

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

February 2, 2017

17-TRAM-316-PEN

Tim A. Splechter, President  
TS Construction General Contractors, Inc.  
1586 Highway 54  
Yates Center, Kansas 66783

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 January 4, 2017, by Kansas Corporation Commission Special Investigator Michael Heenan. 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 \$1,500 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](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. 2016 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,



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

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

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

In the Matter of the Investigation of **TS** )  
**Construction General Contractors, Inc., of** )  
**Yates Center, Kansas,** Regarding the Violation )  
of the Motor Carrier Safety Statutes, Rules and ) Docket No. 17-TRAM-316-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. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

## **II. BACKGROUND**

4. TS Construction General Contractors, Inc. (TS Construction) operates under USDOT number 942565.

5. TS Construction is an intrastate carrier that excavates and moves dirt. It owns four trucks and 4 trailers and employs two CDL drivers.

6. TS Construction is a private motor carrier which primarily hauls motor vehicles, construction, gravel and dirt.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on January 4, 2017, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of TS Construction. 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. Heenan identified four (4) violations of the Motor Carrier Safety Regulations.

- a. On November 29, 2016, TS Construction required or permitted its driver, Duane Evans, to operate a CDL-required commercial motor vehicle, a 1995 Ford L9000 10 wheel dump truck, VIN ending in 70843, GVWR greater than 53,000 lbs., in intrastate commerce in and around the area of Yates Center, Kansas. This trip is evidenced by KCC Written Statement of Tim A. Splechter, President of the company, dated January 4, 2017, a

copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, TS Construction failed to maintain a copy of the motor vehicle record (MVR) in its driver’s qualification file. TS Construction’s failure to maintain a copy of the motor vehicle record received from each State in the driver qualification file is a violation of 49 C.F.R. 391.51(b)(2), as adopted by K.A.R. 82-4-3, and as authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, TS Construction had not implemented an alcohol and/or controlled substance program to randomly test its CDL drivers. The carrier’s failure to establish an alcohol and/or controlled substances program for its CDL 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. 2016 Supp. 66-1,129. Staff recommends a fine of \$650.
- c. On September 29, 2016, TS Construction required or permitted its driver, Duane Evans, to operate a CDL-required commercial motor vehicle, a 2000 Dodge 1 ton flatbed pickup, VIN ending in 209490, GVWR of 10,001 to 14,000 lbs., in intrastate commerce from Yates Center, Kansas to Pittsburg, Kansas. The carrier could not remember which trailer was used in this transportation to transport the large load of plastic pipe. The three trailers owned by the carrier have a GVWR of 22,000 lbs. to 22,500

lbs. This trip is evidenced by Invoice No. 16-527, dated December 20, 2016, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. The actual delivery date of the material on the invoice was September 29, 2016. At the time of this transportation, the driver drove 86.9 miles as per Google Trips. This requires private carrier authority from the state of Kansas. TS Construction does not have private carrier authority. The carrier’s commercial operation of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2016 Supp. 66-1,111 and 49 C.F.R. 392.2, as adopted by K.A.R. 82-4-3h and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$500.

- d. On November 29, 2016, TS Construction required or permitted its driver, Timothy A. Splechter, to operate a CDL-required commercial motor vehicle, a 1983 Peterbilt tractor, VIN ending in 156437, GVWR greater than 33,000 lbs., pulling a 2001 Fontaine Detach trailer, VIN ending in 98978, GVWR 60,000 lbs., in intrastate commerce in and around the area of Yates Center, Kansas. This trip is evidenced by Drivers’ Time Record, a copy of which is attached hereto as Attachment “D” and is hereby incorporated by reference. At the time of the transportation, TS Construction failed to require its driver to be medically examined and certified that he is physically fit to operate the CDL motor vehicle. His medical certificate expired in late 2016. 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. 2016 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 TS Construction committed four (4) 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 \$1,500 for four (4) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that TS Construction 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that TS Construction 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 TS Construction because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds TS Construction committed four (4) 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. TS Construction General Contractors, Inc., of Yates Center, Kansas is hereby assessed a \$1,500 civil penalty for four (4) 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. TS Construction 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, TS Construction is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2016 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 TS Construction's right to a hearing, and this

