

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

In the Matter of the Investigation of **Daniel's**)
Moving and Storage, Inc., of Wichita,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 16-TRAM-295-PEN
and the Commission's Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

**STAFF'S MOTION TO DISMISS
RESPONDENT'S REQUEST FOR HEARING**

Litigation Counsel for Staff of the State Corporation Commission of the State of Kansas (Litigation Counsel, Staff and Commission, respectively) presents the above-captioned matter to the Commission for dismissal of Daniel's Moving and Storage, Inc.'s (Respondent) Request for a Hearing, with prejudice. In support of its Motion, Litigation Counsel states as follows:

1. On November 20, 2015, Staff Special Investigator Gary Goeller conducted a compliance review of the operations of Daniel's Moving and Storage. A copy of the safety compliance review is included as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Goeller identified five (5) violations of the Motor Carrier Safety Regulations.

1. On January 5, 2016, the Commission issued a Penalty Order wherein Respondent was assessed \$4,350.00 in civil fines. A copy of the Penalty Order is included as Attachment "B" and is hereby incorporated by reference. These fines were comprised of a \$2000.00 fine for falsifying records of duty status in violation of 49 C.F.R. 395.8(e), as adopted by K.A.R. 82-4-3a, and as authorized by K.S.A. 2015 Supp. 66-1,129; a \$100.00 fine for failure to obtain a motor vehicle record on its drivers within 30 days of employment and maintain the MVRs in the driver

qualification files pursuant to 49 C.F.R. 391.51 in violation of 49 C.F.R. 391.23(a)(1) and (b) as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2015 Supp. 66-1,129; a \$500.00 fine for operating a commercial motor vehicle with the registration in another entities name in violation of K.S.A. 8-142; a \$1,000.00 fine for not having Federal Motor Carrier Safety Association (FMCSA) operating authority to operate on the highways of this country in violation of 49 C.F.R. 392.9a(a)(1), as adopted by 82-4-3a, and as authorized by K.S.A. 2015 Supp. 66-1,129; and a \$750.00 fine for failure to establish an alcohol and/or controlled substances program for its drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c in violation of 49 C.F.R. 382.115(a), as adopted by K.A.R. 82-4-3c, and as authorized by K.S.A. 2015 Supp. 66-1,129.

2. K.S.A. 77-542(a) states: "Any notice of agency action resulting in a right to request a hearing pursuant to the Kansas Administrative Procedure Act must include a statement informing the person that a written request for a hearing must be filed with the agency within 15 days of service of the notice."

3. A Notice of Penalty Assessment accompanied the January 5, 2016 Penalty Order and advised Respondent as follows:

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2015 Supp. 77-542.

4. Paragraph C of the Commission's Penalty Order further clarifies:

Failure to timely request a hearing will result in a waiver of Daniel's Moving and Storage's right to a hearing, and this Penalty Order will become a Final Order assessing a \$4,350 civil penalty against Daniel's Moving and Storage, and ordering Daniel's Moving and Storage 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.(underlining included in original)

5. The date stamped on the last page of the order is January 6, 2016 making any request for hearing due to be received by January 21, 2016.

6. On February 19, 2016, Respondent filed a formal Request for Hearing. A copy of Respondent's Request for Hearing is included as Attachment "C" and is hereby incorporated by reference. This request was delivered to the Commission and filed in the Docket Room, but Litigation Staff was unaware Respondent's Request until recently.

7. Respondent's Request claims that notice was received at its corporate safety office on January 29, 2016, presumably after being relayed there from the Wichita office where the compliance review took place. Even if January 29, 2016 is considered the effective date of service, which Staff argues it is not, the Request for Hearing would have been due on February 15, 2016 at the latest. Yet, Respondent's Request for Hearing was received four days out of time on February 19, 2016.

8. Respondent's Request for hearing was received thirty (30) days out of time from the correct deadline, January 21, 2016.

9. After the Request for Hearing was filed there were no inquiries by Respondent as to the status of their request, the scheduling of a hearing before the Commission or any contact whatsoever regarding the pending penalty.

10. Transportation Staff has reviewed Respondent's Request for Hearing and do not find the arguments or additional paperwork provided persuasive to reduce the civil penalty included in the January 5, 2016 Penalty Order.

11. Litigation Counsel for Staff moves to dismiss, with prejudice, Daniel's Moving & Storage, Inc.'s Request for Hearing based on the fact that the request is out of time by thirty (30) days.

12. Litigation Counsel for Staff further requests the status of the above-referenced docket be changed to "closed."

13. All Commission notices of violations, subsequent invoices and enforcement actions, if any, against Respondent remain in effect.

WHEREFORE, for the reasons set forth above, Litigation Counsel for Staff respectfully requests the Commission find that Respondent's Request for Hearing be dismissed, the status of this docket be changed to "closed," and that all Commission notices of violations, subsequent invoices and enforcement actions, if any, remain in effect.

Respectfully submitted,



Ahsan A. Latif, S. Ct. #24709
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3181 (Telephone)
(785) 271-3124 (Facsimile)
Email: a.latif@kcc.ks.gov

For Commission Staff

ATTACHMENT "A"

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

January 5, 2015

16-TRAM-295-PEN

Dave King, General Manager
Daniel's Moving and Storage, Inc.
7716 E Osie
Wichita, Kansas 67207

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 November 20, 2015, by Kansas Corporation Commission Special Investigator Gary Goeller. 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 \$4,350 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

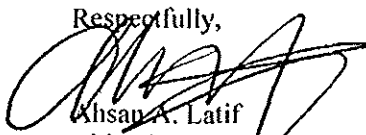
IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2015 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,



Khshan A. Latif
Litigation Counsel
(785) 271-3118

**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 Daniel's)
Moving and Storage, Inc., of Wichita, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 16-TRAM-295-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). 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. 2015 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. 2015 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. 2015 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. Daniel's Moving and Storage, Inc. (Daniel's Moving and Storage) obtained common operating authority from the Commission on July 30, 2012, and operates under KSMCID number 169169 and USDOT number 1293335.

5. Ross Davis attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on July 10, 2012, on behalf of Daniel's Moving and Storage.

6. Daniel's Moving and Storage is a common motor carrier which primarily hauls household goods.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on November 20, 2015, Commission Staff (Staff) Special Investigator Gary Goeller conducted a compliance review of the operations of Daniel's Moving and Storage. 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, Mr. Goeller identified five (5) violations of the Motor Carrier Safety Regulations.

- a. On October 16, 2015, Daniel's Moving and Storage required or permitted its driver, Evelyn Hill, to operate a commercial motor vehicle, a 2001 International, VIN ending in 356199, in interstate commerce from Corpus Christy, Texas to Wichita, Kansas. This trip is evidenced by Driver's

Record of Duty Status, dated October 16, 2015, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. The driver's log shows on duty at 5:30 a.m. starting in Corpus Christy, Texas and post-trip at Wichita, Kansas at 1800 hours and off duty at 1830 hours. Toll receipts show exiting at south Wichita, Kansas exit at 2245:14 hours and time sheet shows off duty at 2330 hours with payroll showing 17.5 hours of drive time for October 16, 2015. See Kansas Turnpike Authority Receipt, dated October 16, 2015, and time record for Evelyn Hill on October 16, 2015, copies of which are attached hereto as Attachment "C" and are hereby incorporated by reference. The record of duty status of Evelyn Hill for October 16, 2015, was false reporting. Daniel's Moving and Storage's falsifying records of duty status is a violation of 49 C.F.R. 395.8(e), as adopted by K.A.R. 82-4-3a, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$2,000.

- b. On September 17, 2015, Daniel's Moving and Storage required or permitted its driver, Rebecca Hisken, to operate a commercial motor vehicle, a 1999 Isuzu, VIN ending in 7007395, in intrastate commerce in and around the area of Wichita, Kansas. This trip is evidenced by Driver/Vehicle Examination Report No. KSHP04230528, dated September 17, 2015, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. Daniel's Moving and Storage failed to obtain Rebecca Hisken's motor vehicle record (MVR)

within 30 days of employment. The carrier's failure to obtain MVRs on its drivers within 30 days of employment and maintain the MVRs in the driver qualification files pursuant to 49 C.F.R. 391.51 is a violation of 49 C.F.R. 391.23(a)(1) and (b) as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$100.

- c. During the transportation described in paragraph b., above, Daniel's Moving and Storage was knowingly operating the commercial motor vehicle which was not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year. The plate on the commercial motor vehicle was registered to the current owner. It was registered to McCormack Payton Storage & Moving Co. See Registration Renewal Receipt, dated August 4, 2015, a copy of which is attached hereto as Attachment "E" and is hereby incorporated by reference. Daniel's Moving and Storage operating a commercial motor vehicle with the registration in another entities name is a violation of K.S.A. 8-142. Staff recommends a fine of \$500.
- d. On September 19, 2015, Daniel's Moving and Storage required or permitted its driver to operate a commercial motor vehicle, a 2001 International, VIN ending in 356199, in interstate commerce from Euless, Texas to Derby, Kansas. This trip is evidenced by Uniform Household Goods Bill of Lading and Freight Bill, dated September 19, 2015, a copy

of which is attached hereto as Attachment "F" and is hereby incorporated by reference. At the time of this transportation, Daniel's Moving and Storage did not have FMCSA operating authority for the transportation of household goods. See Company Snapshot for Daniel's Moving and Storage, Inc., showing operating status as "Not Authorized," a copy of which is attached hereto as Attachment "G" and is hereby incorporated by reference. Daniel's Moving and Storage not having FMCSA operating authority to operate on the highways of this country is in violation of 49 C.F.R. 392.9a(a)(1), as adopted by 82-4-3a, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- e. On October 2, 2015, Daniel's Moving and Storage required or permitted its driver, Terry Dunn, to operate a commercial motor vehicle, a 2006 Freightliner, VIN ending in 90534, in intrastate commerce from Scott City, Kansas to Wichita, Kansas. This trip is evidenced by Driver's Daily Log, dated October 2, 2015, a copy of which is attached hereto as Attachment "H" and is hereby incorporated by reference. At the time of this transportation, Daniel's Moving and Storage did not have implemented a random alcohol and/or controlled substance testing program for its drivers. The carrier's failure to establish an alcohol and/or controlled substances program for its drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), as adopted by K.A.R. 82-4-3c, and

as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$750.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Daniel's Moving and Storage committed five (5) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$4,350 for five (5) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Daniel's Moving and Storage be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Daniel's Moving and Storage submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Daniel's Moving and Storage because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

13. The Commission finds Daniel's Moving and Storage committed five (5) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor

Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Daniel's Moving and Storage, Inc., of Wichita, Kansas is hereby assessed a \$4,350 civil penalty for five (5) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Daniel's Moving and Storage 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, Daniel's Moving and Storage is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Daniel's Moving and Storage's right to a hearing, and this Penalty Order will become a Final Order assessing a \$4,350 civil penalty against Daniel's Moving and Storage, and ordering Daniel's Moving and Storage to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

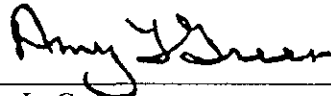
F. Failure to pay the \$4,350 civil penalty within thirty (30) days of the service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Daniel's Moving and Storage's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JAN 05 2016




Amy L. Green
Secretary to the Commission





AAL

Order Mailed Date
JAN 06 2016

ATTACHMENT "B"

	US DOT # 1293335	Legal: DANIEL'S MOVING AND STORAGE INC Operating (DBA):	
MC/MX #: [REDACTED]	State #: [REDACTED]	Federal Tax ID: [REDACTED] (EIN)	
Review Type: Compliance Review (CR)			
Scope: Principal Office	Location of Review/Audit: Company facility in the U. S.		Territory: F
Operation Types: Interstate Intrastate			
Carrier: Non-HM Non-HM	Business: Corporation		
Shipper: N/A N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2014		
Cargo Tank: N/A			
Company Physical Address:			
[REDACTED]			
Contact Name: Dave King			
Phone numbers: (1) [REDACTED]		Fax	
E-Mail Address: [REDACTED]			
Company Mailing Address:			
6131 W VAN BUREN PHOENIX, AZ 85043			
Carrier Classification:			
Authorized for Hire			
Cargo Classification:			
Household Goods			
Equipment			
	Owned	Term Leased	Trip Leased
Truck	4	0	2
Trailer	10	0	0
	Owned	Term Leased	Trip Leased
Truck Tractor	3	0	0
Power units used in the U.S.: 9			
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:		11	
>= 100 Miles:	2		
Average trip leased drivers/month: 0			
Total Drivers: 13			
CDL Drivers: 2			



	DANIEL'S MOVING AND STORAGE INC U.S. DOT #: 1293335	State #: 	Review Date: 12/09/2015
Part A			
<p>QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:</p> <p style="padding-left: 40px;">Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd., Topeka, KS 66604-4027</p>			
This report will be used to assess your safety compliance.			
<u>Person(s) Interviewed</u>			
Name: Dave King		Title: General Manager	
Name: 		Title: 	

	DANIEL'S MOVING AND STORAGE INC	State #: [REDACTED]	Review Date:
	U.S. DOT #: 1293335		12/09/2015

Part B Violations

1 FEDERAL ACUTE	Primary: 382.305	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<p>Description Failing to implement a random controlled substance and/or an alcohol testing program.</p> <p>Example Driver [REDACTED] Trip date 10.02.2015, Intra state trip</p> <p>Driver is in Atlas Van Lines random testing pool and pre employment test was on Atlas Van Lines testing CCF. Daniel's Moving and Storage Inc does not have its own Controlled substance and/or alcohol testing programs. They are not owned by Atlas nor are they a subsidiary of Atlas Van lines.</p>					
2 FEDERAL CRITICAL	Primary: 395.8(e)	Discovered 12	Checked 25	Drivers/Vehicles In Violation 2	Checked 5
<p>Description False reports of records of duty status.</p> <p>Example [REDACTED] Truck # 73993 Trip Date 10.16.2015 Driver's log shows on duty at 0530 starting in Corpus Christy, TX and post trip at Wichita, KS at 1800hrs and off duty at 1830 hrs. Toll receipts show exiting at south Wichita, KS exit at 2245:14 time sheet shows off duty at 23:30 with payroll showing 17.5 hours for 10.16.2015</p> <p>[REDACTED] Trip date 10.21.2015 Logs for 10-16-20-2015 show off duty and time sheets shows working 10-16,17,19,20-2015</p>					
3 STATE CRITICAL	Primary: 395.8(e) CFR Equivalent: 395.8(e)	Discovered 14	Checked 125	Drivers/Vehicles In Violation 2	Checked 5
<p>Description False reports of records of duty status.</p> <p>Example [REDACTED] Truck # 73993 Trip Date 10.16.2015</p> <p>Driver's log shows on duty at 0530 starting in Corpus Christy, TX and post trip at Wichita, KS at 1800hrs and off duty at 1830 hrs. Toll receipts show exiting at south Wichita, KS exit at 2245:14 time sheet shows off duty at 23:30 with payroll showing 17.5 hours for 10.16.2015</p> <p>[REDACTED] Trip date 10.21.2015 Logs for 10-16-20-2015 show off duty and time sheets shows working 10-16,17,19,20-2015</p>					

	DANIEL'S MOVING AND STORAGE INC U.S. DOT #: 1293335	State #: [REDACTED]	Review Date: 12/09/2015
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Part B Violations

4	Primary: 376.11 Secondary: 376.12	Discovered 9	Checked 11	Drivers/Vehicles In Violation Checked 9 11
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Description

Authorized carrier performed authorized transportation in equipment it does not own without obtaining a written lease.

Trip date 09.22.2015

driver [REDACTED]

Unit # 73993

Indiana Registration tag # [REDACTED] to Atlas Van Lines Inc.

Loaded household goods in Salina, KS, to Wichita, KS to crate and freight with End Destination in Virginia

Leases for owned equipment for Kansas and Interstate Operations are in former company name

No current lease agreements for registration or operations.

5	Primary: 382.105 Secondary: 40.47(a)	Discovered 1	Checked 5	Drivers/Vehicles In Violation Checked 1 5
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Description

Using a DOT custody and control form to perform non-DOT test

Example

Trip date 09.17.2015

Driver [REDACTED]

Using a federal Chain of custody and control form on a non CDL driver.

Operated a 1999 Isuzu box truck KS tag [REDACTED] gvw 12000 in Wichita, KS on a intra state trip transporting household goods

6	Primary: 390.19(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked 0 0
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Description

Failing to update MCS150 every 24 months

Example

MCS-150 last updated on 06-13-2012

7	Primary: 390.21(a)	Discovered 3	Checked 5	Drivers/Vehicles In Violation Checked 3 5
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Description

Failing to ensure self-propelled CMV, as defined in section 390.5, is marked as specified in paragraphs (b), (c), and (d) of 390.21.

Example

Trip date

09.22.2015

Driver [REDACTED]

Unit # 73993

Indiana Registration tag# [REDACTED] to Atlas van Lines.

Vehicle marked with former owners Name





DANIEL'S MOVING AND STORAGE INC
U.S. DOT #: 1293335

State #: 169169

Review Date:
12/09/2015

Part B Violations

8 STATE	Primary: 391.11(b)(8) Secondary: 391.11(a) CFR Equivalent: 391.11(b)(8)	Discovered 1	Checked 3	Drivers/Vehicles In Violation 1	Checked 3
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Description

Using a driver who has not taken a road test or who has not been issued a certificate of driver's road test or presented an operators license, or certificate of road test which the motor carrier accepted as equivalent.

Example

Trip date 09.17.2015

Driver [REDACTED]

No road test on file for non-CDL driver

Operated a 1999 Isuzu box truck KS tag [REDACTED] gvwr 12000 in Wichita, KS on a intra state trip transporting household goods

9 STATE	Primary: 391.23(b)	Discovered 1	Checked 3	Drivers/Vehicles In Violation 1	Checked 3
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Description

(b) A copy of the motor vehicle record(s) obtained in response to the inquiry or inquiries to each State required by paragraph (a)(1) of this section must be placed in the driver qualification file within 30 days of the date the driver's employment begins and be retained in compliance with § 391.51

Example

Trip date 09.17.2015

Driver [REDACTED]

hire date 01.22.2015

Failing to place MVR on file within 30 days of employment. No MVR on file

Operated a 1999 Isuzu box truck KS tag [REDACTED] gvwr 12000 in Wichita, KS on a intra state trip transporting household goods

10 STATE	Primary: 391.23(c) CFR Equivalent: 391.23(c)	Discovered 1	Checked 3	Drivers/Vehicles In Violation 1	Checked 3
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Description

Failing to investigate driver's background within 30 days of employment.

Example


Driver Name, [REDACTED]

Trip Date 10.2.2015

Hire Date 08.25.2015

Carrier failed to complete previous employer record checks within 30 days of employment.



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Part B Violations				
11 FEDERAL	Primary: 391.23(c) Description Failing to investigate driver's background within 30 days of employment. [REDACTED] Trip date 10.21.2015 Hire date 08.09.2015 Carrier failed to complete previous employer record checks within 30 days of employment.	Discovered 1	Checked 2	Drivers/Vehicles In Violation Checked 1 2
12 STATE	Primary: 391.25(a) CFR Equivalent: 391.25(a) Description Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months. Example [REDACTED] Trip date 09.23.2015 employment date 09.08.2014 Carrier failed to complete MVR on driver every 12 months from the date of employment	Discovered 1	Checked 3	Drivers/Vehicles In Violation Checked 1 3
13 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5) Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example [REDACTED] Trip date 09.23.2015 employment date 09.08.2014 Carrier failed to complete note on the annual review of the driver's driving record as required.	Discovered 1	Checked 3	Drivers/Vehicles In Violation Checked 1 3
14 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6) Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example [REDACTED] Trip date 09.23.2015 employment date 09.08.2014 no driver certification of violations on file	Discovered 1	Checked 3	Drivers/Vehicles In Violation Checked 1 3



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15 STATE	Primary: 391.51(b)(9) CFR Equivalent: 391.51(b)(9)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver disqualification file(s). Example Trip date 09.17.2015 Driver [REDACTED] no note in file confirming medical examiner's listing on the National Registry of certified medical examiners. Operated a 1999 Isuzu box truck KS tag [REDACTED], gvwr 12000 in Wichita, KS on a intra state trip transporting household goods					
16 FEDERAL	Primary: 391.51(b)(9)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
Description Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s). Example [REDACTED] Truck # 73993 Trip Date 10.16.2015					
17 STATE	Primary: 392.2 Secondary: 8-142	Discovered 2	Checked 5	Drivers/Vehicles In Violation 2	Checked 5
Description To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, Example Trip date 09.17.2015 Driver [REDACTED] Carrier registration still listed to former owner's of company McCormack Payton Storage & Moving Co, KS tag 344EUP, Truck # 63234					



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18 FEDERAL	Primary: 392.9a(a)(1) Secondary: 14901(d)(3)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
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Description

Operating without the required operating authority under 49 USC 14901(d)(3). (Household Goods).

Trip date 09.19.2015

Household Goods

Euless, TX to Derby, KS

MC# XXXXXXXXXX shows not active but pending

No current lease agreements in trucks for Atlas Van lines, Old lease for former company owner in truck. Ownership changed in 2008-2009

19 STATE	Primary: 395.8(f)(5)	Discovered 3	Checked 35	Drivers/Vehicles In Violation Checked
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Description

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

Example

XXXXXXXXXX
Trip Date 09.30.2015

driver failed to list vehicle identification

Safety Fitness Rating Information:

Total Miles Operated 150,000
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 2
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 1

Your proposed safety rating is :

CONDITIONAL

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

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.



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If this was a focused investigation, which will be noted in the Review Type on the first page of this report (Part A), some factors shown above may be marked "SATISFACTORY" even if they were not reviewed. A focused investigation will not result in a SATISFACTORY safety rating because all standards and factors specified in 40 CFR 383.5 and 385.7 were not examined in full, even though it may appear that they were under the rating factors in Part B of this document. It may, however, result in a less than SATISFACTORY rating if sufficient violations are discovered in the parts and factors examined to result in a CONDITIONAL or UNSATISFACTORY rating, or a non-ratable review.

If you receive a conditional or unsatisfactory rating, you may request an administrative review under 49 CFR 385.15 or a safety rating upgrade based on corrective action under 49 CFR 385.17. However, a successful request may only result in a non-ratable status, upgrade to a conditional safety rating, or reinstatement of your most recent safety rating. You will not receive a new satisfactory safety rating as a result of your request(s) under 49 CFR 385.15 and/or 49 CFR 385.17.





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1. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm
2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. Ensure that all vehicles are properly marked with your name or trade name and U.S. DOT number. If your vehicles are also periodically operating for other carriers, they must be marked with that carrier's name and U.S. DOT#.
4. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
5. If you have any questions concerning this report, please contact the Kansas Corporation Commission: Attn: Gary Davenport, Deputy Director, 1500 SW Arrowhead Road, Topeka, KS 66604-4027 (785-271-3151)
6. Cease all interstate or foreign transportation until properly registered with the Federal Motor Carrier Safety Administration.
7. Obtain a copy of each driver's driving record and review it annually.
8. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
9. 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.
10. Do not allow physically unqualified drivers to drive in interstate or intrastate commerce.
11. 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.

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

DESCRIPTION OF PROCESS BREAKDOWN: Carrier does not have its own controlled substance and alcohol testing program. For operations of Daniel's Employee drivers Daniel's Moving and Storage Inc must have its own controlled substance and/or Alcohol testing program. They can not use Atlas Van Lines program. Carrier needs dedicated FMCSA safety compliance person to ensure regulations are followed.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all





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controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.

- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

13. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Carrier does not have anyone in house monitoring logs or time records for compliance with the Federal Motor Carrier Safety Regulations.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.





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Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

14. U.S. DEPARTMENT OF TRANSPORTATION FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION MIDWEST SERVICE CENTER 4749 LINCOLN MALL DRIVE SUITE 300A MATTESON, IL 60443

HOW TO REQUEST AN UPGRADE TO YOUR SAFETY RATING BASED ON CORRECTIVE ACTION

The Federal Motor Carrier Safety Administration (FMCSA) allows a motor carrier to request an upgrade of its safety rating based on corrective action as defined in 49 CFR section 385.17. The motor carrier's request for an upgrade must include a written description of corrective actions taken, documentation of these corrective actions, and an explanation of how its operations meet the safety standards and factors specified in 49 CFR sections 385.5 and 385.7.

The FMCSA requires a description of the corrective taken and will accept a Safety Management Plan (SMP) that outlines how you will prevent future violations as evidence of the safety management controls that have been put into place to satisfy the regulations of 49 CFR sections 385.5 and 385.7. You may at any time request, in writing, a change to your safety rating based on corrective actions. However, if your review resulted in a proposed unsatisfactory safety rating you should do so as soon as possible so that FMCSA has the opportunity to review your request before the effective date of the final safety rating. Your submission should be as detailed as possible and clearly indicate that it is a request for a safety rating upgrade under 49 CFR section 385.17. The regulations require that motor carriers submit their requests to the Field Administrator, Federal Motor Carrier Safety Administration, in which the motor carrier maintains its principal place of business. Two copies of the SMP must be prepared and one submitted to each of the following addresses:

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Midwestern Service Center
Field Administrator
4749 Lincoln Mall Drive
Suite 300-A
Matteson, IL 60443

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Kansas Division
Mr. Max Strathman
1303 First American Place
Suite 200
Topeka, KS 66604-4040

The safety management plan should include, but not be limited to, the following:

1. The request should address each violation discovered during the most recent Compliance Review.
2. The request should discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Documentation of this corrective action must be submitted with your safety rating upgrade request. For example, documentation may include new policies and procedures, training programs and sign-in lists, or copies of missing drug and alcohol tests. NOTE: When a motor carrier is cited for a violation of 49 CFR Part 395 (Hours of Service of Drivers), the SMP must include a description of the system that the motor carrier will use to control hours of service and verify the accuracy of records of duty status, the types of supporting documents that will be used, documentation showing hours of service checks and false log checks, and progressive disciplinary programs and the results.
3. Outline actions taken to ensure the violations do not reoccur and long term goals of continuing efforts to stay in compliance in the future.
4. If Factor 4 (Vehicle Factor) out-of-service rate is 34 percent or higher, a systematic maintenance schedule program should be included with the request. The program should include, but not be limited to, ensuring the safety defects reported by the drivers on their vehicle inspection reports are repaired before the vehicle is re-dispatched and a complete file for each subject vehicle, recording all repairs, maintenance and inspection operations





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performed.

? 5. If Factor 6 (Accident Factor) is rated unsatisfactory, an accident countermeasure program should be included as part of the request. The program should include, but not be limited to, defensive driving training, winter driving tips, identification of causative factors, and preventive measures implemented to reduce crashes.

? 6. If the request includes actions that will be conducted in the near future, such as training, reorganization of operations, purchasing of computer programs, satellite tracking, etc., a detailed description of the activity or training, including the specific curriculum, with a schedule of when the activity will commence and be completed, should be included.

? 7. Any additional documentation that relates to motor carrier safety and the prevention of accidents and hazardous materials incidents.

? 8. Include a written statement that the motor carrier will operate in compliance with the Federal Motor Carrier Safety Regulations and the Hazardous Material Regulations, and that the motor carrier's operation currently meets the safety standard and factors specified in 49 CFR sections 385.5 and 385.7. The statement must be signed by a corporate official or owner of the company.

NOTE: Failing to adequately respond to each area listed above may result in a denial of your request for an upgrade to your safety rating.

Sections 385.13, 385.15, & 385.17 - Safety Fitness Procedures

385.13 Unsatisfactory rated motor carriers; prohibition on transportation; ineligibility for Federal contracts.

(a) Generally, a motor carrier rated "unsatisfactory" is prohibited from operating a CMV. Information on motor carriers, including their most current safety rating, is available from FMCSA on the Internet at <http://www.safersys.org/>, or by telephone at (800) 832-5660.

(a)(1) Motor carriers transporting hazardous materials in quantities requiring placarding, and motor carriers transporting passengers in a CMV, are prohibited from operating a CMV in motor carrier operations in commerce beginning on the 48th day after the date of the FMCSA notice of proposed "unsatisfactory" rating.

(a)(2) All other motor carriers rated as a result of reviews completed on or after November 20, 2000, are prohibited from operating a CMV in motor carrier operations in commerce beginning on the 61st day after the date of the FMCSA notice of proposed "unsatisfactory" rating. If FMCSA determines that the motor carrier is making a good-faith effort to improve its safety fitness, FMCSA may allow the motor carrier to operate for up to 60 additional days.

(b) A Federal agency must not use a motor carrier that holds an "unsatisfactory" rating to transport passengers in a CMV or to transport hazardous materials in quantities requiring placarding.

(c) A Federal agency must not use a motor carrier for other CMV transportation if that carrier holds an "unsatisfactory" rating which became effective on or after January 22, 2001.

(d) Penalties.

(d)(1) If a proposed "unsatisfactory" safety rating becomes final, FMCSA will issue an order placing out of service the motor carrier's operations in commerce. The out-of-service order shall apply both to the motor carrier's operations in interstate commerce and to its operations affecting interstate commerce.

(d)(2) If a motor carrier's intrastate operations are declared out of service by a State, FMCSA must issue an order placing out of service the carrier's operations in interstate commerce. The following conditions apply:

(d)(2)(i) The State that issued the intrastate out-of-service order participates in the Motor Carrier Safety Assistance Program and uses the FMCSA safety rating methodology provided in this part; and

(d)(2)(ii) The motor carrier has its principal place of business in the State that issued the out-of-service order.

(d)(2)(iii) The order prohibiting the motor carrier from operating a CMV in interstate commerce shall remain in effect until the State determines that the carrier is fit.

(d)(3) Any motor carrier that operates CMV in violation of this section is subject to the penalty provisions of 49 USC 521(b) and Appendix B to Part 386 of the FMCSR.

[56 FR 40806, Aug. 16, 1991; 62 FR 60042-60043, November 6, 1997; 65 FR 50934, Aug. 22, 2000; 72 FR 36788, July 5, 2007; 72 FR 55700, Oct. 1, 2007]

385.15 Administrative review.

(a) A motor carrier may request FMCSA to conduct an administrative review if it believes FMCSA has committed an error in assigning its proposed safety rating in accordance with Sec. 385.15(c) or its final safety rating in accordance with Sec. 385.11(b).

(b) The motor carrier's request must explain the error it believes FMCSA committed in issuing the safety rating. The motor carrier must include a list of all factual and procedural issues in dispute, and any information or documents that support its argument.

(c) The motor carrier must submit its request in writing to the Chief Safety Officer, Federal Motor Carrier Safety





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Administration, 1200 New Jersey Avenue, SE, Washington DC 20590-0001.

(c)(1) If a motor carrier has received a notice of a proposed "unsatisfactory" safety rating, it should submit its request within 15 days from the date of the notice. This time frame will allow FMCSA to issue a written decision before the prohibitions outlined in Sec. 385.13(a)(1) and (2) take effect. Failure to petition within this 15-day period may prevent FMCSA from issuing a final decision before such prohibitions take effect.

(c)(2) A motor carrier must make a request for an administrative review within 90 days of the date of the proposed safety rating issued under Sec. 385.11(c) or a final safety rating issued under Sec. 385.11(b), or within 90 days after denial of a request for a change in rating under Sec. 385.17(i).

(d) The FMCSA may ask the motor carrier to submit additional data and attend a conference to discuss the safety rating. If the motor carrier does not provide the information requested, or does not attend the conference, FMCSA may dismiss its request for review.

(e) The FMCSA will notify the motor carrier in writing of its decision following the administrative review. The FMCSA will complete its review:

(e)(1) Within 30 days after receiving a request from a hazardous materials or passenger motor carrier that has received a proposed or final "unsatisfactory" safety rating.

(e)(2) Within 45 days after receiving a request from any other motor carrier that has received a proposed or final "unsatisfactory" safety rating.

(f) The decision constitutes final agency action.

(g) Any motor carrier may request a rating change under the provisions of Sec. 385.17.

[56 FR 40806, Aug. 16, 1991; 62 FR 60043, November 6, 1997; 65 FR 50935, Aug. 22, 2000; 72 FR 55701, Oct. 1, 2007]

385.17 Change to safety rating based on corrective actions.

(a) A motor carrier that has taken action to correct the deficiencies that resulted in a proposed or final rating of "conditional" or "unsatisfactory" may request a rating change at any time.

(b) A motor carrier must make this request in writing to the FMCSA Service Center for the geographic area where the carrier maintains its principal place of business. The addresses and geographical boundaries of the Service Centers are listed in Sec. 390.27 of this chapter.

(c) The motor carrier must base its request upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in Secs. 385.5 and 385.7. The request must include a written description of corrective actions taken, and other documentation the carrier wishes FMCSA to consider.

(d) The FMCSA will make a final determination on the request for change based upon the documentation the motor carrier submits, and any additional relevant information.

(e) The FMCSA will perform reviews of requests made by motor carriers with a proposed or final "unsatisfactory" safety rating in the following time periods after the motor carrier's request:

(e)(1) Within 30 days for motor carriers transporting passengers in CMVs or placardable quantities of hazardous materials.

(e)(2) Within 45 days for all other motor carriers.

(f) The filing of a request for change to a proposed or final safety rating under this section does not stay the 45-day period specified in Sec. 385.13(a)(1) for motor carriers transporting passengers or hazardous materials. If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and FMCSA cannot make a final determination within the 45-day period, the period before the proposed safety rating becomes final may be extended for up to 10 days at the discretion of FMCSA.

(g) The FMCSA may allow a motor carrier (except a motor carrier transporting passengers or a motor carrier transporting hazardous materials in quantities requiring placarding) with a proposed rating of "unsatisfactory" (except those transporting passengers in CMV or placardable quantities of hazardous materials) to continue to motor carrier operations in commerce for up to 60 days beyond the 60 days specified in the proposed rating, if FMCSA determines that the motor carrier is making a good faith effort to improve its safety status. This additional period would begin on the 61st day after the date of the notice of the proposed "unsatisfactory" rating.

(h) If FMCSA determines that the motor carrier has taken the corrective actions required and that its operations currently meet the safety standard and factors specified in sections. 385.5 and 385.7, the agency will notify the motor carrier in writing of its upgraded safety rating.

(i) If FMCSA determines that the motor carrier has not taken all the corrective actions required, or that its operations still fail to meet the safety standard and factors specified in Secs. 385.5 and 385.7, the agency will notify the motor carrier in writing.

(j) Any motor carrier whose request for change is denied in accordance with paragraph (i) of this section may request administrative review under the procedures of Sec. 385.15. The motor carrier must make the request within





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90 days of the denial of the request for a rating change. If the proposed rating has become final, it shall remain in effect during the period of any administrative review.

[56 FR 40806, Aug. 16, 1991; 62 FR 60043, November 6, 1997; 65 FR 50935, Aug. 22, 2000; ; 72 FR 36789, July 5, 2007]

For the entire 49 CFR Part 385 regulations, please consult the Code of Federal Regulations.

15. For all Investigations:

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

- **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

- **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

For all Investigations that could result in a Penalty Order:

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

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

KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations





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Identified within this report. Submit this letter within 15 days and any additional evidence necessary to prove the corrective action has been taken to:

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

16. For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

Division Administrator/State Director
Federal Motor Carrier Safety Administration
Kansas Division
Mr. Max Strathman
1303 First American Place
Suite 200
Topeka, KS 66604-4040

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Midwestern Service Center
Administrator
4749 Lincoln Mall Drive
Suite 300-A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:
Division Administrator/State Director
FMCSA, Kansas Division
Mr. Max Strathman





DANIEL'S MOVING AND STORAGE INC
U.S. DOT #: 1293335

State # [REDACTED]

Review Date:
11/20/2015

Part B Requirements and/or Recommendations

1303 First American Place
Suite 200
Topeka, KS 66604-4040

This letter should be submitted as soon as possible.

17. 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 Daniel's Moving and Storage Inc's operating authority and/or the impoundment of Daniel's Moving and Storage Inc's vehicles

Signed  date 11.20.2015

18. Please copy the Kansas Corporation Commission on your written Corrective Action Plan along with FMCSA. Please send to the Kansas Corporation Commission, Attn: Gary Davenport, 1500 SW Arrowhead Rd., Topeka, KS 66604-4029, describing what actions you have taken in response to this review to ensure that you are complying with the Federal Motor Carrier Safety Regulations.



ATTACHMENT "C"



Daniel's Moving & Storage, Inc.

6131 W. Van Buren, Phoenix, AZ 85043
602-278-6110 877-278-6110 Fax 602-484-0810

2016.02.22 09:30:49
Kansas Corporation Commission



"Milton M. Hill Quality Award Winner 2005"

February 10, 2016

Secretary of the KCC
Kansas Corporation Commission
1500 S W Arrowhead Rd
Topeka KS 66604

Received
on

RE: **NOTICE OF PENALTY ASSESSMENT**
16-TRAM-295-PEN

FEB 10 2016

by
State Corporation Commission
of Kansas

Please accept this letter as our formal **REQUEST FOR A HEARING** on this matter. This notice was received in our corporate safety office on January 29, 2016; the delay in this notice being received resulted in a delay in our request for a hearing. We were initially sent a Memorandum with the findings and were following the dates outlined with that information that we had 60 days to appeal the findings.

It appears as though the investigator did not receive or review all relevant information resulting the recommendations.

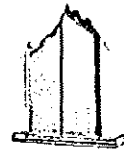
The grounds for our request are as follows:

- a. The employee noted has been counseled on this matter (Attachment "A"). In addition, we have provided her with additional DOT Compliance training (Attachment "B"). We understand the importance of driver compliance and will be improve our diligence in reviewing logs and paperwork. We ask for a reprieve on the recommended \$2000 fine, as we will be utilizing those funds to retrain all of our drivers in our DOT Compliance training program.
- b. Our Corporate Human Resource Dept reviews every employees MVR at the time of hire and at least annually, with quarterly reviews of anyone with existing infractions, thereafter. We do not share the actual MVR with local managers, as HR and our insurance company make the decision, as to whether the person meets the criteria to drive for us. We do apologize that this information was not provided to you by our local management. We also review each MVR with our outside Safety Advisors at least annually. We ask for the recommended \$100 fine to be waived as we do review MVR's as required and more.
- c. We are working with our banks and all parties involved to resolve this matter. Please allow 60 days for us to resolve this matter, as we are working out our banks, etc. and we are at their mercy to complete their steps in this process.
- d. The shipment referenced here was hauled under Atlas Van Lines authority DOT# 125550 as referenced under the attached Household Goods Bill of Lading (Attachment "C"). Unfortunately, our local management did not provide all of the paperwork for this shipment. The document provided as Attachment "F" with the NOTICE OF PENALTY was incorrectly included with the paperwork for this shipment and utilized strictly to document our



Daniel's Moving & Storage, Inc.

6131 W. Van Buren, Phoenix, AZ 85043
602-278-6110 877-278-6110 Fax 602-484-0810



"Milton M. Hill Quality Award Winner 2005"

arrival time and our walk through completion. We ask for this \$1000 fine recommendation to be waived as we were operating under appropriate authority for this shipment.

- e. The carrier has had and continues to maintain a DOT required alcohol and controlled substances program (Attachment "D") for our drivers. The employee in question had the required pre-employment DOT drug test on 8/21/2015 (Attachment "E"). Complete Testing Solutions manages our Drug Testing and Random Pools for each location. Additionally, every employee who operates any CMV is notified that they are in fact subject to DOT Drug and Alcohol Standards. Our employees are subject to three random pulls per month (1) All employees; (2) All company drivers - DOT; (3) Atlas qualified - DOT. As we are in compliance with the requirements, we ask for a reprieve of the recommended fine of \$750.

Please accept our apologies that all information was not provided at the time of the investigation. There were several scheduling changes and the investigation spanned a few months, which resulted in sporadic requests and providing of information. Our local offices are not equipped to handle these matters, as our corporate office manages all DOT and employee matters. Unfortunately, due to the schedule changes and the large span of time for this investigation, it was not feasible for us to have a corporate representative present for the duration of this audit.

We request that all matters from your office be directed to the following:

Pam Palos, Director of Human Resources
Daniel's Moving & Storage, Inc.
6131 W. Van Buren Street
Phoenix, AZ 85043
602-385-0276 - Direct Phone
602-324-3866 - Direct Fax
pam@danielsmoving.com - Email

Thank you for your time and consideration in this matter, we look forward to resolving this matter.

Respectfully,

Pam Palos
Director of Human Resources

 **Atlas** Interstate Agent
integrity | quality | solutions



ATTACHMENT A



REPRIMAND

DATE: 2/10/2016

EMPLOYEE NAME: Evelyn Hill

Infraction:

(X) Violation of rules:

On 10/16/2015 your Record of Duty Status (log) shows flagrantly different times in comparison to your time sheet, the time sheet hours are supported by the toll receipts, which clearly shows the DOT Record of Duty Status report was falsified.

This information was uncovered in a State DOT audit resulting in a fine recommendation of \$2,000.

REMARKS:

It is the responsibility of each and every driver to maintain accurate and truthful Record of Duty Status reports. At no time will the company ask an employee to falsify this information, as it is illegal to do so and creates safety risks to our driver and every driver on the roadways.

Falsifying any company document is grounds for immediate termination of employment. As a long term employee, we are providing you with additional training and this written reprimand. However, if falsifying of any document happens in the future you will be subject to immediate termination of employment.

I HAVE READ THIS NOTICE AND I UNDERSTAND THAT ANY FURTHER VIOLATIONS WILL LEAD TO DISCIPLINARY ACTION, INCLUDING TERMINATION.

EMPLOYEE SIGNATURE Evelyn Hill

DATE 2/16/16

SUPERVISOR SIGNATURE Boysie Snapp

HR SIGNATURE Pam Palor

ATTACHMENT B



Certificate of Completion

Presented to

Evelyn Hill

of

Daniels Moving and Storage

for successful completion of

DOT Driver Compliance v3, PS4 eLesson

Dated: 2/16/2016

Pam Palor

ATTACHMENT C



HOUSEHOLD GOODS BILL OF LADING

ATLAS VAN LINES, INC.
1212 ST. GEORGE RD., P.O. BOX 509
EVANSVILLE, INDIANA 47703-0509
(800) 252-8885 / (812) 424-2222

ATLAS REGISTRATION NUMBER

HS938040

U.S. DOT No. 125550
NOT NEGOTIABLE

For information about your shipment, please contact Atlas Van Lines' General Offices.
Refer to the Registration Number when making inquiries.

CUSTOMER	NSP RAILWAY COMPANY	CONSIGNEE/OWNER	PEARL JACK
ORIGIN	PEARL JACK 2121 BEAR CREEK PARKWAY #1002 OAKMONT @ BEAR CREEK APTS EULESS, TX 76039 TARRANT (817) 609-1455 Ext:	DESTINATION	TBA DERBY, KS 67037 SEDGWICK (817) 690-1455 Ext:

Notify of Actual Weight Charges

BOOKING: 1511 NELSON WESTERBERG
ORIGIN: 1511 NELSON WESTERBERG
DEST: 1370 DANIEL'S MOVING AND STORAGE, I
PICKUP:
HAUL 1: 1511 NELSON WESTERBERG
TRUCK/TRAILER:
HAUL 2:
TRUCK/TRAILER:

Agreed Pickup Period 08/19/2015 To 08/19/2015
Agreed Delivery Period 08/20/2015 To 08/24/2015
IF DELAYED, NOTIFY:

TYPE OF SHIPMENT: NATIONAL ACCT
TYPE OF ESTIMATE: STANDARD

The maximum amount required for delivery.
Subject to minimum weight of 2000 lbs.;
or minimum charges of \$

A STATEMENT OF SERVICES IS ATTACHED WHEN REQUIRED

FOR MILITARY AND GOVERNMENT SHIPMENTS ONLY. EXTRAORDINARY (UNUSUAL) VALUE ARTICLE DECLARATION. I acknowledge that I have prepared and retained a copy of the "Inventory of items Valued in Excess of \$100 Per Pound Per Article" that are included in my shipment and that I have given a copy of this inventory to the carrier's representative. I also acknowledge that the carrier's liability for loss of or damage to any article valued in excess of \$100 per pound will be limited to \$100 per pound for each pound of such lost or damaged article (based on actual article weight), not to exceed the declared value of the entire shipment, unless I have specifically identified such articles for which a claim for loss or damage is made on the attached inventory.		VALUATION: The Customer's Declaration of Value is a required part of this Bill of Lading for all COD shipments. If a separate contract or letter of authorization is in place, the valuation specified in that contract or letter of authorization shall apply to this shipment.	
Customer _____ Date _____ <input type="checkbox"/> I decline		For CARRIER use only: Valuation selected: REPLACEMENT VAL 6.00	
FOR CALIFORNIA SHIPMENTS. You agree to all packing materials and other property sold to you prior to the transportation of such property by the carrier. The sale price of the containers and container material is \$ _____. This sale price is included in the total packing service charge.		SPECIAL SERVICES ORDERED: Signed X _____	
IMPORTANT This bill of lading makes the terms of our tariff a part of the contract of carriage between you and us. This tariff is available for inspection at our general office or at www.atlasvanlines.com . A password will be provided on request to a party entitled to access this tariff. The terms of the tariff incorporated include: limits on our liability for loss, damage, or delay of goods including fragile goods; claim restrictions; and our rights to impose monetary penalties on shippers or consignees and increase the price of the transportation, if a separate contract or letter of authorization is in place, the valuation specified in that contract or letter of authorization shall apply to this shipment. All charges to be paid in U.S. funds by cash; postal money order; cashier's or approved personal check payable to Atlas Van Lines; American Express, Discover, MasterCard or Visa charge cards, before property is relinquished by Atlas unless otherwise provided. Atlas is not required to accept a charge card payment from anyone other than the customer. Adjustments may apply to this bill of lading. By accepting delivery of the shipment, on employer or third party to-be-paid shipments, you will be liable for the payment of all charges if the employer or third party does not pay them.		CUSTOMS DATA: PORT OF EXPORTATION _____ VIA _____ We, Atlas Van Lines, Inc., and you agree that we shall transport your goods pursuant to the terms of this bill of lading, including those attached. The Customer's Declaration of Value is part of this bill of lading for all COD shipments. The estimate, order for service and inventory are attachments to this bill of lading. X _____ 08-19-15 (CUSTOMER'S SIGNATURE) DATE X _____ 1511-2347 (PROFESSIONAL VAN OPERATOR'S SIGNATURE) DATE SIT Agent: Daniel 151376 Code 1370 Auth 59019358 BY: Kim [Signature] Date: 8/20/2015 Warehouse Signature Delivery acknowledgement: Shipment was received in apparently good condition except as noted on inventory or customer check off sheet and services ordered were performed. X _____ 9.19.15 (CUSTOMER'S SIGNATURE) DATE	

ATTACHMENT D

tolerated. Any employee who commits or threatens to commit a violent act against any person while on Company premises, will be subject to immediate discharge. If an employee, while engaged in Company business off the premises, commits or threatens to commit a violent act, that employee will be subject to immediate discharge.

Employees within the Company share the responsibility in identification and alleviation of threatening or violent behaviors. Any employee who is subjected to or threatened with violence, or who is aware of another individual, who has been subjected to or threatened with violence, shall immediately report this information to their supervisor or a member of management. Employees should not assume that any threat is not serious. If you as an individual feel threatened and need protection, do not hesitate to report the situation to a supervisor. Any threat reported to a supervisor should be brought to the attention of the department manager and the Human Resources Department. Human Resources will carefully investigate all reports, and employee confidentiality will be maintained to the fullest extent possible.

DRUG AND ALCOHOL ABUSE POLICY

The policy of the Company is to maintain a drug free workplace. The term "workplace" is defined as Company property, any Company-sponsored activity, or any other site for the performance of work for the Company. The term "drug" includes alcoholic beverages and prescription drugs as well as illegal Inhalants and illegal drugs. Activities prohibited by this policy shall be considered grounds for discipline, including but not limited to suspension or immediate termination of employment, if the activities occur in the workplace as defined above.

In accordance with A.R.S. § 23-493 *et seq.*, Daniel's Moving & Storage, Inc. is adopting the following written substance abuse policy. This policy applies to all compensated employees of Daniel's Moving & Storage, Inc.

