

## NOTICE OF PENALTY ASSESSMENT

April 4, 2017

17-TRAM-428-PEN

Joseph Welch, Managing Member  
JP Welch Fencing LLC  
724 Shawnee  
Leavenworth, Kansas 66048

Certified Mail Receipt No. 7016 1970 0001 0574 1188

This is a notice of a penalty assessment against JP Welch Fencing LLC for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on March 10, 2017, by Kansas Corporation Commission Special Investigator(s) Wade Patterson and Jared Smith. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

JP Welch Fencing has been assessed a \$1,700 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. A check must be made payable to the Kansas Corporation Commission and 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>.

### JP WELCH FENCING IS A NEW ENTRANT MOTOR CARRIER AND IS ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

(1) the carrier signs and submits within fifteen (15) days from the date of this Penalty Order, the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within 30 days from the date of the attached Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached 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; and

(3) within thirty (30) days from the date of the attached Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the Transportation Division shortly thereafter.

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended Penalty Order assessing the reduced penalty and setting out the terms and conditions as stated above, will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$850, will be due within thirty (30) days from the date of service of the Amended Penalty Order.



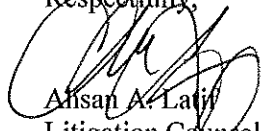
**IF YOU CONTEST THE PENALTY ORDER:**

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. JP Welch Fencing LLC 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 by mailing 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 Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 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 \$1,700 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If JP Welch Fencing submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order will be issued assessing the reduced penalty of \$850 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,

  
Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118

DRAFT



### REDUCED PENALTY AGREEMENT

JP Welch Fencing LLC hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated April 4, 2017. JP Welch Fencing has agreed to comply with the following terms and obligations:

1. JP Welch Fencing has submitted, within fifteen (15) days from the date of the Penalty Order issued on April 4, 2017, this Reduced Penalty Agreement to Litigation Counsel at the above address.
2. JP Welch Fencing will, within 30 days from the date of the Penalty Order dated April 4, 2017, submit to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) describing specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.
3. JP Welch Fencing will, within thirty (30) days from the date of the Penalty Order dated April 4, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Transportation Division.

JP Welch Fencing LLC understands that Transportation Litigation Counsel will file a Motion for Amended Penalty Order with the agreement attached to the motion. The Amended Penalty Order will assess JP Welch Fencing a fifty-percent (50%) reduced penalty of \$850, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, JP Welch Fencing will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

JP Welch Fencing LLC

\_\_\_\_\_  
Joseph Welch  
Managing Member



**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 **JP Welch**      )  
**Fencing LLC, of Leavenworth, Kansas,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 17-TRAM-428-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.

## **II. BACKGROUND**

4. JP Welch Fencing LLC (JP Welch Fencing) obtained private operating authority from the Commission on December 16, 2014, and operates under KSMCID number 170341 and USDOT number 2459121.

5. Joseph Welch attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on December 15, 2014, on behalf of JP Welch Fencing.

6. JP Welch Fencing is a private motor carrier which primarily hauls building materials and construction.

7. JP Welch Fencing is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the original penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix.

## **III. STATEMENT OF FACTS**

8. Pursuant to the jurisdiction and authority cited above, on March 10, 2017, Commission Staff (Staff) Special Investigator(s) Wade Patterson and Jared Smith conducted a compliance review of the operations of JP Welch Fencing. 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, Mr. Patterson and Mr. Smith identified four (4) violation(s) of the Motor Carrier Safety Regulations.



- a. On January 10, 2017, JP Welch Fencing required or permitted its driver, Joseph Welch, to operate a commercial motor vehicle, a 2008 Ford F-350, VIN ending in 15551, GVWR 14,500 lbs., in interstate commerce from Leavenworth, Kansas to Kansas City, Missouri. This trip is evidenced by an incomplete driver's hours of service record and a bill of lading, copies of which are attached hereto as Attachment "B" and are hereby incorporated by reference. At the time of this transportation, JP Welch Fencing failed to maintain a driver qualification file with the documentation required on its driver. The carrier's failure to maintain a driver qualification file is a violation of 49 C.F.R. 391.51(a), as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$350.
- b. During the transportation described in paragraph a., above, JP Welch Fencing failed to require its driver to make a record of duty status showing the date of the trip, start time, end time and number of hours worked. The carrier's failure to require its driver to keep a records of duty status for each day worked, reporting date of transportation, start time, end time and number of hours worked, and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. 395.8(a) as adopted by K.A.R. 82-4-3a and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.
- c. During the transportation described in paragraph a., above, JP Welch Fencing failed to keep minimum records of inspection reports and vehicle maintenance reports on the commercial motor vehicle operated. The carrier's failure to maintain the required vehicle inspection records and vehicle maintenance records



for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$350.

