

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

June 4, 2015

15-TRAM-552-PEN

Delano P. Petty, Owner
d/b/a Thomas Sign Services
1510 Fair Lane
Manhattan, Kansas 66502

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 14, 2015, by Kansas Corporation Commission Special Investigator Wade Patterson. 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 \$250 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. 2014 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

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

In the Matter of the Investigation of **Delano P)
Petty, d/b/a Thomas Sign Services, of)
Manhattan, Kansas**, Regarding the Violation of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 15-TRAM-552-PEN
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). 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. 2014 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. 2014 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. 2014 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. Delano P Petty, d/b/a Thomas Sign Services (Thomas Sign Services) obtained private operating authority from the Commission on May 4, 2009, and operates under KSMCID number 167058 and USDOT number 1858146.

5. Delano P. Petty attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on May 4, 2009, on behalf of Thomas Sign Services.

6. Thomas Sign Services is a private motor carrier which primarily hauls signs, ballast and bulbs.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on May 14, 2015, Commission Staff (Staff) Special Investigator Wade Patterson conducted a compliance review of the operations of Thomas Sign Services. 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. Patterson identified one (1) violation of the Motor Carrier Safety Regulations.

- a. On March 26, 2015, Thomas Sign Services required or permitted its driver, Delano P. Petty, to operate a commercial motor vehicle, a 1989 F700 Flatbed crane truck, VIN ending in 21397, in intrastate commerce in and around the area of Manhattan, Kansas. This trip is evidenced by

Invoice No. 9143, dated March 26, 2015, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation Thomas Sign Services failed to require its driver to be medically examined and certified as physically fit to operate a commercial motor vehicle. The carrier's failure to confirm that each of its drivers are medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.45(b)(1) and 49 C.F.R. 391.51(b)(7)(i), as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine in the amount of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Thomas Sign Services committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$250 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Thomas Sign Services 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 Thomas Sign Services 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 Thomas Sign Services because it is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108.

13. The Commission finds Thomas Sign Services committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Delano P Petty, d/b/a Thomas Sign Services, of Manhattan, Kansas is hereby assessed a \$250 civil penalty for one (1) violation of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Thomas Sign Services 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, Thomas Sign Services is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. **Pursuant to K.S.A. 2014 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 Thomas Sign Services's right to a hearing, and this Penalty Order will become a Final Order assessing a \$250 civil penalty against Thomas Sign Services, and ordering Thomas Sign Services 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. 2014 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 \$250 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in

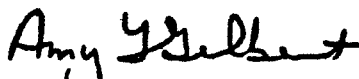
revocation of Thomas Sign Services' motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner


Dated: JUN 04 2015


ORDER MAILED JUN 05 2015

Amy L. Gilbert
Secretary

MJD

ATTACHMENT “A”

	US DOT # 1858146	Legal: DELANO P PETTY Operating (DBA): THOMAS SIGN SERVICES			
MC/MX #:		State #:		Federal Tax ID: (EIN)	
Review Type: Non-ratable Review - CSA				Focused Investigation	
Scope: Principal Office		Location of Review/Audit: CSA Off-site			Territory:
Operation Types		Interstate	Intrastate		
Carrier: N/A			Non-HM	Business: Corporation	
Shipper: N/A			N/A	Gross Revenue: for year ending: 12/31/2014	
Cargo Tank: N/A					
Company Physical Address:					
Contact Name:					
Phone numbers: (1)					
E-Mail Address:					
Company Mailing Address:					
1510 FAIR LANE MANHATTAN, KS 66502					
Carrier Classification					
Private Property					
Cargo Classification					
Other: signs, ballast, bulbs					
Equipment					
	Owned	Term Leased	Trip Leased	Owned	Term Leased Trip Leased
Truck	1	0	0		
Power units used in the U.S.: 1					
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:		1	Total Drivers: 1		
>= 100 Miles:			CDL Drivers: 1		





THOMAS SIGN SERVICES (DELANO P PETTY dba)

U.S. DOT #: 1858146

State #:

Review Date:

05/14/2015

Part A

QUESTIONS regarding this report may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead Road
Topeka, Kansas 66604
Telephone (785)640-9132

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name:

Title:

Name:

Title:



	THOMAS SIGN SERVICES (DELANO P PETTY dba)	Review Date:
	U.S. DOT #: 1858146	05/14/2015

State #:

Part B Violations

1 FEDERAL	Primary: 391.45(b)(1) Secondary: 391.11(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Using a driver not medically examined and certified during the preceding 24 months.					
Example On 03/26/2014 Thomas Sign Services had driver operate a CDL required commercial motor vehicle (VIN# 21397) in commerce. drove the 1989 F700 Flat bed crane truck from the principal place of business to Winsupply in Manhattan Kansas. At the time of this trip and during the review, the driver had not been medically examined during the preceding 24 months. This is a violation of part 391.45(b)(1). The previous two year medical expired on 03/13/2015.					
Safety Fitness Rating Information: Total Miles Operated 11,000 Recordable Accidents 0		OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0			

Your proposed safety rating is :

This Review is not Rated.

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 does not include review of all regulatory parts and factors as set forth in 49 C.F.R. Part 385, Appendix B's safety rating methodology and cannot therefore result in a SATISFACTORY safety rating. 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.



THOMAS SIGN SERVICES (DELANO P PETTY dba)

U.S. DOT #: 1858146

State #:

Review Date:

05/14/2015

Safety Management Process Breakdowns and Remedies

1. • 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 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

2. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures





THOMAS SIGN SERVICES (DELANO P PETTY dba)

U.S. DOT #: 1858146

State #:

Review Date:

05/14/2015

Safety Management Process Breakdowns and Remedies

DESCRIPTION OF PROCESS BREAKDOWN

Carrier failed to ensure that any person who has not been medically examined and certified as physically qualified to operate a commercial motor vehicle during the preceeding 24 months has been examined.

BASIC SPECIFIC RECOMMENDED REMEDIES

Ensure that all CDL required commercial motor vehicle operators have current and valid medical examinations and retain proof (MEC) at the principal place of business. Additionally, require drivers to self certify the MEC with the DMV and have the information incorporated onto the CDL. Lastly, ensure that drivers retain the tangible copy of the MEC on their person whenever operating a CDL required commercial motor vehicle.

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

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- 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 Driver Fitness 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

3. 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 Delano P Petty dba Thomas Sign Services's operating authority and/or the impoundment of Delano P Petty dba Thomas Sign Services's vehicles.

X

Delano P. Petty Jr.



ATTACHMENT “B”

ThomaSign Service

Invoice

Manhattan, KS 66502

Date	Invoice #
3/26/2015	9143

Bill To
Manhattan, KS 66502

P.O. No.	Terms
	Net 15

Quantity	Description	Rate	Amount
1	New 4' x 24' Flex Face for Existing Midway Wall Sign w/ New Copy	1,360.00	1,360.00T
1	Digital Print Charge on Guardian Logo	100.00	100.00T
12	96" DA Lamps	5.41	64.92T
2	688 DR Ballast	195.30	390.60T

Thank you for your business.

Subtotal \$1,915.52

Sales Tax (8.4%) \$160.90

Total \$2,076.42

Phone #	Fax #	E-mail

JUN 04 2015

IN RE: DOCKET NO. **15-TRAM-552-PEN**

DATE

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
DELANO P. PETTY, OWNER D/B/A THOMAS SIGN SERVICES 1510 FAIR LANE MANHATTAN, KS 66502		
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JUN 05 2015

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