

J. Scott Koksal, Sup. Ct. # 20914
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Before the State Corporation Commission of the State of Kansas

IN THE MATTER OF THE INVESTIGATION OF
CHARLES ETHAN BALL, d/b/a Cow Chow Express, of
Garden City, KS, Regarding the Violation of
the Motor Carrier Safety Statutes, Rules and
Regulations and the Commission's Authority to
Impose Penalties, Sanctions and/or the
Revocation of Motor Carrier Authority

Docket N. 20-TRAM-173-PEN

REQUEST FOR HEARING
PURSUANT TO K.S.A. 77-534 AND 77-542

COMES NOW the movant, Charles Ethan Ball, and shows the Court:

1. That the Movant's name is Charles Ethan Ball and his mailing address is 3980 W. Parallel Road, Garden City, Kansas 67846.
2. The agency whose action is at issue is the Kansas Corporation Commission whose mailing address is 1500 SW Arrowhead Road, Topeka, Kansas, 66604-4027
3. The agency action at issue is the Amended Penalty Order dated January 9, 2020 and the Order Suspending Intrastate Motor Carrier Operations dated 4/15/2020.
4. Charles Ethan Ball, d/b/a Cow Chow Express, of Garden City, KS does hereby request a hearing to contest the terms of the Amended Penalty Order dated January 9, 2020 and the Order Suspending Intrastate Motor Carrier Operations dated 4/15/2020.

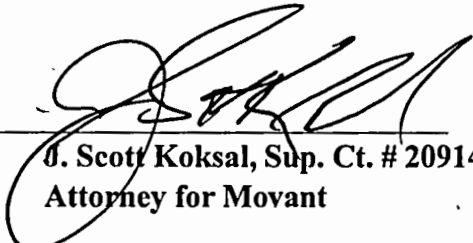
The following specific grounds upon which relief is sought are as follows:

- a. Driver Victor L. Ball did comply, in fact, with proper hours of operation and rest on the specified trip.
- b. Driver Charles Ball did not intentionally make a false record of duty status regarding the use of the agricultural exemption. Instead he attempted to follow his understanding of its proper use as related to him by agent Kay Berry at a prior compliance audit.
- c. Driver Victor L. Ball took adequate rest breaks to safely complete the trip of July 26-27, 2019.
- d. The 2000 Kenworth operated by Charles Ball on August 29, 2019 was assumed to be exempt from Electronic Logging Device requirements because it was previously exempt prior to replacement of the engine with a similar engine in the summer of 2019.
- e. Respondent filed his Request for Hearing, through his attorney J. Scott Koksall, on December 19, 2019. No written decision was ever made upon that request, no hearing was held and the neither the Respondent nor his known legal counsel were informed. Instead, apparently, an Amended Penalty Order was issued with purported corrected documents. That Order, or a copy thereof, was not sent to Respondent's legal counsel.
- f. The Order Suspending Intrastate Motor Carrier Operations states that a collection letter was sent to Respondent on March 4, 2020 and that Respondent failed to pay the penalty amount and did not respond. This letter was not sent to legal counsel for Respondent and was sent 6 days before the Commission had even issued an Order

Granting the Staff's Motion to Dismiss the Request for Hearing. In other words, a collection letter was sent out before there was any final Penalty Order to collect upon.

g. Movant requests that the Penalty Order and Amended Penalty Order be vacated and that an original Penalty Order, if warranted, be issued to properly give Respondent a chance to Answer.

WHEREFORE, Movant prays that the Penalty Order and Amended Penalty Order issued by the State Corporation Commission of the State of Kansas (Commission) be vacated, or, in the alternative, that a hearing be scheduled on the Amended Penalty Order and Attachments as served upon movant



J. Scott Koksall, Sup. Ct. # 20914
Attorney for Movant

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 28th day of May, 2020 the original Petition for Review was mailed, postage prepaid, and properly addressed to:

Lynn M. Retz
Executive Director
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027
and
Ahsan A. Latif
Litigation Counsel
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612-1597



/s/ J. Scott Koksall
J. SCOTT KOKSALL