

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20170831140616
Kansas Corporation Commission

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

August 31, 2017

18-TRAM-094-PEN

Brandilyn Thompson, Manager
Aesthetic Concrete Designs, Inc.
16529 Woodstone Drive
Olathe, Kansas 66062

Certified Mail Receipt No. 70161970000105737396

This is a notice of a penalty assessment against Aesthetic Concrete Designs, Inc. for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 15, 2017, by Kansas Corporation Commission Special Investigator(s) Wade Patterson. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

Aesthetic Concrete Designs has been assessed a \$950 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$950 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 owed.

AESTHETIC CONCRETE DESIGNS IS A NEW ENTRANT MOTOR CARRIER AND IS ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) assessed motor carriers in accordance with the FY 2018 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

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

(2) within 30 days from the date of the attached Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future; and

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

(4) within 18 months from the date of the attached Penalty Order, the carrier must be available for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended

Penalty Order assessing the reduced penalty and setting out the terms and conditions stated above will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$475 would be due within thirty (30) days from the date of service of the Amended Penalty Order.

IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Aesthetic Concrete Designs, Inc. must file within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and by mailing a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$950 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If Aesthetic Concrete Designs submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order may be issued assessing the reduced penalty of \$475 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,



Anisah A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

REDUCED PENALTY AGREEMENT

18-TRAM-094-PEN

Aesthetic Concrete Designs, Inc. (Aesthetic Concrete Designs) hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated August 31, 2017. Aesthetic Concrete Designs has agreed to comply with the following terms and obligations:

1. Aesthetic Concrete Designs has submitted, within fifteen (15) days from the date of the Penalty Order issued on August 31, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Aesthetic Concrete Designs will, within 30 days from the date of the Penalty Order dated August 31, 2017, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining the its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff before my company can be eligible for the 50% reduced penalty.

3. Aesthetic Concrete Designs will, within thirty (30) days from the date of the Penalty Order dated August 31, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.

4. Aesthetic Concrete Designs will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Aesthetic Concrete Designs, Inc. understands that if approved, Transportation Litigation Counsel will file a Motion for Amended Penalty Order with this Agreement attached to the motion. The Amended Penalty Order will assess Aesthetic Concrete Designs a fifty-percent (50%) reduced penalty of \$475, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Aesthetic Concrete Designs will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2017.

Aesthetic Concrete Designs, Inc.

Brandilyn Thompson
Manager

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

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

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

In the Matter of the Investigation of **Aesthetic**)
Concrete Designs, Inc., of Olathe, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-094-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Aesthetic Concrete Designs, Inc. (Aesthetic Concrete Designs) has private operating authority from the Commission and further operates under USDOT number 2479122.

5. Matthew Thompson attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on January 13, 2015, on behalf of Aesthetic Concrete Designs.

6. Aesthetic Concrete Designs is a private motor carrier which primarily hauls logs, poles, beams, lumber, building materials and large objects.

7. Aesthetic Concrete Designs is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on August 15, 2017, Commission Staff (Staff) Special Investigator(s) Wade Patterson conducted a compliance review of the operations of Aesthetic Concrete Designs. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator(s) identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On July 6, 2017, Aesthetic Concrete Designs required or permitted its driver, Cody Ralston, to operate a CDL-required commercial motor vehicle, a 2016 Dodge 550 4x4 DP, VIN ending in 317713, GVWR

17,500 lbs., pulling a 2008 PJ dump trailer, VIN ending in 1116504, GVWR 14,000 lbs., in intrastate commerce in and around the area of Olathe, Kansas. This trip is evidenced by a KCC Written Statement dated July 10, 2017, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Aesthetic Concrete Designs failed to investigate driver Cody Ralston’s background within 30 days of employment. Mr. Ralston was hired on May 3, 2017. The carrier’s failure to conduct investigations and inquiries with respect to each driver it employs within 30 days of employment is a violation of 49 C.F.R. 391.23, adopted by K.A.R. 82-4-3, and implement by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. On May 31, 2017, Aesthetic Concrete Designs required or permitted its driver, Matthew Thompson, to operate a CDL-required commercial motor vehicle, a 2016 Dodge 550 4x4, VIN ending in 193801, GVWR 17,500 lbs., pulling a 2008 PJ trailer, VIN ending in 1116504, GVWR 14,000 lbs., in interstate commerce from Olathe, Kansas to Kansas City, Missouri. This trip is evidenced by a KCC Written Statement, dated July 10, 2017, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, Aesthetic Concrete Design 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. 2016 Supp. 66-1,112. Staff recommends a fine of \$100.

