

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

July 30, 2015

16-TRAM-045-PEN

William Akers, President
Akers Consulting Group, Inc.
PO Box 387
Elwood, Kansas 66024

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 15, 2015, by Kansas Corporation Commission Special Investigator Verna Jackson. 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 \$100 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.

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 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. 2014 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,

Michael J. Duenes
Litigation Counsel
(785) 271-3181

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

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

In the Matter of the Investigation of **Akers**)
Consulting Group, Inc., of Elwood, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 16-TRAM-045-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. 2014 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. 2014 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. 2014 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.

II. BACKGROUND

4. Akers Consulting Group, Inc. (Akers Consulting Group) obtained private operating authority from the Commission on June 24, 2014, and operates under KSMCID number 170328 and USDOT number 271156.

5. Bill Akers attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on March 10, 2014, on behalf of Akers Consulting Group.

6. Akers Consulting Group is a private motor carrier which primarily hauls scale testing equipment.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 15, 2015, Commission Staff (Staff) Special Investigator Verna Jackson conducted a compliance review of the operations of Akers Consulting Group. 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, Ms. Jackson identified one (1) violation of the Motor Carrier Safety Regulations.

- a. On April 20, 2015, Akers Consulting Group required or permitted its driver, John Joseph JJ Bucher to operate a commercial motor vehicle, a 2009 Sterling, VIN ending in 12687, in interstate commerce from Elwood, Kansas to Polo, Missouri. This trip is evidenced by driving record of JJ

Bucher, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Akers Consulting Group 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. Akers Consulting Group'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), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2014 Supp. 66-1,112. Staff recommends a fine of \$100.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Akers Consulting Group committed one (1) 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.

9. Additionally, Staff recommends a civil penalty of \$100 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Akers Consulting Group 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.

11. Finally, Staff recommends that Akers Consulting Group 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

12. The Commission finds it has jurisdiction over Akers Consulting Group because it is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108.

13. The Commission finds Akers Consulting Group committed one (1) 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. Akers Consulting Group, Inc., of Elwood, Kansas is hereby assessed a \$100 civil penalty for one (1) 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. Akers Consulting Group 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, Akers Consulting Group is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2014 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 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 Akers Consulting Group's right to a hearing, and this Penalty Order will become a Final Order assessing a \$100 civil penalty against Akers Consulting Group, and ordering Akers Consulting Group 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. 2014 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 \$100 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 Akers Consulting Group'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 orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: **JUL 30 2015**




ORDER MAILED JUL 31 2015

Amy L. Gilbert
Secretary to the Commission

MJD

ATTACHMENT “A”

	US DOT # 271156	Legal: AKERS CONSULTING GROUP INC Operating (DBA):																		
MC/MX #:		State #:		Federal Tax ID: (EIN)																
Review Type: Non-ratable Review - CSA																				
Scope: Principal Office		Location of Review/Audit: CSA Off-site		Territory:																
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Operation Types</td> <td style="width:15%;">Interstate</td> <td style="width:15%;">Intrastate</td> <td colspan="2" rowspan="3"> Business: Corporation Gross Revenue: for year ending: 12/31/2014 </td> </tr> <tr> <td>Carrier:</td> <td>Non-HM</td> <td>Non-HM</td> </tr> <tr> <td>Shipper:</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Cargo Tank:</td> <td colspan="2">N/A</td> <td colspan="2"></td> </tr> </table>					Operation Types	Interstate	Intrastate	Business: Corporation Gross Revenue: for year ending: 12/31/2014		Carrier:	Non-HM	Non-HM	Shipper:	N/A	N/A	Cargo Tank:	N/A			
Operation Types	Interstate	Intrastate	Business: Corporation Gross Revenue: for year ending: 12/31/2014																	
Carrier:	Non-HM	Non-HM																		
Shipper:	N/A	N/A																		
Cargo Tank:	N/A																			
Company Physical Address:																				
Contact Name: Bill Akers Phone numbers: (1) E-Mail Address:																				
Company Mailing Address:																				
P O BOX 387 ELWOOD, KS 66024-0387																				
Carrier Classification																				
Private Property																				
Cargo Classification																				
Other: Scale Testing Equip																				
Equipment																				
	Owned	Term Leased	Trip Leased																	
Truck	2	0	0																	
Power units used in the U.S.: 2 Percentage of time used in the U.S.: 100																				
Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A																				
Driver Information																				
	Inter	Intra	Average trip leased drivers/month: 0 Total Drivers: 1 CDL Drivers: 1																	
< 100 Miles:	1																			
>= 100 Miles:	0	0																		





