



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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

20241203105915  
Kansas Corporation  
Commission  
Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
25-TRAM-211-PEN

December 3, 2024

Patrick Johnson, President  
Johnson Excavating LLC  
2277 Cimarron Road  
Galva, Kansas, 67443

This is a notice of a penalty assessment against Johnson Excavating LLC (“Johnson Excavating”) for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted November 1, 2024, by a Kansas Corporation Commission Special Investigator. Penalties are assessed in accordance with the FY 2025 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2024. 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:** Johnson Excavating has been assessed a \$500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$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 Johnson Excavating to attend a Commission-sponsored safety seminar within thirty (30) 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

The attached Order further requires that Johnson Excavating submit a written, comprehensive Corrective Action Plan (“CAP”) to Transportation Staff within thirty (30) days of the date of this order, documenting the violations described in this Penalty Order, including specific and detailed information explaining Carrier’s efforts and concrete steps taken to ensure the violations do not occur in the future.

Finally, the attached Order requires that Johnson Excavating submit to one follow-up safety compliance review within eighteen (18) months from the date of this Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

**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. Johnson Excavating 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.<sup>1</sup>

***IF YOU FAIL TO ACT:*** Failure to pay the penalty of \$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

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<sup>1</sup> K.A.R. 82-1-215; K.S.A. 77-542.



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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

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

Governor Jeff Colyer, M.D.

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  
[Ahsan.Latif@kcc.ks.gov](mailto:Ahsan.Latif@kcc.ks.gov)

**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 **Johnson**     )  
**Excavating LLC, of Galva, Kansas.** Regarding     )  
the Violation(s) of the Motor Carrier Safety     )  
Statutes, Rules and Regulations and the     ) Docket No. 25-TRAM-211-PEN  
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”). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. 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.

2. 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.

3. 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.

4. On November 1, 2024, a Commission Staff (“Staff” or “Transportation Staff”) Special Investigator (“SI”) completed a safety compliance investigation of the operations of Johnson Excavating LLC (“Johnson Excavating” or “Carrier”). Johnson Excavating is a motor carrier as defined in 49 C.F.R. 390.5 and operates under USDOT number 2468891. As a result of the compliance investigation, the SI identified four (4) violation(s), set forth in two (2) count(s), of the Motor Carrier Safety Regulations (“MCSRs”), which carries a penalty according to the FY2025 Uniform Penalty Assessment Matrix.<sup>2</sup>

5. On November 7, 2024, Transportation Staff submitted its Report and Recommendation (“R&R”), attached hereto as Attachment “A” and hereby incorporated by reference, recommending a penalty of \$500 to be issued to Johnson Excavating based on the frequency, timeline, and severity of the violations discovered.

6. The Commission finds it has jurisdiction over Johnson Excavating pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

7. Specifically, based on Staff’s R&R, the Commission finds that Johnson Excavating committed four (4) violation(s) of the following two (2) count(s), discussed more fully in Staff’s R&R:

- a. Count 1: On June 28, 2024, Johnson Excavating was operating commercial motor vehicles without first conducting an annual inquiry into its drivers with the Federal

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<sup>2</sup> Order Designating Guidance Document and Approving Staff’s Use of the Transportation Division’s Uniform Penalty Assessment Table, pp. 10 – 24 (June 27, 2024) (“Penalty Matrix”).

Motor Carrier Safety Administration’s Drug and Alcohol Clearinghouse (“FMCSA DACH”), which resulted in two (2) violations(s) of 49 C.F.R. 382.701(b), adopted by K.A.R. 82-4-3c. The Commission finds that Staff’s recommendation of a penalty of \$250 is appropriate and in accordance with the current Penalty Matrix.

b. Count 2: On June 28, 2024, Johnson Excavating was operating commercial motor vehicles without first maintaining a copy of the motor vehicle record (“MVR”) received from each State in the driver qualification file, which resulted in two (2) violations(s) of 391.51(b)(2) and (4), adopted by K.A.R. 82-4-3g. The Commission finds that Staff’s recommendation of a penalty of \$250 is appropriate and in accordance with the current Penalty Matrix.

