

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20170301084514
Kansas Corporation Commission

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

February 28, 2017

17-TRAM-385-PEN

Kulver Chance Ellis, Owner/Operator
d/b/a KE Trucking
10250 N Indian Rd
Scott City, Kansas 67871

Certified Mail No. 7016 1970 0001 0574 1713

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 February 1, 2017, by Kansas Corporation Commission Special Investigator Penny Fryback. 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 a \$500 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.

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. 2016 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,

Ansan A. Lepp
Litigation Counsel
(785) 271-3118

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

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

In the Matter of the Investigation of **Kulver**)
Chance Ellis, d/b/a KE Trucking, of Scott)
City, Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 17-TRAM-385-PEN
Regulations 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. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

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

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

II. BACKGROUND

4. Kulver Chance Ellis, d/b/a KE Trucking (KE Trucking) obtained common operating authority from the Commission on April 1, 2016, and operates under KSMCID number 170728 and USDOT number 2562013.

5. Kulver Chance Ellis attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on November 24, 2014, on behalf of KE Trucking.

6. KE Trucking is a common motor carrier which primarily hauls machinery, large objects, grain, feed and hay.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on February 1, 2017, Commission Staff (Staff) Special Investigator Penny Fryback conducted a compliance review of the operations of KE Trucking. 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, Ms. Fryback identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 5, 2016, KE Trucking required or permitted its driver, Kulver Chance Ellis, to operate a CDL-required commercial motor vehicle, a 1999 Kenworth, VIN ending in 814128, GVWR 33,000 lbs., pulling a 2015 Mauer drop deck semi-trailer, VIN ending in 000261, in

interstate commerce from Eaton, Colorado to Scott City, Kansas. This trip is evidenced by Driver's Daily Log, dated December 5, 2016, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation KE Trucking allowed or required its driver Kulver Chance Ellis to drive more than 11 hours following 10 consecutive hours off duty. Mr. Ellis drove 8.5 hours following his last 10 consecutive hours off duty. KE Trucking's failure to require its driver to take 10 consecutive hours off duty after driving 11 hours is in violation of 49 C.F.R. 395.3(a)(3)(i) as adopted by K.A.R. 82-4-3 and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

- b. On December 30, 2016, KE Trucking required or permitted its driver, Kulver Chance Ellis, to operate a CDL-required commercial motor vehicle, a 1999 Kenworth, VIN ending in 814128, GVWR 33,000 lbs., pulling a 2015 Mauer drop deck semi-trailer, VIN ending in 000261, in intrastate commerce from Scott City, Kansas to Page City, Kansas and then to Dodge City, Kansas. This trip is evidenced by Driver's Daily Log, dated December 30, 2016, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, KE Trucking allowed or required driver Kulver Chance Ellis to drive after more than eight (8) hours without taking a required 30-minute break. Mr. Ellis drove 8.75 hours following his last off duty period of at least 30 minutes. KE Trucking's failure to provide "rest breaks" to

its driver if more than eight (8) hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes is a violation of 49 C.F.R. 395.3(a)(3)(ii), as adopted by K.A.R. 82-4-3, and as implemented by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find KE Trucking committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$500 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that KE Trucking 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.

11. Finally, Staff recommends that KE Trucking 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 KE Trucking because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds KE Trucking committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Kulver Chance Ellis, d/b/a KE Trucking, of Scott City, Kansas is hereby assessed a \$500 civil penalty for two (2) 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. KE Trucking 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, KE Trucking is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2016 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 KE Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$500 civil penalty against KE Trucking, and ordering KE Trucking 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. 2016 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.*

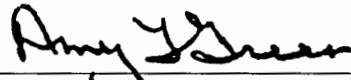
F. Failure to pay the \$500 civil penalty within thirty (30) days of the service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of KE Trucking's motor carrier operating authority without further notice. Additionally, 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: **FEB 28 2017**




Amy L. Green
Secretary to the Commission

AAL

Order Mailed Date

MAR 01 2017

ATTACHMENT “A”

	US DOT # 2562013	Legal: KULVER CHANCE ELLIS Operating (DBA): KE TRUCKING																	
MC/MX #: 902754		State #: [REDACTED]	Federal Tax ID: [REDACTED] (EIN)																
Review Type: Compliance Review (CR)																			
Scope: Principal Office		Location of Review/Audit: Other																	
Territory:																			
<table border="1"> <tr> <td colspan="2">Operation Types</td> <td>Interstate</td> <td>Intrastate</td> </tr> <tr> <td>Carrier:</td> <td>HM</td> <td>HM</td> <td></td> </tr> <tr> <td>Shipper:</td> <td>N/A</td> <td>N/A</td> <td></td> </tr> <tr> <td>Cargo Tank:</td> <td>N/A</td> <td></td> <td></td> </tr> </table>				Operation Types		Interstate	Intrastate	Carrier:	HM	HM		Shipper:	N/A	N/A		Cargo Tank:	N/A		
Operation Types		Interstate	Intrastate																
Carrier:	HM	HM																	
Shipper:	N/A	N/A																	
Cargo Tank:	N/A																		
Business: Corporation		Gross Revenue: [REDACTED] for year ending: 12/31/2016																	
Company Physical Address:																			
[REDACTED]																			
Contact Name:																			
Phone numbers: (1) [REDACTED]		Fax																	
E-Mail Address: [REDACTED]																			
Company Mailing Address:																			
10250 N INDIAN RD SCOTT CITY, KS 67871-6024																			
Carrier Classification																			
Authorized for Hire																			
Cargo Classification																			
Machinery, Large Objects		Grain, Feed, Hay																	
Hazardous Materials																			
9 Miscellaneous HM		Carried	Non-Bulk																
Equipment																			
	Owned	Term Leased	Trip Leased																
Truck Tractor	2	0	0																
Trailer	3	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:			Average trip leased drivers/month: 0																
>= 100 Miles:	1		Total Drivers: 1																
			CDL Drivers: 1																





KE TRUCKING (KULVER CHANCE ELLIS dba)

U.S. DOT #: 2562013

State #: [REDACTED]

Review Date:

02/01/2017

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: Kulver Chance Ellis

Title: Owner

Name: [REDACTED]





KE TRUCKING (KULVER CHANCE ELLIS dba)

U.S. DOT #: 2562013

State #: [REDACTED]


Review Date:

02/01/2017

Part B Violations

1 FEDERAL CRITICAL	Primary: 395.8(a)(1)	Discovered 30	Checked 30	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to require driver to make record of duty status in duplicate for each 24 hour period. Example Driver [REDACTED] Trip Date: 12/30/2016 Driver never makes records of duty status in duplicate					
2 STATE CRITICAL	Primary: 396.11(a)	Discovered 17	Checked 21	Drivers/Vehicles In Violation 3	Checked 5
Description Failing to require driver to prepare driver vehicle inspection report. Example Driver [REDACTED] Unit W99 Trip Date: 12/30/2016 Driver [REDACTED] was not completing driver vehicle inspection reports on the days he operated in intrastate commerce.					
3 FEDERAL	Primary: 395.3(a)(3)(I)	Discovered 2	Checked 30	Drivers/Vehicles In Violation 1	Checked 1
Description Driving more than 11 hours following 10 consecutive hours off duty (property-carrying vehicles). Example Driver [REDACTED] Trip Date: 12/30/2016 Driver drove 11.25 hours on 12/30/2016 and driver drove 11.50 hours on 12/5/2016					
4 FEDERAL	Primary: 395.3(a)(3)(II)	Discovered 1	Checked 30	Drivers/Vehicles In Violation 1	Checked 1
Description Requiring or permitting a property-carrying commercial motor vehicle driver to drive after more than 8 hours have passed since the end of the driver's last off duty or sleeper berth period of at least 30 minutes. Example Driver [REDACTED] Trip Date: 12/30/2016 Driver was on duty and driving from 05:00 a.m. until 01:45 p.m. without a 30 minute break.					



	KE TRUCKING (KULVER CHANCE ELLIS dba)	Review Date:
	U.S. DOT #: 2562013	02/01/2017

State #: [REDACTED]

Part B Violations

5 FEDERAL	Primary: 396.3(b)(1)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
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Description

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.
Unit W99

This carrier only keeps receipts does not have an actual record of maintenance which identifies the vehicles

Safety Fitness Rating Information:

Total Miles Operated 42,315
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 0
OOS Vehicle (MCMIS): 1
Number of Vehicles Inspected (MCMIS): 3

Your proposed safety rating is :

CONDITIONAL

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	U	0	2
Factor 4:	C	0	1
Factor 5:	S	0	0
Factor 6:	S	-	-

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

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

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





KE TRUCKING (KULVER CHANCE ELLIS dba)
U.S. DOT #: 2562013

State #: [REDACTED]

Review Date:
02/01/2017

Part B Requirements and/or Recommendations

1. Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period.
2. 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.
3. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
4. The Driver Vehicle Inspection Report report shall identify the vehicle and list any defect or deficiency discovered by or reported to the driver which would affect the safety of operation of the vehicle and be signed by the driver
5. Establish a system to control property -carrying drivers' hours of service. Do not dispatch drivers who lack adequate hours to complete assigned trips legally. Do not allow drivers to exceed the 11, 14, 60/70-hour limits.
6. After June 30, 2013, driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes.
7. Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
8. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. Maintenance files must identify the vehicle by make, serial number, year and tire size.,
9. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: This carrier has no policy to prevent driver from violating the 11 hours of driving time and to ensure the driver takes a 30 minute rest period for every 8 hours on duty.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

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





KE TRUCKING (KULVER CHANCE ELLIS dba)
U.S. DOT #: 2582013

State #: [REDACTED]

Review Date:
02/01/2017

Part B Requirements and/or Recommendations

consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

Seek Out Resources:

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

10. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: This carrier needs to assign someone to document all repairs and maintenance for each vehicle and identify the maintenance records by year, make, VIN number, tire size and unit number.

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.

11. 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





KE TRUCKING (KULVER CHANCE ELLIS dba)
U.S. DOT #: 2562013

State #: [REDACTED]

Review Date:
02/01/2017

Part B Requirements and/or Recommendations

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 Penalty Order:

- **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. 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:

Division Administrator/State Director
Federal Motor Carrier Safety Administration
1303 SW First American Place, Suite 200
Topeka, KS 66617

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





KE TRUCKING (KULVER CHANCE ELLIS dba)

U.S. DOT #: 2562013

State #: [REDACTED]

Review Date:

02/01/2017

Part B Requirements and/or Recommendations

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:

Field Administrator
Federal Motor Carrier Safety Administration
Safety Management Plan
Midwestern
Service Center
4749 Lincoln Mall Drive, Suite 300A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

Division Administrator
FMCSA, Kansas Division
1300 SW First American Place, Suite 200
Topeka, KS 66617

This letter should be submitted as soon as possible.

For all investigations with violations recorded in Part B.

If you believe the violations recorded in Part B of this investigation were an error, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the most effective way to remove violations on the investigation report that did not affect your safety rating data. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

• All Other Motor Carriers: This review will result in a Proposed Safety Rating. The findings indicate you are currently operating at an unsatisfactory level of safety compliance. A written notice of proposed unsatisfactory rating will be sent to you by the FMCSA via U.S. Mail. If you fail to obtain an improved rating within 60 days of the date that notice is sent, the unsatisfactory rating will become final and you must cease interstate operations.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

12. This review will result in a Safety Rating.
13. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
14. 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 recurrence 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:





KE TRUCKING (KULVER CHANCE ELLIS dba)
U.S. DOT #: 2562013

State #: [REDACTED]

Review Date:
02/01/2017

Part B Requirements and/or Recommendations

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

15. I, *Kulver Chance Ellis* 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 Kulver Chance Ellis d/b/a KE Trucking operating authority and/or the impoundment of Kulver Chance Ellis d/b/a KE Trucking vehicles.



ATTACHMENT “B”

ATTACHMENT “C”

CERTIFICATE OF SERVICE

17-TRAM-382-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 **FEB 28 2017**.

JOHN DREILING, MANAGING MEMBER
DREILING FIELD SERVICE LLC
1715 E 10TH STREET
HAYS, KS 67601-4516
jjdreilin@ruraltel.net

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe
DeeAnn Shupe

or Mailed Date

MAR 01 2017