Penalty Order will become a Final Order assessing a \$1,500 civil penalty against TS Construction, and ordering TS Construction 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. 2016 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 \$1,500 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 TS Construction'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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: FEB 02 2017


  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

Order Mailed Date  
FEB 03 2017

## **ATTACHMENT “A”**

**Kansas Corporation Commission**

|   | <b>US DOT #</b><br>942565 | <b>Legal:</b> TS CONSTRUCTION GENERAL CONTRACTORS INC<br><b>Operating (DBA):</b> T S CONSTRUCTION   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
|--|---------------------------|---|---|---------------------|--------------------|-------------------|------------------------|---------------------|--------------|---|---------------------|---|------------------------|---|---|---|---------------|---|---|---|---------|---|---|---|--|--|--|--|
| <b>MC/MX #:</b>  |                           | <b>Federal Tax ID</b> [REDACTED] (EIN)  |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Review Type:</b> Compliance Review (CR)   |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Scope:</b> Principal Office   |                           | <b>Location of Review/Audit:</b> Company facility in the U. S.                                      |   | <b>Territory:</b> C |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Operation Types</b> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"><b>Interstate</b></td> <td style="width:30%;"><b>Intrastate</b></td> <td style="width:40%;"></td> </tr> <tr> <td><b>Carrier:</b> N/A</td> <td>HM</td> <td rowspan="3"> <b>Business:</b> Corporation<br/> <b>Gross Revenue:</b> [REDACTED] <b>for year ending:</b> 12/31/2015                         </td> </tr> <tr> <td><b>Shipper:</b> N/A</td> <td>N/A</td> </tr> <tr> <td><b>Cargo Tank:</b> N/A</td> <td></td> </tr> </table>  |                           |   |   |                     | <b>Interstate</b>  | <b>Intrastate</b> |                        | <b>Carrier:</b> N/A | HM           | <b>Business:</b> Corporation<br><b>Gross Revenue:</b> [REDACTED] <b>for year ending:</b> 12/31/2015 | <b>Shipper:</b> N/A | N/A   | <b>Cargo Tank:</b> N/A |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Interstate</b>  | <b>Intrastate</b>         |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Carrier:</b> N/A  | HM                        | <b>Business:</b> Corporation<br><b>Gross Revenue:</b> [REDACTED] <b>for year ending:</b> 12/31/2015 |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Shipper:</b> N/A  | N/A                       |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Cargo Tank:</b> N/A   |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Company Physical Address:</b><br>[REDACTED]   |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Contact Name:</b> Tim A Splechter<br><b>Phone numbers: (1)</b> [REDACTED] <b>Fax</b><br><b>E-Mail Address:</b> [REDACTED]   |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Company Mailing Address:</b><br>1586 HIGHWAY 54<br>YATES CENTER, KS 66783-5201  |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Carrier Classification</b><br>Private Property  |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Cargo Classification</b><br><table style="width:100%;"> <tr> <td style="width:33%;">Motor Vehicles</td> <td style="width:33%;">Construction</td> <td style="width:34%;">Other: gravel and dirt</td> </tr> </table>  |                           |   |   |                     | Motor Vehicles     | Construction      | Other: gravel and dirt |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| Motor Vehicles   | Construction              | Other: gravel and dirt  |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Hazardous Materials</b><br><table style="width:100%;"> <tr> <td style="width:33%;">9 Miscellaneous HM</td> <td style="width:33%;">Carried</td> <td style="width:34%;">Non-Bulk</td> </tr> </table>  |                           |   |   |                     | 9 Miscellaneous HM | Carried           | Non-Bulk               |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| 9 Miscellaneous HM   | Carried                   | Non-Bulk  |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Equipment</b> <table style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td align="center">3</td> <td align="center">0</td> <td align="center">0</td> <td>Truck Tractor</td> <td align="center">1</td> <td align="center">0</td> <td align="center">0</td> </tr> <tr> <td>Trailer</td> <td align="center">4</td> <td align="center">0</td> <td align="center">0</td> <td></td> <td></td> <td></td> <td></td> </tr> </table> |                           |   |   |                     |                    | Owned             | Term Leased            | Trip Leased         |              | Owned   | Term Leased         | Trip Leased   | Truck                  | 3 | 0 | 0 | Truck Tractor | 1 | 0 | 0 | Trailer | 4 | 0 | 0 |  |  |  |  |
|  | Owned                     | Term Leased   | Trip Leased   |                     | Owned              | Term Leased       | Trip Leased            |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| Truck  | 3                         | 0   | 0   | Truck Tractor       | 1                  | 0                 | 0                      |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| Trailer  | 4                         | 0   | 0   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| Power units used in the U.S.: 4<br>Percentage of time used in the U.S.: 100  |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Does carrier transport placardable quantities of HM?</b> No<br><b>Is an HM Permit required?</b> N/A   |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| <b>Driver Information</b> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%;"><b>Inter</b></td> <td style="width:10%;"><b>Intra</b></td> <td style="width:50%;"></td> </tr> <tr> <td>&lt; 100 Miles:</td> <td></td> <td align="center">2</td> <td> <b>Average trip leased drivers/month:</b> 0<br/> <b>Total Drivers:</b> 2<br/> <b>CDL Drivers:</b> 2                         </td> </tr> <tr> <td>&gt;= 100 Miles:</td> <td></td> <td></td> <td></td> </tr> </table>   |                           |   |   |                     |                    | <b>Inter</b>      | <b>Intra</b>           |                     | < 100 Miles: |   | 2                   | <b>Average trip leased drivers/month:</b> 0<br><b>Total Drivers:</b> 2<br><b>CDL Drivers:</b> 2 | >= 100 Miles:          |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
|  | <b>Inter</b>              | <b>Intra</b>  |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| < 100 Miles:   |                           | 2   | <b>Average trip leased drivers/month:</b> 0<br><b>Total Drivers:</b> 2<br><b>CDL Drivers:</b> 2 |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |
| >= 100 Miles:  |                           |   |   |                     |                    |                   |                        |                     |              |   |                     |   |                        |   |   |   |               |   |   |   |         |   |   |   |  |  |  |  |



