

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.

NOTICE OF PENALTY ASSESSMENT

February 8, 2018

18-TRAM-321-PEN

Nicholas Matthew Smith, Owner
d/b/a Alltrade
P O Box 2264
Garden City, Kansas 67846

This is a notice of a penalty assessment against Nicholas Matthew Smith, d/b/a Alltrade (Alltrade) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on January 10, 2018, by Kansas Corporation Commission Special Investigator Penny Fryback. Penalty amounts are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

Alltrade has been assessed a \$1,850 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$1,850 through your personal account with the Kansas Corporation Commission's 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.

ALLTRADE IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed may be available if:

- (1) within fifteen (15) days from the date of this Penalty Order, the carrier signs and submits the attached Reduced Penalty Agreement to Litigation Counsel at the above address;
- (2) within thirty (30) days from the date of this Penalty Order, the carrier submits to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) described in the attached 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;
- (3) within thirty (30) days from the date of this Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter; and
- (4) within eighteen (18) months from the date of this Penalty Order, the carrier must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for a fifty-percent (50%) reduced penalty, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above may be issued by the Commission. Payment of the reduced penalty of \$925 would be due within 30 days from the date of service of the Order Amending Penalty Assessment.

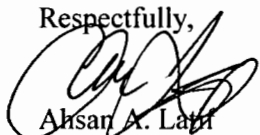
IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Nicholas Matthew Smith, d/b/a Alltrade 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 Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$1,850 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If Alltrade submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$925 and that payment would become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,



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

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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Governor Jeff Colyer, M.D.

REDUCED PENALTY AGREEMENT

18-TRAM-321-PEN

Nicholas Matthew Smith, d/b/a Alltrade (Alltrade) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated February 6, 2018. Alltrade has agreed to comply with the following terms and obligations:

1. Alltrade has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Alltrade will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. Alltrade will, within thirty (30) days from the date of the Penalty Order, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.
4. Alltrade will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Nicholas Matthew Smith, d/b/a Alltrade understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$925, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Alltrade will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2018.

Nicholas Matthew Smith, d/b/a Alltrade

Nicholas Matthew Smith
Owner

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

**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 **Nicholas**)
Matthew Smith, d/b/a Alltrade, of Garden)
City, Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 18-TRAM-321-PEN
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission 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. Nicholas Matthew Smith, d/b/a Alltrade (Alltrade) has common operating authority with the Commission and further operates under USDOT number 2465753.

5. Nicholas M. Smith attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on August 31, 2015, on behalf of Alltrade.

6. Alltrade is a common motor carrier which primarily hauls general freight, metal, sheets, coils, rolls, building materials and appliances.

7. Alltrade is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on January 10, 2018, Commission Staff (Staff) Special Investigator Penny Fryback conducted a compliance review of the operations of Alltrade. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 19, 2017, Alltrade required or permitted its driver, Nicholas Matthew Smith, to operate a commercial motor vehicle, a 1999 Ford F250, VIN ending in 99338, GVWR 8,800 lbs., pulling a tandem axle car trailer with no title and not registration, in interstate commerce from Garden City, Kansas to Big Springs, Texas. This trip is evidenced by Driver's Daily Log,

dated December 19, 2017, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Alltrade failed to keep minimum records of inspection and repairs on the 1999 Ford F250 pickup and the tandem axle car trailer. The carrier’s failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a., above, Alltrade had not obtained a periodic (annual) inspection on the 1999 Ford F250 and the tandem axle car trailer. The carrier’s failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.
- c. On December 11, 2017, Alltrade required or permitted its driver, Nicholas Matthew Smith, to operate a CDL-required commercial motor vehicle, a 2003 Freightliner, VIN ending in 12925, GVWR 33,000 lbs., pulling a 2007 Chaparral forklift semi-trailer, VIN ending in 949135, GVWR 60,000 lbs., in and around the area of Garden City, Kansas, and further driving to Ulysses, Kansas. This trip is evidenced by Delivery Agreement #9157767-1 and Delivery Agreement #9151887-1, copies of which are attached hereto as Attachment “C” and are hereby incorporated by reference. At the time

