

Enforcement Case Report

Case #: MI-2011-0273-US1244
U.S. DOT #: 1035057
EIN #: 75-3072741
Subject: Gemini Transport, LLC
dba Gemini Transport
2154 Milverton Dr
Troy, MI 48083

Violations	Violation Description	Number Discovered	Number Documented
382.305(b)(1)	Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.	6	2
382.305(b)(2)	Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.	25	6
395.8(e)	False reports of records of duty status.	110	53

Investigation Assigned		Reviewed by: Matthew Fabry
Investigation Completed	6/3/2011	Title: Federal Programs Manager
Date NOC Served	7/11/2011	Date: 7/8/2011

Safety Investigator's Signature _____

Code #: US1244

Violations Documented

FMCSR Violations

Primary #: 382.305(b)(2)

Recommended Penalty: \$4,500

Number Documented: 6

Documented Fine Total: \$27,000

History: Penalized for violation(s) in other Parts

Extent: 81%

Gravity: Did not cause a fatality

Culpability: Should have known of the violation

Category: Non-Recordkeeping Medium

of Records Checked: 31

of Violations Discovered: 25

Normalized # of Violations: 25

Description: Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

Rule:

Economic:

Description: Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

Primary #: 395.8(e)

Recommended Penalty: \$850

Number Documented: 53

Documented Fine Total: \$45,050

History: Penalized for violation(s) in the same Part

Extent: 33%

Gravity: Did not cause a fatality

Culpability: Should have known of the violation

Category: Recordkeeping

of Records Checked: 330

of Violations Discovered: 110

Normalized # of Violations: 110

Description: False reports of records of duty status.

Rule:

Economic:

Description: False reports of records of duty status.

UNIFORM FINE ASSESSMENT

Subject Information

Name: GEMINI TRANSPORT LLC
Case #: MI-2011-0273-US1244
Review/Inspection: 6/3/2011
Gross Revenue: \$7,682,050
Review/Activity: CR or CR/SCR
Prior Cases: 1
History(FMCSR): Penalized for violation(s) in the same Part (Closed cases only)
USDOT #: 1035057
Factor 6 Rating: Satisfactory
Number of Drivers: 77
Power Units: 80
Trailers: 229
Fleet Mileage: 4,920,050

Penalty Information

Statutory Criteria Adj. Score : 64%
Maximum Fine Possible: \$154,000
Maximum Fine Possible Cap: \$98,560
Adjusted Gross Revenue: \$126,750
Gross Revenue Cap: \$81,120
Absolute Cap: \$200,000
Recommended Penalty: \$81,120 (\$73,010 to \$89,230)
Assessed Penalty: \$81,050
Within Range? Yes

Violations Documented

FMCSR Violations

Primary #: 382.305(b)(1)	Category: Non-Recordkeeping Medium
Recommended Penalty: \$4,500	# of Records Checked: 7
Number Documented: 2	# of Violations Discovered: 6
Documented Fine Total: \$9,000	Normalized # of Violations: 6

History: Penalized for violation(s) in other Parts

Extent: 86%
Gravity: Did not cause a fatality
Culpability: Should have known of the violation

Description: Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

Rule:

Economic:

Description: Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

COMPLIANCE REVIEW SUMMARY

US DOT # : 1035057	GEMINI TRANSPORT LLC
ICC # : 432907	dba: GEMINI TRANSPORT
Phone : 313- 842-1980	Mailing Address:
Tax ID # : 753072741 E	2154 MILVERTON DR
OP Type :	TROY, MI 48083
Revenue : \$7,682,050	Physical Address:
	9680 EAGLE ST
	DEARBORN, MI 48120
CR Received by : Goran Petkovich	

Total Miles	Total Drivers	Total Power
4,920,050	77	80

Prevtable-Recordable Accidents : Rate : 1
 Total recordable Accidents : 7

Rating	Points			
Factors	# of	# of		OOS Vehicles CR : 0
	Rating	Accute	Critical	# of Vehicles Inspected CR : 0
Factor 1 :	S	0	0	OOS Vehicles {MCMIS} : 2
Factor 2 :	U	0	3	# of Vehicles Inspected {MCMIS} : 13
Factor 3 :	U	0	2	Previous Rating :
Factor 4 :	C	0	1	Proposed Rating : U
Factor 5 :	N	0	0	
Factor 6 :	S			

Previous Reviews
 7/6/2006
 3/24/2005
 7/11/2003

Prosecution
 7/14/2005

1.) 382.305(b)(1) - FEDERAL

Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
6	7	6	7

2.) 382.305(b)(2) - FEDERAL

Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
25	31	25	31

COMPLIANCE REVIEW SUMMARY**3.) 382.303(b) - FEDERAL**

Failing to conduct post accident testing on driver for controlled substances.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
1	2	1	2

4.) 391.23(a) - FEDERAL

Failing to investigate driver's background.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
13	13	13	13

5.) 391.21(a) - FEDERAL

Using a driver who has not completed and furnished an employment application.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
2	13	2	13

