

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

January 26, 2017

17-TRAM-318-PEN

Todd Schafer, President
Custom Neon and Vinyl Graphics, Inc.
530 NW Broad Street
Topeka, Kansas 66608

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 January 11, 2017, by Kansas Corporation Commission Special Investigators Verna Jackson and Jared Smith. 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 \$1,650 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,

Ahsan A. Laff
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 **Custom**)
Neon and Vinyl Graphics, Inc., of Topeka,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 17-TRAM-318-PEN
and the Commission's Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 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. Custom Neon and Vinyl Graphics, Inc. (Custom Neon) obtained private operating authority from the Commission on September 9, 2016, and operates under KSMCID number 171069 and USDOT number 784684.

5. Todd Schafer attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 24, 2016, on behalf of Custom Neon.

6. Custom Neon is a private motor carrier which primarily hauls signs.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on January 11, 2017, Commission Staff (Staff) Special Investigators Verna Jackson and Jared Smith conducted a compliance review of the operations of Custom Neon. 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. Jackson and Mr. Smith identified four (4) violations of the Motor Carrier Safety Regulations.

- a. On August 16, 2016, Custom Neon required or permitted its driver, Tim Robitaille, to operate a CDL-required commercial motor vehicle, a 2000 International, VIN ending in 283820, GVWR 33,000 lbs., in interstate commerce from Topeka, Kansas to Weston, Missouri. This trip is evidenced by Contractor Payroll Records, a copy of which is attached

hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Custom Neon had not implemented an alcohol and/or controlled substances testing program for its CDL drivers. The carrier’s failure to establish an alcohol and/or controlled substances program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), as adopted by K.A.R. 82-4-3c, and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$650.

- b. On August 16, 2016, Custom Neon required or permitted its driver, Andy Moulden, to operate a CDL-required commercial motor vehicle, a 1999 International, VIN ending in 601905, GVWR 25,500 lbs., in interstate commerce from Topeka, Kansas to Weston, Missouri. This trip is evidenced by Attachment “B”, a copy of which is attached hereto. At the time of this transportation, Custom Neon failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The special investigators found two (2) violations of this type. Custom Neon’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2016 Supp. 66-1,112. Staff recommends a fine of \$250.

- c. On January 3, 2017, Custom Neon required or permitted its driver, Andy Moulden, to operate a CDL-required commercial motor vehicle, a 1999 International, VIN ending in 601905, GVWR 25,500 lbs., pulling a 1999 Jims Manufacturing utility trailer, VIN ending in 000730, GVWR 7,000 lbs., in intrastate commerce in and around the area of Topeka, Kansas. This trip is evidenced by a written statement, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. Custom Neon permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the 1999 Jims Manufacturing trailer during the preceding 12-month period. Custom Neon’s failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.
- d. On December 20, 2016, Custom Neon required or permitted its driver, Tim Robitaille, to operate a CDL-required commercial motor vehicle, a 2000 International, VIN ending in 283820, GVWR 33,000 lbs., in intrastate commerce from Topeka, Kansas to Powhattan, Kansas. This trip is evidenced by a time-stamped record, a copy of which is attached hereto as Attachment “D” and is hereby incorporated by reference. At the time of this transportation, Custom Neon failed to require its driver to prepare a Driver Vehicle Inspection Report (DVIR) on the commercial motor vehicles operated. The special investigators found 21 violations of this

type. Custom Neon's failure to require each of its drivers to prepare a DVIR in writing, at the completion of each day's work, on each vehicle operated and to submit copies of the reports to the motor carrier for action and record retention is a violation of 49 C.F.R. 396.11(a)(1), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Custom Neon committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$1,650 for four (4) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Custom Neon 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 Custom Neon 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 Custom Neon because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds Custom Neon committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Custom Neon and Vinyl Graphics, Inc., of Topeka, Kansas is hereby assessed a \$1,650 civil penalty for four (4) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Custom Neon 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, Custom Neon 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 Custom Neon's right to a hearing, and this

Penalty Order will become a Final Order assessing a \$1,650 civil penalty against Custom Neon, and ordering Custom Neon 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 \$1,650 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 Custom Neon'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: JAN 26 2017




Amy L. Green
Secretary to the Commission

AAL

Order Mailed Date

JAN 27 2017

ATTACHMENT “A”