8. The Commission hereby adopts Staff’s findings as contained in its November 7, 2024, R&R. The Commission concludes that Johnson Excavating LLC has committed four (4) violation(s), set forth in two (2) count(s), of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (“FMCSRs”), as adopted by the Kansas Administrative Regulations (“K.A.R.s”), and is therefore subject to fines totaling \$500. Accordingly, the Commission finds that Johnson Excavating LLC is required to have a representative responsible for the Carrier’s safety compliance attend a Commission-sponsored safety seminar within thirty (30) days from the date of this Order, and provide Litigation Counsel with written proof of attendance within five days.<sup>3</sup> 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](http://kcc.ks.gov/trans/safety_meetings.htm). The Commission further finds that Johnson Excavating LLC is required to submit a written, comprehensive Corrective Action Plan (“CAP”)

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<sup>3</sup> See Staff’s Report and Recommendation, p.3 (Nov. 7, 2024).

that is satisfactory to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.<sup>4</sup> Finally, the Commission finds that Johnson Excavating LLC is required to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order at a time agreeable to Staff.<sup>5</sup>

9. Failure to comply with the requirements of this Penalty Order shall result in suspension of Johnson Excavating LLC's motor carrier operating authority without further notice.<sup>6</sup>

10. The Commission concludes the penalty of \$500 for the four violations set forth above, and the additional four requirements set forth in paragraph 8 are just and reasonable.

**IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Johnson Excavating LLC is hereby assessed a \$500 civil penalty for four (4) violation(s), set forth in two (2) 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. Johnson Excavating LLC is hereby ordered to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within thirty (30) days from the date of this Order, and is to timely provide Litigation Counsel with written proof of attendance within five (5) business days of completing the safety seminar.

C. Johnson Excavating LLC is hereby ordered to submit a written, comprehensive corrective action plan (CAP) that is satisfactory to Transportation Staff within thirty (30) days of

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<sup>4</sup> See Id.

<sup>5</sup> See Id.

<sup>6</sup> K.S.A. 66-1,105.

the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Johnson Excavating LLC is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order at a time agreeable to Staff.

E. 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 Johnson Excavating LLC's right to a hearing, and this Penalty Order will become a Final Order.

F. 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.<sup>7</sup> For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation.<sup>8</sup>

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<sup>7</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

<sup>8</sup> K.S.A. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$500 is due in thirty (30) days from the date of service of this Order. Payment of \$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.

H. Failure of Johnson Excavating LLC to perform, pay or to fully comply with the provisions of this Order, including but not limited to Ordering Clauses A through D, above, will result in suspension of Johnson Excavating LLC's motor carrier operating authority without further notice.<sup>9</sup> 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.

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 12/03/2024



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Lynn M. Retz  
Executive Director

AAL/MKH

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<sup>9</sup> K.S.A. 66-1,105.



# **ATTACHMENT “A”**

## REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

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

**FROM:** Jared Smith, Deputy Director of Transportation

**DATE:** November 7, 2024

**SUBJECT: Docket No. 25-TRAM-211-PEN**

In the Matter of the Investigation of **Johnson Excavating LLC of Galva, 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:**

Johnson Excavating LLC ("Johnson Excavating") is a motor carrier ("MC") possessing public for-hire and private operating authority from the Commission, primarily hauling grain, feed, hay, machinery, and large objects. Johnson Excavating operates under USDOT 2468891.

On November 1, 2024, a Commission Staff Special Investigator ("SI") completed a safety compliance investigation of the operations of Johnson Excavating. 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 SI identified four (4) violations set forth in two (2) specific counts of the Motor Carrier Safety Regulations ("MCSRs"), which carry a penalty according to the FY2025 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline, and severity of the violations discovered by the SI, Commission Transportation Staff ("Staff" or "Transportation Staff") recommend that a penalty of \$500 be issued to the MC.

### **DISCUSSION AND ANALYSIS:**

On November 1, 2024, a Commission Staff SI conducted a safety compliance investigation of the operations of Johnson Excavating. The investigation covers a 365 day period and any previous compliance review. Each specific count is detailed below.

## Count One (1 of 2)

**Authority:** K.S.A. 66-1,111 and 66-1,129.

**Relevant Statutes:** 49 C.F.R. 382.701(b) states: “Annual query required.

(1) Employers must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of this section, an employer may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell the employer whether there is information about the individual driver in the Clearinghouse, but will not release that information to the employer. The individual driver may give consent to conduct limited queries that is effective for more than one year.<sup>1</sup>

**Material Facts and Supporting Documents:** On June 28, 2024, Johnson Excavating required or permitted its driver, Casey Johnson, to operate a CDL required commercial motor vehicle, a 2012 Peterbilt VIN ending in 9138, GVWR 52,000 lbs. while pulling a 2024 Westar VIN ending 0860 with a GVWR 78000 lbs., operated in interstate commerce from Fairmont, Nebraska to Benton, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report No. KSHP93284378 attached hereto as **Exhibit 2**. Additionally, the Federal Drug & Alcohol Clearinghouse (FMCSA DACH) Compliance Report is attached as **Exhibit 3**. MC did not conduct an annual inquiry into its driver, Casey Jonson, within the past year with the FMCSA DACH.

