was 10 hours and 43 minutes when it was actually approximately 11 hours and 41 minutes.</p>
<b>DRIVER JC</b>		
32.	12/12/12	<p>a. JC was Off-Duty between 00:00 and 05:32 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. JC was Off-Duty between 17:28 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. JC's total Driving time was 11 hours and 21 minutes when it was actually approximately 12 hours and 20 minutes.</p>
<b>DRIVER RT</b>		
33.	12/22/12	<p>a. RT was Off-Duty between 00:00 and 09:04 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was Off-Duty between 20:37 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RT's total Driving time was 10 hours and 59 minutes when it was actually approximately 12 hours and 15 minutes.</p> <p>d. RT drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
34.	12/23/12	<p>a. RT was Off-Duty between 00:00 and 08:26 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was Off-Duty between 18:15 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RT's total Driving time was 8 hours and 41 minutes when it was actually approximately 16 hours and 16 minutes.</p> <p>d. RT drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
35.	2/20/14	<p>a. RT was Off-Duty between 15:41 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was On-Duty or Off-Duty between 02:36 and 02:52, between 06:18 and 07:23, between 08:56 and 09:25, between 12:41 and 12:46, between 12:52 and 13:50 and between 15:22 and 15:34, when he was actually Driving for some period of time during some or all of those periods of time.</p>

		<p>c. RT's total Driving time was 10 hours when it was actually approximately 11 hours and 13 minutes.</p> <p>d. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty</p>
		<b>DRIVER WB</b>
36.	10/26/12	<p>a. WB was Off-Duty between 00:00 and 06:31 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. WB was Off-Duty Driving between 13:24 and 14:01 when he was actually Driving during some or all of that period of time.</p> <p>c. WB was Off-Duty between 14:01 and 23:24 when he was actually Driving and On-Duty during some of that period of time.</p> <p>d. WB's total Driving time was 5 hours and 59 minutes when it was actually approximately 7 hours and 4 minutes.</p>
37.	10/27/12	<p>a. WB was Off-Duty between 04:56 and 16:29 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 15 hours and 54 minutes when it was actually approximately 24 hours and 52 minutes.</p> <p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
38.	11/24/12	<p>a. WB was Off-Duty between 05:12 and 15:15 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 17 hours and 27 minutes when it was actually approximately 21 hours and 15 minutes.</p> <p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
39.	12/21/12	<p>a. WB was Off-Duty between 00:00 and 09:17 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. WB's total Driving time was 10 hours and 53 minutes when it was actually approximately 11 hours and 10 minutes.</p>
40.	12/22/12	<p>a. WB was Off-Duty Driving between 07:34 and 08:34 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 19 hours and 59 minutes when it was actually approximately 21 hours and 16 minutes.</p> <p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>

<b>DRIVER KS</b>		
41.	12/7/12	<p>a. KS was Off-Duty Driving between 00:47 and 01:17 when he was actually Driving during some or all of that period of time.</p> <p>b. KS was Off-Duty Driving between 09:27 and 09:45 when he was actually Driving during some or all of that period of time.</p> <p>c. KS was Off-Duty between 09:45 and 10:48 when he was actually On-Duty during some or all of that period of time.</p> <p>d. KS's total Driving time without a ten-hour rest period was 14 hours and 19 minutes when it was actually approximately 15 hours and 7 minutes.</p> <p>e. KS drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>f. KS did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
<b>TM EDITS</b>		
42.	11/5/12	<p>On or about November 5, 2012, TM edited BEAM TRUCKING Driver DP's electronic Record of Duty Status for November 2, 2012 to falsely show that:</p> <p>a. DP was "Off-Duty Driving" between 16:43 and 17:04 when DP's November 2, 2012 Record of Duty Status originally showed that DP was actually Driving during this period of time.</p> <p>b. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when DP's November 2, 2012 Record of Duty Status originally showed that DP actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
43.	11/5/12	<p>On or about November 5, 2012, TM edited BEAM TRUCKING Driver AM's electronic Record of Duty Status for November 3, 2012 to falsely show that:</p> <p>a. AM was "Off-Duty Driving" between 00:50 and 01:04 when AM's November 3, 2012 Record of Duty Status originally showed that AM was actually Driving during this period of time.</p> <p>b. AM's total Driving time was 10 hours and 53 minutes when it was actually 11 hours and 18 minutes.</p>
44.	2/19/13	<p>On or about February 19, 2013, TM edited BEAM TRUCKING Driver KC's electronic Record of Duty Status for February 19, 2013 to falsely show that:</p> <p>a. KC was "Off-Duty Driving" between 06:39 and 07:01 when KC's February 19, 2013 Record of Duty Status originally showed that KC was actually Driving during this period of time.</p> <p>b. KC's total Driving time was 10 hours and 54 minutes when it was actually 11 hours and 16 minutes.</p>
45.	4/25/13	<p>On or about April 25, 2013, TM edited BEAM TRUCKING Driver JM's electronic Record of Duty Status for April 25, 2013 to falsely show that:</p> <p>a. JM was "Off-Duty Driving" between 02:45 and 03:06 when JM's April 25, 2013 Record of Duty Status originally showed that JM was actually Driving during this period of time.</p> <p>b. JM's total Driving time was 10 hours and 51 minutes when it was actually 11 hours and 20 minutes.</p>

<b>DRIVER KDS</b>		
46.	2/8/17	a. KDS was Off-Duty between 00:00 and 04:21 when he was actually On-Duty during some or all of that period of time. b. KDS drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty. c. KDS did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On Duty.
47.	2/10/17	a. KDS was Off-Duty between 00:00 and 05:59 when he was actually On-Duty during some or all of that period of time. b. KDS did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On Duty.

