



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

May 21, 2020

20-TRAM-468-PEN

Mike Stewart, Managing Member
Mike's Moving Pros, LLC
5753 SW 22nd Terr #5
Topeka, KS 66614

This is a notice of a penalty assessment against Mike's Moving Pros, LLC (Mike's Moving Pros) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 5, 2020, by Kansas Corporation Commission Special Investigator Verna Jackson. Penalties 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(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Mike's Moving Pros has been assessed a \$200 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$200, 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.

The attached Order requires a representative of the carrier to attend a Commission-sponsored safety seminar and to provide the undersigned Litigation Counsel with proof of attendance. Safety seminars are not currently being offered due to the COVID-19 pandemic. The carrier is required to attend a safety seminar within 90 days of the seminars being offered again. 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.

IF YOU CONTEST THE PENALTY ORDER: 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. Mike's Moving Pros 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 the undersigned at the above address. 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 the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$200 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,
/a/ Ahsan A. Latif

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

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

Before Commissioners: Susan K. Duffy, Chair
 Shari Feist Albrecht
 Dwight D. Keen

In the Matter of the Investigation of **Mike's**)
Moving Pros, LLC, of Topeka, KS, Regarding)
the Violation(s) of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 20-TRAM-468-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.

2. Pursuant to K.S.A. 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 issue an order 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

4. Mike's Moving Pros, LLC (Mike's Moving Pros) has common operating authority with the Commission and further operates under USDOT number 2891572.

5. Mike Stewart attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on May 28, 2019, on behalf of Mike's Moving Pros.

6. Mike's Moving Pros is a common motor carrier which primarily hauls household goods.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on May 5, 2020, Commission Staff (Staff) Special Investigator Verna Jackson conducted a safety compliance review of the operations of Mike's Moving Pros. A copy of the safety compliance review is included in this Penalty Order 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 March 27, 2020, Mike's Moving Pros required or permitted its driver, Mike Stewart, to operate a CDL-required commercial motor vehicle, a 1988 International, VIN ending in 620645, GVWR 19,501, in intrastate

commerce from Auburn, Kansas to Topeka, Kansas. This trip is evidenced by a letter dated April 29, 2020, from Mike Stewart, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Mike’s Moving Pros 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. This carrier was cited for the same violation in a safety compliance review conducted on February 8, 2019. Mike’s Moving Pros’ 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 an enhanced fine of \$200.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Mike's Moving Pros 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. Additionally, Staff recommends a civil penalty of \$200 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative of the carrier to attend a Commission-sponsored safety seminar and to 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.

11. Finally, Staff recommends that Mike's Moving Pros 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.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Mike's Moving Pros 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.

13. The Commission finds Mike's Moving Pros 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.

THE COMMISSION THEREFORE ORDERS THAT:

A. Mike's Moving Pros, LLC, of Topeka, KS is hereby assessed a \$200 civil penalty 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.

B. Mike's Moving Pros is hereby ordered to attend a Commission-sponsored safety seminar as instructed in paragraph 10, above.

C. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order.

D. Mike's Moving Pros 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 carrier to set up the appointment.

E. 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. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. 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 of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Mike's Moving Pros' right to a hearing, and this Penalty Order will become a Final Order.

F. 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.

G. If you do not request a hearing, the payment of the civil penalty of \$200 is due in thirty (30) days from the date of service of this Order. Payment of \$200 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.

H. Failure to pay the \$200 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Mike's Moving Pros' 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 revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 05/21/2020



Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 2891572
MC/MX#:

Legal: MIKE'S MOVING PROS LLC
Operating (DBA):

Investigation Date:
05/05/20

Investigation Type: Offsite Investigation

Physical Address

5753 SW 22ND TERR #5
TOPEKA, KS 66614-5011
United States

Mailing Address

5753 SW 22ND TERR #5
TOPEKA, KS 66614-5011
United States

Contact Information

Contact Name: MIKE J STEWART

Email:

Phone:

Fax: ()-

Business and Financial

Business Type: Limited Liability Corporation

Gross Revenue **or Ending:**

Federal Tax ID: (EIN)

Operation Classification and Type

Type of Operation: Non-HM Intrastate Carrier

Operation Classification

For-Hire Motor Carrier

Property

Other Non-Hazardous Freight

Cargo

Household Goods

Equipment

Owned

Term Leased

Trip Leased

Straight Trucks 1

Power units used in the U.S.: 1

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

Driver Information

Drivers

Intrastate

Interstate

< 100 Miles

1

>= 100 Miles

Average trip leased driver/month: 0

Drivers with CDL: 0

Total Drivers: 1

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
	1	1
Checked		
Fed	State	Total
	1	1

Example/Notes:

Driver name: Mike Stewart

Trip date: March 27, 2020

Mike's Moving Pros failed to maintain the driver's annual motor vehicle report. The MVRs provided were dated 12/15/2018 and 4/29/2020

Drivers/Vehicles

In Violation	Checked
1	1

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
	1	1
Checked		
Fed	State	Total
	1	1

Example/Notes:

Driver name: Mike Stewart

Trip date: March 27, 2020

Mike's Moving Pros failed to maintain the driver's annual note relating to the review of the driver's MVR.

Drivers/Vehicles

In Violation	Checked
1	1

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
	1	1
Checked		
Fed	State	Total

Example/Notes:

Driver name: Mike Stewart

Trip date: March 27, 2020

Mike's Moving Pros failed to maintain the driver's annual list or certificate relating to the violations noted on the driver's annual MVR.

Drivers/Vehicles

In Violation	Checked
1	1

Safety Fitness Rating

This Investigation is Not Rated

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](https://dataqs.fmcsa.dot.gov).

Process Breakdown and Remedies

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Mike's Moving Pros LLC failed to maintain the driver's annual motor vehicle report in the driver's qualification file. By not obtaining the MVR timely, the motor carrier cannot validate the driver is qualified as required by the regulations.

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. 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.

3. 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.

4. 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.

5. 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

6. 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.

7. 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 785-271-3124.

8. 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

9. **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”

Mike's Moving Pros

5753 SW 22nd Ter #5
Topeka KS 66614
785-580-3730

April 29 2020

Last Intrastate Trip

Date - Friday March 27 2020

Driver- Mike Stewart

Vehicle Used- 1988 International

Where Trip Initiated and Ended on one way trip- Started at AAA Storage at 21st and Westport in Topeka where I park the truck TO 1200 Hanover Rd #A3 Auburn Kansas and moved the customer to Martin Creek at 4950 SW Huntoon St in Topeka Kansas.

Mike Stewart

CERTIFICATE OF SERVICE

20-TRAM-468-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 05/22/2020.

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

MIKE J. STEWART, MANAGING MEMBER
MIKE'S MOVING PROS, LLC
5753 SW 22ND TERR APT 5
TOPEKA, KS 66614-5011
dj_raven3000@yahoo.com

/S/ DeeAnn Shupe

DeeAnn Shupe