**Violation:** The MC has two drivers, owner/driver Patrick Johnson and driver Casey Johnson. As drivers of commercial motor vehicle performing safety-sensitive functions, both drivers are subject to random drug and alcohol testing each year. Johnson Excavating’s failure to conduct an annual inquiry into its drivers using the FMCSA DACH is a violation of 49 C.F.R. 382.701(b)(2), adopted by K.A.R. 82-4-3c (**Exhibit 1, Page 3**). Two (2) violations were discovered (**Exhibit 1, Page 8**).

**Recommendation:** Staff recommends that the MC be subject to a penalty of \$250, as determined by the FY2025 Uniform Penalty Assessment Matrix approved by the Commission.

## Count Two (2 of 2)

**Authority:** K.S.A. 66-1,111 and 66-1,129.

**Relevant Statutes:** 49 C.F.R. 391.51 states in relevant part: “(b) The qualification file for a driver must include:...

(2) A copy of the motor vehicle record received from each driver's licensing authority pursuant to § 391.23(a)(1);...

(4) The motor vehicle record received from each driver's licensing authority to the annual driver record inquiry required by § 391.25(a);”

49 C.F.R. 391.23(a) states: “Except as provided in subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

(1) An inquiry, within 30 days of the date the driver's employment begins, to each State where the driver held or holds a motor vehicle operator's license or permit during the

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<sup>1</sup> See 49 C.F.R. 382.107 which defines a ‘sa fety-sensitive function’ as including “all time spent at the driving controls of a commercial motor vehicle in operation.”

preceding 3 years, to obtain that driver's motor vehicle record covering that driver's prior 3-year driving history.

(2) An investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years.”

49 C.F.R. 391.25(a): “Except as provided in subpart G of this part, each motor carrier 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 each driver's licensing authority where the driver held a commercial motor vehicle operator's license or permit during the time period.”

The motor vehicle record (“MVR”) received from each State must be maintained in the driver qualification file.

**Material Facts and Supporting Documents:** The MC’s driver qualification file for owner/driver Patrick Johnson or driver Casey Johnson did not contain the required MVR information when reviewed by the SI on November 1, 2024, for the time period at issue. In the case of Case Johnson, the MC had not obtained this document prior to the June 28, 2024, transport described in Count One, above. This is evidenced by an MVR dated April 24, 2023 and an MVR dated October 8, 2024, both attached hereto as **Exhibit 4**. The MC would have needed to obtain an MVR between April 25, 2024 and June 28, 2024 to be in compliance for this transport.

**Violation:** Johnson Excavating failed to provide the SI with a copy of either of its drivers. The MC was unable to provide Casey Johnson’s MVR after the April 24, 2023 MVR had expired, but prior to the June 28, 2024 transport, which is a violation of 49 C.F.R. 359.51(b)(2) and (4), 49 C.F.R. 391.23(a)(1) and 49 C.F.R. 391.25(a), all as adopted by K.A.R. 82-4-3g (**Exhibit 1, Page 3**). Two (2) violations were discovered (**Exhibit 1, Page 8**).

**Recommendation:** Staff recommends that the MC be subject to a penalty of \$250, as determined by the FY2025 Uniform Penalty Assessment Matrix approved by the Commission.

### **RECOMMENDATION:**

Transportation Staff recommends that the Commission find that Johnson Excavating LLC committed four (4) violations set forth in two (2) 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 \$500 for two (2) violations 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 Johnson Excavating LLC require a representative responsible for the company’s safety to attend a Commission-sponsored safety seminar within thirty (30) 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](http://kcc.ks.gov/trans/safety_meetings.htm).