- d. During the transportation described in paragraph a., above, JP Welch Fencing permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicle operated during the preceding 12-month period. JP Welch Fencing's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

### **III. STAFF'S RECOMMENDATIONS**

9. Based upon the available facts, Staff recommends the Commission find JP Welch Fencing committed four (4) 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.

10. Staff recommends a civil penalty of \$1,700 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that JP Welch Fencing LLC is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it submits the Reduced Penalty Agreement which is attached to the Notice of Penalty Assessment and it is approved.

12. Staff recommends JP Welch Fencing LLC submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the



violation(s) described in the 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.

13. Staff further recommends that JP Welch Fencing attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to the Transportation Division.

14. Finally, Staff recommends that JP Welch Fencing 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**

15. The Commission finds it has jurisdiction over JP Welch Fencing because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds JP Welch Fencing committed four (4) 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.

17. The Commission finds JP Welch Fencing is a New Entrant motor carrier and is eligible for an a fifty-percent (50%) reduction in the penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix. The carrier must submit to Litigation Counsel the Reduced Penalty Agreement attached, which states it will comply with the reduced penalty terms and obligations set out therein. If JP Welch Fencing does not submit the Agreement within fifteen (15) days from the date of this Penalty Order, it no longer is



eligible for the reduced penalty option and must comply with the terms and conditions of this Order, including payment of the full penalty of \$1,700 within thirty (30) days from the date of service of this Penalty Order.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. JP Welch Fencing LLC, of Leavenworth, Kansas is hereby assessed penalty of \$1,700 for four (4) 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. 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 (17-TRAM-428-PEN).*

B. JP Welch Fencing is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Transportation Staff. 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).

C. JP Welch Fencing 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 in the attached 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.

D. JP Welch Fencing 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 JP Welch Fencing does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$1,700 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 JP Welch Fencing's 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. 2016 Supp. 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 within fifteen (15) days from the date of service of this Order. If you do not have access to the internet, you can mail an original seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel within fifteen (15) days from the date of service of this Order. On April 4, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 7016 1970 0001 0574 1188. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of JP Welch Fencing's right to a hearing.



G. 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.

H. 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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: \_\_\_\_\_








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

AAL



# **ATTACHMENT “A”**



	US DOT # 2459121	Legal: JP WELCH FENCING LLC Operating (DBA):	
MC/MX #:	State #: 	Federal Tax ID:  (EIN)	
Review Type: Compliance Review (CR)			
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.	Territory:
Operation Types		Interstate	Intrastate
Carrier:	HM	N/A	
Shipper:	N/A	N/A	
Cargo Tank:	N/A		
Business: Corporation		Gross Revenue:  for year ending: 12/31/2016	
Company Physical Address:			
			
Contact Name: Joseph Welch			
Phone numbers: (1) 			
E-Mail Address: 			
Company Mailing Address:			
724 SHAWNEE LEAVENWORTH, KS 66048-1804			
Carrier Classification			
Private Property			
Cargo Classification			
Building Materials		Construction	
Hazardous Materials			
9 Miscellaneous HM		Carried	Non-Bulk
Equipment			
	Owned	Term Leased	Trip Leased
Truck	1	0	0
Power units used in the U.S.: 1			
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	
< 100 Miles:	1		Average trip leased drivers/month: 0
>= 100 Miles:			Total Drivers: 1
			CDL Drivers:







JP WELCH FENCING LLC  
U.S. DOT #: 2459121

State #: [REDACTED]

Review Date:  
03/10/2017

### Part A

QUESTIONS regarding this report may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead Road  
Topeka, Kansas 66604  
Telephone (785)640-9132

This report will be used to assess your safety compliance.

