

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

In the Matter of the Investigation of Jose E. )  
**Orellana, d/b/a J & R Towing, of** )  
**Haysville, Kansas, Regarding the Violation** )  
of the Motor Carrier Safety Statutes, Rules )  
and Regulations and the Commission's ) Docket No. 16-TRAM-111-PEN  
Authority to Impose Penalties, Sanctions )  
and/or the Revocation of Motor Carrier )  
Authority. )

**MOTION TO SUSPEND INTRASTATE MOTOR CARRIER AUTHORITY**

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its motion requesting the Commission suspend Jose E. Orellana, d/b/a J & R Towing of Haysville, Kansas (Respondent) from all intrastate commercial motor carrier operations. In support of its Motion, Staff states as follows:

1. Respondent is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.
2. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT number 2190349.
3. On September 15, 2015, the Commission issued Respondent a penalty assessment for three (3) violation(s) of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on July 31, 2015, by Kansas Corporation Commission Special Investigator Gary Goeller. The Respondent paid the penalty amount of \$800 on October 20, 2015. A copy of the Penalty Order is attached hereto as Attachment "A" and is hereby incorporated by reference.

4. In the Penalty Order at ordering clause B., it is stated, "Further Jose E. Orellana, d/b/a J & R Towing must submit to one follow-up safety compliance review within the next 18 months." *See* copy of Penalty Order attached.

5. Special Investigator Verna Jackson has made numerous attempts to contact Respondent to facilitate a follow-up off-site safety compliance review on its operations as a motor carrier. The attempts included two letters to Respondent dated June 14, 2017 and July 18, 2017.

6. Ahsan Latif, Litigation Counsel, wrote and mailed Respondent a letter on August 30, 2017, informing Respondent that should it continue to resist by failing to respond, the Commission may suspend its motor carrier operations, revoke or amend certificates, and/or initiate sanctions or fines against Respondent. The letter gave Respondent ten (10) days from the date of the letter to respond. A copy of the letter is attached hereto as Attachment "B" and is hereby incorporated by reference.

7. As of October 31, 2017, Special Investigator Verna Jackson and Litigation Counsel Ahsan Latif have not heard from Respondent to schedule a follow-up motor carrier safety compliance review.

8. Staff asks that the Commission find Respondent received sufficient notices of the need to schedule a follow-up safety compliance review.

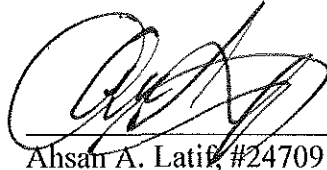
9. Staff asks that the Commission find Respondent failed to respond to several attempts to contact.

10. Staff asks the Commission find that Respondent's resistance to respond to Special Investigator Verna Jackson's attempts to contact and Litigation Counsel Ahsan Latif's letter poses a potential immediate threat to the safety and welfare of the public of the state of Kansas.

11. Based on the presented facts, Staff requests the Commission issue an order suspending Respondent's intrastate motor carrier authority operations until such time as Respondent contacts Special Investigator Verna Jackson or Litigation Counsel Ahsan Latif to schedule a follow-up safety compliance review, at which time Staff will recommend the Commission issue an order of reinstatement of intrastate motor carrier operations.

**WHEREFORE**, for the reasons stated above, Staff respectfully requests that the Commission issue an order suspending Respondent's intrastate motor carrier operations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Latif', is written over a horizontal line.

Ahsan A. Latif, #24709  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604  
(785) 271-3181 (Telephone)  
(785) 271-3124 (Facsimile)  
[a.latif@kcc.ks.gov](mailto:a.latif@kcc.ks.gov) (E-mail)

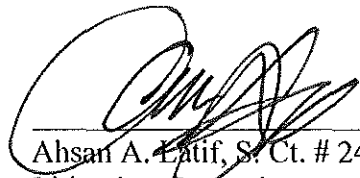
For Commission Staff

**VERIFICATION**

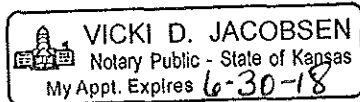
**16-TRAM-111-PEN**

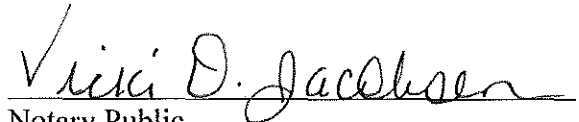
STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SHAWNEE            )

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 to Suspend Intrastate Motor Carrier Operations*, 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 October, 2017.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires: June 30, 2018

## **ATTACHMENT “A”**

1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

September 15, 2015

16-TRAM-111-PEN

Jose E. Orellana, Owner  
d/b/a J & R Towing  
2300 Emmett Ave  
Haysville, Kansas 67060

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 31, 2015, by Kansas Corporation Commission Special Investigator Gary Goeller. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

You have been assessed an \$800 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

### IF YOU CONTEST THE PENALTY:

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. Respondent must submit 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 stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2014 Supp. 77-542.

### IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

Michael J. Duenes  
Litigation Counsel  
(785) 271-3181

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

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

In the Matter of the Investigation of Jose E.      )  
Orellana, d/b/a J & R Towing, of Haysville,      )  
Kansas, Regarding the Violation of the Motor      )  
Carrier Safety Statutes, Rules and Regulations      ) Docket No. 16-TRAM-111-PEN  
and the 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. 2014 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. 2014 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. 2014 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. Jose E. Orellana, d/b/a J & R Towing (J & R Towing) obtained common and private operating authority from the Commission on August 31, 2015, and operates under KSMCID number 168509 and USDOT number 2190349.

5. Jose E. Orellana attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 3, 2015, on behalf of J & R Towing.

6. J & R Towing is a common and private motor carrier which primarily hauls general freight, motor vehicles, and driveway/towaway.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 31, 2015, Commission Staff (Staff) Special Investigator Gary Goeller conducted a compliance review of the operations of J & R Towing. 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, Mr. Goeller identified three (3) violations of the Motor Carrier Safety Regulations.

- a. On July 29, 2015, J & R Towing required or permitted its driver, Jose E. Orellana, to operate a commercial motor vehicle, a 2006 International, in intrastate commerce from Wichita, Kansas to Haysville, Kansas. This trip is evidenced by Driver/Vehicle Examination Report No. KS00UH000510, dated July 29, 2015, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, J & R Towing 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 last MVR was dated November 18, 2011. J & R Towing'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), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2014 Supp. 66-1,112. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, J & R Towing failed to require its driver complete a driver's daily inspection report on the commercial motor vehicle operated. J & R Towing's failure to require each of its drivers to prepare a DVIR in writing, at the completion of each day's work, on each vehicle operated and to submit copies of the reports to the motor carrier for action and record retention is a violation of 49 C.F.R. 396.11(a), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine of \$200.
- c. During the transportation described in paragraph a., above, J & R Towing did not have current Kansas Corporation Commission for-hire motor carrier operating authority to operate from point-to-point in the state of Kansas. J & R Towing's commercial operation of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2014 Supp. 66-1,111 and 49 C.F.R. 392.2, as adopted by K.A.R. 82-4-3h and authorized by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine of \$500.

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

8. Based upon the available facts, Staff recommends the Commission find J & R Towing committed three (3) violations 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 \$800 for three (3) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that J & R Towing be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar 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 J & R Towing submit to one follow-up safety compliance review within the next eighteen (18) months. 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 J & R Towing because it is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108.

13. The Commission finds J & R Towing committed three (3) violations 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. Jose E. Orellana, d/b/a J & R Towing, of Haysville, Kansas is hereby assessed a \$800 civil penalty for three (3) violations 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. J & R Towing is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, J & R Towing is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2014 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, 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 Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of J & R Towing's right to a hearing, and this Penalty Order will become a Final Order assessing a \$800 civil penalty against J & R Towing, and ordering J & R Towing to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. 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. 2014 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

F. Failure to pay the \$800 civil penalty within thirty (30) days of the 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 J & R Towing'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 out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner


Dated: SEP 15 2015

  
**ORDER MAILED SEP 16 2015**


Amy L. Gilbert  
Secretary to the Commission

MJD


## **ATTACHMENT “A”**

	US DOT # 2190349	Legal: JOSE E ORELLANA Operating (DBA): J & R TOWING	
	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: F		
Operation Types: Interstate Intrastate Carrier: N/A HM Shipper: N/A N/A Cargo Tank: N/A		Business: Individual Gross Revenue: _____ for year ending: 12/31/2014	
Company Physical Address: _____			
Contact Name: Jose E Orellana Phone numbers: (1) _____ Fax _____ E-Mail Address: _____			
Company Mailing Address: _____			
2300 EMMETT AVE HAYSVILLE, KS 67060			
Carrier Classification			
Authorized for Hire		Private Property	
Cargo Classification			
General Freight		Motor Vehicles	Driveaway / Towaway
Hazardous Materials			
9 Miscellaneous HM		Carried	Non-Bulk
Equipment			
	Owned	Term Leased	Trip Leased
Truck	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:		1	
>= 100 Miles:			
Average trip leased drivers/month: 0			
Total Drivers: 1			
CDL Drivers:			



