

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**18-TRAM-284-PEN**

January 11, 2018

Matthew Gish, Managing Member  
Allconstruct LLC  
564 E 1550 Rd  
Baldwin City, Kansas 66006

**Certified Mail No. 70161970000105744592**

This is a notice of a penalty assessment against Allconstruct LLC (Allconstruct) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on December 13, 2017, by Kansas Corporation Commission Special Investigator Jared Smith. Penalties 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.

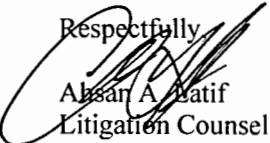
**IF YOU ACCEPT THE PENALTY:** Allconstruct has been assessed a \$750 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$750, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. 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 Allconstruct 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](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. Allconstruct 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. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$750 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,

  
Absar A. Batif  
Litigation Counsel  
(785) 271-3118

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

**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 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. Allconstruct LLC (Allconstruct) has private operating authority with the Commission and further operates USDOT number 2452855.

5. Matthew Gish attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on May 5, 2014, on behalf of Allconstruct.

6. Allconstruct is a private motor carrier which primarily hauls building materials, machinery, large objects and construction.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on December 13, 2017, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of Allconstruct. 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 two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On February 15, 2017, Allconstruct required or permitted its driver, Steven Rose, to operate a CDL-required commercial motor vehicle, a 2004 Ford, VIN ending in 72679, GVWR 15,000 lbs., pulling a 2001 Starlite trailer, VIN ending in 079897, GVWR 12,500 lbs., in intrastate commerce from Baldwin City, Kansas to Lawrence, Kansas. This trip is evidenced by

Driver/Vehicle Examination Report Number KS0000433505, dated February 15, 2017, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Allconstruct had failed to obtain a negative pre-employment alcohol and controlled substance test on driver Steven Rose before allowing him to operate a commercial motor vehicle. The carrier’s failure to require its driver to submit to a pre-employment alcohol and/or controlled substances test and to obtain a negative test result within 30 days of him/her employment and prior to requiring or permitting him/her to operate a commercial motor vehicle is a violation of 49 C.F.R. 382.301(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$650.

- b. During the transportation described in paragraph a., above, Allconstruct failed to obtain its driver’s motor vehicle record (MVR) within 30 days of employment. The carrier’s failure to obtain MVRs on its drivers within 30 days of employment and maintain the MVRs in the driver qualification files pursuant to 49 C.F.R. 391.51 is a violation of 49 C.F.R. 391.23(a)(1) and (b), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

#### **IV. STAFF’S RECOMMENDATIONS**

- 8. Based upon the available facts, Staff recommends the Commission finds Allconstruct committed two (2) 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 \$750 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Allconstruct 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Allconstruct 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 Allconstruct because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds Allconstruct committed two (2) 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. Allconstruct LLC, of Baldwin City, Kansas is hereby assessed a \$750 civil penalty for two (2) 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. Allconstruct 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. Allconstruct 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. On January 11, 2018, this Penalty Order was mailed to Allconstruct via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744592. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. 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 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 Allconstruct's right to a hearing, and this Penalty Order will become a Final Order assessing a \$750 civil penalty against Allconstruct, and ordering a representative from Allconstruct 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.

F. 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. 2016 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$750 is due in thirty (30) days from the date of service of this Order. Payment of \$750 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.

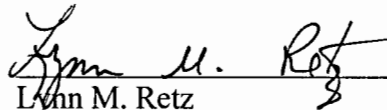
H. Failure to pay the \$750 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Allconstruct's motor carrier operating authority without further notice. Additionally, 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.

I. 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: JAN 11 2018

  
Lynn M. Retz  
Secretary to the Commission






AAL

**Order Mailed Date**


**JAN 12 2018**



# **ATTACHMENT "A"**

	<b>US DOT #</b> 2452855	<b>Legal:</b> ALLCONSTRUCT LLC <b>Operating (DBA):</b>
<b>MC/MX #:</b>		<b>Federal Tax ID</b>  <b>EIN)</b>
<b>Review Type:</b> Non-ratable Review - CSA		
<b>Scope:</b> Principal Office	<b>Location of Review/Audit:</b> Company facility in the U. S.	
<b>Territory:</b>		
<b>Operation Types</b> Interstate Intrastate		
<b>Carrier:</b> N/A      HM <b>Shipper:</b> N/A      N/A <b>Cargo Tank:</b> N/A	<b>Business:</b> Corporation <b>Gross Revenue:</b>  <b>for year ending:</b> 12/31/2016	
<b>Company Physical Address:</b> 		
<b>Contact Name:</b> Matthew Gish <b>Phone numbers: (1)</b> 		
<b>E-Mail Address:</b> 		
<b>Company Mailing Address:</b> 564 E 1550 RD BALDWIN CITY, KS 66006-8217		
<b>Carrier Classification</b> Private Property		
<b>Cargo Classification</b> Building Materials      Machinery, Large Objects      Construction		
<b>Hazardous Materials</b> 9 Miscellaneous HM      : Carried      : Non-Bulk		
<b>Equipment</b>		
	<b>Owned   Term Leased   Trip Leased</b>	<b>Owned   Term Leased   Trip Leased</b>
Truck	2      0      0	1      0      0
Trailer		
Power units used in the U.S.: 2		
Percentage of time used in the U.S.: 100		
<b>Does carrier transport placardable quantities of HM?</b> No		
<b>Is an HM Permit required?</b> N/A		
<b>Driver Information</b>		
<b>Inter    Intra</b> <b>&lt; 100 Miles:</b> 2 <b>&gt;= 100 Miles:</b>	<b>Average trip leased drivers/month:</b> 0 <b>Total Drivers:</b> 2 <b>CDL Drivers:</b> 2	



