NC

FILE

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2018 NOV -2 PM 2:28

PUCO

18-1638-TR-CVF

Request for a conference

Case Number : OH1569000596D

James L Kellogg

10380 Brant-Angola

Brant, NY 14027

716-680-0420

I would like to schedule a request for a conference for the above referenced case number. Please schedule a telephone conference at the above phone number. I was given a ticket for operating a CMV without a CDL on 8/6/2018. That is incorrect. I have attached my notice of downgrade from the NYSDMV dated 5/9/18. I have also attached the medical examiners certificate with a date of 5/24/18 before the license cancelation date which was sent to NYS and my license was never downgraded.

Thank you

James Kellogg

James L Kellogg

This is to certify that the [illegible] accurate and complete copy of [illegible] document delivered in the regular course of business.

Technician A Date Processed 11/2/18

Ohio | Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

10/04/2018

OH1569000596D
James L Kellogg
10380 BRANT-ANGOLA
BRANT, NY 14027

RE: NOTICE OF PRELIMINARY DETERMINATION
Case No. OH1569000596D

Dear Sir or Madam:

On 08/06/2018, a vehicle operated by LAST-TIME INC, and driven by JAMES L KELLOGG, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified JAMES L KELLOGG (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
383.23A2	4	Operating a CMV without a CDL	250.00
		Total of Group 4	250.00

TOTAL AMOUNT DUE: $250.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against JAMES L KELLOGG in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
383.23A2	4	Operating a CMV without a CDL	250.00
		Total of Group 4	250.00

Ohio | Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

TOTAL AMOUNT DUE: $250.00

Within 30 days of this notice, you must **either**: (1) pay the assessed civil forfeiture **or** (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Rod Moser, Chief of Compliance
Transportation Department

Compliance Officer: Thomas Persinger

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov

NEW YORK STATE | Department of Motor Vehicles

NOTICE OF NON-COMPLIANCE AND LICENSE DOWNGRADE

MEDICAL CERTIFICATION UNIT
PO BOX 2601
ALBANY, NY 12220-0601

JAMES L KELLOGG
1207 ROUTE 5 AND 20
SILVER CREEK NY 14136-9655

DATE: 05/09/2018

POSTAL ID: 230691547

CLIENT IDENTIFICATION NUMBER	DATE OF BIRTH	SEX
119405437	09/13/1962	M

Effective immediately, you are no longer "medically certified" to operate any commercial vehicle that requires a Commercial Driver License and/or Commercial Learner Permit.

Effective 07/03/2018 , your New York State **Commercial Driver License will be downgraded** to a non-Commercial Driver License (Vehicle and Traffic Law Section 510-aa) **and/or your Commercial Learner Permit will be cancelled** (Vehicle and Traffic Law Section 503).

CAUSE: Your US DOT Medical Examiner's Certificate has expired.

To avoid downgrade of your Commercial Driver License and/or cancellation of your Commercial Learner Permit you must submit a complete, legible, unexpired USDOT Medical Examiner's Certificate to the NYS Department of Motor Vehicles Medical Certification Unit at the address listed on the top of this letter **or** by fax at: (518) 486-4421 **or** by emailing dmv.sm.CDLMedCertUnit@dmv.ny.gov. **We must receive your medical certificate at least 20 days prior to the effective date of the license downgrade/permit cancellation to allow for processing time and to prevent the downgrade/cancellation from occurring. Once the downgrade/cancellation occurs, the commercial document in your possession will no longer be valid.**

Commercial drivers are reminded that Medical Examiner's Certificates must be obtained from a USDOT Certified Medical Examiner. Visit https://nationalregistry.fmcsa.dot.gov for more information.

To ensure that your medical certificate has been updated, you can create an account on our MyDMV service at https://my.dmv.ny.gov/CRM/. There is no fee to check your medical certification status through MyDMV.