45. In violation of Title 18, United States Code, Sections 1519, 2(a), and 2(b).

**COUNTS FORTY-EIGHT TO NINETY-TWO**

(False Statements)

46. Paragraphs 1 through 29 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

47. On or about the dates set forth below, as to each count, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, willfully and knowingly, made and used any false writing and document, namely, a commercial motor vehicle driver's record of duty status the BEAM TRUCKING driver identified by his/her initials, knowing the same to contain any materially false, fictitious, and fraudulent statement and entry in a matter within the jurisdiction of the executive branch of the government of the United States, namely, the United States Department of Transportation and the United States Federal Motor Carrier Safety Administration.

48. On or about the stated dates, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL,** and others known and unknown to the grand jury, (1) were members of a conspiracy as described in Count Two of this indictment, (2) the offense of making and using a false record was committed or was caused to be committed by a member of and during the conspiracy, (3) the member of the conspiracy committed or caused the offense to be committed while a member of and during the conspiracy, and (4) the offense was committed in furtherance of the conspiracy.

Count	Date (On or About)	Driver & Falsifications
		<b>DRIVER TB</b>
48.	9/29/12	<ul style="list-style-type: none"> <li>a. TB was Off-Duty between 00:00 and 06:37 when he was actually On-Duty during some or all of that period of time.</li> <li>b. TB was Off-Duty Driving between 06:37 and 06:58 when he was actually Driving during some or all of that period of time.</li> <li>c. TB was Off-Duty between 20:11 and 20:35 when he was actually On-Duty during some or all of that period of time.</li> <li>d. TB was Off-Duty Driving between 20:35 and 20:44 when he was actually Driving during some or all of that period of time.</li> <li>e. TB was Off-Duty between 20:44 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>f. TB's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 27 minutes.</li> <li>g. TB did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
49.	3/7/13	<ul style="list-style-type: none"> <li>a. TB was Off-Duty between 00:00 and 06:39 when he was actually On-Duty during some of that period of time.</li> <li>b. TB was Off-Duty Driving between 06:39 and 07:03 when he was actually Driving during some or all of that period of time.</li> <li>c. TB was Off-Duty between 07:03 and 08:14 when he was actually On-Duty during some or all of that period of time.</li> <li>d. TB was Off-Duty Driving between 20:16 and 20:24 when he was actually Driving during some or all of that period of time.</li> <li>e. TB was Off-Duty between 20:24 and 20:50 when he was actually On-Duty during some or all of that period of time.</li> </ul>

		<p>f. TB was Off-Duty Driving between 20:50 and 21:02 when he was actually Driving during some or all of that period of time.</p> <p>g. TB was Off-Duty between 21:02 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>h. TB's total Driving time was 11 hours when it was actually approximately 11 hours and 44 minutes.</p> <p>i. TB did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER JM</b>
50.	9/22/12	<p>a. JM was Off-Duty Driving between 02:37 and 03:03 when he was actually Driving during some or all of that period of time.</p> <p>b. JM was Off-Duty between 03:03 and 03:36 when he was actually On-Duty during some or all of that period of time.</p> <p>c. JM was Off-Duty Driving between 17:03 and 17:27 when he was actually Driving during some or all of that period of time.</p> <p>d. JM's total Driving time was 10 hours and 49 minutes when it was actually approximately 11 hours and 39 minutes.</p> <p>e. JM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
51.	3/9/13	<p>a. JM was Off-Duty Driving between 02:13 and 02:35 when he was actually Driving during some or all of that period of time.</p> <p>b. JM was Off-Duty Driving between 16:40 and 17:01 when he was actually Driving during some or all of that period of time.</p> <p>c. JM's total Driving time was 10 hours and 40 minutes when it was actually approximately 11 hours and 23 minutes.</p> <p>d. JM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER KC</b>
52.	9/15/12	<p>a. KC was Off-Duty between 00:00 and 03:31 when she was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. KC was Off-Duty Driving between 03:31 and 04:18 when she was actually Driving during some or all of that period of time.</p> <p>c. KC was Off-Duty Driving between 17:51 and 18:04 when she was actually Driving during some or all of that period of time.</p> <p>d. KC was Off-Duty between 18:16 and 00:00 when she was actually On-Duty some or all of that period of time.</p> <p>e. KC's total Driving time was 10 hours and 54 minutes when it was actually approximately 12 hours and 13 minutes.</p> <p>f. KC did not drive a CMV after 14 consecutive hours after coming On-Duty when she actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
53.	2/9/13	<p>a. KC was Off-Duty between 00:00 and 02:51 when she was actually On-Duty during some or all of that period of time.</p>

		<ul style="list-style-type: none"> <li>b. KC was Off-Duty Driving between 02:51 and 03:13 when she was actually Driving during some or all of that period of time.</li> <li>c. KC was Off-Duty Driving between 17:05 and 17:21 when she was actually Driving during some or all of that period of time.</li> <li>d. KC was Off-Duty between 17:21 and 00:00 when she was actually On-Duty some or all of that period of time.</li> <li>e. KC's total Driving time was 10 hours and 40 minutes when it was actually approximately 11 hours and 18 minutes.</li> <li>f. KC did not drive a CMV after 14 consecutive hours after coming On-Duty when she actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
54.	8/16/14	<ul style="list-style-type: none"> <li>a. KC was On-Duty or Off-Duty between 06:31 and 06:45, between 06:52 and 07:29, between 09:35 and 09:53, between 13:12 and 13:31, between 13:31 and 14:06, and between 19:33 and 20:09 when she was actually Driving for some period of time during some or all of those periods of time.</li> <li>b. KC's total Driving time was 10 hours and 59 minutes when it was actually more than 11 hours.</li> </ul>
		<b>DRIVER TM</b>
55.	9/22/12	<ul style="list-style-type: none"> <li>a. TM was Off-Duty between 00:00 and 02:42 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>b. TM was Off-Duty between 16:33 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>c. TM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</li> <li>d. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
56.	12/21/12	<ul style="list-style-type: none"> <li>a. TM was Off-Duty between 00:00 and 03:22 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>b. TM was Off-Duty between 17:18 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>c. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
57.	3/21/13	<ul style="list-style-type: none"> <li>a. TM was Off-Duty between 00:00 and 02:45 when he was actually On-Duty during some or all of that period of time.</li> <li>b. TM was Off-Duty between 16:21 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>c. TM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</li> <li>d. TM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>