	<b>J &amp; R TOWING (JOSE E ORELLANA dba)</b> U.S. DOT #: 2190349	Review Date: 07/31/2015									
<b>Part A</b>											
<p>QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:</p> <p style="text-align: center;">Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd., Topeka, KS 66604-4027</p>											
<b>This report will be used to assess your safety compliance.</b>											
<table border="0"><tr><td colspan="3"><b><u>Person(s) Interviewed</u></b></td></tr><tr><td><b>Name:</b> Jose E Orellana</td><td></td><td><b>Title:</b> Owner</td></tr><tr><td><b>Name:</b></td><td></td><td><b>Title:</b></td></tr></table>			<b><u>Person(s) Interviewed</u></b>			<b>Name:</b> Jose E Orellana		<b>Title:</b> Owner	<b>Name:</b>		<b>Title:</b>
<b><u>Person(s) Interviewed</u></b>											
<b>Name:</b> Jose E Orellana		<b>Title:</b> Owner									
<b>Name:</b>		<b>Title:</b>									



	<b>J &amp; R TOWING (JOSE E ORELLANA dba)</b>	<b>Review Date:</b>
	U.S. DOT #: 2190349	07/31/2015

### Part B Violations

<b>1</b>	<b>Primary: 391.25(a)</b>	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>
<b>STATE</b>	<b>CFR Equivalent: 391.25(a)</b>	<b>1</b>	<b>1</b>	<b>In Violation Checked</b>
				<b>1 1</b>

#### Description

Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.

#### Example

Trip date 07.29.2015

Driver operated a 2006 International rollback wrecker gvw 19,501 on a trip from Wichita, KS to Haysville, KS transporting a motor vehicle. Carrier driver/owner failed to complete a mvr record check every 12 months, last mvr ran on 11.18.2011

<b>2</b>	<b>Primary: 391.51(b)(5)</b>	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>
<b>STATE</b>	<b>CFR Equivalent: 391.51(b)(5)</b>	<b>1</b>	<b>1</b>	<b>In Violation Checked</b>
				<b>1 1</b>

#### 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

Trip date 07.29.2015

Driver operated a 2006 International rollback wrecker gvw 19,501 on a trip from Wichita, KS to Haysville, KS transporting a motor vehicle.

<b>3</b>	<b>Primary: 391.51(b)(6)</b>	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>
<b>STATE</b>	<b>CFR Equivalent: 391.51(b)(6)</b>	<b>1</b>	<b>1</b>	<b>In Violation Checked</b>
				<b>1 1</b>

#### Description

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

#### Example

Trip date 07.29.2015

Driver operated a 2006 International rollback wrecker gvw 19,501 on a trip from Wichita, KS to Haysville, KS transporting a motor vehicle.

<b>4</b>	<b>Primary: 392.2</b>	<b>Discovered</b>	<b>Checked</b>	<b>Drivers/Vehicles</b>
<b>STATE</b>	<b>Secondary: 68-1330</b>	<b>1</b>	<b>1</b>	<b>In Violation Checked</b>

#### Description

Operating intra state without wrecker authority

#### Example

trip date 07.29.2015

Driver operated a 2006 International rollback wrecker KS tag , gvw 19,501 on a trip from Wichita, KS to Haysville, KS transporting a motor vehicle. without KCC for hire authority transporting a vehicle with KS tag







J & R TOWING (JOSE E ORELLANA dba)  
U.S. DOT #: 2190349

Review Date:  
07/31/2015

### Part B Violations

5 STATE	Primary: 396.11(a) CFR Equivalent: 396.11(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Falling to require driver to prepare driver vehicle inspection report.

**Example**

Trip date 07.29.2015

Driver operated a 2006 International rollback wrecker gvw 19,501 on a trip from Wichita, KS to Haysville, KS transporting a motor vehicle.