T S CONSTRUCTION (TS CONSTRUCTION GENERAL CONTRACT dba)

U.S. DOT #: 942565

Review Date:

01/04/2017

## Part B Violations

| 1<br>FEDERAL  | Primary: 382.115(a)                                   | Discovered<br>1 | Checked<br>1 | Drivers/Vehicles<br>In Violation<br>0 | Checked<br>0 |
|---|---|-----------------|--------------|---------------------------------------|--------------|
| <b>Description</b><br>Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The above driver operated a 54000 lb 10 wheel dump truck. At the time of this trip, and the time of this review, the carrier had not enrolled in any random drug and alcohol testing program due to a stated misunderstanding in reference to the regulation. The other drug testing violations preclude to the fact that the carrier had no program. |   |                 |              |                                       |              |
| 2<br>STATE  | Primary: 391.45(b)(1)                                 | Discovered<br>1 | Checked<br>2 | Drivers/Vehicles<br>In Violation<br>1 | Checked<br>2 |
| <b>Description</b><br>Using a driver not medically certified.<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled equipment to a location in rural Yates Center Ks. The carrier had a copy of the medical certificate for his driver on file as his driver, [REDACTED], had recently retired from a truck driving job and provided his medical. The carrier/driver, [REDACTED], had not had a medical since December of 2015 as he believed that due to information found on State of Kansas Website that he was excepted from this regulation.  |   |                 |              |                                       |              |
| 3<br>STATE  | Primary: 391.51(b)(1)<br>CFR Equivalent: 391.51(b)(1) | Discovered<br>1 | Checked<br>2 | Drivers/Vehicles<br>In Violation<br>1 | Checked<br>2 |
| <b>Description</b><br>Failing to maintain driver's employment application in driver's qualification file.<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The carrier was exempt economic authority for the load, but subject to safety authority.  |   |                 |              |                                       |              |
| 4<br>STATE  | Primary: 391.51(b)(2)<br>CFR Equivalent: 391.51(b)(2) | Discovered<br>1 | Checked<br>2 | Drivers/Vehicles<br>In Violation<br>1 | Checked<br>2 |
| <b>Description</b><br>Driver Investigation History file must contain a copy of the response by each State agency concerning a driver's driving record pursuant to §391.23(a)(1);<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The carrier was exempt economic authority for the load, but subject to safety authority. This driver had no MVR within 30 days of his hiring 10-16-15.   |   |                 |              |                                       |              |





T S CONSTRUCTION (TS CONSTRUCTION GENERAL CONTRACT dba)

U.S. DOT #: 942565

Review Date:

01/04/2017

## Part B Violations

|   |   |                 |              |   |
|---|---|-----------------|--------------|---|
| 5<br>STATE  | Primary: 391.51(b)(3)<br><br>CFR Equivalent: 391.51(b)(3) | Discovered<br>1 | Checked<br>2 | Drivers/Vehicles<br>In Violation 1<br>Checked 2 |
| <b>Description</b><br>Failing to maintain road test certificate in driver's qualification file, or copy of license or certificate the motor carrier accepted as equivalent.<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The carrier was exempt economic authority for the load, but subject to safety authority. The carrier had one road test or road test equivalent in [REDACTED] file, but none for himself. Carrier believed he had copy of his CDL however it could not be located. |   |                 |              |   |
| 6<br>STATE  | Primary: 391.51(b)(4)<br><br>CFR Equivalent: 391.51(b)(4) | Discovered<br>2 | Checked<br>2 | Drivers/Vehicles<br>In Violation 2<br>Checked 2 |
| <b>Description</b><br>Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. This carrier had a USDOT since 2001 but had only one MVR dated in each driver file 12/09/16 which was obtained after the carrier was advised of this review on 11-18-16. The carrier failed to have a MVR for each driver at least every 12 months.   |   |                 |              |   |
| 7<br>STATE  | Primary: 391.51(b)(5)<br><br>CFR Equivalent: 391.51(b)(5) | Discovered<br>2 | Checked<br>2 | Drivers/Vehicles<br>In Violation 2<br>Checked 2 |
| <b>Description</b><br>Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The carrier failed to have any annual review in either driver file.  |   |                 |              |   |
| 8<br>STATE  | Primary: 391.51(b)(6)<br><br>CFR Equivalent: 391.51(b)(6) | Discovered<br>2 | Checked<br>2 | Drivers/Vehicles<br>In Violation 2<br>Checked 2 |
| <b>Description</b><br>Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.<br><b>Example</b><br>Driver name: [REDACTED]<br>Trip date: 11-29-16<br>At the time of this trip, and the time of this review, the driver listed above hauled gravel to a location in Yates Center Ks. The carrier failed to have any certification of violations in the driver file.  |   |                 |              |   |





**T S CONSTRUCTION (TS CONSTRUCTION GENERAL CONTRACT dba)**  
U.S. DOT #: 942565

Review Date:  
01/04/2017

### Part B Violations

|  |  |   |              |                                       |              |
|--|--|---|--------------|---------------------------------------|--------------|
| 9<br>STATE   | Primary: 66-1,111<br>CFR Equivalent: 392.2 | Discovered<br>1                         | Checked<br>1 | Drivers/Vehicles<br>In Violation<br>0 | Checked<br>0 |
| <b>Description</b><br>No Private Carrier Authority<br>Driver name: [REDACTED]<br>Trip date: 09-29-16<br>Destination: Pittsburg Ks<br>Origination: Yates Center Ks<br>86 miles<br>At the time of this trip and the time of this review the driver had made the above trip to Vinylplex in Pittsburg Ks to pick up plastic pipe to bring back the Yates Center for the carrier inventory to be sold or used for the purpose of sale. Carrier reported that he has customers that come to his location and buy and pick up pipe and he uses pipe in the terrace, pond, and septic work. |  |   |              |                                       |              |
| <b>Safety Fitness Rating Information:</b>  |  |   |              |                                       |              |
| Total Miles Operated 20,000  |  | OOS Vehicle (CR): 0                     |              |                                       |              |
| Recordable Accidents 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.**

