

CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

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

**NOTICE OF PENALTY ASSESSMENT**

19-TRAM-041-PEN

August 7, 2018

Filiberto Ponce Favela, Managing Member  
Sporting Construction LLC  
2105 Chester Ct  
Kansas City, KS 66106**Certified Mail No. 70161970000105745674**

This is a notice of a penalty assessment against Sporting Construction LLC (Sporting Construction) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 31, 2018, by Kansas Corporation Commission Special Investigator Wade Patterson. 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:** Sporting Construction has been assessed a \$2,500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$2,500, 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 Sporting Construction 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. Sporting Construction must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$2,500 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

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

In the Matter of the Investigation of **Sporting**      )  
**Construction LLC, of Kansas City, KS,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 19-TRAM-041-PEN  
Commission's Authority to Impose Penalties,      )  
Sanctions and/or the Revocation of Motor      )  
Carrier Authority.      )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2017 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2017 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2.      Pursuant to K.S.A. 2017 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

## **II. BACKGROUND**

4. Sporting Construction LLC (Sporting Construction) has private operating authority with the Commission and further operates USDOT number 2482140.

5. Sporting Construction utilize one driver, two pick-up trucks and two trailers.

6. Sporting Construction is a private motor carrier which primarily hauls building materials and construction supplies.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on May 31, 2018, Commission Staff (Staff) Special Investigator Wade Patterson conducted a compliance review of the operations of Sporting Construction. 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 six (6) violation(s) of the Motor Carrier Safety Regulations.

- a. On March 7, 2018, Sporting Construction required or permitted its driver, Filiberto Ponce Favela to operate a commercial motor vehicle, a 2016 GM truck, VIN ending in 155004, pulling a 2013 Doolittle trailer, VIN ending in 003436, in interstate commerce from Kansas City, Kansas to Kansas

City, Missouri. This trip is evidenced by a note, dated March 7, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Sporting Construction failed to pay 2018 Unified Carrier Registration fees for operating in interstate commerce. The carrier's failure to annually register its commercial motor vehicle(s) operating in interstate commerce over the highways of this state and to pay the appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 2017 Supp. 66-1,139a and K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$300.

- b. During the transportation described in paragraph a., above, Sporting Construction failed to maintain a driver qualification file on its driver. The carrier's failure to maintain a driver qualification file is a violation of 49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$350.
- c. During the transportation described in paragraph a., above, Sporting Construction failed to require its driver to make a record of duty status. The special investigator identified 30 violations of this type. The carrier's failure to require its driver to keep records of duty status for each 24-hour period using the method described in 49 C.F.R. 395.8(a) and to submit the original record to the motor carrier within 13 days of creation is in violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and

authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$750.

- d. During the transportation described in paragraph a., above, Sporting Construction failed to preserve driver's records of duty status supporting documentation for six (6) months. The special investigator discovered 15 violations of this type. The carrier's failure to retain driver supporting documents and the record of duty status for a period of six (6) months is a violation of 49 C.F.R. Part 395.8(k)(1), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$500.
- e. During the transportation described in paragraph a., above, Sporting Construction failed to maintain minimum records of inspections and vehicle maintenance on its commercial motor vehicles. The carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$350.
- f. During the transportation described in paragraph a., above, Sporting Construction was using a commercial motor vehicle that was not periodically (annually) inspected. The carrier's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49

C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A.

2017 Supp. 66-1,129. Staff recommends a fine of \$250.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission finds Sporting Construction committed six (6) 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 \$2,500 for six (6) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Sporting Construction 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 Sporting Construction 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 Sporting Construction because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Sporting Construction committed six (6) 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. Sporting Construction LLC, of Kansas City, KS is hereby assessed a \$2,500 civil penalty for six (6) 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. Sporting Construction 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. Sporting Construction 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 August 7, 2018, this Penalty Order was mailed to Sporting Construction via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105745674. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. Pursuant to K.S.A. 2017 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division.

