1500 SW Arrowhead Road Topeka, KS 66604-4027 Kansas

Corporation Commission

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

Sam Brownback, Governor

Mark Sievers, Chairman Ward Loyd, Commissioner Thomas E. Wright, Commissioner

NOTICE OF PENALTY ASSESSMENT

April 19, 2012

Chris Melander, Owner d/b/a C and T Contracting 2256 CR 2500 Caney, Kansas 67333

12-TRAM-738-PEN

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 March 26, 2012, 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 \$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 Fiscal Section 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 calling the Fiscal Office at 785-271-3274.

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 12 months. Staff will contact you at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY:

when Swith

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 Executive Director 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.

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 operations.

Sincerely,

Amber Smith Litigation Counsel (785) 271-3301

THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Mark Sievers, Chairman

Ward Loyd

Thomas E. Wright

EN

PENALTY ORDER

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

I. JURISDICTION

- 1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 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. 66-1,129a, 66-1,130 and 66-1,142b, and amendments thereto, 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. Chris Melander, d/b/a C and T Contracting (C and T Contracting) operates in interstate commerce under USDOT number 947307.
- 5. C and T Contracting is a husband and wife shared driving operation and owns two tractors and two flatbed trailers. It began hauling for JB Hunt, but has not worked for them since November 2011. The carrier's intention is to continue to stay in business and seek loads to haul.
- 6. C and T Contracting is a common and private motor carrier which primarily hauls general freight, oilfield equipment, logs, poles, beams, lumber, grain, feed and hay.

III. STAFF'S STATEMENT OF FACTS

- 7. Pursuant to the jurisdiction and authority cited above, on March 26, 2012, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of C and T Contracting. 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 one (1) violation of the Motor Carrier Safety Regulations.
 - a. On November 11 and 12, 2011, C and T Contracting required or permitted its drivers, Chris D. Melander and Peggy S. Melander, to operate a commercial motor vehicle, a 2005 Freightliner, VIN in interstate commerce from Caney, Kansas to

Texas. This trip is evidenced by Driver's Daily Logs, copies attached hereto as Attachment "B". At the time of this transportation C and T Contracting failed to require Chris D. Melander and Peggy S. Melander to be medically examined and certified as physically fit to operate a commercial motor vehicle. C and T Contracting'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 Title 49 C.F.R. 391.45(b)(1) and Title 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. 2010 Supp. 66-1,129. Staff recommends a fine in the amount of \$500.

IV. STAFF'S RECOMMENDATIONS

- 8. Based upon the available facts, Staff recommends the Commission find C and T Contracting committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.
- 9. Additionally, Staff recommends a civil penalty of \$500 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.
- 10. Staff further recommends that C and T Contracting 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 C and T Contracting submit to one follow-up safety compliance review within the next twelve (12) 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 C and T Contracting because it is a motor carrier as defined in K.S.A. 66-1,108.
- 13. The Commission finds C and T Contracting committed one (1) violation of Kansas law that govern motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), 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. Chris Melander, d/b/a C and T Contracting, of Caney, Kansas is hereby assessed a \$500 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. C and T Contracting 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, C and T Contracting is ordered to submit to one follow-up safety compliance review within the next twelve (12) months.
- C. <u>Pursuant to K.S.A. 77-537 and K.S.A. 77-542, and amendments thereto, any</u> party may request a hearing on the above issues by submitting a written request, setting

Director, 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 C and T Contracting's right to a hearing, and this Penalty Order will become a Final Order assessing a \$500 civil penalty against C and T Contracting, and ordering C and T Contracting 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 twelve (12) 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. A corporation shall not be permitted to enter an appearance, except by its attorney.
- 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 Fiscal Section 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 \$500 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 C and T Contracting'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 order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn; Loyd, Com.; Wright, Com.

Dated: _____APR 1 9 2012

ORDER MAILED APK 1

Patrice Petersen-Klein Executive Director

AS

ATTACHMENT "A"