of this transportation, driver Nicholas Matthew Smith reported on his Driver's Daily Log as "Off Duty" for the entire day, thereby providing a false log entry. Alltrade's falsifying records of duty status is a violation of 49 C.F.R. 395.8(e)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- d. During the transportation described in paragraph a., above, driver Nicholas Matthew Smith came on duty at 8:00 a.m. and was on duty and driving until 5:45 p.m., without taking a 30 minute break. *See*, Attachment "B". Alltrade's failure to provide "rest breaks" to its drivers if more than eight (8) hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes is a violation of 49 C.F.R. 395.3(a)(3)(ii), adopted by K.A.R. 82-4-3, and implemented by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

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

10. Staff recommends a civil penalty of \$1,850 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Nicholas Matthew Smith, d/b/a Alltrade is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil

penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends Nicholas Matthew Smith, d/b/a Alltrade submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this 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. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that a representative from Alltrade attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

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

V. CONCLUSIONS OF LAW

15. The Commission finds it has jurisdiction over Alltrade because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$1,850 should be assessed to Alltrade for committing four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

17. The Commission finds Alltrade is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Nicholas Matthew Smith, d/b/a Alltrade, of Garden City, Kansas is hereby assessed a penalty of \$1,850 for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations. Payment of \$1,850 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

B. A representative from Alltrade is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. 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.

C. Alltrade must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described above, 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.

D. Alltrade is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Alltrade does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$1,850 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A.

66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Alltrade's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. On February 6, 2018, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744325. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

G. **Pursuant to K.S.A. 2016 Supp. 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, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Alltrade's right to a hearing.

H. 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less

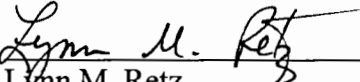
than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

I. 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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: FEB 08 2018




Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

FEB 09 2018

ATTACHMENT "A"

	US DOT # 2465753	Legal: NICHOLAS MATTHEW SMITH Operating (DBA): ALLTRADE		
MC/MX #: 916698		State #: [REDACTED]	Federal Tax ID [REDACTED] (EIN)	
Review Type: Compliance Review (CR)				
Scope: Principal Office		Location of Review/Audit: Other		Territory:
Operation Types Interstate Intrastate				
Carrier: Non-HM Non-HM		Business: Individual		
Shipper: N/A N/A		Gross Revenues: [REDACTED] for year ending: 12/31/2016		
Cargo Tank: N/A				
Company Physical Address: [REDACTED]				
Contact Name: Nicholas Matthew Smith				
Phone numbers: (1) [REDACTED]		Fax		
E-Mail Address: [REDACTED]				
Company Mailing Address: PO BOX 2264 GARDEN CITY, KS 67846				
Carrier Classification				
Authorized for Hire		Private Property		
Cargo Classification				
General Freight		Metal: Sheets, Coils, Rolls		Building Materials
Other: Appliances				
Equipment				
	Owned	Term Leased	Trip Leased	
Truck	2	0	0	Truck Tractor
Trailer	1	2	0	
Power units used in the U.S.: 3				
Percentage of time used in the U.S.: 100				
Does carrier transport placardable quantities of HM? No				
Is an HM Permit required? N/A				
Driver Information				
	Inter	Intra		
< 100 Miles:			Average trip leased drivers/month: 0	
>= 100 Miles:	1		Total Drivers: 1	
			CDL Drivers: 1	





ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part A

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

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Nicholas Matthew Smith

Title: Owner

Name: [REDACTED]





ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part B Violations

1 STATE	Primary: C.F.R. 392.2 Secondary: K.S.A 8 - 142 CFR Equivalent: 392.2	Discovered 1	Checked 5	Drivers/Vehicles In Violation	Checked 5
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Description

Failure to obtain registration on a trailer intended to be operated on any highway within the state of Kansas

Example

Driver Nicholas Smith
Trip Date: 12/19/2017

Driver Nicholas Smith stated that he used the Ford pickup and his two axle car trailer to haul steel from Garden City, Kansas to Big Springs, Texas. Driver Smith stated that the two axle car trailer did not have a current registration and that he did not have a title for the two axle car trailer. He also stated that he did not know if the trailer had a Federal Motor Vehicle Safety Standard (FMVSS) certification label with a VIN number on it.

2 FEDERAL	Primary: 395.3(a)(3)(ii)	Discovered 3	Checked 30	Drivers/Vehicles In Violation	Checked 1
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Description

Failing to ensure commercial motor vehicle drivers log 30-minute breaks on their RODS.

Example

Driver Nicholas Smith
Trip Date: 12/19/2017

Driver Nicholas Smith came on duty at on duty at 08:00 a.m. and was on duty and driving until 05:45 p.m. without a thirty minute break.

3 FEDERAL	Primary: 395.8(e)	Discovered 1	Checked 30	Drivers/Vehicles In Violation	Checked 1
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Description

False reports of records of duty status.

Example

Driver Nicholas Smith
Trip Date: 12/11/2017

Driver Nicholas Smith showed off duty for the entire day. The Delivery receipt showed that he used the truck tractor semi forklift trailer to haul smartside siding to [REDACTED] Hamlin in Garden City, Kansas and that he used his Cube Van truck to haul a door to Ulysses on 12/11/2017.

4 FEDERAL	Primary: 395.8(f)	Discovered 6	Checked 30	Drivers/Vehicles In Violation	Checked 1
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Description

Failing to require driver to prepare record of duty status in form and manner prescribed.

Example

Driver Nicholas Smith
Trip Date: 12/15/2017

On December 15, 2017 Driver Nicholas Smith failed to enter the total hours at the end of the graph and failed to enter shipper and commodity o.r a bill of lading number. Driver Smith had two days where he failed to enter the change of duty status location. Driver Smith never enters the bill of lading information or the shipper and commodity





ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part B Violations

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

Failing to keep minimum records of inspection and vehicle maintenance.

Example

Unit Red Pickup

Trip Date: 12/19/2017

Driver Nicholas Smith did not have any maintenance records for the Red Pickup or the two axle car trailer that he stated he used to haul a load of 20 feet long steel panels. Nicholas Smith stated that he does not have a title or a registration for the tandem axle car trailer.

6 FEDERAL	Primary: 396.17(a)	Discovered 1	Checked 5	Drivers/Vehicles In Violation 1	Checked 5
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Description

Using a commercial motor vehicle not periodically inspected.

Example

Red Pickup

Trip Date: 12/19/2017

No annual inspection was provided for the Red Pickup or the tandem axle car trailer that Mr. Nicholas Smith stated he used to transport 20 foot long sheet of steel to Big Springs, Texas.

Safety Fitness Rating Information:

Total Miles Operated 41,492
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

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

Your proposed safety rating is :

SATISFACTORY

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

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.



ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part B Requirements and/or Recommendations

1. For all Investigations:

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance
- **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

For all Investigations that could result in a Penalty Order:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety





ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part B Requirements and/or Recommendations

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.

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

2. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. Maintenance files must identify the vehicle by make, serial number, year, unit number and tire size, and Unit number
3. Maintain annual inspections in accordance with 396.17 on each vehicle. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of inspection, and the name and address of the motor carrier or entity where the report is maintained
4. After June 30, 2013, driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes when you are required to do a record of duty status (log book).
5. Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
6. The following information must be included on the form in addition to the grid:
(1) Date; (2) Total miles driving today; (3) Truck or tractor and trailer number; (4) Name of carrier; (5) Driver's signature/certification; (6) 24 hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.); (7) Main office address; (8) Remarks; (9) Name of co driver; (10) Total hours (far right edge of grid); change of duty status locations, and (11) Shipping document number(s), or name of shipper and commodity.
7. This review will result in a Safety Rating.
8. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
9. 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 Nicholas Matthew Smith d/b/a Alltrade operating authority and/or the Impoundment of Nicholas Matthew Smith d/b/a Alltrade vehicles.