If the downgrade/cancellation occurs, an application to reinstate your commercial privileges must be completed in person at a DMV office; all normal transaction fees will apply. If you are a Commercial Learner Permit holder, you will be required to retake any applicable knowledge tests you passed more than 180 days from the date you apply for reinstatement. Additional documentation regarding proof of U.S. citizenship, lawful permanent residency or temporary legal presence and New York State residence may be required. For information, refer to form ID-44CDL at http://dmv.ny.gov/forms/id44cdl.pdf.

If you operate a commercial vehicle when not medically certified and/or without a Commercial Driver License or Commercial Learner Permit, you may be charged with a violation of the Vehicle and Traffic Law. A conviction for such a violation could lead to further action against your commercial driving privilege.

Drivers who no longer want a Commercial Driver License/Commercial Learner Permit may obtain a non-commercial document by applying online at http://transact.dmv.ny.gov/PhotoDocDuplicate/ after the "Effective Date" on this letter.

Any questions regarding this letter can be directed to the Medical Certification Unit by phone at: (518) 474-3603, or by emailing dmv.sm.CDLMedCertUnit@dmv.ny.gov

Commissioner of Motor Vehicles

Form MCSA-5876 OMB No. 2126-0006 Expiration Date: 8/31/2018

Public Burden Statement
A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting for this collection of information is estimated to be approximately 1 minute per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRA, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.

U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examiner's Certificate
(for Commercial Driver Medical Certification)

I certify that I have examined **Last Name:** KELLOGG **First Name:** JAMES in accordance with *(please check only one)*:

(●) the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when *(check all that apply)* **OR**

( ) the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations), and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when *(check all that apply)*:

- [ ] Wearing corrective lenses
- [ ] Wearing hearing aid
- [ ] Accompanied by a _____ waiver/exemption
- [ ] Accompanied by a Skill Performance Evaluation (SPE) Certificate
- [ ] Driving within an exempt intracity zone (49 CFR 391.62) *(Federal)*
- [ ] Qualified by operation of 49 CFR 391.64 *(Federal)*
- [ ] Grandfathered from State requirements *(State)*

The information I have provided regarding this physical examination is true and complete. A complete Medical Examination Report Form, MCSA-5875, with any attachments embodies my findings completely and correctly, and is on file in my office.

Medical Examiner's Certificate Expiration Date: 05 24 2018

Medical Examiner's Signature: Lori A Christiano FNP-BC

Medical Examiner's Telephone Number: (716) 646-6700

Date Certificate Signed: 05/24/2018

Medical Examiner's Name *(please print or type)*: LORI A. CHRISTIANO

( ) MD ( ) Physician Assistant (●) Advanced Practice Nurse
( ) DO ( ) Chiropractor ( ) Other Practitioner *(specify)* _____

Medical Examiner's State License, Certificate, or Registration Number: F335319

Issuing State: New York

National Registry Number: 3458707512

Driver's Signature: James L Kellogg

Driver's License Number: 119405437

Issuing State/Province: NY

Driver's Address
Street Address: 10380 Bravo City: Angola State/Province: NY Zip Code: 14007

CLP/CDL Applicant/Holder: (●) Yes ( ) No

This document contains sensitive information and is for official use only. Improper handling of this information could negatively affect individuals. Handle and secure this information appropriately to prevent inadvertent disclosure by keeping the documents under the control of authorized persons. Properly dispose of this document when no longer required to be maintained by regulatory requirements.