	<b>ALLCONSTRUCT LLC</b> U.S. DOT # 2452855	<b>Review Date</b> 12/13/2017
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**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:** Matthew Gish

**Title:** Owner

**Name:**

**Title:**



	<b>ALLCONSTRUCT LLC</b>	Review Date: 12/13/2017
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### Part B Violations

1 STATE	Primary: 382.301(a) CFR Equivalent: 382.301(a)	Discovered 1	Checked 3	Drivers/Vehicles In Violation	Checked 3
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#### Description

Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.

#### Example

On February 15, 2017 Allconstruct LLC had driver [REDACTED] (KS DL # [REDACTED]) operate a 2004 Ford (VIN # [REDACTED] 72679) in combination with a 2001 Starlite (VIN # [REDACTED] 079897). These vehicles have a gross vehicle weight rating of 15,000 lbs. and 12,500 lbs. Driver [REDACTED] operated in commerce on an intrastate trip from Baldwin City, Kansas to Lawrence, Kansas. This trip is evidenced by a Level 1 roadside inspection performed by Kansas Highway Patrol Trooper N. Haig #8302. At the time of this trip carrier was found to be in violation of using a driver before the motor carrier has received a negative pre-employment controlled substance test result.

2 STATE	Primary: 391.23(c) CFR Equivalent: 391.23(c)	Discovered 1	Checked 3	Drivers/Vehicles In Violation	Checked 3
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#### Description

Failing to investigate driver's background within 30 days of employment.

#### Example

On February 15, 2017 Allconstruct LLC had driver [REDACTED] (KS DL # [REDACTED]) operate a 2004 Ford (VIN # [REDACTED] 72679) in combination with a 2001 Starlite (VIN # [REDACTED] 079897). These vehicles have a gross vehicle weight rating of 15,000 lbs. and 12,500 lbs. Driver [REDACTED] operated in commerce on an interstate trip from Baldwin City, Kansas to Lawrence, Kansas. This trip is evidenced by a Level 1 roadside inspection performed by Kansas Highway Patrol Trooper N. Haig #8302. At the time of this trip carrier was found to be in violation of failing to investigate driver's background within 30 days of employment.

<b>Safety Fitness Rating Information:</b>		<b>OOS Vehicle (CR): 0</b>			
Total Miles Operated	3,608	<b>Number of Vehicle Inspected (CR): 0</b>			
Recordable Accidents	0	<b>OOS Vehicle (MCMIS): 0</b>			
		<b>Number of Vehicles Inspected (MCMIS): 0</b>			

Your proposed safety rating is :

**This Review is not Rated.**

## Safety Management Process Breakdowns and Remedies

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

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

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

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

2. For all Investigations

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

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

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

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

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

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

For all Investigations that 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



**ALLCONSTRUCT LLC**  
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12/13/2017

### **Safety Management Process Breakdowns and Remedies**

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

### **3. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Monitoring and Tracking**


**DESCRIPTION OF PROCESS BREAKDOWN.** Allconstruct LLC's violation occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier failed to ensure that all CDL required commercial motor vehicle operators had submitted a negative pre-employment controlled substance test prior to operating. Driver Steven Rose did not have this controlled substance test completed before he began operating a CDL required vehicle for Allconstruct LLC. This was the only violation discovered in this section of the regulations. Thus, this violation can only be broken down to a lapse in monitoring and tracking. Going forward, ensure that violations of this type do not occur again.

**BASIC SPECIFIC RECOMMENDED REMEDIES** Ensure that you are familiar with requirements of CDL vehicles. Make sure that every driver is qualified and has a negative pre-employment test on file before operating a CDL required CMV.

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

- Evaluate personnel who are monitoring drivers against performance standards related to controlled-substance and alcohol regulations and company policies to ensure that they are applying standards fairly, consistently, and equitably, and are documenting evaluations.
- 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 controlled substances and alcohol. 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.
- Monitor and adjust the testing program to ensure proper annual driver sampling.
- Ensure that all test records are monitored for adherence to retention dates and nondisclosure requirements.
- Implement a system for keeping accurate records of controlled-substance and alcohol completed training needs and completed training, via software, checklist in the driver's file, and/or another appropriate method.
- Implement an effective process for monitoring and tracking drivers' removal from safety-sensitive functions and their return to duty according to controlled-substance and alcohol regulations and related company policies and procedures.
- Provide adequate oversight of all personnel hiring and training processes, including qualification of service agents, to ensure adherence to controlled-substance and alcohol regulations and company policies and procedures.
- Maintain the following documents to help evaluate the performance of all staff (drivers and managers) involved in controlled-substance and alcohol testing and the effectiveness of the policies and procedures: Motor Vehicle Record (MVR), records related to testing, the designated employer representative (DER), return to duty, and dispatch; lists of drivers removed due to a history of controlled-substance and/or alcohol misuse and those disqualified for personal driving under the influence (DUI), substance-abuse professional (SAP) letters, and for each test type, include selection criteria, the eligibility-pool list, and the statistical laboratory summary.
- Regularly evaluate the company's controlled-substance and alcohol-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://a.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 controlled-substance and alcohol regulations and company policies.



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<b>Safety Management Process Breakdowns and Remedies</b>		

- When monitoring and tracking issues regarding controlled substances and alcohol use, always assess whether they are individual or represent 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 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. DRIVER FITNESS BASIC PROCESS BREAKDOWN Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN** All construct LLC's violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established an organized driver qualification file, but needs to develop a better methodology for ensuring that all drivers have the requisite paperwork in their individual file. It is incumbent upon the carrier to execute all 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.

**BASIC SPECIFIC RECOMMENDED REMEDIES.** Make sure that all drivers of commercial motor vehicles have a Motor vehicle report on file within 30 days of being hired.


**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 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.



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<b>Safety Management Process Breakdowns and Remedies</b>		

5. 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 Allconstruct LLC's operating authority and/or the impoundment of Allconstruct LLC's commercial motor vehicles.

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

\_\_\_\_\_  
 Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.



## **ATTACHMENT "B"**

# DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol  
MOTOR CARRIER SAFETY ASSISTANCE  
700 SW Jackson, Ste 704  
Topeka, KS 66603  
Phone #: (785)296-7189 Fax #: (785)296-2858

Report Number: KS0000433505  
Inspection Date: 02/15/2017  
Start: 12:15 PM CD End: 1:15 PM CD  
Inspection Level: I - Full  
HM Inspection Type: None

ALLCONSTRUCT LLC

Driver: ROSE, STEVAN M

BALDWIN CITY, KS, 66006-8217

License#:

State: KS

USDOT: 2452855

Date of Bi

MC/MX#:

Phon

CoDriver:

State#:

Fax#:

License#:

State:

Date of Birth:

Location: DOUGLAS COUNTY - 045

Milepost:

Shipper: N/A

Highway: 500 BLK Columbia Dr

Origin: Lawrence, KS

Bill of Lading: N/A

County:

Destination: Lawrence, KS

Cargo: Construction Equip

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TR	FORD	2004	KS			72649	15000			
2	ST	STAR	2001	KS			079897	12500			

## BRAKE ADJUSTMENTS

Axle #	1	2	3	4
Right	NA	NA	NA	NA
Left	NA	NA	NA	NA
Chamber	HYDR	HYDR	ELEC	ELEC

## VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
391 41A-F	F	D	N	A237269	N	N	Operating a property-carrying vehicle without possessing a valid medical certificate
393.100A	F	2	Y		A	N	No or improper load securement
393 48A	F	2	N		N	N	Inoperative/defective brakes
393 48A	F	2	N		N	N	Inoperative/defective brakes
393 48A	F	2	N		N	N	Inoperative/defective brakes
393 48A	F	2	N		N	N	Inoperative/defective brakes
396.3A1BOS	F	2	Y		A	N	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: No data for special checks

\* Pursuant to the authority contained in Title 49, CFR, K S A 66-1,129, K C C. Reg 82-4-3, I hereby declare the above marked unit(s) as "OUT OF SERVICE" No person and/or carrier shall permit and/or require the removal of the "OUT OF SERVICE" stickers or the operation of this motor vehicle until ALL out of service defects have been corrected This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report Driver Initials \_\_\_\_\_

\* NOTE TO MECHANIC The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature  
Signature Of Repairer X \_\_\_\_\_ Facility \_\_\_\_\_ Date \_\_\_\_\_

\*\*/\*\* DRIVER THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION \*\*/\*\* \*CARRIER CERTIFICATION All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form  
Signature Of Motor Carrier X \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Report Prepared By: N. HAIG  
Badge #: 8302

Copy Received By: STEVAN ROSE

X

X



## **CERTIFICATE OF SERVICE**

18-TRAM-284-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 **JAN 11 2018**.

MATTHEW GISH, MANAGING MEMBER  
ALLCONSTRUCT LLC  
564 E 1550 RD  
BALDWIN CITY, KS 66006-8217  
Fax: 785-594-2913  
info@allconstructks.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

**Order Mailed Date**

**JAN 12 2018**