Staff further recommends Johnson Excavating LLC submit a written, comprehensive Corrective Action Plan (“CAP”) to Transportation Staff within thirty (30) days of the date of this

order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Johnson Excavating 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#:** 2468891  
**MC/MX#:** 0

**Legal:** JOHNSON EXCAVATING LLC  
**Operating (DBA):**

**Investigation Date:**  
10/31/2024

**Investigation Type:** Offsite Investigation

**Physical Address**

2277 CIMARRON RD  
GALVA, KS 67443  
United States

**Mailing Address**

2277 CIMARRON RD  
GALVA, KS 67443  
United States

**Contact Information**

**Contact Name:** PATRICK JOHNSON  
**Email:** patjohnson1970@gmail.com  
**Phone:** (620)345-6675    **Cell:** ( )-    **Fax:** ( )-

**Business and Financial**

**Business Type:** Limited Liability Corporation  
**Name of Gross Revenue Provider:** Patrick Johnson  
**Title of Gross Revenue Provider:** Owner  
**Gross Revenue:** ██████████    **For Year Ending:** 12/31/2023  
**Federal Tax ID:** ██████████

**Operation Classification and Type**

**Type of Operation:** Non-HM Interstate Carrier, HM Interstate Carrier

**Operation Classification**

For-Hire Motor Carrier  
Property  
    Exempt Commodities  
    Hazardous Materials  
Private Motor Carrier  
Property – Non-Hazardous Materials  
Property – Hazardous Materials

**Cargo**

Grain, Feed, Hay, Machinery, Large Objects

**Hazardous Materials**

Which of the following hazardous materials requiring a Safety Permit does the company transport?    None

Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E?    N/A

Is an HM Permit required by any State?    No

Hazardous Materials    Class 9 Miscellaneous Hazardous Materials = C, NB

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Truck Tractors	2				Intrastate	Interstate
Trailers	2			< 100 Miles		2
<b>Power units used in the U.S.:</b> 2 <b>Percentage of time used in the U.S.:</b> 100%				>= 100 Miles		
				<b>Average trip leased driver/month:</b> 0 <b>Drivers with CDL:</b> 2 <b>Total Drivers:</b> 2		
<b>Person(s) Interviewed</b>						
<b>Name:</b> PATRICK JOHNSON				<b>Title:</b> PRESIDENT		
<b>Questions</b>						
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		
<b>This report will be used to assess your safety compliance.</b>						



# Violations

## 1. Primary: 382.701 (b)(1)

Failing to conduct an annual query.

### Violations Discovered

Fed	State	Total
2		2

### Checked

Fed	State	Total
2		2

### Example/Notes:

Driver: Casey Johnson

Trip Date: 6/28/2024

Violation: Failing to conduct an annual query. Last query was performed on 2/27/2023.

### Drivers/Vehicles in Violation

Fed	State	Total
2		2

### Checked

Fed	State	Total
2		2

## 2. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

### Violations Discovered

Fed	State	Total
	2	2

### Checked

Fed	State	Total
	2	2

### Example/Notes:

Driver name, Casey Johnson

Trip date. 6/28/2024

Description of violation; Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). Most previous MVR's were run on 10/8/2024, after they received the initial contact letter for a followup review on 9/26/2024.

### Drivers/Vehicles in Violation

Fed	State	Total
	2	2

### Checked

Fed	State	Total
	2	2

## 3. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

### Violations Discovered

Fed	State	Total
	2	2

### Checked

Fed	State	Total
	2	2

**Example/Notes:**

Driver name, Casey Johnson

Trip date. 6/28/2024

Description of violation: Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

<b>Drivers/Vehicles in Violation</b>		
<b>Fed</b>	<b>State</b>	<b>Total</b>
	2	2

  

<b>Checked</b>		
<b>Fed</b>	<b>State</b>	<b>Total</b>
	2	2

## Safety Fitness Rating

### This Investigation is Not Rated

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

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

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: Monitoring and Tracking

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The carrier did not run the annual MVR's as required.

#### Specific Recommended Remedies

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

1. 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.
2. 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.
3. Monitor all drivers who are used on an intermittent basis to ensure that they are medically qualified and have the proper license class and endorsement ("P" or "S").

### BASIC: Controlled Substances/Alcohol

#### Process Breakdown: Monitoring and Tracking

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The carrier failed to complete the annual limited query on the drivers.

#### 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 controlled-substance and alcohol-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 controlled-substance and alcohol regulations and company policies.
2. When monitoring and tracking issues regarding controlled substances and alcohol use, always assess whether they are individual or represent a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

# Recommendations

1. **Additional Information**

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

2. **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.

3. **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.

4. **Clearinghouse Driver Consent**

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

5. **Employers are responsible for the compliance of 49 CFR Part 40.**

Employers are responsible for their officers', employees', agents', consortia, and/or contractors' compliance with the requirements of 49 CFR Parts 40 and 382.