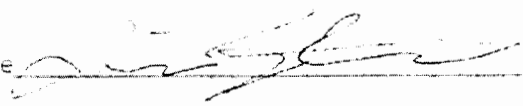
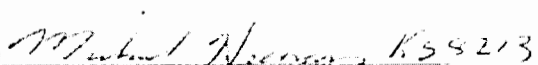




TS CONSTRUCTION (TS CONSTRUCTION GENERAL CONTRACT dba)  
U S DOT # 942565

Review Date  
01/04/2017

### Part B Requirements and/or Recommendations

1. Ensure that all drivers are fully and properly qualified before operating on Inter/Intra state commerce. Maintain a complete file as required for each driver documenting the qualification process.
  2. Ensure reasonable suspicion training has been completed.
  3. Make certain that all drivers of commercial motor vehicles have a proper application for employment that is completed, dated, and signed.
  4. Within 15 days send a letter to our office explaining your actions taken to remedy a non-compliance status. Mail to:  
Kansas Corporation Commission, 1500 SW Arrowhead RD Topeka, KS 66604-4027  
Attention: Gary Davenport
  5. Driver shall not drive Intrastate/Interstate until they have physically examined and re-examined each 24 months.
  6. All Driver Files are to include a properly signed and executed Road Test and Road Test Certificate for Commercial Motor Vehicles. A current CDL may be used in place of Road Test or Certificate. Tank vehicles, twin and triple trailers are exempt from allowing the CDL in place of the road test.
  7. Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
  8. "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 website:  
[http://kcc.ks.gov/trans/penalty\\_assessment\\_table.html](http://kcc.ks.gov/trans/penalty_assessment_table.html)"
- Carrier Signature 
- Investigator Signature  KS 8213
9. Drivers may not drive a CMV interstate or intrastate unless they have been physically examined and certified with a Medical Certificate every 24 months.
  10. Make certain that you have Kansas Private Carrier Authority if the situation exists that your carrier operations require the authority under Kansas State law.
  11. 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





TS CONSTRUCTION (TS CONSTRUCTION GENERAL CONTRACT dba)  
U.S. DOT # 942565

Review Date  
01/04/2017

### Part B Requirements and/or Recommendations

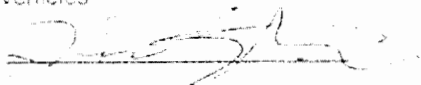
same Part of Title 49 Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49 Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period

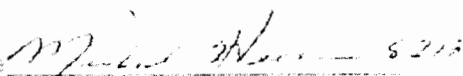
• **NOTICE** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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.

12. Make certain that all drivers of commercial motor vehicles have a record check of their driving record at least every 12 months and within 30 days of their initial employment.
13. Make certain that all CDL holders that operate CDL vehicles are in a random drug and alcohol testing selection pool with only other CDL operators. This gives CDL operators fair and equal chance of selection for drug and alcohol testing.
14. Provide employees and owner operators with a drug and alcohol policy. The policy will provide a signature page to verify the employee or owner operator has been given a copy of the policy to read and does in fact understand its contents.
15. Provide proof that the company supervisor listed below has been trained and certified with training on alcohol and drug abuse and provide this agency a copy of such certification.
16. 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 [TS Construction General Contractors Inc.] operating authority and/or the impoundment of [TS Construction General Contractors Inc.] vehicles.

