

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

June 30, 2020

20-TRAM-523-PEN

Robert S. McDonald, Managing Member
McDonald, LLC, d/b/a Corner Express
PO Box 248
Satanta, KS 67870

This is a notice of a penalty assessment against McDonald, LLC, d/b/a Corner Express (Corner Express) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 17, 2020, by Kansas Corporation Commission Special Investigator Wade Patterson. Penalty amounts are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

Corner Express has been assessed a \$250 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$250 through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

CORNER EXPRESS IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS SET OUT IN THE ATTACHED REDUCED PENALTY AGREEMENT.

To become eligible, you must agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. The Reduced Penalty Agreement must be submitted to the Litigation Division within 15 days.

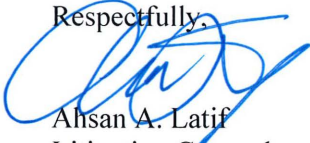
IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. McDonald, LLC, d/b/a Corner Express must file within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$250 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced.

Respectfully,



Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

Susan K. Duffly, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

REDUCED PENALTY AGREEMENT

20-TRAM-523-PEN

McDonald, LLC, d/b/a Corner Express (Corner Express) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated June 25, 2020. Corner Express has agreed to comply with the following terms and obligations:

1. Corner Express has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Corner Express will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. Corner Express will attend a Commission-sponsored safety seminar and provide the undersigned Litigation Counsel with proof of attendance. Due to Governor mandated social distancing and prohibitions on gathering of 50 or more, the Commission issued its *Emergency Order Temporarily Suspending the Requirement to Attend Commission Sponsored Safety Seminars During State of Emergency* (Emergency Order) in Docket No. 20-TRAM-392-PEN on March 17, 2020. The carrier's requirement to attend a Commission-sponsored safety seminar must be completed within 90 days of the Commission's Emergency Order being lifted.
4. Corner Express will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

McDonald, LLC, d/b/a Corner Express understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$125, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Corner Express will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this _____ day of _____, 2020.

McDonald, LLC, d/b/a Corner Express

Robert S. McDonald
Managing Member

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and a.latif@kcc.ks.gov.)

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

Before Commissioners: Susan K. Duffy, Chair
 Dwight D. Keen
 Andrew J. French

In the Matter of the Investigation of **McDonald,**)
LLC, d/b/a Corner Express, of Satanta, KS,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-523-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. Pursuant to K.S.A. 66-1,142b the Commission is granted the authority to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

2. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

3. McDonald, LLC, d/b/a Corner Express (Corner Express) has private operating authority with the Commission and further operates under USDOT number 3284173.

4. Robert S. McDonald attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on July 1, 2019, on behalf of Corner Express.

5. Corner Express is a private motor carrier which primarily hauls liquids/gases.

6. Corner Express is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on June 17, 2020, Commission Staff (Staff) Special Investigator Wade Patterson conducted a compliance review of the operations of Corner Express. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 1, 2020, Corner Express required or permitted its driver, Robert Scott McDonald, to operate a CDL-required commercial motor vehicle, a 2000 Freightliner FL70, VIN ending in 04014, GVWR 33,000 lbs., in intrastate commerce from Satanta, Kansas to Stevens County, Kansas. This trip is evidenced by Invoice Number 23423, a copy of which is

attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Corner Express failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The special investigator discovered two (2) violations of this type. The carrier’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,112. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Corner Express committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Staff recommends a civil penalty of \$250 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff provides notice to the Commission that McDonald, LLC, d/b/a Corner Express is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier’s Corrective Action Plan (CAP).

11. Staff recommends McDonald, LLC, d/b/a Corner Express submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

12. Staff further recommends that a representative of the carrier attend a Commission-sponsored safety seminar and provide the undersigned Litigation Counsel with proof of attendance. Due to Governor mandated social distancing and prohibitions on gathering of 10 or more, the Commission issued its *Emergency Order Temporarily Suspending the Requirement to Attend Commission Sponsored Safety Seminars During State of Emergency* (Emergency Order) in Docket No. 20-TRAM-392-PEN on March 17, 2020. The carrier's requirement to attend a Commission-sponsored safety seminar must be completed within 90 days of the Commission's Emergency Order being lifted.

13. Finally, Staff recommends that Corner Express submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

14. The Commission finds it has jurisdiction over Corner Express because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds a penalty of \$250 should be assessed to Corner Express for committing one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas

Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

16. The Commission finds Corner Express is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. McDonald, LLC, d/b/a Corner Express, of Satanta, KS is hereby assessed a penalty of \$250 for one (1) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations. Payment of \$250 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

B. A representative from Corner Express is ordered to attend a Commission-sponsored safety meeting as described in paragraph 12, above. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

C. Corner Express must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described above, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Corner Express is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Corner Express does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$250 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Corner Express' motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Corner Express' right to a hearing.

G. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 66-1,142b(e) and amendments thereto.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 06/30/2020

A handwritten signature in cursive script, reading "Lynn M. Retz".

Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 3004083
MC/MX#:

Legal: WILLMANN TRUCKING LLC
Operating (DBA):

Investigation Date:
06/15/20

Investigation Type: Offsite Investigation

Physical Address

409 ARTHUR ST
CLAY CENTER, KS 67432-1746
United States

Mailing Address

409 ARTHUR ST
CLAY CENTER, KS 67432-1746
United States

Contact Information

Contact Name: BLAKE WILLMANN

Email

Phon

Business and Financial

Business Type: Limited Liability Corporation

Gross Revenue **For Year Ending:** 12/31/19

Federal Tax ID: EIN)

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier, Non-HM
Intrastate Carrier

Operation Classification

For-Hire Motor Carrier
Property
Exempt Commodities

Cargo

Livestock

Equipment

Driver Information

	Owned	Term Leased	Trip Leased	Drivers	Intrastate	Interstate
Truck Tractors	2					
Trailers	2			< 100 Miles		
				>= 100 Miles		3

Power units used in the U.S.: 2

Percentage of time used in the U.S.: 100%

Average trip leased driver/month: 0

Drivers with CDL: 3

Total Drivers: 3

Person(s) Interviewed

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

Kansas Corporation Commission 1500 SW Arrowhead Rd
Topeka, KS 66604
Phone: (785) 271-3104
Fax: (785) 271-3124

This report will be used to assess your safety compliance.

Violations

1. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Driver name: Blake Willmann

Trip date: 4/21/2020

Willmann Trucking LLC failed to maintain the responses of the driver's annual driving record at least once every 12 months. The MVRs provided were dated 4/16/2018 and 5/6/2020.

Drivers/Vehicles

In Violation	Checked
2	2

2. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Driver name: Blake Willmann

Trip date: 4/21/2020

Willmann Trucking LLC failed to maintain a note relating to the annual review of the driver's MVR.

Drivers/Vehicles

In Violation	Checked
2	2

3. Primary: 391.51(b)(6)

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Driver name. Blake Willmann

Trip date 4/21/2020

Willmann Trucking LLC failed to maintain a list or certificate relating to violations discovered on the driver's annual driving record.

Drivers/Vehicles

In Violation	Checked
2	2

4. Primary: 392.2

Failure to attend a Kansas Corporation Commission sponsored safety seminar as required by KSA 66-1,142b(h)

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	1	1

Example/Notes:

A representative from Willmann Trucking LLC did not attend a KCC sponsored safety seminar as required by the 2/19/2019 penalty assessment.

Drivers/Vehicles

In Violation	Checked
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Safety Fitness Rating

This Investigation is Not Rated

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

DataQs. If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Willmann Trucking LLC failed to maintain the responses of the driver's annual driving record at least once every 12 months. The MVRs provided were dated 4/16/2018 and 5/6/2020 which resulted in being outside the 12 month period. Not obtaining the annual MVR results in the carrier not being able to verify that the drivers operating their commercial motor vehicles have valid CDL operator's licenses

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.

Recommendations

1 Additional Information

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2 If you have any questions concerning this report, contact KCC

If you have any questions concerning this report, please contact the Kansas Corporation Commission, 1500 SW Arrowhead Rd, Topeka, KS 66603 or call (785)271-3104.

3 SMS website

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review your safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

4 Drug and Alcohol Clearinghouse

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>. Implementation begins January 6, 2020.

5 Obtain a copy of each driver's driving record and review it.

Obtain a copy of each driver's driving record and review it annually

6 CAP Requirement

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

7. CAP Penalty

Motor carriers are responsible for complying with all tasks ordered by the Commission. You are required to prepare a corrective action plan (CAP), addressing the measures taken to correct all the violations identified within this report. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

8. Acknowledgement Stmt - Offsite

I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of [motor carrier's] operating authority and/or the impoundment of [motor carrier's] commercial motor vehicles.

Carrier Representative

Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax

9 Monetary Penalties

I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans.penalty_assessment_table.htm

Carrier Name

Carrier Official

10. Safety Seminar Requirement

Motor carriers are responsible for complying with all tasks ordered by the Commission in its Penalty Order. In addition to paying any civil fines issued, carriers are also required to attend a Commission sponsored safety seminar. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas

ATTACHMENT “B”

CERTIFICATE OF SERVICE

20-TRAM-523-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail/hand delivered on 07/01/2020.

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

ROBERT S. MCDONALD, MANAGING MEMBER
MCDONALD, LLC
D/B/A CORNER EXPRESS
PO BOX 248
SATANTA, KS 67870
scottcornerexpress@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe