

ALDERSON, ALDERSON, WEILER,  
CONKLIN, BURGHART & CROW, L.L.C.  
ATTORNEYS AT LAW

W. ROBERT ALDERSON, JR.  
ALAN F. ALDERSON\*  
JOSEPH M. WEILER  
DARIN M. CONKLIN  
MARK A. BURGHART\*  
DANIEL W. CROW\*\*  
MICHELLE L. SLINKARD

2101 S.W. 21ST STREET  
TOPEKA, KANSAS 66604-3174

(785) 232-0753  
FACSIMILE: (785) 232-1866  
WEB SITE: [www.aldersonlaw.com](http://www.aldersonlaw.com)

OF COUNSEL:  
BRIAN FROST  
THOMAS C. HENDERSON  
JARED R. MUIR

\*LL.M., TAXATION  
\*\*LICENSED TO PRACTICE IN  
KANSAS AND MISSOURI

[boba@aldersonlaw.com](mailto:boba@aldersonlaw.com)

June 28, 2016

**HAND-DELIVERED**

Kansas Highway Patrol  
122 S.W. 7<sup>th</sup> Street  
Topeka, Kansas 66603

Re: Invoice No. H000562134;  
Challenge Review;  
Request for Administrative Hearing

Greetings:

As you have been previously advised, I represent Quality Drive-Away, Inc. ("Quality"), and on behalf of Quality, I am requesting an administrative hearing before the Kansas Corporation Commission, to contest the Kansas Highway Patrol's denial of Quality's challenge to the violation giving rise to the above-referenced invoice.

The specific grounds upon which relief is sought are as follows: Subsequent to the filing of Quality's challenge to the violations set forth in the Kansas Highway Patrol's Driver/Vehicle Examination Report No. KSHP92070900 ("Roadside Examination Report"), additional statutory research has revealed that the Kansas Highway Patrol ("KHP") lacked jurisdiction to hold Quality in violation of FMCSR § 383.93(b)(2).

In the Notice of Violation issued by the Kansas Corporation Commission ("KCC") on May 2, 2016, the KCC stated that the KHP inspected Quality's vehicle "on April 27, 2016, and discovered violation(s) of the Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129 and K.A.R. 82-4-3 et seq." However, a review of K.S.A. 2015 Supp. 66-1,129 and K.A.R. 82-4-3 et seq. reveals that neither this statute nor the KCC's rules and regulations have adopted FMCSR § 383.93(b)(2).

Accordingly, since FMCSR § 383.93(b)(2) has not been adopted by the Kansas Legislature or the KCC for application in Kansas, the KHP lacked jurisdiction to enforce the provisions thereof, and the violation of its provisions identified in the Roadside Examination Report is null and void.

Kansas Highway Patrol  
June 28, 2016  
Page 2 of 2

Therefore, such violation should be dismissed and the amount paid as penalty for such violation by Quality on June 27, 2016, in the amount of \$150.00, should be refunded.

I trust that the foregoing provides the requisite grounds upon which relief should be granted. Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Robert Alderson", with a long horizontal flourish extending to the right.

W. Robert Alderson  
ALDERSON, ALDERSON, WEILER,  
CONKLIN, BURGHART & CROW, L.L.C.

WRA:bjb

cc: Paul D. Borghesani, Esq.  
Brad Hooley  
Dale Colville  
Devon Bechtel