If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Sporting Construction's right to a hearing, and this Penalty Order will become a Final Order assessing a \$2,500 civil penalty against Sporting Construction, and ordering a representative from Sporting Construction 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. 2017 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$2,500 is due in thirty (30) days from the date of service of this Order. Payment of \$2,500 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 \$2,500 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 Sporting Construction'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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 08/07/2018










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Lynn M. Retz  
Secretary to the Commission

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## **ATTACHMENT “A”**

	US DOT # 2482140	Legal: SPORTING CONSTRUCTION LLC Operating (DBA):SPORTING CONSTRUCTION	
MC/MX #:		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 Interstate Intrastate		Business: Corporation Gross Revenue:  for year ending: 12/31/2017	
Carrier: Non-HM N/A			
Shipper: N/A N/A			
Cargo Tank: N/A			
Company Physical Address:			
 KANSAS CITY, KS 66106			
Contact Name: Filiberto Ponce			
Phone numbers: (1) 		Fax	
E-Mail Address: 			
Company Mailing Address:			
 KANSAS CITY, KS 66106			
Carrier Classification			
Private Property			
Cargo Classification			
Building Materials Construction			
Equipment			
	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	Average trip leased drivers/month: 0
< 100 Miles:			Total Drivers: 1
>= 100 Miles:	1		CDL Drivers:



	<b>SPORTING CONSTRUCTION (SPORTING CONSTRUCTION LLC dba)</b> U.S. DOT # 2482140	Review Date 05/31/2018
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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:** Filiberto Ponce

**Title:** Owner/operator

**Name:**

**Title:**



	<b>SPORTING CONSTRUCTION (SPORTING CONSTRUCTION LLC dba)</b>	<b>Review Date</b>
	U.S. DOT #: 2482140	05/31/2018

### Part B Violations

<b>1</b>	Primary: 395.8(a)	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>	
<b>FEDERAL</b>		30	30	<b>In Violation</b>	<b>Checked</b>
<b>CRITICAL</b>				1	1

#### Description

Failing to require driver to make a record of duty status

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to require driver to make a record of duty status. Driver created no records of duty status whatsoever.

<b>2</b>	Primary 395 8(k)(1)	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>	
<b>FEDERAL</b>		15	15	<b>In Violation</b>	<b>Checked</b>
<b>CRITICAL</b>				0	0

#### Description

Failing to preserve driver's records of duty status supporting documents for 6 months.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to preserve driver's records of duty status supporting documents for 6 months. Carrier was unable to present any supporting documents whatsoever.

<b>3</b>	Primary: 367.30	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>	
<b>FEDERAL</b>		1	1	<b>In Violation</b>	<b>Checked</b>
				0	0

#### Description

Fail to pay current years UCR and operating in interstate commerce.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to pay current years UCR and operating in interstate commerce. Carrier has never paid UCR fees.

<b>4</b>	Primary: 390.19(b)(2)	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>	
<b>FEDERAL</b>		1	1	<b>In Violation</b>	<b>Checked</b>
				0	0


#### Description

Failing to file the appropriate form under 390 19(a) (MCS-150, 150B, or 150C) each 24 months according to the schedule.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to file MCS-150 each 24 months according to schedule. Carrier registration information is outdated



	SPORTING CONSTRUCTION (SPORTING CONSTRUCTION LLC dba) U S. DOT # 2482140	Review Date 05/31/2018
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### Part B Violations

5 FEDERAL	Primary 391.45(b)(1) Secondary. 391.11(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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#### Description

Using a driver not medically examined and certified during the preceding 24 months.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier used this driver not medically examined and certified during the preceding 24 months.

6 FEDERAL	Primary 391.51(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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#### Description

Failing to maintain driver qualification file on each driver employed.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to maintain a driver qualification file. No records were made available upon request

7 FEDERAL	Primary. 396.3(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 0
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#### Description

Failing to keep minimum records of inspection and vehicle maintenance

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier failed to keep minimum records of inspection and vehicle maintenance.

