

1500 SW Arrowhead Road Topeka, KS 66604-4027

Dwight D. Keen, Chair Shari Feist Albrecht, Commissioner

July 11, 2019

Susan K. Duffy, Commissioner

Fax: 785-271-3354 http://kcc.ks.gov/

Phone: 785-271-3100

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

20-TRAM-007-PEN

Justin D. Strahan, Owner d/b/a Outnumbered Trucking 660 S Randy Lane Garden City, KS 67846

This is a notice of a penalty assessment against Justin D. Strahan, d/b/a Outnumbered Trucking (Outnumbered Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 19, 2019, by Kansas Corporation Commission Special Investigator Penny Fryback. 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: Outnumbered Trucking has been assessed a \$750 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$750, 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 Outnumbered Trucking 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. Outnumbered Trucking must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at https://puc.kcc.ks.gov/e-filing/e-express/, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$750 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

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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. Justin D. Strahan, d/b/a Outnumbered Trucking (Outnumbered Trucking) has common operating authority with the Commission and further operates under USDOT number 2873268.
- 5. Justin Strahan attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on April 11, 2016, on behalf of Outnumbered Trucking.
- 6. Outnumbered Trucking is a common motor carrier which primarily hauls livestock, grain, feed, hay, commodities dry bulk and road materials.

III. STATEMENT OF FACTS

- 7. Pursuant to the jurisdiction and authority cited above, on June 19, 2019, Commission Staff (Staff) Special Investigator Penny Fryback conducted a safety compliance review of the operations of Outnumbered Trucking. 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 two (2) violation(s) of the Motor Carrier Safety Regulations.
 - a. On May 13, 2019, Outnumbered Trucking required or permitted its driver,
 Justin D. Strahan, to operate a CDL-required commercial motor vehicle, a

2012 Kenworth, VIN ending in 316179, GVWR 33,000 lbs., pulling a 2019 Timpte trailer, VIN ending in 163655, in intrastate commerce from Garden City, Kansas to Liberal, Kansas. This trip is evidenced by Driver's Daily Log, dated May 13, 2019, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Outnumbered Trucking failed to retain copies of the bills of lading or scale tickets for this load. The special investigator discovered five (5) violations of this type. The carrier's failure to retain driver supporting documents for a period of six (6) months is a violation of 49 C.F.R. Part 395.8(k)(1), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

b. During the transportation described in paragraph a, above, Outnumbered Trucking did not have Kansas Corporation Commission for-hire common carrier authority to operate point-to-point in 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 Outnumbered Trucking committed two (2) 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 \$750 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.
- 10. Staff further recommends that a representative from Outnumbered Trucking 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 Outnumbered Trucking 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 Outnumbered Trucking because it is a motor carrier as defined in K.A.R. 82-4-1.
- 13. The Commission finds Outnumbered Trucking committed two (2) 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. Justin D. Strahan, d/b/a Outnumbered Trucking, of Garden City, KS is hereby assessed a \$750 civil penalty for two (2) 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. Outnumbered Trucking 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. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order.
- D. Outnumbered Trucking 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.
- E. 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 Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Outnumbered Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$750 civil penalty against Outnumbered Trucking, and ordering a representative from Outnumbered Trucking 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.

- F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. 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.
- G. If you do not request a hearing, the payment of the civil penalty of \$750 is due in thirty (30) days from the date of service of this Order. Payment of \$750 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.
- H. Failure to pay the \$750 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 Outnumbered Trucking'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.
- I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair;	Albrecht,	Commissioner;	Duffy,	Commissioner
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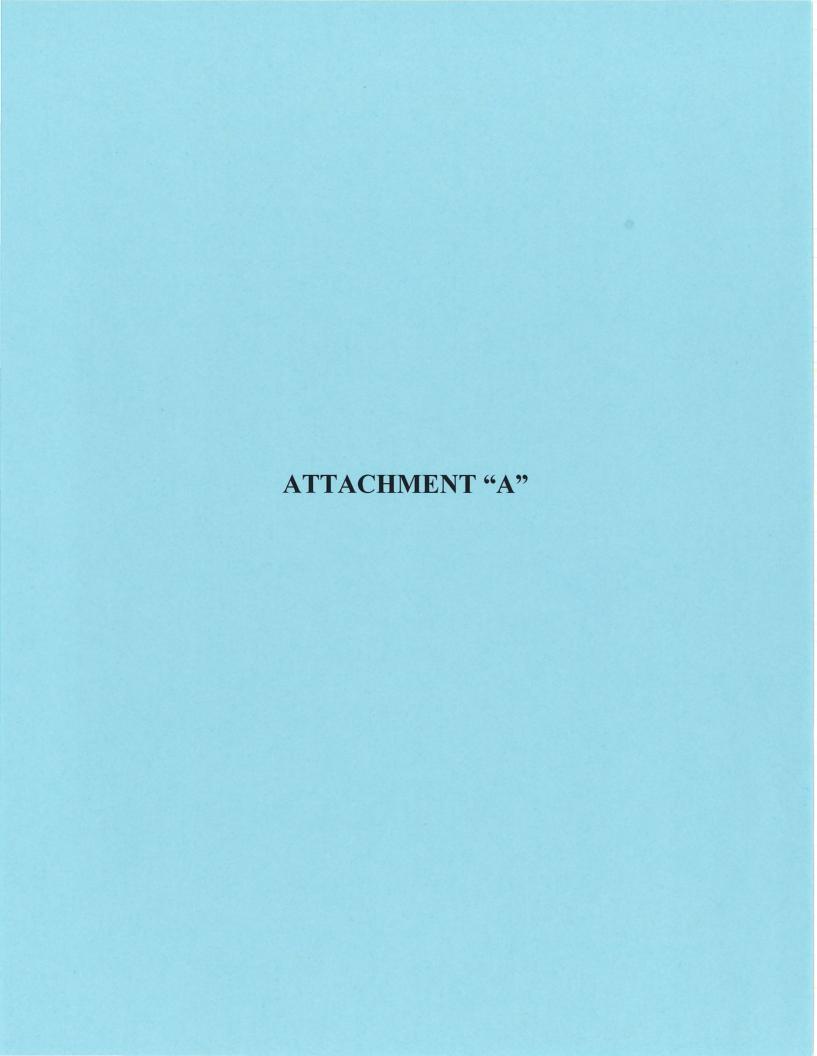
Dated: ____07/11/2019

Lynn M. Retz

Executive Director

Lynn M. Ret

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Cargo	Tank:	N/A					
Company	Physica	l Address:					
660 SOU	TH RANG	DY LANE	•				
GARDEN	CITY, K	S 67846-95	30				
Contact !	Namo:	Justin (D. Strahan	•			
Phone nu	ımbers:					Fax	
E-Mail Ac	idress:					· -	•
Company	Mailing.	Address:			***************************************		
660 SOU	TH RAND	Y LANE					
GARDEN	CITY, K	S 67846-83	53				
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1



U.S. DOT #: 2873268

Review Date: 06/19/2019

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 Attention Gary Davenport 1500 SW Arrowhead Road Topeka, KS 66604-4027

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Justin D Strahan Name: Amanda Strahan Title: Owner
Title: Owner





U.S. DOT #: 2873268

Review Date: 06/19/2019

Part B Violations

1 STATE CRITICAL	Primary: K.A.R. 82-4-35(a) CFR Equivalent: 392.2	Discovered 5	Checked 14	Drivers/V In Violation 1	ehicles Checked 1
Description Failure to retail	n supporting documents.				

Driver Justin Strahan Trip Date: 5/13/2019

On May 13, 2019 Driver Justin Strahan hauled a load of milo from Garden City, Kansas to Liberal, Kansas. At the time of this transportation Outnumbered Trucking did not have any Kansas Corporation Commission For-Hire (KAN-C) operating authority.