- c. During the transportation described in paragraph b., above, driver Matthew Thompson failed to meet the short haul provision by not completing a time record indicating the number of hours worked for the day. The special investigator found 30 violations of this type. Aesthetic Concrete Designs' failure to require short-haul driver to report on its time sheet the total number of hours the driver is on duty for each day is in violation of 49 C.F.R. 395.1(e)(v)(B), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.

IV. STAFF'S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Aesthetic Concrete Designs 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.

10. Staff recommends a civil penalty of \$950 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Aesthetic Concrete Designs, Inc. is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it

submits to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the Reduced Penalty Agreement, which is attached to the Notice of Penalty Assessment.

12. Staff recommends Aesthetic Concrete Designs, Inc. submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that Aesthetic Concrete Designs attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

14. Finally, Staff recommends that Aesthetic Concrete Designs submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

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

16. The Commission finds a penalty of \$950 should be assessed to Aesthetic Concrete Designs for committing 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.

17. The Commission finds Aesthetic Concrete Designs is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein. The carrier must submit to Litigation Counsel, within fifteen (15) days from the date of this Penalty Order, the signed and dated Reduced Penalty Agreement, which states it will comply with the reduced penalty terms and obligations set out therein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Aesthetic Concrete Designs, Inc., of Olathe, Kansas is hereby assessed a penalty of \$950 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. Payment of \$950 must be made 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 owed.

B. Aesthetic Concrete Designs is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

C. Aesthetic Concrete Designs must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Aesthetic Concrete Designs is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Aesthetic Concrete Designs does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$950 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Aesthetic Concrete Designs's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. **Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel within fifteen (15) days from the date of service of this Order. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel within fifteen (15) days from the date of service of this Order. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Aesthetic Concrete Designs's right to a hearing.

G. On August 31, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105737396. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

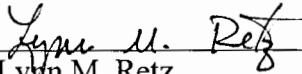
H. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination 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.

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: AUG 31 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

SEP 1 2017

ATTACHMENT “A”

	US DOT # 2479122	Legal: AESTHETIC CONCRETE DESIGNS, INC. Operating (DBA):			
MC/MX #:		State #:		Federal Tax ID: (EIN)	
Review Type: Compliance Review (CR)					
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.			Territory:
Operation Types		Business: Corporation			
Interstate Intrastate Carrier: HM N/A Shipper: N/A N/A Cargo Tank: N/A		Gross Revenue: for year ending: 12/31/2016			
Company Physical Address: <div style="background-color: black; height: 30px; width: 100%;"></div>					
Contact Name: Brandilyn Thompson Phone numbers: (1) Fax E-Mail Address:					
Company Mailing Address: 16529 WOODSTONE DRIVE OLATHE, KS 66062-9509					
Carrier Classification Private Property					
Cargo Classification Logs, Poles, Beams, Lumber Building Materials Machinery, Large Objects					
Hazardous Materials 9 Miscellaneous HM Carried Non-Bulk					
Equipment					
	Owned Term Leased Trip Leased			Owned Term Leased Trip Leased	
Truck	2	0	0	Trailer	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 < 100 Miles: 2 >= 100 Miles:		Average trip leased drivers/month: 0 Total Drivers: 2 CDL Drivers: 2			



AESTHETIC CONCRETE DESIGNS INC

U S DOT # 2479122

State #.

Review Date

08/15/2017

Part A

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

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

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Brandilyn Thompson

Title: Manager

Name:

Title:



	AESTHETIC CONCRETE DESIGNS INC	State #. [REDACTED]	Review Date.
	U S DOT # 2479122		08/15/2017

Part B Violations

1 FEDERAL CRITICAL	Primary 395 8(a)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to require driver to make a record of duty status

Example

On May 31st, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A1 VIN# [REDACTED] 193801 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in interstate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Kansas City Missouri. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, an incomplete driver hours of service record, and a purchase receipt. At the time of this trip and during the review, carrier failed to require driver to make a record of duty status.

