

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the General Investigation)
of **Benfer Enterprises II LLC of**) Docket No. 17-GIMM-269-KHP
Independence, Missouri, Pursuant to the)
Kansas Highway Patrol Issuance of a)
Notice of Violation(s) and Invoice for the)
Violations of the Kansas Motor Carrier)
Safety Statutes, Rules and Regulations.)

DIRECT TESTIMONY

OF

TROOPER ROBERT BEABOUT

ON BEHALF OF

THE STATE CORPORATION COMMISSION

OF THE STATE OF KANSAS

March 31, 2017

1 **Q. Please state your full name and business address.**

2 A. Trooper Robert Beabout

3 700 SW Jackson, Suite 704, Topeka, Kansas 66603

4 **Q. By whom and in what capacity are you employed?**

5 A. I am employed by the Kansas Highway Patrol as a State Trooper.

6 **Q. Please summarize your educational and professional background.**

7 A. I hold a Bachelors of Arts from the University of Kansas. I began my career in law
8 enforcement with the United States Air Force in 1996 in the military police unit known as
9 the USAF Security Police. After completing my initial four year service commitment, I
10 separated from active duty and joined the Kansas Highway Patrol. I attended the Kansas
11 Highway Patrol Training Academy from January 2002 to May 2002. I have served in the
12 patrol for nearly 16 years, and I remain a Reservist in the U.S. Air Force.

13 In training to become a Trooper, I completed 22 weeks of extensive law
14 enforcement training. This training included general law book, driving while intoxicated,
15 accident investigation and all other aspects of law enforcement training. General duties
16 included traffic enforcement, speed enforcement, vehicle safety, accident investigations
17 and driving while intoxicated enforcements.

18 I attended the American Standard Inspection (A-Week) training in the fall of
19 2006. This training included the general requirements for identifying a commercial
20 vehicle, required commercial vehicle documentation, driver's license requirements,
21 physical requirements of the drivers and extensive training on log books. This
22 certification required on-the-job inspections of at least 50 logbooks.

1 The North American Standard Inspection-B (B-Week) came next. This week-
2 long training included detailed operating systems knowledge and inspection of those
3 systems. The systems in this training included the required lights, windshield and wiper
4 systems, tires, wheels, brake systems, suspension systems, steering systems and required
5 seatbelts. At least eight hours was dedicated to proper securement of numerous types of
6 loads. This certification required on-the-job inspections of at least 35 commercial
7 vehicles.

8 **Q. Please explain your duties and responsibilities in your current position.**

9 A. In addition to maintaining public safety by enforcing traffic and other laws of the state of
10 Kansas, I am a Motor Carrier Safety Assurance Program (MCSAP) Trooper responsible
11 for inspecting commercial motor vehicles, and enforcing the federal motor carrier laws
12 and regulations.

13 **Q. Have you previously testified before this Commission?**

14 A. Yes.

15 **Q. Please explain circumstances leading to the September 27, 2016, stop and the
16 subsequent inspection of the commercial motor vehicle.**

17 A. Several members of Zone A were assisting Roeland Park PD (RPPD) with a driver's
18 license checklane at 48th and Roe Blvd. These three tow trucks were called to the scene
19 by RPPD to standby and tow the vehicles of drivers whom were caught driving without a
20 valid driver's license. This action of towing the vehicles is the department policy of
21 RPPD. At the conclusion of the lane, Technical Trooper Mills, Trooper Wright and I
22 walked over to the three tow trucks and saw obvious critical violations, including an OOS
23 tire on Mills' inspection. Once the lane concluded, we inspected the three trucks.

1 **Q. Are you familiar with the challenge raised by Benfer Enterprises II LLC in this**
2 **matter?**

3 A. In his request for hearing, Benfer Enterprises questions our reasons for conducting the
4 inspections and specific issues with some of the citations.

5 **Q. Did you formally document the September 27, 2016, inspection?**

6 A. Yes. This inspection is documented in the Driver/Vehicle Examination Report Number
7 KSHP00531285. A true and correct copy of this report is attached hereto as Beabout
8 Attachment "A".

