

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner



20231107100933
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
24-TRAM-350-PEN

November 7, 2023

Russell Jones, Owner
Russell L Jones, d/b/a R & L Trucking & Sons
2852 W Smolan Road
Smolan, Kansas 67456

This is a notice of a penalty assessment against Russell L Jones, d/b/a/ R & L Trucking & Sons (Russell L Jones) for a violation of the Kansas Motor Carrier Safety Statutes, Rules, and Regulations, which was discovered during a compliance review conducted on September 22, 2023 by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2024 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2023. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Russell L Jones has been assessed a \$250 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$250, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Russell L Jones to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for a hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Russell L Jones must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$250 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

/s/ Carly R. Masenthin
Carly R. Masenthin
Senior Litigation Counsel
(785) 271-3265
c.masenthin@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of Russell L)
Jones, d/b/a/ R & L Trucking & Sons, of)
Smolan, Kansas, Regarding the Violation(s) of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 24-TRAM-350-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). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On September 22, 2023, Commission Staff Special Investigator (SI) Michael Heenan completed a safety compliance investigation of the operations of Russell L Jones, d/b/a R & L Trucking & Sons (Russell L Jones or Carrier). Russell L Jones is a motor carrier as defined in 49 C.F.R. 390.5, and operates under USDOT number 3378608.

2. On October 17, 2023, Staff submitted its Report and Recommendation (R&R), attached hereto as Attachment "A" and is hereby incorporated by reference, recommending a penalty of \$250 to be issued to Russell L Jones based on the frequency, timeline and severity of the violations discovered. Staff's R&R indicates that as a result of the safety compliance investigations, SI Michael Heenan identified one (1) violation, accounting for one (1) count, of

the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix.²

3. Additionally, Staff recommends that Russell L Jones be required to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance.³ A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

4. Staff further recommends Russell L Jones submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation does not occur in the future.⁴

5. Finally, Staff recommends that Russell L Jones submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order.⁵ Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

6. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or

² Order Designating Guidance Document and Approving Staff's Use of the Transportation Division's Uniform Penalty Assessment Table, pp. 11 – 26 (Jun. 29, 2023) ("Penalty Matrix").

³ See Staff's Report and Recommendation, p. 2 (Oct. 17, 2023).

⁴ See *id.*

⁵ See *id.*

procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

7. Pursuant to K.S.A. 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.

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

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Russell L Jones, d/b/a/ R & L Trucking & Sons, of, Smolan, Kansas is hereby assessed a \$250 civil penalty for one (1) violation, accounting for one (1) count, 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. Russell L Jones is hereby ordered to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Russell L Jones is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order,

documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Russell L Jones is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the Carrier to set up the appointment.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Russell L Jones right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.⁶ For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation.⁷

⁶ . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

⁷ K.S.A. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$250 is due in thirty (30) days from the date of service of this Order. Payment of \$250 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$250 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Russell L Jones's motor carrier operating authority without further notice.⁸ Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 11/07/2023



Lynn M. Retz
Executive Director

CRM

⁸ K.S.A. 66-1,105.

ATTACHMENT “A”

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Gary Davenport, Deputy Director of Transportation
Jared Smith, Public Service Executive

DATE: October 17, 2023

SUBJECT: Docket No. 24-TRAM-350-PEN
In the Matter of the Investigation of Russell L Jones d/b/a R & L Trucking & Sons of Smolan, Kansas Regarding the Violation of the Motor Carrier Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority

EXECUTIVE SUMMARY:

Russell L Jones d/b/a R & L Trucking & Sons (Russell L Jones) is a motor carrier (MC) possessing public for-hire operating authority from the Commission, primarily hauling grain, feed, hay, and commodities dry bulk. Russell L Jones operates under USDOT 3378608. On September 22, 2023, Commission Staff Special Investigator (SI) Mike Heenan completed a safety compliance investigation of the operations of Russell L Jones. A copy of the safety compliance report is attached hereto as **Exhibit 1** and is hereby incorporated by reference. As a result of this investigation, the SI identified one (1) violation accounting for one (1) specific count of the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline and severity of the violations discovered by the SI, Staff recommends penalty of \$250 be issued to the MC.

DISCUSSION AND ANALYSIS:

On September 22, 2023, Commission Staff SI Mike Heenan conducted a safety compliance investigation of the operations of Russell L Jones. The investigation covers a 365-day period, but may include findings of outstanding noncompliance with Commission Orders that were issued outside of that 365-day period. The specific count is detailed below.

Count One (1 of 1)

Jurisdiction: K.S.A. 66-1,142b, and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must comply with the requirements of a Commission Order, including submission of a corrective action plan (CAP) as ordered in a Penalty Order.

Supporting Documents: The MC was ordered to submit a CAP in the Penalty Order issued on November 16, 2021 in Docket No. 22-TRAM-214-PEN.

Violation: Russell L Jones, d/b/a R & L Trucking & Sons has failed to submit a CAP as required by Commission Penalty Order dated November 16, 2021. One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find Russell L Jones committed one (1) violation accounting for one (1) specific count of Kansas law that governs MCs, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations (K.A.R.s), and is therefore subject to sanctions or fines imposed by the Commission.

