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# JOHN E. HARVELL

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August 26, 2016

Kansas Highway Patrol  
Motor Carrier Assistance Program  
70 SW Jackson, Suite 704  
Topeka, KS 66603

Re: **Kelsy Conard – Missouri License** [REDACTED]  
Kansas Corporation Commission Invoice dated July 28, 2016  
Invoice Number: H000563649  
Challenge Date: August 27, 2016

To Whom It May Concern:

Please accept this letter as a challenge to the attached Invoice #H000563649. In support thereof, Counsel for Kelsy Conard states that he is the owner of Conard Trucking. On the date in question he was not involved in a commercial trucking venture. He was hauling his father's excavator and trailer, and was returning them to his father when he was stopped by Trooper J. Weber.

Mr. Conard was with his wife Chelsea and two other friends that had been assisting in moving the excavator and the trailer. Kelsy Conard is under the firm belief that he was not required to be operating as a commercial vehicle at that time. He has other commercial vehicles that he could have used had he felt it was necessary.

Officer Weber acted aggressively towards the Conards, especially considering this was a motor vehicle stop and inspection. Most importantly, the officer stated to the Conards that since he felt they were not cooperating, he was going to find every possible violation and report them both to the State and the Feds. He also arrested both the Conards, and the case is pending review of criminal charges in Miami County, Kansas District Court. The officer continued to state to jail staff that he was sending the Feds to shut down the Conards.

The best example of the officer's aggressive behavior and his misleading nature is the fact that he claimed Kelsy Conard was fatigued and not physically capable of operating the truck. Kelsy Conard's physical problems only occurred after the officer handcuffed him and placed him in front of his vehicle on the shoulder of the road in excessive heat in the neighborhood of 100 degrees. The parties were on the side of the road for three hours.

Specifically addressing each violation:

1. **No shipping papers:** This was a private personal vehicle motor carrier and did not require shipping papers.
2. **Package not secure in vehicle:** Counsel is without sufficient knowledge to understand which package was not secured in the vehicle. It may have been a 5-gallon gas tank that was not secured. The Conards believe that they did not fail to secure any packages in the vehicle.
3. **No/improper breakaway or emergency braking:** Safety chains are not required for a fifth wheel hitch by law.
4. **Failing to secure vehicle equipment:** Kelsy Conard secured each corner of the excavator with a chain, which is required. He is under the belief it was properly secured.
5. **Leaking/spilling/blowing/falling cargo:** I believe that the allegation is that there was a battery box cover, according to the officer, that was flapping in the wind. The battery box was secure and did not fall from the vehicle.
6. **No/improper heavy vehicle/machine securement:** The Conards used a 4-point chain that was properly secured.
7. **Tire-load weight rating/under inflated:** Mr. Conard believes the tires were properly inflated.
8. **Inoperative turn signal:** Mr. Conard was unaware that there was a turn signal that was not operating properly. This could have been remedied by simply writing a traffic ticket.
9. **Operating a CMV while ill or fatigued:** This is disingenuous by the officer, who handcuffed Mr. Conard in front of his vehicle on a day exceeding 100 degrees comfort index. Mr. Conard became ill because of the extended period of time he was handcuffed on the side of the road without any hydration.
10. **Driver in possession of intoxicating beverage while on duty or driving:** There were two to three empty beer cans in the cab of the excavator. There is no allegation that Mr. Conard was consuming alcohol while operating the excavator or the vehicle. He was not under the influence of alcohol, and had not consumed any alcohol when stopped by the trooper.
11. **No drivers record of duty status:** Mr. Conard was operating his personal vehicle, a Ford F350 truck. He was not engaged in the hauling business, which he does do for a living. This was a personal favor returning the excavator and trailer to his father.

The Trooper contacted both the location where the parties had been working that day and Mr. Conard's father. Mr. Conard's father confirmed the fact that the trailer and excavator belonged to

him and that they were returning them to him. He is a family member. The party's address where they had been working was employed by Mr. Conard's father and not by Kelsy or Chelsea Conard.

This matter is being prosecuted as a criminal case, and counsel is without the records to adequately defend these allegations at this time. Please accept this letter as a challenge and deny the request for penalties.

Very truly yours,

John E. Harvell #14178  
Attorney at Law

JEH:ll

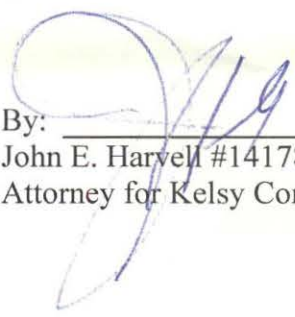
Enclosure

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**CERTIFICATE OF MAILING**

On this 26 day of August, 2016, a copy of the above and foregoing Challenge to Kansas Corporation Commission Invoice #H000563649 was mailed U. S. first class mail to:

Kansas Highway Patrol  
Motor Carrier Assistance Program  
70 SW Jackson, Suite 704  
Topeka, KS 66603

By:   
John E. Harvell #14178  
Attorney for Kelsy Conard

**KANSAS CORPORATION COMMISSION**

Kansas Corporation Commission  
Transportation Division  
1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
(785) 271-3145  
FEIN: 48-1124839

**INVOICE**

KELSEY CONARD

WENTWORTH, MO 64873

Invoice Date: July 28, 2016

Invoice Number: H000563649

Due Date: August 27, 2016

## Power Unit Identification at Time of Inspection:

| Unit # | Unit Make | Unit License | VIN               | License Number | Company ID |
|--------|-----------|--------------|-------------------|----------------|------------|
| 1      | FORD      | 83A0ZK       | 1FT8W3BT5EEB41294 | 83A0ZK         | 1          |
| 2      | TRLR      | 27D4ZM       |                   |                |            |

| Unit       | Violation | Violation Description   | Penalty    |
|------------|-----------|---|------------|
| 1          | 177.817A  | No shipping papers (carrier)  | 150.00     |
| 1          | 177.834A  | Package not secure in vehicle   | 150.00     |
| 1          | 393.43    | No/improper breakaway or emergency braking                              | 150.00     |
| 2          | 392.9A2   | Failing to secure vehicle equipment                                     | 0.00       |
| 2          | 393.100B  | Leaking/spilling/blowing/falling cargo                                  | 0.00       |
| 2          | 393.130   | No/improper heavy vehicle/machine securement                            | 150.00     |
| 2          | 393.75F   | Tire-load weight rating/under inflated                                  | 150.00     |
| 2          | 393.9TS   | Inoperative turn signal   | 150.00     |
|            | 392.3     | Operating a CMV while ill or fatigued                                   | 250.00     |
|            | 392.5A3   | Driver in possession of intoxicating beverage while on duty or driving. | 250.00     |
|            | 395.8A    | No drivers record of duty status  | 250.00     |
| Total Due: |           |   | \$1,650.00 |

Please return this invoice with your payment, payable to the  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027  
Fax: (785) 271-3124