8 FEDERAL	Primary 396 17(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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#### Description

Using a commercial motor vehicle not periodically inspected.

#### Example

On Wednesday March 7th of 2018, Sporting Construction had driver Filiberto Ponce (KS DL# [REDACTED]) operate a commercial motor vehicle in interstate commerce. Driver Filiberto Ponce operated a 2016 GM truck (VIN# [REDACTED] 155004) in combination with a 2013 Doolittle trailer (VIN# [REDACTED] 003436) from Kansas City Kansas to Kansas City Missouri. The gross vehicle weight rating on the truck is 13,200 lbs. This trip is evidenced by a carrier statement. At the time of this trip and during the review, carrier was using a commercial motor vehicle not periodically inspected



	<b>SPORTING CONSTRUCTION (SPORTING CONSTRUCTION LLC dba)</b>	<b>Review Date</b>
	<b>U.S. DOT # 2482140</b>	<b>05/31/2018</b>

### Part B Violations

<b>Safety Fitness Rating Information:</b> <b>Total Miles Operated</b> 80,000 <b>Recordable Accidents</b> 0 <b>Recordable Accidents/Million Miles</b> 0.00	<b>OOS Vehicle (CR): 0</b> <b>Number of Vehicle Inspected (CR): 0</b> <b>OOS Vehicle (MCMIS): 0</b> <b>Number of Vehicles Inspected (MCMIS): 0</b>																												
<b>Your proposed safety rating is :</b>  <div style="text-align: center; font-size: 1.2em;"><b>CONDITIONAL</b></div>	<table border="1"> <thead> <tr> <th colspan="2">Rating Factors</th> <th>Acute</th> <th>Critical</th> </tr> </thead> <tbody> <tr> <td><b>Factor 1:</b></td> <td>S</td> <td>0</td> <td>0</td> </tr> <tr> <td><b>Factor 2:</b></td> <td>S</td> <td>0</td> <td>0</td> </tr> <tr> <td><b>Factor 3:</b></td> <td>U</td> <td>0</td> <td>4</td> </tr> <tr> <td><b>Factor 4:</b></td> <td>S</td> <td>0</td> <td>0</td> </tr> <tr> <td><b>Factor 5:</b></td> <td>N</td> <td>0</td> <td>0</td> </tr> <tr> <td><b>Factor 6:</b></td> <td>S</td> <td>-</td> <td>-</td> </tr> </tbody> </table>	Rating Factors		Acute	Critical	<b>Factor 1:</b>	S	0	0	<b>Factor 2:</b>	S	0	0	<b>Factor 3:</b>	U	0	4	<b>Factor 4:</b>	S	0	0	<b>Factor 5:</b>	N	0	0	<b>Factor 6:</b>	S	-	-
Rating Factors		Acute	Critical																										
<b>Factor 1:</b>	S	0	0																										
<b>Factor 2:</b>	S	0	0																										
<b>Factor 3:</b>	U	0	4																										
<b>Factor 4:</b>	S	0	0																										
<b>Factor 5:</b>	N	0	0																										
<b>Factor 6:</b>	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 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.



	<b>SPORTING CONSTRUCTION (SPORTING CONSTRUCTION LLC dba)</b> U.S. DOT # 2482140	Review Date: 05/31/2018
<b>Part B Requirements and/or Recommendations</b>		

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





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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



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Attn Gary Davenport  
1500 SW Arrowhead Rd  
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. Carrier is required to pay Unified Carrier Registration (UCR) fee when operating in Interstate commerce. Visit [UCR.IN.GOV](http://UCR.IN.GOV) to pay your UCR fees.
4. Make sure the MCS-150 (USDOT number) is updated every two years. When doing so, be sure to change any information being reflected inaccurate.