6. **Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

7. **MANDATORY FOLLOW UP REQUIRMENTS (ALL INVESTIGATIONS THAT RESULT IN PENALTY**

1) 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: [jared.L.Smith@ks.gov](mailto:jared.L.Smith@ks.gov)

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Jared Smith

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

2) The KCC requires a representative from Johnson Excavating LLC to attend a Commission-sponsored safety seminar within thirty (30) days from the date of the penalty order. Schedule of the dates for safety seminars can be found on the Commission s website at [ttps://www.kcc.ks.gov/transportation/calendar-of-events](https://www.kcc.ks.gov/transportation/calendar-of-events).

FAILURE TO SUBMIT THE CORRECTIVE ACTION PLAN (CAP) AND ATTEND A SAFETY SEMINAR WITHIN 30 DAYS WILL RESULT IN THE SUSPENSION OF Johnson Excavating LLC operating authority AND/OR THE IMPOUNDEMENT OF Johnson Excavating LLC. vehicles

I understand that these requirements/violations and/or recommendations have been discussed with me and my questions have been answered. I understand that monetary penalties will be assessed as a result of violations found in this compliance review.

Signed \_\_\_\_\_ Date \_\_\_\_\_

## Table 1: Violations Discovered During Review/Inspection

Violation	Date	Identifying Information	Description
<b>391.51(b)(4) - Inquiries into driving record not kept in qualification file</b>			
1	06/28/2024	Driver: No MVR on file	
2	07/20/2024	Driver: No MVR on file	
<b>382.701 (b)(1) - Failing to conduct an annual query.</b>			
1	06/28/2024	Driver: No limited query run.	
2	07/20/2024	Driver: No limited query run.	

## **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: KSHP93284378
Inspection Date: 06/28/2024
Start: 10:27 AM CT End: 10:52 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

Carrier: JOHNSON EXCAVATING LLC

DBA:
609 23RD AVENUE
GALVA, KS, 67443
USDOT: 2468891
MC/MX#:
State#:
Location: BELLEVILLE
Highway: 081
County:
Email:

Phone#: (620)345-6675
Fax#:

Driver: JOHNSON, CASEY L
License#:
Date of Birth:
CoDriver:
License#:
Date of Birth:
State: KS
State:

Milepost: 219 Shipper: POET REFINING
Origin: FAIRMONT,NE Bill of Lading: 353773
Destination: BENTON,KS Cargo: DDG

VEHICLE IDENTIFICATION

Table with columns: Unit, Type, Make, Year, State, Plate, Equipment ID, VIN, GVWR, CVSA #, Issued #, OOS Sticker. Contains two rows of vehicle data.

BRAKE ADJUSTMENTS: No brake measurements required for level II or level III

VIOLATIONS

Table with columns: Section, Type, Unit, OOS, Citation #, VerifyCrash, Violations Discovered. Lists two violations related to window tint and mud flaps.

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: No data for special checks

\* 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: ID/Badge #:
G. Zach 9328

Copy Received By:
CASEY JOHNSON

X

X





## **EXHIBIT 3**

# Queries History

## All Queries

Report Generated on : 10/02/2024 02:48

Key	First Name	Last Name	State	Number	Employer Conducting Query	DOT Number	Query Status	Query Result
QUERY.263Y1	PATRICK	JOHNSON	KS		JOHNSON EXCAVATING LLC	2468891	Completed	Driver Not Prohibited
QUERY.263VI	CASEY	JOHNSON	KS		JOHNSON EXCAVATING LLC	2468891	Completed	Driver Not Prohibited
QUERY.1K49E	PATRICK	JOHNSON	KS		JOHNSON EXCAVATING LLC	2468891	Completed	Driver Not Prohibited
QUERY.1HIP5	CASEY	JOHNSON	KS		JOHNSON EXCAVATING LLC	2468891	Completed	Driver Not Prohibited

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.\*\*

Conducted By	Query Type	Query Submitted	Query Completed
Patrick Johnson	Limited	Manually	2/27/2023
Patrick Johnson	Limited	Manually	2/27/2023
Patrick Johnson	Limited	Manually	12/26/2021
Patrick Johnson	Limited	Manually	11/6/2021

## **EXHIBIT 4**

Driver Services  
 PO Box 12021  
 Topeka KS 66601-2021  
 Mark A. Burghart, Secretary



Phone: 785-296-3671  
 Fax: 785-296-6851  
 www.ksrevenue.gov  
 Laura Kelly, Governor