	US DOT # 784684	Legal: CUSTOM NEON AND VINYL GRAPHICS INC Operating (DBA):			
MC/MX #:		State #: [REDACTED]		Federal Tax ID: [REDACTED] (EIN)	
Review Type: Compliance Review (CR)					
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.			Territory:
Operation Types		Interstate	Intrastate		
Carrier: HM		HM	Business: Corporation		
Shipper: N/A		N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2015		
Cargo Tank: N/A					
Company Physical Address:					
[REDACTED]					
Contact Name: Todd Schafer					
Phone numbers: (1) [REDACTED]					
E-Mail Address: [REDACTED]					
Company Mailing Address:					
530 NW BROAD STREET TOPEKA, KS 66608-1819					
Carrier Classification					
Private Property					
Cargo Classification					
Other: Signs					
Hazardous Materials					
2.1 LPG		Carried	Non-Bulk	9 Miscellaneous HM	Carried Non-Bulk
Equipment					
	Owned	Term Leased	Trip Leased	Owned	Term Leased Trip Leased
Truck	2	0	0	Trailer	1 0 0
Power units used in the U.S.: 2					
Percentage of time used in the U.S.: 100					
Does carrier transport placardable quantities of HM? No					
Is an HM Permit required? N/A					
Driver Information					
	Inter	Intra	Average trip leased drivers/month: 0		
< 100 Miles:			Total Drivers: 3		
>= 100 Miles:	3		CDL Drivers: 3		





CUSTOM NEON AND VINYL GRAPHICS INC

U.S. DOT #: 784684

State #: [REDACTED]

Review Date:

01/11/2017

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead Road
Topeka, KS 66604
Phone 913-755-1289

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name: Todd Schafer

Title: President

Name:

Title:



	CUSTOM NEON AND VINYL GRAPHICS INC	State #: XXXXXXXXXX	Review Date:
	U.S. DOT #: 784684		01/11/2017

Part B Violations

1 FEDERAL ACUTE	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
Description Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. Example XXXXXXXXXX 8/16/16 XXXXXXXXXX drove 2000 International Truck from Topeka, KS to Weston, MO.				
2 STATE CRITICAL	Primary: 396.11(a)	Discovered 21	Checked 30	Drivers/Vehicles In Violation Checked
Description Failing to require driver to prepare driver vehicle inspection report. Example XXXXXXXXXX 12/20/2016 XXXXXXXXXX drove the 2000 International Truck from Topeka, Kansas to Powhatten, Kansas.				
3 FEDERAL	Primary: 391.21(a)	Discovered 3	Checked 3	Drivers/Vehicles In Violation Checked
Description Using a driver who has not completed and furnished an employment application. Example XXXXXXXXXX 8/16/16 On 8/16/16 XXXXXXXXXX drove the 1999 International Truck from Topeka, Ks to Weston, MO.				
4 FEDERAL	Primary: 391.23(a)	Discovered 2	Checked 3	Drivers/Vehicles In Violation Checked
Description Failing to investigate driver's background. Example XXXXXXXXXX 8/16/16 On 8/16/16 XXXXXXXXXX drove the 1999 International Truck from Topeka, Ks to Weston, MO.				





CUSTOM NEON AND VINYL GRAPHICS INC

U.S. DOT #: 784684

State #: [REDACTED]

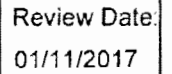
Review Date:

01/11/2017

Part B Violations

5 FEDERAL	Primary: 391.23(c)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to investigate driver's background within 30 days of employment. Andy Moulden 8/16/16 On 8/16/16 [REDACTED] drove the 1999 International Truck from Topeka, Ks to Weston, MO.					
6 FEDERAL	Primary: 391.23(e)(1)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years. Example [REDACTED] 8/16/16 [REDACTED] drover 2000 International Truck from Topeka, KS to Weston, MO.					
7 FEDERAL	Primary: 391.51(b)(4)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). Example [REDACTED] 8/16/16 On 8/16/16 [REDACTED] drove the 1999 International Truck from Topeka, Ks to Weston, MO.					
8 FEDERAL	Primary: 391.51(b)(5)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example [REDACTED] 8/16/16 On 8/16/16 [REDACTED] drove the 1999 International Truck from Topeka, Ks to Weston, MO.					
9 FEDERAL	Primary: 391.51(b)(6)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example [REDACTED] 8/16/16 On 8/16/16 [REDACTED] drove the 1999 International Truck from Topeka, Ks to Weston, MO.					





10 FEDERAL	Primary: 396.3(b)(1)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
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drover 2000 International Truck from Topeka, KS to Weston, MO.

Drivers/Vehicles In Violation	Checked
1	3

drover International Truck connected to utility trailer from shop to Burger King located at 29th and California in Topeka, KS.

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

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



CUSTOM NEON AND VINYL GRAPHICS INC

U.S. DOT #: 784684

State #: [REDACTED]

Review Date:

01/11/2017

Part B Requirements and/or Recommendations

1. 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 carrier's 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.

2. This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.

3. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Custom Neon and Vinyl Graphics failed to implement a drug and substance abuse testing program. Without the implementation of the program, drivers do not have an equal opportunity for random testing and therefore are not eligible to drive a CDL vehicle until such time as the negative test results have been received by the carrier.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and





CUSTOM NEON AND VINYL GRAPHICS INC

U.S. DOT #: 784684

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Review Date:

01/11/2017

Part B Requirements and/or Recommendations

10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.

- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol 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.

4. Ensure that all CDL drivers are enrolled in a random program.
5. Ensure that all persons designated to supervise CDL drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use.
6. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Custom Neon and Vinyl Graphics Inc. was found to be in violation of failing to maintain the responses of each state agency to the annual driver record inquiry, failing to maintain a note relating to the annual review of the driver's driving record as required, failing to maintain a list or certificate relating to violations of motor vehicles laws and ordinances. Without monitoring the correctness at hand, Custom Neon and Vinyl Graphics Inc. cannot validate if the drivers are qualified to operate the vehicles.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- 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.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).





CUSTOM NEON AND VINYL GRAPHICS INC

U.S. DOT #: 784684

State #: [REDACTED]

Review Date:

01/11/2017

Part B Requirements and/or Recommendations

HAZMAT Carriers Only:

- Ensure that HAZMAT assignments are allocated according to qualification requirements.

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.

7. Carrier must conduct the MVR, within 30 days of employment
8. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
9. Each motor carrier shall, at least once every 12 month review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving following review of the driver's MVR and his list of violations or is disqualified to drive pursuant to 49 CFR 391.15, as required by 49 CFR 391.54 (b) (6).
10. At least every 12 months the carrier shall require the driver it employs to prepare or furnish a list of all violations of motor vehicle traffic laws and ordinances as required by 49 CFR 391.27 and prepare a note as required by 391.54 (b) (5)
11. **VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Monitoring and Tracking**



DESCRIPTION OF PROCESS BREAKDOWN Custom Neon and Vinyl Graphics Inc failed to maintain a record identifying the commercial motor vehicles, failed to require drivers to prepare driver vehicle inspection reports, and failed to have trailer annual inspected. The identifying record needs to include the tire size. Driver vehicle inspection reports are required to verify if vehicles are operating correctly. Annual inspections are required on all commercial motor vehicles - trucks and trailers. Without the required actions as noted, the carrier cannot validate the vehicles meet the safety requirements of the regulations.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.
- Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable.
- Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records.
- Monitor and track roadside inspection results to ensure that vehicle defects are repaired and documented promptly and to prevent Out-of-Service (OOS) vehicles from operating prior to being repaired.
- Monitor manufacturer recalls through <http://www.nhtsa.dot.gov> and consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance.
- Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Regularly evaluate the company's vehicle-maintenance-related inspection results via the Federal Motor Carrier Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and



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how to remedy them.

- Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.
- Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRS), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

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.

12. Ensure that all commercial motor vehicles, which would include trailers as well as power units, have a current Annual Inspection as required by 396.17.

13. 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.

For all Investigations that could result in a Penalty Order:





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Review Date:

01/11/2017

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• PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

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

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to:

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

14. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Custom Neon and Vinyl Graphics Inc's operating authority and/or the impoundment of Custom Neon and Vinyl Graphics Inc's commercial motor vehicles.

Carrier Representative

Date



ATTACHMENT “B”



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR PAYROLL RECORDS
 (See Sections 290.210 to 290.340, RSMo and 8 CSR 30-3.010 to 8 CSR 30-3.060)

*** If a worker performs work in more than one occupational title, you must separately list the hours worked per occupational title and wage rates. ***

ATTACHMENT “C”

Andy

1½ Fair Field
5½ Bk Calif

JAN 8 '17 PM 7:50

JAN 8 '17 PM 7:50

JAN 8 '17 PM 7:50

Andy drove '99 International
to the California Street (29")
Burger King and pulled the trailer
loaded with created signs.
Michele January 5th 2017

ATTACHMENT “D”

Tim Robitaille
 Nimgling 1.0
 Groove Shack 2.5
 AB Flint 1.0
 Fidelity Bank 1.5
 DOT Physical 1.5
 Shop .5

DEC 21 '16 AM 7:10

DEC 21 '16 AM 4:29

8

Tim Robitaille
 Kansas Sampler 2.0
 Salisbury 5.0
 Billboard

DEC 22 '16 AM 7:08

DEC 22 '16 AM 3:22

7

Tim Robitaille
 Panda Kitchen 1.5
 BK Shop 1.0
 Shop 1.5

DEC 28 '16 AM 7:27

DEC 28 '16 AM 12:12

4 CHRISTMAS

Tim Robitaille
 Burger King 4.0
 Jones Sign 1.5
 Shop Staff 3.5

DEC 18 '15 AM 7:09

DEC 18 '16 AM 4:25

3 1

Tim Robitaille
 Sae Hox 4.0
 Burger King 2.0
 Shop 2.0
 Replace hoses

DEC 20 '16 AM 7:40

DEC 20 '16 AM 4:25

8

CERTIFICATE OF SERVICE

17-TRAM-318-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 **JAN 26 2017**.

TODD SCHAFER, PRESIDENT
CUSTOM NEON AND VINYL GRAPHICS, INC.
530 NW BROAD STREET
TOPEKA, KS 66608-1819
Fax: 785-233-4109
sales@customneon.biz

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

Order Mailed Date

JAN 27 2017