9 **Q. Please describe the vehicle involved in this inspection.**

10 A. The vehicle was a 2007 Chevy truck with Missouri plate 48ABGW with a Gross Vehicle
11 Weight Rating of 11,200 lbs.

12 **Q. Who was the driver operating the vehicle at the time of the inspection?**

13 A. The driver was identified by his Missouri driver's license as Craig J. Harris.

14 **Q. Can you please explain the Kansas Highway Patrol's authority as it relates to the**
15 **stop and inspection of commercial motor vehicles?**

16 A. K.S.A. 74-2108 gives the Kansas Highway Patrol the authority to require the driver of
17 any motor vehicle operated by any motor carrier to stop and submit to an inspection to
18 determine compliance with the laws, rules and regulations relating to motor carriers.
19 Additionally, K.A.R. 82-4-2a gives the Kansas Highway Patrol the authority to examine
20 motor carrier equipment operating on the highways in Kansas, and examine the manner
21 of the motor carrier's conduct as it relates to the public safety and the operation of
22 commercial motor vehicles in Kansas.

1 **Q. At the time of the inspection, how did you determine that the vehicle and its driver**
2 **were subject to the Federal Motor Carrier Safety Administration's (FMCSA) rules**
3 **and regulations?**

4 A. The gross vehicle weight rating of the vehicle was 11,200, which exceeds the 10,001
5 pound threshold definition of Commercial Motor Vehicle under K.A.R. 82-4-1 and 49
6 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f. The driver of the vehicle, Mr. Harris
7 acknowledged he was at that particular location to remove vehicles for compensation.
8 The intended destination of the towed vehicles would ultimately be in Independence,
9 Missouri, thus making this an interstate movement.

10 **Q. For the sake of clarification, where did the inspection take place?**

11 A. The inspection took place at a parking lot at 48th and Roe Parkway in Johnson County,
12 Kansas.

13 **Q. What type of inspection did you conduct? Please explain.**

14 A. I conducted a Commercial Vehicle Safety Alliance (CVSA) Level I inspection. This
15 inspection includes at a minimum, examination of the driver's license, medical
16 examiner's certificate and Skills Performance Evaluation Certificate (if applicable);
17 alcohol and drugs; driver's record of duty status as required; hours of service; seat belt
18 systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn
19 signals and lamps/flags on projecting); securement of cargo; steering mechanisms;
20 suspensions; tires; wheels, rims and hubs; windshield wipers; emergency exits and/or
21 electrical cables and systems in engine and battery compartments (buses), and Hazardous
22 Materials/Dangerous Goods (HM/DG) requirements as applicable. HM/DG required
23 inspection items will be inspected by certified HM/DG inspectors. It is contemplated that

1 the walk-around driver/vehicle inspection will include only those items, which can be
2 inspected without physically getting under the vehicle.

3 **Q. Did you identify any out of service violations during the September 27, 2017, Level I**
4 **Inspection?**

5 A. Yes, I identified one (1) out of service violation of motor carrier safety rules and
6 regulations. The violation was identified as “No or defective parking brake system on
7 CMV: Failed to Hold CMV When Applied and Then Placed in Neutral on Slight
8 Downgrade.”

9 **Q. How did you determine the vehicle’s parking brake system was defective?**

10 A. As I documented in my Inspection Report, the driver told me he was aware the parking
11 brake cable was broken before I even checked it. It was parked on a downward grade. I
12 had him apply the parking brake and then place it in neutral. The vehicle rolled forward
13 until he applied the regular brake. The same violation was found on this vehicle during
14 an inspection on February 24, 2016. That inspection is documented in the Driver/Vehicle
15 Examination Report Number 00K5007380. A true and correct copy of this report is
16 attached hereto as Beabout Attachment “B”.

17 **Q. Please explain the rule relevant to defective parking brakes.**

18 A. According to 49 C.F.R. 393.41(a) the “parking brake shall be capable of holding the
19 vehicle or combination of vehicles stationary under any condition of loading in which it
20 is found on a public road (free of ice and snow).”

21 **Q. Thank you, Trooper Beabout. Does this conclude your testimony?**

22 A. Yes, it does.

23

ATTACHMENT "A"

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
 MOTOR CARRIER SAFETY ASSISTANCE
 700 SW Jackson, Ste 704
 Topeka, KS 66603
 Phone #: (785)296-7189 Fax #: (785)296-2858
 truckinspection@khp.ks.gov

Report Number: KSH00531285
 Inspection Date: 8/27/2018 Certification Date:
 Time Started: 07:60 Time Ended: 08:07
 Inspection Level: 1 - Full Inspection
 HM Inspection Type: No HM Inspection

BENFER ENTERPRISES II LLC

INDEPENDENCE, MO 64063
 USDOT #: 02405874
 MC/MX #:
 State #:

Phone #: [REDACTED]
 Fax #:

Driver: HARRIS, CRAIG J
 License #: [REDACTED] State: MO
 Date of Birth: [REDACTED]