		<b>DRIVER RM</b>
58.	9/19/12	<p>a. RM was Off-Duty between 00:00 and 04:06 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RM was Off-Duty between 10:03 and 12:11 when he was actually On-Duty during some or all of that period of time.</p> <p>c. RM was Off-Duty between 17:37 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>d. RM's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 55 minutes.</p> <p>e. RM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>f. RM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
59.	3/22/13	<p>a. RM was Off-Duty and Off-Duty Driving between 00:00 and 04:12 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RM was Off-Duty Driving between 09:48 and 09:57 when he was actually Driving during some or all of that time.</p> <p>c. RM was Off-Duty between 09:57 and 12:08 when he was actually On-Duty during some or all of that period of time.</p> <p>d. RM was Off-Duty and Off-Duty Driving between 17:45 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>e. RM's total Driving time was 10 hours and 58 minutes when it was actually approximately 11 hours and 27 minutes.</p> <p>f. RM drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>g. RM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER RL</b>
60.	9/22/12	<p>a. RL was Off-Duty between 00:00 and 02:19 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RL was Off-Duty between 15:52 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RL's total Driving time was 10 hours and 52 minutes when it was actually approximately 11 hours and 12 minutes.</p> <p>d. RL did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
61.	1/18/13	<p>a. RL was Off-Duty and Off-Duty Driving between 00:00 and 02:24 when he was actually Driving and On-Duty during some or all of that period of time.</p>

		<p>b. RL was Off-Duty and Off-Duty Driving between 16:24 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RL's total Driving time was 10 hours and 54 minutes when it was actually approximately 11 hours and 25 minutes.</p> <p>d. RL did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER DP</b>
62.	9/21/12	<p>a. DP was Off-Duty between 00:00 and 02:57 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. DP was Off-Duty between 16:46 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. DP's total Driving time was 11 hours when it was actually approximately 11 hours and 28 minutes.</p> <p>d. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
63.	12/19/12	<p>a. DP was Off-Duty between 00:00 and 04:28 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. DP was Off-Duty between 19:57 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. DP's total Driving time was 10 hours and 57 minutes when it was actually approximately 11 hours and 30 minutes.</p> <p>d. DP drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a commercial motor vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER GR</b>
64.	12/30/12	<p>a. GR was Off-Duty between 00:00 and 01:40 when he was actually On-Duty during some or all of that period of time.</p> <p>b. GR was Off-Duty Driving between 07:13 and 07:22, between 07:33 and 07:41, and between 08:31 and 08:39 when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>c. GR was Off-Duty between 07:02 and 07:13, between 07:41 and 08:31, and between 08:48 and 09:20 when he was actually On-Duty for some period of time during some or all of those periods of time.</p> <p>d. GR was Off-Duty between 14:57 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. GR's total Driving time was 10 hours and 50 minutes when it was actually approximately 11 hours and 15 minutes.</p>
65.	2/6/13	<p>a. GR was Off-Duty between 00:00 and 01:40 when he was actually On-Duty during some or all of that period of time.</p>

		<p>b. GR was Off-Duty Driving between 07:38 and 07:44, between 07:51 and 08:11, and between 09:09 and 09:19 when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>c. GR was Off-Duty between 07:25 and 07:38, between 08:11 and 09:09, and between 09:25 and 09:59 when he was actually On-Duty for some period of time during some or all of those periods of time.</p> <p>d. GR was Off-Duty between 15:11 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. GR's total Driving time was 10 hours and 46 minutes when it was actually approximately 11 hours and 22 minutes.</p>
		<b>DRIVER CS</b>
66.	9/18/12	<p>a. CS was Off-Duty Driving between 07:24 and 07:30 when he was actually Driving during some or all of that period of time.</p> <p>b. CS was Off-Duty Driving between 08:35 and 09:17 when he was actually Driving during some or all of that period of time.</p> <p>c. CS was Off-Duty Driving between 11:49 and 12:01 when he was actually Driving during some or all of that period of time.</p> <p>d. CS was Off-Duty between 14:50 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. CS's total Driving time was 10 hours and 56 minutes when it was actually approximately 11 hours and 56 minutes.</p>
67.	3/8/13	<p>a. CS was Off-Duty Driving between 03:08 and 03:14 when he was actually Driving during some or all of that period of time.</p> <p>b. CS was Off-Duty Driving between 08:43 and 09:20 when he was actually Driving during some or all of that period of time.</p> <p>c. CS was Off-Duty Driving between 10:26 and 10:35 when he was actually Driving during some or all of that period of time.</p> <p>d. CS was Off-Duty between 16:41 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. CS's total Driving time was 10 hours and 49 minutes when it was actually approximately 11 hours and 41 minutes.</p>
		<b>DRIVER RK</b>
68.	9/25/13	<p>a. RK was Off-Duty between 00:00 and 02:32 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RK was Off-Duty between 08:44 and 09:34 when he was actually On-Duty during some or all of that period of time.</p> <p>c. RK was Off-Duty Driving between 09:34 and 10:34 when he was actually Driving during some or all of that period of time.</p> <p>d. RK was Off-Duty between 15:01 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>e. RL was On-Duty or Off-Duty between 02:32 and 02:38, between 02:51 and 03:06, and between 08:44 and 09:34, when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>f. RK's total Driving time was 10 hours and 18 minutes when it was actually approximately 11 hours and 18 minutes.</p>