AKERS CONSULTING GROUP INC

U.S. DOT #: 271156

State #:

Review Date:

07/15/2015

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead
Topeka, Kansas 66604
Telephone 785-271-3104

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Bill Akers

Title: President

Name:

Title:





AKERS CONSULTING GROUP INC
U.S. DOT #: 271156

State #:

Review Date:
07/15/2015

Part B Violations

1 FEDERAL	Primary: 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

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

Example

April 20, 2015

Carrier provided MVRs dated 4/22/2015 which was a date after the contact was made for the compliance review. No other MVRs were provided as requested.

2 FEDERAL	Primary: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

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

Example

April 20, 2015

Carrier failed to provide a note relating to the annual review of the MVR.

3 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

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

Example

April 20, 2015

Carrier failed to provide a list or certificate relating to the violations of the MVR.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0			
Total Miles Operated	15,592	Number of Vehicle Inspected (CR): 0			
Recordable Accidents	0	OOS Vehicle (MCMIS): 0			
		Number of Vehicles Inspected (MCMIS): 0			

Your proposed safety rating is :

This Review is not Rated.





Safety Management Process Breakdowns and Remedies

1. FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012.

The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.

The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

2. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: Akers Consulting Group Inc failed to obtain driver's driving record and maintain the annual review and certification of the driver's driving record annually. The carrier's role and responsibility would be to provide adequate training and workflow for persons responsible for the review of such documents. Without reviewing the driver's motor vehicle report the carrier is not validating the driver is qualified to operate the commercial motor vehicle.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Roles and Responsibilities.

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and company policies and procedures.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

3. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
4. The MCS-150 (Motor Carrier Identification Report) is required to be updated bi-annually. As required under 49 CFR 390.19(a) and 390.19(b), the carrier must file Form MCS-150 before it begins operations and every 24 months according to the schedule noted in 390.19(b)(2). Depending on the next to the last digit of the USDOT#, the carrier will be responsible for updating the USDOT# in either the even or odd number year. Example: The next to the last



**Safety Management Process Breakdowns and Remedies**

number in the USDOT# is 2, the carrier would need to update the MCS150 in an even numbered year. On the same hand, the last number of the USDOT# is the qualifier for the month in which the update must occur. If the last number of the USDOT# is 4, the USDOT# must be updated by the end of April. The required form must be filed with FMCSA Office of Information Management. The USDOT number needs to be filed electronically according to the instructions at the Agency's (www.fmcsa.dot.gov) Web site.

5. This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.

6. For all Investigations:

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

- Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

- NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

- NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

For all Investigations that could result in a Penalty Order:

- PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

For all Investigations that did not result in a Cooperative Safety Plan:

KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations





AKERS CONSULTING GROUP INC

U.S. DOT #: 271156

State #:

Review Date:

07/15/2015

Safety Management Process Breakdowns and Remedies

identified within this report. Submit this letter within 15 days and any additional evidence necessary to prove the corrective action has been taken to:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027

7. I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. 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 Akers Consulting Group Inc's operating authority and/or the impoundment of Akers Consulting Group Inc's 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.



ATTACHMENT “B”

[illegible]

FROM OUR SHOP (ELWOOD) TO POLO, AND BACK TO
OUR SHOP (ELWOOD)

IN RE: DOCKET NO. **16-TRAM-045-PEN**

DATE **JUL 30 2015**

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
WILLIAM AKERS, PRESIDENT AKERS CONSULTING GROUP, INC. PO BOX 387 ELWOOD, KS 66024-0387		
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JUL 31 2015

The Docket Room hereby certified that on this ____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.