### 5. DRIVER FITNESS BASIC PROCESS BREAKDOWN. Policies and Procedures

#### DESCRIPTION OF PROCESS BREAKDOWN.


Sporting Construction's violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. Carrier failed to establish driver qualification files for all commercial motor vehicle operators. It is incumbent upon the carrier to execute all annual requirements for their commercial motor vehicle drivers. You must ensure that each commercial motor vehicle operator has been medically examined and certified with the last 24 months. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Ensure that the requirements for a driver qualification file are met and that the documents are retained for a period of three years. 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 for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit



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documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.

- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Driver Fitness 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

## 6. HOS COMPLIANCE BASIC PROCESS BREAKDOWN Roles and Responsibilities

### DESCRIPTION OF PROCESS BREAKDOWN

Sporting Construction's violations occurred due to a breakdown regarding the roles and responsibilities elements of compliance within this section. Carrier has failed to require drivers to create records of duty status. Further, there are no supporting documents available for review. Ensure that all invoices, bills, receipts, etc. are maintained for review. 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 Roles and Responsibilities.

- Define and document roles and responsibilities of managers and supervisors for monitoring compliance with Hours-of-Service (HOS) policies.
- Ensure that managers are responsible for reviewing Records of Duty Status (RODS) for accuracy and for disciplining those who falsify their logs
- Assign responsibility for making sure that all Records of Duty Status (RODS) are collected and stored for six months.
- Prior to accepting shipments, ensure that dispatchers are responsible for mapping out routes, asking drivers how many hours they have driven recently, and verifying that the route can be completed without breaking Hours-of-Service (HOS) regulations.
- Ensure that drivers are responsible for informing the carrier when they are sick, keeping accurate Records of Duty Status (RODS), and planning their route so that it can be completed efficiently within Hours-of-Service (HOS) rules.
- Define and document roles and responsibilities of drivers and dispatchers as they pertain to Hours-of-Service (HOS) 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.



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

**DESCRIPTION OF PROCESS BREAKDOWN.**

Sporting Construction failed to keep maintenance files on the vehicles. Carrier violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. Carrier neglected to establish the appropriate maintenance file on his commercial motor vehicle. Carrier must create the policies and procedures necessary to effectively maintain his fleet. This includes establishing your maintenance file. All pertinent information must be kept in this file. Follow the directions given to you at the time of our review. All of the required maintenance documents were provided to you from the "Red Book". 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 responsibilities of managers, supervisors, drivers, dispatchers, mechanics, and technicians as related to vehicle inspection, repair, and maintenance policies, including the monitoring and documentation of defects and repairs.
- Define and document roles and responsibilities of mechanics and technicians for differentiating between safety-related defects and other defects and for taking unsafe vehicles Out-of-Service (OOS).
- Empower the person who is in charge of fixing trucks with the authority to complete tasks, such as the purchasing of new parts when needed.
- Define and document roles and responsibilities for checking daily completion of Driver Vehicle Inspection Records (DVIRs) and certifying repair before the next assignment.
- Define and document dispatcher responsibilities for planning, scheduling, monitoring, and adjusting fleet operations in accordance with repair and maintenance requirements.
- Define driver responsibilities for informing managers, supervisors, and mechanics/technicians of safety-related defects and repair requirements prior to vehicle operation, including those resulting from vehicle Out-of-Service (OOS) orders.

**Seek Out Resources**

- You are encouraged to review your company's record at the following website: <http://a.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.



## **ATTACHMENT “B”**

wednesday

3-7-18

drop trailer to

4435 ne antioch Rd

Kemo at 10:00

and pick it up

at 4:45 pm

**CERTIFICATE OF SERVICE**

19-TRAM-041-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 08/08/2018.

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

FILIBERTO PONCE FAVELA, MANAGING MEMBER  
SPORTING CONSTRUCTION LLC  
2105 CHESTER CT  
KANSAS CITY, KS 66106  
sportingconstructionllc@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe