

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

November 20, 2014

15-TRAM-201-PEN

Brian Atkinson, President
BDA, Inc.
PO Box 21054
Wichita, Kansas 67208

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 May 7, 2014, by Kansas Corporation Commission Special Investigator Verna Jackson. 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 \$300 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 Executive Director 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. 2013 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,

Michael J. Duenes
Litigation Counsel
(785) 271-3181

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

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

In the Matter of the Investigation of **BDA, Inc.**,)
of Wichita, Kansas, Regarding the Violation of)
the Motor Carrier Safety Statutes, Rules and)
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

Docket No. 15-TRAM-201-PEN

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. 2013 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. 2013 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. 2013 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. BDA, Inc. operates under USDOT number 2355257.

5. BDA, Inc. is a private motor carrier which primarily hauls general freight, machinery, large objects, tools and parts.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on May 7, 2014, Commission Staff (Staff) Special Investigator Verna Jackson conducted a compliance review of the operations of BDA, Inc. 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 identified one (1) violation of the Motor Carrier Safety Regulations.

- a. In August 2013, BDA, Inc. required or permitted its driver, Brian Atkinson, to operate a commercial motor vehicle in interstate commerce. This trip is evidenced by e-mail from Steven C. Harvey to Verna Jackson, dated October 14, 2014, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, BDA, Inc. had not paid its Uniform Commercial Registration fees to operate in interstate commerce. BDA, Inc.'s failure to annually register its commercial motor vehicle(s) operating in interstate commerce over the highways of this state and to pay the appropriate

Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, as authorized by K.S.A. 2009 Supp. 66-1,112 and K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$300.

IV. STAFF'S RECOMMENDATIONS

7. Based upon the available facts, Staff recommends the Commission find BDA, Inc. committed one (1) violation 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.

8. Additionally, Staff recommends a civil penalty of \$300 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

9. Staff further recommends that BDA, Inc. 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.

10. Finally, Staff recommends that BDA, Inc. 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

11. The Commission finds it has jurisdiction over BDA, Inc. because it is a motor carrier as defined in K.S.A. 2013 Supp. 66-1,108.

12. The Commission finds BDA, Inc. committed one (1) violation of Kansas law that govern 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. BDA, Inc., of Wichita, Kansas is hereby assessed a \$300 civil penalty for one (1) violation 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. BDA, Inc. 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, BDA, Inc. is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2013 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 Executive Director, 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 BDA, Inc.'s right to a hearing, and this Penalty Order will become a Final Order assessing a \$300 civil penalty against BDA, Inc., and ordering BDA, Inc. 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. A corporation shall not be permitted to enter an appearance, except by its attorney.

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.*

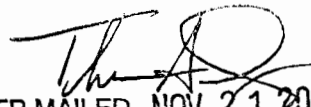
F. Failure to pay the \$300 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of BDA, Inc.'s motor carrier operating authority without further notice. Additionally, the Commission may impose 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 order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Com.; Apple, Com.


Dated: NOV 20 2014


ORDER MAILED NOV 21 2014
Thomas A. Day
Acting Executive Director

MJD

ATTACHMENT “A”

KANSAS HIGHWAY PATROL

	USDOT# 2355257		Legal: BDA INC	
			Operating (DBA):	
MC/MX #:		State #:		Federal Tax ID:
Review Type: Safety Audit – New Entrant		Location of Review/Audit: Company Facility in the U.S.		
Scope: Entire Operation		Territory:		
Operation Types		Interstate	Intrastate	
Carrier:	HM	N/A		
Shipper:	N/A	N/A		
Cargo Tank:	N/A			
		Business: Corporation		
		Gross Revenue: for year ending: 12/31/2014		
Company Physical Address:				
Contact Name: Brian Atkinson				
Phone numbers: (1)		(2)	Fax	
E-Mail Address:				
Company Mailing Address:				
PO BOX 21054 WICHITA, KS 67208, UNITED STATES				
Carrier Classification				
Private Property				
Cargo Classification				
General Freight; Machinery, Large Objects; Other - tools and parts				
Hazardous Materials				
9 Miscellaneous HM		Carried	Non-Bulk	
Does carrier transport placardable quantities of HM?		No		
Is an HM Permit required?		No		
Driver Information				
	Inter	Intra	Average trip leased drivers/month: 0	
< 100 Miles:	0	0	Total Drivers: 1	
>= 100 Miles:	1	0	CDL Drivers: 0	
Equipment				
	Owned	Term Leased	Trip Leased	
Truck	1	0	0	Trailer
	Owned	Term Leased	Trip Leased	
Power units used in the U.S.:	1			
Percentage of time used in the U.S.:	100			





BDA INC
USDOT#: 2355257

Review Date:
5/7/2014

Part A

QUESTIONS regarding this report of the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

1303 SW First American Place, Suite 200

Topeka, Kansas 66604

Phone # (785) 271-1260 Fax # (785) 228-9725

This SAFETY AUDIT will be used to assess your safety compliance.

Person(s) Interviewed:

Name: Brian Atkinson

Title: Officer/ President



BDA INC
USDOT#: 2355257

Review Date:
5/7/2014

Part B Requirements and/or Recommendations

1. Each motor carrier that conducts operations in interstate commerce, must file a Motor Carrier Identification Report, Form MCS-150, every 24 months according to the requirements of Part 390.19.
2. The Unified Carrier Registration (UCR) program requires individuals and companies that operate commercial motor vehicles in interstate or international commerce to register their business with Kansas and pay the annual fee based on the size of their fleet. UCR expires annually on December 31.
3. Obtain proper authority from the Kansas Corporation Commission before operating in commerce.
4. Retain on file a properly completed & current copy of your form MCS-90 financial responsibility endorsement.
5. Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process. (Including an employment application, MVR, medical certificate, previous employer inquiry, previous controlled substance/alcohol testing inquiry, road test or copy of CDL, driver data sheet)
6. Ensure that employers review a candidate's safety performance history data within 30 days of hiring a new driver. The rule enables prospective employers to obtain and use more complete driver safety performance history during the hiring process. Prospective employers will be required to, at a minimum, investigate a driver's employment information, accident record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years. All previous employers are required to respond to the investigating employer within 30 days of receiving the investigation request.
7. A carrier shall, at least once every 12 months, review the motor vehicle record of each driver to determine whether that driver meets the minimum requirements for safe driving. A carrier shall, at least once every 12 months, require a driver to prepare and furnish a list of all violations of motor vehicle traffic laws of which the driver has been convicted during the preceding 12 months.
8. Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.
9. A 100/150 mile radius driver must prepare a time card that shows: Drivers name, date, start time, end time and total time. The driver must report for duty and be released from duty at the same reporting location. If they do not meet all the terms of the exemption, a log must be prepared. See Part 395.1(e)
10. Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.
11. Ensure to keep on file all current copies of annual inspections on all required vehicles. Ensure to keep on file a copy of the Inspector's qualifications for annual inspections. Annual inspections must be completed each year and kept on file.
12. If you have any questions concerning this report, please contact the Federal Motor Carrier Safety Administration, 1303 SW First American Place, Suite 200, Topeka, Kansas 66604, Phone # (785) 271-1260 Fax # (785) 228-9725





BDA INC
USDOT#: 2355257

Review Date:
5/7/2014

Part C

Corporate Contact: Brian Atkinson
Corporate Contact Title: Officer/ President

Special Study Information:

Remarks:

Technical Trooper: Steven C. Harvey KS0480
Date of Audit: 5-7-14
Carrier: BDA Inc.
Carrier Official Title: Officer/ President
Phone Number: [REDACTED]

Scope of Investigation:

This investigation was conducted as per the New Entrant Program on BDA Inc., U.S. DOT 2355257. The audit was conducted at the principal place of business at [REDACTED] Wichita, KS. where the files are kept.

Pre-Investigation: Brian Atkinson, officer/president of the company was contacted and informed of the reason for the Safety Audit and an appointment was made at the principal place of business in Wichita, Ks. Carrier transports equipment in Kansas and into Oklahoma.

Red Flag Drivers: The carrier was run through A&I (SMS) and there were no red flagged drivers discovered.

Carrier Operations: I met with Brian Atkinson, officer/president of the company who operates as a Private Carrier that transports general freight, machinery large object, tools and parts. The carrier owns one truck and one trailer that do not require a CDL.

Gross annual revenue was estimated at [REDACTED] by Mr. Atkinson for fiscal 2014 year.

Insurance: Carrier did not have the required MCS-90 but had required [REDACTED] liability.