6.) 391.51(b)(2) - FEDERAL

Failing to maintain inquiries into driver's driving record in driver's qualification file.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
3	13	3	13

7.) 391.51(b)(4) - FEDERAL

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

DSCV	CHKD	VD/ DSCV	VD/ CHKD
4	13	4	13

8.) 391.51(b)(5) - FEDERAL

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

DSCV	CHKD	VD/ DSCV	VD/ CHKD
7	13	7	13

9.) 396.11(a) - FEDERAL

Failing to require driver to prepare driver vehicle inspection report.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
120	390	4	13

COMPLIANCE REVIEW SUMMARY

10.) 395.3(a)(2) - FEDERAL

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
3	330	2	11

11.) 395.3(a)(1) - FEDERAL

Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours

DSCV	CHKD	VD/ DSCV	VD/ CHKD
3	330	2	11

12.) 395.3(b)(2) - FEDERAL

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty more than 70 hours in 8 consecutive days.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
5	236	2	11

13.) 392.2 - FEDERAL

Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
1	1	1	1

14.) 395.8(e) - FEDERAL

False reports of records of duty status.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
110	330	9	11

15.) 395.8(e) - FEDERAL

False reports of records of duty status.

DSCV	CHKD	VD/ DSCV	VD/ CHKD
15	330	6	11

Part C Comments :**REASON FOR INVESTIGATION:**

This comprehensive review was initiated due to the carrier's placement on the Motor Carrier Safety Measurement System's mandatory assignment list. Prior to the review, a current carrier profile dated 5/23/2011 was obtained and evaluated. Since the review took 2 weeks, a second profile was obtained and evaluated on 6/02/11.

COMPLIANCE REVIEW SUMMARY

The carrier has the following BASIC's: Unsafe Driving (86.4); Fatigued Driving (81.3); Driver Fitness (84); Drugs and Alcohol (0); Vehicle Maintenance (86.4);
Insurance/Other (0).

Profile history shows that the carrier has had 3 compliance reviews since 2003. Prior enforcement from the 3 reviews was in 382 and 395.

SCOPE OF INVESTIGATION:

This was a comprehensive review completed due to the carrier's Motor Carrier Safety Measurement System.

CARRIER OPERATION DESCRIPTION:

Carrier's legal name is Gemini Transport LLC, DBA: Gemini Transport, and is owned by Goran Petkovich who is also the President. The primary contact during this review was Goran Petkovich. Throughout this review, he served as the principle source of all requested documents and information. This review was conducted at the carrier's office in Dearborn, MI on May 23 to June 3, 2011. The closing interview was initially scheduled with Goran Petkovich for June 3, 2011. Upon arrival, the investigators were informed that Mr. Petkovich had been hospitalized, and Alivin Alston (Director of Business Development) was authorized to sign on Mr. Petkovich's behalf.

Carrier currently operates with 77 drivers, utilizing 80 tractor-trailers (combination of company owned and owner operators) and 229 trailers. Carrier is authorized for hire carrier primarily transporting auto parts and racks for Ford Motor Company throughout the United States.

CDLIS (DRIVER LICENSE) CHECK:

CDLIS checks were performed for 20 drivers and no violations or suspensions were discovered.

AUTHORITY & INSURANCE:

A properly executed MCS-90 was available for review.

RED FLAG DRIVERS:

Carrier has 2 red flag drivers that were investigated. (b)(6) (b)(7)(C) (one Red Flag driver) was cited roadside for possession of drugs. Further investigation discovered that it was a prescription drug prescribed by a doctor. The carrier sent the driver in for a drug test the day after the inspection, and the driver tested negative. The case is currently being reviewed by a Probation Officer with the 1st District Court in Monroe, MI. Ms. Elain Sulfaro (the Probation Officer) was contacted (734-240-7111) about this matter. She could not provide any further information on the case because it is not a public matter. The driver has not received a conviction yet. No further action is required because the driver continues to have negative test drug test results.

The other red flag driver, (b)(6) (b)(7)(C), was cited for driving a CMV while disqualified. The driver had an unpaid parking ticket which caused the suspension of his license. He paid the ticket, and his license was reinstated.

DRUG AND ALCOHOL SUPPLEMENTAL REVIEW:

A review of the carrier's drug and alcohol testing program found two critical violations. The carrier failed to meet he required 10% testing rate for random alcohol testing, and 50% testing rate for controlled substance testing for 2010. The carrier had contracted with third party ASTS (Grandville,

COMPLIANCE REVIEW SUMMARY

MI) in 2003. ASTS was contacted during this review about the carrier's program. Sarah Wilson, ASTS Random Program Administrator informed the investigators that Gemini Transport has not been an active account since 2008. ASTS made the last random selection notice in January 2008 because Gemini Transport had unpaid notices on their account. Unpaid invoices were paid by Gemini Transport in August 2008, and then the account was closed. Gemini Transport continued to send drivers in for pre-employment, random, and post accident drug and alcohol tests. Those tests were being reported to ASTS because that is who the testing facility had on file to report them too. ASTS did not make any random selections and January 2009. Enforcement is warranted for not meeting the applicable testing rates for random drug and alcohol tests for 2010 given the carrier's history of compliance reviews and knowledge of the regulations.