Location: JOHNSON COUNTY - 091 MilePost:
 Highway: 46TH ST @ ROE PRKY Origin: INDEPENDENCE, MO Bill of Lading: NONE
 County: JOHNSON Destination: ROELAND PARK, KS Cargo: EMPTY
 Shipper: N/A

VEHICLE IDENTIFICATION:											
Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Str.#
1	TR	CHEV	2007	MO	[REDACTED]	[REDACTED]	132239	11,200			

BRAKE ADJUSTMENTS:

Axis #	1	2
Right	N/A	N/A
Left	N/A	N/A
Chamber	HYDR	HYDR

VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation		Verify*	Crash	Violation Description
				Number				
392.2UCR	392.2	1	N			N	N	Failure to pay UCR Fee. FAIL TO PAY 2014, 2015,2016. VERIFIED BY K-100
390.21B	390.21(b)	1	N			N	N	Carrier name NOT DISPLAYED as required. Carrier name reads "Benfer's Towing Auto & Collision" registered as "BENFER ENTERPRISES II LLC" with no DBA name.
393.24A	393.24(a)	1	N			N	N	Non-compliance with headlamp requirements. PASSENGER SIDE HIGH BEAM INOP
396.17C	396.17(c)	1	N			N	N	Operating a CMV without proof of a periodic inspection. MOST CURRENT EXPIRED 2014
393.41	393.41	1	Y			U	N	No or defective parking brake system on CMV: FAILED TO HOLD CMV WHEN APPLIED AND THEN PLACED IN NEUTRAL ON SLIGHT DOWNGRADE.
398.0D2	398.0(d)(2)	1	N			N	N	Failure to correct defects noted on previous inspection report. PARKING BRAKE VIOLATION LISTED ON PREVIOUS INSPECTION MO00K6007380

* N - Non-OOS or Driver OOS Violation; U - Unknown

HazMat: No HM Transported. Placard: NA Cargo Tank:

Special Checks:

<input type="checkbox"/> Alcohol/Controlled Substance Check	<input type="checkbox"/> Traffic Enforcement	<input type="checkbox"/> Post Crash Inspection
<input type="checkbox"/> Conducted by Local Jurisdiction	<input type="checkbox"/> PASA Conducted Inspection	<input type="checkbox"/> PBRT Inspection
<input type="checkbox"/> Size and Weight Enforcement	<input type="checkbox"/> Drug Interdiction Search	Arrests:
<input type="checkbox"/> EScreening		

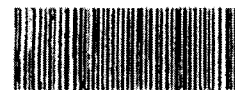
Inspection Notes: UCR CHECKED BY K100
 DRIVER TOLD ME HE WAS AWARE THE PARKING BRAKE CABLE WAS BROKEN EVEN BEFORE I CHECKED IT. IT WAS PARKED ON A DOWNWARD GRADE, I HAD HIM APPLY THE PARKING BRAKE, PLACE IN NEUTRAL. THE VEHICLE ROLLED FORWARD UNTIL HE APPLIED THE REGULAR BRAKE.
 THE EXPIRED ANNUAL WAS LOCATED ON THE PASSENGER SIDE WINDOW, DRIVER SAID THE CURRENT ONE CAME OFF."

Report Prepared By:
 R.C. Beabout

Badge #:
 0053

Copy Received By:
 HARRIS, CRAIG J

Page 1 of 2



KSH00531285

X

X

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone #: (785)296-7109 Fax #: (785)296-2858
truckinspection@khp.ks.gov

Report Number: KSHPO0531285
Inspection Date: 9/27/2016 Certification Date:
Time Started: 07:50 Time Ended: 09:07
Inspection Level: I - Full Inspection
HM Inspection Type: No HM Inspection

BENFER ENTERPRISES II LLC
INDEPENDENCE, MO 64053
USDOT #: 02405874 Phone #: (816)836-4200
MC/IMX #: Fax #:
State #:

Driver: HARRIS, CRAIG J
License #: State: MO
Date of Birth:

Special Study Fields:

Special Study1: Special Study6:
Special Study2: Special Study7:
Special Study3: Special Study8:
Special Study4: Special Study9:
Special Study5: Special Study10:

* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,128; K.C.C. Reg. 62-4-3, I hereby declare the above marked unit(s) as "OUT OF SERVICE". No person and/or carrier shall permit and/or require the removal of the "OUT OF SERVICE" stickers or the operation of this motor vehicle until ALL out of service defects have been corrected. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials _____

**/* DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. **/* *CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

Signature of Carrier Official: X Date: _____

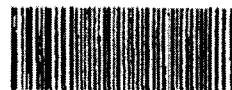
* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