Accident File: There were no recordable accidents discovered for this carrier.

Driver Qualification: Carrier was missing an application and MVR for Brian Atkinson.

Drug and Alcohol: Carrier operates vehicles under 26,000 GVWR.

Medical Certificate Verification: I verified a medical card for Brian Atkinson.

Hours of Service: Carrier is using time sheets. Carrier was missing time sheets prior to May of 2014.



Maintenance: Carrier was missing receipts and maintenance verification for their vehicles.

Annual Inspections: Carrier did not have the required annual inspections and inspector qualifications. A Level I inspection was conducted at the time of the audit and the 2006 Dodge passed with no violations.

Chameleon Carrier: The carrier was ran through A&I (NAS) program and there were no commonalities discovered for this carrier.

Unified Carrier Registration: The carrier did not have their UCR fees paid for 2013 or 2014. Carrier was notified prior to the audit to pay the UCR fees.

Kansas Authority: Carrier has no KCC Authority and was directed to contact KCC prior to the audit and at the time of the audit.

Vehicle Inspection: There were no inspections on the carrier profile. A Level I inspection was conducted at the time of the audit.

Hazardous Materials: N/A

Safety Audit Received by: This Safety Audit was given to Brian Atkinson, officer/president of the carrier, who is responsible for the compliance of the Federal Motor Carrier Regulations. All violations discovered were explained with recommendations given to correct the violations.

Upload Authorized:	Yes	No	
Authorized by:			Date:
Uploaded:	Yes	No	Failure Code:
Verified by:			Date:

ATTACHMENT “B”

Verna Jackson

From: Steven C. Harvey <SHarvey@KHP.KS.GOV>
Sent: Tuesday, October 14, 2014 4:58 AM
To: Verna Jackson
Cc: Steven C. Harvey
Subject: RE: SA BDA Inc.

I looked at my notes on my audit and found that on 3-27-14 Mr. Brian Atkinson verbally stated to me that he had made a interstate movement in 2013. I show that the carrier only was using time cards. I am sorry but that is all I have at this time.

Steve

From: Verna Jackson [<mailto:v.jackson@kcc.ks.gov>]
Sent: Thursday, October 09, 2014 11:58 AM
To: Steven C. Harvey
Subject: RE: SA BDA Inc.

Thanks.

From: Steven C. Harvey [<mailto:SHarvey@KHP.KS.GOV>]
Sent: Thursday, October 09, 2014 11:51 AM
To: Verna Jackson
Cc: Steven C. Harvey
Subject: RE: SA BDA Inc.

When I get home I will look.

From: Verna Jackson [<mailto:v.jackson@kcc.ks.gov>]
Sent: Thursday, October 09, 2014 10:37 AM
To: Steven C. Harvey
Subject: RE: SA BDA Inc.

Steve,

What would be helpful is to know the location the carrier traveled. If that is available, would you please forward.

Thanks.

Verna

From: Verna Jackson
Sent: Thursday, October 09, 2014 10:29 AM
To: 'Steven C. Harvey'
Subject: RE: SA BDA Inc.

Not a problem. The verbal is good enough for me because the audit suffices for contact.

Thanks for the information.

Verna

If you do happen to find something, I would appreciate you forwarding for the records.

From: Steven C. Harvey [mailto:SHarvey@KHP.KS.GOV]
Sent: Thursday, October 09, 2014 10:08 AM
To: Verna Jackson
Cc: Steven C. Harvey
Subject: FW: SA BDA Inc.

FYI. I am sorry but this was only a verbal statement by the carrier. I will check on my pre-investigation form to see if there is anything else I wrote down.
Steve

From: Steven C. Harvey
Sent: Wednesday, May 07, 2014 5:54 PM
To: 'ed.boring@dot.gov'
Cc: Steven C. Harvey
Subject: SA BDA Inc.

Carrier stated that he made an interstate movement in August of 2013.

Technical Trooper Steven C. Harvey
Kansas Highway Patrol
Troop I MCSAP
785-296-7189 office
785-623-8580 cell

IN RE: DOCKET NO. 15-TRAM-201-PEN

DATE NOV 20 2014

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
BRIAN ATKINSON, PRESIDENT BDA, INC. PO BOX 21054 WICHITA, KS 67208		
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED NOV 21 2014

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.