**Person(s) Interviewed**

Name: Joseph Welch

Title: Owner

Name: [REDACTED]




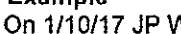

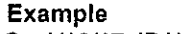

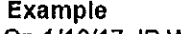
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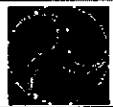
	<b>JP WELCH FENCING LLC</b>	State #: 	Review Date:
	U.S. DOT #: 2459121		03/10/2017

### Part B Violations

1 FEDERAL CRITICAL	Primary: 395.8(a)	Discovered 30	Checked 30	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to require driver to make a record of duty status. <b>Example</b> On 1/10/17 JP Welch Fencing LLC driver Joseph Welch (KS DL#  ) operated a 2008 Ford F-350 (VIN#  ) 15551) in commerce on an interstate trip from Leavenworth Kansas to Kansas City Missouri. This commercial motor vehicle has a gross vehicle weight rating of 14,500 lbs. This trip is evidenced by an incomplete driver hours of service record and a bill of lading. At the time of this trip, carrier failed to require driver to make a record of duty status.					
2 FEDERAL	Primary: 391.51(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain driver qualification file on each driver employed. <b>Example</b> On 1/10/17 JP Welch Fencing LLC driver Joseph Welch (KS DL#  ) operated a 2008 Ford F-350 (VIN#  ) 15551) in commerce on an interstate trip from Leavenworth Kansas to Kansas City Missouri. This commercial motor vehicle has a gross vehicle weight rating of 14,500 lbs. This trip is evidenced by an incomplete driver hours of service record and a bill of lading. At the time of this trip, carrier failed to maintain driver qualification file on each driver employed.					
3 FEDERAL	Primary: 396.3(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<b>Description</b> Failing to keep minimum records of inspection and vehicle maintenance. <b>Example</b> On 1/10/17 JP Welch Fencing LLC driver Joseph Welch (KS DL#  ) operated a 2008 Ford F-350 (VIN#  ) 15551) in commerce on an interstate trip from Leavenworth Kansas to Kansas City Missouri. This commercial motor vehicle has a gross vehicle weight rating of 14,500 lbs. This trip is evidenced by an incomplete driver hours of service record and a bill of lading. At the time of this trip, carrier failed to keep minimum records of inspection and vehicle maintenance.					
4 FEDERAL	Primary: 396.17(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Using a commercial motor vehicle not periodically inspected. <b>Example</b> On 1/10/17 JP Welch Fencing LLC driver Joseph Welch (KS DL#  ) operated a 2008 Ford F-350 (VIN#  ) 15551) in commerce on an interstate trip from Leavenworth Kansas to Kansas City Missouri. This commercial motor vehicle has a gross vehicle weight rating of 14,500 lbs. This trip is evidenced by an incomplete driver hours of service record and a bill of lading. At the time of this trip, carrier used a commercial motor vehicle not periodically inspected.					
<b>Safety Fitness Rating Information:</b> Total Miles Operated 22,000 Recordable Accidents 0 Recordable Accidents/Million Miles 0.00		OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 1			







JP WELCH FENCING LLC  
U.S. DOT #: 2459121

State #: [REDACTED]

Review Date:  
03/10/2017

### Part B Violations

Your proposed safety rating is :

**CONDITIONAL**

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	U	0	2
Factor 4:	S	0	0
Factor 5:	S	0	0
Factor 6:	S	-	-

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.



Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.

If this was a focused investigation, which will be noted in the Review Type on the first page of this report (Part A), some factors shown above may be marked "SATISFACTORY" even if they were not reviewed. A focused investigation will not result in a SATISFACTORY safety rating because all standards and factors specified in 40 CFR 383.5 and 385.7 were not examined in full, even though it may appear that they were under the rating factors in Part B of this document. It may, however, result in a less than SATISFACTORY rating if sufficient violations are discovered in the parts and factors examined to result in a CONDITIONAL or UNSATISFACTORY rating, or a non-ratable review.

If you receive a conditional or unsatisfactory rating, you may request an administrative review under 49 CFR 385.15 or a safety rating upgrade based on corrective action under 49 CFR 385.17. However, a successful request may only result in a non-ratable status, upgrade to a conditional safety rating, or reinstatement of your most recent safety rating. You will not receive a new satisfactory safety rating as a result of your request(s) under 49 CFR 385.15 and/or 49 CFR 385.17.