69.	9/26/13	<ul style="list-style-type: none"> <li>a. RK was Off-Duty between 00:00 and 02:15 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>b. RK was Off-Duty between 07:45 and 08:49 when he was actually On-Duty during some or all of that period of time.</li> <li>c. RK was Off-Duty Driving between 08:49 and 09:49 when he was actually Driving during some or all of that period of time.</li> <li>d. RK was Off-Duty between 15:06 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>e. RK was On-Duty or Off-Duty between 07:45 and 07:54, between 07:54 and 08:49, between 11:20 and 11:41, and between 14:59 and 15:06, when he was actually Driving for some period of time during some or all of those periods of time.</li> <li>f. RK's total Driving time was 10 hours and 19 minutes when it was actually approximately 11 hours and 19 minutes.</li> </ul>
		<b>DRIVER SG</b>
70.	10/21/12	<ul style="list-style-type: none"> <li>a. SG was Off-Duty between 00:00 and 01:25 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>b. SG was Off-Duty Driving between 14:53 and 15:19 when he was actually Driving during some or all of that period of time.</li> <li>c. SG was Off-Duty between 15:19 and 00:00 when he was actually On-Duty during some of that period of time.</li> <li>d. SG's total Driving time was 10 hours and 53 minutes when it was actually approximately 11 hours and 54 minutes.</li> <li>e. SG did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>
71.	4/14/13	<ul style="list-style-type: none"> <li>a. SG was Off-Duty between 00:00 and 01:35 when he was actually Driving and On-Duty during some or all of that period of time.</li> <li>b. SG was Off-Duty between 14:40 and 15:01 when he was actually On-Duty during some or all of that period of time.</li> <li>c. SG was Off-Duty Driving between 15:25 and 15:32 when he was actually Driving during some or all of that period of time.</li> <li>d. SG was Off-Duty between 15:32 and 15:38 when he was actually On-Duty during some or all of that period of time.</li> <li>e. SG was Off-Duty Driving between 15:38 and 16:00 when he was actually Driving during some or all of that period of time.</li> <li>f. SG was Off-Duty between 16:00 and 00:00 when he was actually On-Duty during some or all of that period of time.</li> <li>g. SG's total Driving time was 10 hours and 55 minutes when it was actually approximately 11 hours and 47 minutes.</li> <li>h. SG did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</li> </ul>

		<b>DRIVER AM</b>
72.	9/15/12	<p>a. AM was Off-Duty between 00:00 and 00:53 when he was actually On-Duty during all or some of that period of time.</p> <p>b. AM was Off-Duty Driving between 00:53 and 01:16 when he was actually Driving during some or all of that period of time.</p> <p>c. AM was Off-Duty between 01:16 and 01:35 when he was actually On-Duty during some or all of that period of time.</p> <p>d. AM was Off-Duty Driving between 01:35 and 01:58 when he was actually Driving during some or all of that period of time.</p> <p>e. AM was Off-Duty between 07:08 and 08:36 when he was actually On-Duty during some or all of that period of time.</p> <p>f. AM's total Driving time was 10 hours and 48 minutes when it was actually approximately 11 hours and 34 minutes.</p> <p>g. AM did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>
73.	4/25/13	<p>a. AM was Off-Duty between 00:00 and 01:01 when he was actually On Duty during all or some of that period of time.</p> <p>b. AM was Off-Duty Driving between 01:01 and 01:26 when he was actually Driving during some or all of that period of time.</p> <p>c. AM was Off-Duty between 01:26 and 01:35 when he was actually On-Duty during some or all of that period of time.</p> <p>d. AM was Off-Duty between 07:14 and 08:45 when he was actually On-Duty during some or all of that period of time.</p> <p>e. AM was Off-Duty Driving between 15:05 and 15:17 when he was actually Driving during some or all of that period of time.</p> <p>f. M was Off-Duty between 15:31 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>g. AM's total Driving time was 10 hours and 58 minutes when it was actually approximately 11 hours and 48 minutes.</p> <p>h. AM did not drive a CMV after 14 consecutive hours after coming on duty when he actually did drive a CMV after 14 consecutive hours after coming on duty.</p>
		<b>DRIVER JH</b>
74.	12/18/12	<p>a. JH was Off-Duty between 00:00 and 03:48 when he was actually On-Duty during some or all of that period of time.</p> <p>b. JH was Off-Duty Driving between 03:48 and 04:06 when he was actually Driving during some or all of that period of time.</p> <p>c. JH was Off-Duty between 04:06 and 04:51 when he was actually On-Duty during some or all of that period of time.</p> <p>d. JH was Off-Duty Driving between 04:51 and 05:02 when he was actually Driving during some or all of that period of time.</p> <p>e. JH was Off-Duty Driving between 11:12 and 11:18 when he was actually Driving during some or all of that period of time.</p> <p>f. JH was Off-Duty between 17:31 and 00:00 when he was actually On-Duty during some or all of that period of time.</p>

		g. JH's total Driving time was 10 hours and 54 minutes when it was actually approximately 11 hours and 29 minutes.
75.	3/26/13	<p>a. JH was Off-Duty between 00:00 and 03:54 when he was actually On-Duty during some or all of that period of time.</p> <p>b. JH was Off-Duty Driving between 03:54 and 04:06 when he was actually Driving during some or all of that period of time.</p> <p>c. JH was Off-Duty between 04:06 and 04:42 when he was actually On-Duty during some or all of that period of time.</p> <p>d. JH was Off-Duty Driving between 04:42 and 04:50 when he was actually Driving during some or all of that period of time.</p> <p>e. JH was Off-Duty Driving between 10:50 and 10:55 when he was actually Driving during some or all of that period of time.</p> <p>f. JH was Off-Duty between 17:39 and 00:00 when he was actually On-Duty during some or all of that period of time.</p> <p>g. JH's total Driving time was 10 hours and 59 minutes when it was actually approximately 11 hours and 24 minutes.</p>
		<b>DRIVER MB</b>
76.	12/20/12	<p>a. MB was Off-Duty between 00:00 and 07:01 when she was actually Driving and On-Duty during some of that period of time.</p> <p>b. MB was Off-Duty Driving between 19:12 and 19:52 when she was actually Driving during some or all of that period of time.</p> <p>c. MB was Off-Duty between 19:52 and 00:00 when she was actually On-Duty during some or all of that period of time.</p> <p>d. MB's total Driving time was 10 hours and 43 minutes when it was actually approximately 11 hours and 41 minutes.</p>
		<b>DRIVER JC</b>
77.	12/12/12	<p>a. JC was Off-Duty between 00:00 and 05:32 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. JC was Off-Duty between 17:28 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. JC's total Driving time was 11 hours and 21 minutes when it was actually approximately 12 hours and 20 minutes.</p>
		<b>DRIVER RT</b>
78.	12/22/12	<p>a. RT was Off-Duty between 00:00 and 09:04 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was Off-Duty between 20:37 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RT's total Driving time was 10 hours and 59 minutes when it was actually approximately 12 hours and 15 minutes.</p> <p>d. RT drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>

79.	12/23/12	<p>a. RT was Off-Duty between 00:00 and 08:26 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was Off-Duty between 18:15 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>c. RT's total Driving time was 8 hours and 41 minutes when it was actually approximately 16 hours and 16 minutes.</p> <p>d. RT drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>e. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
80.	2/20/14	<p>a. RT was Off-Duty between 15:41 and 00:00 when he was actually Driving and On-Duty during some or all of that period of time.</p> <p>b. RT was On-Duty or Off-Duty between 02:36 and 02:52, between 06:18 and 07:23, between 08:56 and 09:25, between 12:41 and 12:46, between 12:52 and 13:50 and between 15:22 and 15:34, when he was actually Driving for some period of time during some or all of those periods of time.</p> <p>c. RT's total Driving time was 10 hours when it was actually approximately 11 hours and 13 minutes.</p> <p>d. RT did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty</p>
		<b>DRIVER WB</b>
81.	10/26/12	<p>a. WB was Off-Duty between 00:00 and 06:31 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. WB was Off-Duty Driving between 13:24 and 14:01 when he was actually Driving during some or all of that period of time.</p> <p>c. WB was Off-Duty between 14:01 and 23:24 when he was actually Driving and On-Duty during some of that period of time.</p> <p>d. WB's total Driving time was 5 hours and 59 minutes when it was actually approximately 7 hours and 4 minutes.</p>
82.	10/27/12	<p>a. WB was Off-Duty between 04:56 and 16:29 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 15 hours and 54 minutes when it was actually approximately 24 hours and 52 minutes.</p> <p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
83.	11/24/12	<p>a. WB was Off-Duty between 05:12 and 15:15 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 17 hours and 27 minutes when it was actually approximately 21 hours and 15 minutes.</p>

		<p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
84.	12/21/12	<p>a. WB was Off-Duty between 00:00 and 09:17 when he was actually Driving and On-Duty during some of that period of time.</p> <p>b. WB's total Driving time was 10 hours and 53 minutes when it was actually approximately 11 hours and 10 minutes.</p>
85.	12/22/12	<p>a. WB was Off-Duty Driving between 07:34 and 08:34 when he was actually Driving during some or all of that period of time.</p> <p>b. WB's total Driving time without a ten-hour rest period was 19 hours and 59 minutes when it was actually approximately 21 hours and 16 minutes.</p> <p>c. WB drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>d. WB did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>DRIVER KS</b>
86.	12/7/12	<p>a. KS was Off-Duty Driving between 00:47 and 01:17 when he was actually Driving during some or all of that period of time.</p> <p>b. KS was Off-Duty Driving between 09:27 and 09:45 when he was actually Driving during some or all of that period of time.</p> <p>c. KS was Off-Duty between 09:45 and 10:48 when he was actually On-Duty during some or all of that period of time.</p> <p>d. KS's total Driving time without a ten-hour rest period was 14 hours and 19 minutes when it was actually approximately 15 hours and 7 minutes.</p> <p>e. KS drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>f. KS did not drive a commercial vehicle after 14 consecutive hours after coming On-Duty when he actually did drive a commercial vehicle after 14 consecutive hours after coming On-Duty.</p>
		<b>TM EDITS</b>
87.	11/5/12	<p>On or about November 5, 2012, TM edited BEAM TRUCKING Driver DP's electronic Record of Duty Status for November 2, 2012 to falsely show that:</p> <p>a. DP was "Off-Duty Driving" between 16:43 and 17:04 when DP's November 2, 2012 Record of Duty Status originally showed that DP was actually Driving during this period of time.</p> <p>b. DP did not drive a CMV after 14 consecutive hours after coming On-Duty when DP's November 2, 2012 Record of Duty Status originally showed that DP actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>



