

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



20170222074525  
Kansas Corporation Commission

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

Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

February 21, 2017

17-TRAM-367-PEN

Donald Dreiling, Managing Member  
Dreiling Construction, LLC  
1140 N Towns Rd  
Garden City, Kansas 67846

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

You have been assessed a \$700 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

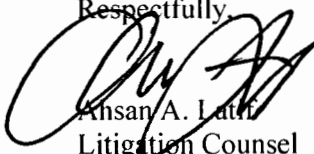
### IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Acting Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

### IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,



Khshan A. Lattif  
Litigation Counsel  
(785) 271-3118

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

Before Commissioners:      Pat Apple, Chairman  
                                     Shari Feist Albrecht  
                                     Jay Scott Emler

In the Matter of the Investigation of **Dreiling**      )  
**Construction, LLC, of Garden City, Kansas,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 17-TRAM-367-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). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2016 Supp. 66-1,108b, 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 K.S.A. 2016 Supp. 66-1,108, 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.

2.      Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. 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.

4. Pursuant to K.S.A. 66-1,115 and 66-1,139(a), interstate private motor carriers of property or passengers and interstate public motor carriers of property, household goods or passengers who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to federal statutes, unless exempted under the provision of K.S.A. 66-1,109, and amendments thereto."

## **II. BACKGROUND**

5. Dreiling Construction, LLC is a Kansas motor carrier that operates under USDOT No. 977137.

6. Dreiling Construction, LLC transports in commerce between states (interstate commerce), and is thereby subject to the Unified Carrier Registration (UCR) fees assessed pursuant to 49 C.F.R. 367.30, as adopted by K.A.R. 82-4-30a.

## **III. STATEMENT OF FACTS**

7. On November 21, 2016, Dreiling Construction, LLC required or permitted its driver, Dennis Davis to operate a CDL-required commercial motor vehicle, a 1996 Freightliner, VIN ending in 556573, GVWR 52,000 lbs., in interstate commerce from Garden City, Kansas to Turpin, Oklahoma. This trip is evidenced by driver Dennis Davis' Time Record, a copy of which is attached hereto as Attachment "A" and is hereby incorporated by reference. At the time

of this transportation, Dreiling Construction, LLC had not paid its UCR fees for the year(s) of 2016 and 2017.

8. As of this date, Dreiling Construction, LLC has not paid its UCR fee(s).

#### **IV. STAFF'S RECOMMENDATIONS**

9. Based upon the available facts, Staff recommends the Commission find Dreiling Construction, LLC committed a violation 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.

10. Additionally, Staff recommends a civil penalty of \$700 for the violation of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that Dreiling Construction, LLC be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

12. Finally, Staff recommends that Dreiling Construction, LLC submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

#### **V. CONCLUSIONS OF LAW**

13. The Commission finds it has jurisdiction over Dreiling Construction, LLC because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

14. The Commission finds Dreiling Construction, LLC committed a violation 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.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Dreiling Construction, LLC, of Garden City, Kansas is hereby assessed a \$700 civil penalty for the violation 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.

B. Dreiling Construction, LLC is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Dreiling Construction, LLC is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Acting Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of 's right to a hearing, and this Penalty Order will become a Final Order assessing a \$700 civil penalty against , and ordering Dreiling Construction, LLC to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. 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 of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*


F. Failure to pay the \$700 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of Dreiling Construction, LLC's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: **FEB 21 2017**

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

**Order Mailed Date**

**FEB 22 2017**

## **ATTACHMENT “A”**



Name

Dennis Davis

Week Beginning 11-18

Week Ending 11-24

PROJECT  
NUMBER

CUSTOMER

LOCATION

WORK PERFORMED

CLOCK IN /  
CLOCK OUTNorthern Natural  
gas  
sunflower

Holcomb

take fence down at N.N. Gr. 8-11

Holcomb

repair &amp; backfill water line 11-7

Turpin Ok.

Drive dump truck to station load-up concrete  
haul back to Garden City.  
Get tires fixed on ~~13~~ Tep hat trailerNorthern Natural  
gas

Holcomb

place & pac fill dirt on outside 8:00  
of south fence in the southeast corner 3:30Northern Natural  
gas

Holcomb

place fill dirt &amp; pac on berm top of ditch

11/21 11/24/08

**CERTIFICATE OF SERVICE**

17-TRAM-367-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on **FEB 21 2017**.

DONALD A. DREILING, MANAGING MEMBER  
DREILING CONSTRUCTION, LLC  
1140 NORTH TOWNS RD.  
GARDEN CITY, KS 67846

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/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date

**FEB 22 2017**