2	Primary: 391.51(b)(5)			Drivers/V	
FEDERAL		Discovered	Checked	In Violation	Checked
		1	1	1	1

Description

Falling to maintain a note relating to the annual review of the driver's driving record as required by 391,25(c)(2).

Driver Justin Strahan Trip Date: 6/4/2019

Carrier had not completed the annual review for 2017, 2018 or 2019

3	Primary: 391.51(b)(6)			Drivers/V	
FEDERAL	• • • • • • • • • • • • • • • • • • • •	Discovered	Checked	In Violation	Checked
		1	1	1	1

Description

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Example

Driver Justin D. Strahan Trip Date: 6/4/2019

Driver had not completed a certificate of violations for 2017, 2018 or 2019

4	Primary: 391.51(b)(9)			Drivers/V	ehicles
FEDERAL		Discovered	Checked	In Violation	Checked
		1	1	1	1

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

Driver Justin D. Strahan Trip Date: 6/4/2019

Carrier did not make a note that they had verified that Advanced Practical Nurse Terri Worf was on the National Registry of Medical examiners.



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Part B Violations

Drivers/Vehicles 5 **Primary: 392.2** Discovered Checked In Violation Checked STATE Secondary: KSA 66-1,111 1

Description

Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating Authority.

Driver Justin Strahan Trip Date: 5/13/2019

Authority was suspended on June 1, 2018 due to failure to have insurance on file.

6	Primary: 396.9(d)(3)			Drivers/V	ehicles
FEDERAL		Discovered	Checked	In Violation	Checked
		2	3	1	1

Description

Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier's principal place of business or where vehicle is housed.

Example

Driver Justin Strahan Trip Date: 6/5/2019

Issuing Agency: Missouri Highway Patrol

Unit 6 - 2012 Kenworth

On August 15, 2018 Driver Justin Strahan had a Level II roadside inspection conducted in Missouri. The carrier failed to retain a copy of the inspection for 12 months.

Safety Fitness Rating Information:	
Total Miles Operated	200,000
Recordable Accidents	0
Recordable Accidents/Million Miles	0.00

OOS Vehicle (CR): 0

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

Number of Vehicles Inspected (MCMIS): 0

our proposed safety rating is :	Rating Factors		Acute	Critical
	Factor 1:	S	0	0
	Factor 2:	S	0	0
SATISFACTORY	Factor 3:	С	0	1
SATISFACTORT	Factor 4:	Ś	0	0
	Factor 5:	N	0	0
	Factor 8:	S	_	_

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





U.S. DOT #: 2873268

Review Date: 06/19/2019

Part B Requirements and/or Recommendations

- 1. K.A.R. 82-4-35a. The following documents shall be made available upon request for inspection by any duly authorized representative of the commission, the state highway patrol, or other law enforcement officers: Registration receipts, authority cards, driver logs, bills of lading or shipping receipts, waybills, freight bills, run tickets, or equivalent documents, and orders, cab cards, fuel receipts, toll road receipts, and any other documents that would indicate compliance with hours of service requirements.
- 2. The motor carrier is required to process an annual review and obtain the annual MVR on each driver it employs. Attach the annual MVR to the annual review and retain it for three years.
- 3. Every driver is required to complete a certificate of violations every year showing any traffic violations that the driver received within the last 12 months. The carrier is required to provide the driver with the form and retain the completed form for 12 months.
- 4. The qualification file must include a note relating to vertication of medical examiners listing on the National Registry of Certified Medical Examiners.
- 5. Carriers operating in Intrastate commerce as a for hire carrier that operates beyond a three mile radius (3 miles) in Kansas requires carrier to obtain KAN-C operating authority from Kansas Corporation Commission prior to operating.
- Maintain all completed CVSA roadside inspection forms on file for 12 months from the date of the inspection at the carrier's principal place of business.
- 7. •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.





