

**BEFORE 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 **Daulton A.)
Dingman of Russellville, Arkansas**, Pursuant to the)
Kansas Highway Patrol Issuance of a Notice of)
Violation(s) and Invoice for the Violations of the Kansas) Docket No. 18-TRAM-137-KHP
Motor Carrier Safety Statutes, Rules and Regulations.)
)
)

**ORDER GRANTING STAFF'S MOTION TO DISMISS RESPONDENT'S REQUEST
FOR HEARING**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) on the Motion to Dismiss Daulton A. Dingman's (Dingman's) Request for Hearing. Having examined its files and records and being fully advised on the premises, the Commission finds and concludes as follows:

1. On July 18, 2017, the Kansas Highway Patrol (KHP) issued a Notice of Violation(s) against Peeples Hot Shot Service, LLC, for alleged violations found during a June 29, 2017, routine motor carrier stop and inspection conducted by the KHP. Peeples Hot Shot Service, LLC was assessed \$650.00 in civil fines, comprised of the following violations: a \$150.00 fine for No or Defective Automatic Trailer Brake, citing 393.43D and a \$500.00 fine False Report of Drivers Record of Duty Status, citing 395.8E.
2. On July 25, 2017, Mr. Dingman initiated a formal challenge with the KHP.
3. On July 26, 2017, the KHP denied Respondent's challenge and advised People's Hot Shot Service, LLC of its right to an administrative hearing before the Commission.

4. On August 7, 2017, the Kansas Corporation Commission received Mr. Dingman's request for hearing before the Commission.

5. On October 27, 2017, Staff filed its Motion to Dismiss Respondent's Request for Hearing, alleging Mr. Dingman was not the proper party before the Commission and is not entitled to request a hearing on the violations alleged against People's Hot Shot Service, LLC.

6. K.S.A. 66-1,142b(b) states that "any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier."

7. It is undisputed the Notice of Violation in this matter was issued to People's Hot Shot Service, LLC and not to Daulton A. Dingman. It is further undisputed that the Request for Hearing filed in this docket was done so on behalf of Daulton A. Dingman and not People's Hot Shot Service, LLC. Accordingly, the Commission concludes People's Hot Shot Service, LLC, was the only party entitled to initiate a challenge to the violations alleged against it. Therefore the Commission grants Staff's Motion to Dismiss Respondent's Request for Hearing.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) Staff's Motion to Dismiss Respondent's Request for Hearing is hereby granted and the above-referenced docket, is hereby closed.

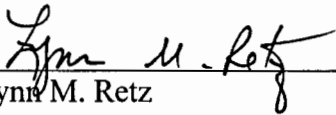
(B) The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

(C) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: DEC 05 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

DEC 06 2017

CERTIFICATE OF SERVICE

18-GIMM-137-KHP

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 05 2017.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

DEC 06 2017