**Safety Fitness Rating Information:**

Total Miles Operated 45,000  
Recordable Accidents 0

OOS Vehicle (CR): 1  
Number of Vehicle Inspected (CR): 2  
OOS Vehicle (MCMIS): 0  
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

**This Review is not Rated.**





J & R TOWING (JOSE E ORELLANA dba)  
U.S. DOT #: 2190349

Review Date:  
07/31/2015

### Part B Requirements and/or Recommendations

1. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. [www.fmcsa.dot.gov/safety-security/eta/index.htm](http://www.fmcsa.dot.gov/safety-security/eta/index.htm)
2. A copy of your carrier profile can be obtained for \$20 from the SAFER website (<http://safer.fmcsa.dot.gov>) or by calling 800-832-5660 or 703 280-4001. You can also write: Computing Technologies Inc. P.O. Box 3248, Merrifield, VA 22116-3248. Profile cost if ordered by mail or phone is \$27.50.
3. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
4. **VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Roles and Responsibilities**

#### DESCRIPTION OF PROCESS BREAKDOWN:

Carrier owner Jose E Orellana is a owner/operator minor maintenance he performs himself and has documents to reflect other service done outside of his own shop. Carrier needs to put a system in place for daily inspections instead of relying on the annual inspections for continued safe operations.

#### 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://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. **DRIVER FITNESS BASIC PROCESS BREAKDOWN: Qualification and Hiring**

#### DESCRIPTION OF PROCESS BREAKDOWN:

Carrier owner Jose E Orellana is a owner operator that has a basic understanding of the FMCSR's but does forget to complete yearly requirements for driver files. Needs to put a system in place for reminders to complete annual MVR's and driver certification of violations and annual review forms.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Qualification and Hiring.





J & R TOWING (JOSE E ORELLANA dba)  
U.S. DOT #: 2190349

Review Date:  
07/31/2015

### Part B Requirements and/or Recommendations

- Ensure that Motor Vehicle Records (MVRs) from States issuing Commercial Driver's Licenses (CDLs) are reviewed for driver-fitness-related violations of all prospective drivers for the last three years.
- Ensure that drivers are qualified by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding driver fitness, such as those pertaining to previous violations, Commercial Driver's License (CDL), medical qualifications, operational qualifications from training, and relevant experience.
- Review and evaluate gaps in employment, frequent job changes, incomplete applications, within-company applications and reassignments, operational limitations such as those pertaining to long-combination vehicles (LCVs) and HAZMAT, physical impairments, and controlled-substance and alcohol involvement.
- Require that drivers fill out the long form for the medical card and be examined by the carrier's preferred doctor to ensure that their medical qualifications are accurate.
- Ensure that the employment application captures all information required by the Federal Motor Carrier Safety Regulations (FMCSRs), such as whether the driver can handle the physical requirements of the job.
- Enhance the recruitment process to identify and attract qualified applicants for the positions of safety director, dispatcher, and driver by using outside resources such as industry affiliations, recruiters, and consultants for employee searches and referrals.

#### 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. For all Investigations:

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSR's 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>





J & R TOWING (JOSE E ORELLANA dba)  
U.S. DOT #: 2190349

Review Date:  
07/31/2015

### Part B Requirements and/or Recommendations

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

For all Investigations that could result in a Penalty Order:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

For all Investigations that did not result in a Cooperative Safety Plan:

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 15 days and any additional evidence necessary to prove the corrective action has been taken to:

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd  
Topeka, KS 66604-4027

7. Obtain a copy of each driver's driving record and review it annually.
8. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
9. For all Investigations that could result in a Penalty Order:
  - **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.
10. 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 Jose E. Orellana dba J & R Towing's operating authority and/or the impoundment of Jose E. Orellana dba J & R Towing's vehicles

Signed  date 07.31..2015



## **ATTACHMENT “B”**

[illegible]

Report Number: KS000PH0000910  
Inspection Date: 07/23/2013  
Start: 2:23:54 PM CDT End: 3:05:58 PM CDT  
Inspection Level: 1 - Full  
(RM Inspection Type) None - EAP

Driver: GPELLANA, JOSE E

License#: State: KS

Date of Birth:

GoDriver:

**Licensed:**

Date of Birth:

HAYSVILLE, KS 67060

USDOT#: 02:90349

Phone#:

MC/MX#:

Endnote:

States:

Location: SEDGWICK COUNTY - 173

**MilePost:**

Shipper: USAA

Highway: HWY 81 & ENNETT

Origin: WICHITA, KS

Bill of Lading: 191372246

County: SEDGWICK, KS

Destination: HAYSVILLE KS

Cargo: MOTOR VEHICLES

Unit	Type	Make	Year	State	Plate #	Equipment ID	Vol.	Altitude	CGMAA	CGMAA-Altitude #	CGP-Station
1	TR	INIL	2006	KS		1		19.501			75347

Axle #	1	2
Right	1 1/2	1 3/8
Left	1 3/8	1 3/8
Chamber	3-30	3-30

<u>via Code</u>	<u>Section</u>	<u>Unit CWS</u>	<u>Question #</u>	<u>Time Taken</u>	<u>Percentage Correct</u>
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393.75B	393.75(b)	1	Y	U	N	Tire-front tread depth less than 4/32 of inch; passenger right front tire bald in more than 3 locations across 90 percent or more of the width of the tire
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HazMat: 9 Miscellaneous HM

Placard: Ice Cargo Tank:

Special Checks: No Data for Several Checks

[illegible]

\*NOTE TO MECHANIC: The undersigned hereby certifies that all the work has been completed and HAVE BEEN CORRECTED TO THE SATISFACTION OF THE CUSTOMER.

### Synthesis Of Resin 10

\*\*\* DRIVER: THE POLICE REQUESTED TO BE REFUSED TO THE CARRIER BY BRILLIANT \*\*\*

**STADIUMS** The new stadium at the Atlanta-Fulton County Stadium was built by the Atlanta-Fulton County Stadium Authority.

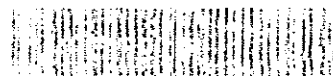
Received 12 June 2005; accepted 25 October 2005; published online 12 December 2005  
 Copyright © 2005 John Wiley & Sons, Inc. *J. Comput. Neurosci.* 19: 101–110, 2005  
 DOI 10.1002/jocn.10025

Separate Office Service

Prepared By  
G. P. ZOLLNER

2007

1997-1998



IN RE: DOCKET NO. 16-TRAM-111-PEN

DATE SEP 15 2015

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET  
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JOSE E. ORELLANA, OWNER D/B/A J & R TOWING 2300 EMMETT AVE HAYSVILLE, KS 67060		
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED SEP 16 2015

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.

## **ATTACHMENT “B”**



1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

August 30, 2017

Jose E. Orellana d/b/a J & R Trucking  
Attn: Jose E. Orellana, Owner  
2300 Emmett Ave.  
Haysville, KS 67060

Re: Scheduling a Follow-Up Review

Dear Mr. Orellana:

The Kansas Corporation Commission is given full power, authority and jurisdiction to supervise and control motor carriers - as defined in the Kansas statutes - doing business or procuring business in Kansas, and may do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

From time to time, the commission is required to carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Further, the Commission has the authority to investigate an entity under the Commission's jurisdiction and order a hearing when the Commission believes the entity is in violation of the law or any order of the Commission.

Deliberate avoidance of a Commission-sponsored safety compliance review is a violation of the above-stated law and authority. J & R Trucking is a motor carrier that is subject to the Commission's jurisdiction, and therefore, is required by law to submit to Commission compliance reviews.

Commission Special Investigator (SI) Verna Jackson, has made numerous attempts to schedule a follow-up review with you, to no avail. SI Jackson has attempted to contact you through her initial letter on June 14, 2017 as well as a second request mailed and faxed on July 18, 2017. To date there has been no substantive response to SI Jackson's attempts to contact you. This letter therefore serves to notify you that should you continue to resist and fail to make contact, by phone, with SI Jackson **within ten days of the date of this letter**, the Commission may suspend your motor carrier operations, revoke or amend certificates, and/ or initiate sanctions or fines against you.

Thank you for your cooperation. If you have any further questions, you may contact SI Verna Jackson with the Transportation Division of the Kansas Corporation Commission at 785-271-3104.

Sincerely,

Ahsan A. Latif  
Litigation Counsel

**CERTIFICATE OF SERVICE**

16-TRAM-111-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Suspend Intrastate Motor Carrier Operations served via electronic service this 31st day of October, 2017, to the following:

JOSE E. ORELLANA, OWNER  
JOSE E. ORELLANA  
D/B/A J & R TOWING  
2300 EMMETT AVE  
HAYSVILLE, KS 67060  
orellanaj7@hotmail.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

  
Vicki Jacobsen