	<b>JP WELCH FENCING LLC</b> U.S. DOT #: 2459121	State #: 	Review Date: 03/10/2017
<b>Part B Requirements and/or Recommendations</b>			

**1. 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. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

For all Investigations that could result in a Notice of Claim:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. 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 Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

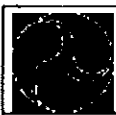
Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:





	<b>JP WELCH FENCING LLC</b> U.S. DOT #: 2459121	Review Date: 03/10/2017
<b>Part B Requirements and/or Recommendations</b>		

US Department of Transportation  
 Federal Motor Carrier Safety Administration  
 Kansas Division  
 Division Administrator  
 1303 First American Place  
 Suite 200  
 Topeka, KS 66604-4040

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

**385.15**

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

Chief Safety Officer  
 Federal Motor Carrier Safety Administration  
 1200 New Jersey Avenue SE,  
 Washington, DC 20590

**385.17**

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation  
 Federal Motor Carrier Safety Administration  
 Midwestern Service Center  
 4749 Lincoln Mall Drive  
 Suite 300-A  
 Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation  
 Federal Motor Carrier Safety Administration  
 Kansas Division  
 Division Administrator  
 1303 First American Place  
 Suite 200  
 Topeka, KS 66604-4040

This letter should be submitted as soon as possible.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

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





**Part B Requirements and/or Recommendations**

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct 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. Mail the letter along with copies of your supporting evidence to:

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

**2. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures****DESCRIPTION OF PROCESS BREAKDOWN:**

JP Welch Fencing LLC failed to have a Driver Qualification file for driver Joseph Welch. Carrier violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. Carrier failed to establish an organized driver qualification file for each CMV driver. Failure to execute these requirements is a serious issue. You do not have the required documents or files assembled at your principal place of business. Furthermore, you have been previously cited during a roadside inspection (03/11/2016) for failure to have the required driver medical examination card (MEC). This violation was only corrected after our review was scheduled. You must put the necessary policies and procedures in place to ensure compliance with the regulations. Use your secretary's skills to aid you in accomplishing these tasks. It is incumbent upon the carrier to execute all annual requirements for their commercial motor vehicle drivers. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

**BASIC SPECIFIC RECOMMENDED REMEDIES:**

Utilize the forms and documents provided to you during the review. These documents can be directly completed and placed in the DQ file that we set up following our meeting. Once the file has been completed, ensure that it is maintained. If you have questions or needs, please don't hesitate to call me.

**Implement Safety Improvement Practices:** The following are recommended practices related to Policies and Procedures.

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Driver Fitness Violations.







JP WELCH FENCING LLC  
U.S. DOT #: 2459121

State #: [REDACTED]

Review Date:  
03/10/2017

## Part B Requirements and/or Recommendations

### 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. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

#### DESCRIPTION OF PROCESS BREAKDOWN:

JP Welch Fencing LLC utilizes a calendar to keep track of hours of service, but neglected to log time in and time out. In failing to log the time work began and the time work ended, carrier loses the short haul provision. No log book pages were provided during the course of this review. Carrier violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. Carrier logged the total hours worked on his calendar, but neglected to show the time he worked. Carrier must refine the policies and procedures surrounding the recording of driver hours of service records. Your time records must show time in, time out, and the total hours worked for that day. Ensure that these steps are being followed daily to ensure compliance with the regulations. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

#### BASIC SPECIFIC RECOMMENDED REMEDIES:

Utilize the time sheet provided during the course of our review. This sheet will prompt you to complete the required sections in order to remain compliant with the regulations. Feel free to contact me with any questions or needs.

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

### 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.

### 4. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Policies and Procedures







JP WELCH FENCING LLC  
U.S. DOT #: 2459121

State #: [REDACTED]

Review Date:  
03/10/2017

## Part B Requirements and/or Recommendations

### DESCRIPTION OF PROCESS BREAKDOWN:

JP Welch Fencing LLC failed to keep maintenance file on the vehicle. Carrier violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. Carrier neglected to establish the appropriate maintenance file on his commercial motor vehicle. Carrier must create the policies and procedures necessary to effectively maintain his fleet. This includes establishing your maintenance file. All pertinent information must be kept in this file. Follow the directions given to you at the time of our review. All of the required maintenance documents were provided to you from the "Red Book". These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

### BASIC SPECIFIC RECOMMENDED REMEDIES:

Create your maintenance file, schedules, and maintain all evidence of repairs in this file. Additionally, ensure that your annual inspection is completed on time and copies maintained in your file. Utilize the checklist we provided to you during the review. If you have any questions or needs, please don't hesitate to contact me.