716-361-1754

Form MCSA-5875 OMB No. 2126-0006 Expiration Date: 8/31/2018

Last Name: KELLOGG First Name: JAMES DOB: 09/13/1962 Exam Date: 05 24 18

DRIVER HEALTH HISTORY *(continued)*

Do you have or have you ever had:	Yes	No	Not Sure
1. Head/brain injuries or illnesses *(e.g., concussion)*	○	✓	○
2. Seizures, epilepsy	○	✓	○
3. Eye problems *(except glasses or contacts)*	○	✓	○
4. Ear and/or hearing problems	○	✓	○
5. Heart disease, heart attack, bypass, or other heart problems	○	✓	○
6. Pacemaker, stents, implantable devices, or other heart procedures	○	✓	○
7. High blood pressure	○	✓	○
8. High cholesterol	○	✓	○
9. Chronic (long-term) cough, shortness of breath, or other breathing problems	○	✓	○
10. Lung disease *(e.g., asthma)*	○	✓	○
11. Kidney problems, kidney stones, or pain/problems with urination	○	✓	○
12. Stomach, liver, or digestive problems	○	✓	○
13. Diabetes or blood sugar problems	○	✓	○
Insulin used	○	✓	○
14. Anxiety, depression, nervousness, other mental health problems	●	✓	○
15. Fainting or passing out	○	✓	○
16. Dizziness, headaches, numbness, tingling, or memory loss	○	✓	○
17. Unexplained weight loss	○	✓	○
18. Stroke, mini-stroke (TIA), paralysis, or weakness	○	✓	○
19. Missing or limited use of arm, hand, finger, leg, foot, toe	○	✓	○
20. Neck or back problems	○	✓	○
21. Bone, muscle, joint, or nerve problems	○	✓	○
22. Blood clots or bleeding problems	○	✓	○
23. Cancer	○	✓	○
24. Chronic (long-term) infection or other chronic diseases	○	✓	○
25. Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring	○	✓	○
26. Have you ever had a sleep test *(e.g., sleep apnea)*?	○	✓	○
27. Have you ever spent a night in the hospital?	○	✓	○
28. Have you ever had a broken bone?	○	✓	○
29. Have you ever used or do you now use tobacco?	○	✓	○
30. Do you currently drink alcohol?	○	✓	○
31. Have you used an illegal substance within the past two years?	○	✓	○
32. Have you ever failed a drug test or been dependent on an illegal substance?	○	✓	○

Other health condition(s) not described above: ○ Yes ● No ○ Not Sure

Did you answer "yes" to any of questions 1-32? If so, please comment further on those health conditions below. ● Yes ○ No ○ Not Sure

14 - Controlled with Lexapro

(Attach additional sheets if necessary)

CMV DRIVER'S SIGNATURE

I certify that the above information is accurate and complete. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate, that submission of fraudulent or intentionally false information is a violation of 49 CFR 390.35, and that submission of fraudulent or intentionally false information may subject me to civil or criminal penalties under 49 CFR 390.37 and 49 CFR 386 Appendices A and B.

Driver's Signature: James Kellogg Date: May 24/2018

SECTION 2. Examination Report *(to be filled out by the medical examiner)*

DRIVER HEALTH HISTORY REVIEW

Review and discuss pertinent driver answers and any available medical records. Comment on the driver's responses to the "health history" questions that may affect the driver's safe operation of a commercial motor vehicle (CMV).

(Attach additional sheets if necessary)

Last Name: KELLOGG First Name: JAMES DOB: 09/13/1962 Exam Date: 052418

TESTING

Pulse rate: 63 Pulse rhythm regular: (x) Yes ○ No

Height: 6 feet 0 inches Weight: 201 pounds

Blood Pressure	Systolic	Diastolic
Sitting	110	70
Second reading (optional)		

Urinalysis	Sp. Gr.	Protein	Blood	Sugar
Urinalysis is required. Numerical readings must be recorded.	1.02	30	neg	neg

Protein, blood, or sugar in the urine may be an indication for further testing to rule out any underlying medical problem. patient med delayed ... GPP + Ldrez ... will

Other testing if indicated

Vision

Standard is at least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° field of vision in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

Acuity	Uncorrected	Corrected	Horizontal Field of Vision
Right Eye:	20/20	20/___	Right Eye: 70 degrees
Left Eye:	20/20	20/___	Left Eye: 70 degrees
Both Eyes:	20/20	20/___	

	Yes	No
Applicant can recognize and distinguish among traffic control signals and devices showing red, green, and amber colors	(x)	○
Monocular vision	○	(x)
Referred to ophthalmologist or optometrist?	○	(x)
Received documentation from ophthalmologist or optometrist?	○	(x)

Hearing

Standard: Must first perceive whispered voice at not less than 5 feet OR average hearing loss of less than or equal to 40 dB, in better ear (with or without hearing aid).

