

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

Before Commissioners: Mark Sievers, Chairman
 Thomas E. Wright
 Shari Feist Albrecht

In the Matter of the Investigation of Mark Buss,)
d/b/a Auto Transport of Newton, Kansas,)
Pursuant to the Kansas Highway Patrol Issuance)
of a Notice of Violation for Violation(s) of the)
Kansas Motor Carrier Safety Statutes, Rules and) Docket No. 13-GIMM-702-KHP
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

ORDER SETTING PROCEDURAL SCHEDULE

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 fully advised in the premises, the Commission finds and concludes as follows:

1. On April 2, 2013, the Kansas Highway Patrol (KHP) issued a Notice of Violation against Mark Buss, d/b/a Auto Transport (Respondent), for alleged violations found during a March 27, 2013, routine motor carrier stop and inspection conducted by the KHP.
2. On May 20, 2013, the Respondent submitted a request for hearing on this matter, which opened Docket No. 13-GIMM-702-KHP.
3. **Schedule.** On June 7, 2013, Commission Staff (Staff) filed a Motion for Procedural Schedule in this matter. The Motion alleged Respondent failed to set forth the specific grounds upon which relief is being sought, and requested the Commission direct him to submit clarification by way of a list of contested issues prior to the prehearing conference and evidentiary hearing in this matter. The Respondent did not respond to Staff's Motion. After

review and consideration of Staff's recommended schedule, the Commission adopts the following procedural schedule:

<u>DATE</u>	<u>ACTION</u>
May 20, 2013	Request for Hearing filed; Docket opened
July 15, 2013	Respondent's List of Contested Issues Supported by Testimony Due
July 29, 2013	Staff's Direct Testimony Due
August 1, 2013	Prehearing Conference
August 8, 2013	Evidentiary Hearing
September 23, 2013	Commission Order

4. **Settlement.** The Prehearing Conference is scheduled for August 1, 2013. If a settlement is reached, the parties shall file testimony in support of the Stipulation and Agreement by July 31, 2013. When filing a motion seeking approval of a unanimous Stipulation and Agreement, the parties shall provide a proposed order approving the Stipulation and Agreement to Advisory Counsel by August 15, 2013. The proposed order should include the relevant procedural history, the terms of the Stipulation and Agreement, and analysis under the five factor test for approval of settlement agreements from Docket No. 08-ATMG-280-RTS.

5. **Prehearing Conference and Evidentiary Hearing.** A prehearing conference will be needed before an evidentiary hearing to address any pending matters, to establish procedures to use during the evidentiary hearing, and to consider any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. To this end, the Commission sets the Prehearing Conference to begin on August 1, 2013,

beginning at 1:30 p.m. in the Third Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. Prehearing Officer Jay P. Van Blaricum, telephone 785-271-3186, email address j.vanblaricum@kcc.ks.gov, will preside. Any party who fails to attend or participate in the Prehearing Conference or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act (KAPA). K.S.A. 77-516(c)(8); K.S.A. 77-520. At the Prehearing Conference, this proceeding may, without further notice, be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by the KAPA. K.S.A. 77-516(c)(7).

6. In addition to the Prehearing Conference discussed above, the Commission schedules the Evidentiary Hearing, with the Commission presiding, to begin on August 8, 2013, at 9:00 a.m., or as soon thereafter as scheduling permits, in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, telephone 785-271-3100. Any party who fails to attend or participate in the hearing or any other stage of this proceeding may be held in default under the KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. The Commission adopts the procedural schedule set forth above at paragraph 3.
- B. In the event of unanimous settlement, the parties shall prepare a proposed order approving the agreement, as set forth in paragraph 4.
- C. Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration.¹

¹ K.S.A. 66-118b; K.S.A. 2012 Supp. 77-529(a)(1).

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chairman; Wright, Commissioner; Albrecht, Commissioner

Dated: JUN 26 2013

Jackie Montfoort Paige
ORDER MAILED JUN 27 2013
Jackie Montfoort Paige
Acting Executive Director

JV

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
M. LEVI MORRIS, ATTORNEY AT LAW CORNERSTONE LAW, LLC 725 N MAIN NEWTON, KS 67114		
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
JAY VAN BLARICUM, ADVISORY COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JUN 27 2013

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.