	US DOT#	1	S MELANDER	•	
	947307	Operating (I	BA):C AND T CONTRACTING	·	
MC/MX #:	702608		Federal Tax ID:	(EIN)	
Review T	ype: Complia	ance Review (Cl	R) - Receipt		
Scope:	Principa	I Office	Location of Review/Audit: Cor	npany facility in the U.S.	Territory: C
Operation	Types Inte	erstate Intrasta	te		
		on-HM Non-H	·		
	hipper: N/.		Gross Revenue:	for year ending: 12/3	31/2011
Cargo	Tank:	N/A			
Company	Physical Ac	ddress:			
Contact	Name:	Peggy S Melan	der		
Phone n	umbers: (1)		(2) Fax		
E-Mail A	ddress:				
Company	Mailing Add	dress:			e e
2256 CR	2500				
CANEY.	KS 67333				
Report S	ummary				
		Report		# of Pages	
		Part A - Genera	al ·	2	
		Part B - Violatio		2	
! [Part B - Recom		2	
		Review/Audit F	eceipt Page	1	
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			ont or the Federal Motor Camer Sa be addressed to the Office of Moto		100 400
		as Corporation			
f	Attn: 1500	Gary Davenpor	t Rd Topeka,Ks 66604 (785) 271-3	151	
		This	report will be used to assess you	ır safety compliance.	
Person(s) Interviewe	<u>d</u>			
	Peggy S Mel	_		Title: Secretary	
Name:	Chris D Mela	nder		Title: President	
Repor	ted By:	74). Heen	Title:	Code: KS82	13 Date: 3/26/2012
Danai	ved Rv	1	Tiel	0.5	

3	US DOT 947307		-	MELANDER A):C AND T CONTRACTING		
MC/MX #:		1 0	erating (DE	Federal Tax ID: (EIN)		
) !- (OD)	rederal Tax (D:		
			Review (CR)			
Scope:	Princ	ipal Offic	e	Location of Review/Audit: Company facility in	the U. S.	Territory: C
Operation			e Intrastate	4		
		Non-HM		Business: Corporation		
		N/A	N/A	Gross Revenue: for year	ar ending: 12	/31/2011
Cargo	Tank:	N/	A			
Company	Physical	Addres	s:			
0	VI					
Contact I			y S Melande			
E-Mail Ac	umbers:	(1)		(2) Fax		
Company		Address	<u> </u>			
2256 CR						
CANEY,	KS 67333					
Carrier Cl	assification	on			S. C. C.	1 14
Autho	rized for l	Hire		Private Property		
Cargo Cla					·	
i	ral Freight		Log	s, Poles, Beams, Lumber Oil Field Equipment		
	, Feed, Ha	•				
1			-	uantities of HM?		
	Permit re		? 	N/A		
Driver Inf	formation					
		Inter	Intra	Average trip leased drivers/month: 0		
< 1	00 Miles:			Total Drivers: 2		
>= 1	00 Miles:	2		CDL Drivers: 2		
Equipmer	nt					
			wned Ter	m Leased Trip Leased	Owned Ter	m Leased Trip Leased
Truck	Tractor		2	0 0 Trailer	2	0 0
Power unit						
Percentage	e of time ι	used in th	ne U.S.:100		_	





U.S. DOT #: 947307

Review Date: 03/26/2012

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 Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, Ks 66604 (785) 271-3151

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Peggy S Melander Name: Chris D Melander Title: Secretary

Title: President





U.S. DOT #: 947307

Review Date: 03/26/2012

Part B Violations

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

Description

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Example

Driver name: Peggy S Melander

Trip date: 11-12-11

Orange Tx to Ardmore, Ok

The carrier had annual reviews of driving records in their driver files, but they were outdated and expired.

2	Primary: 391.51(b)(6)			Drivers/Vehicles	
FEDERAL		Discovered	Checked	In Violation	Checked
		2	2	2	2

Description

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

Example

Driver name: Peggy S Melander

Trip date: 11-12-11

Orange Tx to Ardmore, Ok

The carrier had certificates of driving records in their driver files that were outdated and expired.

3	Primary: 391.51(b)(7)			Drivers/V	ehicles
FEDERAL		Discovered	Checked	In Violation	Checked
CRITICAL		2	2	2	2

Description

Failing to maintain medical examiner's certificate in driver's qualification file.

Driver name: Chris D Melander Trip date: 11-11-11 and 11-12-11

At the time of this trip, and the time of this review, the above driver did not have an current or valid medical certificate. The carrier/drivers wife. Peggy S Melander, showed a trip as driving on 11-12-11 during the same trip as the Melanders are team drivers. The Melanders both had their medicals performed on 04-02-09 and were valid until 04-02-11. The above trips took place on 11-11-11 and 11-12-11. At the time of this review on -3-26-12 the drivers medicals were still expired. The Melanders had medicals in their files from 2005 to 2007; 2007 to 2009; and 2009 to 2011. The last medical was expired on 04-12-11. The above trips were 7 months exactly to the day after the drivers medicals both expired. At the time of this review, the medicals were expired over 11 1/2 months

4	Primary: 396.3(b)(1)			Drivers/Vehicles	
FEDERAL		Discovered	Checked	In Violation	Checked
		4	4	4 .	4

Description

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.

Company has 2 trucks and 2 trailers that they had maintenance information for, but did not have maintenance files that identified the vehicles by the criteria in this part.



