

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the Matter of the Investigation of Aaron’s)
Lawn & Landscaping, LLC of Kansas City,)
Missouri, Pursuant to the Kansas Highway)
Patrol Issuance of a Notice of Violation for) Docket No. 19-GIMM-100-KHP
Violation(s) of the Kansas Motor Carrier)
Safety Statutes, Rules and Regulations and)
the Commission’s Authority to Impose)
Penalties, Sanctions and/or the Revocation)
of Motor Carrier Authority.)

DEFAULT ORDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On July 5, 2018, the Commission issued a Notice of Violation to Aaron’s Lawn Care & Landscaping, LLC (Aaron’s) stemming from a vehicle inspection on July 2, 2018.¹ The Notice of Violation informed Aaron’s it could submit a challenge to the Kansas Highway Patrol (KHP), and depending on the outcome of the KHP challenge, it had the “the right to an administrative hearing with the Kansas Corporation Commission.”²
2. On July 25, 2018, Aaron’s challenged the Notice of Violations with the KHP.³
3. On August 6, 2018, the KHP denied Aaron’s challenge.⁴
4. On September 4, 2018, Aaron’s requested a hearing with the Commission.⁵

¹ Notice of Violation and Invoice, p. 1 (July 5, 2018) - filed in the docket on Sept. 10, 2018.

² *Id.* at ¶ 3.

³ Challenge Letter to KHP (July 25, 2018) – filed in the docket on Sep. 28, 2018.

⁴ KHP Denial Letter (Aug. 6, 2018) – filed in the docket on Sept. 28, 2018.

⁵ Request for Hearing (Sept. 4, 2018) – filed in the docket on Sept. 10, 2018.

5. On December 18, 2018, Commission Transportation Staff (Staff) filed a Motion to Set Prehearing Conference to determine “if Respondent still wishes to pursue a hearing disputing the alleged violations.”⁶

6. On January 15, 2019, the Commission issued an *Order Designating Prehearing Officer and Setting Prehearing Conference*, scheduling a Prehearing Conference for February 14, 2019.⁷ The Order also stated that “[a]ny party that fails to attend or participate in the Prehearing Conference . . . may be held in default under the KAPA [Kansas Administrative Procedure Act].”⁸ A Prehearing Conference was held on February 14, 2019, where Staff appeared, but Aaron’s did not.

7. On February 14, 2019, Staff filed a Motion for Default Judgment, asking the Commission to find Aaron’s to be in default, to dismiss Aaron’s request for hearing and affirm the violations and civil penalties assessed against Aaron’s, to close this docket, and to grant any further relief deemed necessary and proper.⁹

8. K.S.A. 77-520(a) provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. Subsection (b) states that within seven days after service of a proposed default order, the party against whom it was issued has seven days to file a written motion to vacate, which shall state the grounds relied upon. Subsection (c) states: “The proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time.”

⁶ Staff’s Motion to Set Prehearing Conference ¶ 6 (December 18, 2018).

⁷ *Order Designating Prehearing Officer and Setting Prehearing Conference*, Ordering Clause B (Jan. 15, 2019).

⁸ *Id.* at Ordering Clause D.

⁹ Staff’s Motion for Default Judgment, p. 2 (Feb. 14, 2019).

9. Pursuant to K.S.A. 77-520, the Commission finds that Aaron's failure to attend the Prehearing Conference constitutes default. Thus, the Commission grants Staff's Motion for Default Judgment.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's Motion for Default Judgment is granted.

B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service. If no motion to vacate this Order is filed within the stated time period, this Order shall become effective.

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering additional orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: 03/05/2019



Lynn M. Retz
Secretary to the Commission

MJD

CERTIFICATE OF SERVICE

19-GIMM-100-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 and electronic service on 03/06/2019.

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/S/ DeeAnn Shupe

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