2 STATE CRITICAL	Primary: 395 8(a) CFR Equivalent: 395 8(a)	Discovered 26	Checked 56	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to require driver to make a record of duty status

Example

On May 9th, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A1 VIN# [REDACTED] 193801 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in intrastate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Olathe Kansas. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, an incomplete driver hours of service record, a fuel receipt, and a job invoice. At the time of this trip and during the review, carrier failed to require driver to make a record of duty status.

3 STATE	Primary: 391 23(c)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

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

Example

On July 6th, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A2 VIN# [REDACTED] 317713 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in intrastate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Olathe Kansas. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, a driver hours of service record, and a job invoice. At the time of this trip and during the review, carrier failed to investigate the driver's background within 30 days of employment. Driver was hired on 05/03/2017.

4 FEDERAL	Primary 391.25(c)(1)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to maintain a copy of the motor vehicle record or response from each State agency in the driver qualification file

Example

On May 31st, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A1 VIN# [REDACTED] 193801 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in interstate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Kansas City Missouri. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, an incomplete driver hours of service record, and a purchase receipt. At the time of this trip and during the review, carrier failed to maintain a copy of the motor vehicle record or response from each State agency in the driver qualification file.



	AESTHETIC CONCRETE DESIGNS INC	Review Date
	U.S DOT # 2479122	08/15/2017

Part B Violations

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

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

Example

On May 31st, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A1 VIN# [REDACTED] 193801 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in interstate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Kansas City Missouri. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, an incomplete driver hours of service record, and a purchase receipt. At the time of this trip and during the review, carrier failed to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

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

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

Example

On May 31st, 2017 Aesthetic Concrete Designs Inc had driver [REDACTED] (KS CDL# [REDACTED]) operate a CDL combination of vehicles (Dodge 5500 Unit # A1 VIN# [REDACTED] 193801 & PJ Dump Trailer D7142 VIN# [REDACTED] 1116504) in interstate commerce. Driver operated this commercial motor vehicle combination from Olathe Kansas to Kansas City Missouri. The gross vehicle weight ratings on these vehicles are 17,500 lbs. and 14,000 lbs. respectively. This trip is evidenced by a carrier statement, an incomplete driver hours of service record, and a purchase receipt. At the time of this trip and during the review, carrier failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Safety Fitness Rating Information:	OOS Vehicle (CR): 0
Total Miles Operated 1,000,000	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 : CONDITIONAL	Rating Factors	Acute	Critical
	Factor 1: S	0	0
	Factor 2: S	0	0
	Factor 3: U	0	2
	Factor 4: S	0	0
	Factor 5: S	0	0
	Factor 6: S	-	-

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

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

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



	AESTHETIC CONCRETE DESIGNS INC U S DOT # 2479122	State # [REDACTED]	Review Date 08/15/2017
Part B Violations			

section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17

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

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



AESTHETIC CONCRETE DESIGNS INC

U S DOT # 2479122

State #: [REDACTED]

Review Date

08/15/2017

Part B Requirements and/or Recommendations

1. For all Investigations:

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information: <http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

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

- PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

For all Investigations resulting in serious violations:

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

US Department of Transportation
Federal Motor Carrier Safety Administration
Kansas Division
Division Administrator





AESTHETIC CONCRETE DESIGNS INC

U S. DOT # 2479122

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1303 First American Place
Suite 200
Topeka, KS 66604-4040

For all Investigations resulting in a proposed conditional or unsatisfactory rating

385 15

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

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

385 17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385 17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

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

Ensure that a CC copy of the letter is mailed to

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


This letter should be submitted as soon as possible

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 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



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Topeka, KS 66604-4027

2. 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.

3. HOS COMPLIANCE BASIC PROCESS BREAKDOWN Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN:

Aesthetic Concrete Designs Inc's violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established the correct methods of recording hours of service records for each CMV driver. That said, you need to develop a better methodology for ensuring that all drivers record complete and accurate records of duty status (Matthew Thompson). Consolidate driver time records onto one document and ensure that the driver totals the complete amount of hours worked for that day. It is incumbent upon the carrier to review all driver records of duty status reports and verify that they are correct and accurate. Monitor the time records continually in order to track the driver movements. Finally, verify the accuracy of their reports with supporting documents. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

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





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comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

Seek Out Resources:

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

4. DRIVER FITNESS BASIC PROCESS BREAKDOWN Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN

Aesthetic Concrete Designs Inc's violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established organized driver qualification files for each CMV driver. That said, you need to develop a better methodology for ensuring that all drivers have the requisite paperwork in their individual files. All drivers must have current MVR's and they should be renewed each year. Couple the MVRs with the annual driver review and carrier certification of violations. Additionally, all new drivers must have an MVR on file within 30 days from the date of hire. It is incumbent upon the carrier to execute all annual requirements for their commercial motor vehicle drivers. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures.
- Ensure that operations managers and dispatchers are responsible for having the proper amount of fit drivers by considering short-term changes, for example, with regard to vacations, variations in sales, and additional driver duties, and long-term changes, for example, with regard to permanent reassignment and termination of employees.
- Ensure that dispatchers and operation managers are responsible for ascertaining that drivers are qualified before authorizing runs.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and company policies and procedures.

Seek Out Resources:

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

5. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Aesthetic Concrete Design Inc's operating authority and/or the impoundment of Aesthetic Concrete Design Inc's vehicles.

X

Brandilyn Thompson





AESTHETIC CONCRETE DESIGNS INC
U S DOT # 2479122

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AESTHETIC CONCRETE DESIGNS INC
U.S DOT #. 2479122

State # [REDACTED]

Review Date:
07/10/2017

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DESCRIPTION OF PROCESS BREAKDOWN

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures
- Ensure that operations managers and dispatchers are responsible for having the proper amount of fit drivers by considering short-term changes, for example, with regard to vacations, variations in sales, and additional driver duties, and long-term changes, for example, with regard to permanent reassignment and termination of employees
- Ensure that dispatchers and operation managers are responsible for ascertaining that drivers are qualified before authorizing runs.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and company policies and procedures.

Passenger Carriers Only

- Designate a manager to collect and evaluate all driver-fitness-related customer complaints and their safety implications

Seek Out Resources:

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

5. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Aesthetic Concrete Design Inc's operating authority and/or the impoundment of Aesthetic Concrete Design Inc's vehicles

X

Brandilyn Thompson



ATTACHMENT “B”

KCC WRITTEN STATEMENT

Signed Statement of _____

Representative of Motor Carrier Aesthetic Concrete DesignsUSDOT# 0247913

I, Brandon Thompson, voluntarily give the following statement to Wade Patterson, who has identified himself/herself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.

NARRATIVE:

Cody Ralston in July 6th and 7th use the A2 in Okla for Randy Russell Job. Covenant Const. @ Cedar Wiles Rd. with the PJ Dump trailer.

I have read the foregoing statement consisting of 1 page(s). It is true, accurate and complete to the best of my knowledge. I reviewed any changes and they bear my initials.

I sign this statement under the penalty of perjury in the presence of Wade Patterson.

Witness/Interviewee's signature



Date

7.10.17

I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.

Safety Investigator's Signature



Date

7/10/17

ATTACHMENT “C”

KCC WRITTEN STATEMENT

Signed Statement of _____	
Representative of Motor Carrier <u>Aesthetic Concrete Designs</u>	
USDOT# <u>02479122</u>	
I, <u>Brandilyn Thompson</u> , voluntarily give the following statement to <u>Wade Patterson</u> , who has identified himself/herself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.	
NARRATIVE:	
<p>on 5/31/17 picked up material in ^{Truck} A1 and PS Trailer in KCMO from Carter Wabers, Matthew C. Thompson as Driver.</p>	
I have read the foregoing statement consisting of <u>1</u> page(s). It is true, accurate and complete to the best of my knowledge. I reviewed any changes and they bear my initials.	
I sign this statement under the penalty of perjury in the presence of <u>Wade Patterson</u> .	
Witness'/Interviewee's signature	Date
<u>Brandilyn Thompson</u>	<u>7/10/17</u>
I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.	
Safety Investigator's Signature	Date
<u>[Signature]</u>	<u>7/10/17</u>

CERTIFICATE OF SERVICE

18-TRAM-094-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 **AUG 31 2017**.

BRANDILYN THOMPSON, MANAGER
AESTHETIC CONCRETE DESIGNS, INC.
16529 WOODSTONE DRIVE
OLATHE, KS 66062-9509
aestheticconcrete@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

Order Mailed Date

SEP 1 2017