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
- Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
- Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
- Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows vehicle maintenance violations.

### 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.

5. 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 JP Welch Fencing LLC's operating authority and/or the impoundment of JP Welch Fencing LLC's vehicles.

Carrier Representative \_\_\_\_\_

Date \_\_\_\_\_





**ATTACHMENT “B”**



- ☐ Birthdays
- ☐ Found In Apps
- ☐ Home
- ☐ Work

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

*Handwritten notes in the grid:*

- Monday 2: 5
- Monday 9: 4
- Monday 16: X
- Monday 23: X
- Monday 30: 4
- Tuesday 3: 4
- Tuesday 10: 4
- Tuesday 17: 3 1/2
- Tuesday 24: 5
- Tuesday 31: 4
- Wednesday 4: X
- Wednesday 11: 4 1/2
- Wednesday 18: 4
- Wednesday 25: 4 1/2
- Thursday 5: X
- Thursday 12: X
- Thursday 19: 5
- Thursday 26: 3
- Friday 6: X
- Friday 13: X
- Friday 20: 3
- Friday 27: 4

*Signature:* J. M. Wood





# Sales Order Confirmation

Jamieson Manufacturing Co.

KANSAS CITY  
PO Box 769008  
Dallas, TX 75376  
Ph: (816) 231-1062  
Fax: (816) 231-6088

Sales Order Number: SO958617

Sales Order Date: 1/10/2017

Page: 1

COPY

Sold To:

J P WELCH FENCING LLC  
JOSEPH WELCH

LEAVENWORTH, KS 66048-1804  
United States

Ship To:

J P WELCH FENCING LLC  
JOSEPH WELCH

5201 East 9th Street  
Kansas City, MO 64124-3022

Ship Via CUSTOMER PICKUP  
Ship Date 1/10/2017

Terms Net 30 Days  
Method A/R

Customer ID [REDACTED]  
P.O. Number  
P.O. Date 1/10/2017

SalesPerson KC  
Tracking No.

Item No.	Description	Unit	Quantity	Unit Price	Total Price
912430	RAIL CEDAR 2-4-8	Each	7	5.40	37.80
912440	RAIL CEDAR 2-4-10 ( 10 Wide )	Each	43	6.40	275.20
911652-F6	PICKET CEDAR 1-6-5 DE FULL 6 Please put loose in a small bundle *****	Each	500	2.45	1,225.00
190008	STRAP 8" HINGE SET 402-8 (PR)	Each	1	8.94	8.94
191008	TEE HINGE 406-8 PKG20	Each	1	8.81	8.81
213296	MAX POST LATCH SET 296-S PKG20	Each	2	7.96	15.92

Amount Subject to  
Sales Tax  
1,571.67

Amount Exempt  
from Sales Tax  
0.00

Subtotal: 1,571.67  
Invoice Discount: 0.00  
Total Sales Tax: 131.23  

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Total: 1,702.90

ALL SALES ARE MADE ONLY ON SELLER'S TERMS & CONDITIONS PRINTED BELOW. ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS SUBMITTED BY BUYER ARE REJECTED WITHOUT FURTHER OBJECTION BY SELLER. ALL SALES ARE FINAL ON SPECIAL ORDER AND SPECIALLY FABRICATED ITEMS AND WOOD. AUTHORIZED RETURNS ARE SUBJECT TO A 50% RESTOCKING FEE.

AGREED/MERCHANDISE RECEIVED

\_\_\_\_\_  
SIGNATURE OR BUYER'S REPRESENTATIVE

\_\_\_\_\_  
PRINTED NAME



**CERTIFICATE OF SERVICE**

17-TRAM-428-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 \_\_\_\_\_.

JOSEPH WELCH, MANAGING MEMBER  
JP WELCH FENCING LLC  
724 SHAWNEE  
LEAVENWORTH, KS 66048-1804  
Fax: 913-682-7607  
lvfencer@gmail.com

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

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