

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20180227161212
Kansas Corporation Commission

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

Governor Jeff Colyer, M.D.

NOTICE OF PENALTY ASSESSMENT
18-TRAM-351-PEN

February 27, 2018

Darin Heger, President
Circle H Transport, Inc.
PO Box 100
Hugoton, Kansas 67951

Certified Mail No. 70161970000105744158

This is a notice of a penalty assessment against Circle H Transport, Inc. (Circle H Transport) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on January 24, 2018, by Kansas Corporation Commission Special Investigator Michael McAvoy. Penalty amounts are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

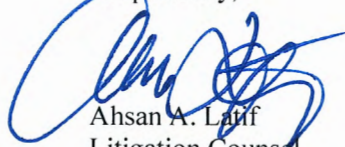
IF YOU ACCEPT THE PENALTY: Circle H Transport has been assessed a \$300 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the penalty. Please remit payment of \$300, through your personal account with the Kansas Corporation Commission's KTRAN application located 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.

The Order requires Circle H Transport to submit to one follow-up safety compliance review within 18 months from the date of the attached Order. Transportation Staff will contact you 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. Circle H Transport 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 must mail a copy of the request to the undersigned 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 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. 2016 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$300 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 attached 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

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

PENALTY ORDER

I. 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. Circle H Transport, Inc. (Circle H Transport) has private operating authority with the Commission and further operates USDOT number 811930.

5. Circle H Transport is a private motor carrier which primarily hauls grain, feed and hay.

6. Circle H Transport transports in commerce between states (interstate commerce), and is thereby subject to the Unified Carrier Registration (UCR) fees assessed pursuant to 49 C.F.R. 367.30, as adopted by K.A.R. 82-4-30a.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on January 24, 2018, Commission Staff (Staff) Special Investigator Michael McAvoy conducted a compliance review of the operations of Circle H Transport. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 26, 2017, Circle H Transport required or permitted its driver, Lonnie Rheinheimer, to operate a CDL-required commercial motor vehicle, a 2000 Peterbilt, VIN ending in 502393, GVWR 48,000 lbs., pulling a 2011

Wilson grain trailer, VIN ending in 256122, GVWR 65,000 lbs., in interstate commerce from Hugoton, Kansas to Boise City, Oklahoma. This trip is evidenced by Scale Ticket No. 58784, dated December 26, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Circle H Transport had not registered and paid its Unified Commercial Registration fees to operate commercial motor vehicles in interstate commerce. The carrier's failure to annually register its commercial motor vehicle(s) operating in interstate commerce over the highways of this state and to pay the appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 2016 Supp. 66-1,139a and K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$300.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Circle H Transport committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$300 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Finally, Staff recommends that Circle H Transport 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

11. The Commission finds it has jurisdiction over Circle H Transport because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

12. The Commission finds Circle H Transport committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Circle H Transport, Inc., of Hugoton, Kansas is hereby assessed a \$300 civil penalty for one (1) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Circle H Transport 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.

C. On February 27, 2018, this Penalty Order was mailed to Circle H Transport via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744158. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

D. 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. 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 (7) 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 Circle H Transport's right to a hearing, and this Penalty Order will become a Final Order assessing a \$300 civil penalty against Circle H Transport, and ordering it to submit to a safety compliance review within eighteen (18) months from the date of this Order.

E. 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.

F. If you do not request a hearing, the payment of the civil penalty of \$300 is due in thirty (30) days from the date of service of this Order. Payment of \$300 must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

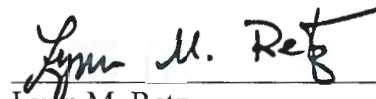
G. Failure to pay the \$300 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Circle H Transport's motor carrier operating authority without further notice. 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; Apple, Commissioner


Dated: Feb. 27, 2018



Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 811930	Legal: CIRCLE H TRANSPORT INC Operating (DBA):				
MC/MX #:		State #: 000000		Federal Tax ID: (EIN)		
Review Type: Compliance Review (CR)			Focused Investigation			
Scope: Principal Office		Location of Review/Audit: Other		Territory: F		
Operation Types Interstate Intrastate						
Carrier: Non-HM Non-HM		Business: Corporation				
Shipper: N/A N/A		Gross Revenue:		for year ending: 12/31/2017		
Cargo Tank: N/A						
Company Physical Address:						
[Redacted Address]						
Contact Name: Darin Heger						
Phone numbers: (1)		[Redacted Phone]		Fax		
E-Mail Address:		[Redacted Email]				
Company Mailing Address:						
P O Box 100 Hugoton, KS 67951						
Carrier Classification						
Private Property						
Cargo Classification						
Grain, Feed, Hay						
Equipment						
	Owned Term Leased Trip Leased			Owned Term Leased Trip Leased		
Truck Tractor	1	0	0	Trailer	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	Average trip leased drivers/month: 0			
< 100 Miles:			Total Drivers: 1			
>= 100 Miles:	1		CDL Drivers: 1			





CIRCLE H TRANSPORT INC
U.S. DOT #: 811930

State #: 000000

Review Date:
01/24/2018

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: Darin Heger

Title: President

Name:

Title:





CIRCLE H TRANSPORT INC

U.S. DOT #: 811930

State #: 000000

Review Date:

01/24/2018

Part B Violations

1 STATE	Primary: 367.30 Secondary: KS66-1,129 82-4-30a	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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Description

Failure to pay appropriate UCR fees

Example

Vehicle Company or License Number-(KS) 633 HYS

Drivers Name- [REDACTED]

Trip date: 12/26/2017

Violation description: Fail to pay UCR fees no authority to operate interstate

2 STATE	Primary: 392.2 Secondary: KSA 79-34-122(b) CFR Equivalent: 392.2	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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Description

Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.

Example

[REDACTED]

Driver: [REDACTED]

Trip Date-12/26/2017

Violation Description- No fuel permit as required

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	85,000	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
		Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.





CIRCLE H TRANSPORT INC
U.S. DOT #: 811930

State #: 000000

Review Date:
01/24/2018

Part B Requirements and/or Recommendations

1. Economic Carrier is required to pay Unified Carrier Registration (UCR) fee when operating in interstate commerce.

Farm registered vehicles operating across state lines are required to pay annual UCR fees and have an assigned USDOT number.

2. Applies only to CR "I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of [motor carrier's] operating authority and/or the impoundment of [motor carrier's] vehicles.

Dawn K. Hagan
Carrier Representative

01.25.18
Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1600 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.

3. Applies only to CR This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.



ATTACHMENT “B”

Circle H Farms
PO Box 100
Hugoton, KS 67951
(620) 544-2688

Date: 12/26/17

4710

Reference #: 1

___ In ✓ Out

Truck: 236

Customer: 21 : Lost Trail Dairy 1

Origin: 29 : Circle H

Commodity: 7 : Ground Corn

2017-12-26 12:30 33240 lb

Moisture: 0.00

2017-12-26 12:52 79880 lb

Test Weight: 0.00

46640 lb Net

Weigher: *LF*

Shipper: *CH*

Driver: *LANNIF*

Lost Trail Dairy 58784
Scale Ticket

RECEIVED FROM <u>Circle H</u>		DATE <u>12-26-17</u>	
ADDRESS <u>Hugoton</u>		COMMODITY <u>GR CORN</u>	
SHIP TO <u>Lost Trail Dairy</u>		5519 ON 12/26/2017 ID# 784	
ADDRESS <u>Boise City</u>		SCALE WEIGHT <u>79720</u> (8 Cans)	
TRUCKER <u>Circle H</u>		5519 ON 12/26/2017 ID# 784	
CONTRACT PRICE / AMOUNT		79720	
REMARKS		55120	
		46600	
		NET POUNDS	DRIVER
			ON <input type="checkbox"/> OFF <input type="checkbox"/>
		WEIGHER'S SIGNATURE _____	

CERTIFICATE OF SERVICE

18-TRAM-351-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 Feb. 27, 2018.

DARIN HEGER, PRESIDENT
CIRCLE H TRANSPORT, INC.
PO BOX 100
HUGOTON, KS 67951
darin3456@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