

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

In the Matter of the Investigation of)
Overmiller Stock Farms, Inc. of Smith)
Center, Kansas, Regarding the Violation of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 19-TRAM-142-PEN
Regulations and the Commission's Authority)
to Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

MOTION FOR ORDER AMENDING PENALTY ASSESSMENT

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), by and through its counsel, Ahsan A. Latif, files this Motion requesting the Commission issue an Order Amending Penalty Assessment reducing the penalty assessed to Overmiller Stock Farms, Inc. (Overmiller Stock Farms), fifty-percent (50%) less than the penalty assessed in the Penalty Order dated October 23, 2018. In support of its Motion, Staff states as follows:

1. On October 23, 2018, a Penalty Order was issued to Overmiller Stock Farms assessing it a penalty of \$350 for 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. The violations were found during a Safety Compliance Review conducted on September 5, 2018, by Special Investigator Gregory Askren.

2. The Notice of Penalty Assessment advised Overmiller Stock Farms it was a New Entrant carrier and may be eligible for a fifty-percent (50%) reduced penalty if it submitted a signed and dated Reduced Penalty Agreement within fifteen (15) days from the date of the Penalty Order, stating it will comply with the reduced penalty option terms and obligations stated therein.

3. On January 22, 2019, Overmiller Stock Farms submitted the Reduced Penalty Agreement. Litigation Counsel and Transportation Division Staff discussed the fact the Reduced Penalty Agreement was submitted after the 15 days of the date of the Penalty Order and came to a conclusion that it would be accepted and processed. The Corrective Action Plan was submitted by the carrier and has been approved by Transportation Staff. The Reduced Penalty Agreement is attached hereto and is hereby incorporated by reference.

4. Staff recommends the Commission issue an Order Amending Penalty Assessment assessing Overmiller Stock Farms a 50% reduced penalty of \$175 and requesting it to comply with the following terms and obligations:

- a. within thirty (30) days from the date of the Penalty Order dated October 23, 2018, Overmiller Stock Farms shall send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to Litigation Counsel;
- b. within eighteen (18) months of the Penalty Order, Overmiller Stock Farms must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to set up the review; and
- c. within thirty (30) days from the date of service of the Order Amending Penalty Assessment, Overmiller Stock Farms must make the payment of \$175 through the KTRAN system located at <https://puc.kcc.ks.gov/ktran/>.

WHEREFORE, for the reasons set forth herein, Staff requests an Order Amending Penalty Assessment be issued by the Commission assessing Overmiller Stock Farms, Inc. a reduced penalty of \$175 and ordering it to comply with the proposed terms and obligations set out in paragraph 4 above.

Respectfully submitted,



Ahsan A. Latif, S. Ct. #24709
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Attorney for Commission Staff

VERIFICATION

19-TRAM-142-PEN

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion for Order Amending Penalty Assessment*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Ahsan A. Latif, S. Ct. # 24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 31st day of January, 2019.



Vicki D. Jacobsen
Notary Public

My Appointment Expires: June 30, 2022

STATE OF KANSAS

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



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GOVERNOR JEFF COLYER, M.D.
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REDUCED PENALTY AGREEMENT

19-TRAM-142-PEN

Overmiller Stock Farms, Inc. (Overmiller Stock Farms) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated October 23, 2018. Overmiller Stock Farms has agreed to comply with the following terms and obligations:

1. Overmiller Stock Farms has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Overmiller Stock Farms will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining 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 to become eligible for the 50% reduced penalty.
3. Overmiller Stock Farms will, within thirty (30) days from the date of the Penalty Order, 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. Overmiller Stock Farms 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.

Overmiller Stock Farms, Inc. understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$175, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Overmiller Stock Farms will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this 28th day of January, 2018.

Overmiller Stock Farms, Inc.

Handwritten signature of Mark Overmiller in black ink.

Mark Overmiller
President

(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.)

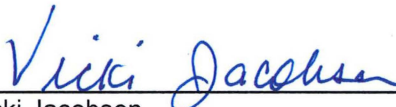
CERTIFICATE OF SERVICE

19-TRAM-142-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Reduce Penalty Assessment was placed in the United States mail, postage prepaid, or hand-delivered this 31st day of January, 2019, to the following:

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marci.overmiller@gmail.com



Vicki Jacobsen