

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 **Jesus E. Pichardo-Martinez, d/b/a KIKE Transport** of Garden City, Kansas, 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. )  
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) Docket No. 17-TRAM-547-PEN  
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**ORDER AMENDING PENALTY ORDER**

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

**BACKGROUND**

1. On June 15, 2017, this Commission issued a Penalty Order to Jesus E. Pichardo-Martinez, d/b/a KIKE Transport (hereinafter KIKE Transport), assessing it a civil penalty of \$1,250, in accordance with the FY 2018 Uniform Penalty Assessment Matrix. The penalty(s) was for three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations.

2. KIKE Transport was advised that it was a New Entrant motor carrier being reviewed for the first time, and was eligible for a reduced penalty of fifty-percent (50%), as long as it complies with the terms and obligations described in the Notice of Penalty Assessment, the Reduced Penalty Agreement and as set out below.

3. On September 8, 2017, Staff filed a Motion to Amend Penalty Order, recommending the Commission assess KIKE Transport a fifty-percent (50%) reduced penalty of \$625, and set out specific terms and obligations for KIKE Transport's compliance.

#### **FINDINGS OF FACT**

4. The Penalty Order issued on June 15, 2017, assessed KIKE Transport a civil penalty(s) of \$1,250 for three (3) violation(s) of the motor carrier safety statutes, rules and regulations.

5. Staff recommended in its Motion that due to KIKE Transport's agreement to comply with the terms and obligations for a fifty-percent (50%) reduced penalty and approval of its CAP, an Amended Penalty Order should be issued by the Commission assessing it a reduced penalty of \$625, and setting out the terms and obligations as stated in its motion.

6. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

"Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered."  
(emphasis added)

#### **IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The civil penalty of \$1,250 assessed to Jesus E. Pichardo-Martinez, d/b/a KIKE Transport in the Penalty Order dated June 15, 2017, is hereby amended to \$625.

(B) This Amended Penalty Order was mailed on September 14, 2017, via certified mail, return receipt requested, Certified Receipt No. 70161970000105737228. Service is complete upon the date the carrier signs the Domestic Return Receipt.

(C) Payment of the reduced amount is due within thirty (30) days from the date of service of this Amended Penalty Order. Payment of \$625 must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

(D) KIKE Transport is ordered to, within thirty (30) days from the date of the Penalty Order dated June 15, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to Litigation Counsel.

(E) KIKE Transport must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact KIKE Transport to schedule the review.

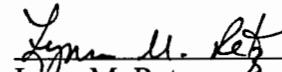
(F) If KIKE Transport fails to pay the reduced fine of \$625 and/or fails to comply with the terms and conditions ordered above, the Commission may order KIKE Transport additional sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

(G) 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: SEP 14 2017

  
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Lynn M. Retz  
Secretary to the Commission

AAL

Order Mailed Date

SEP 15 2017

**CERTIFICATE OF SERVICE**

17-TRAM-547-PEN

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 SEP 14 2017.

JESUS E. PICHARDO-MARTINEZ, OWNER  
JESUS E. PICHARDO-MARTINEZ  
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/S/ DeeAnn Shupe  
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DeeAnn Shupe

Order Mailed Date  
SEP 15 2017