ALLTRADE (NICHOLAS MATTHEW SMITH dba)
U.S. DOT #: 2465753

State #: [REDACTED]

Review Date:
01/10/2018

Part B Requirements and/or Recommendations

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:

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(1) Date; (2) Total miles driving today; (3) Truck or tractor and trailer number; (4) Name of carrier; (5) Driver's signature/certification; (6) 24 hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.); (7) Main office address; (8) Remarks; (9) Name of co driver; (10) Total hours (far right edge of grid); change of duty status locations, and (11) Shipping document number(s), or name of shipper and commodity.
7. This review will result in a Safety Rating.
8. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
9. I, [Signature] 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 Nicholas Matthew Smith d/b/a Alltrade operating authority and/or the impoundment of Nicholas Matthew Smith d/b/a Alltrade vehicles.



ATTACHMENT “B”



DRIVER'S DAILY LOG

(24 HOURS)

232

555

Total Miles Driving Today

206787

Total Mileage Today

12 / 19 / 17
(Month) (Day) (Year)

Altitude

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days

Name of Carrier or Carriers

Main Office Address

Home Terminal Address

I certify these entries are true and correct:

Driver's Full Signature

Co-Driver's Name

Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

Red Pickup

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY (NOT DRIVING)

REMARKS

SHIPPING DOCUMENTS:

B/L or Manifest No.
or

Shipper & Commodity

Enter name of place you reported and where released from work and when and where each change of duty occurred.

From:

To:

USE TIME STANDARD AT HOME TERMINAL

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DRIVER'S VEHICLE INSPECTION REPORT

AS REQUIRED BY THE D.O.T. FEDERAL MOTOR CARRIER SAFETY REGULATIONS I SUBMIT THE FOLLOWING:

DATE: _____ TRACTOR/TRUCK NO.: _____ TRAILER(S) NO.(S): _____

☐ I DETECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS OPERATION OR RESULT IN ITS MECHANICAL BREAKDOWN

☐ I DETECT THE FOLLOWING DEFECTS OR DEFICIENCIES IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS OPERATION OR RESULT IN ITS MECHANICAL BREAKDOWN

INDICATE WHETHER DEFECTS ARE ON TRACTOR/TRUCK OR TRAILER - DESCRIBE DEFECT IN DETAIL, USE BACK SIDE IF NECESSARY.

DRIVER'S SIGNATURE

☐ ABOVE DEFECTS CORRECTED

☐ ABOVE DEFECTS NEED NOT BE CORRECTED FOR SAFE OPERATION OF VEHICLE

MECHANIC'S SIGNATURE

DRIVER'S SIGNATURE

DATE

ATTACHMENT "C"

55634

Delivery Agreement - Store Copy

Delivery Agreement #9151887-1

Page 1 of 3

Guest Name - Address - Phone - Email
[REDACTED]
Ulysses, KS 67880-2738
[REDACTED] NA NA

Delivery Date: 12/11/2017	Delivery Time: Anytime
Setup Date: 12/07/2017 15:44	
DELIVERY ADDRESS	
Missouri St	
Ulysses, KS 67880-2738	

TERMS AND CONDITIONS
<p>1. Deliveries are during store operating hours. All efforts will be made to accommodate requested times.</p> <p>2. All loads are taken off the truck and placed on the driveway or in the garage if accessible, unless additional handling charges are paid.</p> <p>3. Adequate access and sufficient area is required to unload materials on level grade. If the driver is instructed to unload the material in such a place that is likely to tear up a lawn, crack cement by driving over it, and get the truck or material stuck, etc. the delivery service is not responsible and the delivery guest assumes complete responsibility.</p> <p>4. I agree that the delivery will be provided by an independently owned delivery service. I agree that all disputes over any damages I may suffer due to this delivery including damaged merchandise or shortages will be resolved through the delivery service and therefore agree to hold Menards and its employees harmless due to such damages.</p>