INVESTIGATION:

(390) Mr. Goran Petkovich is knowledgeable of the regulations since he has been subject to 3 previous compliance reviews since 2003. The carrier has had 11 recordable accidents in the past 12 months. Since the 11 accidents would make the carrier unsatisfactory in Factor 6, Gemini Transport LLC submitted an accident petition to the Lansing office. Four of the five petitioned accidents were removed from the Factor 6 accident rate. The carrier's accident rate for this review is 1.42 accidents per million miles.

Two DOT recordable accidents that were on the carrier's accident register were not found on the carrier's profile. Those two accidents are listed below:

8/5/2010: Driver: (b)(6) (b)(7)(C), I-96 and I-94 interchange in Michigan; Gemini CMV was entering I-94 from I-96 WB and a POV cut the tractor trailer off. CMV didn't not have enough time to stop.

1/29/2011: Driver: Mumin Halilovic, Odessa, TX, HWY 120 and 1300 W. County RD. CMV ran a red light-driver issued a ticket. Driver of POV treated at the scene for an injury. Case ID# 11-1814.

(391) Thirteen driver qualification files were reviewed. The files were missing annual reviews, annual MVR's, and had some incomplete applications, and no previous employer inquiries. A critical violation was cited for not having initial MVR's within 30 days of the hire date. Enforcement is not being pursued for this critical violation as it would not have an impact on the carrier's civil penalty. Mr. Petkovich also stated that his insurance company also runs driving records, and if there is a problem they usually let him know.

(392) There were no violations documented in this part. In consideration of the carrier's high Unsafe Driving Basic (86.4), per policy, carrier was cited for one 392.2 violation in order to let Mr. Alston and Mr. Petkovich know that their drivers have a pattern of operating CMV's not in accordance with jurisdictional laws, ordinances, and regulations.

(395) Eleven drivers were reviewed for compliance with the hour of service limitations for one month each. Non critical violations were discovered with the hour of service limitations.

An accuracy check was performed against the drivers RDS (records of duty status). Of the 330 days checked for the 11 drivers, 110 critical false RDS were discovered and 15 nominal false RDS were discovered. This represents a 33% violation rate and also exceeds the critical level.

COMPLIANCE REVIEW SUMMARY

Given the severity of the false RDS percentage and the high Unsafe driving and Fatigued driving BASIC, enforcement action is warranted for the false log violations. Gemini Transport LLC was also penalized for false RDS in June 2005.

Documentation provided by the carrier and used for determining accuracy of the RDS consisted of T-Chek fuel summaries (times in Central Standard Time), driver trip records, carrier invoices, bill of lading, and Driver Settlement sheets. Most of this information was printed from Gemini Transport's dispatch system called Prophecy. Mr. Petkovich said that the driver's do not share fuel cards, and that the card is assigned to the driver.

When Mr. Petkovich was informed of the critical false RDS on June 2, 2011, he seemed a little surprised at the severity of the false RDS. He stated that their dispatch system checks for the 11, 14, and 70 hour rules, but after thinking about it wouldn't catch any false RDS. He admitted to not having any formal accuracy checks conducted. His surprise reaction was due to the fact that his driver's complete pretty regular runs in which they have plenty of time to complete.

(393/396) Thirteen maintenance files were reviewed. Annual inspections were reviewed and conducted within the past 12 months. Gemini Transport LLC has all repairs and maintenance completed at Gemini Truck Alignment LLC, located down the street from Gemini Transport LLC. Mr. Petkovich stated that he is partial owner of this repair facility. Each tractor is serviced every 10,000 miles, and trailers every 3 months. A critical violation was discovered for failing to require driver's to prepare DVIRs. Enforcement is not being pursued for this violation because it would not have an impact on the carrier's civil penalty. In addition, the carrier's OOS rate is very low.

For the carrier's OOS calculation, profile revealed thirteen subject inspections with two (15%) resulting in a vehicle being placed out of service for maintenance related defects..

FOLLOW ON ACTION:

This review resulted in an unsatisfactory rating with enforcement for the critical 382 violations and the false RDS. As previously stated, Mr. Petkovich was hospitalized the day of the closing interview; however Gemini Transport's Director of Business Development, Alvin Alston, was authorized to sign on Mr. Petkovich's behalf. Mr. Alston was made aware of all violations found during this review and was offered suggestions for improving future compliance. Mr. Alston seemed eager to correct all violations discovered during the review. In addition to the carrier enforcement case, six driver cases will be pursued for false RDS.

DOCUMENTS PROVIDED TO CARRIER:

Mr. Alston received a complete copy of the review and statements for the 382 and 395 critical violations. Mr. Alston was also provided a copy of the Safety Management Plan. Mr. Goran Petkovich was emailed a complete copy of the review and statements. It was e-mailed on June 3, 2011 to goran@geminitrans.com <<mailto:goran@geminitrans.com>>. He responded later on June 3, 2011 stating he received the review and statements.