Signature of Repairer: X Facility: _____ Date: _____

Report Prepared By:
R.C. Beaboul

Badge #:
0053

Copy Received By:
HARRIS, CRAIG J



K9HP00531285

X _____

X _____

ATTACHMENT "B"

DRIVER/VEHICLE EXAMINATION REPORT

Missouri State Highway Patrol
 Commercial Vehicle Enforcement Division
 Post Office Box 568
 Jefferson City, MO 65102-0568
 Phone: (816)482-8286 Fax: (573)526-4637

Report Number: MO00K5007380
 Inspection Date: 02/24/2016
 Start: 6:45 AM CT End: 7:14 AM CT
 Inspection Level: I - Full
 HM Inspection Type: None

BENFER ENTERPRISES II LLC

Driver: MOFFETT, RICHARD E

INDEPENDENCE, MO, 64053

License#:

State: MO

USDOT: 2405874

Phone#:

Date of Birth:

CoDriver:

MC/MX#:

Fax#:

License#:

State:

State#:

Date of Birth:

Location: INDEPENDENCE AND

Milepost:

Shipper: N/A

BENNINGTON

Highway: I-435

Origin: INDEPENDENCE, MO

Bill of Lading: N/A

County: JACKSON

Destination: KANSAS CITY, MO

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GWR	CVSA #	Issued #	OOS Sticker
1	TR	CHEV	2007	MO				32239	11200		5127PD

BRAKE ADJUSTMENTS

Axle #	1	2
Right	N/A	N/A
Left	N/A	N/A
Chamber	HYDR	HYDR

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.9H	F	1	N		N	N	Inoperable head lamps
393.78	F	1	N		N	N	Windshield wipers inoperative/defective
393.9TS	F	1	Y		U	N	Inoperative turn signal
393.9	F	1	N		N	N	Inoperable Required Lamp
396.3A1T	F	1	Y		U	N	Tires (general)
393.95A	F	1	N		N	N	No/discharged/unsecured fire extinguisher
393.41	F	1	Y		U	N	No or defective parking brake system on CMV
393.55B	F	1	N		N	N	ABS malfunction indicators for hydr brake sys

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks:

Alcohol/Controlled Substance Check	Traffic Enforcement	Post Crash Inspection
X Conducted by Local Jurisdiction	PASA Conducted Inspection	PBBT Inspection
Size and Weight Enforcement	Drug Interdiction Search	
eScreen Inspection		

* I hereby declare the above vehicle(s)/drivers as "OUT OF SERVICE". No person shall remove the "OUT OF SERVICE" sticker(s) applied to this/these vehicle(s) or operate such vehicle(s) until the OUT-OF-SERVICE defect(s) has/have been repaired and vehicle(s) restored to a safe operating condition.
 Signature Of Repairer X: _____ Facility: _____ Date: _____

I certify that the above violation(s) was/were corrected.

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

NOTICE TO DRIVER/MOTOR CARRIER: The motor carrier name that appears on this report must sign the certification and fax, mail to the Missouri State Highway Patrol, Commercial Vehicle Enforcement Division, P.O. Box 568, Jefferson City, MO 65102-0568 or Email to cvemail@mshp.dps.mo.gov within 15 days. If no violations were discovered, you are NOT required to sign and return a copy of the report.

IF NO VIOLATIONS ARE CITED, THEN NO RETURN IS NECESSARY.

Signature Of Motor Carrier X: _____ Title: _____ Date: _____



DRIVER/VEHICLE EXAMINATION REPORT

**Missouri State Highway Patrol
Commercial Vehicle Enforcement Division
Post Office Box 568
Jefferson City, MO 65102-0568
Phone: (816)482-8286 Fax: (573)526-4637**

**Report Number: MO00K5007380
Inspection Date: 02/24/2016
Start: 6:45 AM CT End: 7:14 AM CT
Inspection Level: I - Full
HM Inspection Type: None**

Report Prepared By: C. PRASCHAK **Badge #: 4496**

Copy Received By: RICHARD MOFFETT

X

X



CERTIFICATE OF SERVICE

17-GIMM-269-KHP

I, the undersigned, certify that a true and correct copy of the above and foregoing docket was placed in the United States mail, postage prepaid, or hand-delivered this 3rd day of April, 2017, to the following:

BILL BENFER, MANAGING MEMBER
BENFER ENTERPRISES II LLC
10047 E WILSON RD
INDEPENDENCE, MO 64053

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

/s/ Vicki Jacobsen

Vicki Jacobsen