Check if hearing aid used for test: ☐ Right Ear ☐ Left Ear ☒ Neither

Whisper Test Results

	Right Ear	Left Ear
Record distance *(in feet)* from driver at which a forced whispered voice can first be heard	5 ft	5 ft

OR

Audiometric Test Results

Right Ear 500 Hz	Right Ear 1000 Hz	Right Ear 2000 Hz	Left Ear 500 Hz	Left Ear 1000 Hz	Left Ear 2000 Hz

Average (right): ______ Average (left): ______

PHYSICAL EXAMINATION

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen, or is readily amenable to treatment. Even if a condition does not disqualify a driver, the Medical Examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible, particularly if neglecting the condition could result in a more serious illness that might affect driving.

Check the body systems for abnormalities.

Body System	Normal	Abnormal	Body System	Normal	Abnormal
1. General	(x)	○	8. Abdomen	(x)	○
2. Skin	(x)	○	9. Genito-urinary system including hernias	(x)	○
3. Eyes	(x)	○	10. Back/Spine	(x)	○
4. Ears	(x)	○	11. Extremities/joints	(x)	○
5. Mouth/throat	(x)	○	12. Neurological system including reflexes	(x)	○
6. Cardiovascular	(x)	○	13. Gait	(x)	○
7. Lungs/chest	(x)	○	14. Vascular system	(x)	○

Discuss any abnormal answers in detail in the space below and indicate whether it would affect the driver's ability to operate a CMV. Enter applicable item number before each comment.

(Attach additional sheets if necessary)

Form MCSA-5875 OMB No. 2126-0006 Expiration Date: 8/31/2018

Last Name: KELLOGG First Name: JAMES DOB: 09/13/1962 Exam Date: 05 24 18

Please complete only one of the following (Federal or State) Medical Examiner Determination sections:

MEDICAL EXAMINER DETERMINATION (Federal)

Use this section for examinations performed in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49):

○ Does not meet standards *(specify reason)*:

○ Meets standards in 49 CFR 391.41; qualifies for 2-year certificate

◉ Meets standards, but periodic monitoring required *(specify reason)*: on medication/astigmatism

Driver qualified for: ○ 3 months ○ 6 months ◉ 1 year ○ other *(specify)*:

☐ Wearing corrective lenses ☐ Wearing hearing aid ☐ Accompanied by a waiver/exemption *(specify type)*:

☐ Accompanied by a Skill Performance Evaluation (SPE) Certificate ☐ Qualified by operation of 49 CFR 391.64 *(Federal)*

☐ Driving within an exempt intracity zone *(see 49 CFR 391.62) (Federal)*

☐ Determination pending *(specify reason)*:

☐ Return to medical exam office for follow-up on *(must be 45 days or less)*:

☐ Medical Examination Report amended *(specify reason)*:

(if amended) Medical Examiner's Signature: Date:

☐ Incomplete examination *(specify reason)*:

If the driver meets the standards outlined in 49 CFR 391.41, then complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h), as appropriate.

I have performed this evaluation for certification. I have personally reviewed all available records and recorded information pertaining to this evaluation, and attest that to the best of my knowledge, I believe it to be true and correct.