1. Definitions: As used in this policy, the following terms shall have the following meanings:
 - (a) "Drug" means any substance considered unlawful under the Controlled Substances Act, or the metabolite of the substance.
 - (b) "Property" means all land, buildings, structures, parking lots, equipment and means of transportation owned, possessed or leased by Daniel's Moving & Storage, Inc.
2. Standards of Conduct
 - (a) The following constitute Daniel's Moving & Storage, Inc.'s rules regarding substance abuse.
 - (1) All employees are prohibited from being under the influence of illegal Drugs, non-prescribed Drugs or Alcohol during working hours.
 - (2) The manufacture, use, sale, possession, transfer or purchase of Drugs or Alcohol, including, but not limited to, a non-prescribed controlled substance on Daniel's Moving & Storage, Inc.'s property or while performing Daniel's Moving & Storage, Inc.'s business is strictly prohibited.
 - (3) No prescription Drugs may be brought on Daniel's Moving & Storage, Inc.'s property by any person other than the person for whom it is prescribed. Such Drugs may be used only in the manner, combination and quantity prescribed. If the use of such Drugs or over-the-counter Drugs may affect behavior and job performance, employees must advise their supervisors of the use of such Drugs.
 - (b) Violation of the above standards, including a violation discovered or confirmed by a positive Drug or Alcohol test, may result in disciplinary action. The specific disciplinary action taken is dependent upon the circumstances of each particular violation, and the nature and severity of the conduct involved. Action taken in response to violations of this policy may include any or all of the following, in addition to all methods of discipline ordinarily available to Daniel's Moving & Storage, Inc. for violations of the policy.
 - (1) Suspension of the employee, with or without pay, for a designated period of time.
 - (2) Termination of employment.
 - (3) Referral to appropriate state, local or federal law enforcement agencies.
 - (4) Probation for a specified amount of time.

3. Testing Policy

- (a) Periodic Drug or Alcohol testing may be conducted under the following circumstances:
- (1) At the time of application for employment;
 - (2) On a random basis;
 - (3) If Daniel's Moving & Storage, Inc. believes that an employee has been observed possessing or using a prohibited substance on the job;
 - (4) When Daniel's Moving & Storage, Inc. believes that an employee may be affected by the use of Drugs or Alcohol;
 - (5) When Daniel's Moving & Storage, Inc. believes that an employee is impaired during working hours or while engaged in Daniel's Moving & Storage, Inc. business;
 - (6) Any employee who has had a positive Drug test may be subjected to periodic, random testing, for a period of one year from a positive Drug test; and
 - (7) After a workplace injury or accident.
- (b) All drivers with a Class A or B license will be tested to the Department of Transportation standards.
- (c) Refusal to participate in Drug or Alcohol impairment testing when requested to do so, or refusal to accept the terms and conditions of testing as specified in this policy, may result in disciplinary action, up to and including, termination of employment. Prospective employees who refuse to undergo Drug testing are not eligible for hire. Prospective employees are given 24 hours from the time of job offer to complete the test. If a pre-employment screening returns a positive result then employment will be denied. Current employees will be given two hours from the time of arrival at the testing facility to produce a sample. If a sample is not produced by the end of two hours then Daniel's Moving & Storage, Inc. will consider the employee to have voluntarily terminated employee status with Daniel's Moving & Storage, Inc.
- (d) Employees have the right, upon written request, to obtain a copy of the written test results.
- (e) Daniel's Moving & Storage, Inc. will not release information relating to testing, including test results, to any third parties except upon written authorization of the employee, or when legally compelled to do so.

4. Testing Procedures

The following testing methods and procedures will be followed:

- (a) Testing will ordinarily be conducted during, immediately before, or immediately after, regularly scheduled work periods. For current employees, time spent in testing, and in traveling to and from the regular work site to the place of testing is work time.
- (b) Whenever a Drug test is done at the request of Daniel's Moving & Storage, Inc. pursuant to this policy, Daniel's Moving & Storage, Inc. will pay the actual cost of the testing. In addition, when testing is done at locations other than an employee's normal work site, Daniel's Moving and Storage, Inc. will pay reasonable transportation costs for travel to and from the work site to the testing location.
- (c) Testing shall be conducted under the following conditions:
- (1) Sample collection shall be performed under reasonable and sanitary conditions.
 - (2) Sample collections shall be labeled in such a way as to reasonably preclude the possibility of misidentification of test results.
 - (3) Prior to testing, the individual shall be provided with an opportunity to notify Daniel's Moving & Storage, Inc. of any information relevant to the test, including identification of currently or recently used prescription or non-prescription medications, and other medical information.
 - (4) Sample collection, storage, and transportation, where necessary, shall be performed in a manner reasonably designed to preclude the possibility of sample contamination, adulteration, or misidentification.
 - (5) Sample testing will be done in such a way as to comply with scientifically accepted analytical methods and procedures, and by a laboratory approved or certified by at least one of the following: (a) United States Department of Health and Human Services; (b) College of American Pathologists; (c) the Missouri Department of Health Services.
 - (6) Positive Drug test results shall be confirmed by a subsequent test, using a different chemical process than used in the initial drug screen. Confirming tests will be conducted by a chromatographic technique or another comparably reliable analytic method.
- (d) Following a positive test result, employees have the right to explain that result, upon request, in a confidential setting.

ATTACHMENT E



First Advantage

480 Quadrangle Drive Suite D
Bolingbrook, IL 60440
Phone: 800-939-4782
Fax: 855-826-5374

Controlled Substance Test Report

Attn: Jason Snyder
P.O. Box 509
Evansville, IN 47703

Phone: 800-638-9797

Donor Name: Terry Dunn

Donor ID: 515-76-4351

Client Name: Atlas Van Lines

Account Number: 201440-00000

Employee ID 1:

Employee ID 2:

Emp Category:

Test Result: Negative
Result Description: Negative
Substances Found:
MRO Verified Comment:

Substances Tested: Phencyclidine (PCP), 6-AM (Heroin/Opiates Metabolite), Opiates, Marijuana, Cocaine, Ecstasy (Amphetamines Metabolite), Amphetamines

Specimen ID: 9948766
Collection Date: 8/25/2015 1:14 PM
Testing Panel: New Quest DOT 5- Drug Panel
CCF Received: 8/25/2015
Verified Date: 8/26/2015
Reported Date: 8/26/2015 10:23 AM
Collection Site: Via Christi Occip & Enviro Med
Transmitted By: Lalitha Ranganathan

Test Reason: Pre-Employment
Test Type: DOT - FMCSA
Lab Account #: 40000054
Lab Name: Quest Diagnostics
Test Account #: 201440-00003
Client Name: DOT 40000054
Cost Center:
Location ID:

Comments:

Certified Medical Review Officer:

S. B. Hoffman, M.D. FACP

MRO Phone:

888-794-6574

S. B. Hoffman, M.D. FACP

DRUDET


Positive tests confirmed using gas chromatography/mass spectrometry
All reported lab results conform with current HHS and DOT guidelines. Reviewed in accordance with 49 CFR Part 40.

8/26/2015 11:54 AM

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

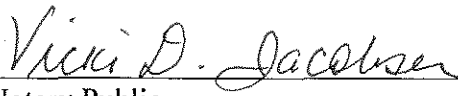
Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Staff's Motion to Dismiss Respondent's Request for Hearing*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Ahsan A. Latif, S. Ct. # 24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 23rd day of August, 2016.





Notary Public

My Appointment Expires: June 30, 2018

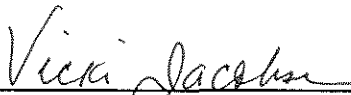
CERTIFICATE OF SERVICE

16-TRAM-295-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Motion to Dismiss Respondent's Request for Hearing was served via electronic service this 23rd day of August, 2016, to the following:

DAVE KING, GENERAL MANAGER
DANIEL'S MOVING AND STORAGE, INC.
7716 E OSIE
WICHITA, KS 67207-3138
dking@danielsmoving.com

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



Vicki Jacobsen