

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

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

In the Matter of the Investigation of)
William Robert Maclean, d/b/a)
Maclean Trucking of Scott City,)
Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 18-TRAM-247-OOS
Regulations and the Commission's)
Authority to Impose Penalties,)
Sanctions and/or the Revocation of)
Motor Carrier Authority.

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. 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. 2016 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. 2016 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. 2016 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. 2016 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.

II. FINDINGS OF FACTS

4. Respondent is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT number 2569439. The Federal Motor Carrier Safety Association shows Respondent's USDOT number as inactive pursuant to 49 C.F.R. 390.19(b)(4), failure to update MCS-150 data.

6. Special Investigator Penny Fryback has made numerous attempts to contact Respondent to facilitate a safety compliance review on Respondent's operations as a motor carrier. The attempts included letters by U.S. mail, phone calls and visits to place of business.

7. On September 21, 2017, Ahsan Latif, Litigation Counsel, wrote and mailed Respondent a letter informing him should it continue to resist by failing to respond, the Commission may suspend its motor carrier operations, revoke or amend certificates, and/or initiate sanctions or fines against Respondent. The letter advised Respondent that Special Investigator Penny Fryback would be at his place of business on December 13, 2017, at 9:00 a.m. to conduct a safety compliance review and if he failed to appear, his motor carrier

authority would be suspended. A copy of the letter is attached hereto as Attachment "B" and is hereby incorporated by reference.

8. On December 13, 2017, Special Investigator Penny Fryback went to Respondent's place of business, arriving at 8:40 a.m. and stayed until 9:40 a.m., without any appearance of Respondent. She did attempt to call him at 9:10 a.m., and the call went to voicemail but she could not leave a message as Respondent's voicemail was full.

9. On December 14, 2017, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier's failure to pay.

III. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

11. The Commission finds Respondent received sufficient notices of the need to schedule a follow-up safety compliance review of its motor carrier operations. The Commission finds Respondent intentionally failed to act upon these notices.

12. The Commission finds Respondent's failure to respond to Staff's attempts to contact is intentional and 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. 2016 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

THE COMMISSION THEREFORE ORDERS THAT:

A. William Robert Maclean, d/b/a Maclean Trucking of Scott City, Kansas 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. 2016 Supp. 66-1,129, until such time as Respondent contacts Special Investigator Penny Fryback or Litigation Counsel Ahsan Latif to schedule a safety compliance review. This Suspension of Intrastate Motor Carrier Operations 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 suspending operating authority.

B. Service of this order will be by certified mail, return receipt requested, Receipt No. 70161970000105742581, and service is complete when Respondent signs the Domestic Return Receipt. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request.

C. **Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 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.** 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, ordering Respondent to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance.

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. 2016 Supp. 66-1,142b(e) and amendments thereto.

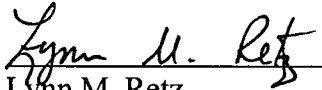
E. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by 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.

Apple, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: DEC 19 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

DEC 20 2017

CERTIFICATE OF SERVICE

18-TRAM-247-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 DEC 19 2017.

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

WILLIAM ROBERT MACLEAN, OWNER
WILLIAM ROBERT MACLEAN
D/B/A MACLEAN TRUCKING
PO BOX 182
SCOTT CITY, KS 67871-0182

/s/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

DEC 20 2017