Carrier Signature 

Investigator Signature  8215





## **ATTACHMENT “B”**

# KCC WRITTEN STATEMENT

Signed Statement of Tim A Splechter

Representative of Motor Carrier TS Construction General Contractors Inc.

USDOT# 942565

I, Tim A Splechter, voluntarily give the following statement to Michael Heenan, who has identified himself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.

## NARRATIVE:

I, Tim A Splechter, would like to state for the record that I am the owner/operator and working for TS Construction General Contractors Inc.

The enclosed invoice provided dated 12-20-16 was for work performed on 11-29-16 by Duane Evans for Donald Jacobs of Yates Center.

The date on the billing was actually the invoice date, however, the work was performed on 11-29-16. Jacobs had rock delivered for feeding area for cattle.

I have read the foregoing statement consisting of \_\_1\_\_ page(s). It is true, accurate and complete to the best of my knowledge. I reviewed any changes and they bear my initials.

I sign this statement under the penalty of perjury in the presence of Michael

Heenan.

Witness'/Interviewee's signature

Date

01-04-17

I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.

Safety Investigator's Signature

Date

01-04-17

*Michael Heenan*

K58213

## **ATTACHMENT “C”**

TS Construction General Contractors, Inc.

1586 Highway 54  
Yates Center, KS 66783  
Tim Splechter Owner

# Invoice

| Date       | Invoice # |
|------------|-----------|
| 12/20/2016 | 16-527    |

Bill To

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX

|   |                          | Terms        | Project           |
|---|--------------------------|--------------|-------------------|
| Quantity  | Description              | Rate         | Amount            |
| 15.55   | Rock 3" clean            | 10.25        | 159.39            |
| 98.05   | Rock base                | 8.40         | 823.62            |
| 8   | Dump Truck Hour          | 100.00       | 800.00            |
|   | Woodson County Sales Tax | 7.50%        | 0.00              |
| There will be a finance charge of 21% APR applied to past due accounts. Minimum late charge \$5.00. |                          | <b>Total</b> | <b>\$1,783.01</b> |

| Phone #      | E-mail                |
|--------------|-----------------------|
| 620 496 6100 | tasplechter@yahoo.com |

## **ATTACHMENT “D”**

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

Driver's Name (print)

Tom Spedden

Employee No.

Month

11

Year

16

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    |            |          |             |              |                            |
| 2    |            |          |             |              |                            |
| 3    |            |          |             |              |                            |
| 4    |            |          |             |              |                            |
| 5    |            |          |             |              |                            |
| 6    |            |          |             |              |                            |
| 7    |            |          |             |              |                            |
| 8    |            |          |             |              |                            |
| 9    |            |          |             |              |                            |
| 10   |            |          |             |              |                            |
| 11   |            |          |             |              |                            |
| 12   |            |          |             |              |                            |
| 13   |            |          |             |              |                            |
| 14   |            |          |             |              |                            |
| 15   | 8:30       | 10:30    | 2           | Pete         | Local                      |
| 16   |            |          |             |              |                            |
| 17   |            |          |             |              |                            |
| 18   |            |          |             |              |                            |
| 19   |            |          |             |              |                            |
| 20   |            |          |             |              |                            |
| 21   |            |          |             |              |                            |
| 22   |            |          |             |              |                            |
| 23   | 1100       | 1230     | 1 1/2       | Pete         | Local                      |
| 24   |            |          |             |              |                            |
| 25   |            |          |             |              |                            |
| 26   |            |          |             |              |                            |
| 27   |            |          |             |              |                            |
| 28   |            |          |             |              |                            |
| 29   | 900        | 1130     | 2 1/2       | Pete         | Local                      |
| 30   |            |          |             |              |                            |
| 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**

17-TRAM-316-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on FEB 02 2017.

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

TIM A. SPLECHTER, OWNER/OPERATOR  
TS CONSTRUCTION GENERAL CONTRACTORS, INC.  
1586 HIGHWAY 54  
YATES CENTER, KS 66783-5201  
tasplechter@yahoo.com

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe

Order Mailed Date

FEB 03 2017