88.	11/5/12	<p>On or about November 5, 2012, TM edited BEAM TRUCKING Driver AM's electronic Record of Duty Status for November 3, 2012 to falsely show that:</p> <p>a. AM was "Off-Duty Driving" between 00:50 and 01:04 when AM's November 3, 2012 Record of Duty Status originally showed that AM was actually Driving during this period of time.</p> <p>b. AM's total Driving time was 10 hours and 53 minutes when it was actually 11 hours and 18 minutes.</p>
89.	2/19/13	<p>On or about February 19, 2013, TM edited BEAM TRUCKING Driver KC's electronic Record of Duty Status for February 19, 2013 to falsely show that:</p> <p>a. KC was "Off-Duty Driving" between 06:39 and 07:01 when KC's February 19, 2013 Record of Duty Status originally showed that KC was actually Driving during this period of time.</p> <p>b. KC's total Driving time was 10 hours and 54 minutes when it was actually 11 hours and 16 minutes.</p>
90.	4/25/13	<p>On or about April 25, 2013, TM edited BEAM TRUCKING Driver JM's electronic Record of Duty Status for April 25, 2013 to falsely show that:</p> <p>a. JM was "Off-Duty Driving" between 02:45 and 03:06 when JM's April 25, 2013 Record of Duty Status originally showed that JM was actually Driving during this period of time.</p> <p>b. JM's total Driving time was 10 hours and 51 minutes when it was actually 11 hours and 20 minutes.</p>
		<b>DRIVER KDS</b>
91.	2/8/17	<p>a. KDS was Off-Duty between 00:00 and 04:21 when he was actually On-Duty during some or all of that period of time.</p> <p>b. KDS drove a CMV after taking 10 consecutive hours Off-Duty when he actually drove a CMV without taking 10 consecutive hours Off-Duty.</p> <p>c. KDS did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On- Duty.</p>
92.	2/10/17	<p>a. KDS was Off-Duty between 00:00 and 05:59 when he was actually On-Duty during some or all of that period of time.</p> <p>b. KDS did not drive a CMV after 14 consecutive hours after coming On-Duty when he actually did drive a CMV after 14 consecutive hours after coming On-Duty.</p>

49. In violation of Title 18, United States Code, Sections 1001, 2(a), and 2(b).

**COUNTS NINETY-THREE TO NINETY-NINE**

(Falsification of Records in Contemplation of Federal Matter)

50. Paragraphs 1 through 29 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

51. On or about the dates set forth below, as to each count, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, did knowingly alter, cover up, falsify and make a false entry, namely, the driver identified by his initials, stated that he worked fewer hours than he actually worked, in a record or document, namely, a time sheet, as set forth below, with intent to impede, obstruct and influence the investigation and proper administration of, and in contemplation of and in relation to, any matter within the jurisdiction of the United States Department of Labor, a department of the United States.

52. On or about the stated dates, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, (1) were members of a conspiracy as described in Count Two of this indictment, (2) the offense of falsification of records in contemplation of a federal matter was committed or was caused to be committed by a member of and during the conspiracy, (3) the member of the conspiracy committed or caused the offense to be committed while a member of and during the conspiracy, and (4) the offense was committed in furtherance of the conspiracy.

Count	Bi-Weekly Timesheet Pay Roll Period Dates (On or About)	Driver
93.	2/3/2013 – 2/16/2013	TB

94.	10/28/2012 – 11/10/2012	CW
95.	1/6/2013 – 1/19/2013	KC
96.	11/25/2012 – 12/8/2012	RL
97.	1/6/2013 – 1/19/2013	RM
98.	12/9/2012 – 12/22/2012	TM
99.	11/11/2012 – 11/24/2012	JM

53. In violation of Title 18, United States Code, Sections 1519, 2(a), and 2(b).

**COUNTS ONE HUNDRED TO ONE HUNDRED AND SIX**

(False Statements)

54. Paragraphs 1 through 29 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

55. On or about the dates set forth below, as to each count, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, willfully and knowingly, made and used any false writing and document, namely, a time sheet, as set forth below, knowing the same to contain any materially false, fictitious, and fraudulent statement and entry, namely, the driver identified by his initials stated that he worked fewer hours than he actually worked, in a matter within the jurisdiction of the executive branch of the government of the United States, namely, the United States Department of Labor, as set forth below.

56. On or about the stated dates, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, (1) were members of a conspiracy as described in

Count Two of this indictment, (2) the offense of making and using a false record was committed or was caused to be committed by a member of and during the conspiracy, (3) the member of the conspiracy committed or caused the offense to be committed while a member of and during the conspiracy, and (4) the offense was committed in furtherance of the conspiracy.

Count	Bi-Weekly Timesheet Pay Roll Period Dates (On or About)	Driver
100.	2/3/2013 – 2/16/2013	TB
101.	10/28/2012 – 11/10/2012	CW
102.	1/6/2013 – 1/19/2013	KC
103.	11/25/2012 – 12/8/2012	RL
104.	1/6/2013 – 1/19/2013	RM
105.	12/9/2012 – 12/22/2012	TM
106.	11/11/2012 – 11/24/2012	JM

57. In violation of Title 18, United States Code, Sections 1001, 2(a), and 2(b).

### **COUNT ONE HUNDRED AND SEVEN**

#### **(Conspiracy to Commit Wire Fraud)**

58. The allegations set forth in paragraphs 1 through 29 of the indictment are re-alleged and incorporated by reference as if set out in full.

59. Beginning as early as in or about June 1999, the exact date being unknown to the Grand Jury, and continuing to on or about the date of this indictment, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, did knowingly and willfully conspire, combine, confederate, and agree together and with each other and with other individuals both known and unknown to the Grand Jury, to commit wire fraud, in violation of Title 18, United States Code, Section 1343, that is to

devise and intend to devise a scheme to defraud the United States Postal Service (“USPS”) and drivers employed by BEAM TRUCKING and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and transmitted and caused to be transmitted by means of wire in interstate commerce, any writings, signs, signals, pictures, and sounds for the purpose of executing such scheme.