## Motor Vehicle Record

<b>Customer's Name</b>	JOHNSON, CASEY LEE	<b>Report Timestamp</b>	10/08/2024 13:24
<b>Address</b>	609 23RD AVE, GALVA, Kansas, 67443-8019	<b>Credential Number</b>	[REDACTED]
<b>Height</b>	5 ft 10 Inches	<b>Date Of Birth</b>	[REDACTED]
<b>Eye Color</b>	Brown	<b>Weight</b>	215
<b>Gender</b>	Male	<b>First Issuance Date</b>	4/15/2011 12:00:00 AM
<b>DL Status</b>	VAL	<b>CDL Status</b>	VAL

### Credential Information

Credential Number	Credential Type	CDL Class	DL Class	Issue	Expiration	Restrictions	Endorsements
[REDACTED]	Commercial Driver's License	A		01/06/2021	01/02/2026		N

### CDL Medical Certification Information

<b>Category</b>	1 - Interstate Subject to and Meet 49 CFR Part 391	<b>Issue</b>	01/12/2023
<b>Expiration</b>	01/12/2025	<b>Examiner</b>	MCIRVIN MICHAEL
<b>Status</b>	Active	<b>Examiner License</b>	[REDACTED]
<b>Federal Registry</b>	7578448603	<b>State</b>	Kansas
<b>Phone</b>	6202418822	<b>Examination Date</b>	01/12/2023
<b>Specialty Code</b>	CH - Chiropractor	<b>Code</b>	NI
<b>Issue</b>	01/12/2023	<b>Expiration</b>	01/12/2025
<b>Restrictions</b>	Corrective lenses		

### Accident Information

Accident Date	Case Number	Accident Jurisdiction	County	Severity Type
No records exist				



# Kansas Motor Vehicle Records

A partnership of the  
KANSAS DEPT. OF MOTOR VEHICLES  
& INFORMATION NETWORK  
of KANSAS, INC.

[MVR LTD Search](#)

[Driving Record Codes PDF document](#)

[Helpful Hints](#)

[Contact Info](#)

[KDMV Web site](#)

[Kansas Web site](#)

[Logout of Session \(Casey Johnson\)](#)

## Motor Vehicle Record Search Results

**WARNING:** If you select ANY of the links on this page or hit refresh you will not be able to return to this record without paying again!

### Certificate of Acceptable Use Information:

Name: Casey Johnson

Organization: Johnson Excavating LLC

Address: 609 23rd Ave  
Galva, KS 67443

Phone: 6203456675

Email: patjohnson1970@gmail.com

Section I: **K** - I am an employer or an agent or insurer working on the behalf of an employer of licensed commercial drivers. I am requesting records information in order to obtain or verify information relating to a holder of a commercial driver's license.

### Drivers License search on:

Name: Casey Johnson

Date of Birth: [Redacted]

DL Number: [Redacted]

[Print This Page](#)

### \*\*\* Opt Out Record \*\*\*

JOHNSON CASEY LEE    DOB/01021997    DL# [Redacted]  
SEX/M EYE/BRO HGT/510 WGT/215 IMG/    OLD DL# [Redacted]  
STATUS: REG:VALID KANSAS    CDL:VALID KANSAS    SOC/  
OLN/[Redacted] TYPE/COMMERCIAL    CLASS/    CDLCLASS/A    PREV OLN/  
ENDOR/N ISS/01062021 EXP/01022026 RENEWAL/00000000 OIS/    04152011  
609 23RD AVE  
GALVA    KS 67443-8019  
CAT:1 CODE:NI STATUS:A EXAM:01122023 ISSUE:01122023 EXPIRE:01122025  
SPE EFF:00000000 SPE EXP:00000000 WVR EFF:00000000 WVR EXP:00000000 JRS:KS  
SPC:CH EX NMB:0104003    MED RES:1    TEL:6202418822 REG:7578448603  
LAST NAME:MCIRVIN    SFX:  
FIRST:MICHAEL    MID:D  
CNV/EM2:EXCEEDING WEIGHT LIMITS    CITD/05272022 CNVD/06012022  
CNV ST/KS    CNV LCL/PR    CRT TYP/DIS    CMV IND/Y    CDL IND/  
H2D MAT/N    SPD LMT/00    ACT SPD/000

**CERTIFICATE OF SERVICE**

25-TRAM-211-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 12/03/2024.

MADISEN HANE, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
madisen.hane@ks.gov

PATRICK JOHNSON, PRESIDENT  
JOHNSON EXCAVATING LLC  
2277 Cimarron Rd  
Galva, KS 67443  
patjohnson1970@gmail.com

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

/S/ KCC Docket Room  
KCC Docket Room