



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
19-TRAM-517-PEN

June 25, 2019

Chayse Shanholtzer, Manager
Shanholtzer Transportation, LLC
1116 W 590th Ave
McCune, KS 66753

This is a notice of a penalty assessment against Shanholtzer Transportation, LLC (Shanholtzer Transportation) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 7, 2019, by Kansas Corporation Commission Special Investigator Jared Smith and Verna Jackson. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Shanholtzer Transportation has been assessed a \$500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$500, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Shanholtzer Transportation to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: 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. Shanholtzer Transportation must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$500 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Shanholtzer**)
Transportation, LLC, of McCune, KS,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 19-TRAM-517-PEN
Commission’s Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.A.R. 82-4-1b, 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.A.R. 82-4-1, 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. 2018 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 issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Shanholtzer Transportation, LLC (Shanholtzer Transportation) has common operating authority with the Commission and further operates under USDOT number 2458667.

5. Chayse Shanholtzer attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on February 19, 2019, on behalf of Shanholtzer Transportation.

6. Shanholtzer Transportation is a common motor carrier which primarily hauls grain, feed, hay, rock and fertilizer.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on June 7, 2019, Commission Staff (Staff) Special Investigator Jared Smith and Verna Jackson conducted a safety compliance review of the operations of Shanholtzer Transportation. 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, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 3, 2019, Shanholtzer Transportation required or permitted its driver, Chayse Shanholtzer, to operate a CDL-required commercial motor

vehicle, a 1996 Peterbilt, VIN ending in 398566, GVWR 46,000 lbs., pulling a 2010 Timpfe Grain trailer, VIN ending in 123474, GVWR 70,000 lbs., in intrastate commerce from Girard, Kansas to McCune, Kansas. This trip is evidenced by Driver's Time Record, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Shanholtzer Transportation did not have Kansas Corporation Commission authority to operate point-to-point in the state of Kansas. The carrier's commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2018 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Shanholtzer Transportation committed one (1) 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.

9. Additionally, Staff recommends a civil penalty of \$500 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Shanholtzer Transportation be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule

of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Shanholtzer Transportation 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.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Shanholtzer Transportation because it is a motor carrier as defined in K.A.R. 82-4-1.

13. The Commission finds Shanholtzer Transportation committed one (1) 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.

THE COMMISSION THEREFORE ORDERS THAT:

A. Shanholtzer Transportation, LLC, of McCune, KS is hereby assessed a \$500 civil penalty for one (1) 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.

B. Shanholtzer Transportation is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Shanholtzer Transportation 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 carrier to set up the appointment.

D. Pursuant to K.S.A. 2018 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. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Shanholtzer Transportation's right to a hearing, and this Penalty Order will become a Final Order assessing a \$500 civil penalty against Shanholtzer Transportation, and ordering a representative from Shanholtzer Transportation to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. 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. 2018 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$500 is due in thirty (30) days from the date of service of this Order. Payment of \$500 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

G. Failure to pay the \$500 civil penalty within thirty (30) days from the date of 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 Shanholtzer Transportation'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 revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

H. 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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner






Dated: _____



Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT "A"

	US DOT # 2458667	Legal: SHANHOLTZER TRANSPORTATION LLC Operating (DBA):					
MC/MX #: 938933			Federal Tax ID:  (EIN)				
Review Type: Non-ratable Review - CSA							
Scope: Principal Office		Location of Review/Audit: CSA Off-site			Territory:		
Operation Types		Interstate	Intrastate	Business: Corporation			
Carrier:	Non-HM	Non-HM	Gross Revenue:  for year ending: 12/31/2018				
Shipper:	N/A	N/A					
Cargo Tank:	N/A						
Company Physical Address:							
1116 W 590TH AVE MCCUNE, KS 66753-6114							
Contact Name: Chayse Shanholtzer							
Phone numbers: (1) 			Fax				
E-Mail Address: 							
Company Mailing Address:							
1116 W 590TH AVE MCCUNE, KS 66753-6114							
Carrier Classification							
Authorized for Hire							
Cargo Classification							
Grain, Feed, Hay			Other Rock, Fertilizer				
Equipment							
	Owned	Term Leased	Trip Leased		Owned	Term Leased Trip Leased	
Truck Tractor	2	0	0	Trailer	2	0 0	
Power units used in the U.S. 2							
Percentage of time used in the U.S. 100							
Does carrier transport placardable quantities of HM? No							
Is an HM Permit required? N/A							
Driver Information							
	Inter	Intra	Average trip leased drivers/month: 0				
< 100 Miles:			Total Drivers: 2				
>= 100 Miles:	2		CDL Drivers: 2				



	SHANHOLTZER TRANSPORTATION LLC U.S. DOT # 2458667	Review Date 06/07/2019
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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.

