

STATE OF KANSAS

20181016134806
Kansas Corporation Commission



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT

19-TRAM-135-PEN

October 16, 2018

John Brubaker, Member
River City Recovery LLC
2400 Franklin Rd Ste 1
Lawrence, KS 66046

This is a notice of a penalty assessment against River City Recovery LLC (River City Recovery) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 23, 2018, by Kansas Corporation Commission Special Investigator Jared Smith. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. 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: River City Recovery has been assessed a \$850 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$850, 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 River City Recovery to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. 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. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

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. River City Recovery 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 Secretary to the Commission 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. 2017 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$850 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,


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

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Investigation of **River City**)
Recovery LLC, of Lawrence, KS, Regarding)
the Violation of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 19-TRAM-135-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. 2017 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. 2017 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. 2017 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 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. River City Recovery LLC (River City Recovery) has common operating authority with the Commission and further operates USDOT number 2559652.

5. John Brubaker attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on June 26, 2018, on behalf of River City Recovery.

6. River City Recovery is a common motor carrier which primarily hauls motor vehicles.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on August 23, 2018, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of River City Recovery. 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 three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On August 21, 2018, River City Recovery required or permitted its driver, John Brubaker, to operate a commercial motor vehicle, a 2010 Hino 258 Rollback, VIN ending in 50308, GVWR 17,500 lbs., in interstate

commerce from Lawrence, Kansas to Kansas City, Missouri. This trip is evidenced by Ticket Number 1184, dated August 21, 2018, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, River City Recovery 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. The carrier’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)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2017 Supp. 66-1,112. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, River City Recovery failed to require its driver to make a record of duty status. The carrier’s failure to require its drivers to keep records of duty status for each 24-hour period, or in the alternative to maintain and retain time records described in 49 C.F.R. 395.1(e) under the short haul exemption, using the method described in 49 C.F.R. 395.8(a), 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), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$250.
- c. On May 14, 2018, River City Recovery required or permitted its driver, John Brubaker, to operate a commercial motor vehicle, a 2010 Hino 258 Rollback, VIN ending in 50308, GVWR 17,500 lbs., in interstate

commerce from Lawrence, Kansas to Eudora, Kansas. This trip is evidenced by a document, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, River City Recovery did not have KCC public carrier (KAN-C) operating authority to operate as a commercial motor carrier from point-to-point in Kansas. The carrier's commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2017 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds River City Recovery committed three (3) 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 \$850 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from River City Recovery be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that River City Recovery 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 River City Recovery because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds River City Recovery committed three (3) 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. River City Recovery LLC, of Lawrence, KS is hereby assessed a \$850 civil penalty for three (3) 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. River City Recovery is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. River City Recovery 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.

D. Pursuant to K.S.A. 2017 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. 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 Secretary to the Commission, 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 River City Recovery's right to a hearing, and this Penalty Order will become a Final Order assessing a \$850 civil penalty against River City Recovery, and ordering a representative from River City Recovery to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. 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. 2017 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$850 is due in thirty (30) days from the date of service of this Order. Payment of \$850 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.

G. Failure to pay the \$850 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 River City Recovery'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 revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner


Dated: 10/16/2018



Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 2559652	Legal: RIVER CITY RECOVERY LLC Operating (DBA):		
MC/MX #: 892934		Federal Tax ID: XXXXXXXXXX (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 HM Shipper: N/A N/A Cargo Tank: N/A		Business: Corporation Gross Revenue: XXXXXXXXXX for year ending: 12/31/2017		
Company Physical Address: <div style="background-color: black; height: 15px; width: 100%;"></div> LAWRENCE, KS 66046				
Contact Name: John Brubaker Phone numbers: (1) XXXXXXXXXX E-Mail Address: XXXXXXXXXX				
Company Mailing Address: <div style="background-color: black; height: 15px; width: 100%;"></div> LAWRENCE, KS 66046				
Carrier Classification Authorized for Hire				
Cargo Classification Motor Vehicles				
Hazardous Materials 9 Miscellaneous HM : Carried : Non-Bulk				
Equipment				
	Owned	Term Leased	Trip Leased	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	
< 100 Miles:	1		Total Drivers: 1	
>= 100 Miles:			CDL Drivers:	



	RIVER CITY RECOVERY LLC U.S. DOT # 2559652	Review Date 08/28/2018
---	--	---------------------------

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name: John Brubaker

Title: Owner

Name:

Title:



	RIVER CITY RECOVERY LLC	Review Date
	U.S DOT #. 2559652	08/28/2018

Part B Violations

1 FEDERAL	Primary 391.51(b)(3)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
--------------	----------------------	-----------------	--------------	---------------------------------------	--------------

Description

Failing to maintain road test certificate in driver's qualification file, or copy of license or certificate the motor carrier accepted as equivalent

Example

On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to maintain road test certificate in driver's qualification file, or copy of license or certificate the motor carrier accepted as equivalent.

2 FEDERAL	Primary 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
--------------	----------------------	-----------------	--------------	---------------------------------------	--------------

Description

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

Example

On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

3 FEDERAL	Primary. 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
--------------	-----------------------	-----------------	--------------	---------------------------------------	--------------

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

On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

4 FEDERAL	Primary 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
--------------	----------------------	-----------------	--------------	---------------------------------------	--------------


Description

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

Example

On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27



	RIVER CITY RECOVERY LLC	Review Date
	U.S. DOT # 2559652	08/28/2018

Part B Violations

5 STATE	Primary. 392.2 Secondary KSA 66-1,111	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked
------------	--	-----------------	--------------	----------------------------------	---------

Description

Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating authority.

Example

On May 14, 2018 River City Recovery LLC had driver John Brubaker operate a 2010 Hino Rollback (Unit # 310, VIN # [REDACTED] 50308.) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on a for-hire basis on an intrastate trip from Lawrence, Kansas to Eudora, Kansas. At the time of this trip carrier was found to be in violation of operating a commercial motor vehicle without KCC public carrier (KAN-C) operating authority.

6 FEDERAL	Primary 395.8(a)	Discovered 1	Checked 30	Drivers/Vehicles In Violation	Checked 1
--------------	------------------	-----------------	---------------	----------------------------------	--------------

Description

Failing to require driver to make a record of duty status.

Example

On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to require driver to make a record of duty status.

7 FEDERAL	Primary 396.3(b)(1)	Discovered 2	Checked 2	Drivers/Vehicles In Violation	Checked 2
--------------	---------------------	-----------------	--------------	----------------------------------	--------------

Description

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size

Example


On August 21, 2018 River City Recovery LLC had driver John Brubaker (KS DL# [REDACTED]) operated a 2010 Hino (Unit # 310, VIN # [REDACTED] 50308) This vehicle has a gross vehicle weight rating of 17,500 lbs. Driver John Brubaker operated in commerce on an interstate trip from Lawrence, KS to Kansas City, Missouri. This trip is evidenced by tow invoice #1184. At the time of this trip carrier was found to be in violation of failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	5,000	Number of Vehicle Inspected (CR): 0	
Recordable Accidents	0	OOS Vehicle (MCMIS): 0	
Recordable Accidents/Million Miles	0.00	Number of Vehicles Inspected (MCMIS): 0	

Your proposed safety rating is : SATISFACTORY	Rating Factors		Acute	Critical
	Factor 1:	S	0	0
	Factor 2:	S	0	0
	Factor 3:	S	0	0
	Factor 4:	S	0	0
	Factor 5:	S	0	0
	Factor 6:	S	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report



	RIVER CITY RECOVERY LLC U.S. DOT # 2559652	Review Date 08/28/2018
Part B Requirements and/or Recommendations		

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 carriers 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. 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.fmcsc.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 did not result in a Cooperative Safety Plan

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



	RIVER CITY RECOVERY LLC U.S DOT # 2559652	Review Date 08/28/2018
---	---	---------------------------

Part B Requirements and/or Recommendations

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

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN. River City Recovery LLC's violations occurred due to a breakdown regarding the monitoring and tracking elements within this section. These duties and the documents verifying their completion require continued monitoring and tracking to ensure compliance. Utilize the documents provided to you during this review to assist you in correcting the deficiencies.

BASIC SPECIFIC RECOMMENDED REMEDIES Complete and document road test when hiring any new drivers if that driver does not have a valid Commercial Driver's License. If the newly hired driver possesses a valid CDL, you can place a copy of the CDL in the driver qualification file instead of the road test. Ensure that you run a motor vehicle record (MVR) at least once every 365 days. This documentation should be maintained in the driver qualification file. Make sure to complete the certificate and review of the driving record (page 18 of KCC's Red book). Feel free to contact me at 913-755-1289 with any questions or concerns.


Implement Safety Improvement Practices The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- 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.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files, applying the performance standards fairly, consistently, and equitably, and documenting the evaluations.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You



	RIVER CITY RECOVERY LLC U.S. DOT # 2559652	Review Date: 08/28/2018
---	--	----------------------------

Part B Requirements and/or Recommendations

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. HOS COMPLIANCE BASIC PROCESS BREAKDOWN Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: River City Recovery LLC failed to have any means of tracking hours of service when operating in interstate commerce. Carrier violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. It is the carrier's responsibility to make sure that drivers are documenting their hours of service and to verify the accuracy of the documents. Ensure that these steps are being followed daily to ensure compliance with the regulations. Utilize the timesheet and instruction provided to you during this review to assist you in correcting this.

BASIC SPECIFIC RECOMMENDED REMEDIES Utilize the time sheet provided during the course of our review when operating in interstate commerce. This sheet will prompt you to complete the required sections in order to remain compliant with the regulations. Remember to utilize a log book when operating outside the 150 air mile radius. Remember to review the time documents drivers turn in to verify their accuracy. Feel free to contact me with any questions or concerns.

Implement Safety Improvement Practices The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.
- Document all findings of fatigue-related noncompliance with regulations and/or company policies.
- Systematically check to see if drivers and dispatchers are regularly communicating about Hours-of-Service (HOS) availability and driver-fatigue level.
- Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
- Regularly evaluate the company's fatigue-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring drivers' Records of Duty Status (RODS) for accuracy, for whether they are applying performance standards fairly, consistently, and equitably, and for whether they are documenting evaluations.
- Consider using Electronic On-board Recorders (EOBRs) to monitor and track Hours-of-Service (HOS) violations.
- When monitoring and tracking any fatigue-related issues, always assess whether an issue is individual or represents a systemic breakdown in the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

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

DESCRIPTION OF PROCESS BREAKDOWN River City Recovery LLC failed to maintain a record identifying the





RIVER CITY RECOVERY LLC
U.S DOT # 2559652

Review Date
08/28/2018

Part B Requirements and/or Recommendations

commercial motor vehicles. The identifying record needs to include the tire size. Without the required actions as noted, the carrier cannot validate the vehicles meet the safety requirements of the regulations.

BASIC SPECIFIC RECOMMENDED REMEDIES Utilize the provided forms to assist you in these responsibilities. 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 record keeping. 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://a1.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.

6. 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 River City Recovery LLC's operating authority and/or the impoundment of River City Recovery LLC's commercial motor vehicles.

Carrier Representative

Date





RIVER CITY RECOVERY LLC
U.S. DOT # 2559552

Part B Requirements and/or Recommendations

could result in the suspension of River City Recovery LLC's operating authority and/or the
impoundment of River City Recovery LLC's commercial motor vehicles.

B. J. Allen
Carrier Representative

8/23/18
Date

8. 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>

If 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.

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 identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will address these deficiencies and prevent their recurrence going forward. Include any supporting documentation as indicated in the recommendations above, (example, vehicle inspections performed, proof of drug testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with your supporting evidence to:

Corporation Commission
Davenport
Arrowhead Rd
KS 66604-4027

ATTACHMENT “B”

13:49

LTE



#1184

Edit

13' Honda CR-V

Tow **Completed**

Agero - 11:59

Arrival ETA: Aug 21, 2018 at 13:29

Pkp [REDACTED] lawrence KS 66044

Dst [REDACTED] Holmes Road,
Kansas City, MO, USA



Contacts

[REDACTED]

Notes

Service Type: Tow

Equipment: Secondary



212 JSB / KS



[REDACTED] 702213

Scan VIN



John Brubaker - 310



Light

Times

- Received 08/21/2018- 11:59
- On scene 08/21/2018- 13:23
- Completed 08/21/2018- 14:56

MC Coverage Amt



Change Status



Add Photo



Show Map



More

ATTACHMENT “C”

2/23/2019 11:37 AM 00:00	00:47	00:27		00:47	James Vanmeter	James Vanmeter	No		Normal	Completed
3/7/2019 2:15 AM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/16/2019 10:54 AM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
3/19/2019 5:16 AM					Katie E. Murray	Brandon Newman	Yes	Drunk Driver, Driving wrong	Normal	Completed
3/19/2019 2:50 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
3/19/2019 7:45 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/19/2019 12:36 PM					John Brubaker Tablet	Katie E. Murray	Yes		Normal	Completed
3/19/2019 12:48 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/17/2019 4:45 PM					John Brubaker Tablet	John Brubaker	Yes	Had to winch from under a	Normal	Completed
3/17/2019 3:45 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/16/2019 3:41 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/25/2019 1:15 AM 00:00	00:00	00:00		00:00	John Brubaker Tablet	Brandon Newman	Yes	Alicia Stener 715-219-0027	Normal	Completed
3/25/2019 10:13 AM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
3/25/2019 10:26 AM					John Brubaker Tablet	John Brubaker	Yes	Jill Gonzales 720-209-7759	Normal	Completed
4/9/2019 4:53 PM					John Brubaker Tablet	Brandon Newman	No		Normal	Completed
3/25/2019 2:59 AM 00:00	00:00	00:00		00:00	James Vanmeter	Brandon Newman	Yes		Normal	Completed
5/11/2019 3:22 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
5/14/2019 1:10 PM					John Brubaker Tablet	Brandon Newman	No		Normal	Completed
5/16/2019 1:10 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/20/2019 4:45 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/24/2019 9:30 PM				01:15	John Brubaker Tablet	Brandon Newman	Yes	Marilyn Jones 715-760-277	Normal	Completed
5/25/2019 10:30 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/29/2019 11:15 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/29/2019 6:15 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/29/2019 1:30 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/30/2019 3:15 AM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/30/2019 10:54 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
5/16/2019 12:25 AM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
6/23/2019 2:30 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
6/22/2019 6:00 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
6/23/2019 1:20 PM					John Brubaker Tablet	Brandon Newman	Yes		Normal	Completed
7/6/2019 8:57 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
7/20/2019 8:19 AM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
7/22/2019 5:54 AM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
7/23/2019 10:09 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed
7/25/2019 1:45 PM					John Brubaker Tablet	John Brubaker	Yes		Normal	Completed

CERTIFICATE OF SERVICE

19-TRAM-135-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 10/17/2018.

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

JOHN BRUBAKER, MEMBER
RIVER CITY RECOVERY LLC
2400 FRANKLIN RD STE 1
LAWRENCE, KS 66046
rivercityrecoveryllc@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe