



1500 SW Arrowhead Road
Topeka, KS 66604-4027

20230926130915
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
24-TRAM-258-PEN

September 26, 2023
Rae Rae Munden, Owner
D & M Marketing LLC
1852 90th Ave
Larned, KS 67550

This is a notice of a penalty assessment against D & M Marketing LLC (D & M Marketing) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 18, 2023, by Kansas Corporation Commission Special Investigators, Gregory Askren and Jeff Stipe. Penalties are assessed in accordance with the FY 2024 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2023. 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: D & M Marketing has been assessed a \$4,500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$4,500, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (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 D & M Marketing 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.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for a hearing must be made in writing, setting forth the specific grounds upon which relief is sought. D & M Marketing 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 Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$4,500 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,

/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Investigation of D & M)	
Marketing LLC, of Larned, KS, Regarding the)	
Violation(s) of the Motor Carrier Safety Statutes,)	
Rules and Regulations and the Commission’s)	Docket No. 24-TRAM-258-PEN
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:

1. On July 18, 2023, Commission Staff Special Investigators (SIs), Gregory Askren and Jeff Stipe, completed a safety compliance investigation of the operations of D & M Marketing LLC (D & M Marketing or Carrier). D & M Marketing is a motor carrier as defined in 49 C.F.R. 390.5, and operates under USDOT number 2298256.

2. On September 12, 2023, Staff submitted its Report and Recommendation (R&R), dated, attached hereto as Attachment “A” and is hereby incorporated by reference, recommending a penalty of \$4,500 to be issued to D & M Marketing based on the frequency, timeline and severity of the violations discovered. Staff’s R&R indicates that as a result of the safety compliance investigations, SIs, Gregory Askren and Jeff Stipe, identified four (4) violation(s), accounting for

three (3) count(s), of the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix.²

3. Additionally, Staff recommends that D & M Marketing be required to have a representative responsibility for the Carrier's safety compliance 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.³ 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.

4. Finally, Staff recommends that D & M Marketing submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order.⁴ Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

5. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, 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 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, 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.

6. Pursuant to K.S.A. 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.

² Order Designating Guidance Document and Approving Staff's Use of the Transportation Division's Uniform Penalty Assessment Table, pp. 11 – 26 (Jun. 29, 2023) ("Penalty Matrix").

³ See Staff's Report and Recommendation, p. 3 (Sep. 12, 2023).

⁴ See Staff's Report and Recommendation, p. 3 (Sep. 12, 2023).

7. 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.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. D & M Marketing LLC, of Larned, KS is hereby assessed a \$4,500 civil penalty for four (4) violation(s), accounting for three (3) count(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. D & M Marketing is hereby ordered to have a representative responsible for the Carrier's safety compliance 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. D & M Marketing 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. Pursuant to K.S.A. 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 Executive Director 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 D & M Marketing's right to a hearing, and this Penalty Order will become a Final Order.

E. 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.⁵

F. If you do not request a hearing, the payment of the civil penalty of \$4,500 is due in thirty (30) days from the date of service of this Order. Payment of \$4,500 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

G. Failure to pay the \$4,500 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of D & M Marketing's motor carrier operating authority without further notice.⁶ 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.

⁵ . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

⁶ K.S.A. 66-1,105.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 09/26/2023



Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
TRANSPORTATION DIVISION**

TO: Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

FROM: Gary Davenport, Deputy Director of Transportation
Jared Smith, Public Service Executive

DATE: September 12, 2023

SUBJECT: Docket No. 24-TRAM-258-PEN
In the Matter of the Investigation of **D&M Marketing LLC of Larned, Kansas**
Regarding the Violation of the Motor Carrier Rules and Regulations and the
Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of
Motor Carrier Authority

EXECUTIVE SUMMARY:

D&M Marketing LLC is a motor carrier (MC) possessing public for-hire and private operating authority from the Commission, primarily hauling general freight, metals, sheets, coils, rolls, building materials, machinery, large objects, oilfield equipment, livestock, grain, feed, hay, utility, farm supplies, construction, logs, poles, beams and lumber. D&M Marketing LLC operates under USDOT 2298256. On July 18, 2023, Commission Staff Special Investigator(s) (SI) or (SIs) Gregory Askren and Jeff Stipe completed a safety compliance investigation of the operations of D&M Marketing LLC. A copy of the safety compliance report is attached hereto as **Exhibit 1** and is hereby incorporated by reference. As a result of this investigation, the SIs identified four (4) violation(s), accounting for three (3) specific count(s), of the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline and severity of the violations discovered by the SIs, staff recommends penalty of \$4,500 be issued to the MC.

DISCUSSION AND ANALYSIS:

On July 18, 2023, Commission Staff SIs, Gregory Askren and Jeff Stipe, conducted a safety compliance investigation of the operations of D&M Marketing LLC. The investigation covers a 365 day period. Each specific count is detailed below.

Count One (1 of 3)

Jurisdiction: 49 C.F.R. 382.215, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: No MC having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions

Supporting Documentation: On April 5, 2023, D&M Marketing LLC required or permitted its driver to operate a commercial driver's license (CDL) required commercial motor vehicle (CMV), a 2014 Kenworth, VIN ending in 7133, GVWR 52,000 lbs., pulling a 2015 Antares trailer, VIN ending in 0282, GVWR 68,000 lbs., in intrastate commerce from Emporia, Kansas to McPherson, Kansas. At the time of this transport, the driver was involved in a double fatality accident that involved five vehicles. The transport is evidenced by a Driver/Vehicle Examination Report (DVER) Number KSHP01762252, attached hereto as **Exhibit 2**. Additionally, the MC's prohibited driver Drug and Alcohol Clearinghouse (DACH) report is attached hereto as **Exhibit 3**.

Violation: D&M Marketing LLC was found to be in violation of using a driver known to have tested positive for a controlled substance (**Exhibit 1, Page 3**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$3,500.

Count Two (2 of 3)

Jurisdiction: 49 C.F.R. 382.711, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of the Law: The MC must be enrolled in the FMCSA Drug and Alcohol Clearinghouse (DACH).

Supporting Documents: On January 10, 2023, D&M Marketing LLC required or permitted its driver to operate a CDL-required CMV, a 2016 Kenworth, VIN ending in 2562, GVWR 52,000 lbs. pulling a 2015 Antares trailer, VIN ending in 0282, GVWR 68,000 lbs., in interstate commerce on a trip from Salina, Kansas to Greensburg, Indiana. This transport is evidenced by a driver's electronic log, attached hereto as **Exhibit 4**. Additionally, the MC's DACH report is attached, attached hereto as **Exhibit 5**.

Violation: D&M Marketing LLC was found to be in violation of failing to register in the Clearinghouse (**Exhibit 1, Page 3**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$750.

Count Three (3 of 3)

Jurisdiction: 49 C.F.R. 391.23(e) (1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129.

Intent of the Law: The MC must obtain its driver's motor vehicle records (MVRs) within 30 days of employment and maintain the MVRs in the driver qualification files pursuant to 49 C.F.R. 391.51.

Supporting Documents: This violation took place during the transport described in Count One, above. Additionally, the MC's prohibited driver Drug and Alcohol Clearinghouse (DACH) report is attached, attached hereto as **Exhibit 3**.

Violation: D&M Marketing LLC failed to investigate the driver's alcohol and controlled substance history for the previous 3 years (**Exhibit 1, pages 3 to 4**). Two (2) violations were discovered.

Recommendations: Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find D&M Marketing LLC committed four (4) violation(s) accounting for three (3) specific counts of Kansas law that governs MCs, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations (K.A.R.s), and is therefore subject to sanctions or fines imposed by the Commission.

Due to the frequency, timeline and severity of the violations, Staff recommends a civil penalty of \$4,500 for four (4) violation(s) of the MC Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends D&M Marketing LLC require a representative responsible for the company's safety to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the 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.

Finally, Staff recommends that D&M Marketing LLC submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

EXHIBIT 1

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 2298256
MC/MX#: 812248

Legal: D & M MARKETING LLC
Operating (DBA):

Investigation Date:
05/10/2023

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)

Extent of Operations: Entire Operation

Physical Address

1852 90TH AVE
LARNED, KS 67550-5302
United States

Mailing Address

1852 90TH AVE
LARNED, KS 67550-5302
United States

Contact Information

Contact Name: RAE RAE MUNDEN

Email:

Phone: (620)285-8748 **Cell:** ()- **Fax:** (620)285-2384

Business and Financial

Business Type: Limited Liability Corporation

Name of Gross Revenue Provider: Rae Rae Munden

Title of Gross Revenue Provider: Owner

Gross Revenue: ██████████ **For Year Ending:** 12/31/2021

Federal Tax ID: ██████████ (EIN)

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier

Operation Classification

For-Hire Motor Carrier

Property

Other Non-Hazardous Freight

Private Motor Carrier

Property – Non-Hazardous Materials

Cargo

General Freight, Metal; Sheets, Coils, Rolls, Building Materials, Machinery, Large Objects, Oil Field Equipment, Livestock, Grain, Feed, Hay, Utility, Farm Supplies, Construction, Logs, Poles, Beams, Lumber

Equipment

	Owned	Term Leased	Trip Leased
Truck Tractors	4	1	
Trailers	4	1	

Driver Information

Power units used in the U.S.: 5

Percentage of time used in the U.S.: 100%

Drivers	Intrastate	Interstate
< 100 Miles		
>= 100 Miles	5	

Average trip leased driver/month: 1

Drivers with CDL: 5

Total Drivers: 6

Person(s) Interviewed

Name: RAE RAE MUNDEN

Title: OWNER

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:	1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378
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This report will be used to assess your safety compliance.

Violations

1. Primary: 382.215

Using a driver known to have tested positive for a controlled substance.



Acute

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
5		5

BASIC Impacted

Controlled Substances/Alcohol

Rating Factor 2:
Driver = Part 382

Example/Notes:

Driver name, Travis Edwards

Trip date. 4-5-2023

Driver refused all attempts of contact with Rae Rae Munden at D&M Marketing LLC to arrange or conduct a post-accident drug and alcohol testing from a double fatality accident.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
5		5

2. Primary: 382.711(b)

Failing to register in the Clearinghouse.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver - Warren Hacker

Trip Date - 1-10-23

Carrier D&M Marketing LLC had failed to be registered in DACH before the carrier was notified on April 14, 2023 of the upcoming review and only registered on May 1, 2023.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

3. Primary: 391.23(e)(1)

Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years.

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

Example/Notes:

Drivers/Vehicles in Violation

Driver name, Travis Edwards

Trip date. 4-5-2023

Description of violation - Failing to investigate driver's background within 30 days of employment. Carrier was unable to produce the Safety Performance Records for previous employment that was listed on the driver's application.

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

4. Primary: 391.51(b)(8)

Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s).

Violations Discovered

Fed	State	Total
	5	5

Checked

Fed	State	Total
	5	5

Example/Notes:

Driver name, Travis Edwards

Trip date. 4-5-2023

Description of violation - Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s).

Drivers/Vehicles in Violation

Fed	State	Total
	5	5

Checked

Fed	State	Total
	5	5

5. Primary: 396.21(b)

Failing to retain periodic inspection report for 14 months from date of inspection.

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

Example/Notes:

Vehicle identification, Unit #2

Trip date. 10-19-2022

The carrier failed to maintain the previous inspection for this unit in the maintenance file. This unit was in operation by RSI - KSHP03131537

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Conditional	1	0
Factor 3: Operational = Parts 392 and 395	Satisfactory	0	0
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 1 Number of Vehicles Inspected (MCMIS): 4 OOS Rate: 25%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	N/A	N/A	N/A
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 271,195 Recordable Accidents: 1 Recordable Accidents/Million Miles: 3.69	Satisfactory	N/A	N/A

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. 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>.

Process Breakdown and Remedies

BASIC: Driver Fitness

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. 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.

BASIC: Vehicle Maintenance

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.

BASIC: Vehicle Maintenance

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Training and Communication

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Training and Communication:

1. Provide new-hire and refresher training, to all drivers, managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a Substance Abuse Professional (SAP); and confidentiality requirements in relation to record keeping.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Qualification and Hiring

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Qualification and Hiring:

1. Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.

BASIC: Driver Fitness

Process Breakdown: Qualification and Hiring

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Qualification and Hiring:

1. 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.
2. 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.

3. 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.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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.

2. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

3. **For all Investigations not Unsat.**

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>

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.

4. **Conduct periodic internal reviews. (non-HM)**

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.

5. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

6. **Ensure that all drivers' logs are accurate.**

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.

7. **Review maintenance and inspection records for all lease vehicles.**

Periodically review the maintenance and inspection records for all lease vehicles as required by Part 396 of the FMCSR. Keep a record to document these reviews and notify the vehicle owner of any violations detected.

8. **Ensure that inspections are done at proper intervals.**

Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to.

9. **New Hires**

Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

10. **Clearinghouse Pre-employment Query**

Ensure pre-employment (full) queries are conducted in the Clearinghouse before hiring a driver to perform a safety sensitive function.

11. **Clearinghouse Annual Query**

Ensure annual queries are conducted in the Clearinghouse at least once per year. You may conduct a full or limited query to fulfill this requirement.

12. **Clearinghouse Driver Consent**

Ensure driver consent has been obtained and is on file before conducting a limited query.

13. **Driver's prohibited status in Clearinghouse**

1.

Do not allow a driver who is prohibited in the Clearinghouse to perform safety sensitive functions.

14. **Final Recommendation**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier _____ Date _____

I acknowledge that these requirements/violations 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 D&M Marketing LLC's

6. **Review maintenance and inspection records for all lease vehicles.**

Periodically review the maintenance and inspection records for all lease vehicles as required by Part 396 of the FMCSR. Keep a record to document these reviews and notify the vehicle owner of any violations detected.

7. **Ensure that inspections are done at proper intervals.**

Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to.

8. **New Hires**

Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

9. **Clearinghouse Pre-employment Query**

Ensure pre-employment (full) queries are conducted in the Clearinghouse before hiring a driver to perform a safety sensitive function.

10. **Clearinghouse Annual Query**

Ensure annual queries are conducted in the Clearinghouse at least once per year. You may conduct a full or limited query to fulfill this requirement.

11. **Clearinghouse Driver Consent**

Ensure driver consent has been obtained and is on file before conducting a limited query.

12. **Driver's prohibited status in Clearinghouse**

1.

Do not allow a driver who is prohibited in the Clearinghouse to perform safety sensitive functions.

13. **Final Recommendation**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier D&M MARKETING LLC Date 5-16-2023

I acknowledge that these requirements/violations 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 D&M Marketing LLC's vehicles operating authority and/or the impoundment of D&M Marketing LLC's vehicles.

Signed Ros Ros Mumb Date 5-16-2023

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. Carrier representative: Ros Ros Mumb Date: 5-16-2023

Exhibit 2

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP01762252
Inspection Date: 04/07/2023
Start: 11:00 AM CT End: 1:00 PM CT
Inspection Level: I - Full
HM Inspection Type: None

Carrier: D & M MARKETING LLC

DBA:
 1852 90TH AVE
 LARNED, KS, 67550
USDOT: 2298256
MC/MX#: 00812248
State#:

Phone#: (620)285-8748
Fax#: (620)285-2384

Driver: EDWARDS, TRAVIS D
License#: [REDACTED]
Date of Birth: [REDACTED]
CoDriver:
License#:
Date of Birth:

State: KS

State:

Location: LYON COUNTY - 111
Highway:
County:
Email:

Milepost: **Shipper: HIDDEN VIEW DAIRY**
Origin: SAINT JOHN,KS **Bill of Lading: NA**
Destination: RENSSELAER,IN **Cargo: HAY**

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	KW	2014	KS	198090		[REDACTED]	7133	53200		
2	ST	TRLR	2015	KS	520879		[REDACTED]	0282	68000		

BRAKE ADJUSTMENTS

Axle #	1	2	3	4	5
Right	INOP	1 1/2	1 1/2	1 7/8	1 5/8
Left	INOP	2	1 1/2	1 3/4	1 3/4
Chamber	L-20	C-30	C-30	C-30	C-30

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.205A	F	1	Y		U	Y	Wheel/rim cracked or broken: Axle #2, outer wheel cracked.
393.9H	F	1	Y		U	Y	Inoperable head lamps: BOTH LEFT & RIGHT HEAD LAMPS INOPERABLE/MISSING.
393.9TS	F	1	N		N	Y	Inoperative turn signal: BOTH LEFT & RIGHT TURN SIGNALS INOPERABLE ON FRONT OF TRACTOR.
393.203C	F	1	N		N	Y	Hood not securely fastened
393.75A3	F	1	Y		U	Y	Tire-flat and/or audible air leak: AXLE #1 LEFT TIRE TORN OPEN, FLAT, AND OFF THE BENT RIM.
393.207A	F	1	Y		U	Y	Axle positioning parts defective/missing: BOTH LEFT & RIGHT AXLE POSITIONING PARTS, CLAMPS, AND ASSEMBLY HOLDING AXLE ON FRONT OF TRACTOR ARE BROKEN OR MISSING.
393.48A	F	1	N		N	Y	Inoperative/defective brakes: AXLE 1, LEFT SIDE, BRAKE INOPERABLE. DAMAGE DUE TO COLLISION. UNABLE TO MEASURE OR TEST DUE TO DAMAGE.
393.48A	F	1	N		N	Y	Inoperative/defective brakes: AXLE 1, RIGHT SIDE, BRAKE INOPERABLE. DAMAGE DUE TO COLLISION. UNABLE TO MEASURE OR TEST DUE TO DAMAGE.
396.3A1BOS	F	1	Y		U	Y	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination: BOTH LEFT & RIGHT BRAKES INOPERABLE ON TRACTOR PUTTING THE VEHICLE IN COMBINATION OUT OF SERVICE.
396.17C	F	2	N		N	N	Operating a CMV without proof of a periodic inspection: COULD NOT LOCATE PROOF OF AN ANNUAL INSPECTION FOR TRAILER.
390.3E	F	D	Y		N	N	Prohibited from performing safety sensitive functions per 382.501(a) in the Drug and Alcohol Clearinghouse.

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks:

Alcohol/Controlled Substance Check
 Conducted by Local Jurisdiction
 Size and Weight Enforcement
 eScreen Inspection

Traffic Enforcement
 PASA Conducted Inspection
 Drug Interdiction Search

X Post Crash Inspection
 PBBT Inspection



DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP01762252
Inspection Date: 04/07/2023
Start: 11:00 AM CT End: 1:00 PM CT
Inspection Level: I - Full
HM Inspection Type: None

* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare TRAVIS EDWARDS "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until: When driver is no longer prohibited.. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials _____

* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.
Signature Of Repairer X: _____ Facility: _____ Date: _____

**** DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. **//** *CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.
Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By: J.R. Helton
ID/Badge #: 0176

Copy Received By: TRAVIS EDWARDS

X

X



02298256 KS KSHP01762252

Exhibit 3

DRUG & ALCOHOL CLEARINGHOUSE

[← BACK TO DASHBOARD](#)

Driver Record

Below is the information an employer would be able to access after conducting a full query on this driver. The employer will only see this information after the driver provides his or her consent.

If a driver believes information has been inaccurately reported, he or she can [file a petition to initiate a data review](#).

TRAVIS EDWARDS

Driver Prohibited

Date of Birth: ██████████

Country: United States State: Kansas CDL Number: K02373869

LEARN MORE

[Responding to Consent Requests](#)

Open Violations

Employer of Driver

Bredemeier Truck Line

113 N. 5th St
SENECA, KS 66538

Driver Information

TRAVIS EDWARDS

DOB: ██████████ CDL/CLP#: ██████████

Country: United States State: Kansas

Violation Information

Record ID: TEST.138BKK.MTLC

Type of Violation: Positive drug test

Test Date: 1/23/2021 Verified Result: 2/1/2021

Reason for Test: Pre-employment

Specimen ID Number: 2066266868

Tested Positive For: Methamphetamine, Amphetamine

Test Results Entered By

Janelle Jaworski (i3screen) (2/1/2021 3:41:08 PM)

Employer of Driver

Twin Valley

413 Commercial
Greenleaf, KS 66943

Driver Information

TRAVIS EDWARDS

DOB: ████████ CDL/CLP#: ████████

Country: United States State: Kansas

Violation Information

Record ID: TEST.1QQA20.LL82

Type of Violation: Positive drug test

Test Date: 4/4/2022 Verified Result: 4/11/2022

Reason for Test: Random

Specimen ID Number: 2075353743

Tested Positive For: Methamphetamine, Amphetamine

Test Results Entered By

Seth Portnoy (Total Compliance Network) (5/4/2022 11:18:24 AM)

Employer Information

D & M MARKETING LLC (USDOT# 2298256)

1852 90TH AVE
LARNED, KS 67550-5302

Driver Information

TRAVIS EDWARDS

DOB: ████████ CDL/CLP#: ████████

Country: United States State: Kansas

Violation Information

Record ID: TEST.2B011V.P4WK

Type of Violation: Drug test refusal

Test Date: 4/6/2023

Reason for Test: Post-accident

Type of Test Refusal: Failed to cooperate with any part of testing process

Remarks / Additional Information: Travis was in an accident while driving the company's semi. After the accident Travis would not communicate with me, I attempted several times to get a hold of Travis, and even reached out to Travis' girlfriend to try to get ahold of him. I was unsuccessful in getting Travis to communicate with me. Later finding out that Travis retained a lawyer and would not communicate with me.

Test Results Entered By

D & M MARKETING LLC (USDOT# 2298256) (6/2/2023 12:51:31 PM)



Exhibit 4

Electronic Record of Duty Status

D & M Marketing LLC (U.S. DOT# 2298256)

24 Period Start Time: Midnight

Time-Zone: CDT (UTC-5)

ELD Registration Id: B1WN

Driver: Warren Hacker

Driver's License Kansas [REDACTED]

Exempt Driver Status:

Manufacturer: Transflo-Pegasus Transtech

ELD Identifier: TFMELD

Output file comment: 233783

File Generation:05/02/2023 14:38:29, CDT (UTC-5)

Location: 1mi NW IL Barry

Shipping Document Number:

Trailer Numbers:11A

Daily Log

Daily Log: 12/11/2022

Unidentified Driving Time: 00:00:00

Malfunctions: None

Data Diagnostics: None

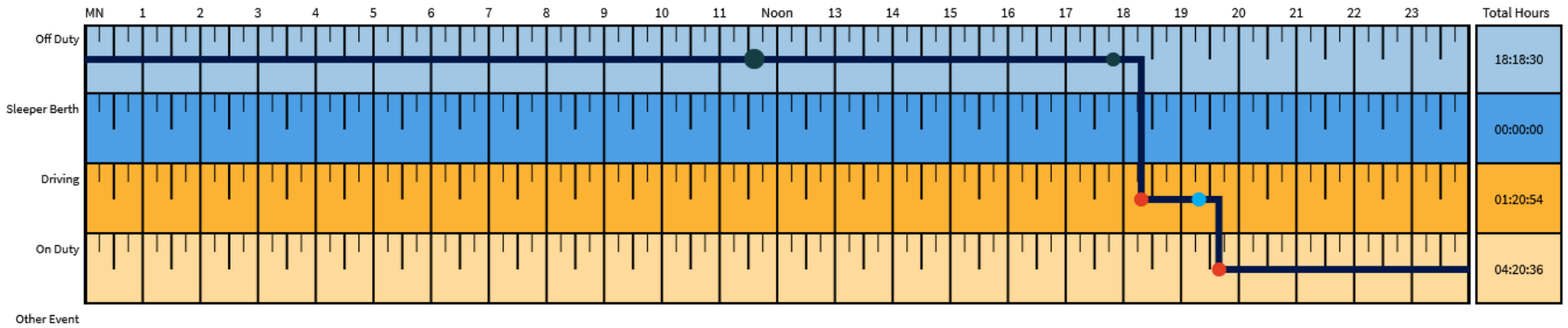
Certified by Driver: No

Date	Certificate
------	-------------

CMVs

Power Unit #	VIN	Shipping Document Number	Start/End Engine Hours	Start/End Odometer	Miles Driven	Unidentified Driver Miles	Miles in Driving Status	Miles in PC/YM
Warren Hac	[REDACTED] 2562		14278 - 14279.8	661030 - 661094	64	0	64	0

Record of Duty Status



Event Detail

Date	Time	Geo Location	Location Coordinates	Odometer	Engine Hours	Event Type/Status	Origin	Sequence #
12/11/2022	11:36:00	1mi N KS Great Bend	38.36, -98.79	661,030		Shut-down	ELD	6
12/11/2022	17:49:18	1mi N KS Great Bend	38.36, -98.79	661,030		Power-up	ELD	7
12/11/2022	18:18:30	1mi N KS Great Bend	38.36, -98.79	661,030	14,278.5	Driving	ELD	8
12/11/2022	19:18:30	5mi W KS McPherson	38.36, -97.76	661,086	14,279.5	Intermediate log	ELD	9
12/11/2022	19:39:24	3mi E KS McPherson	38.37, -97.61	661,094	14,279.8	On-duty, not driving	ELD	A

Exhibit 5

Report Compliance - REGISTERED USERS

D & M MARKETING LLC (USDOT# 2298256)

Address: 1 [REDACTED] US

Email: RAERAEMUNDEN@gmail.com

As of: 8/30/2023 16:01

Report Generated on : 08/30/2023 04:01

Email	Name	Role	Created	Last Login
raeraemunden@gmail.com	Rae Rae Munden	Admin	4/18/2023	6/2/2023

Disclaimer:**This document contains sensitive information and is for official use only. Improper handling of this information could negatively affect individuals. Handle and secure this information according to Federal Motor Carrier Safety Administration privacy and security guidelines. Properly dispose of this document according to agency policy when this document is no longer needed.**

CERTIFICATE OF SERVICE

24-TRAM-258-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 09/26/2023.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

Rae Rae Munden, OWNER
D & M Marketing LLC
1852 90th Ave
Larned, KS 67550
raeraemunden@gmail.com

/S/ KCC Docket Room
KCC Docket Room