Kansas Corporation Commission
Topeka, KS 66604

This report will be used to assess your safety compliance.

<u>Person(s) Interviewed</u>	
Name: Chayse Shanholtzer	Title: Owner
Name: Kalee Ewbank	Title: Secretary



	SHANHOLTZER TRANSPORTATION LLC U.S DOT # 2458667	Review Date 06/07/2019
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Part B Violations

1 STATE	Primary 392 2 Secondary KSA 66-1,111	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
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Description
 Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating authority.


Example
 On June 3, 2019 Shanholtzer Transportation LLC had driver Chayse Shanholtzer (KS CDL# [REDACTED]) operate a operate a 1996 Peterbilt (Unit # 12-VIN # [REDACTED] 398566) in combination with a 2010 Timple Grain Trailer (Unit # 131-VIN # [REDACTED] 123474). These vehicles have a gross vehicle weight rating of 46,000 lbs. and 70,000 lbs. Driver Chayse Shanholtzer operated in commerce on an interstate trip from Girard, Kansas to McCune, Kansas This trip is evidenced by a driver's record of duty status and a bill of lading. At the time of this trip and time of this review carrier was found to be in violation of Operating without the required operating authority (Property, Non-HHG). Authority was cancelled on March 8, 2019

Safety Fitness Rating Information: Total Miles Operated 95 Recordable Accidents 0	OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0
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Your proposed safety rating is :

This Review is not Rated.



	SHANHOLTZER TRANSPORTATION LLC U.S. DOT # 2458667	Review Date 06/07/2019
Safety Management Process Breakdowns and Remedies		

1. FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012.

There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor 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

2. 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





SHANHOLTZER TRANSPORTATION LLC
 U.S. DOT # 2458667

Review Date
 06/07/2019

Safety Management Process Breakdowns and Remedies

<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 carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases, (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

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

3. Cease all intrastate operating until State Authority can be established. Log onto your KTRAN account to check the status of your operating authority.
4. 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 Shanholtzer Transportation LLC's operating authority and/or the impoundment of Shanholtzer Transportation LLC's commercial motor vehicles.

 Carrier Representative

 Date



ATTACHMENT "B"

DRIVER'S TIME RECORD (100 air-mile radius)

Driver's Name (print) Chayse Shankoltzer Employee No. 1 Month 6 Year 19

DRIVERS MAY PREPARE THIS REPORT INSTEAD OF "DRIVERS DAILY LOG" IF THE FOLLOWING APPLIES:
 *Operates within 100 air-mile radius of the normal work reporting location.
 *Returns to normal work reporting location and is released from work within 12 consecutive hours.
 *At least 10 consecutive hours off duty separate each 12 hours on duty.

INTERMITTENT DRIVERS

Shall complete this form for 7 days preceding any day driving is performed. This includes the preceding month.

Date	Start Time	End Time	Total Hours	Truck Number	Trip Information TO - FROM
1	✓	✓	0	12	✓
2	✓	✓	0	12	✓
3	7:00 am.	1:00 P.m.	6	12	Grard, Ks - McCune, Ks
4	✓	✓	0	12	✓
5	7:00 A.m.	10:00 A.m.	3	12	Eve, Mo - McCune, Ks
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
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20					
21					
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23					
24					
25					
26					
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31					

To be prepared monthly by each DOT certified driver unless time record is exclusively kept on Driver's Daily Log. Indicate "days off." Check box if no driving is performed during this month and the first 7 days of the following month. Mail this report to your Division Manager of Administration.

CERTIFICATE OF SERVICE

19-TRAM-517-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail/hand delivered on 06/26/2019.

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

CHAYSE W. SHANHOLTZER, MANAGING MEMBER
SHANHOLTZER TRANSPORTATION, LLC
1116 W 590TH AVE
MCCUNE, KS 66753-6114
bsfamily@ckt.net

/S/ DeeAnn Shupe
DeeAnn Shupe