

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

In the Matter of the Investigation of **David**)
Brandyberry, d/b/a B Bar K Tree Service)
of Lenora, Kansas, Regarding the) Docket No. 18-TRAM-069-PEN
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.)

MOTION TO SUSPEND INTRASTATE MOTOR CARRIER OPERATIONS

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its motion requesting the Commission suspend David Brandyberry, d/b/a B Bar K Tree Service of Lenora, Kansas (Respondent) from all intrastate commercial motor carrier operations. In support of its Motion, Staff states as follows:

1. 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.
2. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT number 2476800.
3. On August 17, 2017, the Commission issued Respondent a Penalty Order that assessed a civil penalty of \$850 for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted by Special Investigator Penny Fryback on July 19, 2017.
4. On August 31, 2017, the Commission issued an Order Amending Penalty Order, reducing the civil penalty to \$100.

5. The Respondent was served with the Penalty Order via certified mail, return receipt requested, on August 21, 2017. A Proof of Service was filed in this docket on September 8, 2017. The Respondent was mailed the Order Amending Penalty Order, dated August 31, 2017. The Respondent had 33 days from August 31, 2017, to pay the civil penalty of \$100.

6. Respondent was sent a collection letter on October 19, 2017, reminding it of the amount due and giving it 10 days from the date of the collection letter to pay.

7. As of October 31, 2017, Commission records indicate that Respondent has not complied with the collection letter or the requirements of the Penalty Order.

8. Staff asks the Commission find Respondent failed to comply with the Commission's Order Amending Penalty Order, dated August 31, 2017.

9. Staff asks the Commission find that Respondent's failure to comply with the requirements of the Order poses a potential immediate threat to the safety and welfare of the public of the state of Kansas.

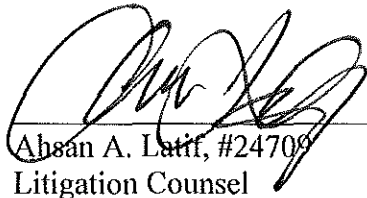
10. Based on the presented facts, Staff requests the Commission issue an order suspending Respondent's intrastate motor carrier operations until such time as Respondent pays the penalty of \$100, at which time Staff will recommend the Commission enter an order of reinstatement of intrastate motor carrier operations.

11. Furthermore, Staff requests the Commission order Respondent to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order of Suspension, and for it to provide Litigation Counsel with written proof of attendance.

WHEREFORE, for the reasons stated above, Staff respectfully requests that the Commission issue an order suspending Respondent's intrastate motor carrier operations, and order Respondent to attend a Commission-sponsored safety seminar within ninety (90) days from

the date of the Order of Suspension, and for it to provide Litigation Counsel with written proof of attendance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Absan A. Latif', is written over a horizontal line.

Absan A. Latif, #24708
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3181 (Telephone)
(785) 271-3124 (Facsimile)
a.latif@kcc.ks.gov (E-mail)

For Commission Staff

VERIFICATION

18-TRAM-069-PEN

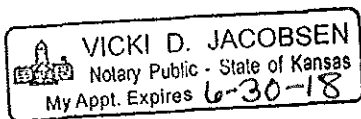
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

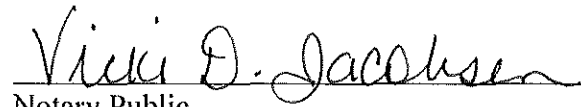
Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion to Suspend Intrastate Motor Carrier Operations*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Ahsan A. Latif, S. Ct. # 24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 31st day of October, 2017.




Notary Public

My Appointment Expires: June 30, 2018

CERTIFICATE OF SERVICE

18-TRAM-069-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Suspend Intrastate Motor Carrier Operations was served via electronic service this 31st day of October, 2017, to the following:

DAVID BRANDYBERRY, OWNER
DAVID BRANDYBERRY
D/B/A B BAR K TREE SERVICE
9461RD W
LENORA, KS 67645-9671
bbark@ruraltel.net

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

Vicki Jacobsen