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Part B Violations

5	Primary: 396.19(b)			Drivers/Vehicles	
FEDERAL	.,	Discovered	Checked	In Violation	Checked
		2	2	4	4

Description

Failing to maintain evidence of inspector's qualifications.

Inspectors name: Roy LaHayre and Chris Baker

Inspection date: 11-11-11 Trip date: 11-12-11

Carrier had the above inspectors inspect their trucks and trailers. LaHayre inspected one tractor and 3 trailers and Baker

inspected one tractor a 2005 Freightliner.

Neither of the two above listed inspectors provided any letters of qualification to the carrier.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	21,000	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
Recordable Accidents/Million	Miles 0.00	Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :	Rating Factors		Acute	Critical	
, , , , , , , , , , , , , , , , , , , ,	Factor 1:	S	0	0	
	Factor 2:	С	0	1	
SATISFACTORY	Factor 3:	S	0	0 -	
OATIOI AGTORT	Factor 4:	S	0	0	
	Factor 5:	N	0	0	
	Factor 6:	S	-	-	

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





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Part B Requirements and/or Recommendations

- Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
- 2. Make certain that you have Kansas Common Carrier Authority if the situation exists that your carrier operations require the authority under Kansas State law. The transportation for hire point to point within the State of Kansas requires the above authority.
- 3. Maintain letters or certificates of qualifications for all persons performing annual periodic inspections on commercial motor vehicles.
- 4. Drivers may not drive a CMV interstate or intrastate unless they have been physically examined and certified with a Medical Certificate every 24 months
- 5. Make certain that all vehicles that qualify as Commercial Motor Vehicles have a maintenance file that describes the vehicle by the make, model, year, VIN, tire size, unit number, and if the vehicle is leased or owned. Carrier needs to be certain that all repairs and parts are properly entered in the maintenance file as well as the receipts for such parts or repairs.
- 6. Make certain that you have Kansas Common Carrier Authority if the situation exists that your carrier operations require the authority under Kansas State law.
- 7. For all Investigations:
 - Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
 - Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
 - NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation 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.





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Part B Requirements and/or Recommendations

- 8. Make certain that all drivers utilizing the 100 or 150 air mile radius exemption are utilizing proper time sheets or time records that document compensated time as well as show the time the driver reports for work, time when they complete work each day as well as the total hours worked for each day.
- 9. Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.
- 10. If you want some drivers to use the 100 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour requirement.
- 11. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
- 12. Basic: Driver Fitness 391.45(b)(1)
 - Provide evidence of a valid medical examiners certificate for all drivers or proof of waiver and or exception issued by Agency for requested drivers listed below.

Chris D Melander Peggy S Melander

Within 30 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

ATTACHMENT "B"

	A STATE OF THE PROPERTY OF THE	
	DRIVER'S DAILY LOG (Month) (Day) (Year) Original - File at home irruinal Diplicate - Differ retains in Malber possession for eight days (24 HOURS) (24 HOURS)	RECAP Complete at end of workday.
	Muk2 340 2256 CR 2500 Carrey KS	On-daily haxes ladey, [Total hines 3 & 4]
	Some Home Terminal Address ,	70 Hour/ 8 Day Drivers
	Tryttly these entries are true and correct: In time Plate(s) / State (show each unit) Driver's Full Signature Co-Driver's Name Co-Driver'	A Total hours on duly last 7 days.
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	2 3 4 5 6 7 8 9 10 11 700N 1 /2 3 4 5 6 7 8 9 10 11 ZV	7 Day Drivers
	and the state of t	A. Total hours on daty lest 6 days, including today B. Total hours swellshie tonserves.
	METATION MAINTEN	C. Total beers on duty last 7 days, including today. "If you took
	Enter name of place you reported and where released from work and where each change of duty occurred. From: USE TIME STANDARD AT HOME TERMINAL OCCOPYRIPM 2003 & Published by J. J. KELLER & ASSOCIATES, INC.	34 consecutive hours off dety, you have 60/70 hours available again.
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Aphipper & Commodity Enter name of place you reported and where released from work and when and where each change of duty occurred. From: F. WOLLN To: OCM FOLIAN TY	C. Total hours en duty last 8 days. including today. BO Hour/ 7 Day Drivers Total hours on dety last 8 days. including today. including today including today.
From: FT WOLLS TO: San Folipo TY	Total hours are find to the control of the control
	S4 consecutive hours of duty, you have 84/70 livers evaluate a gata.

DATE APR 1 9 2012

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

NO. CERT. COPIES NO. PLAIN COPIES

NAME AND ADDRESS

Chris Melander, OWNER D/B/A C and T Contracting 2256 CR 2500 Caney, KS 67333

AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***

ORDER MAILED APR 1 9 2012