

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

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

In the Matter of the Emergency Suspension of     )  
Operating Authority of **KC & Sons Trucking,**     )  
**LLC of Raytown, Missouri,** for Failure to     )  
Comply with New Entrant Safety Requirements     ) Docket No. 17-TRAM-212-OOS  
as Required by the Motor Carrier Safety     )  
Statutes, Rules and Regulations.             )

**EMERGENCY SUSPENSION OF OPERATING AUTHORITY ORDER**

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

**I. JURISDICTION AND BACKGROUND**

1. Pursuant to K.S.A. 2015 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. 2015 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. 2015 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. Pursuant to K.S.A. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

4. K.S.A. 2015 Supp. 77-536 governs the use of emergency proceedings.

The statute provides in part as follows:

- (a) A state agency may use emergency proceedings: (1) In a situation involving an immediate danger to the public health, safety or welfare requiring immediate state agency action or (2) as otherwise provided by law.
- (b) The state agency may take only such action as is necessary: (1) To prevent or avoid the immediate danger to the public health, safety or welfare that justifies use of emergency adjudication or (2) to remedy a situation for which use of emergency adjudication is otherwise provided by law.

## **II. FINDINGS OF FACTS**

5. KC & Sons Trucking, LLC (Respondent) is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108 that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

6. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT), and operates under USDOT Number 2377295.

7. On April 13, 2016, the Federal Motor Carrier Safety Administration (FMCSA) forwarded a Notice of Claim to the Respondent under Case No. MO-2016-0098-MO0112, assessing it a civil penalty of \$3,480. Respondent was instructed to pay the civil penalty in full within 90 days of issuance of the Notice.

8. On May 25, 2016, the FMCSA issued Respondent a Notice of Default and Final Agency Order, notifying it that the Notice of Claim became a Final Order on June

1, 2016, and that the Notice of Default and Final Agency Order required it to make full payment immediately and Respondent failed to do so.

9. As of August 30, 2016, FMCSA records indicate Respondent had not complied with the Final Agency Order. As a result, the FMCSA issued Respondent an Order to Cease All Interstate Transportation and Registration Suspension. FMCSA's Order is attached hereto.

### **III. STAFF'S RECOMMENDATIONS**

10. Staff asks the Commission to find that Respondent received sufficient notice from the FMCSA of the Notice of Claim, Notice of Default and Final Agency Order.

11. Staff asks the Commission to find that Respondent failed to act upon the FMCSA's notices.

12. Staff asks the Commission to find that Respondent's failure to comply with FMCSA requirements is sufficient evidence of unsafe motor carrier operations and as such poses a potential immediate threat to the safety and welfare of the public of the state of Kansas.

13. Based on the presented facts, Staff recommends the Commission issue an Emergency Suspension of Operating Authority Order until such time as Respondent takes the necessary steps to obtain compliance with the federal and state motor carrier rules and regulations. After Respondent submits verifiable evidence of the same to Staff, Staff will recommend that the Commission enter an order reinstating the Respondent's motor carrier operating authority.

#### IV. CONCLUSIONS OF LAW

14. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

15. The Commission finds Respondent received sufficient notice from the FMCSA of violation(s) of the Notice of Claim, Notice of Default and Final Agency Order.

16. The Commission finds Respondent failed to act upon this notice.

17. The Commission also finds Respondent's failure to comply with requirements of the FMCSA is sufficient evidence of unsafe motor carrier operations, and as such poses a potential immediate threat to the safety and welfare of the public of the state of Kansas. Therefore, this Commission orders the Respondent to suspend all intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant. This includes submitting to Staff verifiable evidence of the correction of the violation(s) noted in FMCSA's August 30, 2016 Order including, but not limited to, proof of federal reinstatement.

#### **THE COMMISSION THEREFORE ORDERS THAT:**

A. KC & Sons Trucking, LLC of Raytown, Missouri is to be immediately suspended from all intrastate commercial motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as Respondent presents to Staff verifiable evidence, including, but not limited to, proof of federal reinstatement. This Emergency Suspension of Operating Authority Order may also attach and apply to the operations of successor

entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspend operating authority.

B. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 2015 Supp. 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, return receipt requested, service of this order is complete when KC & Sons Trucking, LLC signs the Domestic Return Receipt. If service is by regular U.S. mail, service is complete upon the date of mailing plus three (3) days. Pursuant to K.S.A. 2015 Supp. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations.

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. 2015 Supp. 66-1,142b(e) and amendments thereto.

E. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

F. 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.**

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: NOV 22 2016



Amy L. Green  
Secretary to the Commission

AAL

Order Mailed Date

NOV 23 2016



U.S. Department of  
Transportation

Federal Motor Carrier  
Safety Administration

Midwestern Service Center

UPS

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August 17, 2016

KC & Sons Trucking LLC  
11730A EAST 83RD ST.  
RAYTOWN, MO, 64138

4749 Lincoln Mall Drive, Suite 300A  
Matteson, IL 60443

Phone: (708) 283-3577

Fax: (708) 283-3565

## ORDER TO CEASE ALL INTERSTATE TRANSPORTATION AND REGISTRATION SUSPENSION

USDOT # 2377295

MC # 618501

EFFECTIVE August 30, 2016 at 12:01 am

This Order to Cease All Interstate Transportation and Registration Suspension is issued pursuant to 49 CFR §§ 386.83(a), 386.84(a). At least 90 days ago, you were required to make a payment to the Federal Motor Carrier Safety Administration (FMCSA) regarding an agency Final Order assessing a civil penalty of \$3,480.00 in case number MO-2016-0098-MO0112. You were notified of this claim against you by Notice of Claim dated April 13, 2016.

On May 25, 2016 you were issued a Notice of Default and Final Agency Order by the FMCSA, in case number MO-2016-0098-MO0112, notifying you that the Notice of Claim became a Final Order on June 1, 2016. That Notice of Default and Final Agency Order required you to make full payment immediately, and you failed to do so.

**Pursuant to 49 USC § 521(b)(8) and 49 CFR §§ 386.83(a)(1), 386.84(a)(1), if you fail to pay your civil penalty within 90 days of the due date, you will be prohibited from operating in interstate commerce and your registration will be suspended on the 91<sup>st</sup> day (unless, pursuant to 49 CFR §§ 386.83(d), 386.84(d), you have filed for bankruptcy and submit the proper evidence). In this case, you will be prohibited from operating in interstate commerce and your registration will be suspended on August 30, 2016 and the prohibition and registration suspension will remain in effect until this agency has received full payment. If you have been subject to any Order(s) to cease interstate transportation, and/or your registration has been suspended or revoked, in any other case(s) or proceeding(s), this Order to Cease All Interstate Transportation and Registration Suspension will be in addition to, and will not supersede, amend, or modify any Orders, notices, and/or requirements in any other case(s) or proceeding(s).**

Please be aware, this Order and Registration Suspension may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease interstate transportation.

If you have filed for bankruptcy, you must submit evidence to the Assistant Administrator at the address below:

Assistant Administrator  
Attn: Steven B. Farbman, Adjudications Counsel  
Sixth Floor, West Building  
MC-CC, Room W63-403  
1200 New Jersey Avenue, SE  
Washington, DC 20590

You must send a copy of the evidence to the appropriate Service Center at the address below:

U.S. Department of Transportation  
Federal Motor Carrier Safety Administration  
Midwestern Service Center  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, IL 60443  
Attn: Enforcement Program Technician

Your registration is suspended and you are hereby ORDERED TO CEASE ALL INTERSTATE TRANSPORTATION effective August 30, 2016 at 12:01 a.m.

Sincerely,



John R. Mulcare, Field Administrator  
Federal Motor Carrier Safety Administration  
Midwestern Service Center

Enclosure

**CERTIFICATE OF SERVICE**

17-TRAM-212-OOS

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 NOV 22 2016.

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

CHARLOTTE FREE, MANAGING MEMBER  
KC & SONS TRUCKING, LLC  
11730A EAST 83RD ST  
RAYTOWN, MO 64138

/S/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date  
NOV 23 2016