Medical Examiner's Signature: Lori A Christiano

Medical Examiner's Name *(please print or type)*: LORI A. CHRISTIANO

Medical Examiner's Address: 3040 AMSDELL ROAD City: HAMBURG State: NY Zip Code: 14075

Medical Examiner's Telephone Number: (716) 646-6700 Date Certificate Signed: 05/24/2018

Medical Examiner's State License, Certificate, or Registration Number: F335319 Issuing State: NY

☐ MD ☐ DO ☐ Physician Assistant ☐ Chiropractor ☒ Advanced Practice Nurse

☐ Other Practitioner *(specify)*:

National Registry Number: 3458707512

Medical Examiner's Certificate Expiration Date: 05 24 2019

Form MCSA-5875 OMB No. 2126-0006 Expiration Date: 8/31/2018

Public Burden Statement
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U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examination Report Form
(for Commercial Driver Medical Certification)

PRIVACY ACT STATEMENT: ***This statement is provided pursuant to the Privacy Act of 1974, 5 USC § 552a.***

AUTHORITY: Title 49, United States Code (USC), 49 USC 31133(a)(8) and 31149(c)(1)(E).

MEDICAL RECORD
2438
(or sticker)

PURPOSE: To record results of a driver's physical examination, to determine qualification to operate a commercial motor vehicle (CMV), and to promote driver health in interstate commerce according to the requirements in 49 CFR 391.41-49. Providing this information is mandatory. If this information is not provided, the medical examiner will not be able to determine qualification to operate a CMV in interstate commerce according to the requirements in 49 CFR 391.41-49. To record results of a driver's physical examination and to determine qualification to operate a CMV in intrastate commerce when the driver is required by a State to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners in accordance with the provisions of 49 CFR 391.41-49 and any variances from the physical qualification standards adopted by such State.

Medical examiners are required to complete the Medical Examination Report Form for every driver physical examination performed in accordance with 49 CFR 391.41. Each original (paper or electronic) completed Medical Examination Report Form must be retained on file at the office of the medical examiner for at least 3 years from the date of examination. The medical examiner must make all records and information in these files available to an authorized representative of FMCSA or an authorized Federal, State, or local enforcement agency representative, within 48 hours after the request is made [49 CFR 391.43(i)].

ROUTINE USES: The information is used for the purpose set forth above and may be forwarded to Federal, State, or local law enforcement agencies for their use. Medical Examination Report Forms collected by FMCSA will be stored in FMCSA's automated National Registry of Certified Medical Examiners System and will be used to monitor the performance of medical examiners listed on the National Registry.

In addition to those disclosures permitted under 5 USC 552a(b) of the Privacy Act of 1974, additional disclosures may be made in accordance with the U.S. Department of Transportation (DOT) Prefatory Statement of General Routine Uses published in the Federal Register on December 29, 2010 (75 FR 82132), under "Prefatory Statement of General Routine Uses" (available at http://www.dot.gov/privacy/privacyactnotices).

ACKNOWLEDGMENT: ***I understand the provisions of the Privacy Act of 1974 as related to me through the above-mentioned statement.***

Driver's Signature: James L Kellogg Date: MAY 24 2018

SECTION 1. Driver Information *(to be filled out by the driver)*

PERSONAL INFORMATION

Last Name: KELLOGG First Name: JAMES Middle Initial: ____ Date of Birth: 09/13/1962 Age: 55

Street Address: 1207 Rt 5 and Rt 20 City: Silver Creek State/Province: NY Zip Code: 14136

Driver's License Number: 119-405-437 Issuing State/Province: NY Phone: 716-680-0420 Gender: ◉ M ○ F

E-mail *(optional)*: _____ CLP/CDL Applicant/Holder*: ◉ Yes ○ No

Driver ID Verified By**: NY Driver's License

Has your USDOT/FMCSA medical certificate ever been denied or issued for less than 2 years? ◉ Yes ○ No ○ Not Sure

*CLP/CDL Applicant/Holder: See instructions for definitions.

**Driver ID Verified By: Record what type of photo ID was used to verify the identity of the driver, e.g., CDL, driver's license, passport.

DRIVER HEALTH HISTORY

Have you ever had surgery? If "yes," please list and explain below. ○ Yes ◉ No ○ Not Sure

Are you currently taking medications *(prescription, over-the-counter, herbal remedies, diet supplements)*? If "yes," please describe below. ◉ Yes ○ No ○ Not Sure

Lexapro 2mg qd

(Attach additional sheets if necessary)