**The Scheme and Artifice to Defraud**

60. The defendants and their co-conspirators carried out the objects of the conspiracy by various means, at various times, including:

- a. Representing and promising in mail contracts and renewal contracts (“mail contracts”) that BEAM TRUCKING would comply with all applicable federal, state and local laws and regulations and would faithfully discharge all duties and obligations imposed by such laws and regulations, including the FMCSA Safety Regulations, the FMCSA HOS safety regulations, all speed limits, and the SCA/FLSA, even though the defendants had no intention of complying with these requirements at the time they made the representations and promises as well as during the life of the mail contracts.
- b. Concealing from the USPS prior to the award of the mail contracts the fact that BEAM TRUCKING had not complied with all applicable federal, state and local laws and regulations and had not faithfully discharged all duties and obligations imposed by such laws and regulations, including the FMCSA Safety Regulations, the FMCSA HOS safety regulations, all speed limits, and the SCA/FLSA and its governing regulations, thereby depriving the USPS of vital information that it would have considered in deciding whether to award mail contracts to BEAM TRUCKING or one of its competitors.

- c. Defrauding the USPS of (1) USPS money paid to BEAM TRUCKING under the mail contracts; (2) USPS's intangible property right to award mail contracts to fully qualified motor carriers; (3) USPS's intangible property right to control USPS money and assets as it saw fit; (4) USPS's intangible property right to conduct a fair bidding and contracting process, and (5) USPS's intangible property right to control its risk of loss.
- d. After fraudulently obtaining USPS money and property through false promises, representations and omissions, failing to pay the BEAM TRUCKING CMV drivers as required under the SCA/FLSA and the mail contracts.
- e. Concealing the pay requirements of the SCA/FLSA and the mail contracts from BEAM TRUCKING CMV drivers.
- f. Aiding, abetting, encouraging, requiring and permitting BEAM TRUCKING CMV drivers to falsify their time sheets and their records of duty status to report fewer hours worked than they actually worked, in violation of the SCA/FLSA and the mail contracts.
- g. Aiding, abetting, encouraging, causing and requiring BEAM TRUCKING CMV drivers to falsify their time sheets to report fewer hours worked than they actually worked by instructing the drivers that their time sheets should match the false records of duty status in violation of SCA/FLSA and the mail contracts.
- h. Falsely and fraudulently representing to BEAM TRUCKING CMV drivers that they were entitled to be paid only for a pre-set fixed amount of time, often referred to as "standard hours," for completing a trip/route, even if the trip/route took more time to complete than the "standard hours," and even when the

drivers were paid less than they were entitled to be paid under the mail contracts and the SCA/FLSA.

- i. Falsely and fraudulently representing to BEAM TRUCKING CMV drivers that they were permitted only to report “standard hours” on their time sheets even when the actual hours were greater.
- j. Telling BEAM TRUCKING CMV drivers that they would not be paid for short rest periods, for time remaining in readiness to operate a CMV, for time waiting for their trailers to be loaded or unloaded at postal facilities, for time spent assisting or supervising the loading or unloading of their trailers at postal facilities, for time waiting at a relay location for the arrival of another driver, and for the time during mechanical breakdowns, weather delays, accident delays, and traffic delays.
- k. Preventing BEAM TRUCKING CMV drivers who were aware of the pay requirements of the mail contracts and the SCA/FLSA, as well as BEAM TRUCKING’s practice of paying drivers less than required under the SCA/FLSA, from sharing that information with other drivers, DOL, DOT, and any other government agency in an effort to conceal the ongoing scheme and conspiracy.
- l. Creating an “Over Hours List audit program” that identified drivers who reported on their time sheets more time than the “standard hours,” and contacting these drivers to convince them to report the “standard hours” or less time on future time sheets to conceal the fact that BEAM TRUCKING CMV drivers were being underpaid and driving in violation of the FMCSA HOS safety regulations and the SCA/FLSA.

- m. Failing to inform the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program how the BEAM TRUCKING CMV drivers were required to be paid under the SCA/FSLA and the mail contracts.
- n. Directing the BEAM TRUCKING employees responsible for implementing the Over Hours List audit program to implement the program to pay BEAM TRUCKING CMV drivers in violation of the SCA/FSLA and the mail contracts.
- o. Failing to review and consider BEAM TRUCKING CMV drivers' requests for additional pay.
- p. Failing to pay BEAM TRUCKING CMV drivers as required under the SCA/FLSA and mail contracts.

#### **Overt Acts**

61. In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Western District of Virginia, and elsewhere.

62. Each factual allegation of Counts One Hundred and Eight through One Hundred and Twenty-Five of this indictment are re-alleged and incorporated by reference as if fully set forth herein, and each allegation separately constitutes an overt act in furtherance of the conspiracy charged in this Count.

63. In violation of Title 18, United States Code, Section 1349.



**COUNTS ONE HUNDRED AND EIGHT TO**  
**ONE HUNDRED AND TWENTY-FIVE**

(Wire Fraud)

64. Paragraphs 1 through 29 and the factual allegations of Count One Hundred and Seven (Wire Fraud Conspiracy) of this Indictment describing the scheme and artifice to defraud are re-alleged and incorporated by reference as if fully set forth herein.

65. On or about the dates set forth below, as to each count, in the Western District of Virginia, and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, did knowingly, and with intent to defraud, devise and intend to devise a scheme and artifice to defraud, and to obtain money and property from the USPS and BEAM TRUCKING CMV drivers by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations and promises were false and fraudulent when made.

66. On or about the stated dates, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, (1) were members of a conspiracy as described in Count One Hundred and Three of this indictment, (2) the offense of wire fraud was committed or was caused to be committed by a member of the conspiracy during the conspiracy (3) the member of the conspiracy committed or caused the offense to be committed while a member of and during the existence of the conspiracy, and (4) the offense was committed in furtherance of the conspiracy.