Due to the frequency, timeline and severity of the violations, Staff recommends a civil penalty of \$250 for one (1) violation of the MC Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends Russell L Jones require a representative responsible for the company's safety to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

Staff further recommends Russell L Jones submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Russell L Jones submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

EXHIBIT 1

UNITED STATES DEPARTMENT OF TRANSPORTATION

	U.S. DOT#: 3378608 MC/MX#: 1104570	Legal: RUSSELL L JONES Operating (DBA): R & L TRUCKING & SONS	Investigation Date: 09/22/23									
Investigation Type: Offsite Investigation												
Physical Address		Mailing Address										
2852 W SMOLAN RD SMOLAN, KS 67456 United States		2852 W SMOLAN RD SMOLAN, KS 67456 United States										
Contact Information												
Contact Name: RUSSELL JONES Email: 6837rjones@gmail.com Phone: (785)243-6837 Cell: ()- Fax: ()-												
Business and Financial												
Business Type: Sole Proprietorship Gross Revenue: \$ For Year Ending: Federal Tax ID: ██████████												
Operation Classification and Type		Cargo										
Type of Operation: Non-HM Interstate Carrier Operation Classification For-Hire Motor Carrier Property Exempt Commodities		Grain, Feed, Hay, Commodities Dry Bulk										
Equipment		Driver Information										
	Owned	Term Leased	Trip Leased									
Truck Tractors	1											
Trailers	1											
Power units used in the U.S.: 1 Percentage of time used in the U.S.: 100%		Drivers <table><tr><td></td><td>Intrastate</td><td>Interstate</td></tr><tr><td>< 100 Miles</td><td></td><td></td></tr><tr><td>>= 100 Miles</td><td></td><td>1</td></tr></table> Average trip leased driver/month: 0 Drivers with CDL: 1 Total Drivers: 1			Intrastate	Interstate	< 100 Miles			>= 100 Miles		1
	Intrastate	Interstate										
< 100 Miles												
>= 100 Miles		1										
Person(s) Interviewed												
Name: RUSSELL JONES		Title: OWNER										

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:	1500 SW Arrowhead Rd Topeka, KS 66604-4027 Phone: (785) 271-3151
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This report will be used to assess your safety compliance.

Violations

1. Primary: 392.2
State Equivalent: 66-1,142(b)

Carrier failed to provide Corrective Action Plan for previous review.

Violations Discovered		
Fed	State	Total
	1	1
Checked		
Fed	State	Total
	1	1

Example/Notes:

Driver: Russell Jones
Trip date: 06-30-23
Origination: Pittsburg, Ks
Destination: Salina, Ks
At the time of this trip, and review this carrier had failed to submit a KCC Corrective Action Plan. This carrier's review was conducted 11-04-2021. The carrier review was closed out and
was told to pay particular attention to the recommendations listed. The carrier received copy of the review dated 11-04-21.
Carrier is still operational at the time of this review dated 9-21-23. This was the only requirement of that review that was not completed or corrected.

Drivers/Vehicles	
In Violation	Checked

Safety Fitness Rating

This Investigation is Not Rated

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

None

Recommendations

1. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. **A copy of your profile can be obtained by accessing the Portal.**

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

3. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

4. **Investigations not requiring Federal Corrective Action Plan.**

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

The KCC requires that you prepare a corrective action letter plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outlining the carrier s updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov;

FAX: 785.271.3124;

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

CAP: The State of Kansas Correction Plan above is required action and if not completed within the required time frame of 30 days there are penalties that will be involved and issued to the carrier.

5. **Acknowledgement of requirements and violations.**

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 Travis D Ballard dba TBall Trucking operating authority and/or the impoundment of Travis D Ballard dba TBall Trucking vehicles.

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

X _____
Printed

X _____
Signed

X _____

X _____

Investigator(s) Signed

6. **Any questions about this review.**

If you have any questions concerning this report,, please contact the Kansas Corporation Commission 1500 SW Arrowhead Dr.
Topeka, Ks 66604. 785-271-3151

7. **Stay in Contact.**

Stay in Contact with your reviewing investigator:

Mike Heenan
Special Investigator
Kansas Corporation Commission
620-338-0093
m.heenan@kcc.ks.gov

8. **No State Corrective Action Plan and/or KCC Safety School.**

Carrier did not perform required Safety School or Corrective Action Plan as required by order of the Commission following a Penalty Order or review with violations.

Table 1: Violations Discovered During Review/Inspection

Violation	Date	Identifying Information	Description
392.2 - Carrier failed to provide Corrective Action Plan for previous review.			
1	09/21/21	RUSSELL JONES	

CERTIFICATE OF SERVICE

24-TRAM-350-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 11/07/2023.

Russell Jones, OWNER
Russell L. Jones
D/B/A R & L Trucking & Sons
2852 W Smolan Rd
Smolan, KS 67456
6837rjones@gmail.com

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

/S/ KCC Docket Room
KCC Docket Room