X *Amelia Reis*

GUEST'S SIGNATURE

DATE

PICKING LISTS TO BE DELIVERED	
30077466	\$1324.27
TOTAL: \$1324.27	

DELIVERY SERVICE	
For delivery inquiries or damage claims, please contact the Delivery Service and/or their insurance company below	
Alltrade Nicholas Smith [REDACTED] Garden City, KS 67846 [REDACTED]	Insured through: KFSA Insurance LLC [REDACTED] Garden City, KS 67846 [REDACTED]

Guest has inspected the merchandise on the above special order contracts and found load complete with no damage.

GUEST'S SIGNATURE

DATE

Driver has inspected the merchandise on the above special order contracts and found the following load secure, complete, and without damage.

DRIVER'S SIGNATURE

DATE

Guest Delivery Placement Instructions

door Quantity: 1 Placement: Ground Floor Comments:

Mileage Charge Zone F Trip 1 - Vehicle: Cube van Total Miles: 57


Page 1 of 3

Guest Name - Address - Phone - Email
[REDACTED] Garden City, KS 67846-3431 [REDACTED] NA

Delivery Date: 12/11/2017	Delivery Time: 12 PM - 6 PM
Setup Date: 12/11/2017 09:30	
DELIVERY ADDRESS	
Hamline St Garden City, KS 67846-3431	

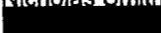

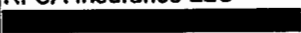
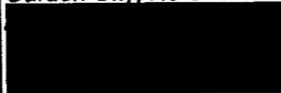
TERMS AND CONDITIONS

1. Deliveries are during store operating hours. All efforts will be made to accommodate requested times
2. All loads are taken off the truck and placed on the driveway or in the garage if accessible, unless additional handling charges are paid.
3. Adequate access and sufficient area is required to unload materials on level grade. If the driver is instructed to unload the material in such a place that is likely to tear up a lawn, crack cement by driving over it, and get the truck or material stuck, etc. the delivery service is not responsible and the delivery guest assumes complete responsibility.
4. I agree that the delivery will be provided by an independently owned delivery service. I agree that all disputes over any damages I may suffer due to this delivery including damaged merchandise or shortages will be resolved through the delivery service and therefore agree to hold Menards and its employees harmless due to such damages.


GUEST'S SIGNATURE

12-11-17
DATE

PICKING LISTS TO BE DELIVERED	
56002	\$83.88
TOTAL:	\$83.88

<p align="center">DELIVERY SERVICE</p> <p align="center">For delivery inquiries or damage claims, please contact the Delivery Service and/or their insurance company below</p>	
<p>Alltrade Nicholas Smith  Garden City, KS 67846 </p>	<p>Insured through: KFSA Insurance LLC  Garden City, KS 67846 </p>

Guest has inspected the merchandise on the above special order contracts and found load complete with no damage.	
GUEST'S SIGNATURE	DATE
Driver has inspected the merchandise on the above special order contracts and found the following load secure, complete, and without damage.	
DRIVER'S SIGNATURE	DATE

Guest Delivery Placement Instructions			
smartside	Quantity	1 Placement	Driveway Comments
Mileage Charge	Zone A Trip 1 - Vehicle	Semi-forklift tractor trailer	Total Miles. 3

CERTIFICATE OF SERVICE

18-TRAM-321-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
first class mail/hand delivered on FEB 08 2018.

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

NICHOLAS MATTHEW SMITH, OWNER
NICHOLAS MATTHEW SMITH
D/B/A ALLTRADE
PO BOX 2664
GARDEN CITY, KS 67846
nickeliminator@hotmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

FEB 09 2018