**USE OF THE WIRES**

67. On or about the dates set forth as to each count below, in the Western District of Virginia, and elsewhere, and for the purpose of executing the scheme and artifice to defraud described in Count One Hundred and Seven (Wire Fraud Conspiracy) of this Indictment, and attempting to do so, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM, NICKOLAS KOZEL**, and others known and unknown to the grand jury, caused to be transmitted by means of wire communication in interstate commerce, certain writings, signs, signals, and sounds described below for each count, each transmission constituting a separate count:

<b>Count</b>	<b>Date (On or About)</b>	<b>Nature of Wire</b>
108.	3/27/15	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Renewal Contract 240AE including "TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE" signed by <b>GERALD BEAM</b> .
109.	6/23/14	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Renewal Contract 207L4 including "TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE" signed by <b>GERALD BEAM</b> .
110.	3/29/12	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Washington, D.C., transmitting documents related to USPS Renewal Contract 233L5 including "TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE" signed by <b>GERALD BEAM</b> .
111.	10/6/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Contract 192M8 including "TRANSPORTATION SERVICES PROPOSAL & CONTRACT FOR REGULAR SERVICE" and "ADDENDUM TO TERMS AND CONDITIONS" signed by <b>GERALD BEAM</b> .
112.	8/19/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Contract 274Y1 including "TRANSPORTATION SERVICES PROPOSAL &

		CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
113.	5/12/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Renewal Contract 240AE including “TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
114.	4/21/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Renewal Contract 011L1 including “TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
115.	4/6/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Texas, transmitting documents related to USPS Contract 300ZE including “TRANSPORTATION SERVICES PROPOSAL & CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
116.	4/4/11	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Maryland, transmitting documents related to USPS Renewal Contract 275L6 including “TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
117.	9/7/10	BEAM TRUCKING Email & Attachments from Mount Crawford, VA to USPS in Washington, D.C., transmitting documents related to USPS Renewal Contract 208L5 including “TRANSPORTATION SERVICES PROPOSAL & CONTRACT FOR REGULAR SERVICE” signed by <b>GARLAND BEAM.</b>
118.	5/22/09	BEAM TRUCKING Email & Attachments sent from Mount Crawford, VA to USPS in New York, transmitting documents related to USPS Renewal Contract 10423 including “TRANSPORTATION SERVICES RENEWAL CONTRACT FOR REGULAR SERVICE” signed by <b>GERALD BEAM.</b>
119.	2/15/2013	TB’s faxed “BI-WEEKLY TIME SHEET” for Pay Period 2/3/2013 – 2/16/2013; Faxed from Georgia to Mount Crawford, Virginia
120.	11/24/2012	JM’s faxed “BI-WEEKLY TIME SHEET” for Pay Period 11/11/2012 – 11/24/2012; Faxed from Georgia to Mount Crawford, Virginia
121.	1/21/2013	KC’s faxed “BI-WEEKLY TIME SHEET” for Pay Period 1/6/2013 – 1/19/2013; Faxed from Georgia to Mount Crawford, Virginia
122.	12/8/2012	RL’s faxed “BI-WEEKLY TIME SHEET” for Pay Period 11/25/2012 – 12/8/2012; Faxed from West Virginia to Mount Crawford, Virginia

123.	1/20/2013	RM's faxed "BI-WEEKLY TIME SHEET" for Pay Period 1/6/2013 – 1/19/2013; Faxed from West Virginia to Mount Crawford, Virginia
124.	12/24/2012	TM's faxed "BI-WEEKLY TIME SHEET" for Pay Period 12/9/2012 – 12/22/2012; Faxed from North Carolina to Mount Crawford, Virginia
125.	11/10/2012	CW's faxed "BI-WEEKLY TIME SHEET" for Pay Period 10/28/2012 – 11/10/2012; Faxed from Kentucky to Mount Crawford, Virginia

68. In violation of Title 18, United States Code, Sections 1343, 2(a), and 2(b).

**COUNT ONE HUNDRED AND TWENTY-SIX**

**(Conspiracy to Engage in Monetary Transactions in Property Derived from Specified Unlawful Activity)**

69. The allegations set forth in paragraphs 1 through 29, and the factual allegations of Count One Hundred and Seven (Wire Fraud Conspiracy) and Counts One Hundred and Eight through One Hundred and Twenty-Five (Wire Fraud), of the indictment are re-alleged and incorporated by reference as if set out in full.

70. Beginning as early as in or about June 1999, the exact date being unknown to the Grand Jury, and continuing to on or about the date of this indictment, in the Western District of Virginia and elsewhere, the defendants, **BEAM BROS. TRUCKING, INC., BEAM BROS. HOLDING CORPORATION LLC, GERALD BEAM, GARLAND BEAM, SHAUN BEAM,** and **NICKOLAS KOZEL**, did willfully and knowingly conspire to violate Title 18, United States Code, Section 1957(a), that is, to knowingly engage, attempt to engage, cause, and aid and abet others to engage, within the United States, in monetary transactions in criminally derived property of a value greater than \$10,000 derived from specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343.

71. In violation of Title 18, United States Code, Section 1956(h).

## NOTICE OF FORFEITURE

72. Upon conviction of one or more of the felony offenses alleged in this Indictment, the defendant shall forfeit to the United States:

- a. Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Sections, 1343, and/or 1349, pursuant to Title 18, United States Code, Section, 981(a)(1)(C) and Title 28, United States Code, Section, 2461(c).
- b. Any property, real or personal, involved in a violation of Title 18, United States Code, Section, 1956 and 1957, or any property traceable to such property, pursuant to Title 18, United States Code, Section, 982(a)(1).


73. The property to be forfeited to the United States includes but is not limited to the following property:

a. **Money Judgment**

Not less than \$ 40,000,000.00 (Forty Million Dollars) in United States currency and all interest and proceeds traceable thereto, in that such sum in aggregate was obtained directly or indirectly as a result of said offenses or is traceable to such property.

A TRUE BILL this 16th day of March, 2017.

s/ Grand Jury Foreperson  
FOREPERSON

  
\_\_\_\_\_  
RICK A. MOUNTCASTLE  
ACTING UNITED STATES ATTORNEY