U.S. DOT #: 2873268

Review Date: 06/19/2019

Part B Requirements and/or Recommendations

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.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at http://www.fmcsa.dot.gov/ and http://www.safer.fmcsa.dot.gov/.

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

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outling 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 thier 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.) neccessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov FAX: 785-271-3124; or mail to; Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Road Topeka, KS 66604-4027

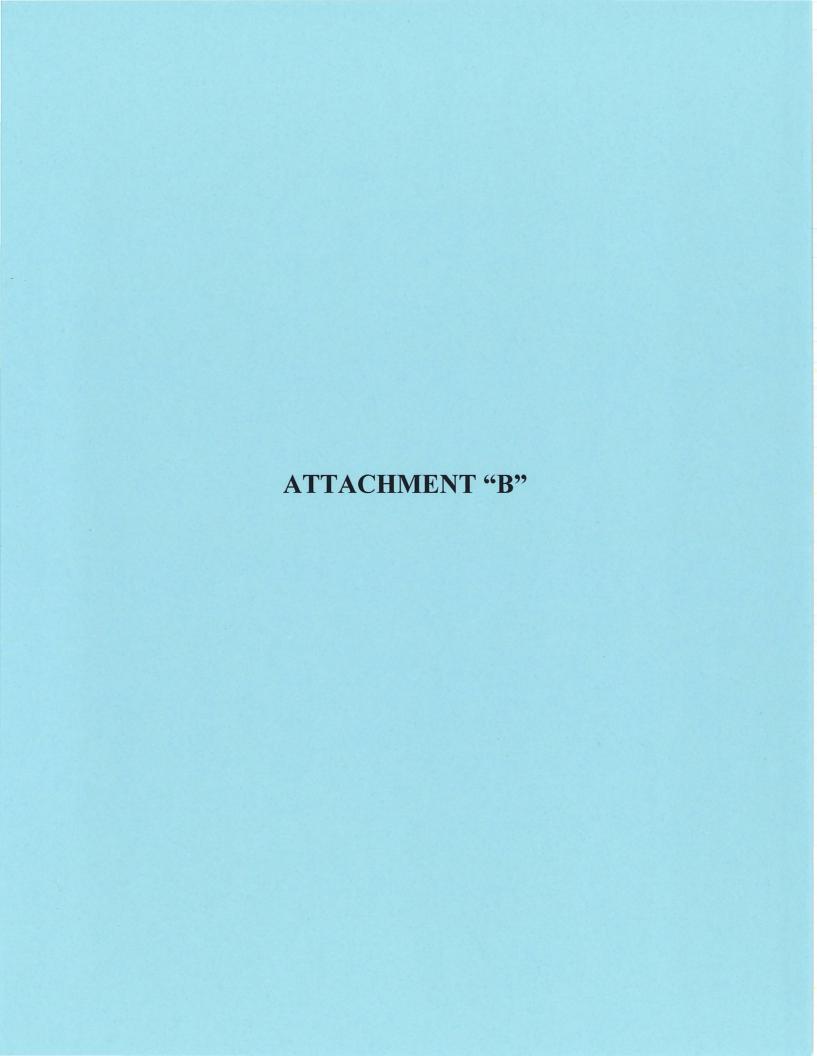
I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that fallure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Justin D. Strahan d/b/a Outnumbered Trucking operating authority and/or the impoundment of Justin D. Strahan d/b/a Outnumbered Trucking vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans/penalty_assessment_table.htm

Signature

6-19-19

Date



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CERTIFICATE OF SERVICE

20-TRAM-007-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 on07/12/201	<u>19</u>	
JUSTIN D. STRAHAN, OWNER JUSTIN D. STRAHAN D/B/A OUTNUMBERED TRUCKING 660 S RANDY LANE GARDEN CITY, KS 67846-9530 outnumberedtrucking@gmail.com	AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604 Fax: 785-271-3354 a.latif@kcc.ks.gov	
	/S/ DeeAnn Shupe	

DeeAnn Shupe